



**MINISTRY: FINANCE
REPUBLIC OF SOUTH AFRICA**

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**SOUTH AFRICAN RESERVE BANK AMENDMENT BILL 2010
ADDRESS TO THE NATIONAL ASSEMBLY BY THE HONOURABLE MINISTER OF
FINANCE PRAVIN GORDHAN
10 AUGUST 2010**

Mister Chairperson
Deputy President
Cabinet Ministers and Deputy Ministers
Honourable Members

On 21 April 2010, Cabinet announced the need to amend the South African Reserve Bank Act of 1989 to ensure that it meets its constitutional mandate. These amendments are designed to enhance the governance of the Reserve Bank and to uphold its public interest role.

Mister Chairperson, the public interest principle forms the cornerstone of a central bank, and particularly that of the South African Reserve Bank.

The Reserve Bank as a public interest entity

The central bank, Mister Chairperson, derives its mandate from the Constitution, read together with the South African Reserve Bank Act of 1989. The Constitution of this

country mandates the Reserve Bank to protect the value of the Rand in the interest of balanced and sustainable growth. It must do so without fear, favour or interference. The Reserve Bank is also responsible for the supervision of banks. As the US financial crisis has reminded us, the supervision of banks is a crucial task. South Africans did not experience the financial crisis partly because of the quality of work of the supervision department of the Reserve Bank.

The Reserve Bank also manages the country's foreign exchange reserves and flows of money between South Africa and the rest of the world. It is also responsible for the national payment system, which enables the transfer of money from one party to another. I am sure that you will agree with me that an institution to which we have delegated such important responsibilities must be stable at all times. There's too much at stake for us as South Africa. The Reserve Bank cannot be distracted from its mission by self-interested shareholders.

As members of this house will be aware, there has been a lot of debate and speculation about the role of private shareholders in the Reserve Bank. Our approach in this matter is driven by practical considerations and by what is in the best interest of South Africa. The nature of ownership of the Reserve Bank does not matter that much, as long as the Bank fulfils its public interest role. This is borne out in reality by the fact that you have other central banks in the world including those in Japan, USA, and Switzerland, that have private shareholders.

Mister Chairperson, the amendment Bill tabled in this House today seeks to strengthen the balance between the interest of the country and the interest of shareholders.

This balance is important, since we all need a Reserve Bank that focuses on its Constitutional mandate without undue interference by self-interested shareholders. It is for this reason, Mister Chairperson, that existing private shareholders should not treat the Reserve Bank as a profit making institution. Private shareholders must have rights,

but limited rights. From its inception, it has always been the intention, that the rights of public shareholders will be secondary to the public interest role of the Reserve Bank.

Even the current South African Reserve Bank Act of 1989:

- Provides for and limits ownership of shares by an individual to no more than 10 000;
- Restricts the dividend payable to shareholders to a fixed amount;
- In addition it restricts the ability of shareholders (irrespective of nationality) who are not ordinarily resident in South Africa to vote; and
- Finally, it prohibits shareholding by nominees.

These restrictions seek to ensure that there is no excessive and negative influence on the operations and management of the Reserve Bank as a public interest entity.

It has come to light, Mister Chairperson, that some shareholders have been trying to get around these restrictions. Their ultimate aim is to derive private gain. These shareholders have, for example:

- Acquired shares above the existing limit of 10 000 by using associates;
- They have offered payments to fellow shareholders to vote them in as directors; and
- Demanded the right to share in the profits of the Bank but without the right to share in the losses of the Bank.

Mister Chairperson, these are not the actions of shareholders who believe in the public interest role of the Reserve Bank or have the interest of South Africa at heart.

However, private shareholders, with limited rights, still have an important role to play in a public interest entity like the Reserve Bank. In particular, they support and enhance the independence of the Reserve Bank and its governance.

The Amendments

The Amendment Bill tabled in the House today, Mister Chairperson, seeks to uphold the nature and importance of the Reserve Bank as a public interest entity, created by Government, for the benefit of all South Africans.

The Bill seeks to achieve this by doing the following:

1. Stop shareholders from circumventing the current Act's limitation of a maximum of 10 000 shares per shareholder;
2. Allow for the nomination of directors by a broader base of South Africans and to broaden representation on the Board of the Bank;
3. Provide for the establishment of a Panel for the election of directors;
4. Define clear criteria for the disqualification of persons from serving on the Board;
5. Provide for the confirmation of Board nominees against 'fit and proper' and fiduciary criteria;
6. Clarify the powers and functions of the Board; and
7. Provide for the possibility of the Governor and Deputy Governors to be re-appointed to serve a term of less than five years

These amendments, Mister Chairperson, have won praise from the international community. In its 2010 survey of South Africa, the Organisation for Economic Cooperation and Development (OECD) described the Reserve Bank Amendment bill as "a sensible response to the problem of rogue shareholders seeking to undermine the independence of the SARB".

Conclusion

In concluding, Mister Chairperson, I would like to touch upon another important principle regarding the Reserve Bank. The role of the Board of the Reserve Bank should never be confused with the role of the Monetary Policy Committee. The MPC, which is

constituted by the executive directors (Governor and the three Deputy Governors) and professional members of the Reserve Bank, implements the monetary policy framework. The Board of the Reserve Bank is purely a governance and management board, and not a policy board. In this regard, the independence of the Reserve Bank in meeting its constitutional mandate remains intact despite the current amendments.

Mister Chairperson, I would also like to explain the urgency of the Bill. The Board of the Reserve Bank currently has three vacancies. It is the desire of the Governor and Government that these vacant positions be filled with fit and proper persons with the assistance of the Panel. This would also mean that the best candidates should be available for election at the Reserve Bank's AGM due later this year. Secondly, both Cabinet and the Governor felt that the potential destabilisation of the Reserve Bank by a few shareholders warranted urgent attention.

I would like to take this opportunity to thank the Governor of the Reserve Bank and her legal team for their hard work and assistance in drafting this Bill, Deputy Minister Nhlanhla Nene, the National Treasury Director-General Lesetja Kganyago and his team for contributing to drafting the Bill, the Standing Committee on Finance under the steady hand of Mr Thaba Mufamadi for their sterling work with regard to the processing of the Bill.

Mister Chairperson, I hereby request that this House pass the South African Reserve Bank Amendment Bill, 2010.

I thank you