Financial Sector Levies Bill (February 2021 Published Version) Public Comments and Responses

2021

List of Commentators

	Agency/ Organisation	Contact Person	Contact Details
1.	A2X	Luthfia Akbar	*Luthfia.akbar@a2x.co.za*
2.	Association Savings Investment of South Africa (ASISA)	Rosemary Lightbody	*RLightbody@asisa.org.za*
3.	Banking Association of South Africa (BASA)	Veronica Steffenini	*VeronicaS@banking.org.za*
4.	Financial Intermediaries Association	Samantha Williams	*Sam@fia.org.za*
5	First Rand	Raymond Masoga	*Raymond.Masoga@FirstRand.co.za*
6	Financial Sector Conduct Authority		
7	Investec Bank	Vaishali Jeebodh	*Vaishali.Jeebodh@investec.co.za*
8	Johannesburg Stock Exchange	Anne Clayton	*Anne.Clayton@jse.co.za*
9.	Masthead	Ian Middleton	*imiddleton@.masthead.co.za*

10.	Pension Funds Adjudicator		
11.	South African Insurance Association	Masudu Maboga	*Mashudu@saia.co.za*
12.	South African Institute of Stock Brokers	Erica Bruce	erica@sais.co.za

2021 COMMENTS MATRIX

COMMENTATOR	COMMENT	RESPONSE
A2X Exchange	It is difficult to comment on the merits of the proposal without a rationale and motivation for the introduction of a special levy for a period of 2 years following the promulgation of the Bill. We believe that the introduction of a special levy in addition to the existing levies payable by A2X as an Exchange to the FSCA and PA, is excessive specifically in light of the current economic conditions and the fact that the levies payable by A2X increased by over 14% with the introduction of Twin Peaks (FSRA). Furthermore, our understanding of a special levy is that it would be for a specific stated purpose and we are unable to identify what that purpose is nor the desired outcome nor have we had sight of an industry impact assessment. Our experience with the recently introduced twin peaks model is that there is not a clear differentiation between market conduct regulation (FSCA) and prudential regulation (PA) and that there is a large degree of duplication of work	A special levy may be charged in accordance with the provisions of the Levies Bill to cover other initial costs not normally associated with the routine regulation and supervision. The estimate of expenditure to be published by the Authorities will include an estimate for the special expenditure in relation to a special levy proposal. The Financial Sector Regulation Act, 2017 (FSR Act), requires that the Authorities must publish their budgets together with an explanation of their budgets and estimates of expenditure against the proposed levies and fees. The explanatory notes required under the FSR Act will be published by the Authorities as part of the process for public consultation towards the implementation of Chapter 16 of the FSR Act. The explanatory notes will explain the budget and levy proposals as well as provide some details of the issues that have been highlighted by the commentator. On the issue around lack of clear distinction between market conduct and prudential regulation and duplication, the Authorities' mandates are outlined under the FSR Act. In addition, to allow for smooth coordination and cooperation and to ensure that there is no duplication of effort between the Authorities, the PA and FSCA entered into a memorandum of understanding.

	that is performed by the two regulators in respect of the A2X business. It is our view that the relationship between FSCA and PA should be focused on and refined, with a greater degree of interoperability and cooperation and more sharing of information between the two regulators, which should cut down on duplication and the amount of work required to be performed independently by both regulators and alleviate the need for a special levy. In addition, and as a result of the Twin Peaks model, we have experienced delays when engaging with FSCA on various issues. We believe that this is where the focus should be, with the emphasis on interoperability between the two regulators and a consolidation, rather than an increase of costs. Consequently, A2X is not supportive of the introduction of a special levy. That said, with inflation currently at in the region of 4% and with no particularity around how the proposed 15% levy is calculated and what the levy is for, should the decision be taken to introduce a special levy, we believe that a 15% levy is excessive and unreasonable. Should the proposed levy be introduced, A2X believes that the payment of this levy should be re-assessed, taking into consideration the size of the various exchanges, with proportionate contributions. The current proposed levy model and special levy does not contribute to furthering the objects of the FSRA in respect of financial inclusion and financial consumer protection. An	The MoU is published on both Authorities' websites. The comment regarding the delays experienced is noted. The FCSA will communicate with the commentator directly to understand the reasons for the delay. The Authorities cooperate and coordinate their respective work programmes to minimise duplication, and operations are expected to further streamline as systems get increasingly automated. Regarding the special levy, it must be noted that the FSR Act brought about a significant increase in scope for the FSCA in terms of jurisdiction and approach in support of improved market and customer outcomes. However, since the commencement of the FSR Act, the Authorities were curtailed by the levy structure in place under the Financial Services Board Act, 1990. The special levy is therefore necessary to ensure that the Authorities may be completely operationalised to fulfill their respective functions. The PA is required to support financial inclusion while the FSCA is required to promote financial inclusion and protect financial customers among their functions. The effective execution of these responsibilities requires that the Authorities are well-resourced. The Authorities are empowered under clause 11 of the Bill to grant exemptions to financial institutions in the circumstances set out in that clause. One of the considerations for an exemption is: "developmental, financial inclusion and transformation objectives to facilitate progressive or incremental compliance with the FSR Act or a financial sector law."

	increase in the cost of regulation will likely filter down to the financial market participant and ultimately the consumer. Further, new entrants are already impeded by the profound cost of regulation in addition to the cost of compliance with the FSRA.	
ASISA	Three ASISA members are concerned at not having received the clarity requested three times previously, in their comment on each of the 2016, 2017and 2018 versions of the Bill with regard to the continued application (or not) of the provisions of Board Notice 81 of 2016. Similarly, some of the other concerns raised in the ASISA submission on the 2018 Bill have not been addressed or responded to. Item 1 and item 2 of our comment on the 2018 version are related, and both have not been addressed. Please also refer to item 4 of the ASISA 2018 submission – • At what level should the "absolute values" be taken – TP1 or TP1.1? Clarification is required. • The rationale for the change in the formula is not understood. The ASISA comments dated 14 May 2018 are therefore attached marked Annexure A and are re-iterated to the extent that they have not been resolved.	In terms of the comments received from ASISA on the 2018 version of the Bill, the thinking was that going forward policy holder liabilities under pension funds, provident funds (including preservation funds) and retirement underwritten by insurers will no longer be excluded from the liabilities that inform the variable component of the levy formula. This is based on the fact that supervision of the administration of these pension fund liabilities forms part of the supervision of the insurance business of insurers. BN 81/2016 was withdrawn and replaced with Notice 458/2017 which in turn was withdrawn and replaced with Notice 362/2018. The principle (regarding the policy holder liabilities under pension funds, provident funds (including preservation funds) underwritten by insurers being excluded) continue to apply in these Notices. The approach in subsequent replacement levies Notices applicable to each of the following years, in anticipation of the Levies Bill, was to increase the levies for long-term insurers with a certain % each year. The Levies Notices will be withdrawn when the Levies Act becomes However, the relevant information as per the above Notices is not reported in the audited annual Quantitative Return Template. Accordingly, currently required by the Prudential Authority, and it will no longer be taken into account.

		The approach in the levies imposed by the then FSB and FSCA under the Financial Services Board Act, 1990 considered these regulators (FSB/FSCA) in their own context only whereas the approach under the Levies Bill considers both the FSCA and PA in the context of the Twin Peaks model. One of the key principles under the Prudential Standards setting out the requirements for valuing insurance liabilities for the purposes of assessing regulatory financial soundness is that the valuation of the technical provisions should incorporate a best estimate and a risk margin, although under certain conditions, the valuation may be performed as a whole. Either the gross best estimate liabilities or technical provisions as a whole, adjusted to an absolute value per line of business as reported in the most recent audited annual Quantitative Return Template of the insurer preceding the levy year must be used for calculating the variable amount. The adjustment for absolute values must be done per line of business in the most granular where the data is retrieved from, sheet TP1.1 and to take all 74 lines of business.
ASISA	Previous comments as per ASISA submission of 14 May 2018 don't seem to have been addressed. In our (ASISA) response to the 2016; 2017 and 2018 draft we raised the issue around Board Notice 81 of 2016 which provided that levies on long-term insurers are calculated	Please see response above.

	based on policy liabilities being reduced by liabilities in respect of pension fund organisations and friendly societies. We assumed that this exclusion of pension fund and friendly society liabilities will remain, in which case an express provision in the Bill was required. To date we have not received clarity on this and no specific provision is made in the 2021 version of the Bill. Should this exclusion no longer apply the impact on our life insurer levies (PA & FSCA combined) is an increase >50% which is clearly excessive and hard to justify. ASISA would appreciate being afforded an opportunity to meet with your offices to discuss these points.	
ASISA	There is no wording in the Bill as to whom the actual levies will be paid to. Currently the levies are paid directly to the FSCA into a bank account in the name and control of the FSCA. Below is an extract of FSCA BN 443 of 2020 wherein the payment of the levies is required to be paid to the FSCA. This has not been carried across into the Bill and clarity is sought on this. We understand there has been a consideration that the levies may be paid into the National Revenue Fund, however there has not been any formal consultation with financial	Section 246 of FSR Act will be amended by the Administration Bill to provide: “(2) (a) Levies imposed in accordance with **[section 237(1)(b),]** the Financial Sector and Deposit Insurance Levies Act, which are referred to in section 237(3A)(a), and interest accrued on those levies in terms of section 244(4)(a) must be collected by the Financial Sector Conduct Authority and paid into a bank account designated for that purpose, which is in the name and control of the Financial Sector Conduct Authority. (b) Levies imposed in accordance with the Financial Sector and Deposit Insurance Levies Act, which are referred to in section 237(3A)(b), and interest accrued on those levies in terms of section 244(4)(b), must be collected by the

	institutions impacted by this proposal, which we respectfully submit must take place before any decision is taken.	Reserve Bank and paid into a bank account designated for that purpose, which is in the name and control of the Prudential Authority." The intention is therefor for the levies to be paid into designated bank accounts of the financial sector bodies in accordance with section 246 of the FSR Act and not into the National Revenue Fund.
ASISA	It is noted that National Treasury (NT) has previously expressed that the expenses of the regulators "are not dependent on the economic climate, and hence levies cannot take economic climate into account. This approach gives a measure of stability to the levies from year to year." However, this unprecedented pandemic has had longer-term and bottom-line impacts on insurers and financial institutions and therefore, the resultant economic climate in which these institutions operate in. It is our view that in such an environment, the state of the economic climate cannot be isolated or disregarded from the extent of the levies to be imposed. All life insurance companies have paid life claims well over the normal rate during the pandemic and for one life insurer, January 2021 marked the biggest quantum of claims in a single month since inception. The proposed margin of increase is substantially significant in comparison to the previous levy	The impact of the pandemic on the economy and the financial sector is well understood. The formulation of the levies is that they have a fixed and a variable component. To the extent that the pandemic will adversely affect the balance sheets of financial institutions to a point that they shrink, the variable component of the levy calculation will reflect this element. Realistically, where the balance sheets of financial institutions shrink, the levies payable will be lower than when balance sheets expand. It is also important to note that the main principle underlying the levies is cost recovery. The Authorities are not profit-making institutions and will only seek to raise enough resources to sufficiently execute their mandates. In addition, under justifiable circumstances the Authorities are empowered to grant exemptions from the payment of all or part of a levy in the circumstances set out in clause 11 of the Bill.

	period. We therefore support an increase capped at 15% rather than that which is currently proposed	
ASISA	1) It is noted that the references to Sections 237(3A) (a) and 246(2) (a) do not exist in the Financial Sector Regulation Act. Could the NT kindly clarify which sections are being referred to? 2) Section 239(2) of the Financial Sector Regulation Act provides that "A proposal for levies may include a proposal for one or more special levies, and in that case, the estimate of expenditure must include an estimate for the special expenditure in relation to a special levy proposal." We understand that the special levy was raised to meet the expenditure of establishing the Twin Peaks model and statutory bodies. However, it is noted that three years have passed since such establishment in April 2018. We therefore request that the proposed special levy is removed for supervised entities.	1) These are new sections proposed to the FSR Act and will be contained in the Financial Sector Levies (Administration) Bill. The draft Bill will be processed simultaneously with the Levies Bill. 2) While three years have passed since the establishment of the Two Peaks, there are set-up projects e.g. enhanced IT processes that are yet to financed and implemented. Notably, it has taken time since establishment of the two peaks to finalise issues around the funding of the authorities in general. It must be noted that the FSR Act brought about a significant increase in scope for the FSCA in terms of jurisdiction and approach in support of improved market and customer outcomes. However, since the commencement of the FSR Act, the Authorities were curtailed by the levy structure in place under the Financial Services Board Act, 1990. The special levy is therefore necessary to ensure that the Authorities may be completely operationalised to fulfill their respective functions. Where there is an over-collection of the levies, the Authorities may reduce the levies for the subsequent year after taking into account the fact that the Authorities may only keep reserves of up to 15% of the total expenditure.
BASA	In other jurisdictions that have gone through a similar process (UK, Australia, and Canada), we see the following 3 principles as best practice:	The principles highlighted by the commentator are also true in the case of South Africa. However, where the Authorities over-collect levies or have unutilised funds after the end of a financial year, the Bill provides that they may keep reserves up to 15% of the total expenditure. Where the surplus is more than

	Principle 1 The Financial Sector Regulatory Bodies should be independent public bodies that are funded largely by the firms that they regulate, by charging them fees. ***Principle 2*** Budget unspent is refunded after consideration for whether retaining income is required for the future period. ***Principle 3*** The six charging principles of transparency, efficiency, performance, equity, simplicity, policy consistency should apply to all regulatory charging activities.	what can be maintained as reserves, the levies are reduced in the next levy period. The purpose of the reserves is to provide for contingencies.
	Proposed Wording Include in the Bill the requirement that institution-level budgets need to be created to validate future amendments to the schedules and that expenses incurred by regulators be tracked against the budget for that year. Where funds are not utilised, these need to be refunded to the relevant institution.	This wording will not be necessary because chapter 16 of the FSR Act requires the Authorities to publish their budgets together with an explanation of their budgets and estimates of expenditure against the proposed levies and fees. The industry has an opportunity to provide comments to the budgets and their explanations through a transparent public consultation process, as well as Parliamentary scrutiny.
	In the interest of transparency this breakdown of the budget, actual cost accrued, and the refund should then be provided to the relevant institution.	Although chapter 16 is not yet effective, the financial sector bodies will publish their budget for the 2021/22 financial year and proposed draft budget for the 2022/23 financial year together with the revised draft of the Bill.

BASA	It is easier to follow the numbering if the section number is included in the heading, as is indicated in the “Arrangements of Sections”. **Proposed Wording** Include the numbering in the section titles as indicated in the “Arrangement of Sections” rather than below before the 1st sub-section.	Agree.
FIA	The Financial Intermediaries Association is a trade association that represents over 1700 businesses operating in the intermediated market of financial services (life, non-life, employee benefits, financial planning and discretionary investment management) of which 80% of these businesses are small to medium sized enterprises. Our members are all financial services providers who collectively employ in excess of 45 000 people countrywide. Included within our membership are also those members who hold both Category I and Category II licences. The FIA strives to protect, develop, educate, promote and influence the professional service of our members and their employees, so that consumers can benefit from the value of advice, risk management and product fulfilment.	The FSR Act requires that the Authorities must publish their budgets together with an explanation of their budgets and estimates of expenditure against the proposed levies and fees. The explanatory notes required under the FSR Act will be published by the Authorities as part of the process for public consultation towards the implementation of Chapter 16 of the FSR Act. The explanatory notes will explain the budget and levy proposals as well as provide some details of the issues that have been highlighted by the commentator. Although chapter 16 is not yet effective, the financial sector bodies will publish their budget for the 2021/22 financial year and proposed draft budget for the 2022/23 financial year together with the revised draft of the Bill.The FSR Act introduces financial sector bodies as separate bodies responsible for their own budgets. Under chapter 16 these bodies will be required to publish their budgets as well as levies proposals. As such it should be noted that the increase in levy is largely due to the necessity to fund these offices separately.

	We thank you for the opportunity to comment again on the Draft Levies Bill, and wish to make the following comments. In order to understand the impact of the proposed Levies Bill on our members, we have undertaken a financial analysis, to look at different bands of members, and the cost of increases over time, as well as the impact of the Draft Bill relative to previous increases. The attached Annexure reflects our findings in this regard, and you will note that even excluding the special levy, the increases are substantial, and far exceed inflation. The FIA met with the FSCA and National Treasury on several occasions during 2020 to discuss the previous draft versions of the Bill, and during those discussions, recognition was given to the difficult economic climate. While we acknowledge the reduction in the special levy amount from 15% to 7.5% in the revised draft Bill, the proposed levies still represent a significant increase in levies in very tough economic conditions. The FIA, through various mechanisms, are working to provide support for developing and emerging intermediaries. These include Enterprise Supplier Development (ESD) programs and/or corporate subsidy of membership fees amongst others, as most of these developing brokerages are finding it challenging in the current climate to balance productivity, retention, income and expenses.	As noted above, under justifiable circumstances, the Authorities are empowered to grant exemptions from the payment of all or part of a levy in the circumstances set out in clause 11 of the Bill.

	In addition, we want to attract new entrants to operate and build businesses in financial services. These additional costs will definitely be seen as a further barrier to entry and survival. Furthermore, it is estimated that intermediaries in South Africa suffered an income loss of some 18% in 2020 as a result of the pandemic and subsequent “lock downs” (Stalker Hutchison Admiral (SHA) Risk Specialists Annual Specialist Risk Review 2020). Increased regulation and discussions regarding reductions in commission are placing strain on an already strained market, meaning that many small and medium sized businesses may no longer be able to continue doing business. While product suppliers may increase their prices in mitigation, due to the highly competitive environment in which intermediaries operate, the challenge for our members is that they cannot transfer increases in costs to their clients. Their income is based on a fixed commission, and even fee earnings are limited. This means that all increases reduce the profit margin, and hence sustainability of the intermediary. The FIA is further concerned that although in 2016 National Treasury prepared a detailed costing of twin peaks regulation and estimated fees and levies which were tabled in Parliament, we are now in 2021, and no updated budget has been presented. Without a detailed understanding of the current and proposed future budget it is not possible to	

	determine if these figures are reasonable and/or commensurate with the services being, or to be provided by the Regulator and to give effect to the implementation of the Twin Peaks model. It is therefore important for industry to understand how these levies will enable the regulator to adequately perform their functions, and how the calculation is justified. We also wish to note that there are still sectors that are dual regulated, such as those intermediaries who work in the healthcare sector, and who are subject to levies from both the FSCA and Council for Medical Schemes (CMS). This is unduly burdensome, and consideration should therefore also be given to this in the determination of any levies payable. We urgently request that the necessary insight is provided into the rationale behind these levies so that the industry can have a proper opportunity to undertake their own cost benefit analysis.	
INVESTEC	Investec Bank Limited ("Investec") wish to thank National Treasury for the opportunity to comment on the draft Financial Sector Levies Bill ("the Bill") and reiterate Investec's previous comments relating to the Bill as set out below.	One of the fundamental principles as set out in the government's policy document[1] on the regulation and supervision of the financial sector is that regulators should be appropriately and adequately funded to enable them to execute their mandates effectively.

[1] *A safer financial sector to serve South Africa Better,* released by National Treasury on 23 February 2011.

	Historically prudential regulation cost Investec the amount of a banking license, approximately R300 000 annually. In addition, separate costs were paid to the South African Reserve Bank ("SARB") for other services (e.g. S52 applications) and cash reserves were held for which no interest was earned. In the 2016 Supplement to the Impact Study of the Twin Peaks Reform document, the estimates for the cost of prudential regulation for banks increased to R294 000 000, of which Investec's portion amounted to approximately R24 600 000. We acknowledge the engagements that have taken place between BASA representatives and the PA and SARB on the previous drafts of the Bill. We note that discussions have been held on industry concerns on the lack of transparency on the budget of the regulators, the unfair impact of the cap on levies on the smaller banks, and the issues of whether the interest earned on cash reserves have been considered in the levies process. Despite these engagements it appears that these issues remain unsatisfactorily answered. We note that an attempt has been made to address some of these concerns in the Supplement to the Impact Study of the Twin Peaks Reform. In respect of the cash reserves argument, the response is that the cash reserves should not be linked to levies payable for prudential regulation as it is a monetary policy tool. While we agree in principle, we are of the view	According to this policy document, a regulated sector should ideally fund the operational budgets of regulators. The principle underpinning the Levies Bill is to recover the cost of running the Authorities from the regulated entities through levies. Before Twin Peaks implementation, pension funds, financial services providers, insurers and market infrastructures have been paying levies to the then Financial Services Board (FSB). However, banks were not levied for their regulation and supervision by the then Bank Supervision Department (BSD). The BSD was fully funded by the Reserve Bank. The cost of bank supervision – carried by the SARB – meant a reduction in the profits declared by the SARB and consequently the amount paid over to the government (to the National Revenue Fund) as profit/surplus. In respect of the cash reserves argument, NT reiterates its comment that the cash reserves should not be linked to levies payable for the regulation of banks as it is a monetary policy tool and serves a different purpose. On the issue around the transparency of the budgets, the FSR Act requires the Authorities to publish their budgets, estimates of expenditure and fees and levies proposals as well as an explanation of the budget, estimates of expenditure and the fees and levies proposals against the budget. The supervised entities can submit comments and inputs to these documents through a transparent public consultation process in terms of the FSR Act. In the reference to the supplementary impact study that NT published in 2018, and the 2018/2019 budget of R294 million it must be noted that adjusting the

	that a point should be made in the comments for noting by the regulators and National Treasury, i.e. that the proposed funding model is a fundamental shift in the methodology for recovery of costs. Therefore, the historical recovery methodology cannot be ignored or completely disregarded in the proposed costs for prudential regulation. Investec has requested transparency on how the estimated budgets are constituted. We contend that the line items in the Supplement to the Impact Study indicating the allocations to resourcing and operational costs are inadequate to meet the call for transparency. We note from the Impact Study that the 2017/2018 and the 2018/2019 estimates, in respect of which we raised concerns, are now reflected as "approved budgets", and are being used as a comparative base for the new levies. We also note that the budgeted amount has increased from R294 000 000 to R423 000 000. This is a significant increase which is again not supported by any transparency on the budgetary analysis that has informed this amount. The formula in 2018 versions of the Levies Bill was amended, and we requested clarity on the rationale for the change in the formula for prudential regulation for banks. Although we note the overall decrease in the charge for banks, the impact on the cost for Investec is an increase to R45 200 000, almost double that of the estimates from the previous year (having used the	amount by compound inflation rate will result in R357 million in 2021. This is excluding the additional responsibilities conferred on the PA after the implementation of twin peaks. The only difference is that without the Levies Bill in place the cost of regulating and supervising banks has been carried by the Reserve Bank and banks will be subjected to paying a levy for their supervision and regulation for the first time. After consideration of different methodologies that could have been considered in coming up with a formula for charging a levy, NT decided on a formula that takes banks liabilities into account and the use of liabilities as a proxy for size such that the smaller banks would pay less while the bigger banks would contribute slightly more. The latter part of the comment is noted.

	same liabilities figures as used previously). That, together with a decrease in the cap for large institutions to an amount of R45 000 000, demonstrates how inequitable the formula and impact of the cap is. Investec is a strong view that fees should be proportionally allocated to a supervised entity based on their resource intensive consumption required under the Twin Peaks legislation. The 2021 version of the Bill retains the formula that will result in Investec's levies being R45 000 000, which we believe is disproportionate. We recommend that the prudential regulation budget should rather be allocated in proportion to a Bank's Tier 1 Capital to appropriately focus the cost, on where there is the greater risk. An Appendix was previously provided supporting this approach practically, and we would be happy to provide an updated version if required. The basis for cost recovery has to be fair, based either on operating profits or core capital. The recommendation is for core capital, as profits may be volatile. Investec acknowledges the effort in the Impact Study to do an international comparison of the cost of Twin Peaks regulation in other jurisdictions. With respect we wish to point out that the estimated cost in South Africa is incomplete as it does not take into	

	consideration the cost of credit regulation by the National Credit Regulator or supervisory responsibilities performed on behalf of the Prudential Authority by external audit as stipulated in Regulation 46 audit reports.	
JSE	The JSE welcomes the opportunity to comment on the Draft Financial Sector Levies Bill ('the Bill'). We recognise the importance of risk-based, intensive and intrusive supervision of the financial markets and we appreciate the need for the regulatory authorities and other financial sector bodies to cover their costs through levies imposed on supervised entities. However, it is difficult to comment meaningfully on the Bill without insight to the wider context of the cost of supervision to enable an understanding of the budget and estimates of costs that each financial sector body has incurred or is expected to incur in performing its supervisory function.	As part of the process, once Chapter 16 of the FSR Act has commenced and the Levies Bill has been enacted, before the commencement of each financial year, the Authorities will be required to publish their budgets, estimates of expenditure and fees and levies proposals as well as an explanation of their budgets, estimates of expenditure and the fees and levies proposals against the budget. Although chapter 16 is not yet effective, the financial sector bodies will publish their budgets for the 2021/22 financial year and proposed draft budgets for the 2022/23 financial year together with the revised draft of the Bill to inform the Parliamentary process. The supervised entities have an opportunity to interrogate the proposed budgets and estimates of expenditure against what levies and fees proposals and provide any comments and inputs to these documents through a transparent public consultation process.
JSE	The budget required in terms of section 239(1) of Financial Sector Regulation Act ('FSRA') has not been published with the Bill and an estimate of expenditure giving rise to the special implementation levy has not been provided as required in terms of section 239(2).	Please see response above

	Section 240 of the FSRA requires that, for each financial year, a financial sector body must publish for consultation:- its budget; its estimates of expenditure and the fees and levies proposals for the relevant financial year; and an explanation by the financial sector body of its budget, estimates of expenditure and fees and levies proposals and of the variation of the budget, estimates of expenditure and the fees and levies proposals against the budget, estimates of expenditure and the fees and levies proposals adopted for the previous financial year. While we acknowledge that the Bill sets out the first financial year in respect of proposed levies to be imposed on supervised entities, without transparency and a holistic view, and in the absence of the financial sector bodies' budgets and estimates of expenditure, the comments received on this Bill, particularly in respect of the quantum of the levies, may be wholly invalid and irrelevant. In simple terms, based on the Bill alone, supervised entities do not have any understanding of what they are paying for, have no insight into whether the levies imposed are fair and reasonable, or whether one type of supervised entity is subsidising the supervision of another type of supervised entity.	
JSE	South Africa's macro environment has deteriorated over the past 5 years and last year alone, all three global rating	The comment is noted. However, one of the fundamental principles as set out in the policy paper *"A Safer Financial Sector to Serve South Africa Better"*

	agencies issued their decisions on the South African sovereign's credit standing. Fitch lowered its rating by one notch (from "BB" to "BB-") as did Moody's (from "Ba1" to "Ba2"). These decisions largely reflect investors' impatience - both domestic and international - with the pace of reform, rising debt costs and the persistence of SOE bailouts in South Africa. As result, South Africa has either exited key global indices or become severely diluted. For example, in April 2020, South Africa exited the World Government Bond Index (WIGBI) which tracks $3 trillion of funds, following a down-grade to junk-status by Moody's in March 2020. In equities markets, the increasing proportion of China and the inclusion of Argentina and Saudi Arabia in 2019, both latter countries now representing an aggregate weight of 1.42% and 0.26% respectively in the MSCI Emerging Markets Index, has seen South Africa's weighting in the index fall below 5% - where it was about 5 years ago. The net effect of this negative macro environment has been significant net outflows in trading by foreigners in South African bonds and equities, with each asset class recording R125bn and R48bn net outflows respectively for the year to December 2020.	(released with the 2011 Budget) on the regulation and supervision of the financial sector is that regulators should be appropriately and adequately funded to enable them to execute their mandates effectively. According to this policy document, a regulated sector should ideally fund the operational budgets of regulators. Furthermore, the principle underpinning the Levies Bill is to recover the cost of running the Authorities and not to make a profit. As indicated above, the Authorities are required to publish their budgets and estimates of expenditure and the supervised entities will have an opportunity to interrogate the proposed budgets and estimates of expenditure against the levies and fees proposals and provide any comments and inputs to these documents through a transparent public consultation process.

JSE	In our previous response to the draft Bill, we raised our concerns regarding the cumulative effect of the regulatory levies which will be passed on in some form by supervised entities to participants, investors and financial consumers. We noted that the quantum of the levies to be imposed on the JSE group would necessitate that the JSE passes on this cost to market participants, contributing to the cumulative effect of the levies. Our concerns have not been addressed: A significant increase in the cost of regulatory oversight will translate into an increase in the costs of raising capital and trading which may lead to a decline in liquidity in the South African capital markets, the diminished attractiveness of South Africa as an investment destination and further capital outflows.	The comment is noted. However, one of the fundamental principles as set out in the government's policy document on the regulation and supervision of the financial sector is that regulators should be appropriately and adequately funded to enable them to execute their mandates effectively. According to this policy document, a regulated sector should ideally fund the operational budgets of regulators. Furthermore, the principle underpinning the Levies Bill is to recover the cost of running the Authorities and not to make a profit.
JSE	**Significant increase in total levies** While we acknowledge that the JSE has not previously paid a levy to the Prudential Authority and JSE Clear as an associated clearing house was not separately levied as it was included in the JSE's levy paid to the FSCA, we are extremely concerned about the significant increase in the total levies that will be imposed on JSE and JSE Clear.	The way the levies are structured is such that each type of supervised entity is charged a separate levy based on its licensed activities. We note that the JSE compared the current levies payable with the levy caps to arrive at the percentage increases. Should the JSE, simulate the levy formulas with real numbers to estimate its potential levies payable, the percentage increases reflected are likely going to look significantly lower than reflected.

The table below illustrates the proposed increase of 52% in total levies where the Authorities are aligned in their approach to the levies applicable to the clearing house, or the proposed increase of 90% in total levies where the Authorities are misaligned in their approach to the levies applicable to the clearing house.

Regulator	Exchange	Clearing House	Clearing House ICH & CCP
PA	10 000 000	12 000 000	12 000 000
FSCA	35 000 000	3 000 000	18 000 000
	45 000 000	15 000 000	30 000 000
Tribunal	1 125000	375 000	750 000
	875 000	75 000	450 000

Twin peaks introduced two regulators into the system with the overall object of providing for a better regulated financial sector. This will bring about required capacity building and increased costs.

The design and operational models of the regulators are strongly informed by international standard setting bodies and peer reviews like the FATF mutual evaluation and FSAP. The existing levies would underfund what is expected of the country and its regulators in this regard, impacting the efficiency, integrity, fairness and stability of the markets. The regulators need to be capacitated to be pro-active, pre-emptive, intensive and intrusive. The global financial crisis showed us that this cannot be compromised for the private profitability of certain financial institutions.

Ombud Council			
Special Levy PA	47 000 000	15 450 000	31 200 000
Special Levy FSCA	750 000	900 000	900 000
	2 775 000	258 750	1 440 000
TOTAL	**50 520 000**	**16 608 750**	**33 540 000**
Total Levies JSE and JSE Clear		67 133 750	84 065 000
Total Levies JSE 2020/2021	44 167 560		
% increase		**52,0**	**90,3**

	Even if the exclusion of a provision in Schedule 2 regarding the alleviation of a double levy payment by the FSCA in respect of a clearing house is an error or oversight, an increase in total levies of 52% is alarming. The JSE and its market participants simply cannot absorb this magnitude of costs, and we request National Treasury and the Authorities to reconsider the quantum to be levied on supervised entities and, as a minimum, provide the relevant budgets and estimation of expenses of the financial sector bodies, as required in terms of the FSRA, to support and justify the exorbitant increases in the proposed levies.	
JSE	The JSE urges National Treasury to republish the Bill (as amended) for public consultation, including the consequential amendments, together with the budgets and estimates of expenditure of the financial sector bodies, as required in terms of the FSRA, before the tabling of the Bill in Parliament. We would welcome a discussion with National Treasury and the Authorities on the points raised in this response.	Please see an updated revision of the Draft Bills. The financial sector bodies and National Treasury will engage further on the proposed draft budgets in terms of the Parliamentary process for the approval of the legislation. The budget and draft budgetary proposals for the PA, FSCA and other financial sector bodies for the 2021/22 and 2022/23 financial years respectively will be made available during that process.
MASTHEAD	The Masthead Financial Advisors Association (“the Association”) is an association of ±6’000 independent financial advisors. What makes the members of Masthead independent is the fact that they work for themselves and	Noted.

	they act under their own Financial Sector conduct Authority (FSCA) issued licences. Independent financial advisors ("advisors") represent or are mandated to act for an authorised Financial Services Provider (FSP) through which they provide advice and/or intermediary services to customers. A sizable percentage of the FSPs which form part of the Association are smaller in size and in some cases may consist only of an advisor and one or two staff members. Masthead (Pty) Ltd is a registered compliance practice and delivers compliance services to ±1'800 FSPs who are members of the Masthead Financial Advisors Association. As such, our input/commentary in relation to the proposals on the imposition of levies on the financial sector comes from the perspective of the IFA.	
MASTHEAD	We are in tough economic times and we would really urge the regulators to consider the levels of increases that are being proposed. In respect of existing levies all the increases proposed are significantly higher than inflation. If there is belt tightening to do, then we respectfully submit that this should be a shared responsibility between the regulator and the supervised entities being charged. If one includes proposed increases to existing levies and the new levies, then the total level of increase and the impact on FSPs is material, onerous, and prejudicial. Some would say it is out of touch with reality	The FSR Act introduces financial sector bodies as separate bodies responsible for their own budgets. Under chapter 16 these bodies will be required to publish their budgets as well as levies proposals. As such it should be noted that the increase in levy is largely due to the necessity to fund these offices separately. As noted above, under justifiable circumstances the Authorities are empowered to grant exemptions from the payment of all or part of a levy in the circumstances set out in clause 11 of the Bill.

	– for a one-person FSP, this approximates to a 30% increase in expenses relating to regulatory levies. In our view, this cannot be regarded as reasonable.	
SAIA	It is recommended that the list of expected fees for both life and non-life insurers be published so that there can be a view of all the fees applicable to regulated entities/financial institutions	Chapter 16 requires the publication of budgets of the financial sector bodies together with the proposed fees and levies for public consultation (section 240). The publication of the expected fees will commence once all the necessary processes are in place.
SAIS	The SAIS would like to thank the National Treasury for the opportunity to comment on the new proposed Financial Sector Levies Bill 2021. The SAIS is of the opinion that a robust regulatory framework is imperative. The necessity for a recognized regulatory framework that is globally accepted is of equal importance. A respected and trusted regulatory environment will be a differentiating factor for South Africa, on both the African continent and globally. It will serve to not only protect the public interest but will also encourage investment of capital, stimulation of economic activity, promotion of competition, entrepreneurship, and transformation. Creating jobs and ultimately generating tax revenue are further additional, positive consequences of a trusted regulatory framework.	Noted.

	The SAIS supports a robust regulatory framework and initiatives that both the private and public sector should engage in, in a constructive manner to achieve outcomes desired.	
SAIS	**2.1 Unquantified Layered Friction Costs** The SAIS and by extension the Financial Market participants that the SAIS represents, are largely concerned about the unquantified layered friction costs proposed in the draft Levies Bill, which will be added through the investment cycle. These levies will affect the process on multiple levels e.g. Investor fees at a bank, advisor fees at a FSP, levies and fees at an authorised user, trading and settlement fees, clearing and custody fees, insurance and unit trust fees and SRO fees etc... It is noted that the combined fees/levies imposed across all the market participants will ultimately be passed on to the investor, in some form or the other. The SAIS is of the opinion that the multiple levies could have a negative impact on the investment process and on the government's attempt to create a national savings culture. This is even more critical given the effect of the COVID-19 global pandemic. It is highly unlikely that industry will be able to absorb the aggregated costs, even if a regulated environment is beneficial for the industry and protects	The comment is noted. It is of paramount importance that the regulation and supervision of the financial sector is appropriately and adequately funded to enable the regulators to execute their mandates effectively. While all regulation comes with some costs, the cost of funding the regulators will be based on cost recovery and will be kept at a minimum. The supervised entities have an opportunity to comment on the budgets of the Authorities and authorities are expected to collect enough resources to fund their operations and not to make a profit. While the FSCA will be fully funded by the industry, the Reserve Bank will continue to fund a portion of the PA's total costs from its resources. What the PA will recover from the industry are direct costs, indirect costs, which are estimated at 40% of the total costs will be funded by the Reserve Bank.

	investors. Given the above, the SAIS is of the opinion that an in-depth impact analysis is imperative. This is in order to quantify the true friction cost to the ultimate beneficial owner/investor that invests through these various investment avenues. This analysis should include all role players, as an integrated modular solution to the investment cycle and not in their individual capacity.	
SAIS	The SAIS has reviewed the Financial Sector Levies Bill and is of the opinion that there should be more engagement and analysis of empirical evidence to determine the friction cost caused by implementing this Bill. A significant increase in the cost of regulatory oversight could lead to unintended consequences for the South African capital markets. The SAIS is of the strong viewpoint that well-regulated financial markets are essential however, the benefits should be balanced with the cost of the reforms. We look forward to closer and more collaborative working relationship with the National Treasury to find optimal solutions for the industry.	
SAIS	It is important to be cognisant that the financial market participants view the proposed levy as an additional layer of costs i.e. authorized users will pay JSE, STRATE, CDSP, FSCA and PA (Treasury), to regulate and manage risk for fair outcomes for the investor.	Please see comment above.

	The concern, specifically, is in respect of the cumulative effect of the regulatory levies and fees which will be passed on, by supervised entities, to participants, investors, and financial consumers. The SAIS is of the opinion that it is essential that the finalization of the COFI Act and the revision of the Financial Markets Act (FMA) and the introduction of codes of conduct must be completed together with the finalisation of the Levy Bill, as this would provide for a holistic view of the regulatory architecture and understanding of the end-to-end regulatory frictional costs and framework impacting the market.	
SAIS	Multiple exchanges mean multiple levies on market participants, which will once again be passed on to the ultimate investor. The SAIS believes that the role of multiple exchanges must be examined when reviewing the Levies Bill i.e. the roles that the various entities play with respect to regulation, prudential requirements and risk management within the financial market as well as trying to avoid duplication on multiple levels by the different regulators and exchanges. The SAIS reiterates that the finalisation of COFI and the FMA review is vital as more clarity is required in respect of the role of SRO's and the delegation of duties by the regulator (FSCA).	The issue and role of multiple exchanges seek to promote competition in the sector and should not be tied to the Levies Bill. Competition should rather lead to the reduction in costs as opposed to the increase thereof. The comments regarding CoFI and the FMR are noted; the respective processes are well progressed, and more information will be provided in due course, for engagement. The comments regarding proportionality and the need for equitable and level playing fields are noted and agreed with.

	The costs, processes and procedures for authorised users must create equitable and level playing fields. The SAIS believes that regulatory levies or fees payable by a market infrastructure should be commensurate to the intensity of regulation and supervision required and should be proportional to the nature, scale and complexity of regulatory risks present in that type of market infrastructure.	
SAIS	An understanding of costs, processes and procedures needs to be analysed to have a full view of the impact on financial markets and their participants and the ultimate investor. Furthermore, an analysis needs to be conducted on the current levies collected across regulators and SRO's. This is in order for the market to fully understand the total costs/levies that will be passed on and eventually impact the ultimate investor. The SAIS believes that this will negatively reflect on the saving culture being promoted by South Africa. Further investigation needs to be undertaken to determine what the optimal collection point/process would be. In addition, there must be clarity in respect of where in the process the fees should be collected e.g. at initiation of trade, settlement of trades or potentially ultimate end users/investors, also needs to be resolved.	Noted – see comment above. As noted in comments above, the financial sector bodies will be required to publish their budgets including fee and levy proposals for public consultation. The regulators also required to publish annual reports and financial statements that contain all the details referred to in s248 of the FSR Act. The basis for the calculation of the levies for the different market infrastructures is outlined in the draft Levies Bill. Concerning the different roles of the Authorities, the FSR Act clearly articulates the mandates of the PA and the FSCA. In addition, to ensure proper coordination and cooperation, the PA and the FSCA entered into an MoU which is also available publicly.

	The different financial market participants need to understand the different roles, responsibilities and functions the FSCA and PA perform and the cost of regulation within the different entities, to better understand the quantum of fees associated with each regulator. To ensure complete transparency and to avoid potential conflicts of interest, fees and pricing models with regards to levies and must be published by exchanges, SRO's and FMI's. The estimated revenue of the financial sector is provided. However, there is no detail on the expenditure and resources required i.e. an expense budget for this additional revenue. This information is essential to provide effective and relevant comment.	
SAIS	There must be a high level of transparency and due diligence processes followed with respect to the granting of exemption of any levies. Conflicts of interest must be disclosed and all exemptions and potential conflicts must be published in a Government Gazette, so as to ensure fairness, openness and access to information on which the sector will have an opportunity to comment.	Exemptions may only be granted in the circumstances set out in clause 11(3). Exemptions will be published on website as required by clause 11(4) of the Financial Sector Levies Bill. The comment regarding the disclosure of conflicts of interest is unclear.
SAIS	All stakeholders should continue engaging the relevant role players to ensure that the protocols, processes, and desired	The comment is noted. The industry has been consulted and has provided inputs to the past versions of the Levies Bill. Further engagements will be conducted

	outcomes are obtained. In finalising this Levy Bill, a practical view of the impact on all market participants must be analysed and industry must be consulted further in the finalisation process. This will enable the industry to be included in the development of the processes and systems, potentially creating a more transparent environment for the collection of data, in the correct format, that is not tainted and easily accessible, increasing the ease of regulation. There are substantial areas in which the industry can contribute, through their expertise, to the structure for maximum efficiency. The industry can assist the regulator in building a robust and cost-effective regulatory framework that is needed by South Africa. This is especially important given the effects of the global pandemic.	by the Authorities in preparation for the commencement of Chapter 16 of the FSR Act. The Authorities will publish the budgets and the explanations to the budgets for comments.
PREAMBLE		
MASTHEAD	Grammatical: Last paragraph – the word "provide" should read "provides".	Noted.

DEFINITIONS		
BASA	The following definitions are not observed in the Bill's definition section, but are cross-referenced or were included in the 2018 version of the Bill: ▪ "Banks Act" ▪ "Financial Advisory and Intermediary Services Act" ▪ "Financial Markets Act" ▪ "Financial Sector Conduct Authority" (defined in the subsequent section) ▪ "Prudential Authority" (defined in the subsequent section) ▪ "The Minister" Suggest including the above in the Bill	Clause 1(2) provides: (2) Unless the context indicates otherwise, words and expressions not defined in subsection (1) and that have been defined in the Financial Sector Regulation Act have the meaning ascribed to them in terms of that Act.

CLAUSE 2		
ASISA	In addition, clause 2(2) of the Draft Bill (2021) states that a special levy (in terms of section 8) will be charged in addition to the financial sector levy imposed under section 2(1). ASISA members would like to understand the reason for imposing a special levy for the first two levy years following the date of the commencement of the Financial Sector Levies Bill considering that a special SAM levy has already been incurred for the two levy years after the implementation of SAM.	The special levy will be charged to cover other initial costs not normally associated with the routine regulation and supervision. The estimate of expenditure to be published by the Authorities will include an estimate for the special expenditure in relation to a special levy proposal.
CLAUSE 4		
BASA	**Duplication: Section 4(3) and 4(5)** Sub-section 4(3) and 4(5) describes how to interpret the maximum amount payable. Suggest removing one of these paragraphs.	Noted, however the two sub-clauses intend the explain slightly different matters.

FIRST RAND	Whilst the Bill stipulates the 'levy year' and 'levy period' It is unclear when supervised entities should pay its levies to the FSCA/PA. Further to this, there is no section 237(3A)(a) and (b) in the Financial Sector Regulation Act, nor is there a section 246(2)(a) and (b), therefore we are unable to derive any meaningful context from the reference noted in section 4 of the Bill. Please correct the references to the Financial Sector Regulation Act to enable us to derive the correct context from section 4 of the Bill. Please also clarify when supervised entities should pay its levies to the FSCA/PA. The Bill indicates the levy period and levy year, but not the period by when levies must be paid.	Section 242 of the FSR Act provides for when levies are payable. These are new sections proposed as consequential amendments to the FSR Act and will be contained in the Financial Sector Levies Administration Bill.
MASTHEAD	The fact that there is a cap or a maximum levy only benefits large entities, the ones that can afford it. Apart from the concession in respect of the cost per Key Individual (KI) and Representative (Rep) for Cat I and IV FSPs that are restricted to Long-term Insurance A and/or Friendly Society products, there is no relief for the core of the independent advisor community.	The cap levy is based on the estimated maximum time envisaged to spend on supervision of these FSPs of which the cap levy was increased with inflation on yearly basis. Under justifiable circumstances the Authorities are empowered to grant exemptions from the payment of all or part of a levy in the circumstances set out in clause 11 of the Bill.

MASTHEAD	For purposes of clarity, we would suggest that in the subsections referring to the different levies the regulator should specify whether such levies are payable in advance or in arrears. This, in our view would be easy enough to set out in a new subsection (7) under section 4. In addition, one of the biggest challenges faced by small businesses (including FSPs) is cash flow. The ability to anticipate and smooth the payment of expenses is a great help to small businesses. We therefore request that the regulator give serious consideration to allowing FSPs to opt for a monthly payment of their levies.	The detail of how payments must be made will be set out in the Administration Bill, which will be published by NT shortly. Section 243 of the FSR Act provides that institutions may offer to pay the levy in installments.
SAIA	**Section 4(1)(a) - Schedule 2, Table B (Financial Sector Levy Calculation for Supervised Entities in respect of Financial Sector Conduct Authority)** In the draft Financial Sector Levies Bill, 2021 (Levies Bill), a distinction is made between mutual banks and other banks, but no distinction has been made between mutual insurers and other insurers. Mutual insurers operate as mutual associations that conduct insurance business for certain classes of policyholders within the specific industries, such as construction. They are licensed non-life insurers in terms of the Insurance Act 18 of 2017, but	Mutual insurers are too similar to other insurers to warrant a different levy calculation. They are typically as big, as complex, as material as the average insurer. Comment regarding the increase is noted. As explained above however, it is important that the regulators are adequately funded to execute their mandate effectively. The levy proposals are based on a cost-recovery principle to fund the operations of the Authorities. The Authorities are not profit-making entities and will only recover the minimal from the industry to fund their operations based on their budgets that will also be published and the industry will have an opportunity to provide comments on the budgets. The budgets inform the

	they often share more similarities with entities such as the Road Accident Fund (RAF) in terms of the social mandate/benefits than other insurers. On assessment, the levy payable by the RAF - which has much more in common with a mutual insurer - is significantly lower with a base fee of R100 000 and only in terms of Schedule 1. Accordingly, it is proposed that a distinction be drawn between mutual insurers and other insurers, and the related levies be aligned thereto. **Section 4(1)(b) - Schedule 1, Table A (Financial Sector Levy Calculation for Supervised Entities in respect of Prudential Authority)** Based on the proposed levy calculation including the proposed special levy, some SAIA members have advised that they would experience high levy increases (up to 86% for some SAIA members) when compared to the previous year. In response to comments submitted on the previous versions of the Levies Bill, National Treasury (NT) advised that the expenses of the regulators "are not dependent on the economic climate, and hence levies cannot take economic climate into account". It is accepted that this approach gives a measure of stability to the levies from year to year, however, the tough economic climate which has been considerably exacerbated by the	funding that will be raised from the supervised entities. In the case of the PA, the Reserve Bank will continue to subsidise the PA and will fund the indirect costs of the PA which account for about 40% of the PA's total costs. It is r understood that financial hardship may be experienced as a result of the pandemic. As noted above, the Authorities are empowered to grant exemptions from the payment of all or part of a levy in the circumstances set out in clause 11 of the Bill. On the basis that the principle underlying the charging of the levies is cost recovery, this cannot be supported because it will mean that the Authorities will not be sufficiently funded to execute their important mandates.

	COVID-19 pandemic has had longer-term and bottom-line impacts on insurers and financial institutions altogether and therefore, the resultant economic climate in which these financial institutions operate in. Accordingly, in such an environment, the state of the economic climate cannot be isolated or disregarded from the extent of the levies to be imposed. Further, in this difficult economic climate where the consumer price index (CPI) is low, NT is kindly requested to reconsider the proposed increases and consider aligning the increase of the proposed levies to the current CPI. Two other recommendations have also been proposed for consideration: - NT should consider applying a staggered approach to levy collection spread over several years; or - NT should consider exempting insurers who pay Schedule 1 (to the Prudential Authority) from paying Schedule 2 levies (to the Financial Sector Conduct Authority) or to reduce the costs substantially so that the impact on the insurance industry would not be debilitating.	

CLAUSE 7		
FIRST RAND	**Clause 7(3)** With reference to clause 5 (Levy year) and clause 6 (Levy period), it may very well be that full levies were paid for the entire levy year before the withdrawal or cancellation of a license. With reference to clause 7(3), there is no provision for the repayment of levies already paid for periods after the date on which the license is withdrawn or cancelled. An additional sub-clause should be inserted to provide for the repayment by the relevant authorities, of levies which were paid by financial institutions, in respect of periods after the date on which the license is withdrawn or cancelled. By way of example, a levy year is the period from 1 April in each year to 31 March in the immediately succeeding year. In terms of clause 4(4)(a), a supervised entity must, in respect of a levy year, pay the amount specified in each Schedule in the number of payments indicated in the corresponding line of the column "Number of payments during a levy year" in the Table in that Schedule. By way of example, and in terms of clause 4(4)(b), where, in a Schedule, the "number of payments during a levy year" is indicated as "one", a supervised entity must make a single payment in respect of the levy year. An example is levies	Clause 7(3) provides for the calculation of the levy for the period in which the institution was licensed. It there was overpayment, it should be possible to repay.

	payable by a bank to the Prudential Authority and the Financial Conduct Authority in terms of which a supervised entity must make a single payment in respect of the levy year. If a license is cancelled or withdrawn during that levy year, and with reference to clause 7(3), the revised levy period which must apply is from the beginning of the relevant levy year or levy period to the date on which the licence is withdrawn or cancelled. Clearly, such financial institutions would be entitled to a refund in relation to levies paid for a full levy period, where the actual levy period will now be different (levy period must apply from the beginning of the relevant levy year or levy period to the date on which the licence is withdrawn or cancelled) as a result of the licence being withdrawn or cancelled before the end of that levy period.	
	CLAUSE 8	
ASISA	This requirement to pay the levies into the bank account, which is in the name and control of the financial sector body,	These are new sections proposed to the FSR Act and will be contained in the Financial Sector Levies Administration Bill.

	is not reference elsewhere in the Bill and in particular clause 8(2)(a) and (b) • Clauses 8(a) references section 237(3A)(a) and 246(2)(a) of the FSR Act - there is no subparagraph (a) in section 246(2) nor is there subparagraph (3A)(a) of section 237 in the FSR Act • Clauses 8(b) references section 246(2)(b) of the FSR Act - there is no subparagraph (b) in section 246(2) nor is there subparagraph (3A)(b) of section 237 in the FSR Act.	
JSE	The Bill contains references to sub-sections of the FSRA which do not currently exist, viz., 237(3A)(a); 237(3A)(b); 242(2)(a); and 242(2)(b). The drafters of the Bill may have intended to make consequential amendments to the FSRA through this Bill. However, the consequential amendments are not included in the Bill, which further frustrates our attempts to provide meaningful comment on the Bill.	These are new sections proposed to the FSR Act and will be contained in the Financial Sector Levies Administration Bill which NT will publish and processed simultaneously with the Levies Bill.
MASTHEAD	We are really concerned by the intention to impose a Special Levy. At a rate of 7.5% over one year or 15% over two years (more, if the second year's special levy is compounded on an increase in levies from the first year), this results in an even more significant increase on levies payable by FSPs.	The special levy will be charged to cover other initial costs not normally associated with the routine regulation and supervision. The estimate of expenditure to be published by the Authorities will include an estimate for the special expenditure in relation to a special levy proposal. Therefore, the envisaged spending of the special levy will be budgeted for and adequately explained.

	If one uses the 2019 financial statements of the FSCA as a proxy, then it is not inconceivable that this levy will net something in excess of R120 million over a two-year period. This is a substantial amount of money and there is no explanation as to where and how this money will be applied. With respect, we believe that there should be more transparency and the rationale for the levy should be shared. In addition to the above, we note references in section 8(2)(a) to sections 237(3A)(a) and 246(2)(a) of the FSR Act, as well as references in section 8(2)(b) to sections 237(3A)(b) and 246(2)(b) of the FSR Act. However, these sections do not exist in the FSR Act and we cannot find any amendment that refers to these sections.	
PFA	Subsection (1)(b) – the subsection refers to section 237(3A)(b) of the Financial Sector Regulation Act, which does not exist. If the subsection exists in draft form, the OPFA has not had sight of same and it is impossible to provide comment on a draft which is yet to be subjected to publication and comment procedures.	A new section proposed to the FSR Act that will be contained in the Financial Sector Levies Administration Bill which NT will publish and processed simultaneously with the Levies Bill.

SAIA	It is noted that the references to sections 237(3A)(a) and 246(2)(a) do not exist in the Financial Sector Regulation Act. NT is requested to kindly clarify which sections are being referred to.	Please refer to the response above .
SAIA	(ii) Section 239(2) of the Financial Sector Regulation Act provides that "A proposal for levies may include a proposal for one or more special levies, and in that case, the estimate of expenditure must include an estimate for the special expenditure in relation to a special levy proposal." It is understood that the special levy was raised to meet the expenditure of establishing the Twin Peaks model and financial sector bodies. However, it is noted that three years have passed since such establishment in 2018. Accordingly, it is requested that the proposed special levy be removed for supervised entities. Should NT find that the special levy is still necessary, different recommendations are proposed for consideration, as follows: - **Proposal 1 – Staggered approach to levy collection** It is proposed that the special levy be collected in a staggered manner spread over more than two years to ensure that the financial impact on the industry is not debilitating.	The special levy is not only for establishing the PA/FSCA – it is for other expenses that are not part of the ordinary course of the regulation and supervision of financial institutions. A special levy may be charged in accordance with the provisions of the Levies Bill to cover other initial costs. The estimate of expenditure to be published by the Authorities will include an estimate for the special expenditure in relation to a special levy proposal. While three years have passed since the establishment of the two peaks, there are set-up projects e.g. enhanced IT processes that are yet to be implemented. On the basis that the principle underlying the charging of the levies is cost recovery, this cannot be supported because it will mean that the Authorities will not be sufficiently funded to execute their important mandates.

	Proposal 2 – reduction in the special levy percentage In terms of clause 8 of the Levies Bill, a special levy of 7.5% is imposed in addition to the other levies contemplated. Clarification is required as to how the 7.5% was derived at. Further, it is recommended that the special levy be substantially reduced as the amounts already calculated under the schedules are high.	
CLAUSE 10 (clause 11 in the new published version)		
BASA	**Exemption of Levies Section 10(2)** The process appears to be that the FSCA will, on behalf of the beneficiaries stipulated in Schedules 3-5, collect, and distribute monies. Will the FSCA also assess these beneficiaries on whether they will receive monies from supervised entities, or will the beneficiaries make this assessment themselves and the FSCA be the intermediary? We request clarification on the process and ownership of the decision.	The FSCA will collect levies on behalf of the levy bodies in terms of schedules 3 to 5. However, the respective entities must prepare and publish their budgets for the levies they will be proposing to raise. These bodies are also accountable for their own budgets under chapter 16 of the FSR Act. It is possible for exemptions to be granted in relation to the levies for the levies stipulated for purposes of Schedules 3-5, however because the FSCA is collecting the levies, it was provided that the application for exemption would be made to the entity collecting the levies.

BASA	**Disclosure of Exemptions: Section 10(4)** The disclosure method is not stipulated. Suggest publication through the Government Gazette and thereafter the PA and or FSCA Website.	Exemptions must be published in accordance with clause 11(4).
MASTHEAD	We are pleased to see that the FSCA has the power to exempt a supervised entity from the payment of all or a part of the financial sector levy. We note that, although this section does not specifically state that an application fee must accompany an application for exemption, there is generally an expectation that this is the case. We submit that if an FSP or other financial institution requests an exemption from payment of a levy, this will often be due to the financial consequences that payment of such a levy will have on the FSP or financial institution and, therefore, that this section should specifically exempt an FSP or financial institution from paying any exemption application fee.	Section 237(1)(a) of the FSR Act will be amended to empower the Authorities to charge fees for exemption applications. As exemptions will not be justified in all circumstances, it is proposed that it better to provide for exemptions from these fees on a case by case basis rather than for a general exemption.
PFA	Insofar as it may have been intended that the Act is a financial sector law as defined in the Financial Sector Regulation Act ("FSR Act"), clarity must be provided as to whether section 281	The Levies Bill will not be included in the definition of a financial sector law in the FSR Act as proposed by the Administration Bill. As such s281(3) will not also apply in addition to clause 11(3).

	of the FSR Act also applies, regard being had to section 281(3) of the FSR Act. An exemption from levies payable in respect of the Office of the Pension Funds Adjudicator ("OPFA") in terms of Schedule 5 should only be granted in concurrence with the OPFA since the operations of the OPFA could be materially affected by the granting of such an exemption.	
	CLAUSE 11	
ASISA	We note that clause 11(1) references that the FSCA is required to allocate the amounts it receives for a financial sector body (paragraph (b) to (f) of the definition of financial sector body), into the account referred to in section 246(2) of the FSR Act. Section 246(2) requires the bank account be in the name and control of the financial sector body.	Correct. The FSCA will be collecting the levies on behalf of the levy bodies referenced in paragraphs (b) to (f) of the definition of a financial sector body under the FSR Act and allocate the funds to respective levy bodies.
BASA	Account information or process to confirm the correct account is not stipulated. We request clarification on the process to be followed to confirm the correct account details as well as references to provide when making payment.	This will be communicated on the assessment notice. A financial sector body must issue to each supervised entity that is liable to pay a levy for the financial year, an assessment of a levy payable by the supervised entity. The assessment notice issued to a supervised entity must state the date on which the levy is due

		and must be paid, which period must not be less than 30 days from the date of receipt of the notice of assessment by the supervised entity
FIRST RAND	This part of the Bill is unnecessarily complex for persons who are not experts in the Financial Sector Regulation Act, 2017 and the purpose is primarily to align the relevant provisions of the FSR Act, as it pertains to the relevant requirements imposed on the FSCA re levies paid to the FSCA in respect of the Tribunal, the Ombud Council, the Office of the Pension Funds Adjudicator and the Office of the Ombud for Financial Services Providers. Consider keeping this clause, as is, which is primarily aimed at the relevant provisions of the FSR Act, 2017 but insert another clause or sub clause which clearly states that: Amounts due to the Prudential Authority in terms of Schedule 1 must be paid to the Prudential Authority and amounts due to the Financial Sector Conduct Authority in terms of Schedule 2, to the Tribunal in terms of Schedule 3, to the Ombud Council in terms of Schedule 4, and to the relevant Statutory Ombud Schemes in terms of Schedule 5, must be paid to the Financial Sector Conduct Authority in accordance with arrangements published by the Financial Sector Conduct Authority, for such purpose.	Please refer to clause 12.

CLAUSE 12		
PFA	Clarity must be provided whether this Act will be considered a financial sector law as defined in the Financial Sector Regulation Act.	The Levies Act will not be included in the definition of a financial sector law.
SCHEDULE 1		
ASISA	**Definition of liabilities for calculating insurer levies (both PA & FSCA)** The definition of the liabilities (to be used for the purposes of calculating the levies in schedules 1 and 2) is as follows: *"D = gross best estimate liabilities **or** technical provisions as a whole, adjusted to an absolute value per line of business as reported in the most recent audited annual Quantitative Return Template of the insurer preceding the levy period".* BEL + Risk Margin = TP, so the question is how should we interpret the formula i.e. do we include or exclude the risk margin for this calculation?	Best estimate liabilities (BEL) should exclude risk margin (RM) as a cleaner proxy for size than technical provisions (TPs). Some lines of business are more likely to be based on the concept of TP as a whole, and in such cases would not have a BEL and so the calculation should be based on the second metric.

ASISA	**PA and FSCA levies for Life insurers** "policy liabilities being reduced by liabilities in respect of pension fund organisations and friendly societies" (as per previous comments of 14 May 2018). Should this issue not be addressed, our PA & FSCA levy for insurers increases by >50% which is excessive and unreasonable Propose Authorities continue applying provisions of Board Notice 81 of 2016.	Going forward policy holder liabilities under pension funds, provident funds (including preservation funds) and retirement annuities issued by insurers will not be excluded from the liabilities that are provided for in the levy formulae. The variable amount of the levy formulae has been reconsidered in light of the fact that policy liabilities will no longer be reduced by liabilities in respect of pension fund and friendly societies.
ASISA	**Pension Fund: preservation fund, Pension Fund: provident preservation fund; Pension Fund: retirement annuity fund (Item 1 (p)-(r)** We did a comparison of current actual levies paid versus proposals and we get increases of around 33%, particularly on the larger funds which is excessive and unreasonable. Increases on the smaller funds looks reasonable, but not larger ones. Propose Authorities include a cap on the levy, of say at R10m.	The comment is noted. The Bill was amended to include a cap amount of R15 million.
BASA	**Grammar: Schedule 1(1)**	Noted – accepted

	Missing semi-colon after “Lloyd’s” Suggest including semi-colon after “Lloyd's.	
FIRST RAND	**Table A of the Bill in respect of Life Insurers** **Under the column: Description of variable** **D = gross best estimate liabilities or technical provisions as a whole, adjusted to an absolute value per line of business as reported in the most recent audited annual Quantitative Return Template of the insurer preceding the levy year** What does “adjusted to an absolute value per line of business” mean? **Proposed Wording** The term “absolute value per line of business” is not clear and we recommend that it should be defined in the Bill. This term appears on pages 21 and 27 under the Life Insurer lines for both the PA and FSCA levies. • “absolute value” the question is if the absolute value is a number regardless of whether the number is negative, i.e. the absolute value is 3 for both the numbers 3 and -3. • “per line of business” clarity is required as to which lines are referenced in the QRT template.	Please refer to explanation above.

JSE	We welcome the Prudential Authority's approach in respect of the alleviation of a double levy payment in respect of a clearing house (Paragraph 2 of Schedule 1). However, it is unclear whether this approach will be perpetuated once JSE Clear is licensed as an independent clearing house and a central counterparty. Paragraph 2 of Schedule 1 refers to a clearing house that is "approved in terms of section 110(6) of the Financial Markets Act to perform the functions of a central counterparty", but does not refer to a clearing house that is licensed as both an independent clearing house and central counterparty. As from no later than 1 January 2022, JSE Clear will be licensed as an independent clearing house and central counterparty rather than merely being approved to perform the functions of a central counterparty. For the sake of clarity, we respectfully recommend that paragraph 2 of Schedule 1 is amended as follows: 2. A clearing house that is approved in terms of section 110(6)<u>(a)</u> of the Financial Markets Act to perform the functions of a central counterparty <u>or licensed in terms of section 49 of the Financial Markets Act as an independent clearing house and central counterparty</u> is liable to pay the levy applicable to a central counterparty, and is not liable to pay the levy applicable to an associated clearing house or an independent clearing house, as the case may be.	The way the levies are structured is such that each type of supervised entity is charged a separate levy based on the licensed activities performed.

JSE	In the absence of a clarifying provision similar to the provision in Paragraph 2 of Schedule 1, the FSCA's approach is unclear. Is it intended that the FSCA will levy JSE Clear as both an associated clearing house and a central counterparty (as approved under section 110(6)(a) of the Financial Markets Act) until JSE Clear is licensed as an independent clearing house and a central counterparty, and thereafter levy JSE Clear as both an independent clearing house and a central counterparty? This approach, if intended, would be patently unfair given the magnitude of the relevant levies, would have devastating consequences on the exchange traded derivatives markets, and would disincentivise the establishment of a local OTC derivatives central counterparty. We have set out two scenarios below, illustrating – A. the total quantum per annum levied by the Authorities, in the current environment where JSE Clear is a licensed associated clearing house ('ACH') and approved to perform the functions of a central counterparty ('CCP'); and B. the total quantum per annum levied by the Authorities, in the future environment where JSE Clear is licensed as both an independent clearing house ('ICH') and a CCP.	The comment is noted. A similar clarifying provision will be included in Schedule 2.

	In both scenarios we have assumed the maximum levy per annum, as our initial calculations have indicated that, based on the clearing values for 2020, JSE Clear would exceed the maximum levy for every quarter. We have also assumed that the Prudential Authority's approach of only imposing the CCP levy on a clearing house will be consistently applied.	

Scenario A: Licensed ACH and approved to perform the functions of a CCP

Levy Type/Authority	JSE Clear CCP	JSE Clear ACH	JSE Clear ACH & CCP
PA	12 000 000	12 000 000	12 000 000
FSCA	3 000 000	2 000 000	5 000 000
	15 000 000	14 000 000	17 000 000

As noted above, the FSCA's approach to the levy in respect of a clearing house it not clear, however we do not believe there is a case for the FSCA's approach to be inconsistent with the Prudential Authority's approach. We strongly recommend that Schedule 2 of the Bill includes the same provision as provided for in Schedule 1 (including our proposed amendment), regarding the alleviation of double levy payment in respect of a clearing house.

Scenario B: Licensed ICH and CCP

Levy Type/Authority	JSE Clear CCP	JSE Clear ACH	JSE Clear ICH & CCP
PA	12 000 000	12 000 000	12 000 000
FSCA	3 000 000	15 000 000	18 000 000
	15 000 000	27 000 000	30 000 000

As can be observed in the table above, the range of the potential levy to be applied by the FSCA, in respect of JSE Clear, is extremely wide: The difference of 500% or 600% between the possible approaches (R3m versus R15m or R18m) is incomprehensible and unjustifiable. We fail to understand the circumstances where it would be considered reasonable for JSE Clear to be liable to the FSCA for a levy of R15m or R18m in respect of the supervision of the conduct of JSE Clear, compared to a levy of R12m imposed by the Prudential Authority in respect of prudential supervision, particularly given the nature of the significant regulatory issues pertaining to a clearing house which lean heavily towards prudential issues rather than conduct issues.

In our view a levy of R15m for the supervision of the conduct of an independent clearing house that does not perform the function of a CCP, or R18m for an independent clearing house that is also a CCP, is completely unreasonable. The FSCA levy

	on an independent clearing house should be closely aligned to the levies imposed on market infrastructures with a similar conduct risk profile e.g., an associated clearing house (R2m) or a central depository (R2.7m). The proposed FSCA total annual levy in respect of an independent clearing house is the same as the annual levy imposed on a bank. This cannot be correct, as the conduct risk profile of an independent clearing house is not comparable to the conduct risk profile of a bank. Apart from the issues of consistency, proportionality and comparability noted in the paragraphs above, in the case where the two Authorities' approach to the levies on JSE Clear is misaligned, the aggregate amount of the levies to be paid to the two Authorities by JSE Clear (R27m or R30m) would render JSE Clear unviable as the derivative markets could not absorb that level of regulatory costs. We respectfully reiterate our recommendation in the strongest terms that Schedule 2 of the Bill should include the same provision as provided for in Schedule 1 (including our proposed amendment), regarding the alleviation of a double levy payment in respect of a clearing house that is also a CCP and the levying of such an entity only as a CCP, which would result in the FSCA levying JSE Clear R3m once it is licensed as both an independent clearing house and a CCP.	

SCHEDULE 2		
ASISA	**Definition of liabilities for calculating insurer levies (both PA & FSCA)** The definition of the liabilities (to be used for the purposes of calculating the levies in schedules 1 and 2) is as follows: "D = gross best estimate liabilities or technical provisions as a whole, adjusted to an absolute value per line of business as reported in the most recent audited annual Quantitative Return Template of the insurer preceding the levy period". BEL + Risk Margin = TP, so the question is how should we interpret the formula i.e. do we include or exclude the risk margin for this calculation? **Pension Fund: Pension Fund Administrator, Item 1** Comparison of what we are currently paying versus proposed levies shows increases of c.33% which seems excessive and unreasonable. Should this issue not be addressed, our PA & FSCA levy for insurers increases by >50% which is excessive and unreasonable. Propose Authorities continue applying provisions of Board Notice 81 of 2016.	As explained above.

ASISA	**PA and FSCA levies for Life insurers** "policy liabilities being reduced by liabilities in respect of pension fund organisations and friendly societies" (as per previous comments of 14 May 2018).	Going forward policy holder liabilities under pension funds, provident funds (including preservation funds) and retirement annuities issued by insurers will not be excluded from the liabilities that are provided for in the levy formulae. The variable amount of the levy formulae has been reconsidered in light of the fact that policy liabilities will no longer be reduced by liabilities in respect of pension fund organisations and friendly societies
BASA	**Financial Services Provider (authorised in multiple Categories): Schedule 2** The variable multiplier is not specified for sub-paragraphs (2) and (3) Request inclusion of the variable multipliers to be applied to the specified values in sub-paragraphs (2) and (3).	Comment is noted, however we are not in a position to upfront determine the base amount as it is dependent on the most onerous category per the FSP.
BASA	**Financial Service Provider: Schedule 2** This must be included at the exchange rate published in the press at that date" We currently have data feeds that we use to convert to our internal non-ZAR balances to ZAR.	We confirm that "in the press at that date" it's the market data.

	Please clarify as to whether using market data from the day in question is acceptable or whether the "in the press" has a specific requirement?	
MASTHEAD	**Re: Cat I or IV FSPs** We support the proposal that the variable fee is based on the average total number of key individuals and representatives, calculated over the levy year. With regards to the quantum, we note the following: - The base amount of R4000 amounts to an increase of 8.6% over the existing base levy for this category of FSPs. - The variable levy per KI/Rep (proposed at R620) is a 5.6% increase. Before adding in the additional levies proposed, for a Cat I FSP with only one KI and one Rep the proposed base amount plus variable levy amounts to a total average increase of 7.8% over what that FSP would pay today. In a normal year, it is difficult enough to justify an inflationary increase, but to propose something that (in respect of the base amount) is roughly double the inflation rate, is not, in our view, justifiable. We therefore strongly urge the regulator to	The 8.6% increase is based on the 2020/2021 financial year levies. The proposed base amount for the 2021/2022 financial year is R 3 829 resulting in an increase of 4% when compared to the proposed R4 000 base amount. The 5.6% increase is based on the 2020/2021 financial year levies. The proposed variable amount for the 2021/2022 financial year is R610 resulting in an increase of 1.6% when compared to the proposed R620 variable amount.

	leave these levies unchanged from those applicable for the 2020 financial year.	
MASTHEAD	**Re: Cat I or IV FSPs (iro LT Ins subcategory A and/or Friendly Society** **Benefits)** With regards to the quantum of the proposed levies, we note that: - The base amount of R4000 amounts to an increase of 8.6% over the existing base levy for this category of FSPs. - We appreciate the fact that the variable levy per KI/Rep is less than that for ordinary Cat I or IV FSPs. But the increase from R250 to R280 per rep is still a 12% increase. We trust that this double-digit increase is not because there was no increase processed last year. We refer to our additional comments above about the percentage increases and the impact on small FSP business, even more so in the current market.	The 8.6% increase is based on the 2020/2021 financial year levies. The proposed base amount for the 2021/2022 financial year is R 3 829 resulting in an increase of 4% when compared to the proposed R4 000 base amount. The proposed R280 rep and KI levy is only applicable to FSP's who have the financial products of long-term insurance subcategory A or friendly society benefits. The levy was included in the legislation in 2009 and has since 2010 been levied differently and significantly lower than other FSPs. The representative and key individual amount for funeral business FSPs has not been increased since 2011.

	We therefore urge the regulator to waive increases or at the very least, to apply a more moderate increase.	
MASTHEAD	**Re: Cat II, IIA, and III FSPs** We note that the rate for V2 in this equation/formula is 0.002%, which is an increase from the existing rate of 0.00184595%. We have two comments: - It may seem literally to be an increase of decimal places, but it effectively amounts to an 8.3% increase in the rate at which the value of investments are charged. Similar to our earlier comments, this is an increase of more than double the inflation rate. - We acknowledge and are grateful that the regulator eventually kept the rate for 2020 the same as that for 2019. However, we are concerned that the regulator again deems it necessary to apply an increase to the percentage/rate that is applied to the value of the investments under management.	The V2 rate will be reduced as per the request to 0.001895%.

	We believe that it is unfair for these FSPs to be potentially exposed to a "double levy" in that, as the value of their investments grow (organically or by acquisition) they pay more, plus they're subject to an increase in the rate. We know that when the value of the investments under management falls the regulator earns less. But, so do those FSPs. Therefore, a rate increase to potentially compensate for that is not, in our view, a fair solution. An increased rate on a decreased value of the investments under management again is a double whammy for the FSP. We note the intention to value foreign currency investments based on the exchange rate on the 31 August of the levy year. We wonder whether it would not be more equitable for all parties to use the average of the exchange rate over the levy year rather than a snapshot on 31 August?	
MASTHEAD	**Table B, p32** Grammatical: Number (2) currently reads: "*Provided that **that** the key* *individuals and representatives who are approved or appointed under* *multiple categories are counted once for purposes of the calculation.*"	Agreed.

	Clearly the second “that” should be deleted.	
SCHEDULE 3		
MASTHEAD	**Re: Tribunal, Ombud Council, Ombud Schemes-FSPs levies** Since at least two of these levies are brand new, it is difficult to compare to past years. Our closest comparison is to look at the levy iro the FAIS Ombud and compare that to the above three levies combined. In such a case, the new levies (base + variable) approximate a 31% increase over the past year. These brand new levies, on top of the other above-inflation increases, makes the total increase in regulatory levies significant and, in our view, unreasonable and financially prejudicial to FSPs. Once again, we battle to justify such increases, and would request the regulator to reconsider these.	Careful consideration has been given on the levies provided for in the Bill in line with the objectives of the FSR Act of ensuring that the financial sector is appropriately regulated form a prudential and conduct perspective. The Financial Services Tribunal may be seen as a continuation of the Appeal Board under the repealed Financial Services Board Act but with an extended scope. Although levies were not provided separately for the Appeal Board in the past, its operational expenses were provided for in the budget of the Financial Services Board. In terms of the FSRA the Tribunal includes other appeal boards in terms of financial sector laws and is now a more unified entity. The Tribunal is a completely independent body separate from the regulators with a much wider remit. Furthermore, it is imperative that the Tribunal is sufficiently funded to ensure that there is a proper appeal structure that is an internal remedy in the Act. The FSR Act seeks to protect and promote the rights of financial customers. It is important therefore that financial customers have access to an independent Ombud Council that can assist in ensuring that financial customers have access to and are able to use affordable and effective fair alternative dispute resolution

		processes for complaints against financial institutions. The same principle is applicable in relation to Ombud Councils.
SAIA	Schedule 1 to the Levies Bill which applies to non-life insurers provides that the levy amount is the Base amount + V1 + V2; where V1 =0.155% x B, where B represents GWP below R60million and V2 = 0.047% x C where C represents GWP above R60million. The maximum amount payable is R15 000 000. Schedule 2 uses the same formula for a non-life insurer but has a limit of R5 000 000. Clarity is requested regarding the basis for the different limits to the PA and the FSA in respect of the same legal entity (namely the insurer). Due to the tough economic climate, it is recommended that a limit of R5 000 000 be applicable for both life and non-life insurers.	The basis for the levies is cost recovery. The determination of levies that will be charged by the PA is based on the budget estimate of the PA's direct costs of prudential regulation of the supervised entities under the purview of the PA.

SCHEDULE 4		
JSE	The JSE operates a recognised scheme in terms of section 11 of Financial Services Ombud Schemes Act, 2004 and is 'taken to be a recognised industry ombud scheme', in terms of section 301(6) of the FSRA. It is our view that, given the limited responsibilities and activities of the Ombud Council in respect of an industry ombud scheme, the levy as set out in Schedule 4 should not apply to a recognised industry ombud scheme. We respectfully recommend that the descriptor in the first column of Table D in Schedule 4 is amended as follows: All supervised entities, <u>other than recognised industry ombud schemes</u>, that are liable to pay levies calculated in accordance with Schedule 1 or 2	Comment not agreed to. The Ombud Council oversees Ombud Schemes and must perform any other function conferred upon it in terms of other applicable legislation including the FSR Act. For purposes of Chapter 16 of the FSRA, a licensed exchange is a supervised entity.
MASTHEAD	**Re: Tribunal, Ombud Council, Ombud Schemes-FSPs levies** Since at least two of these levies are brand new, it is difficult to compare to past years. Our closest comparison is to look at the levy iro the FAIS Ombud and compare that to the above three levies combined. In such a case, the new levies (base + variable) approximate a 31% increase over the past year.	Please see response above

	These brand new levies, on top of the other above-inflation increases, makes the total increase in regulatory levies significant and, in our view, unreasonable and financially prejudicial to FSPs. Once again, we battle to justify such increases, and would request the regulator to reconsider these.	
SCHEDULE 5		
MASTHEAD	**Re: Tribunal, Ombud Council, Ombud Schemes-FSPs levies** Since at least two of these levies are brand new, it is difficult to compare to past years. Our closest comparison is to look at the levy iro the FAIS Ombud and compare that to the above three levies combined. In such a case, the new levies (base + variable) approximate a 31% increase over the past year. These brand new levies, on top of the other above-inflation increases, makes the total increase in regulatory levies significant and, in our view, unreasonable and financially prejudicial to FSPs. Once again, we battle to justify such increases, and would request the regulator to reconsider these.	Please see response above

PFA	The proposed levy amount of R7.30 may be insufficient to fund the operations of the Office of the Pension Funds Adjudicator. Assuming that a number of “members or any persons receiving periodic payments” from pension funds is at an estimate at 11,2 million for 2020 calendar year based on numbers obtained from the FSCA, the total estimated amount to be collected is R81,77 million. This amount is approximately R5 million short of the approved 2021/22 OPFA Annual Budget of R 86,1 million. Hence the OPFA proposes that the rate be amended to R7.70 to meet its minimum funding requirements to operate and execute its mandate. The OPFA is basing its calculations and making its assumptions on information available at its disposal which may not necessarily have taken into account the effect that Covid-19 has had on the South African economy. The exclusions to L should not apply in respect of the Office of the Pension Funds Adjudicator (“OPFA”) since the OPFA receives and process complaints in respect of unclaimed benefits and beneficiaries.	Please see revised Bill where this has been addressed