1. **Report of the Standing Committee on Finance (SCoF) on the Financial Sector Regulation Bill [B 34B–2015], dated 7 June 2017**

Introduction

1. The Financial Sector Regulation Bill [B 34B-2015] (Bill) was passed by the National Council of Provinces (NCOP), subject to proposed amendments, on 25 May 2017, and referred to the Standing Committee on Finance.
2. The proposed amendments by the NCOP pertain substantially to three areas. First, the protection of financial customers in respect of matters that arose during the hearings on the transformation of the financial services sector. Second, alignment of the powers given in the Bill to enter and inspect premises subject to the Bill to similar powers assigned in the recently passed Financial Intelligence Centre Amendment Bill [B 33B–2015]. Lastly, amendments to address issues in respect of financial conglomerates that arose in the public hearings on the Insurance Bill.
3. The issue of closing of bank accounts was raised during the public hearings on the transformation of the financial services sector. The NCOP proposed to amend clause 106 of the Bill to provide the Financial Sector Conduct Authority with the responsibility to make conduct standards in respect of refusal, withdrawal or closure of a financial product or a financial service by a financial institution. The Committee supports this proposed amendment.
4. The NCOP further proposed amendments to clauses 132, 135, 137, 138 and 140 to align the powers given in the Bill to enter and inspect or investigate premises subject to the Bill to similar powers assigned in the recently passed Financial Intelligence Centre Amendment Bill. Whilst the Committee supports these proposed amendments, it found that these clauses require fine-tuning to ensure consistency with the Financial Intelligence Centre Amendment Bill. Hence the Committee removed for investigations the power given to an investigator to enter and search premises without the prior authority of the head of the financial sector regulator or senior staff member of that regulator, as is provided in the Financial Intelligence Centre Amendment Bill. The Committee further added for inspections and investigations that consent to enter private premises must also be given by the person apparently in control of the business, in addition to the occupant. This is the position in the Financial Intelligence Centre Amendment Bill. Lastly, the grounds for issuing a warrant by a magistrate or a judge were aligned with the similar provision in the Financial Intelligence Centre Amendment Bill.
5. In respect of amendments to address issues in respect of financial conglomerates that arose in the Insurance Bill, the Committee supports the proposed amendments of the NCOP to Chapter 12 of the Bill. These amendments further entrench the right to administrative action that is lawful, reasonable and procedurally fair provided for in section 33 of the Constitution and contained in the Promotion of Administrative Justice Act, 2000.
6. There were two issues the Committee could not proceed with, in terms of the Rules of Parliament, because they were not related to any amendments made by the NCOP Select Committee:
   1. Costs of transitional amendments: In Clause 304 on “Additional Transitional Arrangements” to insert a new sub-section 3: “When performing duties or functions in terms of this section, the Minister shall take into account the costs of implementation to businesses, as well as the implications for financial inclusion of all South Africans.” The Committee agrees with this proposed amendment but cannot effect it. It proposes that the Minister takes into account this proposed amendment.
   2. Minister must submit fees and levies proposals to National Assembly for Approval: In clause 239 on “Budget, Fees and levies proposals” it was proposed that in the first financial year the Minister must submit the proposals “to the National Assembly for approval, together with the finalised budgets for reference”. The Committee did not discuss this proposal at any length. However, it will consider it when it processes the Financial Sector Levies Bill or any other relevant Bill introduced to Parliament reasonably soon.
7. The Committee, having reconsidered the Bill, is not authorised to propose any amendment which is not strictly relevant to the amendments proposed by the NCOP in terms of rule 307(2)(b) of the Rules of the National Assembly. As the Constitution permits a reconsideration of the Bill, taking into account the proposed amendments of the NCOP, the Committee recommends that the rule be reviewed to ascertain whether it is constitutionally permissible to allow more latitude to make amendments that were not proposed by the NCOP.
8. The Committee agrees with the many useful amendments made to the Bill by the NCOP Select Committee on Finance and expresses its appreciation for the very good work done by it.
9. The Committee, having considered the Bill, subject to proposed amendments, report an amended Bill (B 34D – 2015).

Report to be considered.