

27 October 2015

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Doc Ref: Casc/#162472

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Dear Sir,

COMMENTS ON THE "PROTECTION OF CRITICAL INFRASTRUCTURE Bill"

The Banking Association South Africa would like to thank you for the opportunity to comment on The Protection of Critical Infrastructure Bill, hereafter referred to as the "Bill."

ABOUT THE BANKING ASSOCIATION SOUTH AFRICA (HEREAFTER REFERRED TO AS THE BANKING ASSOCIATION)

The Banking Association is the official trade association for all licensed private sector commercial banks in South Africa. Our vision and mission statements, together with the list of 32 member banks are contained on our public website www.banking.org.za.

The Banking Association supports Government initiatives to address inconsistencies in legislation, provided that these initiatives are equitable and just and do not create conditions that aggravate the problem.

COMMENTS ON THE BILL

Whilst we commend the amended objectives of the Bill, of importance to the Banking sector are the proposed amendments to Chapter 3 on the "Determination and Declaration of Critical Infrastructure Bill."

Section 13 (1) (e) reads:

"Financial services which includes-

- (i) *Any place or area which enables South Africa to successfully compete
in global economic markets; or*

- (ii) *Retail, commercial organisations, investment institutions, exchange boards, trading houses and reserve systems that support activities of monetary transactions, including its storage for saving purposes, its investments for income purposes and its disbursements in the form of loans and other financial instruments."*

Banks are the main user of, and contributors to, the National Payments Systems within the local and international financial sectors. As such the continuity, reliability and security of such systems are of paramount importance. The attack on the New York Trade Centre in 2001 highlighted the potential damage to a country's financial and payments sector, in particular where main and back up physical infrastructure were in the same potential disaster impact zone. In light of this, The South Africa Reserve Bank (SARB) established a Financial Sector Contingency Forum which meets regularly, to determine disaster recovery plans, appropriate disaster management protocols for the financial sector, evaluate disaster scenario exercises and test banks systems. Included in such operational plans is the physical location for main and back up IT infrastructure, the location of such IT infrastructure within utility networks, back-up generators and minimum fuel reserves and fuel replenishment arrangements in the event of transport collapse. Such operational plans include communications to local and international stakeholders, etc.

Therefore, the South African Reserve Bank has already implemented regulatory and supervisory business continuity and recovery risk management protocols within the financial sector to ensure its safety and protection in disaster situations.

Secondly, allowing the financial sector to be categorized as critical infrastructure within the Bill poses a risk to the security of banking and the payments systems. These systems are complex and specialised; allowing them to be governed by a new board as contemplated in the Bill could introduce risks of regulatory arbitrage and confusion. It could create a new layer of potentially draconian dictates that affect their operations, which could have a significant impact on the private sector.

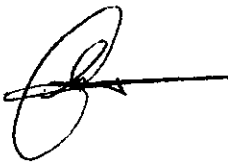
Finally, the banking sector is stringently regulated, primarily by the Banks Act, but also impacted on by approximately 200 pieces of legislation. It is thus inefficient and unnecessary to enforce additional costly reporting requirements on the financial sector when appropriate measures and protocols are already in place.

Recommendation:

In light of the above, we propose the financial sector be excluded from the Bill.

Once again, we thank you for the opportunity to comment on the draft Bill. Please do not hesitate to contact us should you want to discuss this with us further.

Kind regards,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a horizontal line.

Cas Coovadia
Managing Director

