**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NUMBER: 3568 [NW4235E]**

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**3568. Mr G G Hill-Lewis (DA) to ask the Minister of Finance:**

1. What is the status of the report compiled by a certain person (name and details furnished) into the business practices of a certain bank (name furnished);
2. will (a) a summary of the specified report or (b) the full report be made public in order to allow victims of reckless lending practices to seek recourse in accordance with the National Credit Act, Act 34 of 2005; if not, why not;
3. has a copy of the specified report been furnished to the National Director of Public Prosecutions, as required by the Banks Act, Act 94 of 1990; if so, what progress has been made in instituting criminal charges as a result of the contents of the specified report;
4. what (a) recommendations did the specified report make to the (i) National Treasury, (ii) National Credit Regulator, (iii) Registrar of Banks, (iv) Financial Services Board and (v) SA Reserve Bank and (b) progress has been made in implementing the specified recommendations in each case?

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**REPLY:**

1. The investigation by Advocate Myburgh has been conducted on African Bank Limited at the request of the Registrar of Banks in terms of section 69A of the Banks Act 94 of 1990. The Registrar has informed me that the investigation, which commenced after 30 August 2014, was completed and a copy of the report in terms of section 69A(11) of the Banks Act was provided by the Registrar to the office of the Minister of Finance on 27 February 2015.
2. In terms of section 69A(13) of the Banks Act, the report on such an investigation is private and confidential unless the Registrar of Banks (Registrar), after consultation with the Minister, either generally or in respect of any part of the report, directs otherwise. In this instance both the Registrar and I are of the view that the report should be made public after the Registrar has completed a process of inviting persons referred to in the report to make representations relating to the report. This process is expected to be completed by the end of 2015.
3. No, as the Banks Act (section 69A (12)) only compels the Registrar and Minister to inform the National Director of Public Prosecutions to the extent that the findings identify that a crime has been committed or ‘it appears that any business of such bank was carried on recklessly or negligently or with the intent to defraud depositors or other creditors or for any other fraudulent purpose’. Bank failures are generally the result of a number of factors or actions; and may or may not be due to a crime or intent to commit a crime, but rather due to (for example) bad business judgement, poor risk management or governance systems, or other non-criminal related factors. Once the process outlined in (2) is completed, the Registrar and I will make a determination as to what action to take.
4. As noted in (3) above, the s69A investigation is a limited exercise, and does not necessarily deal with broader policy issues, mandate or activities of other regulators who may also be involved.