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## KPMG in South Africa

*Regulatory Updates for the week ended 26 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 published the annual report of the Bank Supervision Department (BSD)**

The FSR Bill makes provision for the creation of a Prudential Authority (PA), located within the SARB, which will include staff from the BSD as well as the Insurance Regulatory Department of the Financial Services Board (FSB). The formation of the PA will bring about a new era of consolidated prudential supervision, involving the oversight of banks, insurance companies and financial market infrastructures. This will allow regulators to take a broader view of the financial system and the common risks to which various firms are exposed. The BSD will continue to manage changes in the supervisory landscape, including the phasing-in of global standards for capital and liquidity as well as the ongoing refinement of supervisory practices. [SARB](#) Please contact [John Martin](#) for more information.

#### **The Department of Trade and Industry has briefed Parliament on the proposed Draft National Credit Policy Review for Debt Relief (Policy Review) and the National Credit Amendment Bill to be developed by the committee.**

The National Assembly granted the Portfolio Committee on Trade and Industry permission in March 2017 to develop and table a committee bill designed to address gaps in the National Credit Act. The proposed bill aims to amend the Act so as to provide for simpler and more rigorous enforcement of the Act and criminal prosecution of lenders who contravene the Act. It will also call for an effective debt counselling framework for low-income workers and capped debt relief to promote a change in behavior of both lenders

and borrowers. [Sabinet](#). For more information, please contact [Finn Elliot](#).

## Brokerage & Securities Markets

### Amendments to the Johannesburg Stock Exchange (JSE) listings requirements

The amendments, with an effective date of June 19, 2017 include:

**King IV Report on Corporate Governance:** The JSE will require the application and disclosure of the King IV corporate governance amendments on any documents (circulars and annual reports) submitted to the JSE on or after October 1, 2017. The King IV corporate governance amendments will apply to all new listings from the effective date. Please contact [Kerry Jenkins](#) for more information.

**Race Diversity Disclosure:** The implementation date of the required disclosure in the annual report of the policy on the promotion of race diversity at board level will be June 1, 2018. All annual reports issued on or after June 1, 2018 will have to comply with the required disclosure. Please contact [Nhlanu Dlamu](#) to discuss this requirement further.

**BEE Annual Compliance Certificate:** Publication of the BEE annual compliance certificate pursuant to the Broad-Based Economic Empowerment Amendment Act No.46 of 2013 will be required from the effective date. The report need not be distributed to shareholders or be published in the press but should be submitted electronically to the JSE and file a notice of availability of publication through SENS. [JSE](#). For more information, please contact [Boitumelo Ngutshane](#).

## Others

### The Finance Minister, Malusi Gigaba, will outline steps to implement the Financial Intelligence Centre Act in the coming weeks.

The Minister revealed this while delivering his department's budget vote speech in parliament. [Sabinet](#) For more information, please contact [Tersia Rossouw](#).

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## Market Developments

### Africa

#### Central Bank Of Nigeria communiqué of the Monetary Policy Committee meeting of 20th and 21<sup>st</sup> March 2017 (Nigeria)

The Monetary Policy Committee (MPC) noted that challenges in emerging markets and developing economies persist, as they struggle with strong headwinds from low commodity prices, rising inflation, currency volatility, receding real income and capital reversals. The MPC, in its notice, advocated for increased regulatory surveillance of the banking sector, with emphasis on the risk of currency mismatch as well as loan concentration particularly in weak and vulnerable sectors. [CBN](#)

#### Interview of Governor Rameswurlall Basant Roi, Governor of the Bank of Mauritius (Mauritius)

In the interview, the Governor stated that the Bank of Mauritius is upgrading its supervisory process with the implementation of a robust risk-based supervision framework and is moving forward with consolidated supervision and oversight of financial conglomerates. The central bank is also working on a crisis management and resolution framework. He shared his opinion that these initiatives would reinforce the regulatory regime and foster financial stability. [BOM](#)

#### 44<sup>th</sup> African Insurance Organisation in Uganda (Uganda)

The African Insurance Organisation (AIO), is a non-governmental organisation recognised by many African governments. The theme of this year's AIO conference is "Furthering the Financial Inclusion Agenda of African Nations through Insurance". The conference would provide attendees an opportunity to reflect on what needs to be done to advance the initiative to its desired outcome. [AIO](#)

## International

### **Regulatory equivalence and the global regulatory system (International)**

The Secretary General (SG) of the Basel Committee, commented in his address at the International Financial Services Forum on how the Committee has moved closer to completing the capital framework and stated its priorities for its work programme. The committee will continue to monitor and analyse the impact of the reforms as well as the effectiveness of the new standards. The committee has its focus on the following:

- Helping to ensure better, more effective supervision;
- Improving supervisory cooperation and communication.

The Committee also plans to provide insight into developments in FinTech and to explore the implications for banks' business models and supervisors. [BIS](#)

### **FSB publishes global shadow banking report (International)**

The FSB highlights the following findings from the 2016 exercise:

- Shadow banking activity was 34 trillion USD in 2015 equivalent to 13 percent of total financial assets, an increase of around 3.2 percent over the previous year;
- Credit intermediation associated with Collective Investment Vehicles (CIVs) comprised 65 percent of shadow banking and has grown by around 10 percent on average over the past four years. It is largely driven by liquidity, leverage and maturity transformation.
- Non-bank financial entities engaging in loan provisions that are dependent on short-term funding grew by 2.5 percent in 2015. In some jurisdictions, finance companies tended to have relatively high leverage and maturity transformation, which makes them relatively more susceptible to rollover risk during periods of market stress
- The 2016 exercise also collected new data to measure interconnectedness among the bank and the non-bank financial sectors and to assess short-term wholesale funding. The data suggest a decline since 2015 in bank credit exposures to and funding from "Other Financial Intermediaries." These levels, however, are above the levels before the 2007-2009 financial crisis. [FSB](#)

### **FSB sets out next steps on work to strengthen governance frameworks to mitigate misconduct risks (International)**

The FSB's work plan to reduce misconduct risk consists of three elements:

- examining whether reforms to incentives, for instance to governance and compensation structures, are having sufficient effect on reducing misconduct;
- improving global standards of conduct in the fixed income, commodities and currency markets; and
- reforming major financial benchmarks. [FSB](#)

### **Rapid growth in FinTech credit carries opportunities and risks (International)**

The Committee on the Global Financial System (CGFS) along with the Financial Stability Board (FSB) published a report on FinTech. According to the report policymakers should consider opportunities and risks on the increasing share of credit provision on FinTech platforms. The report analysed the nature of FinTech credit and variation in the business models of the electronic platforms involved. The findings of the report were:

- Potential benefits which include increased access to alternative funding sources in the economy and efficiency pressures on incumbent banks; and
- Risks such as weaker lending standards and more pro-cyclical credit provision. [BIS](#)

### **Implementation monitoring of the PFMI: Level 2 assessment report for Hong Kong SAR (International)**

The Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) published a report that confirmed that Hong Kong's legal, regulatory and oversight framework for key payments and settlement systems complies with CPMI-IOSCO's Principles For Financial Market Infrastructures (PFMI). The CPMI and IOSCO are also working on a follow-up review. This new Level 3 review focuses on CCPs' progress in addressing the most serious issues of concern identified in the first Level 3 report, namely on CCP recovery planning, coverage of financial recourses and liquidity stress testing. The CPMI and IOSCO aim to publish a

report on the findings of this exercise. [BIS](#)

### **Central Bank Governors welcome global code of conduct for currency markets (International)**

The FX code represents the culmination of a two-year collaborative initiative between central banks and private sector market participants from across the globe. The Code is voluntary and covers important areas including ethics, governance, execution, information-sharing, risk management and compliance as well as confirmation and settlement. [BIS](#)

### **The importance of trust in a digital world, a speech by the Chairman of ASIC (Australia)**

In his speech the Chairman of ASIC spoke about the following points:

- Rate of unprecedented technological change being experienced;
- Impact of the speed of change on how consumers interact with businesses; and
- How is it of significance for the regulators. [ASIC](#)

### **ASIC Chairman Greg Medcraft flags new broker guidelines on conflicts (Australia)**

Greg Medcraft was stated to be flagging the imminent release of new guidelines on Chinese walls to separate research and underwriting functions at stockbroking firms in the AFR article. The author noted that the upcoming new guidelines on conflicts was a result of ASIC's investigation into UBS on changes to NSW power sale critique. [AFR](#)

### **ASIC reports on promoting better conduct in the wholesale spot foreign exchange market (Australia)**

ASIC released Report 525 "Promoting better behaviour: Spot FX", setting out ASIC's observations on key behavioural drivers of conduct arising from recent ASIC investigations into the wholesale spot foreign exchange businesses of the major Australian financial institutions. [ASIC](#)

### **ASIC accepts enforceable undertaking from Macquarie Bank to address inadequacies within their wholesale FX businesses (Australia)**

ASIC accepted an enforceable undertaking from Macquarie Bank in relation to Macquarie's wholesale foreign exchange businesses. The EU will require Macquarie develop a program of changes to its existing systems, controls, training, guidance and framework for monitoring and supervision of employees. An independent consultant will be appointed to assess the program and implementation over three years. This followed ASIC identifying conduct by Macquarie employees in its spot FX business on various occasions between 2008 and 2013 who inappropriately disclosed material information on client orders and trading activity to external third parties and traded inappropriately. [ASIC](#)

### **ASIC proposed its next steps on RegTech (Australia)**

ASIC will establish a new RegTech industry liaison network, conduct a number of new technology trials using RegTech applications and establish a 'hackathon' later this year to help identify roadblocks to the successful and rapid take-up of the sector. According to ASIC, RegTech would be able to help organisations build a culture of compliance, identify learning opportunities and save time and money relating to regulatory matters, while improving compliance and outcomes for consumers. [ASIC](#)

### **ASIC's report on promoting better conduct in the wholesale spot foreign exchange market (Australia)**

ASIC published a report setting out its observations on key behavioural drivers of conduct arising from recent investigations into the wholesale spot foreign exchange (FX) businesses of the major Australian financial institutions. ASIC's report illustrated the behavioural drivers of conduct which will likely lead to poor conduct if not adequately managed. The report also describes a number of good practice principles for managing these drivers to more effectively prevent, detect and respond to inappropriate practices. [ASIC](#)

### **The Federal Reserve Board announced an enforcement action (US)**

The Federal Reserve issued a final decision and an order of prohibition against an individual that was formerly an employee and an institution-affiliated party of a foreign bank. The actions address the Federal Reserve's findings that the individual used electronic chat rooms to coordinate foreign exchange (FX) trading, manipulated FX pricing benchmarks, disclosed confidential customer information to traders at other organizations, and failed to appropriately supervise other traders. The final decision imposes a 1.2 million

USD fine and the order imposes a permanent ban on employment in the banking industry. [FRB](#)

### **The Securities and Exchange Commission (SEC) announced an enforcement action (US)**

The SEC filed a complaint against two former head traders of a registered broker-dealer and investment adviser alleging they fraudulently misrepresented pricing information while acting as intermediaries on trades with the firm's customers who sought to buy and sell commercial mortgage-backed securities (CMBS) on the secondary market. Without admitting or denying the allegations, one of the traders agreed to settle the charges by paying nearly 64,000 USD in disgorgement and interest as well as a 150,000 USD penalty and submitting to a three-year ban from the securities industry. The settlement is subject to court approval. The case against the other trader is ongoing. [SEC](#)

### **CFTC launches LabCFTC as major FinTech initiative (US)**

LabCFTC is expected to facilitate:

- Better understanding in the CFTC of how new innovations interact with the regulatory and supervisory framework;
- Collaboration among the FinTech industry and CFTC market participants;
- Cooperation with financial regulators at home and overseas; and
- Participation of CFTC in studies and research that facilitate responsible innovation in the markets and promote the use of technology within the agency;
- Monitoring of trends and developments to ensure the CFTC's regulatory framework supports responsible technological innovation;
- Information sharing about applications of FinTech, including potential use cases, benefits, risks, and solutions; and
- Engagement with academia, students and professionals on relevant FinTech applications. [CFTC](#)

### **The transmission channels of monetary, macro- and micro prudential policies and their interrelations (Europe)**

This paper investigates the interrelations between monetary, macro- and micro prudential policies. It first provides an overview of the three policies, starting with their main instruments and objectives. Monetary policy aims at maintaining price stability and promoting balanced economic growth, macro prudential policies aim at safeguarding the stability of the overall financial system, while micro prudential policies contribute to the safety and soundness of individual entities. [ECB](#)

### **EBA consults on its guidance for the use of cloud computing (Europe)**

The European Banking Authority (EBA) launched a consultation setting out its guidance for the use of cloud service providers by financial institutions. The EBA recommendations intend to clarify the EU-wide supervisory expectations if institutions intend to adopt cloud computing, so as to allow them to leverage the benefits of using cloud services, while ensuring that any related risks are adequately identified and managed. The consultation runs until 18 August 2017. [EBA](#)

### **Guidance notes to reporting agents on SHS regulation (Europe)**

In August 2016, the Governing Council adopted the amendment to the Regulation and Guideline of the European Central Bank (ECB) concerning statistics on holdings of securities (SHS) and the extension of the list of reporting banking groups. In order to better meet users' needs and ensure the provision of adequate information on the statistics on holdings of securities by reporting banking groups (SHSG), additional attributes are included in the data collection, in particular on accounting and risk related information. In addition, the list of reporting banking groups will be extended to cover all significant banking groups under direct ECB supervision. [ECB](#)

### **ESMA finds improvements in regulators' supervisory practices concerning MIFID rules on fair, clear and not misleading information (Europe)**

The European Securities and Markets Authority (ESMA) has published a follow-up report on the actions undertaken by ten National Competent Authorities (NCAs) in addressing deficiencies identified in the 2014 Peer Review on MiFID conduct of business rules relating to fair, clear and not misleading information. ESMA welcomes the efforts made by most of the ten NCAs. [ESMA](#)

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## Accounting/ Auditing Updates

### IASB-second phase of IFRS 13 review with call for information

The International Accounting Standards Board issued a request for the shareholders to share their experience with the accounting standard to measure the 'fair value' of assets and liabilities. The aim is to check whether the Standard meets its objectives. The Request For Information (RFI) focuses on:

- Disclosures about fair value measurements;
- Information about measuring quoted investments in subsidiaries, joint ventures and associates at fair value;
- Application of the concept of the 'highest and best use' when measuring the fair value of non-financial assets; and
- Application of judgement. [IFRS](#)

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## The Inside Edge

The Ombudsman for Long-term Insurance Services has released its annual report for 2016. This [summary](#) gives an overview of the findings and highlights some of the key issues which "keep the Ombudsman awake at night".

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