



# KPMG Regulatory Centre of Excellence

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### **KPMG in South Africa**

*Regulatory Updates for the week ended 19 May 2017*

### **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**

##### **SARB has issued a guidance note on cyber resilience for banks**

The SARB has issued a guidance note on cyber resilience for Financial Market Infrastructures (FMIs). The guidance note highlights the importance of safe and efficient operations to maintain and promote financial stability and economic growth. According to the guidance note published by the SARB, banks are requested to assess the adequacy and robustness of their policies, processes and practices against the CPMI-IOSCO cyber resilience guidance principles ([Committee on Payments and Markets Infrastructure \(CPMI\)](#) and the [Board of International Organization of Securities Commission \(IOSCO\)](#)). All banks are expected to follow a risk based approach that aligns with its risk tolerance and the nature and size of its operations. [SARB](#)

Please contact [Dean Friedman](#) for more information.

#### **Insurance**

##### **Beneficiaries of underwritten life policies receive more than ZAR 13 billion in 2016**

The Deputy Chair of the Association for Savings and Investments South Africa (ASISA) Life and Risk Board Committee reports that life insurance companies honoured 99.3% of claims against fully underwritten life policies in 2016 to a record value of R13.1 billion.

[ASISA](#)

For more information please contact [Derek Vice](#).

## Brokerage & Securities Markets

### FSB published a guidance note on Collective Investments Scheme Control Act

The Financial Services Board (FSB) published a guidance note on the requirements of the Board Notice 92 and its application to hedge funds. Board Notice 92 prescribes requirements for marketing, advertising and information disclosure for collective investment scheme. The guidance document details the processes that hedge fund managers must follow to lodge materials with the Registrar. The material can be lodged through the FSB CIS portal whose access is granted to nominated users only.

### National Consumer Tribunal (NCT) declared a car broker's deal unlawful

The NCT declared a car broker's "pawn your car and still drive it" scheme unlawful. This scheme is prohibited as per the National Credit Act (NCA). According to the scheme, the broker would be the owner of the motor vehicle and the consumer would be charged an additional rental fee and an administration fee. The Tribunal found that the broker:

- Failed to conduct affordability assessments when lending money to consumers under the scheme;
- Charged consumers interest and fees in excess of the maximum allowed under the NCA;
- Did not provide consumers with quotations and credit agreements in the form prescribed by the NCA; and
- Considered transactions as security for loans and not purchase and sale agreements. [NCR](#)

Please contact [Finn Elliot](#) for more information.

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## Market Developments

### Africa

#### Financial Inclusion 2.0: Expanding Kenya's Digital Financial Ecosystem (Kenya)

The Governor of the Central Bank of Kenya (CBK) gave introductory remarks at the Central Bank of Kenya Conference stating that the conference would provide opportunities to policymakers, bankers and investors by offering insights on strategic challenges and opportunities facing digital finance in the region. CBK's focus is to enhance the usage of existing financial innovations as well as assessing the quality of the products and services offered to the consumers. This would ensure that other barriers to access such as affordability, and the significance of the products and services are addressed. [CBK](#)

#### Invitation to attend the 2017 CFO workshop (Zambia)

Zambia Institute of Chartered Accountants (ZICA) will be holding the third Chief Finance Officer (CFO) workshop. The workshop will provide a platform for senior finance executives to share new developments and emerging issues in the profession, obtain global perspectives, share knowledge and expand the network. The event is a panel executive exchange moderated by fellow CFOs where peers will share knowledge. [ZICA](#)

#### CMA issued policy guidance note for asset backed securities (Kenya)

The Capital Markets Authority (CMA) published a policy guidance note to facilitate issuance of Asset Backed Securities (ABS). The Chief Executive disclosed that the principle-based approval approach is more diverse in terms of the portfolio of investable products, by ensuring a more timely response to the changing capital market dynamics. The guidance note intends to interpret and apply the securitization provisions and exercise its powers under the Capital Markets Act. [CMA](#)

### International

## **Strengthening individual accountability in banking and insurance: amendments and optimizations (UK)**

The Prudential Regulatory Authority (PRA) published a policy statement amending the Senior Insurance Managers Regime (SIMR). The amendments include:

- The PRA's expectations on the duty of responsibility and reasonable steps;
- Statement of Policy (SoP) 'Conditions, time limits and variations of approval';
- Conduct rules/standards extended to Non-Executive Directors who are not approved as Senior Management Functions (SMFs) under SIMR. [Bank of England](#)

## **Strategic review of retail banking business models (UK)**

The Financial Conduct Authority (FCA) conducted a strategic review to evaluate what steps should be taken to build a robust evidence base to enhance FCA's understanding of the state of competition and conduct in retail banking markets at a pivotal time of change. The review aimed to understand the following:

- Retail banking business models in greater depth by looking at the business models of firms to identify any potential conduct or competition issues;
- How free-if-in-credit banking is paid for, in particular whether it leads to any distributional concerns between different types of consumers; and
- Impact of changes such as increased use of digital channels and reduced branch usage on business models and consider potential consequences for consumer protection and competition objectives. [FCA](#)

## **FCA published a guidance consultation on its approach to review insurance business transfers (UK)**

The guidance published by the Financial Conduct Authority (FCA) sets the approach to review insurance business transfers schemes under the Financial Services Markets Act. The Prudential Regulatory Authority (PRA) would be responsible for specific regulatory functions. The sections of the guidance consultation includes the following:

- Sets out considerations for firms before contacting FCA and what they will need to produce for any pre-application meeting;
- Details the documents expected to be received and considered about the nomination and approval of the Independent Expert (IE);
- Sets out the overall approach, expectations and key considerations when reviewing the proposed transfer; and
- Includes detailed information and examples for the key documentation – the Scheme documents, the IE report and Communications. [FCA](#)

## **Regulatory update to the insurance industry (Australia)**

The Deputy Chair of Australian Securities and Investments Commission (ASIC) gave a speech at the Finity Consulting General Insurance Forum. In his speech he spoke about how the government and regulators are looking at ways to improve conduct and raise standards. He mentioned the following initiatives taken by ASIC in the field of general insurance:

- Proposed extension of unfair contract term protection to insurance contracts;
- Major law reform with structural changes to remuneration and new industry data collection requirements;
- Review of the direct sale policies has also been commenced;
- Develop proper remediation programs for the consumer harm caused by past conduct. [ASIC](#)

## **ASIC and ASBFEO hold banks to account on unfair contract terms (Australia)**

Australian Small Business and Family Enterprise Ombudsman (ASBFEO) and the Australian Securities and Investments Commission (ASIC) hosted a round table raising concerns that the lenders needed to improve their approach in meeting with the unfair contract terms legislation. Following the round table the big four banks are now taking action to protect small businesses from unfair terms in loan contracts. The big four banks committed to:

- Remove 'entire agreement clauses' from small business contracts;
- Remove financial indicator covenants from many applicable small business

- contracts;
- Remove material adverse event clauses from all small business contracts; and
- Significantly limit the operation of indemnification clauses. [ASIC](#)

**EBA launched public consultation on draft standards on the eligibility criteria for granting simplified obligations for recovery and resolution planning (Europe)**

The European Banking Authority (EBA) launched a public consultation on its draft Regulatory Technical Standards (RTS) further specifying the eligibility criteria to determine whether institutions should be subject to simplified obligations when drafting their recovery and resolution plans. The consultation runs until 8 August 2017. [Press Release](#), [Paper](#)

**FSB published Global Shadow Banking Monitoring Report 2016 (International)**

The Financial Stability Board (FSB) published the [Global Shadow Banking Monitoring Report 2016](#). The report presents the results of the FSB's sixth annual monitoring exercise to assess global trends and risks in the shadow banking system, reflecting data up to the end of 2015. It covers 28 jurisdictions, including Belgium and the Cayman Islands for the first time. These jurisdictions together account for about 80 percent of global GDP. [Press Release](#), [Document](#)

**IOSCO Annual Conference: Building Securities Market Resilience in the Post-Crisis World (International)**

IOSCO's Annual Conference opened with a focus on the challenges of strengthening market resilience, addressing financial misconduct and financing real economy through capital markets. Participants discussed enhancements to the governance of international audit standard-setting process and initiatives on liquidity risk management of collective investment schemes. Delegates also discussed a possible framework for the regulatory use of penetration testing, which allows firms in the financial industry to evaluate their systems and controls, identify vulnerabilities and strengthen infrastructure against cyber threats. [IOSCO](#)

**EBA published final Guidelines on credit institutions credit risk management practices and accounting for expected credit losses (Europe)**

The European Banking Authority (EBA) published its final Guidelines on credit institutions credit risk management practices and accounting for expected credit losses. These Guidelines aim at ensuring sound credit risk management practices associated with the implementation and on-going application of the accounting for expected credit losses. The Guidelines are part of the EBA's work on the implementation of IFRS 9 and its interaction with prudential requirements and build on the Guidance published by the Basel Committee on the same matter. [Press Release](#)

**Deutsche Bank asks former bosses to share past misconduct costs (Germany)**

The report states that Deutsche Bank is asking former board members to contribute substantial sums toward the costs of its past misconduct in a bid to rebuild its reputation. The supervisory board expects that in the coming months, there will be an arrangement which ensures that the individuals involved in the misconduct make substantial financial contribution. Collective responsibility of the board for the bank's actions as a whole were at the center of the discussion, rather than personal failure or involvement in individual litigation cases. [Reuters](#)

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## Accounting/ Auditing Updates

### IASB issued IFRS on Insurance contracts

The International Accounting Standards Board (IASB) issued IFRS for Insurance Contracts. This first IFRS Standard for insurance contracts will help investors better understand insurers risk exposure, profitability and financial position. According to the new IFRS all insurance contracts should be accounted in a consistent manner which would benefit both investors and insurance companies. Insurance obligations will be accounted by using current values – instead of historical cost. [IFRS](#)

### Webcast on IFRS for financial instruments

The International Financial Reporting Standards (IFRS) published a webcast on the application of impairment requirements for revolving facilities under IFRS for financial instruments. The Vice Chair talked about the key requirements of IFRS for financial instruments that are relevant when an entity determines the expected life of revolving facilities, such as credit cards and overdrafts, by considering its normal credit risk management actions. [IFRS](#)

### IFRS Foundation and World Bank deepen cooperation to support developing economies in their use of reporting standards

The memorandum of understanding describes a series of priority areas the organizations will jointly focus on over the next few years, including:

The development of educational programmes (both online and offline) to help build capacity and understanding of IFRS Standards and the IFRS for SMEs Standard, and materials to support their implementation.

The packaging of such programmes to provide an 'off-the-shelf' solution for development projects within individual countries or regions.

Steps to help developing economies with less advanced standard-setting capabilities to play a more active role in the work of the IFRS Foundation. [IFRS](#)

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