
GENERAL NOTICES

NOTICE 167 OF 2007

NATIONAL TREASURY

PUBLICATION OF EXPLANATORY SUMMARY OF THE BANKS AMENDMENT BILL, 2007

The Minister of Finance intends tabling the Banks Amendment Bill, 2007, in Parliament during the current Parliamentary term. The explanatory summary of the Bill is hereby published in accordance with Rule 241(1)(c) of the Rules of the National Assembly. Interested persons and institutions are invited to submit written representation on the Bill to the Secretary to Parliament by no later than 16 March 2007.

All submissions must be addressed to:

**The Secretary to Parliament
c/o Mr. A Hermans
Committee Section
Parliament of the RSA
P.O. Box 15
CAPE TOWN
8000**

You can contact Mr. A Hermans:

Fax: (021) 403 2182

Tel: (021) 403 3776

Email: ahermans@parliament.gov.za

Explanatory Summary of the Banks Amendment Bill, 2007

The draft Bill primarily contains amendments to the Banks Act necessitated by the revised Framework on International Convergence of Capital Measurement and Capital Standards published by the International Basel Committee on 26 June 2004. Additional amendments that have become necessary since the Banks Act was last amended in 2003 due to industry developments or to clarify certain provisions, are also proposed.

In summary the Basel II amendments aim to create a sufficiently robust regulatory environment that will enable the Registrar to properly discharge his/her respective roles and responsibilities in respect of banks, controlling companies and banking groups on a solo, cross-border or consolidated basis. The Banks Act pertaining to the supervision of banks and in particular as it relates to the following aspects are strengthened -

- regulation of all relevant banks and banking groups on a consolidated basis;
- stating the respective roles and responsibilities of consolidating and host supervisors;
- providing for cooperation and sharing of information between supervisors;

- clarifying the responsibilities of banks, banking groups, boards of directors of banks and banking groups;
- increasing the reporting requirements of and providing comprehensive disclosure requirements for banks and banking groups;
- facilitating the various options available to banks and banking groups in calculating minimum capital requirements in respect of credit risk exposure, market risk exposure and operational risk exposure; and
- elaborating the supervisory review process in order to, amongst other things, assess the capital adequacy and control environment of banks and banking groups.

The other proposed amendments are largely of a technical nature and include the following:

- **extending the regulatory authority** of the Registrar to divisions and controlling companies of banks in certain respects where his or her regulatory authority is currently limited to banks;
- clarifying and strengthening the **powers of the Registrar** to ensure compliance with the Act. The Registrar is authorised to issue circulars, guidance notes and directives, request information from relevant institutions, impose administrative penalties and the like. The power of the Registrar to object to the appointment of directors and executive officers is also clarified;
- imposing an **obligation on the Registrar** to keep a register of registered controlling companies, branches, eligible institutions, representative offices of foreign institutions or the subsidiaries and branches of banks; and
- effecting a number of **technical and editorial amendments** such as –
 - correcting references to Acts repealed since the last amendment to the Act (for instance, replacing the reference to the Insurance Act, No 27 of 1943 with a reference to the Long-term Insurance Act, No 52 of 1998);
 - clarifying that the reference to a “bank” includes a reference to a “branch”; and
 - clarifying the meaning of the term “assets and liabilities” when such is transferred.