

## **Standing Committee on Finance**

### **Report on Financial Sector Regulation Bill (B34-2015)**

**30 November 2016**

#### **Rationale for Bill**

1. The Financial Sector Regulation Bill (B34-2015), more commonly referred to as the "Twin Peaks" Bill, changes fundamentally the financial system in South Africa. It is linked to other Bills, including the Insurance Bill, the Conduct of Financial Institutions Bill, the Resolution (Insolvency and Business Rescue) for Financial Institutions Bill, and a new Financial Markets Bill that will be introduced over the next few years.
2. The last 25 years have been a period of enormous transformation in the financial services sector. The sector has seen a marked shift from domestic firms engaged in distinct banking, securities, and insurance businesses to more integrated financial services conglomerates offering a broad range of financial products across the globe. These fundamental changes in the nature of how financial institutions operate have exposed the shortcomings of the current financial legislation.
3. South Africa is no exception to the global trends. South African financial institutions have moved from a narrow, largely domestic-focused financial sector, to one that has clients all over Africa and also sources funding from major financial sectors in Europe and the US. South Africa's financial sector has changed substantially from the sector which the current legislative framework was designed to regulate.
4. Despite this, the country has not changed our fundamental framework for financial regulation since the creation of the Financial Services Board and the Office of the Registrar of Banks in 1990. The major changes referred to above require central banks, supervisors, and finance ministries to review their supervisory structures, especially to consider the extent to which they are effective in dealing with the collapse of a systemically important financial institution.
5. Other countries changed their policies and legislation because of specific crises, like the emerging markets crisis of the late 1990s or the global crisis from 2008. In South Africa the government has proposed a new approach to financial

regulation, seeking to 'fix the roof while the sun is shining'. Undertaking reforms in this context can be difficult because of the push back from industry interests for watered down regulations.

6. The Twin Peaks Model radically shifts the regulatory system from a light-touch approach to a more intrusive, intensive and effective system to regulate the financial sector, in order to make it safer and serve customers better.
7. The 2008 global financial crisis demonstrated how, and to what extent, the financial sector poses a risk to the economy if not regulated intensively, as was the case globally before 2008. The 2008 Jali Panel of Enquiry into banking also demonstrated that whilst the sector was regulated for safety, it was not regulated to treat customers fairly, and hence customers faced high charges and poor protection from abusive market conduct practices.
8. The Bill follows two policy papers produced by Government that responded to the lessons learnt in the 2008 global financial crisis: *A Safer Financial Sector to Serve South Africa Better* released with the 2011 Budget, and *A Roadmap for Implementing Twin Peaks Reforms*, released on 1 February 2013. The 2011 policy document outlined the four key objectives for the financial sector, including safety, market conduct, integrity and inclusion/access.
9. Twin Peaks is a comprehensive system for regulating the financial sector. It represents a decisive shift away from a fragmented regulatory approach and will reduce the possibility of regulatory arbitrage or forum shopping and close gaps in the regulatory system. Following the global financial crisis in 2008, the Bill aims to make the financial sector safer and make it work more effectively in the interests of all South Africans by reducing potential threats to financial stability and better protecting customers, especially the poor and low income earners who suffer disproportionately from poor market conduct, by building financial institutions that treat their customers fairly.
10. The implementation of Twin Peaks reform is a multiyear project. This Bill covers the initial phase, which is to establish the following two regulatory authorities:
  - A new "Prudential Authority" within the Reserve Bank. This Authority will be responsible for the oversight of the safety and soundness of banks, insurers and financial conglomerates.

- A new “Market Conduct Authority” to protect customers of financial services firms, and to improve the way financial service providers conduct their business. This Authority will also be responsible for ensuring the integrity and efficiency of financial markets, and promoting effective financial consumer education.
11. In addition, the Bill gives the South African Reserve Bank primary responsibility to oversee financial stability. To facilitate this, the Bill creates a statutory inter-agency Financial Stability Oversight Committee (FSOC), chaired by the Governor of the Reserve Bank, with appropriate financial stability powers.
  12. Phase 2 of the reform process will focus on implementing the framework for market conduct legislation.

### **Processing the Bill and Public Participation and Consultation**

13. The Committee dealt with the Bill in full Committee and Sub-committee meetings of over 156 hours over a year. Apart from this, the Committee requested NT to meet with stakeholders to discuss aspects of the Bill and report back to the Committee - which took up a further about 20 hours. Meetings held during a “Twin Peaks” Study Tour of London took up about a further 36 hours. The Committee Chairperson processed issues with NT officials for about another 30 hours or so.
14. As with other Bills processed by the Committee, there was extensive public participation in the processing of the Bill. Public hearings on the Bill were held on 24 November 2014, 25 November 2015, 10 February 2016, 16 February 2016 and 3 May 2016. Amendments proposed to the Bill in public hearings were summarized in the form of a table, and as the Committee went through each policy issue and clause of the Bill, it considered what stakeholders had proposed. Nearly 1000 pages of comments matrices were drawn up. Those stakeholders that attended the Committee’s meetings were allowed to speak to their proposals. In fact, stakeholders participated in all meetings of the Committee and subcommittee except in the final formal stage of processing the Bill. The final versions of the Bill were sent to all stakeholders for them to comment on. NT also put these versions on its website. However, the public participation process was dominated by representatives of the banking and insurance industry, and attempts to get civil society organizations to become more involved were not successful. Prompted by the Committee, the Minister of Finance and NT engaged with the Financial Sector Campaign Coalition on the Twin Peaks Bill and one of its key participants, the South African Communist Party separately. The Committee also had two meetings

with the Voluntary Ombuds Association and the Statutory Ombuds. The Committee recognises that it is the industry and the big NGOs that have the resources to actively participate in public hearings and other public participation processes in Parliament and once again appeals to Parliament to consider funding the participation of under-resourced NGOs and CBOs in parliamentary processes, as was the case in the first few years after the coming into effect of the democratic parliament in 1994.

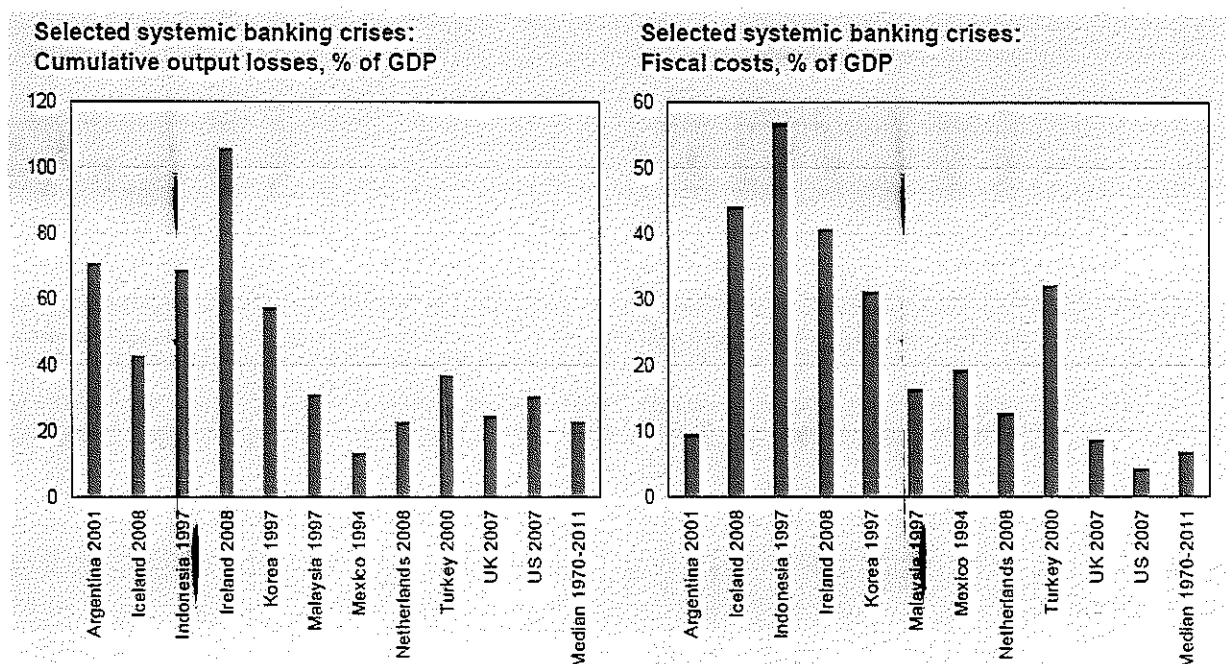
15. NT also reported that prior to the Bill being tabled, the Treasury undertook three years of consultations with affected stakeholders, including the regulators, international experts and the industry.

### **Impact of Costs of Model on Poor and Low-income Earners**

16. The Committee was particularly concerned about the impact the new Twin Peaks model would have on the fees the financial institutions will charge customers and the disproportionate impact this would have on the poor and those with low incomes. The Committee believes financial institutions are probably going to transfer a significant part of their costs of implementing the new Twin Peaks model to the customers. In response to the Committee's persistent concerns about this, Treasury tabled a formal "Impact Study of the Twin Peaks Reforms". The report was authored by an independent consultant on behalf of the Treasury. NT pointed out that bad market conduct practices hurt the poor, financially less literate customers more than the rich. NT argued that the comprehensive market conduct regime that the Twin Peaks system will introduce has clear benefits for the poor and marginalised in society. The poor are particularly vulnerable to being sold complex and opaque financial products by unscrupulous financial service providers. Poor customer outcomes in South Africa's financial sector have highlighted the need for stronger oversight of how financial institutions conduct their business and treat their customers. To better protect customers, the financial sector must be held to higher standards than generic consumer protection, and standards must be applied consistently across the sector. Various pieces of market conduct legislation applicable to the financial sector will be consolidated. The law will also empower the Financial Sector Conduct Authority (FSCA) to supervise institutions more intensively, and take strict corrective actions against financial institutions based on the breach of principles in addition to monitoring compliance with rules. The market conduct framework document also sets out proposals to support improved market conduct by better empowering financial customers. This includes improving the ombuds system so customers can easily and effectively lodge disputes against financial institutions, and refining financial education

initiatives. A simple recent example of abuse is the “misselling” of consumer insurance by a leading furniture retailer. The retailer sold “retrenchment insurance” to someone that was retired. No clear legal framework preventing this exists, and the Twin Peaks system is designed to reduce this sort of poor conduct practices. The Impact Study highlights the substantial economic costs imposed by systemic banking crises. The graphs below show the calculated output losses and fiscal costs of a selection of major banking crises from a mix of advanced and emerging economies, including examples linked to the global financial crises of 2008, the Asian crises of 1997, and other examples. While there is substantial variation in the scale of costs, the data indicate that the economic losses arising from recent crisis periods have been significant. While regulation imposes costs, the costs of regulation have to be offset against the costs of financial crises, which is often significant.

**17. Figure 1: Costs of banking crises: GDP and fiscal costs (% of GDP)**



The Committee received a report on estimates of direct and indirect costs of the Bill which noted that these costs are relatively small compared to the costs of not regulating. For example, the total direct and indirect costs of regulation are estimated at between 1.26 and 1.75 per cent of the gross value added of the financial services industry.

**Table 1: Estimates of direct and indirect costs of financial regulation under Twin Peaks**

	Rand, in millions	% of GVA of financial corporations <sup>1</sup>
<b>Benchmark of costs under the current regulatory framework, 2015-16:</b>		
Direct costs of financial regulation and supervision at SARB and FSB <sup>2</sup>	907	0.27%
Indirect costs of compliance functions at regulated financial institutions <sup>3</sup>	3,266	0.97%
<b>Total direct and indirect costs for 2015/16</b>	<b>4,173</b>	<b>1.24%</b>
<b>Total costs held constant for 2016/17<sup>4</sup></b>	<b>4,424</b>	<b>1.24%</b>
<b>Projected costs under Twin Peaks for 2016-17</b>		
Direct costs of financial regulation and supervision at SARB, Prudential Authority and FSCA <sup>2</sup>	1,033	0.29%
Indirect costs of compliance functions at regulated financial institutions <sup>5</sup>		
Scenario 1: overall costs unchanged in real terms	3,462	0.97%
Scenario 2: overall costs increase by 10%	3,808	1.07%
Scenario 3: overall costs increase by 25%	4,328	1.21%
Scenario 4: overall costs increase by 50%	5,193	1.46%
<b>Illustrative range for total direct and indirect costs</b>	<b>4,495 to 6,226</b>	<b>1.26% to 1.75%</b>

*Notes:*

1. Gross value added of financial corporations, from South African Reserve Bank Quarterly Bulletin.
2. From Table 2.
3. Derived from questionnaire. Aggregate rand costs of compliance functions reported by the questionnaire group scaled up to the industry level. The scaling factor is based on the approximate share of combined assets of institutions in the questionnaire group in the total assets of financial institutions.
4. Total direct and indirect costs for 2015/16 increased for inflation at an assumed rate of 6%. GVA of financial corporations is also adjusted for inflation at a rate of 6%.
5. Four scenarios are used to illustrate the potential scale of increases in costs. The lower bound (scenario 1) assumes that costs remain unchanged in real terms, where an inflation rate of 6% is assumed relative to costs in 2015/16. Scenarios 2 to 4 apply further increases to the costs under scenario 1. GVA is held constant in real terms and thus does not include any net change in the value of the sector arising from regulatory reform.

## **Government needs to be more committed to transformation of the Financial Sector**

18. The Committee believes that the financial institutions in the US and elsewhere in the developed world that were primarily responsible for the 2008 global financial and economic crisis have caused huge distress to people not only in the developed world but in the developing world too. It is the poor and those with lower incomes

the world over who have suffered disproportionately from the greed and recklessness of the financial institutions of the developed world. The Committee believes that those responsible for the crisis have not been fully held to account, nor have they adequately been punished for their misdeeds. The Committee recognizes that the Bill makes significant progress towards addressing some of the key issues raised by the 2008 global crisis and in protecting financial customers. The Committee understands that there are other related Bills that will give effect to the new Twin Peaks model that will take these goals further. The Committee recognizes that the main banks in South Africa function in a globalized financial system and that there are imperatives for the country to meet the requirements of global standards on the financial sector set by multilateral institutions in which South Africa participates. However, the Committee believes that NT and government in general shape policies and Bills too much on the basis of these standards and too little on the specific requirements of the country. Some of these standards could serve to undermine the goals of economic and social transformation in the country and exacerbate the race, class, gender and other inequalities.

19. While recognizing the constraints of doing this in this Bill, the Committee insisted that provisions be inserted in the Bill that would strengthen financial inclusion and transformation. These provisions include making transformation an object of the Bill, referring to the Financial Sector Charter in the Bill, and requiring that a transformation working group or subcommittee be established in terms of section 81 which deals with the structures for coordination between the various regulators and the various national departments responsible for regulating the financial sector. The Committee was constrained from doing more because the Broad Based Black Economic Empowerment (BBBEE) provisions in the Financial Sector, and particularly the Financial Sector Charter, fall under the Department of Trade and Industry (DTI) and recognises that economic and financial transformation are the responsibilities of government as a whole, not NT alone. But the Committee firmly believes that NT can do more in this regard and requires it to do so, and will monitor this more effectively henceforth. The Committee will, after discussion with the Trade and Industry Portfolio Committee, organise public hearings in the first half of next year on the implementation of the Financial Sector Charter and further transformation of the financial sector. The need to finalise issues related to the Postbank and give greater attention to cooperative banks will also be considered in these hearings. The Committee will also focus more on transformation in the Bills related to Twin Peaks that are to come and other Bills too.
20. In considering transformation issues, the Committee will also be looking into the reasons for and the implications of the high level of monopolization and

concentration in the banking and insurance sectors. The big four banks have over 90% of the retail banking market. The Committee recognises that there is a monopoly market structure in the banking sector in many countries, but given the very high levels of this monopoly in the South African economy and the racialised patterns of the economic and other disparities in the country, there needs to be a review of the nature of ownership in the banking sector.

### **Financial Conglomerates**

21. The South African financial sector is characterised by large financial conglomerates. This creates a number of risks. Financial conglomerates are by their nature oligopolistic, reducing competition and leading to suboptimal economic outcomes. But these financial conglomerates are also often Systemically Important Financial Institutions (SIFIs), which are "Too Big To Fail", creating financial stability concerns and enormous risks. A framework for more closely regulating these SIFIs is provided for in clauses 29 to 31. In addition to the SIFI provisions, the Bill takes important steps to improve the regulation and supervision of financial conglomerates. Until now there has not been regulation and supervision of financial conglomerates, but only of financial institutions within conglomerates. For example, in the African Bank case, African Bank was regulated by the banking supervisor, but the banking supervisor was not able to effectively regulate the entire group, which included Ellerines. The Bill includes the supervision of conglomerates in Chapter 12. The Chapter provides for the designation of financial conglomerates, licensing requirements, and for standards to be imposed on financial conglomerates. It also provides for financial conglomerates to have non-operating holding companies at the discretion of the regulator). A non-operating holding company structure creates an important "fire-break" to prevent problems in one part of the financial conglomerate spilling over into another part of the group. Moreover, a financial conglomerate may not acquire or dispose of a material asset without approval.

### **Significant Ownership Issues**

22. The Committee paid a lot of attention to "significant owners" in Chapter 11 of the Bill because they exercise substantial power "behind the scenes" on the activities of financial service providers. For example, in the market conduct arena, unscrupulous financial services providers can use a "shell company" to escape the law. Alternatively, in the prudential/ systemic risk area, it is important to ensure that significant owners have sufficient capital and financial wherewithal to ensure



that the entity they own can survive financial distress. For example, if a bank develops difficulties, it is important to be able to call on the owners of the bank to provide capital to ensure the bank can survive.

### **Need for Banks to Account to Customers whose Accounts are Closed**

23. While the Committee recognizes that the major banks in South Africa are part of the globalized financial system and have to abide by international standards and those set by regulators of other countries in which they do business, the Committee believes that it is not acceptable that banks can close customers accounts and not give them any reasons for this. The banks, especially given the high level of concentration in the financial sector, can abuse their power, and, for example, close accounts for marginalized groups deemed to be high risk. The Committee considered inserting a provision in the Bill requiring the regulators to set standards for banks to explain to customers why they have closed their accounts, but finally decided that this matter should be addressed holistically in the pending Conduct of Financial Institutions Bill. The Committee strongly recommends that NT ensures that this matter is addressed in that Bill.

### **Financial Education and Literacy**

24. While the Committee recognizes that the Bill provides greater protection for financial customers, and strengthens their rights and increases the space for them to complain about misconduct by financial sector entities, it believes that informing customers about their rights and providing them financial literacy is crucial. Various amendments were made to substantially strengthen the role of the Ombuds and require the Financial Conduct Authority (FCA) to make this a key role. Empowering financial consumers to make the right decisions themselves is crucial. In section 57 of the Bill, an object of the FCA is "providing financial customers and potential financial customers with financial education programs, and otherwise promoting financial literacy and the ability of financial customers and potential financial customers to make sound financial decisions." A core objective of the FCA is to educate customers, and there are standards they have to meet in this regard in terms of new clauses introduced, particularly 106(2)(c) which provides for standards to be made to ensure "that financial education programs, or other activities promoting financial literacy are appropriate and 106(3)(d), which provides for standards that provide for "the design, suitability, implementation, monitoring and evaluation of financial education programs, or other initiatives

promoting financial literacy". The Committee will monitor the FCA's performance in this regard.

### **Fees and Levies Banks Have to Pay**

25. The Committee raised concerns regarding the provisions dealing with fees and levies on financial institutions. NT explained that "fees" are typically charged by public entities for specific services provided to regulated entities. "Levies" are like taxes, as they raise general revenue not related to any specific service provided to those who have to pay them. Section 77 of the Constitution requires a different Parliamentary procedure for Bills which raise revenue "money bills", and specifies that: "A Bill is a money Bill if it ... imposes national taxes, levies, duties or surcharges. The definition of "a tax, levy, duty or surcharge" can be drawn from Justice Moseneke's writing for the majority in the so-called Shuttleworth case : "So, aside from mere labels, the seminal test is whether the primary or dominant purpose of a statute is to raise revenue or to regulate conduct. If regulation is the primary purpose of the revenue raised under the statute, it would be considered a fee or a charge rather than a tax. The opposite is also true. If the dominant purpose is to raise revenue then the charge would ordinarily be a tax. There are no bright lines between the two." NT explained that its legal advice was to take a conservative reading of the Shuttleworth judgement read together with section 77 of the Constitution. The Committee agreed with this, and it was decided to revise Chapter 16 to set out a detailed system of calculating fees and specifying that levies can only be raised in accordance with an accompanying Money Bill. National Treasury presented its draft Money Bill setting out the terms under which levies may be raised to the Committee.

### **Role of National Credit Regulator**

26. The place and role of the National Credit Regulator (NCR), which falls under the Department of Trade and Industry (DTI), in the Twin Peaks Model was regularly discussed in the Committee's considerations of the Bill. From the very first meeting of the Committee on the Bill, representatives of the NCR regularly attended, and a DTI official also attended many meetings. Both representatives were free to speak in the meetings. The Chair of the Committee also engaged with the Minister and Director General of Trade and Industry in the early period of the Committee's processing of the Bill. The Committee also required NT to meet with the NCR and DTI to arrive at agreement on amendments to clauses affecting the NCR, and all three parties reported to the Committee on the outcomes of these meetings. There were basically two opposing views on the inclusion of the NCR in the Twin Peaks Bill: a) As presented mainly by the Financial Sector Coalition and COSATU, the NCR

was performing well in representing the interests of creditors, particularly the poor and low income earners, and it should not be part of the Twin Peaks Model as it would get absorbed by the FCA which would not be as effective as the NCR; and b) The NCR and FCA would be duplicating each other's functions and the NCR should be dissolved to make way for the FCA. The Committee decided that there should be a clear delineation of the respective roles of the FCA and NCR. The NCR will be responsible for regulating the market conduct of credit agreements issued by banks and non-banks, e.g. furniture retailers. The FSCA will be responsible for regulating the market conduct of these players for other financial services that they may provide. To date, there has been substantial overlap between the roles of the existing regulators – e.g. the Financial Services Board is responsible for regulating the way insurance is sold; whereas the NCR is responsible for regulating how credit is sold. Credit-life insurance, the life insurance related to credit agreements, falls "between the cracks". Similar areas of overlap exist between medical aid (regulated under the Department of Health and the Council of Medical Schemes) and medical insurance (which is regulated by the FSB). The Financial Sector Regulation Bill substantially improves the way these regulators coordinate their activity. The Committee believes that for now the NCR and FSCA should work cooperatively and it will, together with the Trade and Industry Portfolio Committee, seek to monitor this. At an appropriate time in the future, depending on how this works out in practice, and if conditions warrant it, consideration could be given to the two structures merging in some appropriate form, provided this is in the interests primarily of the poor and low-income earners.

### **Aligning Insolvency Act**

27. As the Bill was being finalized, the need arose for the Insolvency Act to ensure that South Africa complied with international best practice relating to the pledging of collateral for derivative transactions. The Committee was of the view that only minimal amendments should be made to the Insolvency Act, in light of the short period of time left to finalise the Bill and the fact that the Act fell within the mandate of the Justice and Constitutional Department. National Treasury discussed the matter with the Department of Justice and agreed to minimal amendments to only update certain references in the Insolvency Act. The Committee, after seeking legal advice from Parliament's Legal Services Unit, agreed to these.

### **Need for Consultation with Stakeholders**

28. The Committee stressed the need for appropriate mechanisms to consult with affected stakeholders during the process of regulation and supervision. This was introduced in clause 283 that requires arrangements for this. In particular, the appropriate arrangements must include financial customers and prospective financial customers. This moves the focus away from only consulting industry representatives, and ensuring that there is consultation with financial customers to encourage the regulatory and supervisory framework to be customer-oriented.

### **Constitutionality of Two Provisions**

29. The constitutionality of following provisions were questioned in public hearings on the Bill:

- a. A Regulator making "regulatory instruments" regarding, inter alia, "financial products and financial services", which, although not subject to parliamentary approval, will override financial sector laws passed by Parliament in the event of any inconsistency.
- b. The Bill provided for a "reverse onus" liability for directors of a board in that they were assumed guilty unless proven otherwise for offenses committed by financial entities.

30. Following further legal advice, it was decided to strengthen the provisions regarding consultation and the process around the making of regulatory instruments. In addition, the statutory requirement for Parliamentary consultation in terms of clause 103 was strengthened, providing for a process of consulting Parliament, as below:

31. To strengthen the provisions regarding consultation and the process around the making of regulatory instruments. In addition, the statutory requirement for Parliamentary consultation in terms of clause 103 was strengthened, providing for a process of consulting Parliament, as below:

*103. (1) Before making a regulatory instrument in terms of section 98 or 99, the maker of the regulatory instrument must submit the regulatory instrument to Parliament, for a period of at least 30 days while Parliament is in session, together with—*

*(a) the documents mentioned in section 98(1)(a); and*

*(b) a report on the consultation process referred to in section 104.*

*(2) Before making a regulatory instrument in terms of section 100, the maker of the regulatory instrument must submit to Parliament, whether in session or not, the documents mentioned in section 100(1)(a) for a period of at least 7 days*

*(which period may run concurrently with the 7 days referred to in section 100(2)).*

Regarding reverse onus, the clause (276) was recast to remove any possible Constitutional challenge. This was through an additional subclause 276(1)(b), which provides for a "reasonably practical steps" defence, which imposes a requirement for directors to constantly ensure that there are internal mechanisms to check for possible offences, and ensure that these are mitigated.

## **Implementation of the Bill**

32. As the Twin Peaks model is so wide-ranging and comprehensive, it will be challenging to implement. Certainly, it will not be implementable overnight. Aspects of it, including Chapters, Parts and Sections, will have to be phased in. The Committee believed that it could not process the Bill properly unless NT had a clear and practical implementation plan, which includes phases. This matter was raised early in the Committee's deliberations on the Bill and was considered at various times over the past year. The Committee considered NT's implementation plan but felt that the Bill should be amended to include clearer transitional provisions and a more phased approach. As part of the Committee's deliberations on the implementation of the Bill, the Committee required NT to provide an overview of the other Bills related to the Twin Peaks model that will make up "Phase 2" of the process. The Committee was briefed on the Insurance Bill, Conduct of Financial Institutions Bill and a market conduct framework and the Resolution Bill. The Committee also requested the respective regulatory authorities to explain what steps they were taking to ensure that the process of implementing the Bill would be effective. Representatives of the Reserve Bank outlined the proposed new structure of the Prudential Authority, which is intended to be housed at the Bank, pointing out that many of the senior positions had already been filled on an interim basis, pending the passage of the Bill. The new approach to regulation and the co-ordination of the regulatory framework was highlighted as a major opportunity to improve the work of the Prudential Authority. The Financial Services Board outlined its approach to a new entity, the Financial Sector Conduct Authority. A presentation was provided on how the new Authority envisaged its role, what options were being considered for the new structure, and how the new organization would function. Much of the Committee's views on implementation were covered in a new transitional clause:

*304. (1) In order to facilitate the coming into effect, appropriate implementation and operation of this Act, the Minister may make Regulations providing for*

*transitional arrangements regarding the exercise of powers, the performance of functions and duties, and other matters that may be necessary in relation to—*

*(a) the establishment of the financial sector regulators and other bodies in terms of this Act;*

*(b) the coming into operation of different provisions of this Act; and*

*(c) the repeal or amendment of different provisions of a law repealed or amended by this Act.*

*(2) Without limiting subsection (1), Regulations in terms of this section may provide for—*

*(a) the Reserve Bank to exercise specified powers and to perform specified functions and duties of the Prudential Authority, should it be necessary for powers and functions of the Prudential Authority in terms of this Act to be exercised for a period prior to the Prudential Authority being formally established; and*

*(b) the Financial Services Board to exercise specified powers and perform specified functions and duties of the Financial Sector Conduct Authority, should it be necessary for the powers and functions of the Financial Sector Conduct Authority in terms of this Act to be exercised prior to the Financial Sector Conduct Authority being formally established.*

### **Not a Perfect Bill**

33. Most Bills that introduce fundamentally new systems, especially if they are as comprehensive, technically challenging and long as the Twin Peaks Bill, are never perfect by the time they are voted on in Parliament – and the real test of their provisions is in their implementation. The Committee, as explained above, has spent ? hours on the Bill in various forms over a year. The Committee would have preferred to focus intensively on the Bill in a concentrated manner over a few months rather than processing it over a year, but this was impossible because of the deadlines it has to process the Budget, the Medium Term Budget Policy Statement and Rates and Tax Bills and its many oversight responsibilities. The Committee also has to process the Insurance Bill related to the Twin Peaks Bill that has already been tabled in Parliament and the Money and other Bills related to the Twin Peaks Bill as well as other unrelated Bills soon to be introduced, and believes it has given reasonable attention to the Twin Peaks Bill in the circumstances, and it is time now for “fresh” minds to look at the Bill further. The Committee will pay considered attention to amendments the NCOP Finance Committee may make to the Bill and will make any further amendments to the Bill once the NCOP has processed the Bill.

### **Appreciation for Cooperation**

34. The Committee expresses its appreciation to all those who assisted with the processing of the Bill including the NT team, civil society stakeholders, the industry, individual experts and the parliamentary staff.