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Overview of Baker McKenzie's Investigation into Bain's SARS Work

On 24 May 2018, South African President Cyril Ramaphosa established a Commission of Inquiry headed by retired Judge Robert Nugent (the "Nugent Commission") to investigate issues related to tax administration and governance within the South African Revenue Service ("SARS"). The relationship of Bain & Company ("Bain") with SARS and Bain's work to develop a new operating model for SARS during 2015 was included in the Nugent Commission's scope of inquiry.

Bain retained Baker McKenzie to conduct a privileged investigation in connection with the contracts awarded to Bain by SARS between 2015 and 2017, with a focus on the allegations and questions that arose from testimony given before the Nugent Commission.

The following issues were included in Baker McKenzie's SARS review:

- The procurement procedures followed and awarding of contracts by SARS to Bain between 2014 and 2017;
- Bain's relationship with the former SARS Commissioner Tom Moyane and other SARS leaders;
- Bain's relationship with former President of South Africa Jacob Zuma ("President Zuma"); and
- Bain's relationship with Ambrobrite (Pty) Ltd ("Ambrobrite"), a third party.

Baker McKenzie conducted the investigation under legal privilege, in line with the standards of such reviews conducted in other similar cases by law firms around the world, meaning the firm was given full access to evidence and individuals upon request and conducted its review without interference from Bain.

Baker McKenzie's investigation included the following steps:

- Baker McKenzie first took steps to preserve all potentially relevant evidence. Accordingly, the accounts of Bain employees with potentially relevant information were placed under litigation hold, meaning documents, emails and other files held by these employees could not be deleted or altered.
- In addition, document retention notices were sent to Bain employees in South Africa. These notices instructed employees not to destroy documents in their possession related to the scope of the review. This step was taken to ensure the

preservation of any hard copy documents and other files that would have not been captured via the above-mentioned litigation hold.

- Between September and December 2018, Baker McKenzie collected and imaged share drives, laptops and mobile devices of relevant custodians.
 - Over 2 million total files were collected in the review process, including emails, chats, Whatsapp messages and iMessages available on mobile devices.
 - Using search terms, over 250,000 documents were extracted from this set and reviewed for relevancy.
- Baker McKenzie conducted over 80 interviews in this matter. The witnesses interviewed included current and former Bain employees at all levels, from drivers to marketing and finance professionals to partners, in multiple Bain offices across three continents.
- Further, Baker McKenzie set up a confidential whistleblower email address (hotline), and Bain employees were asked to use the hotline to share any information that might be relevant to the review.
- Baker McKenzie also engaged a forensic accounting firm to conduct a targeted review of Bain's banking and accounting records to identify all Ambrobrite and related transactions of interest.

Between 2015 and 2018, Bain provided services to SARS, which were divided into three phases. The first phase consisted of "consultancy services to review the SARS operating model." Bain worked on Phase I from 26 January 2015 to 31 March 2015. Bain offered SARS a discount of 50% on its fees for this work. The second phase was the "continuation of the review of the SARS operating model and design and implementation of a revised operating model." Work on Phase II occurred from 8 June 2015 to 7 June 2016. For Phase III, Bain engaged in the "continuation of the implementation of the operating model as well as implementation for customs and excise." This work took place from 26 September 2016 to 10 March 2017.

No evidence of any intention by Bain to destroy or undermine SARS was identified.

Although a number of meetings between Bain South Africa former office head Vittorio Massone and former South African President Jacob Zuma between 11 August 2012 and 28 July 2014 were identified, no communications suggesting collusion by any Bain employee to harm SARS were identified. Nor was any evidence of money flows from Bain to any government official identified. In contrast, the review identified evidence

of arms-length dealings between Bain employees and SARS personnel over 6 months in obtaining the initial assignment from SARS through an RFP and the extensions for Phase II and III work.

Finally, Baker McKenzie has reviewed the materials published by Bain on its microsite in this matter, and can confirm that the facts, materials and documents posted on the site relating to the SARS matter are consistent with our findings. The documents posted are true and correct copies of documents identified during the investigation.

15 June 2022