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PROVINCIAL TREASURY CIRCULAR NO. 51 OF 2018

TO:

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SECRETARY: PROVINCIAL LEGISLATURE OF MPUMALANGA: VOTE 2: (MR L MWALE)
HEAD: PROVINCIAL TREASURY: VOTE 3: (MS NZ NKAMBA)
HEAD: CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS: VOTE 4: (MR PS NYONI)
HEAD: AGRICULTURE, RURAL DEVELOPMENT, LAND AND ENVIRONMENTAL AFFAIRS (ACTING): VOTE 5: (MR LS MONARENG)
HEAD: ECONOMIC DEVELOPMENT AND TOURISM: VOTE 6 (ACTING): (MR NM SEBITSO)
HEAD: EDUCATION: VOTE 7: (MS MOC MHLABANE)
HEAD: PUBLIC WORKS, ROADS AND TRANSPORT: VOTE 8: (MS SP XULU)
HEAD: COMMUNITY SAFETY, SECURITY AND LIAISON: VOTE 9: (MR W MTHOMBOTHI)
HEAD: HEALTH: VOTE 10: (DR S MOHANGI)
HEAD: CULTURE, SPORT AND RECREATION: VOTE 11: (MR GS NTOMBELA)
HEAD: SOCIAL DEVELOPMENT: VOTE 12: (MR MV MAHLALELA)
HEAD: HUMAN SETTLEMENTS: VOTE 13: (MR K MASANGE)

THE CHIEF FINANCIAL OFFICER: VOTE 1: OFFICE OF THE PREMIER (MR SS SHONGWE)
THE CHIEF FINANCIAL OFFICER: VOTE 2: PROVINCIAL LEGISLATURE (MR C MABUNDA)
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THE CHIEF FINANCIAL OFFICER: VOTE 13: HUMAN SETTLEMENTS (MR N NYOKA)

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THE CHIEF DIRECTORATE: ASSETS AND LIABILITIES MANAGEMENT
THE CHIEF DIRECTORATE: FINANCIAL GOVERNANCE

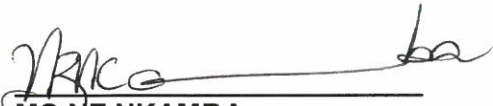
IRREGULAR EXPENDITURE FRAMEWORK

Attached please find National Treasury Instruction No. 1 of 2018/19 as well as the Irregular Expenditure Framework.

You are requested to note that the Treasury Instruction takes effect from 1 December 2018.

Your co-operation in this regard is highly appreciated.

Kind regards,



MS NZ NKAMBA
HEAD: PROVINCIAL TREASURY
DATE: 05/10/2018



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

**TO ALL: ACCOUNTING OFFICERS OF DEPARTMENTS AND
CONSTITUTIONAL INSTITUTIONS**

**ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES LISTED IN SCHEDULES
2 AND 3 TO THE PFMA**

HEAD OFFICIALS OF PROVINCIAL TREASURIES

NATIONAL TREASURY INSTRUCTION NO. 1 OF 2018/2019

IRREGULAR EXPENDITURE FRAMEWORK

1. PURPOSE

1.1 The purpose of this National Treasury Instruction is to –

1.1.1 introduce principles of irregular expenditure to be used by departments, trading entities, constitutional institutions and public entities listed in Schedules 2 and 3 to the Public Finance Management Act (PFMA), 1999 (Act No.1 of 1999); and

1.1.2 give legal effect to the **Irregular Expenditure Framework** that provides for the application, interpretation and implementation of principles related to irregular expenditure.

2. BACKGROUND

2.1 In terms of sections 38(1)(c)(ii) and 51(1)(b)(ii) of the PFMA, accounting officers and accounting authorities are required to take effective and appropriate steps to, amongst others, prevent irregular expenditure.

2.2 Section 45 (c) and 57 (c) of the PFMA also provide that an official of a department, trading entity, constitutional institution and public entity must take effective and appropriate steps to prevent irregular expenditure within their areas of responsibility.

National Treasury Instruction No. 1 of 2018/2019
Irregular Expenditure Framework

3. APPLICABILITY

This National Treasury Instruction, which gives legal effect to the **Irregular Expenditure Framework** is enclosed as **Annexure A** and applies to all departments, trading entities, constitutional institutions and public entities listed in Schedules 2 and 3 to the PFMA.

4. AUTHORITY

This National Treasury Instruction is issued in terms of section 76(2)(e) and 76(4)(a) of the PFMA.

5. EFFECTIVE DATE

This Treasury Instruction takes effect from 1 December 2018.

6. TRANSITIONAL ARRANGEMENTS

6.1 Accounting officers of departments, trading entities and constitutional institutions and accounting authorities of public entities listed in Schedules 2 and 3 to the PFMA must report on cases of irregular expenditure in the format contained in the Irregular Expenditure Framework.

6.2 In the interim, accounting officers of national and provincial departments are required to report cases of irregular expenditure to the relevant treasuries in the format determined in the In-Year Monitoring Report.

7. REPEAL OF NATIONAL TREASURY PRACTICE NOTE NO. 4 OF 2008/2009

This Treasury Instruction repeals National Treasury Practice Note No. 4 of 2008/2009 dealing with irregular expenditure incurred by departments, trading entities, constitutional institutions and public entities listed in Schedules 2 and 3 to the PFMA.

8. DISSEMINATION OF INFORMATION CONTAINED IN THIS TREASURY INSTRUCTION

8.1 Accounting officers of national departments are requested to please bring the contents of this Treasury Instruction to the attention of all:

- (a) accounting officers of government components and constitutional institutions that receive transfers and subsidies from its vote; and
- (b) accounting authorities of public entities reporting to their executive authorities.

National Treasury Instruction No. 1 of 2018/2019

Irregular Expenditure Framework

- 8.2 Head Officials of Provincial Treasuries are requested to please bring the contents of this Treasury Instruction to the attention of all accounting officers of departments and accounting authorities of public entities in their respective provinces.

9. CONTACT INFORMATION

Enquiries related to this Treasury Instruction may be directed to:

Ms Moipone Ramoipone

Director: PFMA Support

Office of the Accountant-General

Phone: 012 315 5284

E-Mail: oagqueries@treasury.gov.za; or

PFM queries portal: <http://pfmportal.treasury.gov.za/>



**ZANELE MXUNYELWA
ACTING ACCOUNTANT-GENERAL**

DATE: 25 September 2018

IRREGULAR EXPENDITURE FRAMEWORK

PFMA COMPLIANT INSTITUTIONS



OFFICE OF THE ACCOUNTANT-GENERAL



national treasury

Department:



This document is available on the National Treasury Website at:

<http://www.treasury.gov.za/legislation/pfma/TreasuryInstruction/AccountGeneral.aspx>

Enquiries related to the content of this Framework should be submitted to the Office of the Accountant-General via email to:

oagqueries@treasury.gov.za; or <http://pfmportal.treasury.gov.za/>

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CHAPTER 1

DEFINITIONS

“assessment” means a test conducted by a Loss Control function or another relevant function to identify possible irregularities in transactions processed and to confirm the allegations of irregular expenditure;

“checklist” means a list of non-compliance and alleged cases of irregular expenditure matters in progress;

“condonation”¹ means a process whereby the relevant authority acknowledges the irregular expenditure and pardons the incurrence thereof;

“department” means a national or provincial department or a national or a provincial government component;

“determination” means an informal assessment conducted by the Loss Control function or another relevant function to examine or analyse the particulars of non-compliance in order to establish the facts and losses related to the transaction;

“investigation” means a formal probe conducted by an Internal Audit function or another relevant function to analyse the particulars of non-compliance in order to establish the facts about the transaction related to any fraudulent, corrupt or criminal act;

“lead schedule” means a summary of irregular expenditure to be disclosed in the notes to the annual financial statements and the progress thereon;

“non-compliance” means the failure to comply with legal requirements or legal obligations;

“removal” means the process of eliminating the irregular expenditure from notes to the annual financial statements if it was not condoned by the relevant authority;

“relevant authority” means the person or institution whose approval would have been required prior to entering into that transaction or incurring such expenditure or the institution responsible for the legislation that was transgressed;

¹ The condoning of irregular expenditure is the process of pardoning the action(s) that led to the incurrence of the expenditure and not the amount of the expenditure incurred.

“relevant procurement authority” means the Chief Procurement Officer at the National Treasury and the business unit performing a procurement regulatory function at the provincial treasury;

CHAPTER 2

PURPOSE AND APPLICATION OF THE FRAMEWORK

Purpose

1. The purpose of this Framework is to provide procedures to be followed by accounting officers and accounting authorities when dealing with irregular expenditure, defined in Section 1 of the Public Finance Management Act (PFMA), Act No 1 of 1999, as *“expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including –*
 - (a) *this Act; or*
 - (b) *the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or*
 - (c) *any provincial legislation providing for procurement procedures in that provincial government.”*

Applicability

2. This Framework applies to all:
 - (a) Departments²;
 - (b) Constitutional Institutions; and
 - (c) Public Entities listed in Schedules 2 and 3 to the PFMA.

Effective date of Framework

3. This Framework³ takes effect from 1 December 2018 as referred to in the National Treasury Instruction No.1 of 2018/2019.

Irregular expenditure incurred in prior year(s)

4. Accounting officers of departments and constitutional institutions and accounting authorities of public entities must deal with previous cases of irregular expenditure that

² Reference to departments in this Framework includes government components as per the definition of departments in Chapter 1 of this Framework and trading entities which operate within the administration of a department.

³ This Framework replaces the updated Guideline on Irregular Expenditure issued in April 2015.

were not condoned or removed from the notes to the annual financial statements in terms of this Framework.

CHAPTER 3

DEFINITION AND RECOGNITION OF IRREGULAR EXPENDITURE

Definition

5. For the purpose of determining whether irregular expenditure has been incurred, there must be a transgression of any of the following:
- (a) Public Finance Management Act (PFMA);
 - (b) Treasury Regulations;
 - (c) National Treasury Instructions issued in terms of section 76 of the PFMA;
 - (d) Provincial Treasury Instructions issued in terms of section 18(2)(a) of the PFMA;
 - (e) Internal policies of a department, constitutional institution or public entity, as approved by the accounting officer or accounting authority, whichever applicable; or
 - (f) Any applicable legislation.

6. The definition of irregular expenditure extends over the term contravention of “any applicable legislation” as the term “contravention” must relate to the incurrence of a financial transaction by a department, constitutional institution or public entity.

NOTE

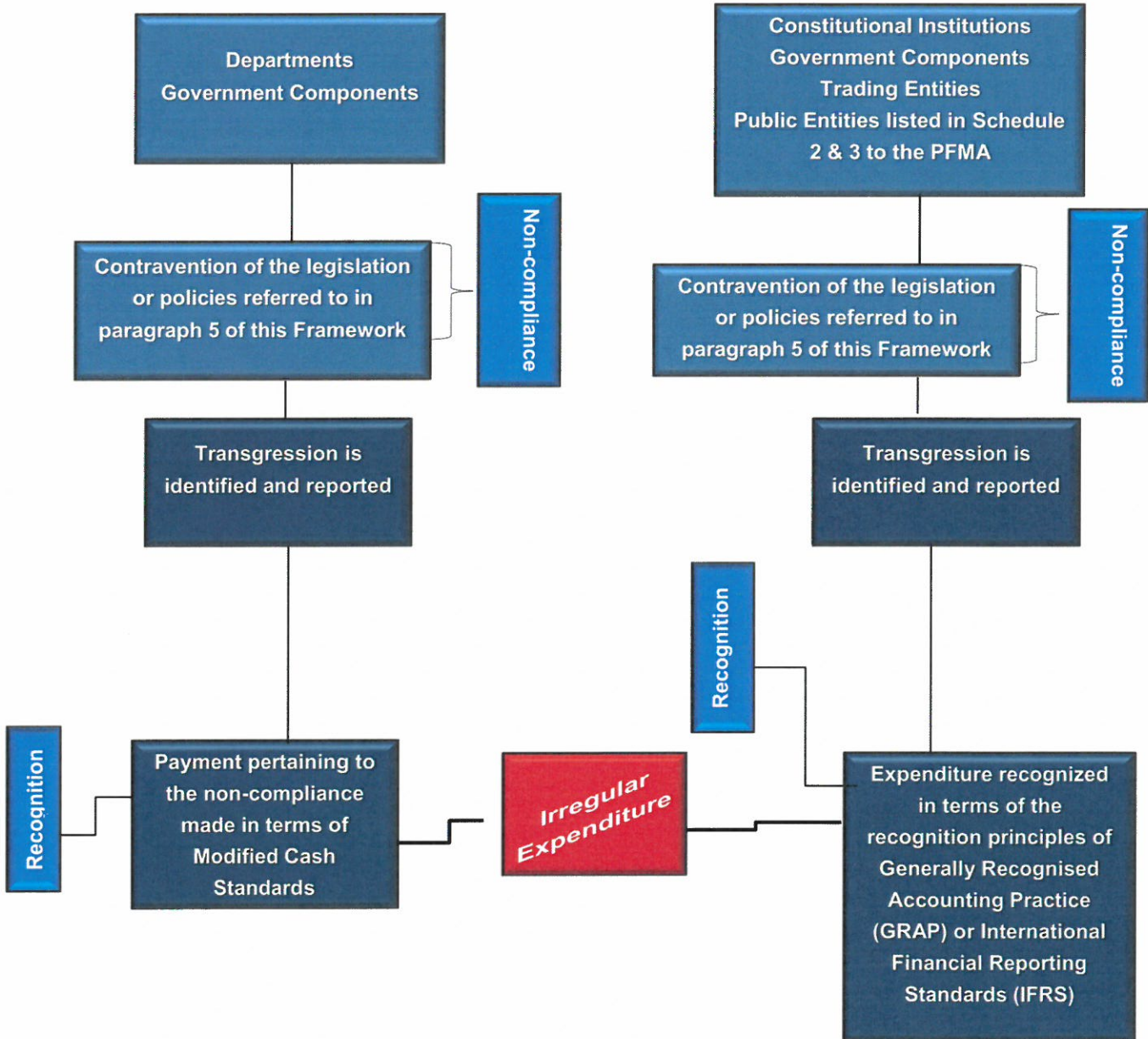
The late submission of annual financial statements to the relevant treasury is a contravention of section 40(1)(c)(ii) of the PFMA, however the contravention does not relate to the incurrence of a financial transaction. Therefore such a contravention will not meet the definition of irregular expenditure.

Recognition

7. Irregular expenditure is incurred when the resulting transaction is recognized in the financial records of a department, constitutional institution or public entity in accordance with the relevant Accounting Framework.
8. For a department or a government component applying the Modified Cash Standards (MCS) to incur irregular expenditure, the non-compliance must be linked to a financial transaction. Although a transaction may trigger irregular expenditure, a department or such a government component will only record irregular expenditure when a payment pertaining to the non-compliance is actually made (i.e. when the expenditure is recognized in accordance with the Modified Cash Standards).

9. For a constitutional institution, a government component, a trading entity, or a public entity listed in Schedules 2 or 3 to the PFMA applying Generally Recognised Accounting Practice (GRAP) or International Financial Reporting Standards (IFRS), to incur irregular expenditure, the non-compliance must be linked to a financial transaction. Although a transaction may trigger irregular expenditure, a constitutional institution, a government component, a trading entity or a public entity will only record irregular expenditure when a transaction is recognised as expenditure in the Statement of Financial Performance in accordance with the Generally Recognised Accounting Practice (GRAP) or the International Financial Reporting Standards (IFRS), whichever applicable.

10. **Figure 1: Identification and Recognition of irregular expenditure**



11. Figure 1 above indicates that for a transaction to constitute irregular expenditure it must meet the following conditions –

- (a) it must be incurred in contravention of the legislation or policies referred to in paragraph 5 of this Framework; and
- (b) it must be “incurred” upon recognition of a financial transaction as –

Irregular Expenditure Framework

- (i) an expenditure in accordance with the Accounting Framework applicable to departments and government components operating on a Modified Cash basis of accounting;
- (ii) a liability in accordance with the Accounting Framework applicable to trading entities, government components, constitutional institutions and public entities operating on an Accrual basis of accounting.

CHAPTER 4

ASSESSMENT, DETERMINATION OR INVESTIGATIONS RELATED TO IRREGULAR EXPENDITURE

Assessment

12. Sections 38(1)(n) and 51(1)(h) of the PFMA require accounting officers and accounting authorities respectively to comply and ensure compliance with this Act. Accounting authorities of public entities are also required to ensure compliance with any other legislation applicable to the public entity.
13. Accounting officers or accounting authorities must ensure that their respective departments, constitutional institutions or public entities operate in accordance with the provisions of applicable legislation.
14. This responsibility encompasses identifying all the legislative requirements which institutions must comply with, including implementation of internal policies which form an integral part of their internal control system that is designed to provide reasonable assurance that compliance is achieved.
15. In terms of paragraphs 13 and 14 above, accounting officers and accounting authorities must assess the legislative frameworks applicable to their respective institutions to identify any irregularity/irregularities in transactions that have been processed.
16. Upon detection of alleged irregular expenditure, the accounting officer or accounting authority must conduct an assessment to identify possible irregularities in transactions that have been processed and to confirm whether irregular expenditure has been incurred or whether the incident was the result of non-compliance with laws and regulations that did not relate to the incurrence of a financial transaction.

Confirmation of irregular expenditure

17. If a transaction has been processed in contravention of the legislation or internal policies and the same transaction has a financial implication (payment was made or a liability was recognized in the books), it must be recorded as irregular expenditure.

18. The accounting officer or accounting authority must record the details of all alleged irregular expenditure in the Checklist, as contained in **Annexure A** to this Framework.
19. The details and amounts of confirmed irregular expenditure and losses determined must be recorded in the irregular expenditure Lead Schedule, as contained in **Annexure B** to this Framework.

Confirmation of Non-compliance

20. Where it has been confirmed that the identified non-compliance does not constitute irregular expenditure, as defined in section 1 of the PFMA, the accounting officer or accounting authority must –
 - (a) Strengthen the internal control environment where the non-compliance was identified and confirmed; and
 - (b) Refer the non-compliance matter to the human resource management function or other relevant function in the institution to institute disciplinary processes.
21. The accounting officer or accounting authority must record the details of the confirmed non-compliance in the Checklist, as contained in **Annexure A** to this Framework.

Determination

22. The accounting officer or accounting authority must conduct a determination test or analyse the particulars of non-compliance in order to establish the facts and losses, if any, related to the transaction.
23. The determination test must be conducted by the Loss Control function or by another relevant function to confirm the facts and losses associated with the transaction and to collect information related to the identification of –
 - (a) root causes that led to the transgression;
 - (b) employee(s) responsible for the irregular expenditure;
 - (c) if the department, constitutional institution or public entity suffered a loss; and
 - (d) any breakdown in the designed internal controls.

24. The determination test referred to in paragraph 22 above must be instituted within 30 days from the date that the irregular expenditure was reported to the accounting officer or accounting authority.

Investigation

25. The accounting officer or accounting authority must conduct an investigation if he/she suspects any possibilities of fraudulent, corrupt or criminal acts emanating from the incurrence of irregular expenditure.
26. The accounting officer or accounting authority must, upon suspicion of a fraudulent, corrupt or criminal act, refer the irregular expenditure matter to its Internal Audit function or to another relevant function to investigate in order to establish the facts about the transaction and to obtain recommendations on the next step(s) to be taken.
27. The investigation must provide the accounting officer or accounting authority with at least the following facts about the transaction as well as information related to –
- (a) root causes that led to the transgression;
 - (b) impact of the transgression;
 - (c) information on fraudulent, corrupt or criminal related act(s);
 - (d) employee(s) responsible for the irregular expenditure;
 - (e) if the department, constitutional institution or public entity suffered a loss;
 - (f) if the matter must be referred to the law enforcement agencies; and
 - (g) any breakdowns in the designed internal controls and the impact thereof.
28. The investigation referred to in paragraph 25 above must be instituted within 30 days after it has been confirmed that irregular expenditure has been incurred.

CHAPTER 5

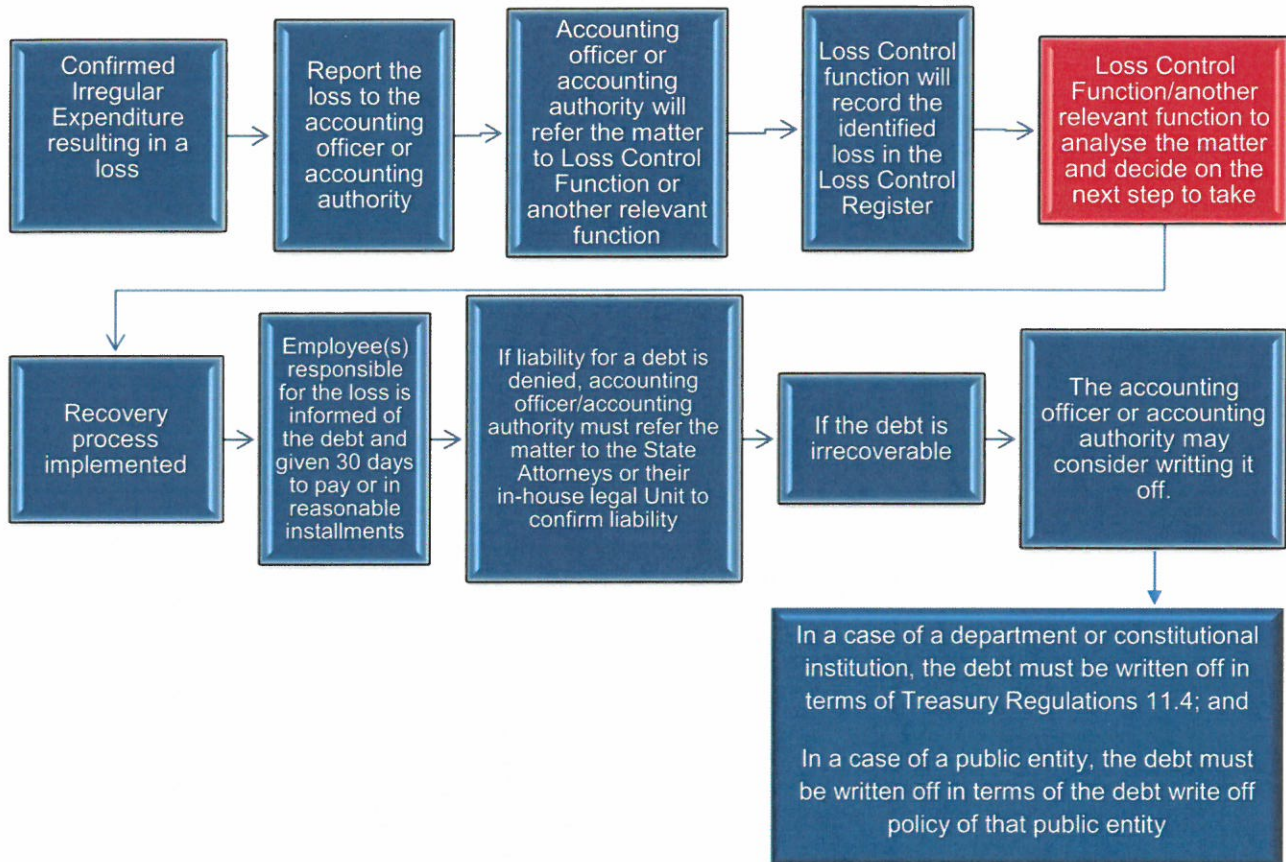
RECOVERY, CONDONATION OR REMOVAL OF IRREGULAR EXPENDITURE

Recovery

Transfer to the Loss Control function or another relevant function

29. It is acknowledged that there may be instances where irregular expenditure arose from fraudulent, corrupt or criminal acts or through actions that deprived the department, constitutional institution or public entity from achieving value for money.
30. Irregular expenditure emanating from fraudulent, corrupt or criminal acts may also result in a department, constitutional institution or public entity incurring a loss. This must prompt the Loss Control function or another relevant function to inform the accounting officer or accounting authority in writing to institute a civil claim for the recovery of the loss.
31. The accounting officer or accounting authority must also report the matter to the South African Police Service.

32. **Figure 2: Process for the recovery of losses**



33. Figure 2 above demonstrates that, if the results of the determination and investigation conducted, as referred to in paragraphs 22 and 25 above, confirms that the department, constitutional institution or public entity suffered a loss from the incurrence of irregular expenditure, the accounting officer or accounting authority must take the steps referred to in paragraphs 34 to 46 of this Framework.

Quantifying a debt (loss)

34. The amount of debt recoverable from the responsible employee(s) may equate to –
- the value of the debt incurred as a consequence of his or her action(s) that led to incurrence of the irregular expenditure; or
 - a lesser amount, determined by the accounting officer or accounting authority in accordance with the debt management policy of the institution.

35. In a case where the accounting officer or accounting authority is responsible for the debt, the relevant treasury must determine –
- (a) the value of the debt incurred as a consequence of his or her action(s) that led to incurrence of the irregular expenditure; or
 - (b) a lesser amount, determined by the relevant treasury.

Raising a debt

36. Treasury Regulation 11.2 requires an accounting officer of a department or constitutional institution to take effective and appropriate steps to timeously collect all money due to their relevant institutions. The accounting authority of a public entity must do the same in terms of the debt management policy of the public entity.
37. A debt must be identified, reported and recorded in the books of a department, constitutional institution or public entity where such a debt arose from losses incurred as a result of irregular expenditure.

Informing the responsible employee of the debt

38. The recovery of losses emanating from the incurrence of irregular expenditure must be performed in accordance with the debt management policy of the department, constitutional institution or public entity.
39. As soon as the accounting officer or accounting authority becomes aware of the debt, he/she must, in writing, request that an employee responsible for the debt pay the amount involved within thirty (30) days or within reasonable installments.
40. The “request in writing” referred to in paragraph 39 above essentially means that the debtor is placed “*in mora*”.
41. All debts incurred from losses emanating from the incurrence of irregular expenditure shall be interest bearing at the uniform interest rate prescribed in terms of section 80(1)(b) of the PFMA and shall be calculated using the simple interest method.
42. In cases where the employee has left the service of the department, constitutional institution or public entity, the accounting officer or accounting authority must follow

processes to recover the debt which may include, amongst others, engaging private sector debt management agencies on a no trace, no pay basis.

Liability in law (if there are disputes)

43. If the employee responsible for the debt is still in the employ of the department and denies liability for the debt, the accounting officer may refer the matter to the State Attorney to confirm the debtor's liability in law. In the case of a constitutional institution or a public entity, the accounting officer or accounting authority may refer the matter to their in-house legal division, if applicable, or to another relevant institution involved in legal services to confirm the debtor's liability in law.
44. If the employee responsible for the debt disputes the debt, the matter must be referred to the State Attorney, in the case of departments, or to their in-house legal division, if applicable or to another relevant institution involved in legal services to confirm the debtor's liability in law.

Irrecoverable debt

45. If the amount of a debt is irrecoverable from a responsible employee, the accounting officer of a department or constitutional institution may write off the debt in terms of Treasury Regulation 11.4. In the case of a public entity, the accounting authority may write off the debt in accordance with the debt write off policy of the public entity or direct that part of the debt be recovered.
46. If the accounting officer or accounting authority is responsible for the loss and is unable to re-pay the debt, he/she must report the inability to the relevant treasury in-order for the relevant treasury to consider approving the write off, if such a debt is considered to be irrecoverable. The relevant treasury may also direct that part of the debt be recovered.

Referral of irregular expenditure where no losses were reported

47. The accounting officer or accounting authority must refer the matter related to irregular expenditure to the following authorities, if recommendations of the Loss Control function or another relevant function confirms that no loss was incurred during the contravention of the legislation or policies and that value for money was achieved -

- (a) Human Resource function within their respective institutions to assist the accounting officer or accounting authority with any disciplinary process;
- (b) Relevant Authority for condonation of the irregular expenditure if no losses were reported and where the transaction is not related to fraudulent, corrupt or criminal acts; or
- (c) Accounting officer or accounting authority for removal of the irregular expenditure if such irregular expenditure was not condoned by the relevant authority.

Referral of Irregular expenditure where a fraudulent, corrupt or criminal act was identified

48. If the investigation confirms that the irregular expenditure is related to a fraudulent, corrupt or criminal act, the accounting officer or accounting authority must, within seven (7) days, ensure that a criminal charge is laid with the South African Police Service against the responsible employee(s).

Irregular expenditure referred to Human Resource Function (paragraph 47(a))

49. If the determination or investigation into the irregular expenditure confirms that there is an employee who is responsible for the irregular expenditure, however, the department, constitutional institution or public entity did not suffer any loss, the accounting officer or accounting authority must refer the matter to the Human Resource function to institute disciplinary processes in line with the relevant human resource prescripts.

Financial Misconduct Cases

50. Sections 38(1)(c)(ii) and 51(1) (b) (ii) of the PFMA require an accounting officer or accounting authority respectively to take effective and appropriate steps to, amongst others, prevent irregular expenditure and losses resulting from criminal conduct.
51. In terms of sections 81(1)(b) and 83(1)(b) of the PFMA, an accounting officer or accounting authority shall commit an act of financial misconduct if that accounting officer or accounting authority willfully or negligently makes or permits irregular expenditure.
52. Similarly, sections 81(2) and 83(3) of the PFMA provides that officials of PFMA compliant institutions whom a power or duty is assigned in terms of section 44 and 56 of the PFMA shall commit an act of financial misconduct if that official willfully or negligently fails to



Irregular Expenditure Framework

exercise that power or perform that duty to, amongst others, take effective and appropriate steps to prevent irregular expenditure within that official's area of responsibility.

53. In terms of sections 38(1)(h)(iii) and 51(1)(e)(iii) of the PFMA, the accounting officer or accounting authority must take effective and appropriate disciplinary steps against any official in the service of their respective institutions who makes or permits irregular expenditure.
54. If the allegation of financial misconduct is confirmed, the accounting officer or accounting authority must ensure that disciplinary processes are initiated against the employee concerned in accordance with the relevant prescripts and agreements regulating the employment of the applicable category of employees.
55. Treasury Regulation 4.1.3 provides that, if an accounting officer is alleged to have committed financial misconduct, the relevant treasury, must, as soon as it becomes aware of the alleged misconduct, ensure that the relevant executive authority initiates an investigation into the matter and, if the allegations are confirmed, holds a disciplinary hearing in accordance with the prescripts and agreements applicable in the public service.
56. If the accounting officer or accounting authority is alleged to have committed financial misconduct, the relevant executive authority must initiate an investigation into the matter within thirty (30) days from the date of discovery of the alleged financial misconduct and if the allegations are confirmed, ensure that appropriate disciplinary processes are initiated immediately.
57. Similarly, if an accounting authority or any of its members is alleged to have committed financial misconduct, the relevant executive authority must initiate an investigation into the matter and if the allegations are confirmed, must ensure that appropriate disciplinary processes are initiated immediately as required by the Treasury Regulation 33.1.3.

Irregular expenditure referred to the relevant authority for condonation (paragraph 47(b))

58. Provision is made for the accounting officer or accounting authority to submit requests to the relevant authority to seek condonation of the irregular expenditure.
59. Condonation of irregular expenditure relating to the contravention of other applicable legislation must be forwarded to the National Treasury for attention of the Accountant-General.
60. The requests referred to in paragraph 58 above may only be submitted to the relevant authority if the accounting officer or accounting authority confirms that the department, constitutional institution or public entity, whichever applicable, did not suffer a loss and that value for money was achieved.
61. Requests for condonation of irregular expenditure submitted to the relevant authority must at least contain the following information –
 - (a) confirmation that a determination test was conducted;
 - (b) findings and recommendations of the Loss Control function or another relevant function that conducted the determination test;
 - (c) findings and recommendations of the Internal Audit function or another relevant function that conducted the investigation;
 - (d) confirmation that no losses were incurred;
 - (e) confirmation that disciplinary action was taken against the responsible employee(s);
 - (f) confirmation that investigations were conducted in cases of identified fraudulent, corrupt or criminal acts; and
 - (g) remedial actions taken by the accounting officer or accounting authority to prevent the recurrence of such irregular expenditure in similar circumstances.

Irregular expenditure referred to the accounting officer or accounting authority for removal (paragraph 47(c))

62. The accounting officer or accounting authority may consider removing irregular expenditure that was not condoned by the relevant authority.
63. Removal of irregular expenditure may take place if the accounting officer or accounting authority is satisfied that the recommendations of the Loss Control function (in a case of a determination) or an Internal Audit function (in a case of an investigation) or another relevant function confirms that –
- (a) the matter is free from fraudulent, corrupt or criminal acts;
 - (b) disciplinary action was taken against the responsible employee(s);
 - (c) the department, constitutional institution or public entity, whichever applicable, did not suffer any losses;
 - (d) the non-compliance that led to the irregular expenditure has been addressed to ensure that such expenditure does not recur under similar circumstances; and
 - (e) transactions of a similar nature are regularly reviewed to ensure compliance with the relevant prescripts.
64. The accounting officer or accounting authority may proceed with the removal of irregular expenditure from the notes to the annual financial statements after confirmation of the processes indicated in paragraph 63 above.

Irregular expenditure referred to relevant law enforcement agencies

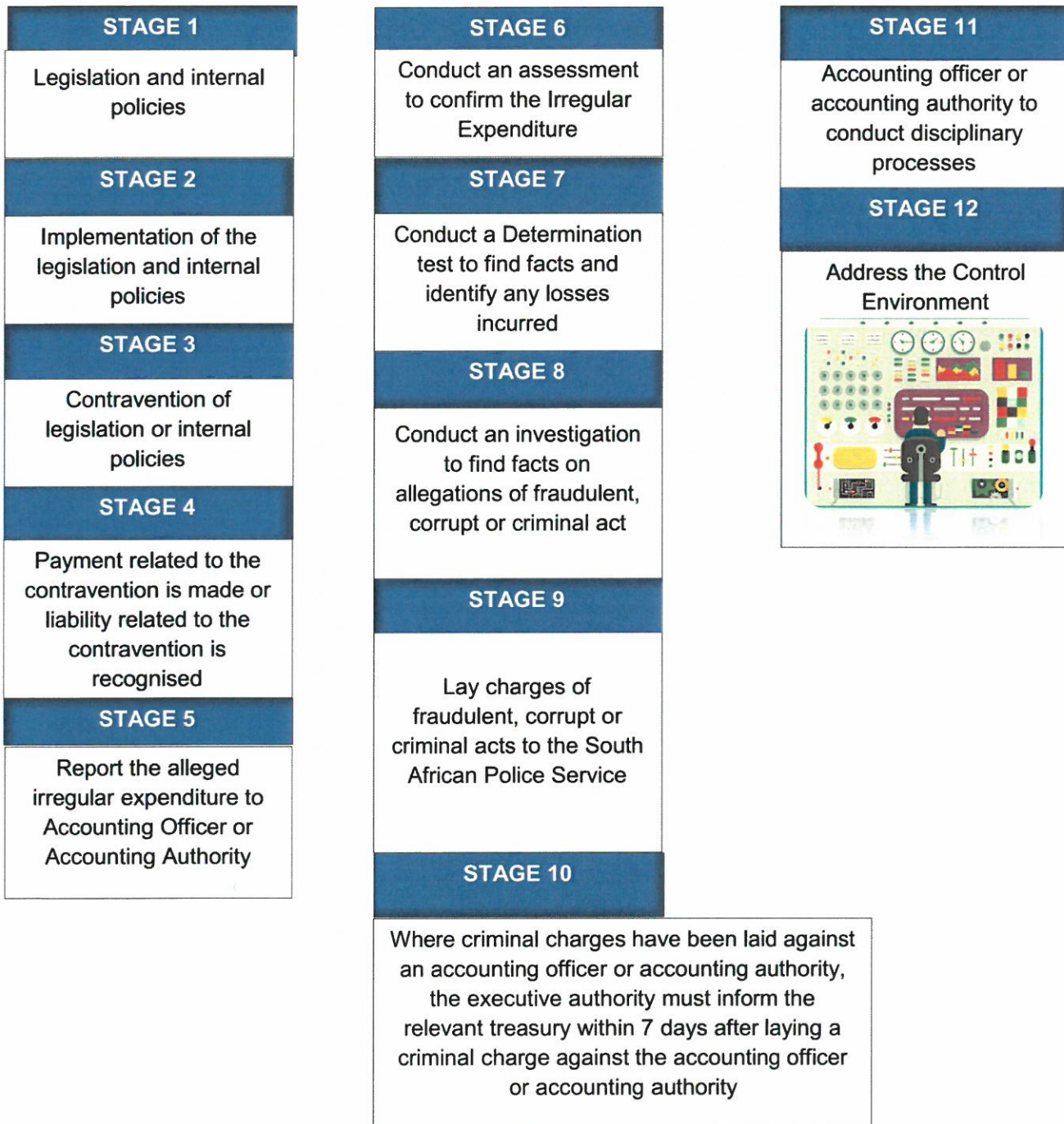
65. If the investigation confirms that the irregular expenditure relates to fraudulent, corrupt or criminal acts, the accounting officer or accounting authority must, within seven (7) days, ensure that a criminal charge is laid against the responsible employee(s) with the South African Police Service.
66. The accounting officer or accounting authority must also inform the relevant executive authority, the relevant treasury and the Auditor-General within seven (7) days after laying the above criminal charge.

67. Where criminal charges have been laid against an accounting officer or accounting authority, the executive authority must inform the relevant treasury and the Auditor-General within seven (7) days after laying a criminal charge against the accounting officer or accounting authority.

68. The irregular expenditure checklist and lead schedule must be updated with all the details of the fraudulent, corrupt and criminal acts reported to law enforcement agencies.

IRREGULAR EXPENDITURE ACCOUNTABILITY CYCLE

69. **Figure 3: Accountability cycle for accounting officers and accounting authorities when dealing with matters related to irregular expenditure**



CHAPTER 6

DISCOVERY AND REPORTING OF IRREGULAR EXPENDITURE

Discovery

70. An employee of a department or constitutional institution who becomes aware or suspects the occurrence of irregular expenditure must immediately, in writing, report such irregular expenditure to the accounting officer in terms of Treasury Regulation 9.1.2.
71. An employee of a public entity who becomes aware or suspects the occurrence of irregular expenditure must immediately, in writing, report such irregular expenditure in line with the reporting policy of that public entity.

Reporting

72. If confirmation by the accounting officer or accounting authority indicates that the transaction constitutes irregular expenditure, the accounting officer or accounting authority must report particulars of the irregular expenditure to the relevant authority, as indicated in the paragraphs below –

Reporting by the Accounting Officer

- (a) report the irregular expenditure immediately to the relevant treasury in terms of section 38(1)(g) of the PFMA;
- (b) report the irregular expenditure to the relevant treasury in the monthly report on revenue and expenditure required in terms of section 40(4)(b) of the PFMA;
- (c) report the irregular expenditure incurred by a department or constitutional institution in contravention of procurement laws and regulations, to the relevant procurement authority; and
- (d) in terms of section 40(3)(b)(i) of the PFMA, the annual report and financial statements of a department or constitutional institution must include particulars of any irregular expenditure that was incurred during the year.

Reporting by the Accounting Authority

- (e) In terms of section 55(2)(b) of the PFMA, the annual report and financial statements of the public entity, must include the following for that financial year:
- i. any irregular expenditure for that year;
 - ii. any criminal or disciplinary steps taken as a consequence of incurring irregular expenditure; and
 - iii. any losses recovered or written off.
73. In terms paragraphs 72(b) and 72(e)⁴ to this Framework, accounting officers and accounting authorities are required to submit monthly information on irregular expenditure in their In-Year-Monitoring (IYM) Report as follows –
- (a) To the National Treasury for attention of the Public Finance Division in the case of national departments, national government components, trading entities established within the administration of national departments and constitutional institutions and public entities listed in Schedules 2, 3A and 3B to the PFMA; and
 - (b) To the relevant provincial treasury for attention of the Provincial Accountant-General (PAG) in a case of provincial departments, provincial government components, trading entities established within the administration of provincial departments and public entities listed in Schedules 3C and 3D to the PFMA.
74. Information required in terms of paragraph 72 above must be submitted to the relevant treasury within fifteen (15) days after the end of each month in the format contained in **Annexure C** to this Framework.

**ACCOUNTABILITY
THROUGH IN-YEAR-
MONITORING & REPORTING**

⁴ These reporting requirements implies that **only one** report must be submitted to the relevant treasury each month in terms of the In-Year Monitoring reporting.

CHAPTER 7

RECORDING IN THE CHECKLIST AND LEAD SCHEDULE

CHECKLIST AND LEAD SCHEDULE

Recording in the checklist

75. Accounting officers and accounting authorities must maintain a checklist of irregular expenditure and a lead schedule which must contain detailed financial year listings of all non-compliance, irregular expenditure and losses incurred by their respective institutions. Examples of an irregular expenditure checklist and a lead schedule are contained in **Annexures A and B** to this Framework.
76. The accounting officer or accounting authority must update the checklist and the lead schedule with information related to the processes taken as per the recommendations of the Loss Control function (for determination) or an Internal Audit Function (for investigation) or another relevant function, in relation to –
- (a) Irregular expenditure referred to the Human Resource Function - **Disciplinary processes and Financial Misconduct**;
 - (b) Irregular expenditure referred to the Loss Control Function or another relevant function for recovery, if results of the determination or investigation conducted revealed that a loss was incurred - **Recovery process**;
 - (c) Irregular expenditure referred to Law Enforcement Agencies (if there were fraudulent, corrupt or criminal acts and losses identified) – **Criminal charges**;
 - (d) Irregular expenditure referred to the Relevant Authority for condonation (if disciplinary processes were instituted against the responsible employee(s) and no losses were suffered) – **Condonation**; or
 - (e) Irregular expenditure is referred to the Accounting Officer or Accounting Authority for removal (if the irregular expenditure was not condoned by the relevant authority) - **Removal**.
77. The irregular expenditure checklist and lead schedule must be kept up to date in order to track all the alleged and confirmed irregular expenditure and to maintain correct and accurate information for purposes of an audit trail.

78. The irregular expenditure lead schedule must also serve as a lead for the irregular expenditure and losses to be disclosed in the note to the annual financial statements to ensure its accuracy and completeness.

Reporting in the note to the annual financial statements

79. Treasury Regulations 9.1.5 and 28.2.1 require accounting officers and accounting authorities to disclose all irregular expenditure incurred by their respective institutions as a note to the annual financial statements.

National Departments and government components

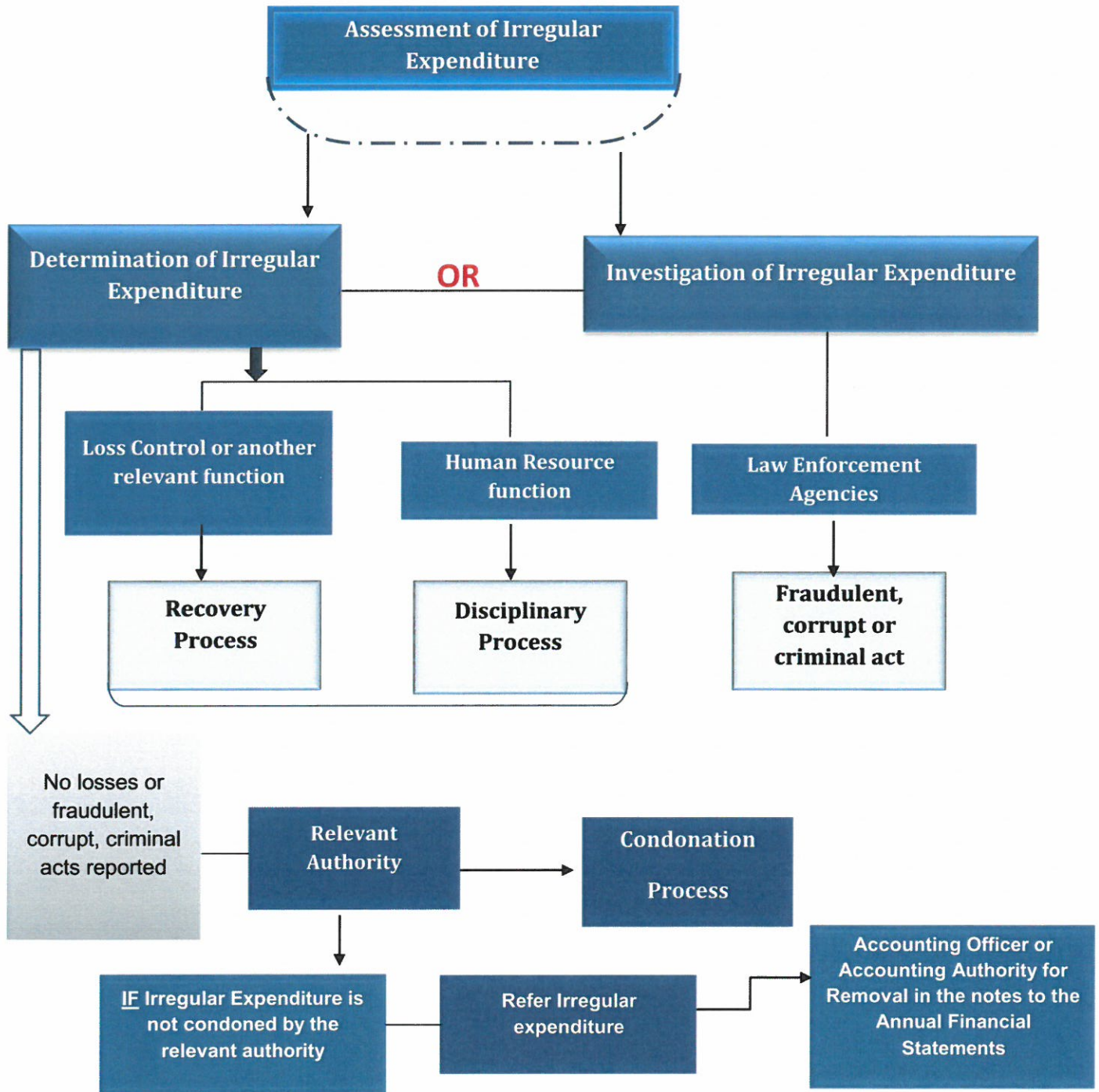
80. The Modified Cash Standard provides disclosure requirements for the annual financial statements of departments and government components operating on a modified cash basis of accounting.

Government components, constitutional institutions, trading entities and public entities

81. The annual financial statement template must also be utilised by government components, trading entities, constitutional institutions and public entities operating on an accrual basis of accounting to disclose amounts of irregular expenditure.
82. The accounting officer or accounting authority must ensure that only confirmed irregular expenditure is disclosed in the main note to the annual financial statements.
83. Irregular expenditure not confirmed or in the process of determination or investigation must be disclosed in the *sub-note* to the annual financial statements related to irregular expenditure.

CHAPTER 8

PROCESS FLOW FOR IRREGULAR EXPENDITURE



CHAPTER 9

Repeal of National Treasury Practice Note

84. This Framework repeals National Treasury Practice Note No. 4 of 2008/2009 dated 24 April 2008.

SIMPLE TEMPLATE: IRREGULAR EXPENDITURE CHECKLIST

Fac No.	Date reported to the AO/AA ¹	Description of the transgression	Unconfirmed amounts of Irregular Expenditure	Is the transgression non-compliance or Irregular Expenditure	Irregular Expenditure referred to LCF ² for Determination and IAF ³ for investigation	Disciplinary Process referred to HRF ⁴	Recovery Process referred to LCF	Criminal Charges referred to LEA ⁵	Condonation referred to RA ⁶	Removal referred to AO/AA
	10 June 20xx	Xxx	R500 000	Non-compliance	Yes/No LCF	Yes/No Yes	Yes/No/NA NA	Yes/No/NA NA	Yes/No/NA NA	Yes/No/NA NA
	12 November 20xx	Xxx	R4 Million	Irregular Expenditure	IAF	Yes	Yes	NA	NA	NA
	5 December 20xx	Xxx	R8 Million	Irregular Expenditure	LCF	Yes	Yes	Yes	NA	NA
	9 January 20xx	Xxx	R10 Million	Irregular Expenditure	IAF	Yes	NA	NA	Yes	Yes

Not condoned by RA,
Transfer to AO/AA for
Removal

¹ AO/AA- Accounting Officer or Accounting Authority

² LCF - Loss Control Function or another relevant function (for determination)

³ IAF- Internal Audit function or another relevant function (for investigation)

⁴ HRF- Human Resource Function

⁵ LEA- Law Enforcement Agency

⁶ RA- Relevant Authority

TEMPLATE: IRREGULAR EXPENDITURE LEAD SCHEDULE

Details of the transaction	Transaction Number	Confirmed Amounts of irregular expenditure	Confirmed Amounts of Losses If applicable	STATUS OF IRREGULAR EXPENDITURE						
				UD/I ¹ Y/N/NA	LR ² Y/N/NA	DP ³ Y/N/NA	CC ⁴ Y/N/NA	Cn ⁵ Y/N/NA	R ⁶ Y/N/NA	

Amounts to be disclosed in the notes to the Annual Financial Statements

Amounts to be disclosed under Receivables

¹ UD/I- under determination or investigation
² LR- Loss Recovery
³ DP- Disciplinary Process
⁴ CC- Criminal Charges
⁵ Cn- Condoned
⁶ R – Removed

ANNEXURE C

TEMPLATE: IRREGULAR EXPENDITURE IN YEAR-MONITORING AND REPORTING

Information required in terms of paragraph 72 of this Framework must be submitted to the relevant treasury within fifteen (15) days of the end of the month in the format (excel template) as contained in **Annexure C** to this Framework.