

MEDIA STATEMENT

Tabling of the Financial Services Laws General Amendment Bill, 2012

The Financial Services Laws General Amendment Bill, 2012 ("the Bill") was tabled in Parliament on 25 September 2012.

The Bill addresses urgent issues in eleven financial sector laws, including legislative gaps highlighted after the 2008 financial crisis and to align these laws with the new Companies Act, 2008 and other legislation. The Bill seeks to:

- Close gaps identified by the Financial Sector Assessment Program conducted by the IMF and World Bank regarding South Africa's adherence to international standards for financial regulation;
- Align financial sector legislation with the new Companies Act, 2008;
- eliminate overlaps caused by the Consumer Protection Act, 2008; Companies Act, 2008; and Competition Commission Act, 2009; and
- Make the Financial Services Board ("FSB") the lead regulator where there is concurrent jurisdiction.

The Bill aims to ensure that even during the transition to the "Twin Peaks" system, South Africa has a sounder and better regulated financial services industry which promotes financial stability by strengthening the financial sector regulatory framework and enhancing the supervisory powers of the regulators.

The Bill was released for public comment on 9 March 2012. The public comment period was extended from 13 April 2012 to 2 May 2012. A total of 33 submissions were received during the public comment process. Each submission was thoroughly considered by the National Treasury ("NT") and FSB. As part of its consultation process, the NT also held information sessions with key industry stakeholders, including the Congress of South African Trade Unions, Association of Savings and Investments South Africa, South African Insurance Association, Banking Association of South Africa and the Institute of Retirement Funds.

The tabled Bill reflects changes made to take account of the comments received during the consultation process and the 33 submissions received. As a result, the tabled Bill reflects the following substantive amendments to the original Bill.

New amendments to the FSB Act:

- Limitation of liability of the regulator if it exercises the powers conferred upon it in terms of statute provided those powers were exercised in good faith (*'bona fide'*).
- Empowers the Minister to prescribe a code of engagement, consultation and communication for the FSB.
- Appropriately clarifies the interaction between financial and non-financial legislation.

- Defers some of the emergency powers to legislation next year that will lay the basis for implementing the “Twin Peaks” regulatory reform.
- Provides for exemptions and directives to be tabled by the FSB.
- Ensures that information received by the FSB is treated confidentially.

*New amendments to the **Pension Funds Act**:*

- Provides for whistle-blowing protection for board members, valuers, principal/deputy officers, and employees who disclose material information to the Registrar.
- Requires a fund board member to attain skills and training as prescribed by the Registrar, within a certain period.
- Extends personal liability to employers in respect of non-payment of pension contributions to a fund.
- Provides protection for board members from joint and several liabilities if they act independently and honestly in exercising their fiduciary obligations.
- Requires pension funds to notify the Registrar of their intention to submit an application to register prior to commencing the business of a pension fund.

The tabled Bill does not introduce substantive amendments insofar as the Long-term Insurance Act and Short-term Insurance Act, Financial Advisory and Intermediary Services Act and Financial Institutions (Protection of Funds) Act are concerned. The tabled Bill mainly seeks to refine the wording of existing provisions in the original published Bill, to provide clarification to comments received.

In addition to the Bill, the NT is also releasing:

- A clause by clause motivation for the proposed amendments.
- A public comments and response matrix.

Parliament will publish details in the press regarding its consultations shortly. The Bill and accompanying documents are available on the National Treasury (www.treasury.gov.za) and Financial Services Board (www.fsb.co.za) websites.

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