



**South African Reserve Bank's
Submission on the National Credit
Amendment Bill, 2013**

**Presented by
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South African Reserve Bank

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National Credit Amendment Bill - Introduction

- Submissions were made by the South African Reserve Bank (SARB) to the DTI during July 2013 on the Draft National Credit Amendment Bill, 2013 published on 29 May 2013 (Draft NCA Bill).
- The National Credit Amendment Bill (NCA Bill) was published on 28 October 2013.



National Credit Amendment Bill: Twin Peaks

- Cabinet in 2011 approved Revised Framework for Regulation of financial system in the RSA: Twin Peaks Structure overall regulatory model for RSA.
- Twin Peaks Structure: Prudential Regulator will operate in SARB and Market Conduct Regulator in restructured FSB. SARB also responsible overall Financial Stability in RSA.



National Credit Amendment Bill - Background

- The South African Reserve Bank Act provides that the primary objective of the SARB is to protect the value of the currency in the interest of a balanced and sustainable growth. Credit provision and regulation is an important factor in meeting this objective.
- An increased mandate of implementing financial stability is globally recognized as a key intervention in response to the ongoing financial crisis.

- The role of the SARB in implementing monetary policy and as lender of last resort, as well as the provider of emergency liquidity assistance, provides it with unique insight into the workings of the entire financial sector and the macro-economy.

- The SARB was therefore also given the responsibility from Government to oversee and maintain financial stability.



National Credit Amendment Bill - Background (cont)

- The SARB regulates banks to ensure that the funds of depositors which are kept by the banks are protected. Under Twin Peaks regulation the SARB, as prudential regulator, will continue to regulate the prudential side of banks as well as the same in respect of other institutions.
- The provision of credit forms a major part of the business of banks and involves the funds of depositors. Therefore has a direct impact on the interests of depositors and SARB's statutory duty in this regard.
- It is accepted that a key factor that contributed to the global financial crisis was the granting of credit that was not in accordance with sound financial practices. There is therefore a need to regulate the granting of credit in the RSA in the interest of all stakeholders and the financial stability in the RSA



National Credit Amendment Bill - Background (cont)

- National Treasury published policy documents in 2011 and 2013 which set out South Africa's intended response to the financial crisis in the form of reforms to the financial sector.

- In line with this and earlier Cabinet approved Revised Framework for Regulation: Financial Sector Regulation Bill 2013 introduced by National Treasury and approved by Cabinet on 4 December 2013. Currently open for public comment until 7 March 2014

- There must be an alignment between the reforms that Government intends to introduce and the NCA Bill.

- Lack of alignment can have the effect of creating confusion in the market and has the potential of adversely affecting financial stability.

- Could be conducive to legal certainty that the NCA amendments be dealt with in a manner which provides for alignment of the NCA Bill with legislative reforms of Financial Sector Regulation Bill.



National Credit Amendment Bill - Concerns with specific provisions of the NCA

- The latest NCA Bill provides for the amendment of section 17(4) of the NCA (section 17 deals with relations with other regulated authorities), the effect of which will include that the NCR **must**:
 - liaise with the Registrar of Banks on matters of common interest,
 - enter into agreements with the Registrar of Banks to co-ordinate exercise over jurisdiction over consumer credit matters within the banking sector; and
 - notify the Registrar of Banks within the agreed time frame of the intention to investigate a bank.



National Credit Amendment Bill - Concerns with specific provisions of the NCA (cont)

- It is submitted that contractual arrangements require consensus between regulators and a mechanism for resolution of potential disputes.
- Lack of consensus or failure to resolve disputes could result in potential adverse effect on financial stability as well as regulatory arbitrage.
- The Act should set out the mechanism that would facilitate consensus on finalising such an agreement as well as a mechanism to provide for the resolving of disputes between the regulatory authorities.
- The Act should also set out all the aspects that the regulatory authorities should reach consensus on in the contemplated agreement.



National Credit Amendment Bill - Concerns with specific provisions of the NCA (cont)

- “Regulated financial institution” is defined in Section 1 of the NCA to mean “a bank as defined in the Banks Act, 1990 (Act No. 94 of 1990), a Mutual Bank as defined in the Mutual Banks Act, 1993 (Act No. 124 of 1993); or any other financial institution that is similarly licensed and authorised to conduct the business and take deposits from the public, in terms of any national legislation”.
- It is submitted that non-deposit taking financial institutions should also be included in the definition of “regulated financial institution”.
- This will also ensure alignment of the tenor of the financial reforms contemplated by National Treasury which recognises the evolving role that insurance and other financial institutions play in the financial sector and the impact that all the elements have on the overall financial stability of South Africa.



National Credit Amendment Bill - Conclusion

- We request that you favourably consider our comments.

THANK YOU

