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PROVINCIAL TREASURY CIRCULAR NO. 30 OF 2019

TO:

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SECRETARY: PROVINCIAL LEGISLATURE OF MPUMALANGA: VOTE 2: (MR L MWALE)
HEAD: PROVINCIAL TREASURY: VOTE 3: (MS GUGU MASHITENG)
HEAD: CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS: VOTE 4: (MR PS NYONI)
ACTING HEAD: AGRICULTURE, RURAL DEVELOPMENT, LAND AND ENVIRONMENTAL AFFAIRS: VOTE 5: (MR LS MONARENG)
ACTING HEAD: ECONOMIC DEVELOPMENT AND TOURISM: VOTE 6: (MR NM SEBITSO)
ACTING HEAD: EDUCATION: VOTE 7: (MR JR NKOSI)
ACTING 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)

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THE ACTING CHIEF FINANCIAL OFFICER: VOTE 10: HEALTH (MR PP MAMOGALE)
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THE CHIEF FINANCIAL OFFICER: VOTE 12: SOCIAL DEVELOPMENT (MR JB MBATHA)
THE CHIEF FINANCIAL OFFICER: VOTE 13: HUMAN SETTLEMENTS (MR SB NYOKA)

THE ACTING CHIEF EXECUTIVE OFFICER: MPUMALANGA ECONOMIC GROWTH AGENCY (MR T CAMANE)
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THE CHIEF EXECUTIVE OFFICER: MPUMALANGA TOURISM AND PARKS AGENCY (MR BJ NOBUNGA)
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THE ACTING CHIEF FINANCIAL OFFICER: MPUMALANGA ECONOMIC GROWTH AGENCY
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(MR S MATHYE)

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

IRREGULAR EXPENDITURE FRAMEWORK

1. PURPOSE

The purpose of this circular is to communicate the attached National Treasury Instruction which further regulates irregular expenditure by providing procedures to be followed by accounting officers and accounting authorities for dealing with irregular expenditure in institutions subject to the Public Finance Management Act (PFMA), 1999 (Act No.1 of 1999) as per the enclosed Irregular Expenditure Framework.

2. BACKGROUND

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

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.

3. EFFECTIVE DATE

This Treasury Instruction took effect on 17 May 2019.

4. TRANSITIONAL ARRANGEMENTS

- 4.1 Accounting officers and accounting authorities must ensure that any irregular expenditure assessment, determination and investigation not finalised by 30 April 2019 is addressed in terms of this Instruction.
- 4.2 Accounting officers and accounting authorities must also ensure that the recovery of losses, requests for condonation and removal of irregular expenditure not finalised by 30 April 2019 are considered in terms of this Treasury Instruction.

5. CONDONATION OF IRREGULAR EXPENDITURE

All requests for condonation of irregular expenditure from provincial departments and public entities listed in Schedules 3C and 3D to the PFMA are to be submitted directly to Provincial Treasury for consideration and/or condonation.

The accounting officer or accounting authority must, as a minimum, consider the following information when requesting condonation of irregular expenditure:

- 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) Confirmation that internal investigations were conducted in cases of identified fraudulent, corrupt or other criminal conduct;
- d) Confirmation that a criminal charge has been laid in the case of alleged fraudulent, corrupt or other criminal conduct;
- e) Findings and recommendations of a functionary that conducted the investigation;
- f) Confirmation that losses were not incurred and that value for money was achieved;
- g) Confirmation that disciplinary action was taken against the responsible employee(s); and
- h) Confirmation of remedial actions taken or being taken by the accounting officer or accounting authority to prevent the recurrence of such irregular expenditure in similar circumstances.

6. REPEAL OF TREASURY INSTRUCTION

This Treasury Instruction repeals Provincial Treasury Circular No. 51 of 2018.

7. CONTACT INFORMATION

Enquiries related to this Treasury Instruction may be directed to:

Mr Robert Masambo

Acting General Manager: Assets and Liabilities Management

Phone: 013 766 4230

E-mail: rmasambo@mpg.gov.za

Your co-operation is at all times appreciated.

Regards



MS GUGU MASHITENG
ACTING HEAD: PROVINCIAL TREASURY
DATE: 15/06 /2019



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. 2 OF 2019/2020

IRREGULAR EXPENDITURE FRAMEWORK

1. PURPOSE

1.1 The purpose of this National Treasury Instruction is to further regulate irregular expenditure for institutions subject to the Public Finance Management Act (PFMA), 1999 (Act No.1 of 1999) as set out in the Irregular Expenditure Framework (herein referred to as "the Framework") enclosed as Annexure A.

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 must take effective and appropriate steps to, amongst others, prevent irregular expenditure.

2.2 Sections 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.

3. APPLICABILITY

This National Treasury Instruction 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 sections 76(2)(e) and 76(4)(a) of the PFMA.

National Treasury Instruction No. 2 of 2019/2020
Irregular Expenditure Framework

5. EFFECTIVE DATE

This Treasury Instruction takes effect on 17 May 2019.

6. TRANSITIONAL ARRANGEMENTS

- 6.1 Accounting officers and accounting authorities must ensure that any irregular expenditure assessments, determinations and investigations not finalised by 30 April 2019 is considered in terms of this Treasury Instruction.
- 6.2 Accounting officers and accounting authorities must also ensure that the recovery of losses, requests for condonation and removal of irregular expenditure not finalised by 30 April 2019 are considered in terms of this Treasury Instruction.
- 6.3 Any reference to non-compliance of internal policies being regarded as irregular expenditure in terms of Treasury Instruction No. 1 of 2018/2019 must be disregarded to accord with the definition of "irregular expenditure" in section 1 of the PFMA.

7. CONDONATION OF IRREGULAR EXPENDITURE AT NATIONAL AND PROVINCIAL SPHERES OF GOVERNMENT

- 7.1 All requests for condonation of irregular expenditure from national departments, trading entities, constitutional institutions and public entities listed in Schedules 2, 3A and 3B to the PFMA must be submitted to the National Treasury¹.
- 7.2 All requests for condonation of irregular expenditure from provincial departments and public entities listed in Schedules 3C and 3D to the PFMA must be submitted to their relevant provincial treasury².

8. REPORTING OF IRREGULAR EXPENDITURE

- 8.1 Accounting officers of national departments, trading entities and constitutional institutions and accounting authorities of public entities listed in Schedules 2, 3A and 3B to the PFMA must report on cases of irregular expenditure in the format and period prescribed in Appendix C to the Framework.
- 8.2 Accounting officers of provincial departments and accounting authorities of public entities listed in Schedules 3C and 3D to the PFMA must report on cases of irregular

¹ Section 10 (1)(a), read with section 10 (2)(b)(i), of the PFMA

² Section 20 (1), read with section 20 (2)(a)(b) and (c), of the PFMA

National Treasury Instruction No. 2 of 2019/2020
Irregular Expenditure Framework

expenditure in the format prescribed in **Appendix C** to the Framework and the period prescribed in the relevant provincial treasury instruction.

9. REPEAL OF NATIONAL TREASURY INSTRUCTION NO. 1 OF 2018/2019

This Treasury Instruction repeals National Treasury Instruction No. 01 of 2018/2019 dealing with irregular expenditure incurred by departments, trading entities, constitutional institutions and public entities listed in Schedules 2 and 3 to the PFMA.

10. DISSEMINATION OF INFORMATION CONTAINED IN THIS TREASURY INSTRUCTION

10.1 Accounting officers of national departments are requested to 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.

10.2 Head Officials of Provincial Treasuries are requested to 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.

11. REFERENCE TO TREASURY INSTRUCTION

This Treasury Instruction is available on the National Treasury Website at:

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

12. 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: 16 May 2019



national treasury
Department
National Treasury
REPUBLIC OF SOUTH AFRICA

Annexure A: Irregular Expenditure Framework

IRREGULAR EXPENDITURE FRAMEWORK

PFMA COMPLIANT INSTITUTIONS



OFFICE OF THE ACCOUNTANT-GENERAL



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



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REPUBLIC OF SOUTH AFRICA

Annexure A: Irregular Expenditure Framework

IRREGULAR EXPENDITURE FRAMEWORK

PFMA COMPLIANT INSTITUTIONS



OFFICE OF THE ACCOUNTANT-GENERAL



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National Treasury
REPUBLIC OF SOUTH AFRICA

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CHAPTER 1

DEFINITIONS

In this Framework, any word or expression to which a meaning has been assigned in section 1 of the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999), and regulations made in terms thereof, has the meaning so assigned, and —

“assessment” means a test conducted by a Loss Control Function or another relevant function¹ to identify possible irregularities in transactions processed and to confirm the allegations of irregular expenditure;

“checklist” means a list of transgressions and alleged cases of irregular expenditure that are in the process of being dealt with;

“condonation” means a process whereby the relevant authority acknowledges the irregular expenditure and pardons the action that has resulted in the incurrance of irregular expenditure;

“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 to determine the loss(es) related to the transaction;

“investigation” means a formal probe conducted by a function performing investigations to analyse the particulars of non-compliance in order to establish the facts about the transaction and to determine whether any fraudulent, corrupt or criminal act has taken place;

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

“non-compliance” means the failure to comply with a legal requirement;

“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; and

“relevant authority” means –

- (a) The National Treasury, in the case where an employee or the accounting officer of a national department or constitutional institution, or an employee or the accounting authority of a Schedule 2, 3A or 3B public entity, was responsible for irregular expenditure; and

¹ Reference to another relevant function means a function assigned by the accounting officer or accounting authority to perform a task related to loss control management.

- (b) The relevant provincial treasury, in the case where an employee or the accounting officer of a provincial department or an employee or the accounting authority of a Schedule 3C or 3D public entity, was responsible for the irregular expenditure.

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.

Applicability

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

Irregular expenditure incurred in prior year(s)

3. Accounting officers of departments and constitutional institutions and accounting authorities of public entities must address previous cases of irregular expenditure in terms of this Framework.

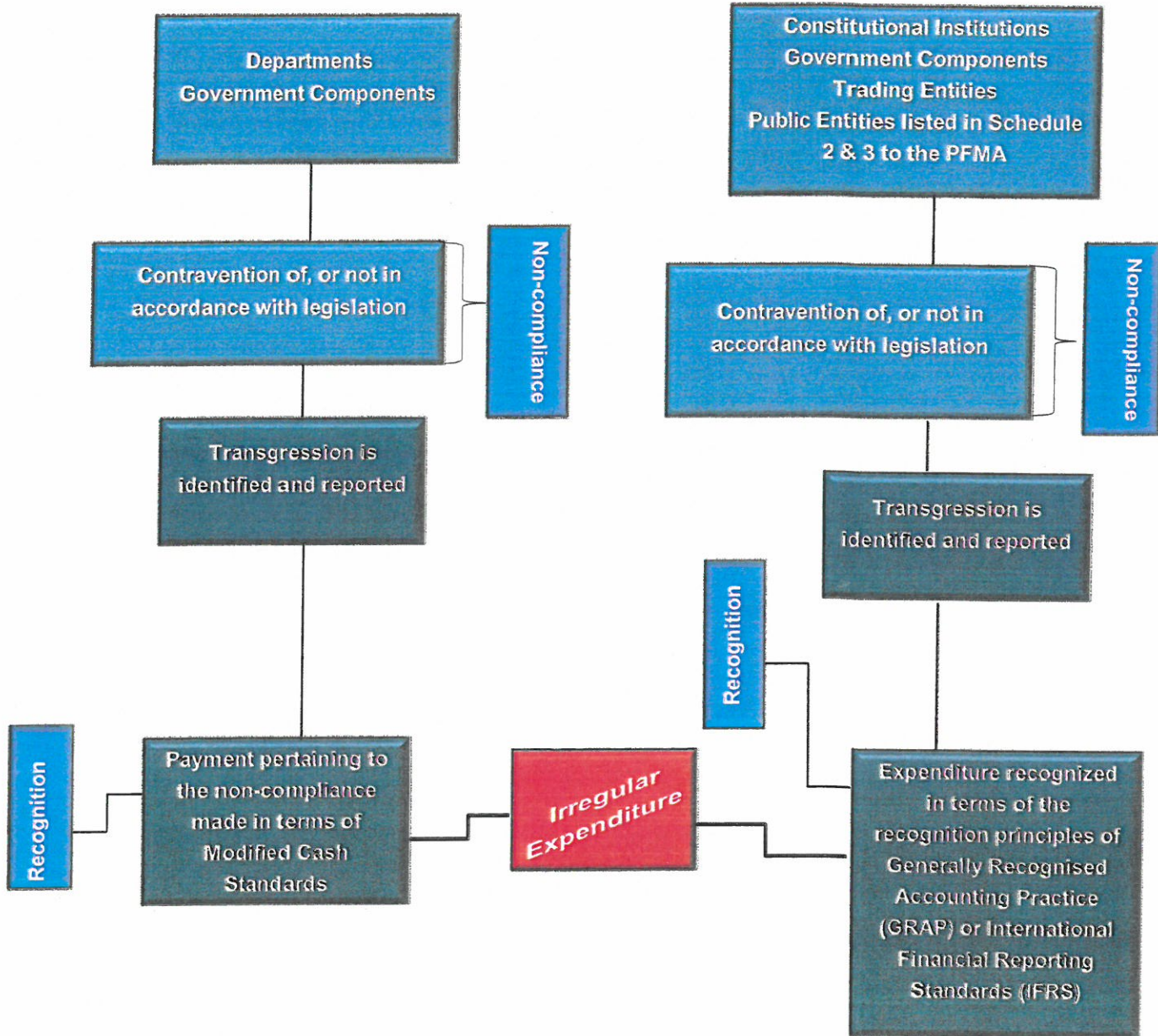
CHAPTER 3

RECOGNITION OF IRREGULAR EXPENDITURE

Recognition

4. 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.
5. 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 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).
6. For a government component, a constitutional institution, 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, government component, trading entity or public entity will only record irregular expenditure when a transaction is recognised as expenditure in the Statement of Financial Performance in accordance with GRAP or IFRS, whichever is applicable.

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



8. **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, or not in accordance with legislation; and
- (b) it must be incurred upon recognition of a financial transaction as –



Annexure A: 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 government components, constitutional institutions, trading entities and public entities operating on an accrual basis of accounting.

CHAPTER 4

ASSESSMENT, DETERMINATION AND/OR INVESTIGATIONS RELATED TO IRREGULAR EXPENDITURE

Assessment

9. 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.
10. 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.
11. This responsibility encompasses identifying the legislative universe which institutions must comply with.
12. In terms of paragraphs 10 and 11, 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.
13. Upon detection of alleged irregular expenditure, the Loss Control Function or another relevant function 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 legislation that did not relate to the incurrence of a financial transaction.

Confirmation of irregular expenditure

14. If a transaction has been processed in contravention of legislation and the same transaction has a financial implication (payment was made or a liability was recognised in the books), it must be recorded as irregular expenditure.
15. The accounting officer or accounting authority must record the details of all alleged irregular expenditure in the Checklist, as contained in **Appendix A** to this Framework.

16. The details and amounts of confirmed irregular expenditure and losses determined must be recorded in the irregular expenditure Lead Schedule, as contained in **Appendix B** to this Framework.

Confirmation of Non-compliance

17. 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 in the institution to institute disciplinary processes against the employee responsible for the non-compliance.
18. The accounting officer or accounting authority must record details of the confirmed non-compliance in the Checklist, as contained in **Appendix A** to this Framework.

Determination

19. The Loss Control Function or another relevant function must conduct a determination test or analyse particulars of the non-compliance to establish the facts and losses, if any, related to the transaction.
20. The Loss Control Function or another relevant function must, at least, collect information on –
 - (a) the root causes that led to the transgression;
 - (b) the employee(s) responsible for the irregular expenditure;
 - (c) whether the department, constitutional institution or public entity suffered a loss; and
 - (d) any breakdown in the designed internal controls.
21. The determination test referred to in paragraph 19 must commence within 30 days after the irregular expenditure was reported to the accounting officer or accounting authority.

Investigation

22. The accounting officer or accounting authority must conduct an investigation if it is suspected that there is a possibility of fraudulent, corrupt or other criminal conduct emanating from the incurrence of irregular expenditure.
23. The accounting officer or accounting authority must, upon suspicion of a fraudulent, corrupt or other criminal conduct, refer the irregular expenditure matter to a function performing investigations in order to establish the facts about the transaction and to obtain recommendations on the next step(s) to be taken.
24. The investigation must provide the accounting officer or accounting authority with at least the following –
 - (a) root causes that led to the transgression;
 - (b) impact of the transgression;
 - (c) fraudulent, corrupt or other criminal conduct;
 - (d) employee(s) responsible for the irregular expenditure;
 - (e) whether the department, constitutional institution or public entity suffered a loss;
 - (f) whether the matter must be referred to the South Africa Police Service; and
 - (g) any breakdowns in the designed internal controls and the impact thereof.
25. The investigation referred to in paragraph 22 must commence within 30 days after the determination test.



CHAPTER 5

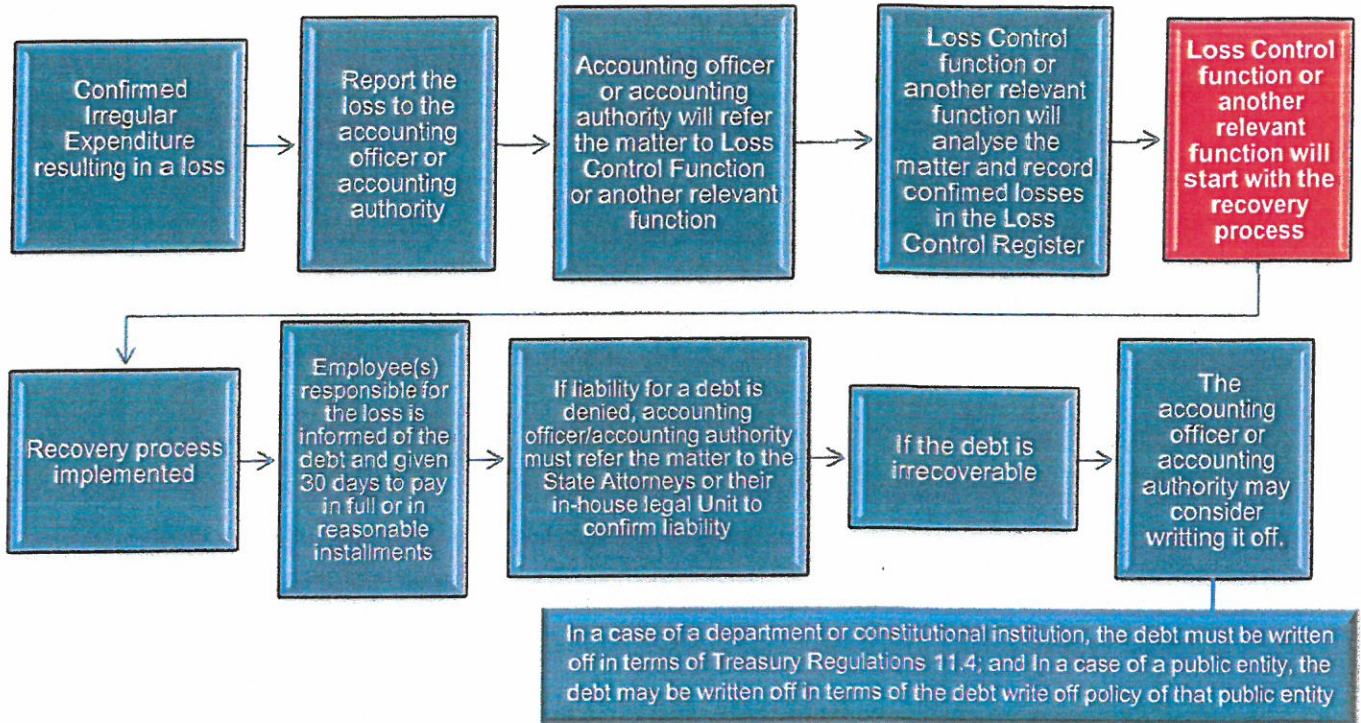
RECOVERY, CONDONATION OR REMOVAL OF IRREGULAR EXPENDITURE

Recovery

Transfer to the Loss Control Function or another relevant function

26. It is acknowledged that there may be instances where irregular expenditure arose from fraudulent, corrupt or other criminal conduct or through actions that deprived the department, constitutional institution or public entity from achieving value for money.
27. Irregular expenditure emanating from fraudulent, corrupt or other criminal conduct may also result in a department, constitutional institution or public entity incurring a loss. If such is the case, the accounting officer or accounting authority must report the matter to the South African Police Service and after conclusion of the criminal case, the Loss Control Function or another relevant function must, in writing, inform the accounting officer or accounting authority to institute a civil claim for the recovery of the loss.
28. It is also acknowledged that irregular expenditure may result in a loss, however, the transgression may not arise as a result of fraudulent, corrupt or other criminal conduct. If such is the case, the Loss Control Function or another relevant function must, in writing, inform the accounting officer or accounting authority to institute a claim against the responsible employee for recovery of the loss.

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



30. **Figure 2** above demonstrates that, if the results of the determination and investigation confirms that the department, constitutional institution or public entity suffered a loss from the incurrance of irregular expenditure, the accounting officer or accounting authority must take the steps referred to in paragraphs 31 to 43 of this Framework.

Quantifying a debt (loss)

31. The amount of debt recoverable from the responsible employee(s) may equate to –
- (a) the value of the debt incurred as a consequence of his or her action(s) that led to incurrance of the irregular expenditure; or
 - (b) a lesser amount, determined by the accounting officer or accounting authority in accordance with the debt management policy of the institution.
32. In a case where the accounting officer or accounting authority is responsible for the debt, the relevant treasury –
- (a) must determine the value of the debt incurred as a consequence of his or her action(s) that led to incurrance of the irregular expenditure; or

- (b) may determine a lesser amount.

Raising a debt

33. 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.
34. 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

35. 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.
36. As soon as the accounting officer or accounting authority becomes aware of the debt, the accounting officer or accounting authority must, in writing, notify the responsible employee of the debt and request that the amount involved be paid within 30 days. The accounting officer or accounting authority may approve that the debt be paid within a reasonable number of instalments.
37. The notification in writing referred to in paragraph 36 essentially means that the debtor is placed "*in mora*".
38. Interest on debts incurred from losses emanating from the incurrence of irregular expenditure must be charged at the rates determined in terms of section 80(1)(b) of the PFMA.
39. 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 the State Attorney or debt management agencies on a no trace, no pay basis.

Liability in law (if there are disputes)

40. If the employee responsible for the debt is still in the employ of the department and denies liability for the debt, the accounting officer must 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 an external legal service provider² to confirm the debtor's liability in law.
41. If the person responsible for the debt has left or is not in the employ of the department and denies liability for the debt, the accounting officer must refer the matter to the State Attorney to confirm the debtor's liability in law. In the case of a constitutional institution or public entity, the accounting officer or accounting authority may refer the matter to their in-house legal division, if applicable, or to an external legal service provider to confirm the debtor's liability in law.
42. 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.
43. If the accounting officer or accounting authority is responsible for the debt and is unable to re-pay the debt, the accounting officer or accounting authority 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.

Referral of irregular expenditure where no losses were reported

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

² An external legal service provider must be procured in accordance with the relevant supply chain management prescripts.

- (a) Human Resource Function within the respective institution to assist the accounting officer or accounting authority with disciplinary processes;
- (b) Relevant Authority for condonation of the irregular expenditure where the transaction is not related to fraudulent, corrupt or other criminal conduct; and
- (c) Accounting officer or accounting authority for removal of the irregular expenditure if it was not condoned by the relevant authority.

Referral of irregular expenditure where a fraudulent, corrupt or other criminal conduct was identified

45. If the investigation confirms that the irregular expenditure is related to a fraudulent, corrupt or other criminal conduct, the accounting officer or accounting authority must, within seven 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 44 (a)]

46. If the determination or investigation into the irregular expenditure confirms that there is an employee who is responsible for the irregular expenditure, while 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

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

appropriate steps to prevent irregular expenditure within that employee's area of responsibility.

50. 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 employee in the employ of their respective institutions who makes or permits irregular expenditure.
51. If an 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.
52. 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, hold a disciplinary hearing in accordance with the prescripts and agreements applicable in the public service.
53. 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 Treasury Regulation 33.1.3.
54. The relevant executive authority must initiate an investigation into the matter within 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.

Irregular expenditure referred to the relevant authority for condonation [paragraph 44 (b)]

55. The relevant authority may, at the request of the accounting officer or accounting authority, condone the irregular expenditure.

56. The accounting officer or accounting authority must, as a minimum, consider the following information when requesting condonation of irregular expenditure –
- (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) confirmation that internal investigations were conducted in cases of identified fraudulent, corrupt or other criminal conduct;
 - (d) confirmation that a criminal charge has been laid in the case of alleged fraudulent, corrupt or other criminal conduct;
 - (e) findings and recommendations of a functionary that conducted the investigation;
 - (f) confirmation that losses were not incurred and that value for money was achieved;
 - (g) confirmation that disciplinary action was taken against the responsible employee(s); and
 - (h) confirmation of remedial actions taken or being 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 44 (c)]

57. The accounting officer or accounting authority may remove irregular expenditure that was not condoned by the relevant authority.
58. Removal of irregular expenditure may take place only if the accounting officer or accounting authority is satisfied that the recommendations of the Loss Control Function or another relevant function (in a case of a determination) and a function that conducted the investigation confirms that –
- (a) the matter is free of fraudulent, corrupt or other criminal conduct;
 - (b) disciplinary action was taken against the responsible employee(s);
 - (c) the department, constitutional institution or public entity, whichever applicable, did not suffer any loss;

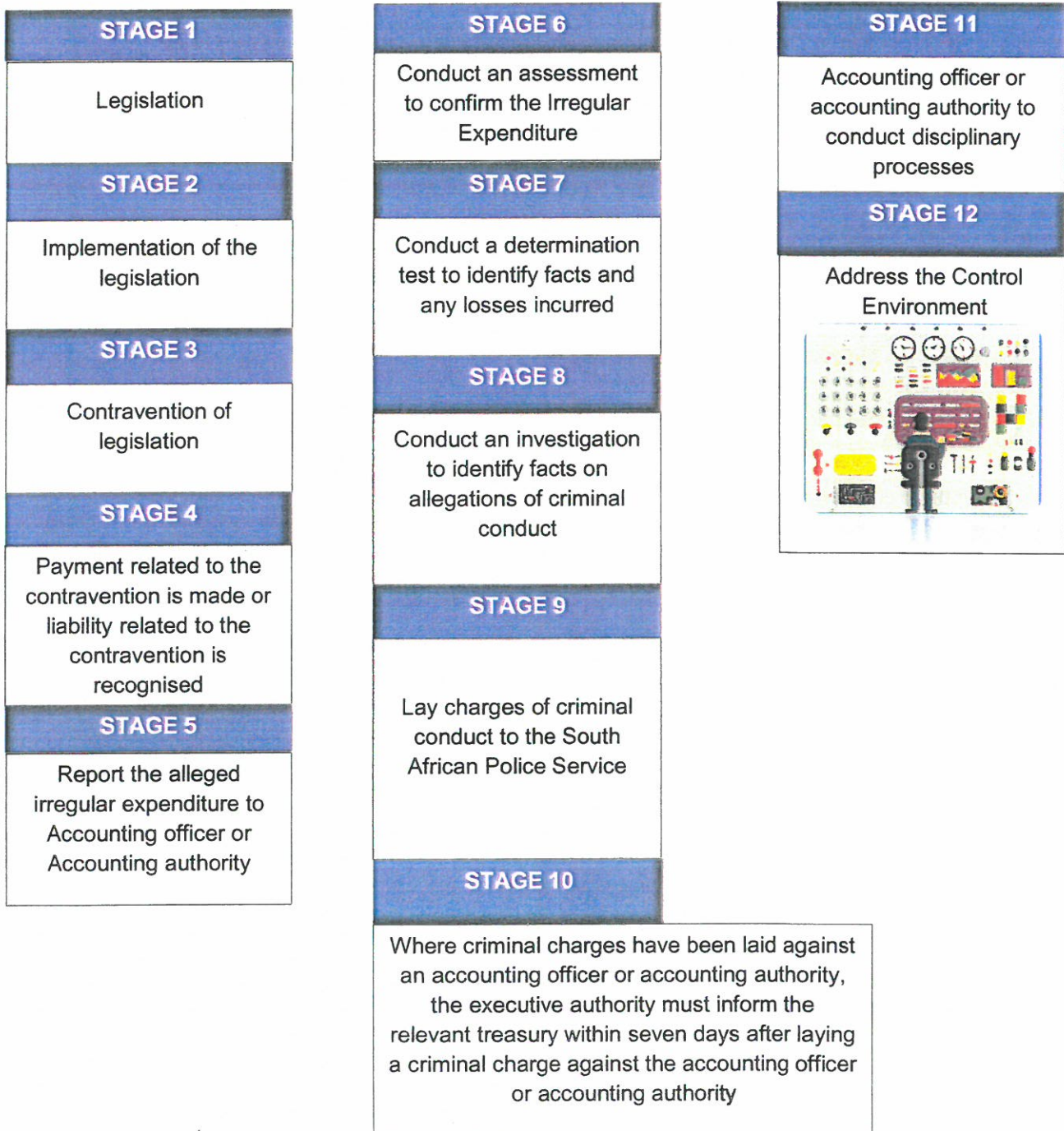
- (d) the non-compliance that led to the irregular expenditure has been addressed to ensure that such expenditure does not recur under similar circumstances; and
 - (e) transactions of a similar nature are regularly reviewed to ensure compliance with the relevant prescripts.
59. The accounting officer 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 58.

Irregular expenditure referred to the South African Police Service

60. If the investigation conducted confirms that the irregular expenditure relates to fraudulent, corrupt or other criminal conduct, the accounting officer or accounting authority must, within seven days, ensure that a criminal charge is laid with the South African Police Service against the responsible employee(s).
61. The accounting officer or accounting authority must also inform the relevant executive authority, the relevant treasury and the Auditor-General within seven days after laying the above criminal charge.
62. 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 days after laying a criminal charge against the accounting officer or accounting authority.
63. The irregular expenditure checklist and lead schedule must be updated with all the details of fraudulent, corrupt and other criminal conduct reported to the South African Police Service.

IRREGULAR EXPENDITURE ACCOUNTABILITY CYCLE

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



CHAPTER 6

REPORTING OF IRREGULAR EXPENDITURE

Reporting

65. An employee of a department or constitutional institution who becomes aware or suspects the incurrence of irregular expenditure must immediately, in writing, report such irregular expenditure to the accounting officer in terms of Treasury Regulation 9.1.2.
66. An employee of a public entity who becomes aware or suspects the incurrence of irregular expenditure must immediately, in writing, report such irregular expenditure in line with the reporting policy of that public entity.
67. 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 treasury, as indicated 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 authority³; 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.

³ “relevant procurement authority” means the Chief Procurement Officer at the National Treasury or the unit performing a procurement regulatory function at the relevant provincial treasury, whichever applicable.

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 related to losses and irregular expenditure for that financial year:
- i. any material losses through criminal conduct and any irregular expenditure that occurred during the financial year;
 - ii. any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure; and
 - iii. any losses recovered or written off.

In-Year-Monitoring Report at National Level

68. Accounting officers of national departments must submit monthly information on irregular expenditure to the National Treasury in the In-Year Monitoring (IYM) Report prescribed in **Appendix C** to this Framework. Accounting officers of constitutional institutions and accounting authorities of public entities listed in Schedules 2, 3A and 3B to the PFMA must submit quarterly information on irregular expenditure to the National Treasury in the In-Year Monitoring (IYM) Report prescribed in **Appendix C**.
69. Information required in terms of paragraph 68 must be submitted to the National Treasury within 15 days after the end of each month or 15 days after the end of each quarter, whichever applicable.

In-Year-Monitoring Report at Provincial Level

70. Accounting officers of provincial departments must submit monthly information on irregular expenditure in the In-Year Monitoring (IYM) Report prescribed in **Appendix C** to this Framework. This information must be submitted to the relevant provincial treasury.
71. Accounting authorities of public entities listed in Schedules 3C and 3D to the PFMA must submit information on irregular expenditure in the In-Year-Monitoring (IYM) Report prescribed in **Appendix C** to this Framework. This information must be submitted to the relevant provincial treasury.



Annexure A: Irregular Expenditure Framework

72. Information required in terms of paragraphs 70 and 71 must be submitted to the relevant provincial treasury in a period prescribed by provincial treasury instruction.

CHAPTER 7

RECORDING IN THE CHECKLIST AND LEAD SCHEDULE

CHECKLIST AND LEAD SCHEDULE

Recording in the checklist

73. Accounting officers and accounting authorities must maintain a checklist and a lead schedule of irregular expenditure which must contain detailed current and previous financial year listings of all non-compliance, irregular expenditure and losses identified and confirmed by their respective institutions. Examples of an irregular expenditure checklist and a lead schedule are contained in **Appendices A and B** to this Framework.
74. 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 or another relevant function that conducted the determination test or a functionary that conducted the investigation, 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 South African Police Service (if there were fraudulent, corrupt or other criminal conduct 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.***



Annexure A: Irregular Expenditure Framework



75. 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 a correct and accurate information for purposes of an audit trail.
76. 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

77. 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.
78. The table below provides a process to be followed in relation to the disclosure of irregular expenditure identified in the current and previous financial year(s).

Description	Transgression took place in the current financial year	Transgression took place in the previous financial year
ASSESSMENT		
Alleged transaction related to irregular expenditure was identified and in the process of confirmation	No disclosure in the irregular expenditure note	No disclosure in the irregular expenditure note
DETERMINATION		
Alleged transaction was confirmed as irregular expenditure; and Further determination to identify facts and losses related to the transaction	Disclose amount(s) of irregular expenditure confirmed in the irregular expenditure note; and Disclose progress of irregular expenditure in the sub-note Irregular Expenditure under Determination Include supplementary disclosure on disciplinary steps taken	Disclose amount(s) of irregular expenditure confirmed in the irregular expenditure note; and Disclose progress of irregular expenditure in the sub-note Irregular Expenditure under Determination Include supplementary disclosure on disciplinary steps taken
INVESTIGATION		
Confirmed irregular expenditure is investigated in-order to establish facts whether the transgression is related to fraudulent, corrupt and other criminal conduct	Disclose amount(s) of irregular expenditure in the irregular expenditure note; and	Disclose amount(s) of irregular expenditure in the irregular expenditure note; and

Annexure A: Irregular Expenditure Framework

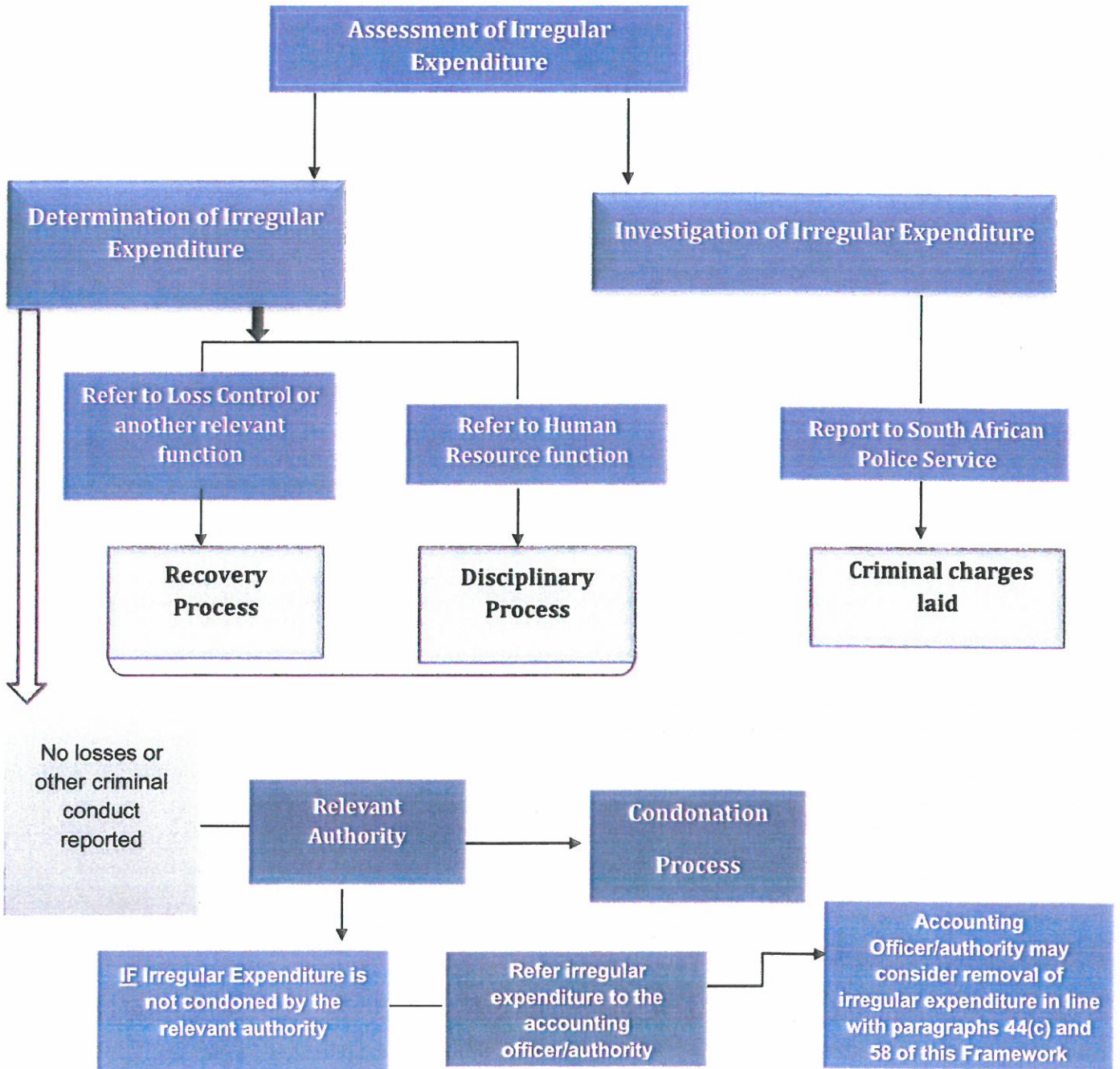
Description	Transgression took place in the current financial year	Transgression took place in the previous financial year
	Disclose progress of irregular expenditure in the sub-note Irregular Expenditure under Investigation	Disclose progress of irregular expenditure in the sub-note Irregular Expenditure under Investigation
ADDRESSING IRREGULAR EXPENDITURE		
Losses incurred and irrecoverable		
If losses were incurred and the state did not achieve value for money	Determine amount(s) of losses to be recovered and recover in the current financial year (if practical); and Disclose amount(s) of losses recovered in the irregular expenditure note under Amount(s) not Condoned and Recoverable If it can be demonstrated that it is impractical to determine total losses incurred, disclose the details and reasons as to why the amount cannot be quantified	Determine amount(s) of losses paid from the date the irregular expenditure was incurred to the end of the reporting period; and Disclose amount(s) of losses recovered in the irregular expenditure note under Amount(s) not Condoned and Recoverable If it can be demonstrated that it is impractical to determine total losses incurred, disclose the details and reasons as to why the amount cannot be quantified
If losses incurred are irrecoverable	Determine amount(s) of losses that are irrecoverable and consider writing off such amount(s) in terms of Treasury Regulation 11.4.1 (a) and (b) for departments and constitutional institutions and in terms of a Debt Write Off Policy for public entities; and Disclose amount(s) of losses irrecoverable in the irregular expenditure note under Amount(s) not Condoned and not Recoverable	Determine amount(s) of losses that are irrecoverable from the date the irregular expenditure was incurred to the end of the reporting period and consider writing off such amount(s) in terms of legislation; and Disclose amount(s) of losses irrecoverable in the irregular expenditure note under Amount(s) not Condoned and not Recoverable
Condonation of Irregular Expenditure		
If losses were not incurred and value for money was achieved and the transgression was free of fraudulent, corrupt or other criminal conduct; Request condonation of irregular expenditure; and If amount(s) of irregular expenditure are condoned by the relevant authority disclose	Disclose amount(s) in the irregular expenditure note as Current year amount(s) Condoned) 	Disclose amount(s) in the irregular expenditure note as Prior year amount(s) Condoned) 

Annexure A: Irregular Expenditure Framework

Description	Transgression took place in the current financial year	Transgression took place in the previous financial year
If irregular expenditure was not condoned by the relevant authority	<p>Refer the irregular expenditure to the accounting officer or accounting authority for removal; and</p> <p>Disclose amount(s) of losses irrecoverable in the irregular expenditure note under Amount(s) not Condoned and not Recoverable</p>	<p>Refer the irregular expenditure to the accounting officer or accounting authority for removal; and</p> <p>Disclose amount(s) of losses irrecoverable in the irregular expenditure note under Amount(s) not Condoned and not Recoverable</p>
Criminal Proceeding		
If fraudulent, corrupt or other criminal conduct is alleged or confirmed	<p>Follow the relevant steps required in terms of Treasury Regulations 4, 9 and 12 (for departments, constitutional institutions and trading entities), in a case of public entities, follow Treasury Regulations 33 and the debt management policy of the public entity</p> <p>Report in terms of section 34 of the Prevention and Combating of Corrupt Activities Act</p> <p>Include supplementary disclosure on criminal proceedings instituted</p>	<p>Follow the relevant steps required in terms of Treasury Regulations 4, 9 and 12 (for departments, constitutional institutions and trading entities), in a case of public entities, follow Treasury Regulations 33 and the debt management policy of the public entity</p> <p>Report in terms of section 34 of the Prevention and Combating of Corrupt Activities Act</p> <p>Include supplementary disclosure on criminal proceedings instituted</p>

CHAPTER 8

PROCESS FLOW FOR IRREGULAR EXPENDITURE



Annexure A: Irregular Expenditure Framework

APPENDIX A

EXAMPLE TEMPLATE: IRREGULAR EXPENDITURE CHECKLIST

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

Not condoned by RA, refer 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 FPI- Function performing investigations
⁴ HRF- Human Resource Function
⁵ SAPS- South African Police Service
⁶ RA- Relevant Authority

Annexure A: Irregular Expenditure Framework

APPENDIX B

EXAMPLE TEMPLATE: IRREGULAR EXPENDITURE LEAD SCHEDULE

Transaction Number	Date reported to the AO/AA	Details of the transgression	Assessment conducted	Determination conducted	Investigations conducted	STATUS IN ADDRESSING IRREGULAR EXPENDITURE					
			Confirmed Amount(s) of irregular expenditure	Confirmed Amounts of losse(s) incurred If applicable		CC	DP	LR	Cn	R	
					Y/N/NA	Y/N/NA	Y/N/NA	Y/N/NA	Y/N/NA	Y/N/NA	

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

Amounts to be disclosed under Receivables

Legends	Description
CC	Criminal charges laid with SAPS
DP	Disciplinary Process (in progress/completed)
LR	Loss Recovery (commenced)
Cn	Condoned
R	Removed