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**TO:** Health and Wellness Portfolio Committee, Gauteng Provincial  
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To whom it may concern,

### **NATIONAL HEALTH INSURANCE BILL, 2019**

THE FREE MARKET FOUNDATION RECOMMENDS THAT THE NATIONAL HEALTH  
INSURANCE BILL BE WITHDRAWN.

#### **ABOUT THE FREE MARKET FOUNDATION**

1. The Free Market Foundation (FMF), founded in 1975, promotes and defends the principles of individual liberty, private property, free enterprise, and limited constitutional government. The FMF primarily engages with the policy environment by informing the public of the benefits of liberalisation and generating pressure on political authorities to lessen and cease their interference in market exchanges and private affairs.

#### **PROBLEM STATEMENT**

##### **General**

2. The National Health Insurance (NHI) proposes to centralise and monopolise the funding of all healthcare in South Africa through the establishment of a new state-owned enterprise, the NHI Fund. In the process the NHI will effectively nationalise the current private health

sector, forcing many private healthcare providers to become servants of the state.

3. The FMF contends that this constraint upon private sector medical providers is an unconstitutional infringement upon their rights, and also the rights of ordinary consumers of healthcare services.

### **Concentration risk**

4. The NHI will additionally remove the functions of funding, planning, and managing of health services currently operated by provincial and local governments. These will be taken over by the NHI Fund.
5. This overt centralisation and monopolisation represents a substantial concentration risk in the event of a systemic failure of the NHI to function properly. It is also incongruent with the principle of subsidiarity that lies at the foundation of the South African Constitution.
6. The absence of any feasibility assessments to determine whether the institutional design of the NHI is viable further exacerbates this concentration risk, representing a very heightened risk of systemic institutional failure. This will substantially deteriorate the quality of healthcare delivered to all citizens, regardless of whether such services are delivered by public or private service providers.

### **Healthcare choice**

7. The NHI furthermore proposes to deny citizens the right to access healthcare of their own choice. This egregious denial is contained in section 33 of the NHI Bill – preventing medical schemes from insuring any healthcare services covered by the NHI – and we contend that such denial is unconstitutional.
8. No rights-bearing citizen can be said to be ‘free’ in a constitutional democracy if they are not allowed to determine where they are to

receive healthcare services and who is to provide that to them. This must ultimately be a choice exercised by the patient.

### **Affordability**

9. Considering the enormity of the NHI proposal, the lack of any financial feasibility assessment undertaken during the lengthy policy process is, at best, a terrible oversight or, at worst, a reckless policy.
10. The only reference to the cost of NHI is contained within a basic cost estimation undertaken in 2011 and proposals within the two NHI white papers of 2015 and 2017 of consolidating various new and existing tax revenues to create a '*targeted*' annual income for the NHI Fund of 8.5% of GDP (in current terms, in excess of R500 billion annually). This proposes raising dedicated NHI taxes of around R200 billion, in addition to the current public health budget of R260 billion, as well as scrapping the medical tax credit (R28 billion) and the medical scheme subsidy for state employees (R40 billion).
11. The new NHI taxes and removal of medical tax credits (R228 billion) are entirely fiscally unfeasible for a narrow and diminishing tax base that is already heavily taxed.
12. Recent instructions by the Minister of Finance for state departments to cut expenditure, and his public resistance to the NHI proposal, indicate that National Treasury do not view NHI as a feasible or affordable policy.

### **Oversight and corruption**

13. The governance framework contemplated in the NHI Bill contains no independent oversight on the exercise of executive authority, all of which is vested exclusively within the post of the Minister of Health.
14. This ensures political interference within the management of the NHI Fund, and that only politically aligned appointees will fill the board of the Fund and its numerous subcommittees. This gives the Minister of Health political control over procurement of more than R500 billion

annually and control over the accreditation of all public and private healthcare providers that will deliver the procured services.

15. Given further that the NHI Fund will be a nationally centralised monopoly, the scope for pervasive corruption and furtherance of patronage networks will be enabled and enhanced within such a weak governance framework.
16. This stands in stark contrast to declarations by the Chief Justice Raymond Zondo that this prevailing manner in which the leadership of state-owned enterprises is appointed is unconstitutional and is uniquely responsible for the extremely poor performance of the public service and state-owned enterprises.

## **RECOMMENDATIONS**

17. The above aspects of the NHI Bill are not exhaustive but simply point to the most problematic aspects of the policy.
18. The Free Market Foundation is of the view that the NHI Bill is politically motivated, unaffordable, incapable of delivering better health outcomes, and will infringe on numerous constitutional rights. We thus recommend that the Bill should be withdrawn in its entirety.