



KEY INDUSTRY MANAGEMENT FORUM

Effective Date: 13 December 2024

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1 PREAMBLE

- a) The Terms of Reference (TOR) prescribes the composition of the Customs and Excise Key Industry Management Forum and the functions of key industry engagements.
- b) The document clarifies the mandate, the scope and the objectives of Key Industry Management Forum (KIMF) ensuring good corporate governance are applied by the members.
- c) The TOR must be made available to all Key Industry Management Forum members and the invitees. It is a foundation of the induction of the members as well as the permanent invitees. Its contents may, where necessary, be clarified by reference to the Chairperson of the Forum.
- d) The development of an annual workplan will ensure monitoring and evaluation of the objectives and key results referred to on 1 (e).
- e) The meeting will develop objectives and key results to measure the performance indicators and to demonstrate achievement of the expected results, including delivering tangible benefits.

2 SCOPE

- a) This document applies to meetings between SARS and members of industry (industry organisations, associations and labour unions) and when required Other Government Agencies (OGAs).
- b) The terms of reference (TOR) deals with the:
 - i) Composition of the Customs and Excise key industry meeting
 - ii) Functions of key industry engagement forums.
 - iii) Responsibilities of the Chairperson, the secretariat if situated in SARS, members and that of *ad hoc* invited participants.
 - iv) Requirements of the meeting proceedings to ensure:
 - A) Compliance with the principles of good governance; and
 - B) Communication regarding discussions and recommendations by the stakeholder engagement.
- c) Any ad-hoc invitee must be familiar with the content of this TOR.
- d) The Key Industry Management Forum (KIMF) is not intended to address transaction or trader related matters, as these must be reported using the suspicious activity reporting portal <https://secure.sarsefiling.co.za/AdHocCaseSourcing>.

3 MANDATE

- a) The KIMF purpose and mandate is to collaborate with the industry on regulatory, operational and strategic issues related to the specific industry.
- b) The KIMF provides a platform for collaboration and it also promotes compliance behaviour amongst the associations. The following are key focus areas:
 - i) Develop action plans to address Customs and Excise risks that lead to non-compliance with the Act in the value chain ensuring increased compliance in respect of valuation fraud and tariff abuses.
 - ii) Identify systemic solutions to the gaps related to import and export activities.
 - iii) Sharing of experience and ideas.
 - iv) Provide advice regarding regulatory, strategic and key policy issues to:
 - A) Enhance trade facilitation;
 - B) Increase voluntary compliance; and
 - C) Address non-compliance.
 - v) Develop programmes aimed at improving compliance within the industry.
 - vi) Contribute to the formulation of best practice in the facilitation of trade in accordance with all the acts administered by SARS.

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4 OBJECTIVES ROLES AND RESPONSIBILITIES OF THE KEY INDUSTRY MANAGEMENT FORUM

- a) The output of the meeting is advisory and is expected to improve compliance within the industry and to contribute to the formulation of best practice in the facilitation of trade in accordance with all the acts administered by SARS.
- b) It aims to identify opportunities for collaboration between the South African Revenue Service (SARS) and external stakeholders by working towards a framework of cooperation to establish a better partnership between SARS and industry by taking the following into consideration:
 - i) The protection of South Africa's economy, fiscus and people.
 - ii) Ensuring the efficient and effective regulation of Customs and Excise processes, such as:
 - A) Registration and licensing;
 - B) Cross Border Reporting;
 - C) Customs clearance declaration, which may include but are not limited to cross-border movement of goods, warehousing of goods; as well as prohibited and restricted goods and sectorally controlled goods, including counterfeit goods.
 - D) Payment;
 - E) Inspection;
 - F) Offences and Penalties; and
 - G) Disputes.
- c) Improving South Africa's reputation as a reliable and trustworthy trade partner by promoting trade facilitation and traders' compliance with Customs and Excise legislation.
- d) Forum Members:
 - i) Represents the collective interest of its members in interaction with organs of State and public entities by:
 - A) Informing members of trade trends, requirements or developments that impacts on business;
 - B) Providing advice on issues to enhance trade facilitation and compliance; and
 - C) Reviewing challenges experienced in SARS or by industry in order to:
 - I) suggest strategic business directions; and
 - II) best practices.
 - ii) Endeavours to improve compliance and trade facilitation by:
 - A) Maintaining standards and timeframes;
 - B) Exploring the alignment of trade practices and Customs and Excise processes;
 - C) Promoting the removal of trade impediments, non-tariff barriers and/or technical barriers to trade; and
 - D) Recommending practical and effective solutions that enhance the South African supply chain and deals with constraints.
 - iii) Represents the collective interest of its members in interaction with organs of State and public entities by informing members of trade trends, requirements or developments that impacts on business.
 - iv) Does not do any of the above in an anti-competitive manner or acts in a manner based on personal or business commercial interests.

5 MEMBERSHIP

- a) Stakeholder engagements are at the discretion of SARS and membership by industry associations and labour is not an entitlement.
- b) Members' representatives must be formally appointed by their respective organisations.
- c) The association representative should be a member appointed by the board through a written letter addressed to SARS and must be signed by the Board Chairperson.

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- d) It is advisable that each association appoints a minimum of two representatives as the membership is not transferable.
- e) The forum will constitute the following representatives:
 - i) Chairperson;
 - ii) Deputy Chairperson;
 - iii) SARS members;
 - iv) Appointed industry association members; and
 - v) Members from OGAs (where applicable).
- f) Membership is renewable annually.
- g) Members shall not delegate their role in the Forum unless in exceptional circumstances and authorised by the Chairperson.
- h) Members and invitees will comply with the confidentiality provisions as prescribed in SARS's operational policies and procedures.
- i) Invitees shall not have voting rights and do not form part of the quorum.
- j) The Chairperson may, where required, invite non-members to attend a meeting on an ad hoc basis to provide the Forum with specialist skills and expertise.
- k) Non-SARS members of the meeting are accountable to the organisations that they represent, in line with their governance structures and practices.
- l) All members conduct will be professional and respectful.
- m) Members will execute responsibilities assigned to them by the relevant stakeholder meeting.
- n) The Chairperson must ensure that representatives from affected SARS business units/OGA's are identified, appointed and invited to the meeting.
- o) If the Chairperson cannot attend a meeting, the Deputy Chairperson may act on behalf of the Chairperson. If neither the Chairperson nor the Deputy Chairperson can attend the scheduled meeting, a member may be appointed in writing to lead the meeting on behalf of the Chairperson.
- p) The member appointments must be noted on the minutes by the secretariat (SR-01-A02).

6 QUORUM

- a) The meeting may not take place if a quorum of more than 50% is not achieved.
- b) Invited specialists and other participants joining the meeting to provide expert knowledge do not form part of the quorum.

7 MANAGEMENT OF MEETINGS

7.1 Decision making

- a) The meetings are not for decision making but for discussion and recommendation.
- b) Representatives can make recommendations on matters affecting their business units only. No person(s) may make recommendations on behalf of other business units.
- c) Recommendations made regarding prioritisation of deliverables must take into consideration workload, capacity, and financial resources.

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- d) In instances of recommendations pertaining to policies and ancillary documents, old or new, additional criteria must be considered:
 - i) SARS, divisional strategies and plans;
 - ii) Relevant legislation;
 - iii) Operational conditions;
 - iv) Specific Customs and Excise matters covered in the Customs and Excise legislation for example manufacturing, imports and exports; and
 - v) Regional and International organisations and / or their treaties for example, Southern African Customs Union (SACU), World Customs Organisation (WCO).
- e) The Chairperson must:
 - i) Take full accountability of the recommendations taken by the members; and
 - ii) Present recommendations to the respective business units where their actions are required.

7.2 Disclosure of any (potential) conflict of interest

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

7.3 Meeting prerequisites

- a) Meeting dates set by the Chairperson must be confirmed by electronic invitations, issued to all the members prior to the meeting.
- b) Meetings will be held at an identified SARS Office or virtually unless otherwise stipulated.
- c) SARS reserves the right to cancel and / or postpone industry forum meetings in the event of unforeseen circumstances/nonconformity with the TOR and other agreed to deliverables.
- d) Meetings must be scheduled as indicated below or as followed or if required on an ad-hoc basis with permission of the Chairperson:
 - i) Any other Forum meeting must be scheduled as agreed by the members;
 - ii) The meeting must be:
 - A) Governed by the relevant legislation, the SARS Governance Framework and SARS policies;
 - B) Outcome-focused;
 - C) Must proceed according to the agenda; and
 - D) The action list (SR-01-A04) must be maintained on a SARS financial year basis.

7.4 Pre-meeting

- a) All agenda items must be submitted to the secretariat before or on the date as agreed in the meeting minutes (SR-01-A01).

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- b) The secretariat must:
- i) Provide logistical and secretarial support;
 - ii) Ensure availability of a meeting venue which includes telecom facilities;
 - iii) Forward an electronic invitation to the Chairperson, Forum member(s) and invitee(s) in the agreed timeframes;
 - iv) Ensure that the agenda (SR-01-A01) is correct and that the relevant officers and or invited persons for each agenda item have been identified and invited and the time slots allocated:
 - A) Assimilate and scrutinise all relevant stakeholder inputs and requests in order to set the agenda for the forum meeting;
 - B) The industry representatives must inform their members on the reasons for the rejection of their request not being placed on the agenda, if applicable; and
 - v) Forward an electronic agenda to the Chairperson, Forum Member(s) and invitee(s) prior to the meeting;
 - vi) Confirm the relevant Forum Members inputs and requests are assimilated and scrutinised in order to set the agenda (SR-01-A01) for each the Stakeholder Forum meeting; and
 - vii) Attach the upcoming meeting's agenda (SR-01-A01) and the previous meeting minutes (SR-01-A02) together with any reports and ancillary documents to the electronic invitation.
- c) The Chairperson must ensure that representatives from affected SARS business units are identified, appointed and invited to the meeting to attend and respond to matters for discussion which affect such business units.
- d) The members and invited participant must:
- i) Give written notice to the Chairperson and the secretariat at least five (5) working days prior to the meeting if they are unable to attend the meeting;
 - ii) Scrutinise the agenda, previous minutes and any other documents circulated and prepare thoroughly before the meeting;
 - iii) Be satisfied that, objectively, they have been furnished with all the relevant information and facts in relation to a matter on the agenda; and
 - iv) Association representatives are required to submit written inputs/presentations fourteen (14) working days prior to the industry forum meeting.

7.5 Meeting

- a) The attendance register (SR-01-A03) must be distributed and completed by all the attendees.
- b) Appointed members of a Forum meeting must agree to sign the terms of reference signature page SR-01-A06, which must be signed once annually by all members of the forum.
- c) The Chairperson must:
- i) Manage the meeting according to the agenda;
 - ii) Conduct the opening of the meeting by:
 - A) Opening the meeting and welcoming all attendees; and
 - B) Establishing the members present, apologies received and absentees;
 - iii) Ascertain the existence of any conflicts of interest (refer to paragraph 7.2 above);
 - iv) Confirm and sign the minutes of the previous meeting on SR-01-A02 after noting disagreement and proposed amendments;
 - v) Confirm the agenda and establish new discussion points to the agenda that are not tabled, if any; and
 - vi) Oversee the discussion and allocate sufficient time to deliberate on complex matters or where additional information is required before a recommendation can be made.
- d) The secretariat must accurately note:
- i) The attendees in the appropriate field on SR-01-A02 clearly indicating whether the attendee is a member or not.
 - ii) Discussions and recommendations on SR-01-A02.

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- iii) The attendance register (SR-01-A03) must be updated with the name of all the attendees clearly separating the members from the invitees as only the Chairperson and Forum members or their delegated representatives will have a vote, if required.
- iv) Actions on the Action list (SR-01-A04):
 - A) The Action list (SR-01-A04) must contain action points (action items) emanating from recommendations made during the meetings throughout the financial year;
 - B) Outstanding tasks must be kept open until completion;
 - C) Completed tasks must be marked off; and
 - D) Outstanding tasks must be carried to a new action list at the beginning of each financial year.
- e) Forum Members must:
 - i) Consider all the relevant facts;
 - ii) Participate constructively and transparently in the discussion and use their knowledge and skills in deriving at recommendations;
 - iii) Ensure recommendations are fair and consistent with the provisions of the Act, Rules, business decisions and policies and procedures of SARS; and
 - iv) Keep discussions confidential.
- f) The following principles of meeting apply:
 - i) Confidentiality – in sharing information regarding the subject matter, the parties operate within the ambit of their respective confidentiality regulatory frameworks;
 - ii) Collaboration – reliable interdependence i.e. a clear vision with members operating in an environment of sharing and trust;
 - iii) Conscience – embody or invoke ethical behaviours for service, trust and respect;
 - iv) Capability –members will have the requisite technical and institutional expertise to meaningfully engage in discussions and the formulation of recommendations or action items; and
 - v) Clarity –members will provide strategic, operational, tactical and regulatory advice to their respective principals.

7.6 Post-meeting

- a) The secretariat must:
 - i) Discuss the notes taken during the meeting with the Chairperson to ensure accuracy;
 - ii) Distribute the presentations made at the meeting in electronic format within fourteen (14) days of the relevant meeting to the members;
 - iii) Record the minutes of the meeting accurately by transcribing the notes taken during the meeting on Minutes template (SR-01-A02);
 - iv) Ensure that the approved minutes are signed by the Chairperson and correctly filed;
 - v) Maintain the minutes of the previous meeting and ensure that they are always up to date in case of amendments;
 - vi) Update Action list (SR-01-A04), according to the minutes against the correct discussion item; and
 - vii) Ensure all record keeping is up to date.
- b) The secretariat must keep record for a period of five (5) years of all documents related to any Industry meeting or task teams, such as:
 - i) Agendas (SR-01-A01);
 - ii) Minutes (SR-01-A02);
 - iii) Attendance Register (SR-01-A03);
 - iv) Action lists (SR-01-A04);
 - v) Signature page to the terms of reference (SR-01-A06), if applicable;
 - vi) Reports; and
 - vii) Any other relevant information pertaining to the matter at hand.
- c) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. In instances of litigation, arising from a recommendation made the Chairperson must engage the litigation division in relation to time frames for document retention.

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8 REFERENCES

8.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: All
Other Legislation:	Constitution of the Republic of South Africa, 1996: Section 33 Promotion of Administrative justice Act No.3 of 2000: Section 3 and 5 Promotion of Access to Information Act No.2 of 2000: Parts 1-4
International Instruments:	None

8.2 Cross References

DOCUMENT #	DOCUMENT TITLE
SR-01	Stakeholder Engagement – External TOR

8.3 Quality Records

TEMPLATE NUMBER	TITLE
SR-01-A01	The Customs and Excise Stakeholder Engagement Agenda - External Annex
SR-01-A02	The Customs and Excise Stakeholder Engagement Minutes - External Annex
SR-01-A03	The Customs and Excise Stakeholder Engagement Attendance List – External Annex
SR-01-A04	The Customs and Excise Stakeholder Engagement Action List – External Annex
SR-01-A06	Signature Page to the Stakeholder Engagement TOR – External Annex

9 DEFINITIONS AND ACRONYMS

Link for centralised definitions and acronyms: [Glossary A-M | South African Revenue Service \(sars.gov.za\)](#)