NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 1793 [NW2012E]
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1793. Dr P J Groenewald (VF Plus) to ask the Minister of Finance:

(1) What protection is given to customers who invest or lend money from commercial banks in South Africa, to ensure banks will not collapse and/or be liquidated;

(2) whether it is a requirement of all securitisation schemes that commercial banks totally divest themselves from all their interest in securitised loans; if not, why not; if so, what measures has he taken to ensure compliance with such requirements;

(3) whether he will make a statement on the matter?

NW2012E

REPLY:

(1) The Honourable Member is no doubt aware that Government is in the process of finalising new legislation to implement a tougher, more intrusive, intensive and effective Twin Peaks system of regulating the financial sector in South Africa, following the lessons learnt after the 2008 Global Financial Crisis. This is to strengthen the current level of protection enjoyed by depositors and investors in banks and other financial institutions.

Government communicated its policy approach to regulating the financial sector when it published the document "*A Safer Financial Sector to Serve SA Better*" in February 2011, which is available on the Treasury website. I also refer the Honourable Member to the latest version of the Financial Sector Regulation Bill and the Draft Market Conduct Framework approved by Cabinet on December 2014 and available on the Treasury website.

Twin Peaks will modernise financial sector regulation. This will be achieved by providing increased scope to regulate financial services and products in whatever guise they come in as well as significantly deepening and extending coordination among regulators.

The current system of protection of customers who deposit money at banks is undertaken in terms of the Banks Act No 94 of 1990, this Act is concerned with prudential regulations on the stability and viability of banks (and other entities) in order to protect depositors by reducing the possibility of a bank collapsing or being liquidated. The Banks Act governs the powers of the Registrar of Banks and the Banking Supervision Department in the SA Reserve Bank. The SARB has a host of prudential tools aimed at ensuring that the continued viability of banks is maintained these include capital, leverage and liquidity measures. These are then further bolstered by governance and risk management measures. I refer the Honourable Member to the latest Bank Supervision Department Annual Report which is available on the SARB website.

Just as important as prudential regulation is market conduct regulation. Market conduct refers to the manner in which financial services companies interact with and treat their customers. Retail customers are protected in terms of the National Credit Act No 34 of 2005, which falls under the Minister of Trade and Industry. In addition, legislation such the FAIS Act No 37 of 2002 and FIC Act No 38 of 2001 also apply, and ensure that banks conduct their treatment of both borrowing and lending customers appropriately.

Although the framework outlined above represents a high level of protection to customers and investors, no regulatory system can offer full protection, and investors still need to take appropriate care when investing in any institution. National Treasury, together with the regulators, continually tries to identify and remedy any vulnerabilities that may occur. This which may often require legislative changes.

(2) No, it is not a requirement of securitisation schemes that commercial banks completely divest themselves from all their interests in securitised loans. Furthermore, securitisation issuance is not limited to commercial banks. Where banks are involved, they retain a portion of the issuance in order to ensure the alignment of the banks' interests with those of the investors'. Government Gazette 30628 (1 Jan 2008) contains the Exemption Notice relating to Securitisations which prescribes the rules for issuing securitisation paper by banks and non-banks in South Africa. These rules are regulated and supervised by the SARB.

(3) No, as the government is dealing with the issues you raise through its normal financial regulatory reform process, where further steps are continually being taken. The recent International Monetary Fund (IMF) Financial Sector Assessment Programme (FSAP) assessed the financial sector regulatory framework and allowed regulators and policy makers to consider weaknesses in the current regulatory framework. Many of these weaknesses will be addressed by the coming Twin Peaks legislation. The Government is in the process of preparing a comprehensive response to the FSAP to address all weaknesses identified in the current system.