

30 September 2022



Dear Tenderer

**RFB NO. 00425/2022: APPOINTMENT OF PANEL OF EXTERNAL LEGAL FIRMS**

**SUBJECT:**

You are hereby invited to tender for the Appointment of Panel of External Legal Firms.

**Elucidation of the Enquiry**

Should any part or parts of the enquiry require further explanation, be ambiguous or contradictory, elucidation prior to submission of your proposal, and is to be obtained from:

All Commercial and Technical queries:

Thabisile Gumede Tel: 011 703-7136 or e-mail: [Thabisile.Gumede@nbcffi.co.za](mailto:Thabisile.Gumede@nbcffi.co.za)

**Submission of Tender**

Your tender is to be submitted in the manner described in this Instructions to Tenderers contained in Section A of the enquiry document by not later than **29<sup>th</sup> October 2022 @ 16:00pm. Further to note-the intension to tender closing date is 15 October 2022 @16:00pm. If not responded to intention to tender that you submission will be disqualified.**

Yours faithfully

Nozililo Nzamela  
Procurement Manager

**NATIONAL BARGAINING COUNCIL FOR THE ROAD FREIGHT AND LOGISTICS  
INDUSTRY**

**RFB NO. 004252022**

**APPOINTMENT OF A PANEL OF EXTERNAL LEGAL FIRMS**

**INDEX**

<b><u>SECTION</u></b>	<b><u>DESCRIPTION</u></b>
SECTION A:	INSTRUCTIONS TO TENDERERS
SECTION B:	FORM OF TENDER
SECTION C:	CONDITIONS OF AGREEMENT
SECTION D:	SPECIFICATIONS

**APPOINTMENT OF A PANEL OF EXTERNAL LEGAL FIRMS**

**INSTRUCTIONS TO TENDER**

**NATIONAL BARGAINING COUNCIL FOR THE ROAD FREIGHT AND LOGISTICS  
INDUSTRY**

**RFB NO. 00425/2022**

**APPOINTMENT OF A PANEL OF EXTERNAL LEGAL FIRMS**

**INSTRUCTIONS TO TENDERERS**

**TENDERS THAT CONSIST OF ONE ORIGINAL MUST BE SENT VIA A LINK  
THAT WILL BE PROVIDED**

**BY THE TIME AND DATE STIPULATED IN THIS ENQUIRY.**

**NB: TENDERS MUST NOT BE ADDRESSED OR DELIVERED TO INDIVIDUALS.**

**1. CLARIFICATION OF ENQUIRY DOCUMENTS**

Should there be doubt as to the meaning of the enquiry document; the Tenderer shall seek clarification before submitting a tender. All additional information supplied shall be made available to all other Tenderers. All queries shall be submitted by not later than **15 October 2022 @ 16h00.**

**2. AGREEMENT CONDITIONS**

The Conditions of Contract shall be the Conditions of Contract contained in the enquiry document. The Tenderer may submit a tender containing proposed variations or qualifications to the Contract Conditions.

**3. MAIN OFFER AND ALTERNATIVE PROPOSALS**

Tenderers shall submit a main offer on the forms provided in accordance with the requirements set out in the enquiry.

Tenderers may in addition submit alternative offers, which shall clearly indicate either technical and/or financial advantages to the NBCRFLI.

**4. SUFFICIENCY OF TENDER**

No alterations will be allowed once a tender has been submitted. In the event of any discrepancies occurring between the prices and particulars detailed by the Tenderer in the forms provided with the enquiry and those contained in any additional letter or document by the Tenderer, the former shall prevail.

**5. TENDERER TO INFORM THEMSELVES FULLY**

The Tenderer is to examine the scope of services provided. Should there be any doubt as to the meaning of the scope of services, or ambiguity as to the scope of the enquiry, the Tenderer is to immediately notify the NBCRFLI and have the matter rectified, otherwise it will be taken that the enquiry is fully understood, and no liability for errors will be admitted due to the foregoing.

**6. EXTENSIONS TO TENDER CLOSING DATE**

Under no circumstances will requests for extensions to the tender closing date be considered unless there are delays in providing additional information that is due from NBCRFLI.

**7. REJECTION OF TENDERS**

A tender may be rejected if: -

- 7.1 It is received after the time and closing date stipulated in the enquiry or a subsequent official amendment thereto.
- 7.2 It contains any omission, erasure, alteration, text addition or irregularity.
- 7.3 It does not include the required information necessary for proper comparison and evaluation.
- 7.4 It is not in accordance with the commercial and technical requirements of the evaluation.

**8. CONFIDENTIALITY OF ENQUIRY DOCUMENTS**

The enquiry document shall be treated as strictly confidential by the Tenderer.

Tenders received will be treated as confidential and no aspect of any tender will be disclosed to third parties by NBCRFLI.

**9. ACCEPTANCE OF TENDERS**

The NBCRFLI reserves the right to reject any tender, or accept portions of tenders received, without being obliged to give reasons.

**10. VALIDITY**

Tenders shall remain open for acceptance for 90 (ninety) days from the closing date.

**11. EXPENSE IN PREPARATION OF TENDERS**

The NBCRFLI will not be responsible for any expenses or losses, which the Tenderer may incur in the preparation of the tender.

## 12. CONDITIONS UNDER WHICH TENDERS WILL BE CONSIDERED

No tender will receive consideration unless it is complete and in accordance with the requirements of this enquiry specification. Should the Tenderer wish to offer services which in his opinion is considered an improvement arrangement or selection the Tenderer may submit such an offer as an alternative to the main offer.

## 13. SUBMISSION OF TENDERS

### 13.1 Tender - Soft Copy

An online link will be affected by the NBCRFLI specifically for the Service Providers who have submitted their details for the Intention to tender to be submitted to [thabisile.gumede@nbcffi.co.za](mailto:thabisile.gumede@nbcffi.co.za) by the 15 October 2022 at 16:00 PM. **If not responded to intention to tender that you submission will be disqualified.**

RFB NO. : **00425/2022**

DESCRIPTION : **APPOINTMENT OF A PANEL OF EXTERNAL LEGAL FIRMS.**

CLOSING DATE : **29 October 2022 @ 16h00**

The Tenderer shall prepare one original set and of the documents comprising the Tender and supplementary information upload.

## 14. EVALUATION

14.1 All tenders will be evaluated by a bid evaluation committee.

14.2 The evaluation of the bids will be done in a two-stage process:

14.2.1 The **first stage** will be the evaluation of bids on functionality.

14.2.2 The **second stage** of evaluation will be on the 80/20 principle, where 20 points is allocated for preference and 80 points for price only.

## **STAGE 1: FUNCTIONALITY – 100 Points**

- A total point of **100** is allocated for Functionality.

**Tenderers shall score a minimum of 70 points on functionality from submitted document and in conjunction with presentation to move on to the next stage where they will be evaluated on Price and Price and Preference Points.**

**Note: The Firm or attorney must ensure that they provide the required response/ information to the evaluation criteria for each service category the firm or attorney has selected.**

<b>Firms/Attorneys are required to have national footprint in terms of their geographic Offices</b>	<b>Tick “x”</b>
Johannesburg	
Pretoria	
Cape Town	
George	
Clan Williams	
Durban	
Newcastle	
Pietermaritzburg	
Richards Bay	
Bloemfontein	
East London	
Kimberly	
Klerksdorp	
Nelspruit	
Polokwane	
Port Elizabeth	
Rustenburg	
Witbank	

## 15. EVALUATION CRITERIA

### 15.1 Functionality

	<b>Service Category</b>	<b>Please Tick (✓)</b>
<b>1.</b>	<b>Litigation Matters including but not limited to:</b>	
	Institute and/or defend NBCFLI at the Magistrate's Court, High Court, Tax Courts, Private Arbitrations etc.	
	Legal representation on behalf of NBCFRLI at the CCMA and Labour Court on labour related matters.	
<b>2.</b>	<b>Legal Opinion including but not limited to :</b>	
	Administration and Constitution Law related matters	
	Delicit Law and related matters	
	Health Insurance and and Pension Funds related matters	
	Tax law and related matters	
	Insurance Law and related matters	
	Labour law and related matters	
	Corporate Law and Contract related matters	
	<b>Contracts/SLAs and Lease Agreements including but not limited:</b>	
<b>3.</b>	Develop, review and/or negotiate commercial contracts including lease agreements, employment contract, MOU's and SLA's,	

#### 1. Mandatory Functional/Technical requirements

The bidder must indicate its compliance / non-compliance to the requirements and should substantiate its response in the space provided below. If more space is required to justify compliance, please ensure that the substantiation is clearly cross-referenced to the relevant requirement.

All bid responses that do not meet the below Mandatory Functional Requirements will be disqualified and will not be considered for further evaluation.

<b>1 Registration on Law Society</b>	<b>Comply/Non-Comply</b>
Proof of registration from the relevant Law Society must be provided. <b>Note:</b> The Firm of Attorneys must submit a valid Letter of Good Standing issued by relevant Law Society.	
<b>Substantiate / Comments</b>	
<b>2 Fidelity Fund Insurance</b>	<b>Comply/Non-Comply</b>
The Firm of Attorneys must provide proof of the Fidelity Fund Insurance Cover and in addition, the individual director/ partner/ attorney/s to attend to NBCRFLI's matters must provide a certified copy of a valid Fidelity Fund Certificate.	
<b>Substantiate / Comments</b>	
<b>3 Firm's /Team's Qualification and Experience</b>	<b>Comply/Non-Comply</b>
<p>The firm of attorneys must demonstrably experience of its Legal Team in the service categories that the bidder is bidding for/Selected.</p> <p>The bidders must submit, as part of its proposal, the following:</p> <ul style="list-style-type: none"> <li>• Details of transactions/ matters the bidder has handled previously for each service category. Please refer to <b>Table (a) of Annexure 1</b> of this document for the format in which the required information must be provided.</li> <li>• List of attorneys (s) employed by the bidder. Please refer to <b>Table (b) Annexure 1</b> of this document for the format in which the required information must be provided.</li> <li>• CVs of the attorneys (s) employed by the bidder; and their CVs must clearly highlight qualifications, areas of experience/ competence relevant to legal services.</li> <li>• Minimum of 5 years' experience as Practicing Attorney</li> <li>• Legal qualification with Admission as an Attorney</li> <li>• Right of Appearance at the Hight Court would be advantageous</li> </ul>	
<b>Substantiate / Comments</b>	
<b>4 Recommendation / Reference Letters</b>	



<p>The firm of attorneys must provide three (3) contactable reference and recommendation letters from clients where the firm of attorneys previously provided each service category in which the firm of attorneys has selected above.</p> <p>The bidder must also furnish the NBCRFLI with contact details of its contactable references, for reference check purposes.</p>	
<p style="text-align: center;"><b>Substantiate / Comments</b></p>	

## 16. EVALUATION CRITERIA

CRITERIA	Rating					Weight	Total
	1	2	3	4	5		
<p>The functionality proposal will be evaluated on a scale of 1-5 in accordance with the criteria below. The rating will be as follows; 0=Non submission; 1=poor; 2=Average; 3=Good; 4=Very Good and 5= Excellent.</p>							
<b>1. Functionality</b>							
<b>1.1 Experience</b> <ul style="list-style-type: none"> <li>• Company Profile</li> <li>• Relevant experience on each service category selected</li> <li>• The Company must indicate cities or towns whereby it is located and will be able to render the services</li> </ul>						<b>20</b>	
<b>1.2 Methodology</b> <p>Comprehensive Legal Methodology that bidder will utilize to defend or institute legal action on behalf of NBCRFLI. In addition, detailed legal Methodology that bidder will utilize to provide legal advisory services and to assist with drafting, review, and negotiations of contracts.</p>						<b>30</b>	
<b>1.3 Capacity and Experience</b> <ul style="list-style-type: none"> <li>• Experience of the Legal Team and demonstrate capacity to deliver (20%).</li> <li>• Submit CVs of Legal Team</li> <li>• Submit certified copies of academic qualifications of Legal Team.</li> <li>• Submit certified copies of Certificates of Admission as an Attorney of Legal Team.</li> <li>• Submit certified copies of certificates of Registration with the relevant Law Society.</li> <li>• Submit certified copies of Letter of Good Standing.</li> <li>• Submit certified copies of Fidelity Fund Insurance Cover.</li> <li>• Individual director/ partner/ attorney/s to attend to NBCRFLI's matters must provide a certified copies of a valid Fidelity Fund Certificate.</li> </ul>						<b>30</b>	
<b>TOTAL</b>						<b>100</b>	
<b>A minimum threshold of 70 is applicable</b>							

The percentage for functionality will be calculated as follows

$$Ps = \frac{So}{Ms} \times AP$$

Where:

Ps = percentage scored for functionality by bid under consideration

So = total score of bid under consideration

Ms= maximum possible score, i.e. 5x (a) 100=

Ap = percentage allocated for functionality (in this bid = 100)

- i. The value scored for each criterion will be multiplied by the specified weight for the relevant criterion to obtain the marks scored for each criterion.
- ii. The scores for each criterion will be added to obtain the total score.
- iii. This score will be converted to a percentage and only bidders that have met or exceeded the minimum qualifying score of 70 percent of 100 percent on functionality will be evaluated further.
- iv. Bidders not meeting a minimum qualifying score of 70 percent on functionality will be disqualified.

### **Sub-Contracting**

A tenderer will not be awarded points for BBBEE status level if it indicated in their proposal/tender document submitted that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an Exempted Micro Enterprise (EME) that has the capability and ability to execute the sub-contract.

A tenderer awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher BBBEE status level than the successful tenderer concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

The tenderer is required to provide information regarding sub-contracting on the schedule of proposed sub-contractors form as well as the schedule for transformation requirements in Section B of this enquiry.

### **General**

During the evaluation process NBCRFLI may engage with one or more tenderers for clarification of their tender. Tenderers must also note that presentations may be required and as a result they must be always prepared when submitting their tender documents. Based on the results of the evaluation process, NBCRFLI will approve the awarding of the contract to the successful tenderer subject to a due diligence being conducted.

**SECTION B**

**APPOINTMENT OF PANEL OF EXTERNAL LEGAL FIRMS**

**FORM OF TENDER**

**NATIONAL BARGAINING COUNCIL FOR THE ROAD FREIGHT AND LOGISTICS  
INDUSTRY**

**RFB NO. 00425/2022**

**APPOINTMENT OF PANEL OF EXTERNAL LEGAL FIRMS**

**FORM OF TENDER**

**INDEX**

**A. Proposed Solution and Standard Forms**

**Item Title**

1. Company's Profile and Proposed Solution
2. Tenderer's references
3. Schedule of Proposed Sub-Contractors
4. Alterations by Tenderer
5. BEE and Tax Clearance Certificate
6. Supplier Registration Form
7. Declaration of Interest

**B. Financial Proposal**

**Item Title**

1. Offer
2. Summary of Costs

A. PROPOSED SOLUTION and STANDARDS FORMS

A 1. COMPANY PROFILE AND PROPOSED SOLUTION

Tenderers to provide the company profile and the Solution.

A.2 TENDERER'S REFERENCES

Tenderers to provide three (3) contactable references of relevant services carried out in the last five years that best illustrate the experience of the tenderer. Use the below example.

<b>Tenderers are requested to provide three (3) references of relevant services carried out in the last five years that best illustrate the experience of the tenderer</b>		
Using the format below, provide information on each assignment for which your firm/entity, either individually as a corporate entity or as one of the major companies within an association, was legally contracted.		
Assignment Name:		Country:
Location within Province:		Professional Staff Team Provided by Your Company /Entity (Profiles):
Name of Entity/Client:		Types of Funds Managed:
Address:		Duration of Assignment:
Start Date (Month/Year):	Completion Date (Month/Year):	Approx. Value of Fund:
Name of Associated Companies, If any:		No. of months of Professional Staff Provided by Associated Companies:
Comment:		

**A.3 SCHEDULE OF PROPOSED SUB-CONTRACTORS**

The Tenderer shall detail below all Sub-contractors that he proposes to employ to render of any part of the Services, together with a description of the service he proposes to sub-contract. Notwithstanding the inclusion of any Sub-contractor herein, this shall be read in conjunction to clause 14 [Evaluation] above in Section A of this enquiry as well as the schedule for transformation requirements.

<b>NAME</b>	<b>WORK TO BE SUB-CONTRACTED</b>	<b>APPROXIMATE VALUE</b>

#### **A.4 ALTERATIONS BY TENDERER**

Should the Tenderer desire to make any departures from or modifications to the Conditions of Contract, Schedule of Prices, or to qualify his tender in any way, he shall set out his proposals clearly hereunder, or alternatively state them in a covering letter attached to his tender and referred to hereunder, failing which the tender will be deemed to be unqualified.

PAGE	CLAUSE OR ITEM	PROPOSED ALTERATIONS

## **A.5 BEE AND TAX CLEARANCE CERTIFICATE**

Tenderers are required to provide a valid BEE and Tax Clearance Certificate.



## **A.6 SUPPLIER REGISTRATION FORM**

It is expected of tenderers who are not registered on the NBCRFLI's accredited Supplier Database to register using the prescribed form. Once the form is completed it may be submitted together with the tender. The NBCRFLI reserves the right not to award tenders to tenderers who are not registered on the Database.



### **SUPPLIER REGISTRATION FORM**

*All sections marked with an apteryx “\*” are compulsory to complete*

#### **Please Note**

- ◇ This form must be completed by all applicants wishing to register as suppliers on the NBCRFLI supplier database. Please reflect all the resources the firm has such as: Years of Experience, No of employees etc. Also reflect the expertise and experience that the company has. Other relevant additional documentation may also be attached. The NBCRFLI will determine the suitability of firms for entry into its database, based on the information provided.
- ◇ All sections of the application form must be completed in full.
- ◇ The application form is to be completed by the duly authorised official of the contracting firm.

#### **Registration pre-requisites**

- ◇ Proof of company registration and/or any other form of legal standing must be submitted.
- ◇ A *current and original* Tax Clearance Certificate from South African Receiver of Revenue Service [SARS] certifying that the taxes of the applicant are in order or that suitable arrangements have been made with SARS to bring them in order. The Tax Certificate will be reworded at the allocated space for the VAT number with the words “compulsory if turnover is more than R1, 000 000”. Where the person is not required to be registered for VAT, the Receiver of Revenue will write issue the certificate with blank VAT reference number.
- ◇ Submit proof of Professional Registration with the relevant Professional Body.
- ◇ Submit Company composition on the form attached as Section “C” also referred to a CK1
- ◇ Attach Black Economic Empowerment (BEE) Strategy/Transformation Strategies/ strategies to empower the Disabled/physically challenged.
- ◇ Company Profile
- ◇ Proof of banking details

**A.7 DECLARATION OF INTEREST**

DECLARATION OF INTERESTS (KINSHIP, RELATIONSHIP WITH PERSONS EMPLOYED BY NBCRFLI)

In terms of the Procurement Policy, no person or persons employed by the NBCRFLI may be awarded a bid by the Council. Any legal person, or persons having a kinship with persons employed by the NBCRFLI including a blood relationship, may make an offer in terms of any bid invitation. In view of possible allegations of favouritism, should a resulting bid or part thereof be awarded to persons connected with or related to an employee of the NBCRFLI, it is required that the bidder or his/her authorized representative declare his position vis-à-vis the evaluating authority and/or take an oath declaring his/her interest, where–

- the legal person on whose behalf this application signed, has a relationship with persons/a person who are/is involved with the evaluation of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarer acts and persons who are involved with the evaluation of the bid.

In order to give effect to the above, the following questionnaire shall be completed and submitted with the bid.

Do you, or any person have any relationship (family, friend, other) with a person employed with the NBCRFLI or its Administration and who may be involved with the evaluation, preparation and/or adjudication of bids?

Yes/No

If so, state particulars

.....  
.....

Are you or any other person connected with this application, employed the NBCRFLI?

Yes/No

If so, state particulars

.....  
.....  
.....

SIGNATURE OF DECLARER

DATE

POSITION OF DECLARER  
APPLICANT

NAME OF COMPANY OR

I/we, the undersigned (Print name/s) _____	
Certify that the information as finished in this document is correct.	
_____ Signature/s	_____ Date
_____ Designation (Please initial all other pages of this document)	

**B. FINANCIAL PROPOSAL**

**B.1 BID PRICE / OFFER**

Having examined the Specifications and all other documentation contained in the Enquiry document for the above named Services, we the undersigned, offer to carry out the whole of the said Services in conformity with the said Enquiry document, which includes all these documents for the sum of:

**NOTE: REFER TO SUMMARY OF COSTS ATTACHED HERETO.**

R..... (In words) .....

.....

.....

..... (INCLUDING  
15% VAT)

We undertake to commence the Services on receipt of the NBCRFLI's representative's instruction to commence.

We agree to abide by the terms and conditions of this Tender for a period of 90 days from the closing date and undertake that it will not be withdrawn and shall remain open for acceptance by you up to the expiration of the said 90 days.

Unless and until a formal Agreement is prepared and executed, this Tender, together with your written acceptance thereof, shall constitute a binding Agreement between us.

Dated this..... day of .....year .....

Signature..... in the capacity of .....

Duly authorised to sign tenders for and on behalf of: Bidder Name

.....

**B.2 SUMMARY OF FEES**

Summary of proposed fees.	<b>Fees must be capped for per case.</b>
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**SECTION C**

**APPOINTMENT OF PANEL OF EXTERNAL LEGAL FIRMS.**

**CONDITIONS OF AGREEMENT**

**(Any resultant Service Level Agreement will be subject to NBCRFLI's generic terms and  
Conditions of Agreement)**

**SECTION D**

**SCOPE OF SERVICES**

**FOR**

**APPOINTMENT OF PANEL OF EXTERNAL LEGAL FIRMS.**

## **SPECIFICATIONS**

### **1. BACKGROUND**

The National Bargaining Council for the Road Freight and Logistics Industry (“NBCRFLI”) is governed by the Labour Relations Act 66 of 1995 (“LRA”), which allows for trade unions and employer organisations to establish a bargaining council for an industry. Through the Bargaining Council, trade unions and employer organisations are able to negotiate matters that are of mutual interest to the Road Freight and Logistics Industry. This approach allows for better regulation of matters which affect the industry as a whole, thereby enforcing minimum standards and conditions of employment within the Road Freight and Logistics Industry.

### **2. PURPOSE**

The purpose of the RFP is to appoint a suitable independent External Audit Service Provider registered with the Independent Regulatory Board for Auditors (IRBA), to provide an appropriate external audit services to the NBCRFLI for a period of 5 years commencing 01 February 2023 to 31 January 2028.

The proposal must respond to an audit of the annual financial statements of the NBCRFLI and the audit is to be performed in accordance with the International Standards on Auditing and the financial statements are to be prepared in accordance with the International Financial Reporting Standard for Small and Medium-sized Entities (IFRS for SMEs), and in the manner required by the provisions of the NBCRFLI’s Constitution relating to financial matters and in terms of section 53 (2) (b) of the LRA.

### **3. SCOPE OF WORK AND DELIVERABLES**

The appointed External Audit Service Provider will be required to:

- a)** Perform an audit of the annual financial statements in accordance with International Standards on Auditing, IFRS for SMEs and in the manner required by the provisions of the NBCRFLI’s Constitution relating to financial matters and in terms of Section 53 (2) (b) of the LRA.
- b)** Express an audit opinion, as to whether the financial statements of the NBCRFLI fairly present, in all material respects, the financial position, results of operations and changes in cash flow in accordance with IFRS for SMEs.
- c)** Work in conjunction with internal auditors to provide combined assurance to the NBCRFLI on the effectiveness of the internal control environment.
- d)** Communicate audit findings to Management and ensure they are fully aware of the implications to the operations of the NBCRFLI;
- e)** Review the financial information in the annual report prior to publishing it;

- f)** Attend and provide inputs to the Audit & Risk Committee, EXCO, Council and the Annual General Meeting as and when required to do so; and
- g)** Provide final audit report and management letter that identifies areas of concern or weakness found, recommendations for improvement, management responses on any concerns identified.
- h)** Submit to the Audit & Risk Committee for approval a detailed Audit Planning Memorandum.
- i)** Submit to the Audit & Risk Committee for approval a detailed budget in line with the Audit Planning Memorandum.
- j)** Additional agreed upon procedures that may be requested.

#### **4. MANDATORY DOCUMENTS**

The Independent External Auditor must be registered and in good standing as an accountant and auditor with:

- a.** . SAICA - South African Institute of Chartered Accountants, provide a valid proof.
- b.** . IRBA - Independent Regulatory Board of Auditors, provide a valid proof.
- c.** . Also provide latest audited annual financial statements.