

**SUBMISSION TO THE  
STANDING COMMITTEE ON  
FINANCE  
TRANSFORMATION OF  
THE FINANCIAL SECTOR**

**BLACK INSURANCE  
OWNERS ASSOCIATION  
OF SOUTH AFRICA  
14 MARCH 2017**

# Contents

- ▶ Introduction
- ▶ Structure of the Financial Services Industry
- ▶ Super Powers of the Financial Services Industry (FSI), greater than Parliament
- ▶ The lack of transformation in the financial services sector
- ▶ Size of the Financial Services Industry
- ▶ Deradicalization of the FSI
- ▶ Why FS Charter and the BBBEE Act will not transform the economy
- ▶ Why Black Business ownership is desirable than BBBEE
- ▶ Regulator's passive resistance to transformation
- ▶ Role of Regulators as gate keepers
- ▶ Insurance Industry Regulatory changes are unnecessary
- ▶ Why the Tweenpicks is a bad idea
- ▶ What must change to open the Industry to black people

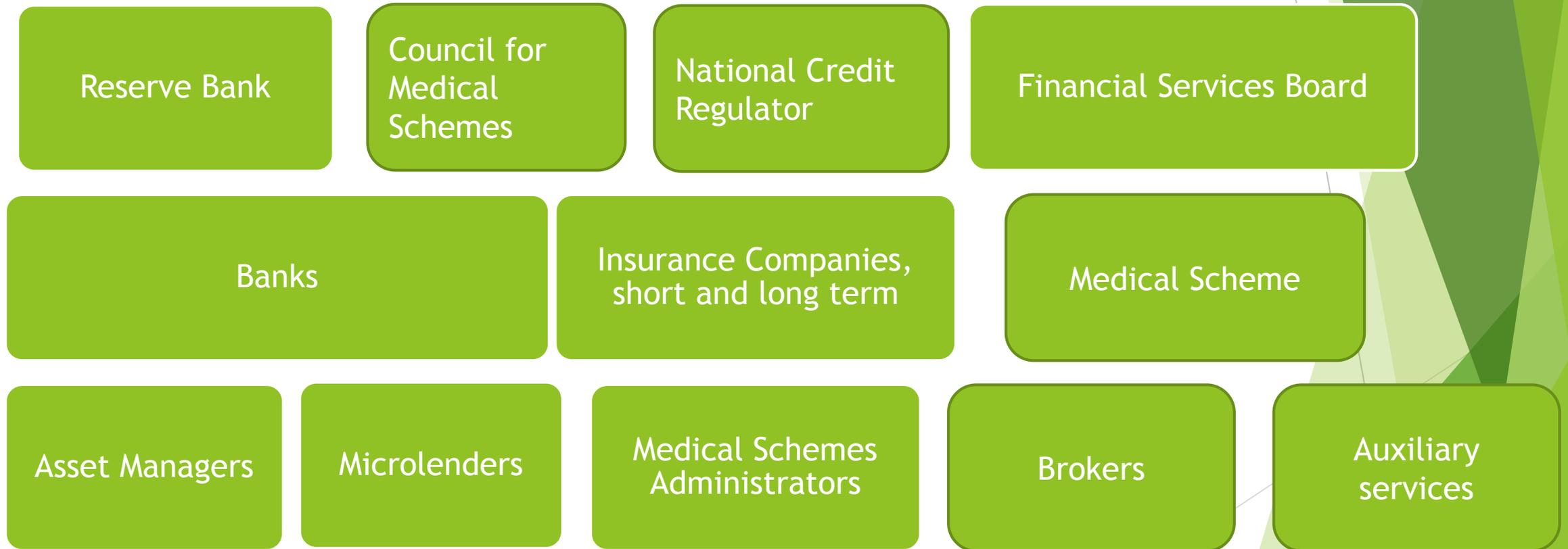
# Introduction

# Introduction and Sad tale of economic apartheid still persists

- ▶ The South African financial sector is regarded as one of the well advanced globally. Little is told about the sad reality that , it hasn't changed much since apartheid was outlawed. It is fundamentally untransformed and its ownership patterns are literally a carbon paper of what apartheid did in its architectural design of South African society.
- ▶ This parliament should look at all financial sector laws and remove all that seeks to entrench the continued racialisation of the financial sector and its high level monopoly.

# Structure of the FSI

# Structure of the Financial Services Industry



The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily triangles and polygons that create a sense of depth and movement. The overall composition is clean and modern, with the text centered in a white space.

# Super Powers of the Financial Services Industry (FSI)

# The Super Power of Bankers and Financial Services Industry

## ▶ Statement attributed to one of the members of Rothschild family

- ▶ I care not what puppet is placed upon the throne of England to rule the Empire on which the sun never sets. The man who controls Britain's money supply controls the British Empire, and I control the British money supply.
- ▶ Give me control of a Nation's money supply, and I care not who makes its laws.

## ▶ In warning the US Congress on control of money supply by Banks, William Pitt said:

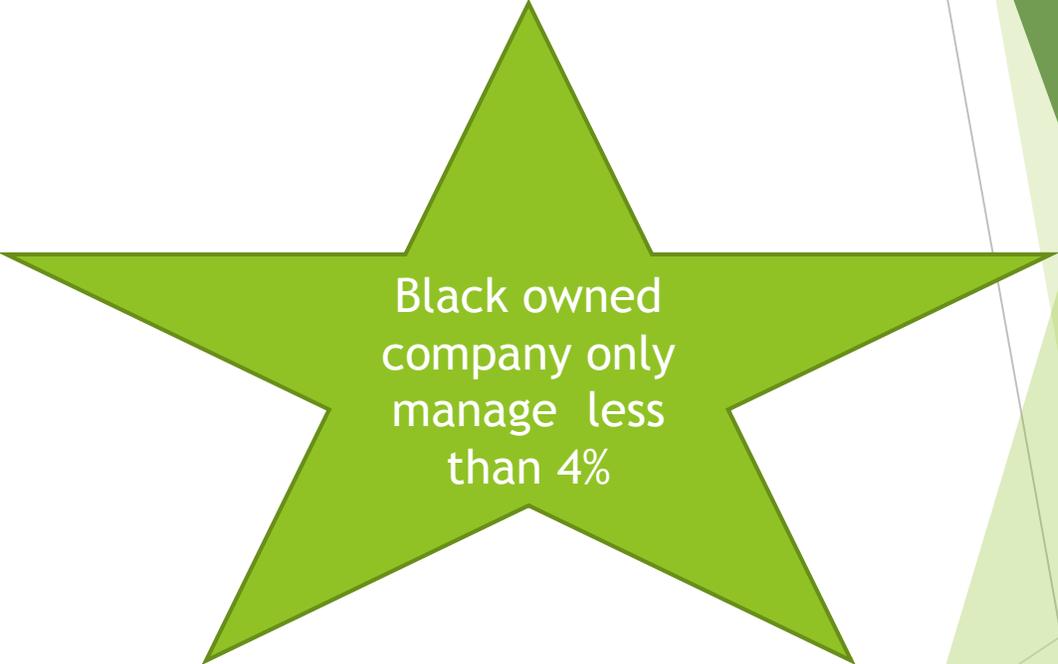
- ▶ Let the American People go into their debt funding schemes and banking systems, and from that hour their boasted independence will be a mere phantom.
- ▶ Thomas Jefferson
- ▶ I believe that Banking Institutions are more dangerous than standing armies

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# Size of the FSI and Participation

# Size of the Financial Services Industry

- ▶ Bank Assets : R4Trillion
- ▶ Insurance Companies : R2.2Trillion
- ▶ Retirement Funds : R4.2Trillion
- ▶ CIS : R1.7Trillion
- ▶ Total : R12.3Trillion



Black owned  
company only  
manage less  
than 4%

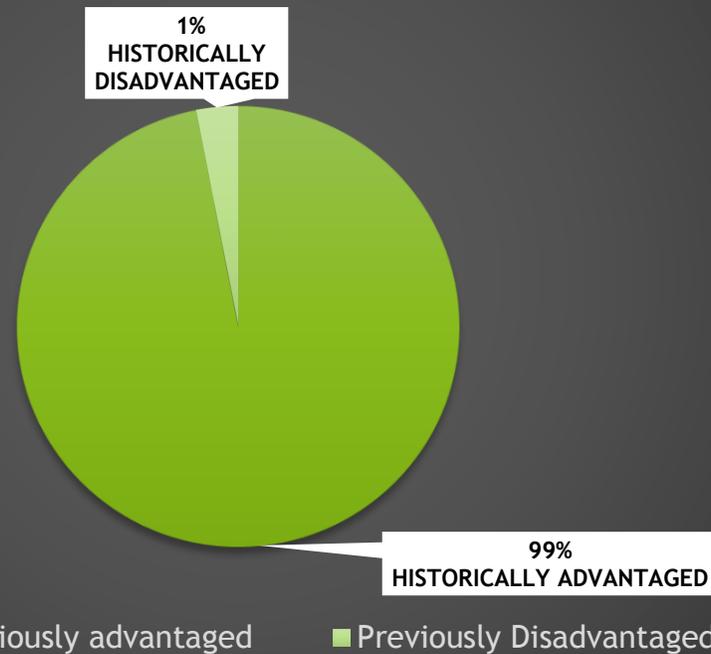
# Deracialization of the FSI

# Deracialisation of the financial sector

- ▶ We applaud parliament for the historic and gigantic step in dealing head-on with the transformation of the Financial Services Sector.
- ▶ This is a challenge of our times that needs to be fought with the same vigour and determination that was employed to dislodge one of the most heinous crimes against humanity in recent times, apartheid.
- ▶ Our freedom will be meaningless without a meaningful transformation of the South African financial sector and unclot it of its racialized character once and for all.

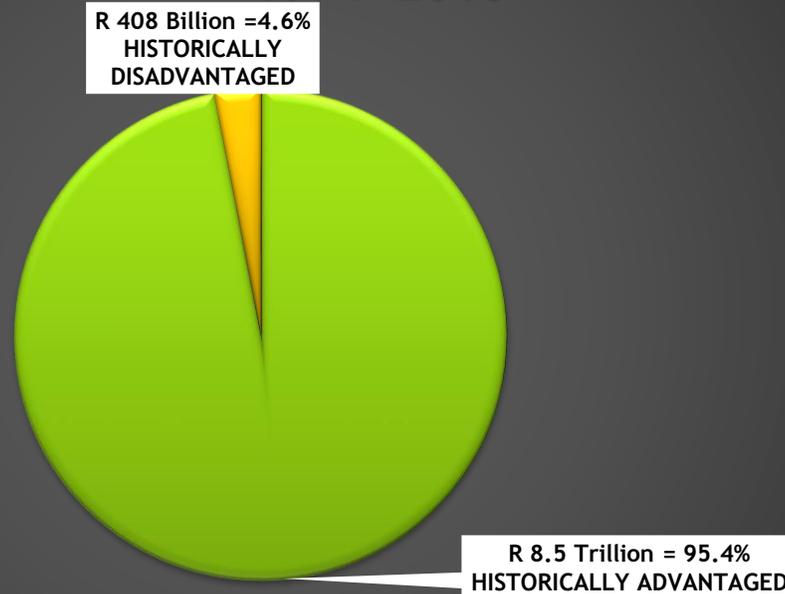
# Market share of insurance companies weighs heavily against black owned companies

OWNERSHIP (MARKET SHARE) OF INSURANCE COMPANIES IN SOUTH AFRICA 1994 - 2016



# Black ownership of assets under management is less than 5% ( except those under the GEPF & PIC)

ASSETS UNDER MANAGEMENT IN SOUTH AFRICA  
1994- 2016



Owned by previously advantaged      Previously Disadvantaged

# Reserve Bank is anti-transformation

## Preference for Big Banks:

- ▶ Apartheid Homelands had Banks and one could argue State/Black Banks
- ▶ Reserve Bank has a policy of killing all those Banks
- ▶ Only big Banks can secure money from RB at Repo rate

## Barriers to entry for new players:

- ▶ After 22 years no Black Bank exist, this must also be the failure of the RB
- ▶ Banking licence requirements are not public knowledge
- ▶ RB not accessible
- ▶ Reserve Requirements for start-ups make no sense

# BANKS:

- ▶ The South African retail banking sector remains highly concentrated with six large banks accounting for more than 90 percent of retail deposits; namely, Standard Bank, Absa, First National Bank, Nedbank, Capitec and Investec.
- ▶ Recent studies of entry and competition in South Africa found that the leading South African retail banks can be said to enjoy market power derived from various factors including barriers to the entry and growth of smaller banks.
- ▶ According to the 2015/2016 World Economic Forum Global Competitiveness Survey South Africa is ranked 8th in Financial Sector Development, out of 140 countries.
- ▶ Besides this international competitiveness , the sector remains painfully untransformed with no meaningful black participation.

# BANKS:

- ▶ Its been 22 years since democracy and there is no Black Bank
- ▶ Banks claim to have transformed and they all have high BEE scorecards and yet no evidence exist on the ground
- ▶ Banks are key to the transformation of other sectors, yet the gate keepers remain white and business funding prefers white people
- ▶ Funding terms for black business have in most cases being hostile, black business is treated same was as black consumers: expensive credit and tight payment terms
- ▶ Unless we have state bank or black bank with significant muscle, the funding of black business will remain a mirage

# Insurance

- ▶ We submitted to this honourable house on 7 February 2017 that the Insurance Bill is unconstitutional to the extent that it fails to incorporate express transformation objectives. Without such incorporation, the Insurance Bill will not pass constitutional muster if challenged on constitutional grounds at a later stage.
- ▶ We further submit that, Parliament should take a holistic approach on all financial sector laws before it and vigorously dissect their value adding proposition to the transformation of our society.
- ▶ Consequently, we invite parliament to consider our submission of the 7 February 2017 together with this submission.

# Retirement Funds

- ▶ Employers use to carry risk on Pension Fund pay-out
- ▶ Employers by virtue of having risk had equal representation of Trustees
- ▶ Employers were released from the risk of guaranteeing the pay-out
- ▶ Employees are now on full risk with regards to their returns and costs
- ▶ Employers have retained control of Provident Funds in the main
- ▶ Employers should not have any absolute right to be Trustees
- ▶ Members should nominate and elect Trustees
- ▶ Employers would be eligible for nomination and election

# Medical Aid

- ▶ Medical Aid Industry is as untransformed as the Banks and Insurance Industry
- ▶ Council for Medical Scheme has placed the appointment of Brokers in the hands of employers, Brokers are supposed to serve Members and therefore should be exclusively appointed by Members
- ▶ Licencing for Administration and Managed Care is subject to acquisition of a contract with a Medical Scheme.

**Why FSI Charter failed  
and all charters will  
fail**

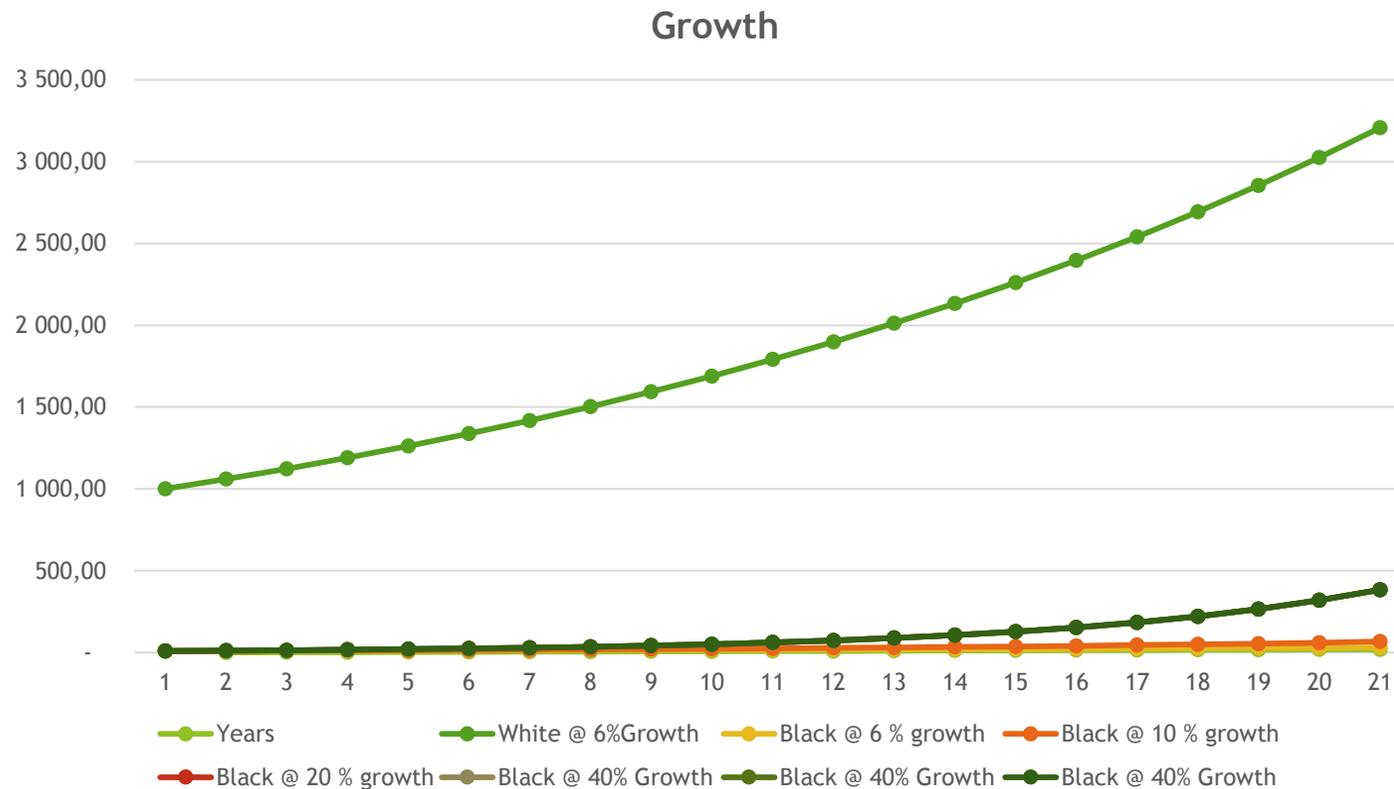
# Why FS Sector Charters have failed

- ▶ They are voluntary
- ▶ They and the BBBEE Act are counter intuitive,
  - ▶ They assume our oppression was just a mistake and not a deliberate act of cruelty and that those who perpetrated such acts have miraculously changed
  - ▶ They assume that telling white business people to refrain from preferring their children, family and friends in favour of blacks and women is a perfectly logical and natural thing for them to do
  - ▶ Whilst BEE was a get out jail card, no proper supervision with the threat of imprisonment for the sins originally committed exists,
  - ▶ They all failed and instead resulted in pitting black against black
- ▶ They do not depend on the beneficiaries but on the former perpetrators of apartheid themselves
- ▶ They and BBBEE Act form the only part of legislation which when contravened the public cannot take action

**Why Black Business  
ownership is MORE  
desirable than BBBEE**



# The NDP's Shared Growth is fallacy, only those who own the economy will benefit from growth.





# Preferential Procurement based on BBBEE will result in still less value going to black people

- ▶ When the state says it is reserving 30% BEE Procurement for Black Companies it means the following
  - ▶ That it is reserving 70% of its procurement for white companies
  - ▶ Since Black Companies have 25% shareholding so Black People will get only 25% of the 30%, making the nett gain to be 7.5%
  - ▶ **Therefore 92.5 % Government has set aside for procurement goes to white owned businesses.**

# BBBEE vs Black ownership

- ▶ We now have experience with the outcomes of BEE and we must ask questions based on evidence, the evidence shows that BBBEE is largely a scam
  - ▶ Who benefited from BEE, just a few individuals
  - ▶ Did workers fund BEE stakes through their retirement fund dilution, the poor being ripped off
  - ▶ If once empowered always empowered refers to white companies as the empowered, has the system been exposed as empowering white companies by their won admission
  - ▶ If BBBEE has resulted in skills development, enterprise development, preferential procurement where is the evidence
  - ▶ Who decided that enterprise development will exclude development of black banks and insurance companies,
  - ▶ Since it is business that chose BEE partners and preferred politically connected individuals, didn't business start the culture of corrupt politicians
- ▶ **Black ownership**
  - ▶ Why is it that BBBEE shunned authentic black business in favour of individuals
  - ▶ Black Business should be more preferential than business partners as none of the BEE people learnt to run business
  - ▶ Black business should be recognised above BEE as the only credible instrument for black empowerment
  - ▶ Only when Black ownership is achieved should an enterprise be deemed to be always empowered, otherwise current "always empowered" status being mooted is mere "regression to white only ownership"

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**Regulators passive  
resistance to  
transformation**

# Regulator's passive resistance

- ▶ SA regulated industries are the most resistant to transformation
- ▶ SA regulated industries are the most profitable and most stable
- ▶ Regulators, regulate in the interest of big players
- ▶ Regulators play the role of gate keepers for the industry, making new entrance difficult and always creating barriers to entry
- ▶ Regulators have obscure licencing requirements, not transparent
- ▶ Regulators are passively resistant to transformation, hence no drive for it as a compliance matter



All players in regulated industries comply with the dictates of the regulator, since they all failed to transform it means the regulator does not care about transformation

# Regulator's passive resistance cont...

- ▶ The FSB is an organ of State. It is bound by Codes of Good Practice issued in terms of the B-BBEE Act when determining criteria for the issuing of insurance licences and making concessions.
- ▶ For example, where clause 30 of the FSB's Notice 158 of 2014 confers upon the Registrar at the FSB the discretion to exempt any insurer from any provision of the Notice, he must do so applying the Codes of Good Practice issued in terms of the B-BBEE Act. The pre-amble to the Code commits all participants (including the FSB) to *“actively promote a transformed . . . financial sector that reflects the demographics of South Africa”*.
- ▶ The pre-amble to the Code commits all participants (including the FSB) to *“actively promote a transformed . . . financial sector that reflects the demographics of South Africa”*.
- ▶ We know of no Ministerial exemption of the FSB from the binding effect of Code of Good Practice pursuant to section 10(2) of the B-BBEE Act.

Why FS Charter and the BBBEE Act will not transform economic change...

**New Insurance Industry  
Regulation unnecessary**

# Financial Sector Regulation Bill

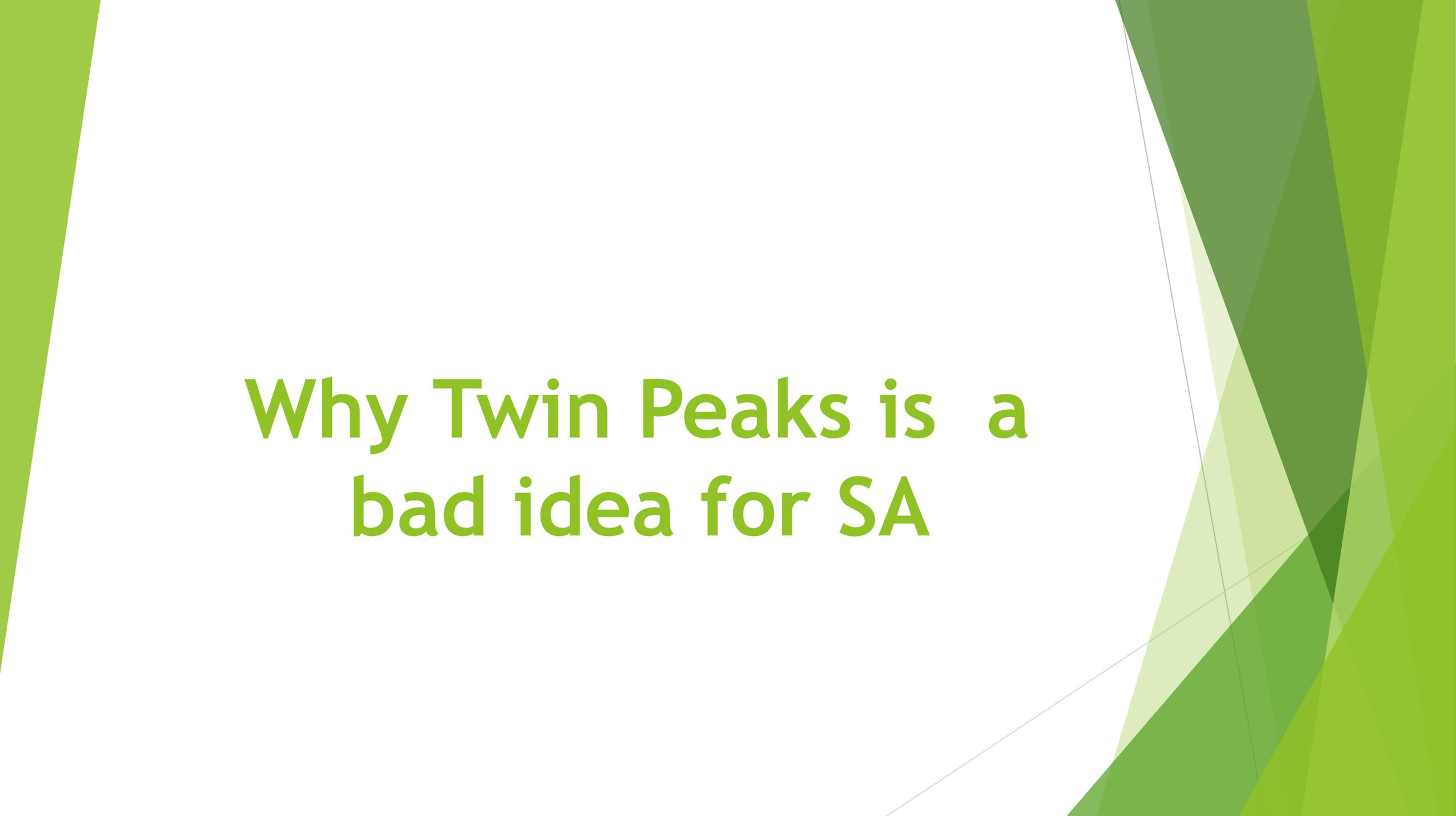
- ▶ It is regretful that the Financial Sector Regulation Bill has been able to pass through several passages without being scrutinised of its transformational agenda.
- ▶ Because the Financial Sector Regulation Bill is still within parliament , we submit with respect that , it is one piece of legislation which should be properly dissected to pass transformational muster.
- ▶ Most laws hinge on it as a transversally applicable law in financial services in South Africa.
- ▶ If it is within its authority parliament should reconsider afresh the Financial Sector Regulation Bill.

# Financial Sector Regulation Bill cont...

- ▶ If the Financial Sector Regulation Bill is not revisited , all the progressive submissions on the Insurance Bill will be futile and these public hearings will serve no basis in so far as finance regulation in South Africa is concerned.
- ▶ This is because , the Insurance Bill which parliament is still considering is also making reference to the Financial Sector Regulation Bill as if it is law already.
- ▶ The incorporation of transformation objectives in the Financial Sector Regulation Bill will ensure that the sector adopts measures designed to protect and advance persons or categories of persons disadvantaged by the mischief of past discrimination so as to promote the achievement of equality and to regularly report to Parliament on its achievements in this aspect.

# Microinsurance

- ▶ The introduction of micro-insurance in its current form will exacerbate the lack of transformation in the industry by opening up only one aspect of the insurance industry and not all.
- ▶ Parliament should consider whether the introduction of micro-insurance will not serve to further balkanise the insurance industry and create permanent walls between those who are relatively rich and have a bigger share in the insurance industry and those who are relatively poor and having a smaller share in the insurance industry.
- ▶ It will not be unnatural for consumers to shy away from Micro Insurance as inferior and any negative activity by any of the Microinsurance companies could prejudice all by creating a self fulfilling prophesy for Microinsurers
- ▶ There should be one insurance dispensation with transparent licensing regime and logical proportionality applied

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# Why Twin Peaks is a bad idea for SA

# Why Twin Peaks is a bad idea

- ▶ The South African FSI is credited worldwide as the most sophisticated, stable and robust
- ▶ This FSI did not induce system risk
- ▶ It also came out unscathed during multiple global financial industry crises, proving to be anti-fragile (see Nassim Taleb book of the same title)
- ▶ The world is overhauling its financial services because of inducement of systemic risks and contagion
- ▶ The implementation of the twin peaks follows European and US Regulators who have to deal with FSI inducing and susceptible to systemic risk
- ▶ The adage that if it is not broken don't fix it should apply to the SA situation.
- ▶ Both the FSB and Reserve Bank have own unique challenges, in an economy that is not growing with 1 million new jobseekers each year
- ▶ Our FSI should not concern itself with imaginary problems

# Reserve Bank: why Twin Peaks is a bad idea

The South African Reserve Bank (the SARB) is the central bank of the Republic of South Africa. It regards its primary goal in the South African economic system as "the achievement and maintenance of price stability".

- ▶ How does the Reserve Bank achieve and maintain price stability when:
  - ▶ It has no control over our weather system, food prices is dependent on the size of the harvest and the harvest depends on rain
  - ▶ It has no control over the Competition laws that allow oligopostic producers who are colluding on price, our economy is overconcentrated
  - ▶ It has no control on administered prices, electricity, water and municipal services
  - ▶ It has no control over currency (including its manipulation) as exchange rate can also be affected by exogenous factors
- ▶ Interest rate charges to SA cant fix inflation, punishes those without old money who need to accumulate assets

# FSB: Why Twin Peaks is a bad idea

- ▶ FSB has administratively managed the insurance and retirement fund sector well
- ▶ The only failure of the FSB is lack of drive for transformation, a major driver
- ▶ The investment strike is in the areas managed by the FSB
- ▶ The FSB has created a too big to fail phenomenon in insurance through mergers
- ▶ The Twin Peaks is a response to a European problem and we are fixing what is not broken, introducing risks

**What should change to  
open the Industry to  
Black people**

# What should change

- ▶ All Regulators must have transformation and Black Business entry as conditions for licencing requirement
- ▶ This transformation must form part of critical compliance factors
- ▶ Licencing conditions must be transparent and logical,
- ▶ Single tier industry with proportionality, no spazainsurance (microinsurance)
- ▶ The Reserve Bank must facilitate the establishment of a Black Bank and offer them credit at Repo Rate like all Banks
- ▶ Barriers to entry must be removed as per slides below
- ▶ Government must play its role and lead the process of change
- ▶ Government must be biased towards the previously disadvantaged who are painfully suffocated by the current system

# Financial sector barriers to entry are interwoven and dovetailing

- ▶ Our submission is that , there is a interwoven practice that seeks to exclude black companies in the financial services sector akin to a well crafted strategy.
- ▶ The current practice that insurance companies in South Africa are compelled to use Banks , Auditing Firms and Actuarial firms that have been ring-fenced is not assisting the transformation agenda and stands to be revisited.
- ▶ With the banking and the auditing sectors being untransformed , this practice further haemorrhages any attempt to transform the financial services sector.
- ▶ We send kids to school , when they graduate they cant open firms and even if they do , they cannot get work because the structure excludes small players.

# Financial sector barriers to entry cont...

- ▶ More often than not, it is black graduates who suffer these consequences having battled also at university, a classic case of double jeopardy
- ▶ Available research indicates that many South African companies enjoy very high profit margins, often 50 percent higher than in other countries. But these margins are often built upon barriers that both hurt consumers and block potential competitors.
- ▶ This gels with the prevailing statistics attributed to Prof Thomas Piketty ( Nelson Mandela Annual Lecture 2015) , that 60%-65% of South Africa's wealth is concentrated in the hands of just 10% of the population.
- ▶ This points to uncompetitive monopolistic behaviour and the racialized character of the South African financial sector.

# BEE abused to sugar-coat racial disparities

- ▶ Protagonists of economic exclusion are quick to point at BEE as a cannon fodder to deal with racial economic disparities.
- ▶ Current statistics are indicative of the fact that interventions like BEE have not assisted in shifting back racial economic barriers because they are based in the main on voluntary market transactions and have proved to have been a useful tool of sugar-coating racial disparities.
- ▶ There is a need to radically ensure that transformation of the financial sector is legislated and doesn't hinge on the pace and preferences dictated upon by apartheid beneficiaries.

# Why should parliament put transformation objectives

- ▶ Should parliament put transformation objectives in all financial sector legislation , there will be no lip service given to issues of transformation and Minister of Finance will be duty bound to give effect to that goal and the constitutional injunction.
- ▶ Transformation in the financial sector will become legally enforceable through the courts. Courts and tribunals will have an obligation to review decisions to ensure compliance with, among other things, the objectives of transformation.
- ▶ Parliament and the Judiciary will have a political and legal mechanism respectively to hold the executive, and in particular the Prudential Authority to account in relation to constitutional imperatives of transformation of the financial sector.

# Conclusion

- ▶ South Africa has capable men and women to play a meaningful role in changing the racial composition of the financial sector.
- ▶ If the industry is unwilling to transform itself , this parliament must legislate these transformational imperatives.
- ▶ The sad reality is that, based on current statistics, we haven't moved much since apartheid was outlawed to open up the financial sector to all South Africans.
- ▶ We have an urgent duty to break these economic apartheid walls that keep on reminding us about the painful past which took away the dignity of our people in the country of their forefathers.



► Realebuha ! Siyabonga!  
Siyabulela ! Dankie!