



# Third Party Funds ANNUAL REPORT

2015/2016



**the doj & cd**

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Department:  
Justice and Constitutional Development  
**REPUBLIC OF SOUTH AFRICA**





Third Party Funds  
**ANNUAL  
REPORT**



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# Report by the Accounting Officer

# Report by the Accounting Officer on the Annual Financial Statements for Third Party Funds

FOR THE FINANCIAL YEAR ENDED 31 MARCH 2016

## 1. GENERAL REVIEW OF THE STATE OF FINANCIAL AFFAIRS

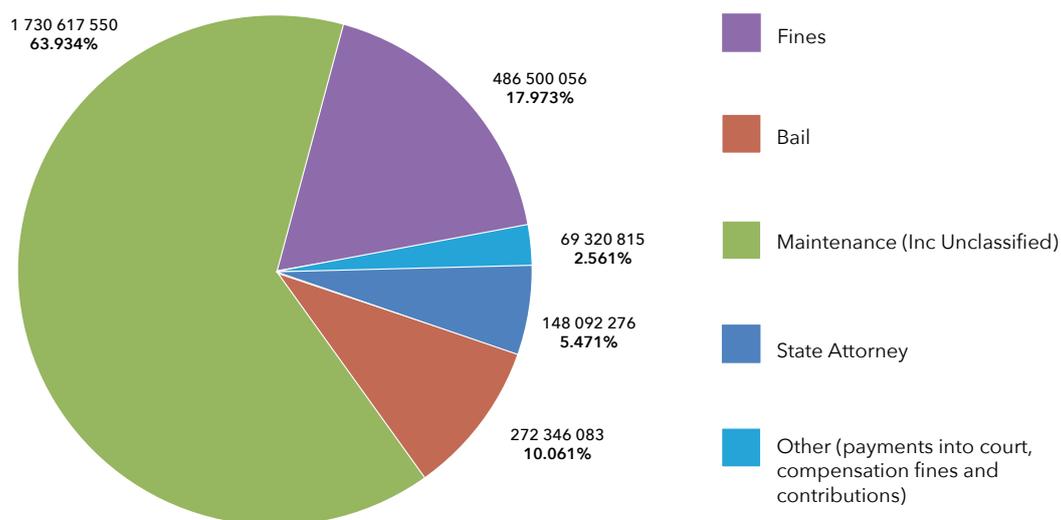
### 1.1 BACKGROUND

The Department of Justice and Constitutional Development (DoJ&CD) administers funds on behalf of third parties. The purpose of Third Party Funds (TPF) is to manage maintenance of beneficiary monies (local, foreign and future), collect fines on behalf of government institutions (national, provincial, local and other authorities), to safe-keep bail monies on behalf of accused persons, to safe-keep payments into court, to

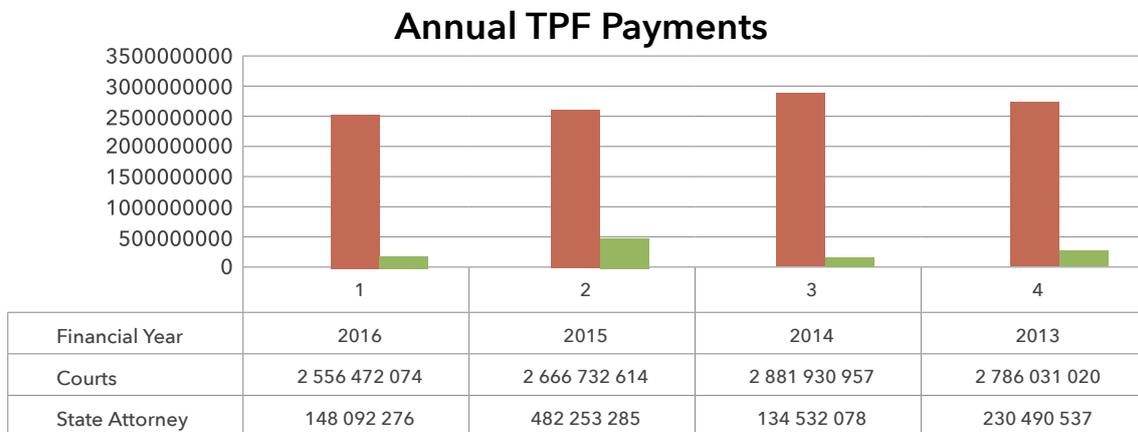
collect debts and cost orders on behalf of government institutions through the State Attorney, as well as monies related to conveyance matters which the State Attorney deals with on behalf of government institutions.

The high volume and value of transactions (approximately 9 million transactions to the value of R 3 billion on an annual basis) are processed through TPF through service points (506 bank accounts with four clearing banks). The high volume and continued growth of transactions impact on the adequacy of the existing technology, accounting and operational processes, as well as the human resources at regional and national level to effectively manage and account for TPF.

The following table reflects the total departmental payments for 2015/16 in respect of the TPF portfolio to various beneficiaries (individuals, government departments, etc.):



The following table indicates the trend of TPF payments for the past four financial years:



The Justice Deposit Account System (JDAS) and the State Attorney System (SAS), utilised for the administration of TPF, were designed as case administration systems with payments and receipts recording functionality, but not as financial accounting systems with the prescribed accounting and financial reporting capabilities needed to meet current governance requirements. Transactions are recorded at Court and State Attorney level on JDAS and SAS, and then bulk payments are made to the Department's Vote account to be recorded on BAS as departmental revenue, where relevant individual payments to local and other authorities, to maintenance beneficiaries as well as State Attorney clients, are made as per orders issued by the courts, or as per legal agreements within the TPF environment.

**The inadequacy of systems to cope with the management of TPF had the following significant impact in the past:**

- a) Non-reporting and incomplete reporting on management of resources of the most vulnerable groups in our communities, i.e. mostly people with no bank accounts, or those who prefer cash pay-outs at courts receiving cash payments at courts on a monthly basis;
- b) Inability to prepare financial statements for TPF in the past and the resultant audit qualification of the Department's Vote Account

as a consequence of limitations in determining revenue due to the National Revenue Fund (NRF);

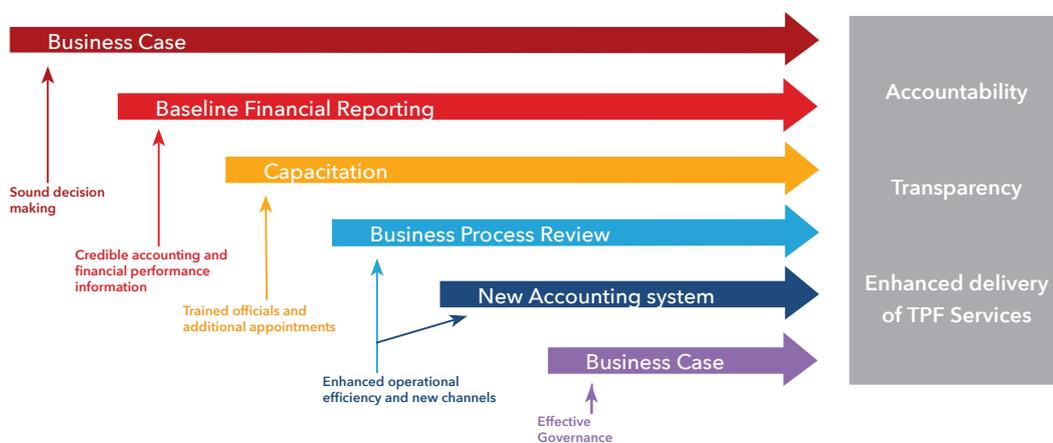
- c) Poor service delivery: extended timelines for effecting payment from day of receipt; and
- d) Recorded losses, including overpayments and dishonoured cheques.

**In the context of the challenges above the Department initiated the following Transformation Plan for TPF that was implemented over the past 3 financial years:**

- a) Utilising public sector resources (personnel, systems and processes) in the management and operation of TPF;
- b) Ensuring value for money appropriated by parliament for executing their function;
- c) Subscribing to departmental strategic objectives for enhanced access to justice services and improved quality of service;
- d) Partnerships with the banking sector, public entities and private sector with a proven capacity in cash management and cash transfer;

- e) Compliance with legislative prescripts in relation to the management, control and reporting on TPF;
- f) Subscription to Batho Pele Principles in relation to service execution to beneficiaries;
- g) Effective communication to beneficiaries on the detail of the frequency and quality of service;
- h) Encouraging direct payments between beneficiaries and obligors (defendants or their employers) through the banking system; and
- i) Encouraging departments, agencies and local authorities to start taking responsibility for their own revenue previously held by courts.

The following figure summarises the targeted TPF programme and activity outputs and outcomes:



## 1.2 BASELINE FINANCIAL REPORTING OF TPF

The Department has submitted Annual Financial Statements (AFS) for TPF for the previous financial years. These annual financial statements received a disclaimer of opinion from the Auditor-General due to the challenge of working with unsubstantiated historical financial information, the problem of unsubstantiated opening balances, the amalgamation of various previous administrations in 1994, IT System limitations and other reasons that have been alluded to in the report produced by the Auditor-General.

Despite the negative audit outcomes, the submission of these financial statements heralded a new era in TPF management. The Department was able to determine the extent of financial shortages, shortcomings in financial administration, and the inherent management and control weaknesses within the TPF environment.

This information was then utilised to identify and implement the required interventions. In the current

financial year the focus has been on the revision of accounting policies and disclosure in the Financial Statements.

## 1.3 CAPACITATION

A major area of intervention in the TPF environment was the expansion of capacity and the increase of financial skills and monitoring activities. Specific activities to enhance the quality assurance processes related to:

- a) Further training to court level and Regional TPF staff members.

A total of 2 296 court level staff members were provided with practical training during the 2014/15 financial year. This supplemented the 2013/14 financial year when 811 court level staff were trained. This training included the basics of TPF administration, reconciliations, record-keeping and internal controls.

As all TPF functionaries at all levels of the DoJ&CD were trained during this exercise during the 2013/14 and 2014/15 financial years, the focus of the DoJ&CD in 2015/16 shifted to the training of management in the regions that fulfil their oversight functions, and to the development of systems for consequence management relating to non-compliance policies and procedures implemented.

- b) Appointment of 45 finance practitioners at middle management and technical levels for additional dedicated and financially qualified personnel at Regional TPF units. As at 31 March 2016, 38 of these posts were filled with permanent staff. This capacitation improved overall internal control in the regions.

#### 1.4 BUSINESS PROCESS REVIEW

As part of business process improvements, and enhancing service delivery with enhanced performance measuring capability, the Department:

- a) Reviewed policy and procedures, also with the view to implement new Standard Operating

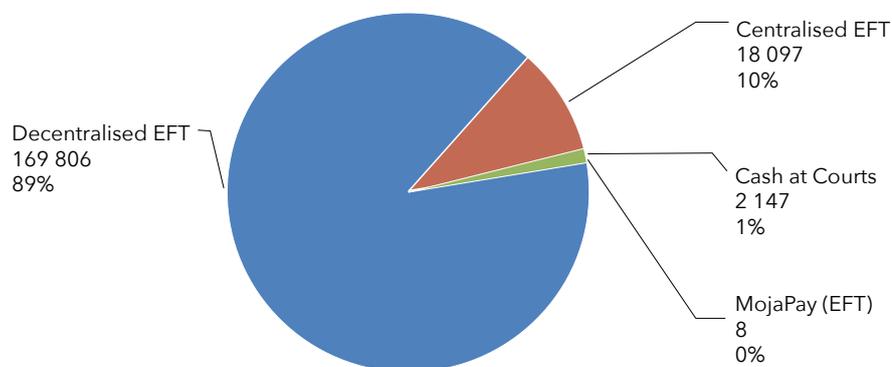
Procedures linked to the new technological system being implemented. The new system has been named "MojaPay" *in lieu* of the fact that it will be a "smart" system. Moja means 'everything is in order,' or 'everything is fine'. This is further discussed under paragraph 2(b).

- b) Standardised and mapped processes, including audit trails, daily reconciliations and operational performance indicators to ensure adequate segregation of duty; and
- c) The decentralised EFT payment system introduced in courts in 2012 continues to reduce cycle times. As at 31 March 2016, 393 courts and three (3) State Attorney Offices were processing EFT payments locally with an average turnaround time of 2 days after the beneficiary has been identified. With respect to the remaining courts, EFT payments are processed at National Office.

The narrative of the TPF financial instructions was simplified into flow chart booklets and posters, and each court now displays such a poster in order to help court staff in efficiently and effectively fulfilling their functions relating to TPF transactions.

The graph below indicates the relationship of centralised EFT payments versus localised EFT payments and cash payments made in respect of maintenance for March 2016:

### Maintenance payments: March 2016



In essence, 99% of maintenance beneficiaries are now receiving maintenance payments on a monthly basis via the EFT and bank system (187,911 of 190,058 monthly payments). Some reasons for maintenance beneficiaries still relying on cash as a means of payment are the lack of access to banking facilities in rural communities, high withdrawal costs, and the convenient location of court versus bank locations.

## 1.5 LEGISLATIVE REVIEW

The Justice Administrated Fund (JAF) Bill was, after consultation with all the relevant stake-holders, presented to the Justice Portfolio Committee (JPC) on 1 March 2016. The Bill was approved by the Committee for the public participation process.

The Minister of Finance has previously confirmed his concurrence with the Bill. Given the content of the Bill, it is a possibility that once the Bill has been enacted TPF (JAF) may be declared a Public Entity. National Treasury and the DoJ&CD will at that stage consider certain exemptions from the Public Finance Management Act, 1999 (Act 1 of 1999 as amended), and the National Treasury Regulations, due to the specific and inherent nature of the activities of TPF and the implications, including the cost of compliance as it relates to Public Entities.

## 2. IMPORTANT POLICY DECISIONS AND STRATEGIC ISSUES FACING THIRD PARTY FUNDS

Other than the legislative process mentioned above, the following strategic decisions for implementation over the medium-term are currently being considered, or are in process of implementation:

- a) Reduction in the number of bank accounts utilised to administer TPF, and centralising certain accounting functions given the technical capabilities of the new integrated system being implemented.

The DoJ&CD received formal approval during the financial year from the National Treasury to open 76 new bank accounts with ABSA, FNB, Nedbank & Standard Bank, which will reduce the existing 506 by 430. This was to enable the DoJ&CD to improve internal control and administer TPF through a reduced number of bank accounts. These accounts are currently in operation and linked to the new system discussed below. The number of accounts opened was necessary to ensure that deposits to TPF by obligors and deposits of cash collected by courts and State Attorney Offices are possible through all these banks per product type (maintenance, bail, fines, etc.) and that payment to beneficiaries can be made through all the mentioned banks.

The legacy bank accounts will be closed over time as soon as each TPF site has been fully migrated and converted to the new operational model and system. All the new bank accounts are fully masked, and account numbers will not be visible to members of the public or departmental staff members at Courts and State Attorney Offices.

- b) Development, configuration and piloting of a new financial accounting and administration system for the management of TPF. During November 2014, the Department procured a SAP-based commercial off-the-shelf programme that was reconfigured to align to the newly designed Standard Operating Procedures whilst addressing the need for improved financial administration and accounting.

The analysis and design phases of the new system were finalised on 31 March 2015, and the system was configured and thoroughly tested during the 2015/16 financial year. Various banking payment channels (EFT, in-

branch deposits and ATM deposits) were also tested with First National Bank, Nedbank and Standard Bank during the financial year while the other major banks were only available for testing after the end of the financial year.

Standard Operation Procedures (SOP) and training material with respect to MojaPay were also developed and tested. During November 2015, 36 end-users at the pilot sites were trained. During January 2016, 65 trainers received formal training for two weeks each, while during February 2016, 94 end-users at the pilot sites received formal training for two weeks each. Each official must complete a competency test at the end of the training. The DoJ&CD has taken the approach that should an employee not pass the competency test, this employee will not be allowed to operate on MojaPay, until they have been re-trained and re-assessed and found competent. In total, 195 officials were trained, of which 183 were found competent. The 12 officials that were found not to be competent will be re-trained before they are allowed access to MojaPay.

As at the end of March 2016, MojaPay was being piloted at the following sites (date of go-live in brackets):

- DoJ&CD National Office (29 February 2016),
- State Attorney Office, Kimberley (29 February 2016),
- Gauteng Regional Office (8 March 2016), and
- Magistrate Court Tsakane (8 March 2016).

The following sites were scheduled to

go-live on MojaPay during April and May 2016:

- Magistrate Court Jacobsdal
- State Attorney Office, East London
- State Attorney Office, Port Elizabeth
- State Attorney Office, Johannesburg
- State Attorney Office, Mthatha
- Magistrate Court Alexandra
- State Attorney Office, Mahikeng
- Free State Regional Office

The go-live date for the sites concerned was preceded by preparations as from October 2015 to ensure that the correct data was migrated to MojaPay, that maintenance orders were amended and served to the parties concerned, and that the new unique Account Reference Numbers (ARN) are being communicated to the parties concerned.

The major stumbling block in this regard remains contacting the maintenance obligors and beneficiaries to amend existing maintenance orders. In this regard, it must be mentioned that the DoJ&CD is seemingly a victim of its own success in that beneficiaries no longer come to courts to collect their maintenance monies in cash as a result of the EFT project, and as a result their contact details are thus outdated. In order to alleviate this situation, the DoJ&CD has embarked on a media campaign (at national, regional and community level), through both printed media and through radio interviews, requesting maintenance obligors and beneficiaries to update their details at courts or by e-mail.

The ARN plays an important role in MojaPay as it is completely unique per case, complete with a CDV check number at the end thereof to ensure that TPF no longer receives unreferenced or incorrectly referenced deposits to its bank accounts or at its courts and State

Attorney Offices, which previously resulted in large amounts of monies having to be listed as "Unclassified" until the correct deposit details and references were received. The participating banks will reject any deposit that does not meet the validation requirements.

During the financial year, the following payments and receipts were recorded on MojaPay:

PRODUCT TYPE	RECEIPTS (R)	PAYMENTS (R)
Maintenance	8 001	6 650
Bail	13 900	3 600
AOG Fines	2 550	150
Court Fines	3 200	-
Debt Collection	6 175	-

The Department envisages that the pilot phase will be finalised by 31 July 2016, after which the system will be ready for National roll-out. MojaPay is a fully automated system, which will eradicate the need for office level staff to perform monthly bank reconciliations and repetitive manual transactions on a daily, weekly and monthly basis. The DoJ&CD envisages that full implementation may take up to 24 months to complete. This is in contrast to the initial target date of 31 March 2017. The reason for the extension of the implementation finalisation is mainly due to the low quality of data available in the legacy systems, which needs to be cleansed, verified and supported by the relevant documentation, as well as the time it takes to issue amended maintenance orders for the new service channels.

A further obstacle is the conversion of current maintenance orders to amended maintenance orders. As mentioned previously, the DoJ&CD

does not always have the updated information regarding maintenance obligors and beneficiaries. The pilot phase of this project has proven that tracing these role-players in order to inform them, *inter alia*, of the new payment arrangement, is a major impediment to project success.

- c) Ring-fencing and writing-off of historical shortages and losses. When offices are being migrated to MojaPay, the Department will ensure that only validated non-financial and financial information is recorded.

The DoJ&CD has, for the final six months of the 2015/16 financial year, launched and completed a ring-fencing exercise. The purpose of ring-fencing balances is to isolate amounts that cannot be verified under cash and cash equivalents, payables and statutory receivables based on historical limitations of the system.

The various limitations placed on reporting

data is, inter alia, due to the shortcomings of JDAS & SAS, which resulted in system errors and other invalid balances arising. These items were removed from the relevant financial statement components and grouped into this ring-fenced balance. The balance will be placed under investigation.

The amount that has been ring-fenced is reported under Other Financial Liabilities (R 46.6 million).

- d) Promote direct maintenance payments between obligors and beneficiaries. To eliminate or reduce the number of maintenance payments that flow through our courts, and to ensure that beneficiaries have access to their monies in a shorter space of time, this initiative has been widely promoted. The process entails the obligor (whether an

individual defendant or his/her employer) having to deposit monies directly to the bank account of the beneficiary. After consultation with the Chairperson of the Magistrates' Commission, all regions have initiated projects, in consultation with the local judiciary, whereby the bulk of new maintenance orders issued are direct payment orders, and where existing orders are reviewed and re-issued as direct payment orders. This process however takes time as all stake-holders (obligor, beneficiary and employer) have to agree to this process and/or have to be informed thereof. In many instances employers claim not to have the necessary systems and resources in place to administrate this function. However, the DoJ&CD will continue engaging with larger employers, such as government departments, to make this project a success.

Statistical information for the financial year regarding these regional projects is as follows:

New orders issued as direct payment orders	Existing orders converted to direct payment orders
36 625	15 949

**Other important matters**

- a) **New National Treasury directives on TPF**

National Treasury made two significant directives. The first being that State Attorney monies, and all categories of fines (excluding compensation fines), should be reported on as part of the Vote Account of the Department, as these are viewed as government monies (as the final beneficiaries of these monies are government departments or institutions). The second directive relates to the ruling by National Treasury regarding the retention period related to unclaimed monies, namely that it should be kept by the Department for 30 years before being paid to the National Revenue Fund (NRF), after a legal opinion in

this regard was obtained from the Office of the Chief State Law Advisor.

The Department has implemented the directive on the retention of unclaimed monies for 30 years. To this end, and to manage the risk associated with retaining the monies for such a long period, the DoJ&CD has opened masked unclaimed monies bank accounts into which such monies are transferred. It is important to note that no monies are transferred to these accounts without the necessary supporting documentation. As at 31 March 2016, the total of these accounts stands at R1, 789, 547.

Please also take note that MojaPay has been configured so as to separately report on the different type of monies, i.e. separate reporting

entities have been created for traditional TPF monies (Maintenance, Bail, Payments into Court & Compensation Fines), Fines (Court and Admission of Guilt Fines) and State Attorney monies (Debt Collection, Conveyancing and Provisional Asset Forfeiture).

#### b) Data validation and credibility

Through the dedicated efforts of TPF staff throughout the Department, but specifically those attached to National and Regional Offices, and with the cooperation of the Department's Information Systems Management branch (ISM) and State Information Technology Agency (SITA), the Department continues to address data, system and reporting errors on the legacy administrative systems during the financial year. These efforts during the year under review have, as far as courts are concerned, led to improved quality of financial reporting.

#### c) Data migration

The major obstacle in deployment of the new system is data migration. The most important part of this exercise is to ensure that MojaPay is not contaminated with any incomplete and/or incorrect information, and to ensure from the onset that any data transferred (non-financial and financial) is correct at the time of conversion/migration.

### 3. SERVICES RENDERED BY THIRD PARTY FUNDS

#### TARIFF POLICY

No fees are charged for the services rendered in respect of TPF, in particular for the maintenance paid to the most vulnerable in society.

However, a 10% commission (to a maximum of R369) is levied in respect of debt collection payments received

by offices of the State Attorney on behalf of government departments. The commission is paid over to the National Revenue Fund through the DoJ&CD Vote Account. This commission is collected in terms of Section 65J of the Magistrates' Court Act (Act 32 of 1944), as amended.

In addition, TPF utilises all interest earned in respect of amounts kept in its bank accounts to off-set bank charges.

### 4. CORPORATE GOVERNANCE ARRANGEMENTS

The governance processes of the Department are driven by the Executive Committee (EXCO) under the guidance of the Accounting Officer and the Minister of Justice and Correctional Services, and under the oversight of the Audit Committee.

Corporate governance is placed as one of the significant responsibilities of EXCO in line with the relevant King Reports requirements.

To enable the Accounting Officer and EXCO to discharge their responsibilities and duties, certain responsibilities have been delegated to the following sub-committees:

- a) Policy Development and Coordinating sub-committee
- b) Strategy and Operations sub-committee
- c) Risk Management sub-committee
- d) Audit and Finance sub-committee
- e) Human Resources sub-committee
- f) Corporate Governance sub-committee
- g) Service Delivery and Communications sub-committee
- h) Information and Communication Technology sub-committee

The governance structures are reviewed regularly to incorporate developments and new trends within the Department and in the public sector.

EXCO is accountable for the processes of risk management. The Audit and Risk Management Committees fulfil the role of oversight at different levels. EXCO takes the initiative to ensure that all its members are leading and directing the operations and service delivery initiatives in a manner that is consistent with ethical standards.

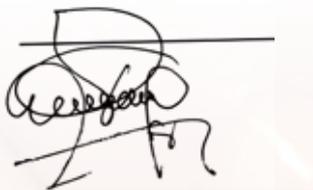
All the Departmental actions are governed by ethical principles which are contained in the Fraud Prevention Plan and Code of Ethics and Business Conduct of the Department.

In addition, during the year under review, EXCO established a TPF oversight committee to directly oversee the TPF interventions and to advise Fincom on policy adjustments required.

The Fraud Prevention Plan and the Whistle Blowing Policy were approved after proper consultation within the Department. The Anti-Fraud and Risk Management Committee will monitor the progress in terms of the implementation of the planned Whistle Blowing Policy.

#### APPROVAL

The Annual Financial Statements set out on pages 25 to 38 have been approved by the Accounting Officer.



**Mr V Madonsela**

Director-General: Department of Justice and Constitutional Development

**31 July 2016**



Report of the  
Audit Committee

# Report of the Audit Committee on Third Party Funds

We are pleased to present our final report for the financial year ended 31 March 2016.

## 1.1 AUDIT COMMITTEE MEMBERS AND ATTENDANCE

The Audit Committee consists of the members listed below and is required to meet at least four times per annum as per its approved terms of reference. During the current year 4 meetings and 2 special meetings were held as indicated below.

Name of members	Numbers of meetings attended	Number of special meetings attended	Status
Mr. Motsamai Karedi (Chairperson)	4	2	Reappointed- 25 November 2015
Mr. Cedric Boltman	4	2	Reappointed- 25 November 2015
Ms. Besky Ngunjiri	4	1	Reappointed - March 2015
Mr. Wilson Ramabulana	4	2	Reappointed- 25 November 2015
Mr Andy Sello	4	2	Reappointed- 25 November 2015

## 1.2 AUDIT COMMITTEE RESPONSIBILITY

We report that we have complied with its responsibilities arising from Section 38 (1) (a) (ii) of the Public Finance Management Act and Treasury Regulation 3.1.13. The Audit Committee also reports that it has adopted appropriate formal terms of reference as its Audit Committee Charter, has regulated its affairs in compliance with The charter and has also discharged all its responsibilities as contained therein.

## 1.3 THE EFFECTIVENESS OF INTERNAL CONTROL

The Audit Committee is satisfied that key controls remained in place throughout the year under review

and where shortcomings in the internal controls were identified; management has addressed them through implementation of audit action plans. Internal Audit validated the audit action plans and the Audit Committee reviewed same to ensure effective implementation by management.

There has also been an improvement in the risk maturity level which contributed to the effectiveness of controls. The Committee has concluded based on various reports from the Auditor-General South Africa (AGSA), Internal Audit and Management that there are weaknesses in controls mainly on cash reconciliations. Internal Audit has also constantly focused more attention on this area to ensure improvement.

The Audit Committee has been prioritizing the monitoring of the Third Party Funds and as such, the Audit Committee continuously reviewed progress reports which gave assurance that management has been addressing the identified challenges. Management is currently implementing a system that would improve among other things, the preparation, reliability and the accuracy of the reconciliation. Whilst there are still some challenges, the Third Party Funds' control environment has improved to a notable extent

#### **1.4 INTERNAL AUDIT**

The Department of Justice and Constitutional Development's Internal Audit Unit is also responsible for the auditing of the Third Party Funds.

Internal Audit unit has provided the Audit Committee and management with independent assurance and advice of the effectiveness of the controls. We are satisfied that Internal Audit has discharged its responsibilities as per the internal audit plan informed by the risk assessment.

#### **1.5 AUDITOR-GENERAL SOUTH AFRICA**

The Audit committee accepts and concurs with the qualified audit opinion of the AGSA on the Financial Statements of Third party Funds for the year ended 31 March 2016.

### **1.6 REPORTS**

#### **1.6.1 The quality of in-year management and monthly/quarterly reports submitted**

The Audit committee has reviewed the monthly and quarterly reports and where concerns were raised management acted on them.

#### **1.6.2 Evaluation of financial statements**

We have reviewed and discussed the audited Annual Financial Statements with management and also reviewed the Department's compliance with legal and regulatory provisions. We have also reviewed the Auditor-General South Africa's report, management report and management's responses to it and the Audit Committee is satisfied with the contents thereof.

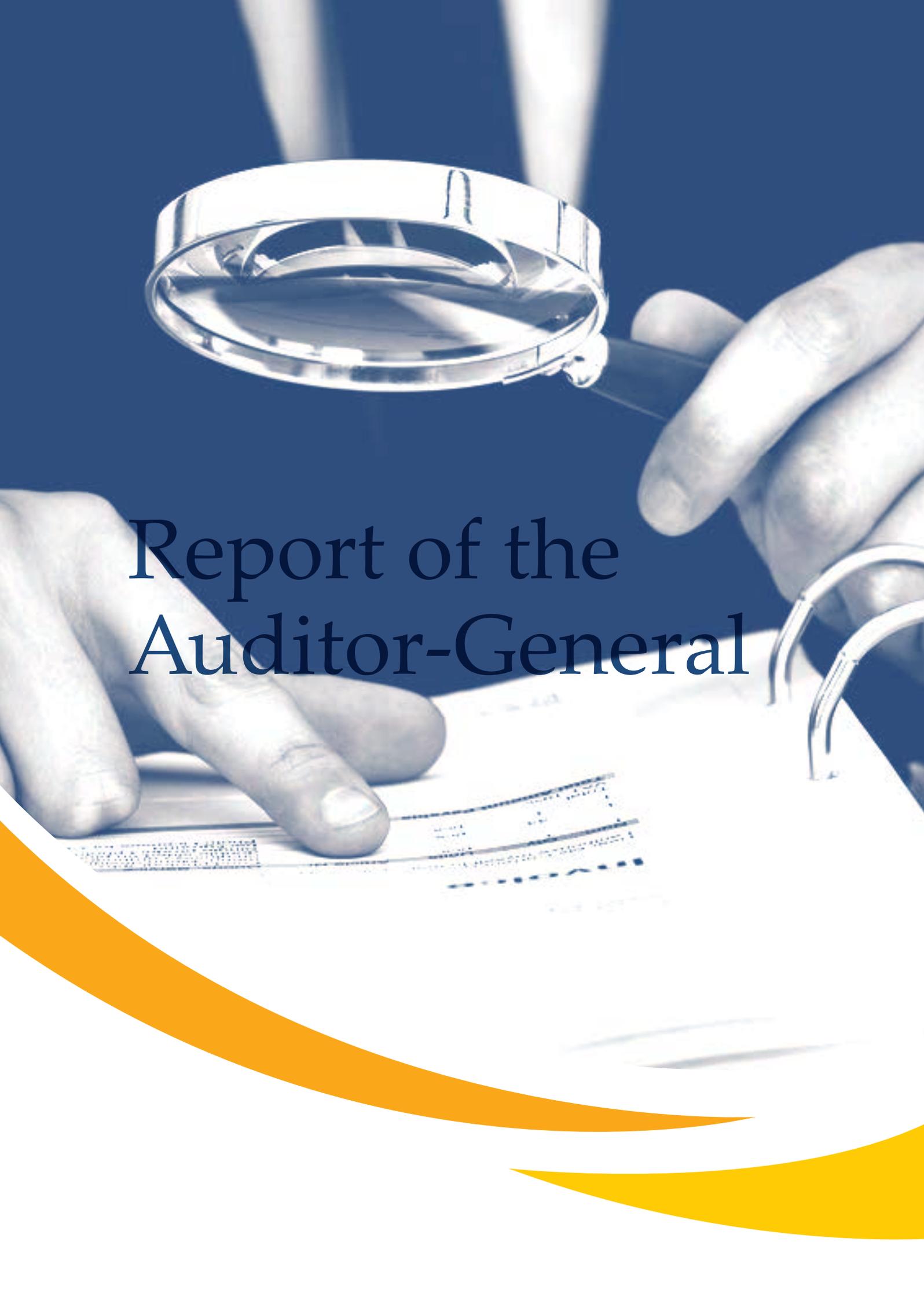


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**M Karedi**

Chairperson of the Audit Committee

Date: 31 July 2016

A hand holding a magnifying glass over a document, symbolizing audit and investigation. The background is a solid blue color. The text is in a dark blue, serif font. A yellow curved shape is at the bottom of the page.

# Report of the Auditor-General

# Report of the Auditor-General to Parliament on Third Party Funds

## REPORT ON THE FINANCIAL STATEMENTS

### Introduction

1. I have audited the financial statements of the Third Party Funds set out on pages 25 to 38, which comprise the statement of financial position as at 31 March 2016 and the statement of cash flows for the year then ended, as well as the notes, comprising a summary of significant accounting policies and other explanatory information.

### Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor-general's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with International Standards on Auditing. Those standards require that I comply with ethical requirements, and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures

in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

### Basis for qualified opinion

#### Other financial liabilities

6. I was unable to obtain sufficient appropriate audit evidence for the other financial liabilities as disclosed in note 7 to the financial statements, due to the status of the accounting records as well as inadequate systems of control in place for statutory receivables, cash and cash equivalents and payables. I was also unable to confirm the balances by alternative means. Consequently, I was unable to determine whether any adjustments to other financial liabilities stated at R46 637 530 in note 7 to the financial statements were necessary.

### Other adjustments in statement of cash flows

7. I was unable to obtain sufficient appropriate audit evidence for items included under other adjustments amounting to R65 400 430 in the statement of cash flows due to the status of the accounting records as well as inadequate systems of control in place. These items do not represent actual cash flow items for the current financial year but are corrections made to balance the statement of cash flows resulting from a material misstatement of the opening cash and cash equivalents balance and corrections to the statutory receivables and payables balances included in the other financial liabilities. I was also unable to confirm the amount by alternative means. Consequently, I was unable to determine whether any adjustments to the current and corresponding figures stated at R65 400 430 (2015: R26 466 454) as well as the cash and cash equivalents at the beginning of the year stated at R586 081 213 (2015: R749 987 543) in the financial statements were necessary.

### Corresponding figures

8. During 2015, I was unable to obtain sufficient appropriate audit evidence for statutory receivables, cash and cash equivalents and payables as well as the related disclosures in the financial statements. I was also unable to confirm the balances and disclosures by alternative means. Consequently, I was unable to determine whether any adjustments to the balances and disclosures in the 2015 financial statements were necessary. My audit opinion on the financial statements for the period ended 31 March 2015 was modified accordingly. My opinion on the current period's financial statements is also modified because of the possible effect of this matter on the comparability of the current period's figures.

### Qualified opinion

9. In my opinion, except for the possible effects of the matters described in the basis for qualified opinion

paragraphs, the financial statements present fairly, in all material respects, the financial position of the Third Party Funds as at 31 March 2016 and its cash flows for the year then ended, in accordance with SA Standards of GRAP.

### Report on other legal and regulatory requirements

10. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) and the general notice issued in terms thereof, I have a responsibility to report findings on the reported performance information against predetermined objectives of selected objectives presented in the annual performance report, compliance with legislation and internal control. The objective of my tests was to identify reportable findings as described under each subheading, but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

### Predetermined objectives

11. I did not audit performance against predetermined objectives, as the Fund is not required to prepare a report on its performance against predetermined objectives. The Fund does not fall within the ambit of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA) and is not subject to entity-specific legislation that requires reporting on performance against predetermined objectives.

### Compliance with legislation

12. I performed procedures to obtain evidence that the Fund had complied with applicable legislation regarding financial matters, financial management and other related matters. I did not identify any instances of material non-compliance with specific matters in key legislation, as set out in the general notice issued in terms of the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004).

## Internal control

13. I considered internal control relevant to my audit of the financial statements and compliance with legislation. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for qualified opinion.

## Leadership

14. The information systems in place were inadequate to ensure reliable financial reporting in order to assist the leadership to adequately manage and exercise effective oversight regarding the financial operations of the Fund.

## Financial management

15. Management did not adequately implement proper record keeping in a timely manner to ensure that complete, relevant and accurate information is accessible and available to support financial reporting.
16. Management did not adequately implement controls over daily and monthly processing and reconciling of transactions.
17. Management did not prepare regular, accurate and complete financial reports that were supported and evidenced by reliable information.

## Other reports

18. I draw attention to the following engagements that could potentially impact on the Fund's financial related matters. My opinion is not modified in respect of the engagements that are either in progress or have been completed.

## Investigations

19. Various investigations by management are in progress and are at different stages of the process to probe cash shortages within the environment of the courts where cash is received and paid out. Such shortages identified by management are disclosed in note 3 to the financial statements.

*Auditor-General*

Pretoria  
31 July 2016



AUDITOR - GENERAL  
SOUTH AFRICA

*Auditing to build public confidence*



Financial  
Information

# Statement of financial position

FOR THE YEAR ENDED 31 MARCH 2016

		2016	2015
		R	Restated R
<b>ASSETS</b>			
<b>Current Assets</b>			
Statutory receivables	3	28 749 732	78 448 230
Courts		28 146 261	72 056 053
State Attorney		-	94 217
Department of Justice and Constitutional Development		603 471	6 297 960
Cash and cash equivalents	4	828 609 940	586 081 213
<b>TOTAL ASSETS</b>		<b>857 359 672</b>	<b>664 529 443</b>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Payables - Third Party Fund payables	6	810 722 142	664 529 443
Other financial liabilities	7	46 637 530	-
<b>TOTAL LIABILITIES</b>		<b>857 359 672</b>	<b>664 529 443</b>

# Statement of cash flows

FOR THE YEAR ENDED 31 MARCH 2016

		2016		2015
		R		Restated R
<b>Net cash flow from administration activities</b>				
Receipts from third parties	5	3 003 205 146		3 001 612 665
Payments to third parties	5	(2 704 564 350)		(3 148 985 899)
Net movements in shortages as well as maintenance debtor and RD cheques		7 438 601		2 020 271
Net movement in system reconciliation		(44 482)		79 627
Net movement in consolidated national bank balance		8 731		9 939 873
Net interest received and bank charges		95 965		(2 106 413)
Net movement in unclaimed bank balance		1 789 547		-
Other adjustments		(65 400 430)		(26 466 454)
Net increase/decrease in cash and cash equivalents		242 528 727		(163 906 330)
Cash and cash equivalents at the beginning of the year		586 081 213		749 987 543
<b>Cash and cash equivalents at the end of the year</b>		<b>828 609 940</b>		<b>586 081 213</b>

# Notes to the annual financial statements

## 1. GENERAL INFORMATION

The primary function of Third Party Funds is the administration of the categories of transactions stated below on behalf of third parties by:

- the identification, creation, maintenance and management of benefactors and beneficiaries;
- the management of the receipts and payments on behalf of benefactors and beneficiaries;
- the accurate accounting of all transactions and safeguarding of administrative documentation; and
- the timeous and accurate reporting of transactions.

The legal identity of Third Party Funds (TPF) has not been defined, but remains a vital administration function within the Department of Justice and Constitutional Development (DoJ&CD/Vote) in order to deliver on the mandate to provide access to justice for all through improved service delivery.

### Categories and Nature of Transactions

**Admission of guilt:** Fines (mostly traffic fines) where the accused chooses not to defend the matter in court. These funds are paid over to either local or provincial government, or the National Revenue Fund at the end of each month.

**Bail:** Where an accused is granted bail by a judicial officer or a duly authorised official.

These funds are retained until a court authorises the return of the funds to the depositor upon completion of the case if the bail conditions have been met.

Otherwise they are forfeited to the state as a court fine, or they are paid over to the National Revenue Fund when the monies remain unclaimed for a period longer than 12 months after they have been authorised to be repaid to the depositor.

**Court fines:** Fines imposed by a court, which is paid over to the National Revenue Fund at the end of each month.

**Maintenance:** Funds are received from obligors in accordance with an order of court, which is then paid to beneficiaries/complainants, or returned to the obligor or to the National Revenue Fund if the monies remain unclaimed for a period of longer than 18 months.

**State Attorney Monies:** Money collected by the State Attorney on behalf of Government Institutions. The State Attorney also collects a commission on debt collections on behalf of Government Institutions which is paid over to the National Revenue Fund. The State Attorney captures these transactions on the State Attorney System (SAS), which is independent of the Justice Deposit Accounts System (JDAS).

**Compensatory Fines:** Criminal court orders for a given defendant to pay compensation to a plaintiff.

**Deferred Fines:** Fines deferred over a period as imposed by a court, which are paid to the National Revenue Fund at the end of each month as Court Fines.

**Payments into Court:** Civil action where an offer in settlement of a plaintiff's claim is made. These security payments may in certain cases be made without a court order, where a defendant pays into court an amount, without prejudice, as an offer in settlement of a plaintiff's claim in a civil case, pending acceptance by the plaintiff.

Unclaimed payments are paid over to the National Revenue Fund when the monies remain unclaimed for a period longer than 39 months after they have been authorised to be repaid to the depositor.

**Unclassified Monies:** Money received that cannot immediately be classified into one of the above categories, originates from an unknown source, or maintenance monies received for which the obligor or employer has not yet forwarded the detailed beneficiary list. If the origin of these monies cannot be traced or classified within six months, the monies are deposited to the National Revenue Fund.

## 2. ACCOUNTING POLICIES

### 2.1 Basis of preparation

The financial statements have been prepared on a historical cost basis, except where stated otherwise, in accordance with South African Standards of Generally Recognised Accounting Practice (GRAP). These Standards of GRAP have been applied as required by par. 38 of Government Gazette 40021 of 27 May 2016. The Government Gazette specifies that where applicable legislation is not prescriptive in terms of the financial statements, entities are required to prepare financial statements in accordance with GRAP.

These financial statements are presented in South African Rand.

In the absence of an issued and effective Standard of GRAP,

accounting policies for material transactions, events or conditions were developed in accordance with paragraphs 8, 10 and 11 of GRAP 3, as read with Directive 5, issued by the Accounting Standards Board (ASB).

The Fund's principal accounting policies, which are in all material respects consistent with those applied in the previous year, except as stated in note 13, are set out below.

### 2.2 Applicable Standards of GRAP

In the current year, the Fund has adopted all new and revised standards and interpretations issued by the ASB that are relevant to its operations and are effective. The adoption of these new and revised standards and interpretations has resulted in no changes to the accounting policies.

The Fund has early adopted the following standards and interpretations that have been approved, but are not yet effective for the current financial year and that are relevant to its operations:

GRAP 108 - Statutory Receivables. TPF formulated an accounting policy using the principles of the standard to account for Receivables and Payables.

The Fund has not adopted any other GRAP standard that is not yet effective, but has based its accounting policies on such standards. At the date of submission of these financial statements for the year ended 31 March 2016, the following standards had been issued but were not yet effective:

Standard	Effective Date	Expected impact
GRAP 108 – Statutory Receivables	No date determined yet	Already early adopted – No impact
GRAP 20 – Related Party Disclosures	No date determined yet	Minimal – certain additional disclosures may be required
GRAP 32 – Service concession arrangements: Grantor	No date determined yet	No impact
GRAP 109 – Accounting by Principals and Agents	No date determined yet	Minimal

## 2.3 Summary of Significant accounting policies

### 2.3.1 Financial instruments

Financial instruments of the TPF only comprise cash and cash equivalents and are classified as financial assets at amortised cost, except if bank balances are in overdraft, then it is classified as financial liabilities at amortised cost.

Financial instruments at amortised cost are recognised when the TPF becomes a party to the transactions and are initially measured at fair-value, including transaction costs, and subsequently measured at amortised cost, using the effective interest method.

Financial assets are subject to annual impairment review. TPF would assess whether there is any objective evidence that a financial asset or group of financial assets is impaired. If there is objective evidence that an impairment loss on a financial asset has been incurred, the loss is recognised in surplus or deficit.

TPF would de-recognise a financial instrument only when:

- The contractual rights to the cash flows from the financial asset expire, are settled or waived;
- Substantially all of the risks and rewards of the financial instrument are transferred to another party; or
- In the case of a financial asset, TPF has transferred control even if it retains some significant risks and rewards of ownership.

### 2.3.2 Cash and cash equivalents

Cash and cash equivalents consist of cash on hand and at the bank at reporting date. Cash equivalents are short term, highly liquid investments that are readily

convertible to known amounts of cash and which are subject to insignificant risk of changes in value. Cash at bank is held with reputable banking institutions in the name of the Department of Justice and Constitutional Development. Cash equivalents include cash received on behalf of TPF by other government institutions mandated to receive such monies, which is still in transit. The balance of cash and cash equivalents accrues to third parties. Refer to payables note below.

### 2.3.3 Statutory receivables

Statutory receivables arise from the legal activities of the TPF and represent amounts that are recoverable from another/identifiable party and include, but are not limited to, dishonoured cheques, maintenance debtors and shortages. Receivables are initially measured at the amount of cash receivable (the transaction amount) and subsequently at cost, plus any interest or fees associated with the receivable.

Statutory receivables are de-recognised when the TPF receives the amounts owing, or when amounts are written off through DoJ&CD Vote funding when irrecoverable.

#### 2.3.3.1 Dishonoured cheques

Dishonoured cheque debtors are recognised in the Statement of Financial Position when cheques received from various obligators are returned "Refer To Drawer" by the financial institutions only after a payment had already been made to the third party beneficiary in the interest of service delivery. Following an internal investigation, the Department of Justice and Constitutional Development may write off the amount.

#### 2.3.3.2 Maintenance debtors

Maintenance debtors are raised when maintenance payments are made to incorrect third party beneficiaries due to incorrectly referenced payments received.

### 2.3.3.3 Shortage debtors

Monies collected over the counter are deposited at a financial institution on a daily basis. Where the amount deposited is less than the amount collected/receipted, a cash shortage is recorded. All cash shortages are investigated and a receivable is raised for shortages. Following an internal investigation, the Department of Justice and Constitutional Development may write off the amount.

### 2.3.3.4 State institutions and other receivables

The receivable state institutions and other receivables refers to money due from state institutions, which include provincial governments and local authorities.

### 2.3.4 Payables

Payables arise from amounts that are due and payable to beneficiaries. Payables do not meet the definition of financial liabilities as described in GRAP 104 due to the following reasons:

- \* Payables arise out of non-contractual arrangements
- \* Performance and remedy of non-performance is not enforceable by law
- \* The transactions are executed in terms of legislation opposed to a contract

As GRAP 104 is not relevant to payables in this instance, the recognition and subsequent measurement principles in GRAP 108 – Statutory receivables – will be applied as the payables have similar characteristics in the definitions described in this standard.

Payables are subsequently measured at cost less payments made.

Payables are de-recognised when the rights to the cash outflows from the payable are settled, expired or waived.

### 2.3.5 Other financial liabilities

Other financial liabilities consist of ring fenced balances. The purpose of ring fencing balances is to isolate amounts that cannot be verified under cash and cash equivalents, payables and statutory receivables. The various limitations placed on reporting data is due to the shortcomings of the reporting/accounting system, namely the JDAS system, which resulted in system errors and other invalid balances arising. In addition to this, many take on balances from the previous reporting system onto JDAS, which was done many years ago and was not appropriate.

These items were removed from the relevant financial statement components and grouped into the ring fenced balance. The balance will be placed under investigation.

Balances transferred from ring fenced assets and liabilities are offset. Management feel that this is appropriate as the net balance would represent the actual unknown amounts.

Ring fenced balances are recognised at the carrying amounts of cash and cash equivalents, statutory receivables and payables at date of transfer to the ring fenced balance. This account is subsequently carried at this cost until valid payments or receipts are made to clear the balances.

Once management has fully investigated the balances, and no explanation or support can be found for the balances, these amounts will be written off to surplus and deficit or de-recognised.

Fair presentation of the financial statements will be strengthened through this once-off ring fencing, as other components of the financial statements now give a fair reflection of the current year's operations and balances at year end.

### 2.3.6 Statement of Cash Flows

The statement of cash flows does not present cash flows from operating, investing or financing activities, as funds collected from, or distributed to, third parties do not accrue to Third Party Funds due to the nature of Third Party Funds' operations. However, in order to achieve fair presentation, cash flows from administration activities have been presented.

### 2.3.7 Comparative figures

As stated in Note 13, comparative figures have been restated to afford a proper and more meaningful comparison of results, as set out in the affected notes to the financial statements.

### 2.3.8 Related parties

Parties are considered to be related if one party has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions, or if the related party entity and another entity are subject to common control.



### 3. STATUTORY RECEIVABLES

	2016		2015
	R		Restated R
<b>Courts</b>			
Dishonoured cheques	190 874		702 501
Maintenance debtors	2 370 627		3 673 737
Shortage debtors	25 584 760		65 196 065
State Institutions and Other receivables	-		2 483 750
<b>State Attorney</b>			
Shortage debtors	-		94 217
Cost Orders	-		-
Receivable from the Department of Justice and Constitutional Development	603 471		6 297 960
<b>Total Statutory Receivables</b>	<b>28 749 732</b>		<b>78 448 230</b>

	Counter shortages	Maintenance overpayments	Dishonoured cheques	State attorney	TOTAL
0 to 6 months	2 599 156	242 450	7 592	-	2 849 198
7 to 12 months	2 319 914	130 525	1 350	-	2 451 789
13 to 24 months	1 738 272	261 127	5 790	-	2 005 189
25 to 36 months	4 910 452	282 543	1 800	-	5 194 795
37 to 60 months	1 865 056	478 744	5 150	-	2 348 950
61 months plus	12 151 910	975 238	169 192	603 471	13 899 811
<b>Total Amount</b>	<b>25 584 760</b>	<b>2 370 627</b>	<b>190 874</b>	<b>603 471</b>	<b>28 749 732</b>

#### 4. CASH AND CASH EQUIVALENTS

	2016	2015
	R	Restated R
Cash and cash equivalents consist of:		
Consolidated Corporate Account Balance	2 625 498	2 520 803
Consolidated Court Balance	347 480 607	537 548 538
Consolidated State Attorney Balance	476 690 727	46 011 872
MojaPay Pilot Offices	23 561	-
Unclaimed Funds	1 789 547	-
Balance as at 31 March	<b>828 609 940</b>	<b>586 081 213</b>

#### 5. CLASSES OF RECEIPTS AND PAYMENTS

##### Cash receipts from third party transactions

- DoJ&CD Courts	2 553 587 974	2 715 330 544
-State Attorney	449 617 172	286 282 121
	<b>3 003 205 146</b>	<b>3 001 612 665</b>

##### Cash payments from third party transactions

- DoJ&CD Courts	(2 556 472 074)	(2 666 732 614)
-State Attorney	(148 092 276)	(482 253 285)
	<b>(2 704 564 350)</b>	<b>(3 148 985 899)</b>

## 6. PAYABLES - THIRD PARTY FUND PAYABLES

	2016	2015
	R	Restated R
<b>State Attorney</b>		
National Revenue fund	3 793 877	
State Organisations	304 482 718	44 336 017
Unclassified monies	28 688 635	8 068 027
<b>Corporate Account: Vote Payable</b>	2 625 497	2 520 803
<b>Courts</b>		
Bail	278 480 525	316 845 062
Maintenance	76 868 404	116 031 764
Unclassified monies	61 099 184	86 837 656
Fines	41 588 387	73 579 448
Payments into court	9 446 600	11 491 592
Contribution	650	3 750
Compensatory Fines	3 647 664	4 815 322
	<b>810 722 142</b>	<b>664 529 443</b>

## 7. OTHER FINANCIAL LIABILITIES

The DoJ&CD launched and completed a ring fencing exercise in the financial year under review. The purpose of the ring fencing exercise was to isolate amounts and transactions that cannot be verified under cash and cash equivalents, payables and statutory receivables, based on historical limitations of the system. The various limitations placed on reporting data is, inter alia due to the shortcomings of the administrative systems JDAS & SAS, which resulted in system errors and other invalid

balances arising. These items were removed from the relevant financial statement components and grouped into this ring fenced balance under other financial liabilities. These balances and transactions are available down to court level and have been age analysed. The balances will be placed under investigation over the medium term (the next two years) and will be supplemented with the deployment of a new SAP based financial administration system in 2016.

**Receivables**

Courts	32 138 595	
State Attorney	103 221	32 241 816

**Cash and Cash Equivalents**

Courts	57 086 160	57 086 160
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**Payables**

Courts	(124 737 261)	
State Attorney	(11 228 245)	(135 965 506)

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**46 637 530**

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**8. INTEREST RECEIVED AND BANK CHARGES**

	2016	2015
		Restated
	R	R
Bank charges	(25 237 874)	(27 044 528)
Interest received	25 333 838	24 938 115
	<b>95 964</b>	<b>(2 106 413)</b>

**9. GOING CONCERN**

Third Party Funds continues to act as an agent of the Department of Justice and Constitutional Development and the Department will continue to support it in these operations. Therefore, these financial statements have been prepared on the basis of accounting policies

applicable to a going concern. This basis presumes that funds will be available to finance future operations, and that the realisation of assets and settlement of liabilities, contingent obligations and commitments will occur in the ordinary course of its operations.

## 10. EVENTS AFTER THE REPORTING PERIOD

The Accounting Officer is not aware of any matter or circumstance arising since the end of the reporting

date that might have a material impact on the amounts disclosed.

## 11. RELATED PARTY TRANSACTIONS

<b>Name of related party:</b>	Department of Justice and Constitutional Development.
<b>Relationship:</b>	

While the operating expenses of the Fund are financed by the Department of Justice and Constitutional Development, it is not possible to accurately estimate the value of those transactions because of the intricate nature of the relationship. In terms of the Third Party Funds' role as a custodian of funds due between third parties, and the nature of its operations, no income or expenditure

accrued to Third Party Funds.

In addition, interest and bank charges accrue to the Department of Justice and Constitutional Development.

This results in no amounts being reflected in the statement of financial performance, or the statement of changes in net assets.

	2016 R	2015 Restated R
<b>Total administration costs (salaries) disclosed as:</b>	<b>5 102 300</b>	<b>5 318 336</b>
Office of the CFO	5 102 300	5 318 336
<b>Key personnel costs disclosed as:</b>	<b>5 102 300</b>	<b>5 318 336</b>
Level 15 - Chief Financial Officer (1)	1 446 848	1 365 956
Level 14 - Chief Director (1)	1 247 401	1 338 689
Level 13 - Directors (2)	2 408 051	2 613 691

## 12. FINANCIAL RISK MANAGEMENT

The TPF is exposed to the following financial risks due to the nature of its operations:

- Credit risk
- Interest rate risk

The TPF has employed the following activities in the management of these risks:

### 12.1 Credit risk

- Cash held at bank

The bank balances represent the maximum exposure to credit risk of the Fund. The Fund, through the DoJ&CD, only banks with reputable banking institutions with the highest credit ratings.

These institutions are:

- » ABSA F1+
- » Nedbank F1+
- » Standard Bank F1+
- » First National Bank F1+

### 12.2 Interest rate risk

The Fund does not actively manage its exposure to changes in the interest rate applicable to its bank balances which carry interest at a variable rate. The Fund's bank balances are of a short term nature and therefore the exposure is minimal. The Fund is not allowed to manage available cash balances to maximise return, as the amounts in the bank are essentially owed to third parties.

### 13. PRIOR PERIOD ERRORS

The Fund has previously accounted for cost orders as part of statutory receivables; however, this treatment under the previous accounting policy was incorrect as cost orders do not meet the recognition criteria of assets under the GRAP standards.

The effect of this change on the current period is shown below:

31 March 2015

	Balance under previous accounting policy	Adjustment due to change in accounting policy	Restated balance
<b>Statement of Financial Position</b>			
<b>Statutory receivables -</b>	<b>109 541 326</b>	<b>(31 093 096)</b>	<b>78 448 230</b>
State attorney: Cost Orders	31 093 096	(31 093 096)	-
<b>Payables</b>	<b>695 622 539</b>	<b>(31 093 096)</b>	<b>664 529 443</b>
State Attorney: State organisations	75 429 115	(31 093 096)	44 336 019





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The Department of Justice and Constitutional Development  
Tel: 012 315 1111  
Private Bag X81, Pretoria, 0001  
Momentum Centre, 329 Pretorius Street, Pretoria  
[www.justice.gov.za](http://www.justice.gov.za)  @DOJCD\_ZA  DOJCD  DOJCD