



**national treasury**

Department:  
National Treasury  
**REPUBLIC OF SOUTH AFRICA**

Enquiries: Communications Unit • Email: [media@treasury.gov.za](mailto:media@treasury.gov.za) • Tel: (012) 315 5046 • 40 Church Square, PRETORIA, 0002 • [www.treasury.gov.za](http://www.treasury.gov.za)

## **MEDIA STATEMENT**

### **NATIONAL TREASURY NOTES WITH CONCERN THE ADMISSION OF MISCONDUCT RELATING TO CURRENCY TRADING**

The National Treasury notes with concern the admission of misconduct relating to the trading of the Rands / US Dollars currency pair by Standard Chartered Bank. In the settlement agreement issued by the South African Competition Tribunal (Case No: CR212Feb17/SA128Nov23) on 15 November 2023, the Tribunal confirmed that:

*“Between 2007 and 2013, the Respondents' [Standard Chartered Bank] fixed prices of bids, offers and bid-offer spreads in relation to spot trades of ZAR currency pairs through bilateral and multilateral communications using instant messaging platforms and other means of communication.”*

The Tribunal further confirmed that Standard Chartered Bank *“traders assisted each other through allowing a trader with a large open risk position to complete his trades first before trading and through holding and/or pulling their trades to reverse liquidity for each other instead of trading normally in the market.”*

National Treasury views this matter in a serious light and welcomes the sanction in terms of which Standard Chartered Bank agrees and undertakes to pay an administrative penalty in the amount of R42 715 880. Whilst Standard Chartered Bank has admitted fault, other banks within the scope of the Competition Commission investigation have denied any wrongdoing and continue to challenge the allegations. The ongoing legal processes must be allowed to run their course without fear, prejudice or undue influence.

National Treasury will respect the outcome of the process at the Competition Tribunal. If the allegations are proven to be true, they would indicate the prevalence of poor market conduct practices at that time. This is precisely the type of abuse the National Treasury had in mind in 2011 when proposing and implementing the Financial Sector Regulation Act (FSRA) as part of the Twin Peaks reform. The reform put in place a new market conduct regulator to ensure that all financial institutions treat their customers fairly and operate with the highest ethical standards.

In addition, National Treasury submitted regulations to ensure that banks do not engage in unfair practices or misconduct when setting reference rates, which are used in the pricing of derivatives and other financial contracts. In March 2023, the National Treasury tabled Regulations in Parliament to propose to designate the “provision of a benchmark” as a financial service in accordance with section 3(3) of the FSRA, and to specify that the Financial Sector Conduct Authority is the responsible authority for the regulation, supervision and oversight of the financial service of the “provision of a benchmark” in accordance with section 3(5) of the FSRA. In terms of section 288(1)(b) of the FSRA, which empowers regulations to provide for procedural and administrative matters that are necessary to implement the



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provisions of this Act, some specific powers and duties are provided to the Financial Sector Conduct Authority in relation to the provision of benchmarks to enable the effective regulation and supervision of the financial service of the “provision of a benchmark”. National Treasury will in 2024 introduce further legislation to ensure South African financial markets are fair, transparent and operate with integrity. The Conduct of Financial Institutions (COFI) Bill will propose that Over the Counter (OTC) Derivative Providers are carried into the CoFI licensing activities and will be subject to the CoFI Act. This implies that requirements for good governance, transparency and managing conflicts of interest will continue to apply.

The spot OTC market reforms will be considered as part of the review of the Financial Market Act Bill (FMAB). The OTC market participants will also be subject to core COFI conduct requirements as part of the FMAB review.

The draft FMAB, which is under development, proposes that:

First, foreign currency is included in the definition of “security”.

Second, providers of OTC securities are to be brought under FSRA as a licence category, subject to the new FMA (this will be integrated into the FSRA) as well as relevant conduct provisions under COFI.

Third, the market abuse provisions are extended to ‘applicable security’ which means:

- (a) a security made available for trading on a trading venue or a foreign trading venue.
- (b) any benchmark or derivative instrument related to, or whose price or value is dependent on, a security referred to in paragraph (a).

The reforms already undertaken since the Standard Chartered misconduct between 2007 and 2013 as well as the additional reforms proposed demonstrate Government’s commitment to fair, transparent, and efficient financial markets and rooting out any misconduct and unfair treatment of customers.

However, whilst the wrongdoing described by the Competition Tribunal harmed individual clients, it would not have influenced the depreciating trend of the currency since 2013, the level of which is driven by broader changes in the global and domestic economy. The value of the currency today, which has depreciated against the dollar, and the resulting impact on prices, should not be attributed to these instances of misconduct between 2007 and 2013.

For enquiries email [media@treasury.gov.za](mailto:media@treasury.gov.za)

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