



# KPMG Regulatory Centre of Excellence

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## KPMG in South Africa

Regulatory Updates for the week ended 22 and 29 April 2016

## FinWatch – A Weekly Newsletter

Find the latest edition of **FinWatch** which provides a gist of all regulatory developments impacting the financial services industry in South Africa.

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## Regulatory Developments

### Banking

#### The SARB issues two Directives in terms of the Banks Act

The South African Reserve Bank issued two Directives in terms of the Bank Act 1990. One of the Directives serves to inform the banks, controlling companies and auditors of banks or controlling companies of further requirements applicable to Domestic Systemically Important Banks (D-SIBs). These further requirements relate to the submission of credit-related statutory BA returns, based on group consolidated information, on a six-monthly basis. The second Directive serves on the matters related to the exposure limits imposed in the classification of deposits and credit exposures to small and medium enterprises (SMEs). During the process of amending the Bank Act regulations, it was decided to replace the threshold amounts specified in the regulations for deposits and credit exposures to be classified as retail, SME retail or qualifying retail revolving credit, with enabling provisions that allow the Registrar to specify these thresholds in writing. [South African Reserve Bank](#)

### Brokerage and Securities Market

#### Amendments to the JSE listing requirements

The Registrar of Securities Services gave notice under the Financials Markets Act that the amendments to the JSE requirements have been approved. The amendments comprised of the revised SAMREC Code, revised SAMVAL Code, as well as section 12 and 13 of the earlier requirements. These amendments come into operation on 18 January 2016. The JSE Listings Requirements as amended are available on the official website of the Financial Services Board and on the website of the market infrastructure, the JSE Limited. [South African Government](#)

### Insurance

#### Short-term Insurance Act – Annual statutory returns to the Registrar

The Registrar of Short-term Insurance, in terms of the Short-term Insurance Act, gave a notice to the abridged annual statutory return for 2015 as published on the FSB's official website. The Insurance Notice 4 of 2015 is amended by addition of a new sheet to the abridged annual statutory return for 2015. The notice takes effect on the date of publication and applies to every registered short-term insurer whose financial year ends on or after 30 September 2015. [FSB](#)

### Others

#### Rate of interest on government loans

Minister of Finance has fixed the Standard Interest Rate to loans granted by the State out of a Revenue Fund, and /or to all other debts which must be paid into a Revenue Fund, at 10.50% per annum. The decision was made in terms of the Public

Finance Management Act. The above-mentioned Standard Interest Rate is applicable from 1 May 2016 and until further notice, to all drawings of loans from State money, except loans in respect of which other rates of interest are specifically authorized by legislation or the Minister of Finance. [South African Government](#)

### **Amendments in the Financial Intelligence Centre Amendment Bill**

The National Treasury announced that Financial Intelligence Centre Amendment Bill has been amended to remove the need for records to be kept only in South Africa. The bill was tabled at the end of October 2015. It intends enhancing South Africa's anti-money laundering and combating of financing of terrorism regulatory regime. The amendments state that records can be kept anywhere on condition that access is guaranteed for authorities. Other changes introduced include:

- New provisions requiring a general consultation forum and consultation with stakeholders on specific regulatory instruments;
- A threshold for due diligence on single transactions introduced;
- No definition on beneficial ownership threshold, to be mentioned in guidance note;
- More flexible approach to risk management and compliance programme (RMCP);
- Removal of definition of prospective client; and
- Section 21B reworded to allow for cascading effect

### **Proposed Compliance Officers' exams announced**

The Registrar of Financial Services Providers published draft amendments to Board Notice entitled "Qualifications, Experience and Criteria for Approval as Compliance Officer". The Amendment Notice is in draft form and is subject to public comments, which must reach the Financial Services Board (FSB) on 16 May 2016. The Notice gives effect to the existing requirement that compliance officers must sit and pass regulatory examinations. It is motivated by the FSB's view that a compliance officer must have a demonstrable knowledge and an understanding of the Financial Advisory and Intermediary Services Act, 2002. [FANews](#)

### **NCR refers a further instance to the National Consumer Tribunal**

The National Credit Regulator (NCR) referred a further instance to the National Consumer Tribunal for alleged breach of the National Credit Act (NCA). NCR further requests that the tribunal restrain the organisation from charging maintenance costs and club fees to customers in an unlawful manner and seeks certain ancillary relief. This relief includes the imposition of an administrative fine of 10% of the annual turnover. [Fin24](#)

### **Ombudsmen take on reckless lenders**

The Ombudsman for Banking Services have taken action against credit providers for reckless lending. As a result of their interventions, consumers have had their principal debts or interest charges and fees written off. This is perceived to be a step in ensure that unlawful conduct is curbed in the financial markets. [IOL](#)

The Ombudsman for Banking Services has published its Annual Report which has some very interesting summaries of cases where action has been taken. The entire report can be accessed [HERE](#).

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## **Market Developments International**

### **Progressing professional standards reforms proposed by the Australian Government (Australia)**

Following draft legislation released by the Australian Government Treasury in December to raise the education, training and ethical standards of the financial advice industry, Government has now announced proposed changes to provide financial advisers a smooth transition. It is also proposing to establish a standard setting body, initially as a Commonwealth company, to administer the professional standards regime, responsible for developing and setting the industry exam, developing the code of ethics, and determining the education requirements for both new and existing advisers. The education and exam requirements are proposed to commence on 1 January 2019 (revised from 1 July 2017). Existing advisers will have until 1 January 2024 (5 years) to reach degree equivalent status and until 1 January 2021 (2 years) to pass the exam. [Treasury](#)

### **Parliament of Australia releases a paper on whistleblowing (Australia)**

The Parliament of Australia released a paper on corporate whistleblowing, to encourage public consideration of how Australia's corporate whistle-blower framework might be improved. It includes a series of ten 'items for discussion', and the committee invites written submissions. Australian private sector whistle-blower laws are seen to lag behind those of other countries. [Parliament of Australia](#)

### **PRA issues a consultation paper on the regulatory reporting of financial statements, forecast capital data and IFRS 9 requirements (UK)**

The Prudential Regulation Authority (PRA) issued a consultation paper. The paper sets out the PRA's proposals on future reporting of balance sheet, statement of profit or loss (P&L) and forecast capital data, as well as the proposed reporting changes for credit risk, in part resulting from International Financial Reporting Standard 9 (IFRS 9). It also contains a proposal on the future reporting of P&L data by non-EEA banks authorized to accept deposits through a branch in the United Kingdom. This consultation will close on 29 July 2016. [Bank of England](#)

### **Bank of England publishes General Insurance Stress Test 2015 feedback (UK)**

The Bank of England published General Insurance Stress Test 2015 feedback. The feedback was on last year's General Insurance Stress Test exercise. Around 63% of the general insurance market participated in the test. The purpose was to

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assess the market-wide impact of specific scenarios, to assess how these losses would be borne by different firms and reinsurers, and to explore individual firms' vulnerabilities. As a result of the test, an area of increased focus for PRA is expected to be the ability of insurers to maintain a robust process for exposure measurement and management whether on property or liability risks. This would be particularly in terms of continued rate reductions and widening of terms and conditions in the London market. [Bank of England](#)

### **FCA publishes a policy statement on 'Implementation of the Market Abuse Regulation' (UK)**

The FCA published a policy statement which reports the main issues arising from Consultation Papers 'Policy proposals and Handbook changes related to the implementation of the Market Abuse Regulation' and 'Provisions to delay disclosure of inside information with the FCA's Disclosure and Transparency Rules'. The statement also publishes the final rules. In the consultations, the FCA had invited comments on two aspects relating to implementing the Market Abuse Regulation:

- alternative options for implementing two specific regulatory requirements and how they may apply in the UK
- the step-change in the legal status of the European market abuse regime from a Directive to a Regulation and the resulting changes to the FCA's Handbook

In this Policy Statement, the FCA summarizes the feedback received to the consultation papers. [FCA](#)

### **FCA publishes key findings on inducements and conflicts of interest thematic review (UK)**

This update falls within the remit of Retail Distribution Review (RDR). According to this report, one of the central objectives of RDR was to remove the potential for adviser remuneration to distort the advice consumers receive. This review seeks to end commission payments from investment products to advisory firms thereby seeks to ensure high levels of transparency and integrity of market conduct. [FCA](#), [Supervised Guidance by FCA](#)

### **Standards for interest rate risk in the banking book issued by the Basel Committee (Global)**

The Basel Committee on Banking Supervision issued standards for Interest Rate Risk in the Banking Book (IRRBB). The standards revise the Committee's 2004 principles for the management and supervision of interest rate risk. The principles set out supervisory expectations for banks' identification, measurement, monitoring and control of IRRBB as well as its supervision. The key enhancements to the 2004 principles include:

- More extensive guidance on the expectations for a bank's IRRBB management process
- Enhanced disclosure requirements
- An updated standardized framework,
- A stricter threshold for identifying outlier banks [BIS](#)

### **Concrete actions needed to advance global tax transparency, as per OECD (Global)**

The article talks about Organization for Economic Co-operation and Development (OECD) Secretary-General's report delivered to G20 Finance Ministers meeting in Washington DC. The report points out that a number of jurisdictions have yet to properly implement the exchange of tax information on request, first agreed in 2009. It also notes that a number of others have refused to commit to the new standard for automatic exchange scheduled to go into effect in 2017-18. [OECD](#)

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## **Accounting Changes**

### **International (IASB / IFRS) – April 2016 IASB Update published**

The International Accounting Standards Board (IASB) published its April 2016 Update. The IASB Update is a staff summary of the tentative decisions reached by the IASB in its public meetings. The topics for April 2016 discussion includes aspects pertaining to business combinations, goodwill impairment, financial instruments with characteristics of equity, etc. [IFRS](#)

### **South Africa (ASB) – Invitation to comment on the proposed Standard of GRAP on Living and Non-Living Resources issued by the Accounting Standards Board**

The Accounting Standards Board invited comment on the proposed Standard of GRAP on Living and Non-living Resources, which was approved for exposure at the Board's March 2016 meeting. As the accounting for living and non-living resources has an high effect on a number of entities that hold these resources, the Board needed to receive comment on the proposals included in the proposed Standard of GRAP prior to it being finalized. All the interested and effected parties are invited to provide a written response to the Board, which should be received by the 29 July 2016. [Green Gazette](#)

### **FASB publishes the exposure draft on Proposed Accounting Standards Update**

The Financial Accounting Standards Board (FASB) published the exposure draft which would require that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Therefore, amounts generally described as restricted cash and restricted cash equivalents would be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The Board invited comments on all matters in this Exposure Draft until June 27, 2016.

[FASB ASU](#)

### **IRBA approves the Revised IAASB pronouncements**

The Board of the Independent Regulatory Board for Auditors (IRBA) approved the following Revised IAASB pronouncements for adoption, issue and prescription by registered auditors in South Africa:

- ISA 800 (Revised), Special Considerations – Audits of Financial Statements Prepared in Accordance with Special Purpose Frameworks;

- ISA 805 (Revised), Special Considerations – Audits of Single Financial Statements and Specific Elements, Accounts or Items of a Financial Statement; and
  - Related conforming amendments to ISA 700 (Revised), Forming an Opinion and Reporting on Financial Statements
- These revised ISAs are effective for audits of financial statements for periods ending on or after 15 December 2016. [IRBA](#)

### ASB publishes exposure drafts

The South African Accounting Standards Board published two exposure drafts:

- **Exposure draft for Public Sector Combinations:** The draft establishes guidelines for classifying, recognizing and measuring public sector combinations and other forms of mergers and acquisitions. This draft is open for the public to comment till June 30, 2016. [Summary of ED 60](#), [ED 60 in detail](#)
- **Exposure draft for Housing Arrangements:** The draft talks about bringing about consistency in the accounting methods applied for housing arrangements undertaken under the national housing program. [ED 140](#)

### SAICA – Amendments to IFRS 15 – ‘Revenue from Contracts with Customers’ published

The International Accounting Standards Board (IASB) published clarifications to IFRS 15 – ‘Revenue from Contracts with Customers’. The amendments clarify how to:

- identify a performance obligation (the promise to transfer a good or a service to a customer) in a contract;
- determine whether a company is a principal or an agent; and
- determine whether the revenue from granting a license should be recognized at a point in time or over time

In addition to the clarifications, the amendments include two additional reliefs to reduce cost and complexity for a company when it first applies the new standard. The amendments are effective for annual reporting periods beginning on or after 1 January 2018. [SAICA](#)

### FASB issues the Proposed Accounting Standards Update

The Financial Accounting Standards Board (FASB) published the Proposed Accounting Standards Update. The amendments in the proposed update cover a range of topics in the Accounting Standards Codification, including the amendments related to differences between original guidance and Accounting Standards Codification, and the guidance clarification and reference corrections. [FASB](#)

### IASB Staff Webcast - Definition of a lease

The International Accounting Standards Board (IASB) is planning a webinar talking about the nuances within the context of defining a lease. Specifically, this webinar addresses the following topics:

- The IFRS 16 requirements and application guidance relating to the definition of a lease—including real-life application examples of each main element;
- Practical differences between IFRS 16 and the previous definition of a lease requirements in IAS 17 Leases and IFRIC 4 Determining whether an Arrangement contains a Lease; and

How entities should account for contracts with both lease and service components. [IFRS](#)

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## The Inside Edge

### Overview on conduct risk

Conduct risk is changing the global regulatory landscape. The aim is to drive financial services firms to revisit their approach to enterprise risk management; to move from a profit driven business model to a strategy that places customer centricity at its heart to rebuild trust in the market. Conduct risk, and placing the customer's best interest at the heart of everything you do, requires a shift in mind-set.

Clients often ask where do we start, how do we embed conduct risk, what sort of framework should be established? The document, [Market Conduct](#), seeks to respond to common issues clients are facing.

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