



26 July 2017

PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES

Attention: Mr V Ramaano

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Dear Sir

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WRITTEN SUBMISSIONS ON THE CYBERCRIMES AND CYBERSECURITY BILL 2017 BY JSE LIMITED ("JSE")

1. The JSE submits the following submission to the Portfolio Committee on Justice and Correctional Services in relation to the 2017 Cybercrimes and Security Bill ("**the Cyber Bill**"):

1.1. In subsection 1 of the Cyber Bill, the definition of "**financial institution**" is defined as a:

"financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990)".

1.2. The Financial Services Board Act will be repealed (in its entirety) by the Financial Sector Regulation Bill, which has been passed in Parliament and has been sent to the President for assent. The definition of "**financial institution**" in the Cyber Bill should be changed to refer to the Financial Sector Regulation Bill, which in turn defines a "**financial institution**" as:

"... any of the following, other than a representative:

(a) a financial product provider;

(b) a financial service provider;

(c) a market infrastructure; (own emphasis)

(d) a holding company of a financial conglomerate; or

(e) a person licensed or required to be licensed in terms of a financial sector law".

A "**market infrastructure**" as defined in the Financial Sector Regulation Act is:

"... each of the following, as they are defined in section 1(1) of the Financial Markets Act:

(a) a central counterparty;

(b) a central securities depository;

(c) a clearing house;

(d) an exchange; and

(e) a trade repository;".

1.3. In addition, the term "**financial sector regulator**" is used in the Cyber Bill in Chapter 11 (Critical Information Infrastructure Protection) but it is not defined in the Cyber Bill. This term is also not defined in the Financial Sector Regulation Bill, however a "**financial sector body**" is defined therein as:

"... each of the following:

(a) the Prudential Authority;

(b) the Financial Sector Conduct Authority;

(c) the Tribunal;

(d) the Ombud Council;

Executive Directors: NF Newton-King (CEO), A Takoodeen (CFO)

Non-Executive Directors: N Nyembezi-Heita (Chairman), AD Botha, Dr M Jordaan, Dr SP Kana, DM Lawrence, Dr MA Matoane, AM Mazwai, NP Mnxasana, NG Payne

Alternate Directors: JH Burke, LV Parsons

Group Company Secretary: GA Brookes

- (e) *the Office of the Pension Funds Adjudicator; and*
- (f) *the Office of the Ombud for Financial Services Providers”.*

- 1.4. The term “**regulatory body**” is also used in the Cyber Bill in Chapter 11 (Critical Information Infrastructure Protection) but it is not defined in the Cyber Bill.
 - 1.5. The Portfolio Committee on Justice And Correctional Services is requested to clarify whether a “**market infrastructure**” that is obliged to regulate and supervise authorised users, clearing members and participant (all of which fall within the ambit of the definition of a “**financial institution**” in terms of the Financial Sector Regulation Bill) is to be considered to be a “**financial sector regulator**” or “**regulatory body**” in terms of the Cyber Bill.
2. Should you have any queries on the above submission please contact Diane Appelgryn (dianea@jse.co.za; 011 520 7003 or Anne Clayton (annec@jse.co.za or 011 520 7791) for further information.

Yours faithfully

DIANE APPELGRYN
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