



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

Publication update for Twin Peaks financial sector regulatory reform programme

National Treasury today releases the following documents as part of its financial sector regulatory reform programme:

- **Twin Peaks** – National Treasury’s formal responses to Parliament, following comments received on the Financial Sector Regulation (“Twin Peaks”) Bill.
- **Financial Markets Act Regulation** – A final draft of proposed Ministerial regulations for the Financial Markets Act, covering the framework for over-the-counter derivatives, CSD-to-CSD link ups, and related matters. These regulations should be read together with the proposed changes to the Financial Markets Act contained in the Twin Peaks Bill. Additional documentation, particularly details about the accompanying notices, is available on the Financial Services Board website www.fsb.co.za.

This forms part of the Cabinet-approved financial sector reform strategy for South Africa, as first outlined in the discussion document ‘*A safer financial sector to serve South Africa better*’, released by the Minister of Finance in 2011.

In line with this strategy, a number of changes to the legal and regulatory framework for the financial sector have been undertaken, including:

- In 2013, the introduction of Basel 3 to strengthen banking prudential regulation, including the Banks Amendment Act No. 3 of 2015
- In 2012, the introduction of the Financial Markets Act
- In 2015, the tabling of the Financial Sector Regulation (FSR) Bill
- The proposed introduction of Solvency, Assessment and Management measures to strengthen insurance prudential regulation
- Revisions to Board Notice 90/2014 to strengthen prudential regulation of money market funds and collective investment schemes
- Proposals relating to introducing a recovery and resolution framework
- Proposals relating to introducing reforms to improve the way financial institutions do business (‘market conduct’) and reduce costs in the retirement fund industry

Twin Peaks

The FSR Bill was first published for public comment in December 2013, with a revised version published for comment in December 2014. The Bill was then tabled in Parliament in

October 2015. The Standing Committee on Finance (SCOF) has since held a series of public hearings and invited public submissions on the FSR Bill.

As per direction from the Chair of the SCOF, the National Treasury today publishes a comprehensive comments matrix responding to comments submitted. For ease of reference, also published is a further draft of the FSR Bill reflecting proposed drafting changes to cater for comments submitted. It is important to note that this revised draft should be seen as a proposal to the SCOF, which will make the final decision on any changes to be effected before the Bill is submitted to the National Assembly in Parliament. The publication of the comments matrix and suggested revised drafting is intended to facilitate any necessary further engagements on issues raised at the SCOF public hearings, before the Committee resumes deliberations on the Bill in August 2016.

Financial Markets Act Regulations

National Treasury is today publishing a third draft of the Ministerial Regulations (the Regulations) made in terms of the Financial Markets Act (the FMA). The Regulations are necessary to advance South Africa's commitment to the G20 obligations to implement regulatory and legislative reforms to make financial markets safer and to regulate the OTC derivatives markets.

In March 2012, National Treasury published the discussion document "*Reducing the risks of over-the-counter derivatives in South Africa*" to outline the proposed policy approach. National Treasury has since published several documents in relation to the reforms¹. The Regulations were first published on 4 July 2014 and a second draft was published on 5 June 2015.

The regulatory framework has been developed jointly by National Treasury, the Financial Services Board and the South African Reserve Bank. The proposed approach to regulating OTC derivatives markets should be considered in conjunction with the draft Board Notices issued by the Financial Services Board.

Given the global nature of the OTC derivatives markets, the Regulations are aligned to the relevant international standards, including the Principles for Financial Market Infrastructures, (published by the Committee on Payments and Market Infrastructure and the Technical Committee of the International Organization of Securities Commissions) developed to achieve the public policy objectives of reducing systemic risk, increasing transparency and financial stability, and enhancing the integrity of financial markets.

Additionally, the transition to Twin Peaks has been taken into consideration in crafting legislative amendments to the FMA that are being proposed through the FSR Bill – see Schedule 4. These amendments are necessary to align the functions, and strengthen the capacity, of the Authorities and the South African Reserve Bank with respect to regulatory oversight of market infrastructures and market participants that provide securities services in relation to OTC derivatives.

National Treasury has led extensive stakeholder engagements on the development and content of the Regulations and the proposed consequential amendments to the FMA. Comments and submissions have been received from various stakeholders and have been reviewed. The revised Regulations have been compiled taking into account comments received and aim to achieve the following:

¹ <http://www.treasury.gov.za/otc>



- extend the scope of regulatory oversight to OTC derivatives markets and the participants;
- prescribe criteria for the assets and resource requirements applicable to market infrastructures that are licensed to perform the functions and duties specified under the FMA
- provide for the organisational and resource requirements to govern the activities of central counterparties (CCPs) and trade repositories (TRs);
- provide for responsibilities of the controlling body and the senior management in the governance and risk management of CCPs;
- prescribe additional safeguards applicable to CCPs to ensure the safety, soundness and integrity of the financial markets;
- provide for the approval of external central securities depositories (CSDs) to facilitate CSD-CSD link arrangements; and
- provide transitional arrangements to allow market participants to comply with the proposed requirements in the draft regulations.

Comments on the regulations can be submitted via email to Ms Petula Sihlali at financial.policy@treasury.gov.za with the subject title '**FMA: Ministerial Regulations (Round 3)**'. The deadline for submission is 31 August 2016.

Comments on the accompanying notices should be sent to the Financial Services Board. Details are available on their website at www.fsb.co.za

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