

NATIONAL COUNCIL OF PROVINCES

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER: 430 [CW640E]

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430. Mr M W Makhubela (COPE-Limpopo) to ask the Minister of Finance:

(a) What amount has been lost to certain schemes (details furnished) that are under investigation and (b) how much has been (i) recovered and (ii) given back to the investors?

CW640E

REPLY:

It is assumed that the reference to “certain schemes” in the question refers to pyramid and related schemes as described in section 43 of the Consumer Protection Act, No 68 of 2008 (“CPA”).

The FSB does not have the jurisdiction to investigate pyramid and related schemes as such. However, a scheme may in some instances have a financial advisory and intermediary services component to it, in which case the FSB will investigate and take action. These schemes are sometimes disguised as investments in financial products, but in truth it amounts to nothing more than common law theft or fraud.

The CPA is administered by the National Consumer Commission (“Commission”). The Commission is responsible for investigating pyramid and related schemes and to enforce the relevant legislation and investigate contraventions of section 43. The Commission may refer contraventions to a Tribunal or the Consumer Court.

The South African Reserve Bank may also have jurisdiction, as certain schemes constitute unlawful deposit taking and unregistered banking business, in which case action is taken by the Registrar of Banks.

When the FSB receives information with regard to a possible unlawful scheme, it does a preliminary evaluation of the scheme. In such instance the FSB would:

- Refer it to the South African Reserve Bank;
- Refer it to the Commercial Crime Unit of SAPS;

- Refer it to the National Consumer Commission; or
- Take its own enforcement action, if it has jurisdiction.

The FSB does not have records relating to losses occurred by investors in the schemes or the amounts recovered and reimbursed to investors, as only a few of these schemes were investigated by it, for the reasons set out above. Its actions furthermore are limited to investigating the legality thereof. The recovery of amounts and repayments to investors is usually the responsibility of curators/managers/liquidators charged therewith. I therefore regret that the FSB cannot be of assistance with regard to the question.