

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 2517 [NW2804E]
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2517. Mr K J Mileham (DA) to ask the Minister of Finance:

Whether the SA Reserve Bank or any of its departments conducted any form of compliance monitoring on the VBS Mutual Bank relating to its acceptance of illegal deposits from municipalities (a) in the (i) 2014-15, (ii) 2015-16, (iii) 2016-17 and/or (iv) 2017-18 financial years and (b) since 1 April 2018; if not, why not; if so, (aa) on what date did such compliance monitoring take place and (bb) what (i) were the findings and (ii) action was taken in each case?

NO2804E

REPLY:

I have requested the South African Reserve Bank to provide the relevant information to the National Treasury to respond to this question, which supervised VBS Mutual Bank during the period in question.

The South African Reserve Bank does not generally conduct compliance monitoring by banks of laws falling outside our financial sector-regulatory laws. Its focuses during the period in question was on the licensing of banks and compliance with financial-sector laws like the Banks Act, Mutual Banks Act, Financial Sector Regulation Act, Currency and Exchange Act and the Financial Intelligence Act, and does so via the Prudential Authority (since 1 April 2018 and before that via the Bank Supervision Department) and Financial Surveillance department for exchange-control and authorized-deal related laws.

The Prudential Authority regulates banks for prudential objectives related to their financial health, and the protection of depositor-funds to ensure that banks have the ability to deliver on their promises, especially to pay retail depositors when they want their funds. The Reserve Bank is also not a market conduct regulator, and banks were generally not regulated for market conduct (except for the provision of retail credit) before 1 April 2018, when the new Financial Sector Regulation Act came into effect. The new Financial Sector Conduct Authority, together with the National Credit Regulator, will both be also supervising banks for market conduct henceforth.

It should be noted that the onus for compliance with all laws lies with the management of any bank, under the oversight of its Board and shareholders. Regulators such as the Prudential Authority do not manage banks, nor do they oversee the operations of a bank on a day-to-day basis. VBS Mutual Bank's (VBS) financial year ends in March.

With regard to VBS, I want to refer the Honorable Member to the report released by the SA Reserve Bank titled "The Great Bank Heist" issued by independent investigator Advocate T Motau and his team, made public on xxx October 2018 (and which can be accessed from www.resbank.co.za).

With regard to your specific questions related to the acceptance of illegal of municipal deposits, it should be noted that VBS is allowed to accept deposits in terms of section 54(1)(a) of the Mutual Banks Act, 1993 which reads as follows, "A mutual bank may, subject to the provision of this Act and such directives as may from time to time be issued by the Registrar- a) accept deposits and grant loans, advances or other credit in the Republic." There is no specific provision in the Mutual Banks Act which prohibits mutual banks from accepting deposits from municipalities, but section 7((3) of the Municipal Finance Management Act 56 of 2003 (MFMA) prohibits a municipality from opening a bank account with an institution that is not a registered bank in terms of the Banks Act. Since the SA Reserve Bank does not specifically monitor with compliance of the MFMA, it (and National Treasury) only became aware that such deposits were not legal in 2017.

The Report by Adv Motau outlines new facts that the SA Reserve Bank is still considering, especially given that many there was massive fraud committed, including in the monthly and audited financial statements. Further investigations are also taking place as a result of this report. The SA Reserve Bank and Government will respond in more detail (including on municipal deposits) when all or most of the investigative processes have been completed and make public.