



national treasury

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National Treasury
REPUBLIC OF SOUTH AFRICA

Press Release

Proposed regulations for over-the-counter derivatives

The National Treasury, Reserve Bank and Financial Services Board have today published for public comment proposed regulations for unlisted over-the-counter derivatives. These proposed regulations will ensure that South Africa can meet its G20 obligations in terms of the regulation of the OTC derivatives market.

Over-the-counter derivatives were a key contributor to the global financial crisis. Regulators around the world have been working towards consistent standards for derivatives, and a number of G20 member countries, including South Africa, have made significant progress towards achieving these aims.

According to the recently published Financial Stability Board *7th Progress Report on Implementation of OTC Derivative Market Reforms*¹, most jurisdictions, including South Africa, have completed the reforms to their legislative frameworks needed to implement the G20 commitments. These proposed regulations are the last step in what has been a multi-year international effort to improve the regulation of derivatives.

These reforms are necessary to improve transparency in the global derivatives markets, mitigate systemic risk, and protect against market abuse. As a member of the G20, South Africa is committed to G20 agreements for OTC derivatives market reforms.

In addition to legislative reforms, many jurisdictions have taken steps in implementing regulatory reforms, largely in relation to trade reporting and higher capital requirements for non-centrally cleared derivatives. The United States, Brazil, Australia and the European Union are amongst the most advanced in terms of such regulatory reform. Market usage of central counterparties (CCPs) is increasing, especially across interest rate and credit derivatives asset classes.

Along with progress in implementing higher capital requirements for non-centrally cleared derivatives, most jurisdictions are committed to implementation of margin requirements for these derivatives consistent with the internationally agreed start of phase-in during 2015.

The proposed regulations under the FMA will bring the South African regulatory framework in line with those implemented in other G20 jurisdictions. The regulations will enhance supervision of the OTC derivatives markets in South Africa by requiring that over-the-counter derivative providers (“ODPs”) be authorised as a category of regulated person and by ensuring sound and resilient CCPs. In addition, the regulations will ensure promotion of transparency of the

¹ http://www.financialstabilityboard.org/publications/r_140408.pdf

derivatives markets through regulations applicable to the licensing of trade repositories. The Financial Services Board will, later this year, release Notices relating to the criteria for authorisation as an ODP, an ODP code of conduct and the reporting obligations in terms of derivatives.

The cross-border nature of securities markets requires an appropriate regulatory framework that promotes the efficiency and competitiveness of the South African financial markets (as objects of the FMA) without significantly undermining their stability. The proposed regulations therefore also address:

- Requirements with which a central securities depository (“CSD”) must comply for approval of an external CSD as a participant.
- The securities services to be provided by an external CSD and external clearing members.
- Functions and duties that may be exercised by an external clearing house, CCP or external trade repository (TR).

Comments can be submitted via email to financial.policy@treasury.gov.za with the subject title **FMA: Ministerial regulations**. The deadline for submission is 3 September 2014.

Copies of the policy document and the proposed regulations can be found on the National Treasury website at: <http://www.treasury.gov.za>.

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