



**national treasury**

Department:  
National Treasury  
REPUBLIC OF SOUTH AFRICA

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## Press Release

### **Second Draft of Ministerial Regulations Issued Under the Financial Markets Act No. 19, 2012**

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The National Treasury, the Reserve Bank and the Financial Services Board have today published a second draft of the Ministerial regulations under the Financial Markets Act, No. 19 of 2012 (“FMA”). The draft Ministerial regulations support the objects of the FMA and South Africa’s commitment to the G-20 obligations in terms of regulatory reforms for over-the-counter (“OTC”) derivatives markets.

The Ministerial regulations were initially published on 4 July 2014 for the first round of consultation and a two month timeframe was provided within which any comments on the published regulations were to be submitted. Subsequently, the comments received were reviewed and a second draft of the Ministerial regulations has been compiled taking into account those comments received. The second draft of the Ministerial regulations achieves the following:

- Extends the regulations to the OTC derivatives markets and the participants and enables the registrar to enforce rules and supervise the OTC derivatives market participants.
- Provides for market infrastructures such as central counterparties (“CCP”) to be licensed and supervised and to perform the functions and duties specified under the Act.
- Provides for the external market participants to enter the South African financial markets and in particular proposes a recognition framework for external participants.
- Provision of transitional arrangements to allow market participants to comply with the proposed requirements in the draft regulations.

It is important that South Africa meets the G-20 reform commitments and implements stronger measures to avoid the effects similar to those experienced in the 2007 financial crisis. A majority of the G-20 members have advanced with implementation of the requirements for central clearing, central reporting and capital and margin requirements on non-centrally cleared OTC derivative transactions. As such, those requirements might be

imposed on the domestic participants trading with foreign counterparties in these jurisdictions. To prevent this from happening, similar requirements must be in place in order to be assessed as equivalent and to exempt market participants from meeting duplicated requirements. Issuing the Ministerial regulations will address uncertainties in the regulatory framework for OTC derivatives and move South Africa a step closer to meeting its commitments.

In light of the above, the regulatory framework that has been drafted specifically provides for the regulation of OTC derivatives markets, the participants and the market infrastructure. This is aligned to international standards in order to support harmonisation and equivalence of regulatory frameworks. Five options for how to appropriately include offshore central counterparties in the regulatory framework are included in the discussion document.

The second draft of Ministerial regulations must be read with the discussion document explaining the regulations and board notices issued by the Financial Services Board. A comments matrix with the responses has also been issued.

Comments can be submitted via email to [financial.policy@treasury.gov.za](mailto:financial.policy@treasury.gov.za) with the subject title **FMA: Ministerial regulations (Round 2)**. The deadline for submission is **6 July 2015**.

Copies of the policy document and the regulations can be found on the National Treasury website at: [www.treasury.gov.za](http://www.treasury.gov.za)

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