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Building a financial services sector that serves all South Africans

Enhancing the Twin Peaks regulatory model

With the establishment of the Financial Sector Conduct Authority (FSCA) and the Prudential Authority in April 2018, South Africa has begun operating the Twin Peaks regulatory model. This approach puts equal emphasis on monitoring the prudential and market conduct risks posed by financial institutions. Prudential risks arise when firms are unable to meet their financial obligations. Market conduct risks relate to how financial institutions behave in the market, including how they treat their customers.

Both regulators are working to build capacity to achieve their comprehensive mandates, which involve a broad scope of jurisdiction over all South African financial institutions. Other priorities include:

- Strengthening the regulation and supervision of banking institutions.
- Implementing prudential regulation and supervision of financial conglomerates.
- Establishing a framework for significant owners (people who control or materially influence a financial institution).
- Strengthening the resolution framework to ensure that the failure of a major financial institution is handled in a way that minimises its impact on the economy.
- Encouraging developments in financial technology (fintech). This will be supported by a fintech policy paper developed by the National Treasury.
- Supporting an inclusive and transformed financial sector.

A stronger legal framework for treating customers fairly

In tandem with the creation of the FSCA, market conduct legislation is undergoing significant reform. The Conduct of Financial Institutions Bill proposes to create a single comprehensive law for the financial sector, and repeal myriad laws now in place. The new law will better regulate the behaviour of financial institutions and ensure that they treat customers more fairly. The bill will be subject to extensive consultation and engagement to ensure it is appropriate and effective once enacted.

The FSCA will consult on a conduct standard for retail banks, which have historically been subject to limited regulation of customer interactions. It will require banks to treat customers fairly, ensure that appropriate processes govern product design and sales, and manage customer complaints properly.

Protecting customers and maintaining financial stability: a comprehensive resolution framework

The Financial Sector Laws Amendment Bill will be tabled in Parliament during 2019. Once enacted, it will create a legal framework to ensure financial stability and protect customer funds in the event that banks or any other systemically important financial institutions fail. The Reserve Bank is responsible for financial stability in accordance with the Financial Sector Regulation Act (2017) and will therefore be the designated Resolution Authority. The authority has the responsibility of taking over the management of a bank if it fails. The bill will introduce South Africa's first comprehensive Deposit Insurance Fund. The Deposit Insurance Corporation will be established to manage the fund and promote awareness of the protections that it provides.

During 2019, South Africa will undergo a Financial Stability Board Peer Review, which will evaluate the country on its approach to the resolution of banks, systemically important non-bank financial institutions and deposit insurance.

Diversifying the financial sector

The Financial Matters Amendment Bill, tabled in Parliament in January 2019, will allow for the establishment of state-owned banks. Under this legislation, qualifying state-owned companies will be able to register as banks in terms of the Banks Act (1990) once they have met all requirements. Currently, the Banks Act only allows for the registration of public companies as banks.

A bank that is not a going concern can pose a significant threat to the stability of the financial system and customer funds. The founding legislation of state-owned firms may allow them to continue operating despite not being a going concern. To mitigate this risk, only qualifying state-owned companies that are financially sound will be able to apply for authorisation to establish a bank in terms of the Banks Act.

Enhancing financial market regulation

A comprehensive review of the Financial Markets Act (2012) is under way to ensure it remains suitable for the dynamic environment that it regulates. The review will make recommendations concerning the regulatory landscape in light of changes in domestic and global markets. The National Treasury is consulting with various market participants, and collaborating with the Prudential Authority, the FSCA and the Reserve Bank on the review. A consultative paper will be published in the first half of 2019 setting out initial reform proposals and a proposed implementation schedule.

Maintaining the integrity of South Africa's financial system

South Africa's active participation in global efforts to strengthen financial intelligence helps to protect the integrity of the country's financial system. Beginning in April 2019, the International Monetary Fund, Financial Action Task Force, and Eastern and Southern Africa Anti-Money Laundering Group will conduct a joint evaluation of South Africa's framework to prevent money laundering and terrorist financing in terms of global standards. South Africa was last assessed in 2009 – a process that culminated in the enactment of the Financial Intelligence Centre Amendment Act (2017).

South Africa does not have a formal mechanism in place to conduct coordinated assessments of money laundering and terrorist financing risks. To address this shortcoming, an interdepartmental committee will be established to coordinate the identification and assessment of such risks at a national level. The national risk assessment will assist policymakers, investigators, prosecutors, intelligence services, financial regulators and the private sector to ensure that the country's efforts to prevent financial crime are risk-based, and commensurate with the identified risks and threats.

Financial inclusion

Stronger protection of financial customers and meaningful financial inclusion in South Africa are mutually reinforcing objectives. During 2019, the National Treasury will publish a financial inclusion policy paper that proposes establishing two bodies to support policy implementation. An intra-government financial inclusion taskforce, chaired by the National Treasury, will oversee implementation of agreed policies and interventions. A financial inclusion forum will allow industry and other non-governmental stakeholders to engage policymakers and regulators on strategic priorities. A national financial inclusion strategy will be developed from discussion arising from these two bodies.

Supporting financial sector innovation

The Intergovernmental Fintech Working Group has published a consultation paper setting out regulatory considerations for the buying and selling of cryptoassets in South Africa, and using them to make payments. Cryptoassets are digital assets that are accessed and traded electronically, such as Bitcoin. The working group has proposed to develop a regulatory framework that will manage the risks posed by such assets without unnecessarily stifling the positive effects they could have. At the same time, the Reserve Bank, FSCA and Financial Intelligence Centre will explore the possibility of developing a coordinated facility (or "sandbox") to enable the live testing of innovative new financial products or services in a controlled setting.

Retirement fund reform

Government, business, labour and civil society have engaged extensively on the first draft of the comprehensive social security paper through the National Economic Development and Labour Council. The process should come to a close in 2019, after which the paper will be revised and released for broader public consultation.

The National Economic Development and Labour Council is also engaging on retirement reform issues related to provident fund annuitisation, which has been postponed to 2021. The outstanding conduct standards are being finalised to support the full implementation of the retirement-fund default regulations on 1 March 2019.

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