Standing Committee on Finance and the Portfolio Committee on Trade and Industry

1st Report on the Transformation of the Financial Sector

15 November 2017

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The table below lists the acronyms used in this Report for the reader's ease of reference.

Glossary of acronyms

Abbreviation	Reference
27four	27four Investment Managers
ABSA	Barclays Africa
ABSIP	Association of Black Securities and Investment Professionals
AIDS	Acquired Immune Deficiency Syndrome
AL	Actuaries Lekgotla
ASISA	Association for Savings and Investment South Africa
ATM	Automated Teller Machine
BAGL	Barclays Africa Group Limited
BASA	Banking Association of South Africa
B-BBEE	Broad-Based Black Economic Empowerment
BBC	Black Business Council
B-BBEE Commission	Broad Based Black Economic Empowerment Commission
BFLF	Black First Land First
BIAC	Black Insurance Advisors Council
BIOA	Black Insurance Owners Association
BMF	Black Management Forum
CBDA	Co-operative Banks Development Agency
CCRED	Centre for Competition, Regulation and Economic Development
CFI	Co-operative Financial Institution
CIT	Corporate Income Tax
CompCom	Competition Commission
COSATU	Congress of South African Trade Unions
CPA	Consumer Protection Act
CSR	Corporate Social Responsibility
DGRV	German Co-operative and Raiffeisen Confederation
DTI	Department of Trade and Industry
ESD	Enterprise and Supplier Development
FEDUSA	Federation of Unions of South Africa
FIASA	Financial Intermediaries Association of Southern Africa
FIA	Financial Intermediary Association
FIC	Financial Intelligence Centre
FRG	First Rand Group
FSB	Financial Services Board
FS Campaign Coalition	Financial Sector Campaign Coalition
FS Charter	Financial Sector Charter
FS Charter Council	Financial Sector Charter Council
FSC	Financial Sector Code
FSP	Financial Service Providers
FSRB	Financial Sector Regulation Bill
GDP	Gross Domestic Product
GEPF	Government Employees Pension Fund
HIV	Human Immunodeficiency Virus

IDC	Industrial Development Corporation
INSETA	Insurance Sector Education and Training Authority
JSE	Johannesburg Stock Exchange
MAFR	Mandatory Audit Firm Rotation
MFSA	Microfinance South Africa
MoF	Ministry of Finance
MP	Member of Parliament
NACFISA	National Association of Co-operative Financial Institutions of South Africa
NACSA	National Apex Co-operative of South Africa
NACTU	National Council of Trade Unions
NBBC	National Black Business Caucus
NCA	National Credit Act
NCR	National Credit Regulator
NDP	National Development Plan
NEDLAC	National Economic Development and Labour Council
NEF	National Empowerment Fund
NPS	National Payment System
NT	National Treasury
PAYE	Pay-as-You-Earn
PCTI	Portfolio Committee on Trade and Industry
PIC	Public Investment Corporation
REIT	Real Estate Investment Trust
SACP	South African Communist Party
SADF	South African Development Foundation
SAIA	South African Insurance Association
SARB	South African Reserve Bank
SASSA	South African Social Security Agency.
SAVCA	Southern African Venture Capital and Private Equity Association
SBAC	Small Business Advice Centre
SBSA	Standard Bank of South Africa
SCOF	Standing Committee on Finance
SED	Socio-Economic Development
SIB	Systemically Important Banks
SMMEs	Small, Medium and Micro-sized Enterprises
SOE	State-Owned Enterprises
WCGC	Wealth Creation Global Co-operative
WCTA	Western Cape Towing Association

PART I

1. First Report

1.1. This is the First Report of the Standing Committee on Finance (SCOF) and the Portfolio on Trade and Industry (PCTI) on the Transformation of the Financial Sector and is based on public hearings held earlier in the year. The Report will be reviewed each year based on progress on implementation of the recommendations in this Report, the finalisation of issues on which the Committees need to do more work and new issues that may emerge. This means that we may remove or amend some of the recommendations in this Report if necessary, especially if they are not able to be implemented for sound reasons, and we may add other recommendations following further consideration of issues we cannot decide on now and new issues that may emerge. For now, we hold to the Recommendations in this Report. The recommendations in Section 12 of this Report, it must be stressed, cannot be separated from Section 13, which refers to the Programme of Action to be developed.

1.2. Aspects of the Report will be dealt with regularly but a review of the Report as a whole will take place annually. The Committees will finalise a 2nd Report on Financial Sector Transformation within 6 months of the FS Summit.

2. Aims of Public Hearings

2.1. The SCOF and the PCTI had public hearings on the transformation of the financial sector on 14 March, 22 March and 3 May 2017. While the Committees recognised that there has been transformation in the financial sector since 1994, the sense they have is that there is still significant space for further transformation. In any case, the need for further transformation of the financial sector emerged in various public hearings, in the constituency work of Members of Parliament (MPs), in political meetings and in the public domain through the media and in other ways.

2.2. In the processing of the Financial Sector Regulation Bill (FSRB) in 2016, the SCOF had to deal with transformation issues in a more focused way. In its 30 November 2016 Report on the Bill, the SCOF noted: "The Committee recognises that the main banks in South Africa function in a globalised 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."

2.3. "While recognising the constraints of doing this in this Bill," the report further notes "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 Code (FSC) 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 co-ordination 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 (B-BBEE) provisions in the Financial Sector, and particularly the FSC, falls 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 PCTI, organise public hearings in the first half of next year on the implementation of the FSC and further transformation of the financial sector. The need to finalise issues related to the Postbank and give greater attention to co-operative 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."

2.4. The Report also noted: "In considering transformation issues, the Committee will also be looking into the reasons for and the implications of the high level of monopoliation 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. "

2.5. The Trade and Industry Committee has also through its work, had to confront the need for more effective transformation of the financial sector.

2.6. The hearings were meant to encourage dialogue among the stakeholders and contribute towards at least a minimum level of consensus on what actions need to be taken to ensure more effective transformation. They were meant to complement the engagement the stakeholders are having through other forums.

2.7. The hearings were also meant to assist the Committees in processing legislation before them on the transformation of the financial sector.

3. Participants in the Hearings

3.1. The Committees received 62 submissions from a wide range of stakeholders including government departments, regulatory and other statutory agencies, industry bodies, business, labour, civil society, political organisations and individuals. 53 of these stakeholders made oral submissions to the joint sittings.

3.2. The state structures that took part in the hearings were: the National Treasury (NT), the Department of Trade and Industry (DTI), the Broad-Based Black Economic Empowerment (B-BBEE) Commission, the South African Reserve Bank (SARB), the National Credit Regulator (NCR), the National Empowerment Fund (NEF), the Co-operative Banks Development Agency (CBDA), the National Economic Development and Labour Council (NEDLAC), and the Financial Sector Charter Council. The banking subsector included: the Banking Association of South Africa (BASA), Barclays Africa (ABSA), First Rand, Standard Bank of South Africa (SBSA/Standard Bank), and Nedbank. The non-banking financial subsector included: the Johannesburg Stock Exchange (JSE), Association for Savings and Investment South Africa (ASISA), South African Insurance Association (SAIA), Association of Black Securities and Investment Professionals (ABSIP), Black Insurance Advisors Council, Black Insurance Owners Association, Maxima Advisors, Macrofinance SA, 27four Investment Managers, Retail Auto Aftermarket Federation, South African Towing Board, South African Auto Repairers and Salvage Association, South African Builders Contractors Civil Association, and Western Cape Towing Association, and Actuaries Lekgotla. The co-operatives sector included: the National Apex Co-operative of South Africa (NACSA/SANACO), the National Association of Co-operative Financial Institutions of South Africa (NACFISA), the German Co-operative and Raiffeisen Confederation, the Limpopo Forum Secondary Financial Co-operative, and the Wealth Creation Global Co-operative. Labour and Political Organisations included the Congress of South African Trade Unions (Cosatu), the South African Communist Party (SACP) and Black First Land First (BFLF). The other civil society organisations included: the Financial Sector Campaign Coalition, Finmark

Trust, the Centre for Competition, Regulation and Economic Development (CCRED), the Black Business Council (BBC), the Black Management Forum (BMF), the National Black Business Caucus, Firstsource Money, Osiba Holdings, Regiments Capital, Intellidex, the South African Development Foundation (SADF), Payment Solutions and CASISA. The members of the public who took part were Ms Yvonne Oberholzer, Ms Brigitte Brun, Mr Keith Levenstein and Mr Fred Arij.

3.3. Parliament belongs to the people and they must be free to say whatever they want within, of course, the limits of the law and the norms of parliamentary hearings. The hearings were open-ended and people were free to speak on any matter they wanted to about the financial sector. The Committees believe that our Parliament has become distant from the masses, and it needs to become far more rooted among the people again, as is required in terms of the Constitution and laws of the country.

3.4. The overviews of the submissions made to the Committees provided in this Report are very brief and condensed. The full submissions of the participants in the hearings are to be found on Parliament's website and can be accessed at www.parliament.gov.za/SCOF. The overviews of the submissions in this Report seek to reflect as accurately as possible the views of the participants, and inferences should not be drawn that the Committees necessarily agree with these views because they are referred to in the overviews. The Committees' own views are only expressed in the "Committees' Observations and Recommendations" in section 12 of this report.

3.5. This Report first deals with a brief overview of South Africa's financial sector. It then summarises the presentations made by state structures and then other stakeholders. This is followed by the Committees' observations and recommendations.

4. Use of Terms

4.1. The term 'black' as used in this Report refers to all people of colour – African, Coloured and Indian. While this generic term is useful at times, at other times it is not; used in many cases to refer to demographic composition, it does not often reveal the underrepresentation of Africans, and can be misleading. Hence it is important in many instances to break down the term 'black' into its constituent categories of African, Coloured and Indian to provide a more accurate demographic representation.

4.2. This Report uses the term ‘subsector’ to refer to categories within the financial sector. This is not a term participants in the financial sector necessarily use, nor is it used in an objective or clinical way. It is used to recognise the specificity of sections of the financial sector that can be seen as similar and it is used to facilitate the structuring of this Report.

4.3. In the discussions at the hearings and in the Committees’ subsequent deliberations the terms ‘Financial Sector Charter’ and ‘Financial Sector Codes’ were used interchangeably and sometimes conflated. However, the Committees note that the Financial Sector Charter (FS Charter) was a voluntary agreement by financial sector stakeholders to promote social and economic integration and access to the financial services. It was facilitated through NEDLAC as part of the agreements reached at the 2002 Financial Sector Summit. Subsequent to the introduction of the sector charter the B-BBEE legislation was enacted in 2003 and the Generic Codes developed. The Financial Sector Charter was reviewed to seek to align to the Generic Codes and was gazetted under the B-BBEE legislation as a sector code in 2012 and thus termed the Financial Sector Code. Amendments were made to the Generic Codes in 2013 which made a number of improvements, and so the Financial Sector Code has been amended and approved by Cabinet in November 2017. It will be gazetted shortly. The Code will be reviewed to take into account the Financial Sector Summit process and the recommendations made in this Report.

PART II

5. OVERVIEW OF SOUTH AFRICA’S FINANCIAL SERVICES SECTOR

5.1. Overview

5.1.1 South Africa’s financial sector is highly regarded globally as well-developed and sophisticated. In the 2016 World Economic Forum’s Global Competitiveness Report, South Africa is ranked in the top 10 countries on efficiency, trustworthiness and confidence, availability of financial services, and the regulation of security exchanges.

5.1.2 It comprises well-established capital markets, banks and non-bank financial firms specialising in insurance, savings and investment management. South Africa’s financial sector controls about R12 trillion worth of assets, which is four times the country’s GDP, and contributes about 21,6% of the country’s GDP and over 30% of corporate income tax per annum. It employs more than

250,000 people and contributes 47,7% of Pay-as-You-Earn Personal income Tax. The South African economy has become highly financialised since 1994.

5.1.3 According to NT:

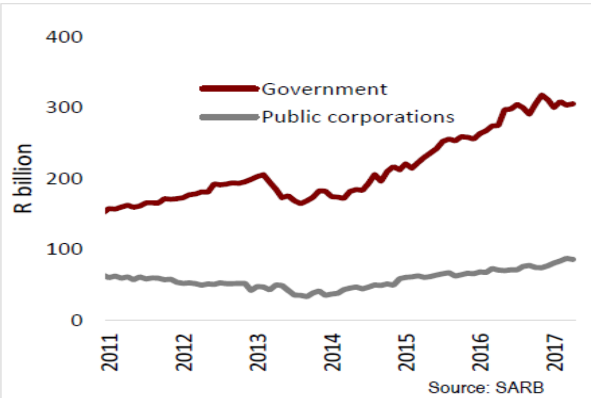
Table 1: Financial sector (FIRE) PAYE and CIT contribution

R'000	2015/16
Net PIT	388,102,385
PAYE	185,304,739
% contribution	47.7%
R'000	2015/16
Net CIT	191,151,643
Provisional CIT	77,550,397
% contribution	40.6%

Source: National Treasury

South Africa's financial sector is critical to fiscal health as a funder of government directly through loans to government, and indirectly through tax revenues.

Bank loans to government and bank purchase of government securities:



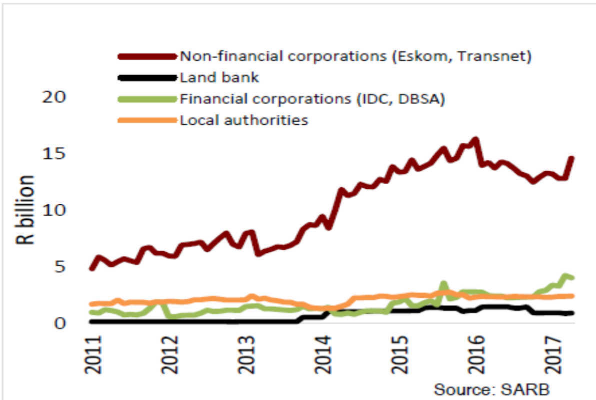
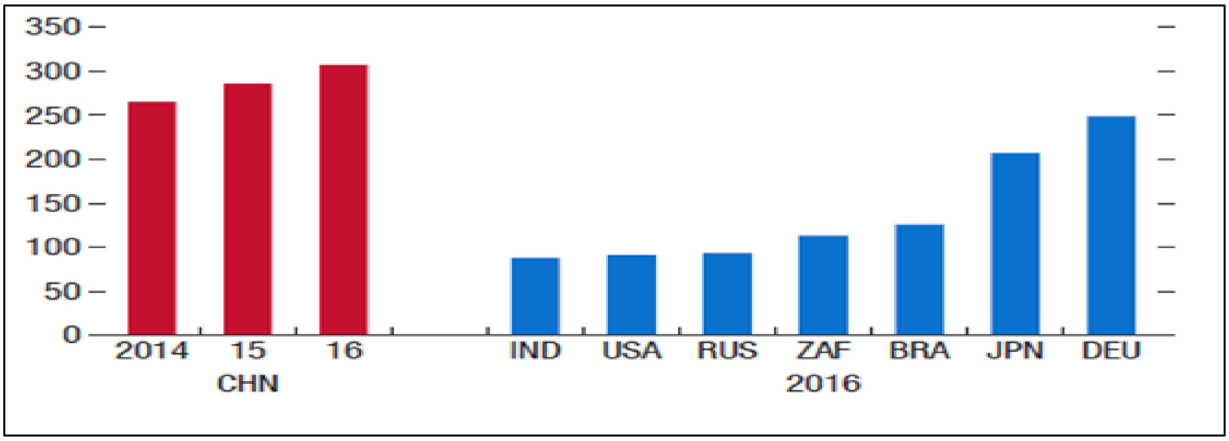


Figure 1: Bank loans to government and bank purchase of government securities

The financial services sector had grown from contributing 15% of the GDP in 1994 to the present 22% surpassing government, which contributes about 17.2% of GDP per annum.

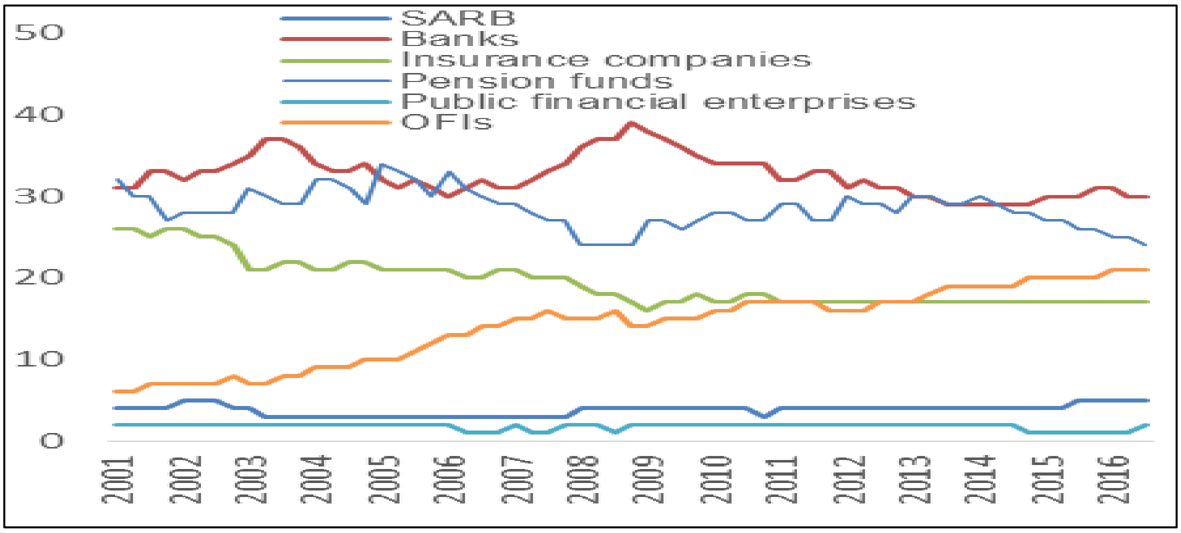
Total Bank Assets to GDP:



` Source IMF

Figure 2: Total Bank assets to GDP

However, there has been significant change in the distribution of financial assets within the financial sector. Banks have hardly grown their share of financial assets over the past 15 years, insurers' share of financial assets has declined while 'other financial institutions' (largely made up of store credit providers etc) have grown substantially.



Source: National Treasury Documentation

Figure 3: Distribution of financial assets between financial intermediaries in South Africa

5.1.4 The financial sector plays a key role in the economy as an intermediary. It is not only the custodian of the nation's savings, but also provides finance which is needed for economic growth and development. While banks play a critical role of providing financing and credit, the savings and investments industry acts as the custodian for long-term savings. The savings and investments industry directs investments through loans and bonds to government, State-Owned Enterprises and local authorities, corporates and households.

5.2 Banking Subsector

5.2.1 According to SARB's 2016 figures, the banking subsector manages R4,8 trillion in assets, or about 112% of the country's GDP, and has 16 local banks (from 40 in 1994), 15 local branches of foreign banks, 36 representative offices of foreign banks, 2 co-operative banks and 2 mutual banks.

5.2.2 South Africa has high concentration levels in the banking industry with the 'big four' banks, which are ABSA (Barclays), Standard Bank, Nedbank and FirstRand, accounting for over 80% of the total banking subsector assets and market. This, together with real and perceived high prices for banking services and products, has raised serious concerns about the need for competition in South Africa's banking subsector.

5.3 Non-banking Subsector: Savings, Insurance and Investments

5.3.1 South Africa's non-banking sector is dominated by the savings and insurance subsectors. The long-term insurance, short-term insurance, savings and investment industries control assets of about R9,4 trillion[1], about half of which is from the retirement savings subsector (R4,7 trillion), and the other half from Life Offices (R2,6 trillion), Unit Trusts (R1,8 trillion), and short-term insurance (R156 billion).[2]

5.3.2 According to ABSIP, the long-term insurance market is highly concentrated with the top four players (Old Mutual, Sanlam, MMI Group and Liberty) accounting for 67% of the total assets of Life Offices, while 69 players share the remaining 33%.

5.3.3 South Africa has about 130 asset management companies who manage assets of about R9 trillion but only R408,3 billion (or 4,6%) of the total assets of the sector is managed by black asset management companies[3].

1 ASISA Presentation. According to 27four's Presentation, this figure is R8.9 trillion.
2 ASISA Presentation, citing SARB Quarterly Report of 30 June 2016.
3 ABSIP Presentation

5.3.4 There are two types of asset managers. The first are institutional investors, which include retirement or pension funds, endowment, life insurance companies, corporates and banks. Institutional investors accounted for assets of about R5,014 trillion in 2016[4]. The second type are retail investors, which include individuals with discretionary funds or savings to invest. The top 10 asset managers[5] hold approximately 70% of assets under management and 77% of the market, while the Top 5 hold over 50% of assets, indicating high levels of concentration, despite the seemingly large number of players in this subsector.

5.3.5 According to ASISA, these savings are invested in government bonds (R1,8 trillion), corporate bonds and loans (R784 billion), equities (R5 trillion), fixed property (R94 billion or 1%), and the remaining R1,6 trillion in bank accounts.

5.3.6 South Africa has about 5150 pension funds, which include the Government Employees Pension Fund (GEPF) and official funds. There are also 82 long-term insurers, 99 short-term insurers and 1284 Unit Trusts and Collective Investment Schemes[6].

5.3.7 The short-term insurance industry manages R156 billion worth of assets and contributes about 3% to the country's GDP (ASISA presentation). This R156 billion comprises capital required to pay future claims (SAIA). It provides insurance policies against losses covering, amongst others, motor vehicles, property, personal effects and liability.

5.3.8 According to SAIA, in 2015, local gross written premiums amounted to R108 billion and the industry incurred over R61 billion in claims[7]. This made up a 56% claims ratio.

5.3.9 According to ABSIP, short-term insurance is also highly concentrated with the top 5 players (Santam, Hollard Insurance, Guardrisk, Mutual & Federal and Outsurance) accounting for 50% of the total gross premiums and the remaining 85 players sharing the remaining 50%.

5.4 Financial Markets

5.4.1 The Johannesburg Stock Exchange (JSE) is South Africa's stock exchange and has been in existence for 130 years. The JSE has 325 companies listed on its Main Board and 56 companies listed on AltX, a market for small and medium cap companies. The JSE is ranked among the top 20 stock exchanges in the world and it was ranked number 3 in the world in the 2016/17 World

[4] ABSIP Presentation
[5] Allan Gray, Coronation, Investec, Nedgroup Collective Investments, Stanlib, Prudential, Old Mutual, Sanlam and Foord
[6] ASISA Presentation
[7] SAIA Presentation

Economic Forum Global Competitiveness Survey for the quality of its regulation. The Public Investment Corporation (PIC) is the largest single investor in the JSE. About R22 billion is traded daily in the JSE[8].

PART III

6. BROAD-BASED BLACK ECONOMIC EMPOWERMENT CODES AND THE FINANCIAL SECTOR CODE

6.1 The legal framework for transformation: The B-BBEE Act

6.1.1 The DTI, through the Minister of Trade and Industry, is responsible for issuing the Codes of Good Practice (hereinafter the Generic Codes) in line with section 9 (1) of the Broad-Based Black Economic Empowerment Amendment Act (Act no.46 of 2013). The codes are a means of encouraging and incentivising transformation in various sectors of the economy, including the financial sector, to redress the apartheid exclusion of blacks from participating equitably in the economy.

6.1.2 In line with this, stakeholders in various sectors of the economy may draw up Sector Codes and Scorecards for their sectors. The Sector Codes are a mechanism for implementing, monitoring progress and enforcing transformation at sectoral level.

6.1.3 The Generic Codes seek to address the skills backlog, skewed participation in the economy, competitiveness, reduction of poverty and unemployment, and the need to create a strata of black people who have sufficient income to lift their living standards and create long-term wealth in black hands.

6.2 The Financial Sector Code (FSC)

6.2.1 The FSC emanates from the NEDLAC Summit of 2002. Various stakeholders met to develop the FS Charter including government, represented by the NT, DTI and the Presidency; black professionals represented by ABSIP; labour represented by Cosatu, the National Council of Trade Unions (NACTU) and the Federation of Unions of South Africa (FEDUSA); the NEDLAC

[8] JSE Presentation

community sector represented by the FS Campaign Coalition; Trade Associations represented by the BASA; ASISA; the JSE, the Financial Intermediaries Association of Southern Africa (FIA), and the Southern African Venture Capital and Private Equity Association (SAVCA). All these stakeholders belong to the FS Charter Council.

6.2.2 In 2004, the FS Charter came into effect as a voluntary code, as was agreed upon at NEDLAC. In 2007, the DTI promulgated the Generic Codes in line with the B-BBEE Act. In 2009, talks to realign the FS Charter with B-BBEE Act Generic Codes commenced. In 2012 the aligned FS Charter was agreed to at NEDLAC and gazetted by the Minister of Trade and Industry. It then became a section 9 sector code under the BBBBE Act.

6.2.3 In 2013, the Generic Codes were revised again to increase some targets. It was envisaged that their implementation would be phased in over 18 months. In April 2015 the revised Generic Codes officially came into force in sectors that did not have their own Sector Codes. Sectors that have Codes had to revise them to be in line with the 2013 Generic Codes by October 2015. However, there have been delays in revising some Sector Codes, including the new FSC.

6.2.4 The new FSC adopted by Cabinet recently has sought to be realigned to the 2013 Generic Codes. The Committees understand that it will be reviewed taking into account the FS Summit process and the recommendations in this report. In the submissions below, participants in the public hearings refer to the 'Draft FSC', as it was still a draft then. The term 'new FSC' refers to the FSC adopted by Cabinet recently.

6.3 The B-BBEE 2013 Scorecard

6.3.1 The B-BBEE Scorecard as promulgated by the Minister of Trade and Industry prescribes the minimum prescripts for the implementation and measurement of transformation. There are five criteria to implement, measure and allocate incentives for transformation:

6.3.1.1 **Ownership**: which measures the effective ownership of enterprises by black people.

6.3.1.2 **Management Control**: measures the effective control of enterprises by black people.

6.3.1.3 **Skills Development**: measures the extent to which employers contribute to improving the skills of black employees and black people in society generally.

6.3.1.4 **Enterprise and Supplier Development (ESD)**: measures the extent to which enterprises buy goods and services from 'Empowerment Suppliers' with strong B-BBEE recognition levels and implement supplier development and enterprise development initiatives to assist the growth and sustainability of black enterprises.

6.3.1.5 **Socio-Economic Development (SED)**: measures the extent to which enterprises contribute towards socio-economic development or sector-specific initiatives that promote access to the economy for black people.

6.4 The Realigned FSC Scorecard

6.4.1 The new FSC has three Scorecards which accommodate different types of financial institutions based on their specificity. The Scorecards are for (a) banks and long-term insurers, (b) short-term insurers and (c) other non-insurance and non-banking financial institutions.

6.4.2 There are disparities between the measurement scores for various elements between the 2013 B-BBEE Generic Code Scorecard and the new FSC Scorecard. This is notable on the Ownership element where the Generic Code allocates 25% instead of the 20% in the new FSC Scorecard.

Table 2: Generic Code Scorecard (2013) and Realigned New FSC Scorecard

<table>
<tr><th>Element</th><th colspan="2">Generic Codes</th><th colspan="4">New FSC</th></tr>
<tr><td></td><td>Main</td><td>Bonus points</td><td>Life Offices and Banks</td><td>Short-term Insurers</td><td>Other financial institutions</td><td>Bonus Points all</td></tr>
<tr><td>Ownership</td><td>25</td><td>0</td><td>20</td><td>20</td><td>20</td><td>5</td></tr>
<tr><td>Management Control</td><td>19</td><td>0</td><td>20</td><td>20</td><td>20</td><td>0</td></tr>
<tr><td>Skills Development</td><td>20</td><td>5</td><td>15</td><td>15</td><td>15</td><td>3</td></tr>
<tr><td>Procurement</td><td rowspan="2">40</td><td rowspan="2">4</td><td>15</td><td>20</td><td>20</td><td rowspan="2">4 (8)</td></tr>
<tr><td>Enterprise and Supplier Development Funding</td><td>0</td><td>15</td><td>15</td></tr>
<tr><td>Empowerment Financing (15 Sector-Specific 10 ESD)</td><td>0</td><td>0</td><td>25</td><td>0</td><td>0</td><td>4 (0)</td></tr>
<tr><td>Access to Financial Services</td><td>0</td><td>0</td><td>12</td><td>12</td><td>0</td><td>0</td></tr>
<tr><td>Socio-economic development</td><td>5</td><td>0</td><td>5</td><td>5</td><td>5</td><td>3</td></tr>
<tr><td>TOTAL</td><td>109</td><td>9</td><td>112</td><td>107</td><td>95</td><td>19</td></tr>
</table>

Source: Department of Trade and Industry, Presentation

6.4.3 The DTI explained to the Committees that the new FSC Scorecard is different to the Generic Codes Scorecard because some subsectors of the financial sector such as banks and long-term insurers are highly regulated, i.e. Basel III. It further explained that local branches of foreign banks will do an equity equivalent of 25% of value in South Africa. Stand-alone asset managers and other industry players who are not subject to regulated capital requirements under Basel and SARB and the FSB regulations will be subject to the Generic Scorecard targets.

6.4.4 To make up for the deviation in the Ownership element, banks, long-term insurers and short-term insurers have an element for empowerment financing which could serve as a catalyst for black business growth (R100 billion in potential funding), the DTI explained.

6.4.5 On the Management Control element, the DTI explained that all the FSC targets are aligned to the 2013 Generic Codes.

6.4.6 The FSC has tiered targets for Skills Development weighted towards lower level skills in organisations.

6.4.7 The ESD element is designed to cater for the core business of the sector and seeks to address transformation of the entire financial sector value chain, the DTI explained. ESD funding and procurement targets will be phased in over three years. Specific procurement spend aims to increase access to the market for black-owned intermediaries such as stockbrokers and fund managers.

6.4.8 ESD spend requirements for banks and long-term insurers are included under empowerment financing. It was explained by the DTI that the beneficiaries of supplier development by banks are not limited to those that directly do business with them. This means that banks that financially support a black industrialist who is in the manufacturing sector can claim supplier development points.

6.4.9 The SED element in the FSC differs slightly from the Generic Codes in that it contains a component of consumer education. The full value of SED contribution is recognised if it at least targets 75% of the value directed at black beneficiaries. In recognition of the current challenges faced in the funding of higher education, the financial sector has also incentivised support for the Fundisa programme in the form of a grant.

6.4.10 The Empowerment Financing element is unique to the financial sector and includes such aspects as transformation infrastructure financing (funding of previously neglected areas such as townships and rural areas), black agricultural funding aimed at assisting the land reform process, low-cost housing, and black business growth funding/BEE transaction funding.

6.4.11 The Access to Financial Services element is also unique to the financial sector and includes such aspects as inclusive banking, and access to affordable short and long-term insurance risk cover.

PART IV

7. STATE, STATUTORY INSTITUTIONS AND REGULATORY AGENCIES

7.1 National Treasury (NT)

7.1.1 NT believes that economic transformation, deracialisation and reducing inequality are critical for both political and economic stability.

7.1.2 The priority for NT was mass-based and sustainable transformation rather than transformation that will benefit a few. Meaningful transformation of the financial sector was not merely about ownership of financial firms, but also about how the sector supports real economic activity. This includes the need to generate asset wealth for more South Africans, financial inclusion, ensuring competitive charges for products and services, and ensuring that appropriate products were sold to consumers.

7.1.3 It is important to know who owns the firms that manage assets, how sensitive they are to the country's needs, how the assets are invested and put to use, whether the assets support procurement, empowerment financing and socio-economic development, and who decides on this.

7.1.4 NT said a transformed financial sector has to be deracialised, as reflected in its ownership and management control, which should be more reflective of the country's demographics. Enterprise development, procurement of services from black businesses, and increased access to funding for small businesses are key components of transformation.

7.1.5 Such a transformed sector would also support economic development and competition by funding infrastructure and capital projects that promote growth and jobs and ensuring more competition and less market concentration. The impact of transformation should translate to a sector that works for all South Africans, helping them to save, borrow, insure and transact.

7.1.6 NT said that there is a need for a holistic response to transformation and this required significantly higher savings, which, together with broad structural reforms in the economy, will create space for growth by domestic financial institutions.

7.1.7 The FSC's slowdown between 2008 and 2012 had affected the process of setting appropriate targets for transformation and it envisaged that NEDLAC's planned Financial Sector Summit will serve as a basis to review the FSC targets.

7.1.8 NT said that it is debatable whether the BEE Generic Codes do enough to promote inclusive growth and mass-based transformation, and benefit members of retirement funds who lost shares every time there was a new BEE deal. Therefore there was a need to review the BEE codes to effect mass-based transformation.

7.1.9 The Generic Codes would need to take better account of regulatory requirements. There was also a need to evaluate whether the BEE funding model used by major companies was sustainable, especially in an environment of low growth and rising interest rates.

7.1.10 NT raised challenges related to ownership transformation in listed companies. It was important to ensure that black ownership was more broad-based and less geared. For most JSE companies, direct ownership was limited to around 30%. Currently, black ownership was only 10% and white ownership was 20% in the JSE listed companies. The data did not show how much of this black ownership (10%) is geared. About 37% of listed companies' shares are owned by foreign investors. Most shares are owned by institutional investors, about 30% of which belong to domestic institutions.

7.1.11 NT said that multinational companies may be less flexible to give away their equity. It would therefore help to set requirements of joint ventures and non-ownership targets such as enterprise development, management control and employment equity for foreign multi-national companies.

7.2 Department of Trade and Industry (DTI)

7.2.1 The DTI reported that there is currently no adequate data on the current performance of the financial services sector in terms of its compliance with the B-BBEE and FSC transformation scorecards. There was no official structure to monitor and enforce compliance, it said. The DTI explained that the B-BBEE Act was amended in 2013 to address that defect and has led to the establishment of the Broad-Based Black Economic Empowerment Commission (B-BBEE Commission) in 2015. The newly established B-BBEE Commission plays the role of investigating, monitoring and enforcing compliance with the B-BBEE legislation and sector codes.

7.2.2 The FS Charter Council continues to play some role in monitoring the implementation of the FSC but there has been very poor reporting by the industry and a low response rate to FSC reviews. Industry co-operation is voluntary and the Council has no legal authority to ensure enforcement.

7.2.3 Citing the 2013/14 report of the FSC, the DTI said that there was a slow pace in expanding access to affordable and reliable financial services including the wider distribution of affordable insurance products and services.

7.2.4 The DTI submitted that the FSC should focus on enterprise and supplier development investments in key industrial sectors such as manufacturing, automotive, textiles and others that have a high labour absorption rate.

7.3 National Economic Development and Labour Council (NEDLAC)

7.3.1 NEDLAC was responsible for the 2002 Financial Sector Summit and the establishment of the FS Charter Council. NEDLAC is to organise another Financial Sector Summit which will review the 13 Financial Sector Summit Agreements of 20 August 2002. These agreements were:

7.3.1.1 Ensuring access to basic financial services and improving the quality of life of South Africans;

7.3.1.2 Jointly researching the economics of basic financial services;

7.3.1.3 Developing sustainable institutions to serve poor communities;

7.3.1.4 Ensuring the enactment of enabling legislation for second and third-tier deposit-taking financial institutions;

7.3.1.5 Developing proposals on ways to enhance the developmental impact of the regulatory framework;

7.3.1.6 Ensuring support for co-operatives and micro-credit providers;

7.3.1.7 Promoting the development of appropriate regulations for micro-lenders to minimise the negative effects of usurious practices;

7.3.1.8 Ensuring the development of the regulations of credit bureaus;

7.3.1.9 Eliminating discrimination;

7.3.1.10 Ending discrimination against people with HIV/AIDS and developing appropriate services for them;

7.3.1.11 Increasing participation in capital markets and investment;

7.3.1.12 Making proposals for improved Development Finance Institutions (DFIs) and other state-owned financial institutions; and

7.3.1.13 Encouraging and developing savings initiatives.

7.3.2 NEDLAC said that the general findings about the failure of the 2002 Financial Sector Summit Agreement and then later the FS Charter were that the environment in which the 2002 Agreements were made was 'completely different to today'. Since then, a number of financial regulations and laws have been enacted. These laws and regulations have tightened up how financial support and aid are provided. More people now have access to financial products than ever, citing an increase from 42% in 2003 to 58% in 2016, if SASSA card holders were excluded, as recently found by the FinScope Survey.

7.3.3 Although many financial institutions had codes of conduct and specialised products for poorer people, there continues to be discrimination. Poorer consumers are more likely to be treated unfairly by financial institutions. Townships and rural areas continue to be neglected and this undermines access to basic financial services in an environment where costs remain high and the financial infrastructure is inadequate. 'Redlining' was still happening, although in a more subtle manner; for example, tracking companies now demarcate some areas as 'dangerous'.

7.3.4 While there are now insurance products for people living with HIV and credit life insurance on outstanding credit, insurance companies still applied stringent criteria and higher than normal premiums for those living with HIV . This was a form of discrimination which was camouflaged around the risk hypothesis. This generally exacerbated the negative stigma on people living with HIV. Financial institutions should play a role in changing that stigma by stopping discrimination.

7.3.5 Developmental investment has been seen as only government-driven, while the private sector needs to also play a more significant role. There is a need for a single database of all development projects and investment opportunities.

7.3.6 The Dedicated Banks Bill for second-tier financial institutions for companies interested in entering the banking system as Savings and Loans entities was not processed. The Co-operative Banks Act (Act No. 40 of 2007) was enacted to establish third-tier financial institutions in the form of Co-operative Banks and Financial Institutions. Two co-operative banks have been established and 32 CFIs. The CBDA has received very limited funding, about R40 million, over the past four years.

7.3.7 Savings in South Africa seem to have stagnated. The 2016 FinScope survey showed that only 33% of South Africans were saving and 15% were saving through formal banks. These low savings were mainly because disposable income is low and in many black households earners have to support many dependants – the 'black tax'.

7.4 Financial Sector Charter Council (FS Charter Council)

7.4.1 The FS Charter Council was established in 2004 through NEDLAC's Financial Sector Summit which adopted the 2002 FS Charter. Its mandate is to oversee all matters relating to the FSC and its implementation, report on transformation progress, issue interpretive guides and standards, and create awareness of and commitment to the FS Charter.

7.4.2 Many companies in the sector have already started implementing some of the provisions of the new FSC, which is pending final promulgation by the Minister.

7.4.3 Responses to the review were received from asset management companies, local banks, international banks, long-term insurers, non-bank lenders, reinsurers, retirement fund administrators, short-term insurer schemes, stockbrokers and the JSE. The review covered the 2014 and 2015 reporting periods. SAVCA and FIA were exempted from reporting for these periods.

7.4.4 The target for the 2013 B-BBEE Generic Scorecard Ownership element is 25%. The FS Charter Council review found that the weighted average for black economic interests was 26,71 % in 2014 and dropped below the target to 23,94% in 2015. On black women shareholding, the weighted average was 10,79% in 2014, exceeding the target of 10%, but dropped to a weighted average of 8,41% in 2015.

7.4.5 Management Control is measured in two ways: the average of black executives and black women who are members of Boards. The target for black executives is 50% and for women 25%. All the targets on Management Control were not achieved: 23,26% of black executive members of Boards of companies in 2014, which dropped to 22,59% in 2015 and black women executive members were 11,91% in 2014, which increased to 13,27% in 2015, missing the 25% target in both years.

7.4.6 Against a target of 60%, the weighted average of black senior managers was 32,32% in 2014 and 33,46% in 2015. Against a target of 30%, the weighted average for black senior managers was 13,08% in 2014 and 13,61% in 2015.

7.4.7 Against a target of 0,3%, the weighted average for black disabled skills development spend was 0,03% in 2014 and 0,05% in 2015.

7.4.8 The scorecard target is 70% spend with B-BBEE suppliers. In 2014, the Sector's weighted average spend was 101,19% and 102,87% in 2015.

7.4.9 Against a weighting of 5 for entities reporting Empowerment Financing, an average score of 4,92 was achieved in 2014 and 4,56 in 2015. For entities that do not report Empowerment Financing, the weighting is 15 and an average score of 11,2 was achieved in 2014 and 13,88 in 2015.

7.4.10 On Socio-Economic Development, a score of 3 is set as a target, but only 2,50 was achieved on 2014 and 2,55 in 2015.

7.4.11 On Access to Financial Services, the target is an average score of 14 and only 8,86 was achieved in 2014 and 8,77 in 2015.

7.4.12 On Consumer Education, a target is a weighting of 2, and an average of 1,5 was achieved in 2014 and 1,75 in 2015.

7.4.13 The FS Charter Council acknowledged that the amended FSC has some shortfalls, but believes it should be gazetted as soon as possible and that it can be amended to take account of the decisions at the Financial Sector Summit and the recommendations in this Report.

7.5 The South African Reserve Bank (SARB)

7.5.1 The SARB said that the role of the Bank is to protect the value of the currency; regulate and supervise banks; regulate the payment, clearing and settlement system; and contribute towards the achievement and maintenance of financial stability.

7.5.2 In 2016, South Africa had 16 local banks, 16 controlling companies, 3 mutual banks, 15 local branches of foreign banks, 2 co-operative banks and 36 representative offices of foreign banks. The banks controlled assets of R4,87 trillion, which amounted to 112% of the country's GDP.

7.5.3 The market share of banks by assets as at January 2017 was 24,92% - Standard Bank; 20,51% - FirstRand; 19,30% - ABSA; 17,70% - Nedbank; 8,02%- Investec; 1,46% -Capitec Bank; and 8,09% - other banks. The top 6 banks control over 90% of market share by assets, while the 'big four' banks control over 80%.

7.5.4 At the turn of the century, there was a global trend towards consolidation of banking institutions. South Africa faced a mini banking crisis around 2002 which saw the exit of about 22 small and medium-sized banks. In 2003 the market share of the 'big four' banks increased to 82% due to mergers and acquisitions. The 'big four' banks still maintain this dominance, although there are new entrants who are gaining some market share.

7.5.5 The SARB argued that market concentration in the banking sector had market advantages such as resilience to a financial crisis. Larger banks are normally better capitalised, which means more lending and support for financial inclusion. The risks of market concentration include anti-competitive behavior amongst the dominant players and contagion in instances of systemic failures.

7.5.6 The SARB has put buffers in place and was awaiting the introduction of more regulatory measures to mitigate against the risks associated with bank concentration. These included the licensing of new entrants, robust competition policy, the introduction of a dedicated market conduct regulator, a resolution framework for systemic banks, higher prudential requirements, capital add-ons for systemically important banks (SIBs) and greater regulatory responsibilities for large banks such as recovery and resolution plans and an enhanced anti-money laundering framework.

7.5.7 The key licensing conditions included a minimum capital requirement of an unencumbered R250 million or 8% of Risk Weighted Assets; fit and proper requirements for directors and executive officers; a prudent and sustainable business model; compliance with international regulatory regimes such as Basel, the Financial Action Task Force's anti-money laundering and counterterrorism financing standards, the FSB's resolution framework and other public interest considerations, which include transformation. The SARB had licensed 12 institutions between 2011 and 2016 which included 1 local bank, 1 controlling company, 1 mutual bank, 4 local branches of foreign banks, 2 co-operative banks and 12 representative offices of foreign banks.

7.5.8 The SARB said that the National Payment System (NPS) would have to embrace the concept of a 'transactional account' that may be hosted by qualifying service providers who would be regulated for that purpose in order to promote financial inclusion.

7.5.9 There is a need to establish an appropriate regulatory framework for money remittance service providers or money transfer operators who are not necessarily banks and review the overall access path for service provision in the payment system.

7.5.10 In a subsequent note to the Committees, the SARB stressed that it is important to focus on raising black equity participation in the sector; however, there should also be equal focus on the other elements of transformation in order to address the risk of narrow outcomes which limit the potential benefits of transformation.

7.5.11 A strategy to transform the sector should also foster increased lending to black people; higher levels of and meaningful employment and management roles for black people in the sector; enterprise development support (i.e. the creation and support of black-owned firms in addition to equity participation in predominantly large, foreign-owned, existing firms); effective competition policy which unravels vertically integrated value chains and supports competition; lending and providing support to the township economy; making rural housing markets work; funding infrastructure; funding SMEs and product innovation; supplier development; and investment in financial literacy.

7.5.12 Critical to the success of this approach is economic growth as a key imperative of sustainable transformation. Without growth, funding equity participation through dividend flows is expensive and unsustainable as corporate profits decline. Furthermore, enterprise development will not work in the context of demand constraints in a shrinking economy, SMEs will fail, rising unemployment will undermine greater levels of employment equity and will halt credit extension, including to black people. Basically, there can be no transformation without growth and in South Africa's context, there should be no growth without transformation. Transformation should be broad-based, multidimensional and growth-enhancing to be sustainable.

7.6 The Co-operative Banks Development Agency (CBDA)

7.6.1 The CBDA is the regulatory agency for co-operative banks established in terms of the Co-operative Banks Act of 2007.

7.6.2 The CBDA's mandate is to regulate and supervise co-operative banks and financial institutions, to build their capacity and to provide liquidity support through loans and grants (Stabilisation Fund).

7.6.3 Primary CFIs and co-operative banks consist of at least 200 members. Secondary CFI and co-operative banks consist of at least 2 primary co-operative banks or CFIs or a combination of each. Tertiary/Apex CFIs and co-operative banks are made up of at least 2 secondary co-operatives.

7.6.4 The current banking services, which are provided by co-operatives are savings accounts, loan products, brokerage services and financial literacy training and advice. Only a few co-operatives offer transmission services currently. They are generally not for-profit organisations like commercial banks are, but their purpose is to provide financial services to their members who own them. They are modelled to give profits back to members and ensure lower fees and better interest rates on loans. In this way they enable members to build capital, to be sustainable or self-sufficient and to look after their members' welfare and they are directed at community development.

7.6.5 The registration requirements for co-operative banks and financial Institutions include having a minimum of 200 members, R100 000 members share capital and R1 million in member deposits for co-operative banks.

7.6.6 The main roles of the CBDA are regulation and supervision, which involve the registration of co-operative banks, renewal of licences, deregistration and issuance of infringement notices, and supervision and monitoring.

7.6.7 The main challenges for the CBDA include lack of regulatory powers, as it cannot close down co-perative banks and financial institutions that are not registered and cannot effect management and Board changes or enforce corrective action. There is also a high staff turnover at the CBDA as employees are poached by other better paying agencies including the SARB. The developmental mandate of CFIs conflicts with the deposit protection mandate and there is no deposit insurance for CFI members.

7.6.8 Co-operative banks and financial institutions controlled assets of R279 million. This was very low compared to elsewhere in Africa and globally.

7.6.9 There has to be a deliberate policy position on co-operative banking which will entail government taking a firm stand on co--operative banking as a tool for financial sector transformation. A National Co-operative Banking Strategy needs to be developed. A National Co-operative Bank, as well as a Co-operative Bank for government employees and public representatives, is necessary. There also needs to be co-operation between the Postbank and the CBDA.

7.6.10 There needs to be a review of the regulatory and legislative framework, particularly on the R30 million deposit limit set for co-operatives, the limit on 15% external credit, the limited investment vehicles, the exclusion of CFIs from financial support, and the capitalisation of CFIs.

7.6.11 To protect consumers, there needs to be a deposit insurance fund because members are 100% exposed should the institutions lose funds, especially as they are predominantly from the most vulnerable strata.

7.6.12 There needs to be a review of the co-operative banking model. The dependence on member contributions for capitalisation delays economic growth. There should be more emphasis on enterprise lending to support SMMEs and promote CFIs as intermediaries at local level. There must also be minimum skills and competency requirements for Boards, managers and personnel.

7.6.13 The R16 million budget limits the performance of the CBDA.

7.6.14 A decision needs to be made about the proper location of the CBDA, especially with regard to the implementation of the 'Twin Peaks' regulatory framework, which sees the supervision unit of the CBDA moving to the SARB. The CBDA suggested that:

7.6.14.1 Its mandate be expanded to include micro-insurance and it be changed to the Financial Services Sector Development Agency; or

7.6.14.2 A decision be made about whether it should remain within NT or be located in the Department of Small Business Development, as it is the custodian of co-operatives, or within the proposed Co-operatives Development Agency.

7.6.15 The FSC should include clear targets for the support of the co-operative banking sector, including mentorship/incubation for new entrants by experienced banking experts.

7.6.16 The 10% fines collected by the Competition Commission on commercial banks for foreign exchange manipulation should be remitted to the co-operative banking support fund. 1% of commercial banks' annual turnover should also be remitted towards that fund.

7.6.17 There needs to be a co-operative sector banking industry body to represent the interests of the sector. A secondary co-operative bank needs to be established to provide the sector with liquidity and ensure that co-operatives and SMMEs deposit their money in their own bank. Commercial banks should also provide access to the NPS.

7.6.18 The CBDA proposes that MPs, in conjunction with PASA and the SARB, investigate the solution to expand the 'Designated Clearing Participant' option to be more inclusive without compromising the National Payment System. The CBDA said it offered a Banking Platform and Shared Services which are compliant with the NPS.

7.6.19 There needs to be a National Co-operative Banking Academy to build skills in the sector. This will also serve to attract youth to the co-operative banking sector.

7.7 Broad-Based Black Economic Empowerment Commission (B-BBEE Commission)

7.7.1 The B-BBEE Commission said that the Draft FSC Scorecard had several weaknesses. It introduces exemptions and exclusions for multinationals, provides for automatic approval of equity equivalent without any legislative mandate from the B-BBEE Act, compromises the application to organs of state and public entities and so creates a specialised Scorecard. The Draft FSC has set no timelines for the review of the proposed targets. This is of concern as the targets were set very low as compared to the B-BBEE Generic Code.

7.7.2 The low Ownership targets set in the Draft FSC Scorecard show that the sector is not willing to fast-track transformation; instead it aims to achieve the minimum possible transformation.

Ownership targets have been diluted through the introduction of an equity equivalent of Empowerment Financing and Access to Financial Services elements.

7.7.3 The Draft FSC Scorecard varies from the Generic Codes without addressing the existing challenges of low compliance percentages at top and senior management within the sector.

7.7.4 On the Skills Development targets of the Draft FSC, there is a bias towards white people.

7.7.5 The targets for preferential procurement and ESD are below those in the Generic Code.

7.7.6 The provision for consumer education in the FSC is not necessary as it was normal business practice for financial institutions to provide consumer education. It is not necessary to reward companies for normal business practices which are already provided for in the National Credit Act, the Consumer Protection Act and the regulations administered by the FSB.

7.7.7 The 'Once Empowered, Always Empowered' principle undermines transformation as it means that companies with a demonstrable track record of black shareholding over a sufficient period of time are given a permanent black empowerment status. When black shareholders have exited such companies, these companies continue to be recognised as empowered. This principle should not be included in any sector codes as it is against the spirit of transformation. The exclusion of this principle will ensure that companies initiate and finance new black ownership transactions in order to remain B-BBEE compliant.

7.8 The National Credit Regulator (NCR)

7.8.1 The presentation of the National Credit Regulator (NCR) focused on the purpose of the National Credit Act (No 34 of 2005) (NCA), the status of the credit market in South Africa and proposals for interventions in the low-income markets by credit providers.

7.8.2 The NCA seeks to promote the social and economic welfare of South Africans, and a fair and accessible credit market and industry and protects consumers. The NCA does this by promoting the development of a credit market that is accessible to all South Africans, particularly those who have been historically unable to access credit under sustainable market conditions. The NCA also seeks to ensure access to finance through credit extension and thus plays a role in economic empowerment.

7.8.3 There are over 7500 credit providers that are registered with the NCR, with about 42 000 branches across the country. Among these 7500 credit providers, only 187 had a debtors/loan book of more than R100 million. By 30 September 2016, about R1,6 trillion was owed to credit providers. Of this R1,6 trillion, 82% (R1,3 trillion) was owed to banks, 2,1% (R35 billion) to retailers, 5,6% (93 billion) to non-bank vehicle financiers and 10% (R166 billion) to other credit providers. 51,9% (R867 billion) of this R1,6 trillion gross debt book was for mortgage loans; 22,7% (R379 billion) - secured credit; 13% (R217 billion) - credit facilities (credit cards, overdrafts, revolving loans, etc.); 9,8% (R163 billion) - unsecured credit; 0,2% (R2,8 billion) - short-term credit; and 2,5% (R41,3 billion) - development finance.

7.8.4 Overall, less than 10% of credit of any type is granted to rural areas, less than 40% to women, and less than 50% to historically disadvantaged persons. 89% of mortgage loans were granted to individuals with an income of R15 000 per month or more, with only 11% going to those who earn less than R15 000 per month. 57% of unsecured credit was granted to people with an income of R15 000 per month and above, while 43% was granted to those with an income of less than R15 000 per month.

7.8.5 Credit providers should provide a new range of products for building materials in order to promote access to affordable housing for low-income earners. This should be targeted at new customer segments which were previously excluded such as low-income families and micro businesses operating in villages.

7.8.6 Banks and other credit providers should undertake Corporate Social Responsibility (CSR) initiatives that are targeted at promoting women-owned businesses. Their CSR should also develop home loan products for rural areas and seek to improve the livelihoods of communities they operate in, such as funding for schools and clinics in rural villages, as is done by the Commercial International Bank in Egypt.

7.8.7 Credit providers should provide more funding towards consumer education.

7.8.8 The NCR supports the establishment of co-operative banks and co-operative financial institutions.

7.9 National Empowerment Fund (NEF)

7.9.1 The NEF was established by the National Empowerment Fund Act No. 105 of 1998. The NEF is mandated to promote black economic participation through the provision of financial and non-financial support to black businesses, as well as by promoting a culture of savings and investment among black people.

7.9.2 The NEF said that JSE-listed companies within the financial services sector had not met targets set out in the current 2012 FSC and this undermined transformation efforts.

7.9.3 The NEF said that according to a study of JSE-listed companies, which sampled the top 17 financial services companies by market capitalisation, black ownership was at 6% against the FSC target of 10%. The successes reported on meeting the Empowerment Financing element of the 2012 FSC Scorecard should be treated with caution since they cannot be validated due to poor reporting and the absence of effective monitoring of measured firms.

7.9.4 The Most Empowered Companies Survey published annually since 2004 has shown some level of transformation on the basis of verified scorecards of companies listed on the JSE. Since 2009, some financial services companies have been consistently featuring in the top 10 of these survey results, with some of them being banks, which ranked in the top 3 consistently. These results showed the skewed manner in which companies in the financial services sector applied the 2012 FSC Scorecard. The latter had lower targets as compared to the Generic Codes in the B-BBEE Act.

7.9.5 There are differences between the 2012 FSC and the Generic Codes. The 2012 FSC target is 10% for direct ownership, which is significantly lower than the 25% target in the Generic Codes. There could be flaws in the Draft FSC as it allows companies to use indirect ownership to meet the 25% Ownership element target. B-BBEE legislation does not allow the Ownership element points to be claimed for indirect ownership. The ownership scores should be based on current market capitalisation rather than on the 2010 baseline, which is now outdated.

7.9.6 The Draft FSC allows for financial services companies to earn higher points for pillars of the Generic Codes that relate specifically to the industry, i.e. Empowerment Financing and Access to Financial Services elements. The banking and long-term insurance companies target investments are respectively R48 billion and R27 billion for Empowerment Financing across the four pillars of Transformation Infrastructure, Black SME Financing, Black Agricultural Financing, and Affordable Housing. For the BEE Transaction Financing and Risk Capital to support economic growth through the black industrialisation pillar of economic empowerment, the target for investment is R32 billion for banks and R15 billion for long-term insurers. All this amounts to R122 billion per annum (R80 billion for banks and R42 billion for long-term insurers), a baseline of 2002, which has not catered for the growth in assets or inflationary increases, population and economic growth. The NEF believes that this is too low in an industry that manages assets of about R4.8 trillion and that the amount should be revised to cater for growth in assets held by the respective participants. Since the Generic Codes have set equity ownership at 25% for the Ownership element, the Empowerment Financing investment target should also be increased accordingly to R1,2 trillion for banks and long-term insurers to cater for asset growth.

7.9.7 Companies tended to achieve their BEE points on the low-risk pillars of Empowerment Financing such as Transformation Infrastructure (which is normally backed by government guarantees) instead of the other high-impact pillars of funding rural entrepreneurs, new industries and black SMEs. There should be some disaggregation of the Draft FSC Scorecard to give equal weight to all the pillars of Empowerment Financing in order to prevent cherry-picking and neglect of some pillars.

7.9.8 The NEF supports the view of the B-BBEE Commission on Empowerment Financing that if the 'ordinary business activity' of banks to lend money is to be recognised as an element, it must be at marked preferential rates and conditions for black people.

7.9.9 In the 2016 Draft FSC, ESD beneficiaries will continue to be recognised as beneficiaries even after exceeding the turnover threshold for qualifying as valid beneficiaries. This would impede the introduction of more beneficiaries as financial institutions would continue to be recognised for ESD beneficiaries who had long ceased to qualify. There need to be some limits to the manner in which ESD points could be claimed to ensure the introduction of more ESD beneficiaries.

7.9.10 The NEF supports the establishment of a directly-owned black bank as it would increase competition, deconcentrate the sector and encourage the creation of a diversity of institutions that respond to consumer needs and national priorities (The details of this proposal can be found in the NEF Submission).

7.9.11 The NEF further argues:

7.9.11.1 The sector must take into consideration the unique challenges faced by black entrepreneurs and must respond by providing appropriate and equitable funding instruments. For instance, valuations and funding must be based on cash flows of the underlying assets rather than reliance on share price appreciation.

7.9.11.2 The FSC must allocate additional points for compliance with Enterprise and Supplier Development (ESD) targets and provide punitive mechanisms for non-compliance by reducing the overall score of the transgressors by one level.

7.9.11.3 The sector should aggressively implement its Socio-Economic Development (SED) programmes and in instances where there are bottlenecks, it should pursue partnerships with the public sector entities to accelerate support to black enterprises. It is also important for mandatory reporting to establish the impact of SED by the sector.

7.9.11.4 The sector must collaborate with the DFIs and share equal risk in the financing of black entrepreneurs and not leave it to the DFIs alone.

7.9.11.5 The sector must discourage and report value leakage in the financial system such as transfer pricing, which is tantamount to fronting.

7.9.11.6 The sector must utilise Preferential Procurement as an anchor for transformation.

PART V

8. INDUSTRY ASSOCIATIONS AND INSTITUTIONS

Banking Subsector

8.1 Banking Association of South Africa (BASA)

8.1.1 BASA refuted suggestions that the banking industry is the least transformed sector or refuses to transform. BASA accepted, however, that there much remains to be done in transforming the banking subsector. BASA focused on four major areas of concern when it comes to transformation: management control; preferential procurement and empowerment financing; home loans; and access to financial services.

8.1.2 BASA said that black people constitute the majority of all managers in the banking industry. However, most of this black management was in junior and middle management levels. BASA said that transformation at senior management, board and executive levels was slow. Black women only made up 8,4% of the women in senior management positions. Employment equity also remained a critical area of lack of transformation, but this was reflective of many other sectors of the economy. There was a need for government, business and labour to engage in dialogue and find solutions.

8.1.3 On Preferential Procurement, BASA said that the banking industry outperformed the 2012 FSC targets with a combined R200 billion spend on black-owned and black women-owned enterprises. Procurement spend rose from R38 billion in 2012 to R60 billion in 2015. In the same period, banks spent R69 billion on transformational infrastructure, R41 billion on black SME financing, R7 billion on black agriculture financing and R94 billion on affordable housing.

8.1.4 The value of home loans has been on the rise for the past 3 years and the banking industry was working with the Department of Human Settlements to address the 'gap market'. About 1,2 million transactions comprising 258 234 new homes and 908 152 homes in the resale market to the total value of R993 billion were financed. Citing statistics from the Centre for Affordable Housing Finance in Africa, BASA said that the majority of the residential property in 2015, about 62%, includes homes valued at less than R600 000. Of this, 43% are homes that are valued at less than R300 000. These figures point to the banks' support for low-income earners.

8.1.5 The 2016 Finscope Survey showed that adult South Africans with bank accounts increased from 46% in 2006 to 77% in 2014. BASA said that South Africa was therefore doing very well, given that in 2014 only 26% of adults in sub-Saharan Africa owned bank accounts.

8.1.6 BASA reiterated the commitment of the industry to transformation, which is a national and business imperative. The industry is an active member of the FS Charter Council and participated in the development of the Draft FSC. The deviations of the FSC on Ownership, Skills Development and Enterprise Supplier Development reflected priority elements for the banking subsector. He said banks and life offices have proposed their ESD funding targets under the Empowerment Financing pillar as their third priority element as they contribute to the B-BBEE process through activities as opposed to downstream beneficiation.

8.1.7 In a survey conducted in 2013 the Ownership and Employment Equity pillars of the codes were perceived by the financial sector as the most costly and most difficult to comply with. BASA said an economy-wide conversation about the issues that impact on these challenging pillars was necessary.

8.1.8 BASA said that the banking industry displayed a similar pattern to the ownership patterns as in the JSE: the largest share, 49%, of the top six South African banks is owned by foreigners, 34% by institutions such as pension funds, including the PIC, and the remaining 17% is owned by all other categories of investors, including individuals. BASA dismissed the concept of 'white monopoly capital' as a myth and said that for the first time, in 2016, black ownership of the JSE (at 23%) exceeded white ownership (at 22%).

8.1.9 BASA said the government's regulatory efforts had helped to ensure that South Africa's financial sector was ranked by the World Economic Forum as the 2nd most sound sector in the world. Affordability was ranked at number 27 out of 138 countries in the world. The SARB's Banking Supervision Division (BSD) checked everything that banks do, including the approval of Directors on their boards, the type of products they offer; and banks submitted daily, weekly and monthly reports in that regard. The BSD further conducts on-site supervision, has regular engagements with boards of these banks and senior management, and controls the amount of capital and liquidity banks have to hold.

8.1.10 BASA said that the financial sector has important peculiarities that distinguish it from other sectors of the economy, including the financial sector regulations, the role of the sector in the economy, its global connectedness, its ownership structure, which is impacted by its particular role, and the way in which institutions have to raise capital on a regular basis.

8.1.11 After the hearings, BASA made a general written response to some of the submissions made during the hearings[9]. BASA said that it noted the challenges raised at the hearings, including issues relating to the dominance of large players in a way that reduces competition, the inadequacy of targets in the FSC, the need for greater transformation of the top management structures, improving the quality of data on transformation and strengthening monitoring, and the need for major financial sector players to do more in all areas. BASA acknowledged that progress on implementation of various pillars of the FSC has been uneven and its members are committed to accelerating implementation. BASA said that its members were prepared to engage in a discussion about areas of improvement in reviewing the FSC targets. Such discussions should be inclusive and take into account views of all stakeholders and an economy-wide perspective of transformation. The NEDLAC Financial Sector Summit should

[9] All organisations were told at the hearings that they could make further written submissions if they wanted to, but many did not.

kick-start this process. BASA does not support the termination of the FSC in favour of the Generic Codes because the sector had used its resources to set up an institutional infrastructure to monitor and report on transformation. BASA said that if the FSC is repealed, the Empowerment Financing and Access to Financial Services elements of the FSC would be lost as they were unique to the financial sector and the Generic Codes did not provide for them.

8.1.12 BASA said that it did not support calls for empowerment commitments to be set out in legislation and be legally binding because that would mean failure to comply with them 'would be a punishable offence'. If the commitments were made legally binding, a throrough socio-economic impact assessment would have to be conducted.

8.1.13 BASA said that the model for funding black ownership through loans by banks to black individuals or groups was inefficient for the economy as capital used to finance new shareholders took away capital for making loans to other black businesses in the economy. BASA would support an approach which focuses less on black ownership in the banking sector and more on setting higher targets for Empowerment Financing.

8.1.14 BASA accepts that the performance of the banking industry on Management Control falls short of expectations and agrees on a plan for accelerating implementation in this regard. BASA also supports the commitment by NT to publish an 'Ownership Monitor' annually to ensure that a single data set is used in measuring transformation.

8.1.15 On market concentration in the banking sector, BASA believes the current industry structure has served the country well and enabled it to weather the global financial crisis unscathed. Any future policy changes should not put the stability of the financial sector at risk and should consider why the SARB decided on the current four-pillar policy for the banking industry. BASA supports the proposals to ensure greater diversification in the financial sector and the Dedicated Banks Bill should be revisited as it sought to provide the legislative framework for greater diversification. Commercial banks should focus on the types of financial services they are best placed to provide and other types of institutions should be supported to cater for other needs and ensure greater financial inclusion, especially in the low income segment.

8.1.16 BASA, in principle, supports the establishment of a state bank as long as it is subjected to the same capital, liquidity and other regulatory requirements that apply to commercial banks. Such a bank must be commercially viable to prevent it from relying on the state for a bailout as that will compromise financial stability.

8.2 Barclays Africa Group and ABSA (ABSA)

8.2.1 ABSA (which is wholly owned by Barclays Africa Group Limited - BAGL) said that it has 9,4 million customers and 30 739 employees, of which 21 025 (68.4%) are black. In May 2016, Barclays PLC (PLC) reduced its 62,3% shareholding in BAGL to 50,1% after new UK regulations made it less attractive for international banks to own banks abroad. A further share sale was concluded in June 2017 after regulatory approval was received, that resulted in PLC reducing its shareholding in BAGL to 23,4%.

8.2.2 In 2004, ABSA allocated 10% ownership to an empowerment scheme through the Batho Bonke Consortium. This deal was unwound partly in 2009 and fully in 2012, after the consortium sold its equity, creating a net value of R2,5 billion.

8.2.3 As part of the June 2017 share sale, South Africa's Public Investment Corporation (PIC), which is a long-standing shareholder in BAGL, committed to buying a further 7% of BAGL shares from PLC, pending regulatory approval. PLC further committed a further 1,5% of its shareholding to a BEE scheme, which was equivalent to R2,1 billion BAGL market capitalisation as at 31 December 2016. Once these transactions have been concluded, PLC's shareholding in BAGL will reduce to 14,9%. The sell-down by PLC in BAGL will result in a more diverse shareholder portfolio and an increased South African shareholding.

8.2.4 ABSA intends to conclude another BEE transaction to which Barclays PLC has already committed about 1,5% of Barclays Africa market capitalisation (around R2,1bn) as at 31 December 2016. Barclays PLC intends to sell down its shareholding in Barclays Africa and give black South Africans an opportunity to increase their direct and indirect shareholding in the group.

8.2.5 ABSA supported transformation and referred to the bank's cumulative investment in transformational infrastructure, affordable housing, black-empowered SME financing, black agricultural financing, and BEE transactions over the past five years increased from R4,4 billion in 2012 to R30,6 billion in 2016.

8.2.6 ABSA agreed that with regard to compliance with the BEE codes and the FSC, it had not achieved some of the key transformation objectives and targets on Employment Equity, Ownership and Management Control.

8.2.7 ABSA committed R1,4 billion in education and skills which included: R80 million spent on supporting the 'missing middle' students at 15 South African universities, training 205 336 youth on the ReadytoWork skills-building programme, which prepares young people for work, and R26 million invested in University strategic support.

8.3 First Rand

8.3.1 FirstRand lauded the country's banking system as one of the best in the world for having been consistently ranked in the top 10 in the world. Banks have an important role to play in transformation and inclusivity to ensure a sustainable future for the country.

8.3.2 FirstRand concluded its BEE transaction in 2005, which involved a R23,5 billion stake distributed to staff schemes (26%), community schemes (63%) and strategic partners (11%), leading to a 36,5% black ownership of FirstRand, of which black women ownership stood at 16,01%.

8.3.3 FirstRand said that 76% of its staff is black. Blacks also made up 59% of middle management and 81% of junior management. However, progress had not been as expected at senior and top management, where blacks accounted for 35% and 34%, respectively. The Board of FirstRand was 52% black, of which 26% were black women. Despite this, FirstRand failed to achieve the B-BBEE Scorecard targets on Management Control, Employment Equity, and Skills Development. Progress was made on Empowerment Financing and Enterprise Supplier Development, Procurement spend on black suppliers and financial inclusion. FirstRand mentioned that 87% of its total graduate intake now comprised blacks.

8.3.4 FirstRand said that it has provided R53 billion of transformational infrastructure funding, financed R36 billion worth of BEE transactions since 2009, and its Vumela fund, which deals with Enterprise and Supplier Development, has R386 million under management. Its cumulative spend on procurement on black-owned businesses exceeded R10 billion between 2012 and 2016.

8.3.5 FirstRand warned that policy mistakes could lead to bank failures. The soundness of the banking system is non-negotiable. Transformation and inclusivity need to happen on the back of the strength of the banking system as transformation and soundness of the banking system are complementary.

8.4 Standard Bank South Africa

8.4.1 Standard Bank said that it employed about 32 805 employees, 79% of whom are black; had 12 million retail customers of which 5 million were basic and low-cost accounts; had 641 branches and over 7000 ATMs; and processed about 4,8 million transactions a day. Standard Bank gave out about R80 billion in Empowerment Financing and provided R23 billion in home loans since 2010.

8.4.2 Standard Bank is owned by more than 60 000 shareholders. Most of these were institutional investors representing millions of savers. The Industrial and Commercial Bank of China, which was the world's largest bank, owned 20%, the Government Employees Pension Fund 12%, other institutional investors 10%, and the rest were different shareholders who had less than 1% ownership each (totaling 58% ownership**)**. Standard Bank is 47% South African-owned.

8.4.3 Standard Bank affirmed its commitment to transformation. However, the Bank said that there have been difficulties in fully complying with some of the BEE Scorecard elements such as Management Control, Employment Equity, Skills Development, Enterprise Development and Access to Financial Services.

8.4.4 Through the Tutuwa share scheme, Standard Bank had by 2014 created a net value of 10,7 billion for its black shareholders, which include 6 100 black staff, 261 small black businesses, and two strategic BEE partners (Sefika and Shanduka). More than 260 SMMEs were also part of the Tutuwa scheme and received cash distributions of R260 million during their participation in the scheme.

8.4.5 On Employment equity, Standard Bank said that their black employees comprised 87% of its junior managers, 68% of its middle managers, 41% of its senior managers and 22% of its top management.

8.4.6 Standard Bank said it was working to fix black representation at senior and top management through learnership and development and promotions. Black staff now comprised over 50% of promotions into senior and executive management levels.

8.4.7 Standard Bank said that the financial sector plays a role in economic activities that lead to economic growth by providing loans to people to buy cars and homes, supporting small black businesses with loans and mentorship, and supporting government's strategic health, safety and social objectives. In order to meet these objectives, a number of policy trade-offs need to be considered. Standard Bank said that the impact of vendor-financed BEE schemes must be considered against wider-reaching, more directed lending to black SMEs and empowerment financing. For instance, the Tutuwa scheme generated value for its participants, but this also meant that funds which could have been used to lend to businesses were not available.

8.5 Nedbank

8.5.1 Nedbank said that transformation transcends compliance; it is both a moral and a business imperative; and transformation is embedded in its strategy. Nedbank said that it was committed to transformation even before the enactment of B-BBEE legislation. Nedbank has total measured black shareholding of 37,55% and a black women shareholding of 17,39% based on its 2016 FSC verified score by SizweNtsalubaGobodo Inc. Nedbank's Eyethu scheme unlocked R8,2 billion in realised value for more than 500 000 South African shareholders. Participants included clients, staff, community interest groups and active black business partners.

8.5.2 Nedbank said stricter targets across the transformation codes will lead to lower B-BBEE levels for all going forward. More work needed to be done by Nedbank to prevent discounting on the priority elements of the new FSC Scorecard, particularly Enterprise and Supplier Development.

8.5.3 Nedbank is working on improving its workforce profile at executive management level to be more demographically representative, with a particular focus on Africans. At other levels, transformation has resulted in 53,85% black top management, 59,52% at black middle management and 87,64% at black junior management levels. Nedbank said that subdued economic growth slows down transformation opportunities, leading to a lower headcount and lower attrition rates.

8.5.4 Nedbank reported that its training spend on black staff increased from R80 million in 2006 to R320 million in 2016. Its SED contributions of R141 million, dedicated to various initiatives at primary, secondary and tertiary education funding, exceeded the FSC target of R99m.

8.5.5 Nedbank has also collaborated with government on 24 Expanded Public Works Programme projects supporting 554 learner contractors and mentorships leading to the creation of 2 977 job opportunities.

8.5.6 Nedbank said that there was a need to accelerate the development of black SMMEs.

CO-OPERATIVE BANKS AND INSTITUTIONS

8.6 National Association of Co-operative Financial Institutions of South Africa (NACFISA)

8.6.1 NACFISA was registered in March 2013 under the Co-operatives Act of 2005 and represents 28 CFIs and 2 co-operative banks with a total membership of about 30 000. The sector manages assets of about R280 million.

8.6.2 Most of CFI and co-operative bank members are from the working class and poor in townships and rural villages and derive their income from the CFIs, and many from social grants. NACFISA said the system of co-operatives carries the hopes and aspirations of its participants as a means of collective saving to improve their socio-economic conditions.

8.6.3 The regulations of this sector are, however, too onerous and hinder its rapid growth, which can contribute to the transformation of the economy and encourage more uptake.

8.6.4 NACFISA called for amendments to, or the repeal of the Co-operatives Bank Act (No. 40 of 2007) to facilitate 'radical economic transformation' and wider uptake of CFIs and co-operative banks.

8.6.5 With regard to the CBDA, the different classification of CFIs and co-operative banks by the CBDA gives an impression that CFIs are inferior to co-operative banks. The CBDA rule that differentiates CFIs must be done away with and replaced with different levels of co-operative ranking.

8.6.6 The CBDA has no independent appeal process and this renders its regulatory mechanism unfair. An independent appeals authority should be established to ensure a fair and credible process.

8.6.7 The development of the rules as conferred to the CBDA by section 57 of the Co-operative Banks Act must be reviewed to read as 'in consultation with the Cooperative Sector'.

8.6.8 The single centralised office of the CBDA in Tshwane limits access to services related to assessing, establishing and registering Co-operative Banks. The CBDA should establish offices in provinces.

8.6.9 The banking platform software project is a giant step in improving the transaction mechanisms of co-operative banks but it is too costly. The banking platform must be extended to all co-operative banks at no cost to improve reporting and efficiency.

8.6.10 The government has to assist to drive campaigns on the importance of saving in co-operative banks to build awareness of and confidence in this critical subsector. The budget of the CBDA needs to be reviewed to ensure that it carries out its mandate.

8.7 National Apex Co-operative of SA (NACSA)

8.7.1 NACSA was established in terms of the Co-operatives Amendment Act (No. 6 of 2013) as a fourth tier or apex co-operative replacing the South African National Apex Co-operative (SANACO). It was launched in June 2016. However, due to delays in the promulgation of the Co-operatives Regulations and the Act itself, the registration process was still in progress at the time that NACSA presented to the Committees. It has 25 tertiary co-operative members and one secondary co-operative, which is operating nationally.

8.7.2 NACSA outlined the principles of co-operatives, their operating environment, the various co-operative sectors, and the challenges faced by vulnerable groups in accessing meaningful financial services in South Africa as well as the consequences of this.

8.7.3 A sustainable inclusive co-operatives ecosystem could assist in addressing these challenges by reducing vulnerabilities and building resilient self-help and self-reliant financial and economically inclusive communities.

8.7.4 The ecosystem should rest on five sustainability pillars: (i) a culture of self-help and self-reliance; (ii) education, skills, support, mentoring and coaching; (iii) a national saving culture; (iv) ownership transformation of industries and banks; and (v) access to affordable financial services.

8.7.5 A national Co-operative Bank should be established which would act as a SARB of co-operatives in South Africa. This bank could support provincial secondary Co-operative Banks, district Co-operative Banks and Co-operative Financial Institutions. It could also establish partnerships with relevant government, quasi-government and private stakeholders to ensure that co-operatives receive financial and non-financial support. It should provide co-operatives with (i) wholesale productive loans, (ii) large investment loans, (iii) development funding loans, (iv) assets acquisition finance, (v) co-operative business restructuring finance,

(vi) bailout and mergers finance, (vii) co-operatives and SMEs bridging finance, (viii) credit and deposit insurance, (ix) insurance (including health) and assurance products, and (x) mobile payments and e-commerce administration. Further, it should establish a Deposit Guarantee Fund, a Solidarity Fund and an Audit Fund.

8.7.6 Legislation and regulations should be reviewed to formally recognise NACSA as the apex co-operative body in South Africa and give it powers to verify the compliance and viability of co-operative banks before registration or deregistration by the Companies and Intellectual Property Commission and other regulators. NACSA should also be given powers to be the auditing authority and supervisor of all co-operatives whilst the CBDA focuses on regulatory responsibilities. NACSA should be given powers to manage all co-operatives development initiatives; administer, disburse and collect funds for co-operatives support, including the Stabilisation Fund and Deposits Guarantee Fund; oversee disputes, supervise mergers and the winding down of co-operatives; and collect information that would enable it to compile a sector performance report.

8.8. Limpopo Forum Secondary Financial Co-operative

8.8.1. The Limpopo Secondary Financial Co-operative was made up of the following primary co-operatives; Bakenberg, Khuvhanganyani, Sekhukhune, Mathabatha, Mankotsana and Pukubje Financial Services Cooperatives. It had more than 4000 customers.

8.8.2. The Forum said that if South Africa was really hungry for B-BBEE and industrial transformation, it should by now be brimming with co-operative banks.

8.8.3. The EU has over 11 000 co-operative financial institutions with more than 33 million members and accounting for more than 17% of the region's savings. In Germany 28% of the savings market was accounted for by co-operatives, and in the US 44%. Sixteen million people in Africa were members of co-operative financial institutions. The Forum said that the picture was disappointing in South Africa as the country has less than 200 co-operative financial institutions and 2 co-operative banks.

8.8.4. Most CFIs were not registered with the regulator because of the onerous registration requirements. Many of those that registered are struggling because of the weak economic environment with high levels of unemployment and the lack of operating funding, operating facilities, funds to disburse loans and marketing material to make co-operatives attractive.

8.8.5. The Forum proposed that the government should provide a once-off grant of R150 000 and a loan fund of up to R250 000 to help struggling CFIs. Primary co-operatives should be consolidated into secondary and national co-operative banks. Government should give CFIs the right to distribute SASSA grants.

8.9. DGRV - German Co-operative and Raiffeisen Confederation

8.9.1. The DGRV is a national co-operative apex organisation and top-level auditing federation operating in the banking, agriculture, crafts/trade/services, and consumer sectors. It has partnered with NACFISA, BICSA, and the Co-operative Apex Body to offer co-operative training courses.

8.9.2. The German co-operatives system as established by Friedrich Wilhelm Raiffeisen and Hermann Schulze aus Delitzsch is underpinned by three guiding principles: self-help, self-responsibility and self-administration.

8.9.3. DGRV presented a co-operative bank model that could promote financial inclusion in South Africa. It said that co-operatives allow individuals to collectively pool their resources to be able to overcome and succeed under competitive economic conditions. To be successful, each co-operative would need to be economically strong, operate under equal and fair conditions for competition, have professional management, have members who are aware of their duties and have access to finance. There needs to be a strong and decentralised multi-level co-operative system where regional and national unions provide support to co-operative enterprises with such services as auditing, consultancy and training. There also needs to be a link-up system, on the commercial side, to ensure efficient local, regional and national co-operatives support to CFIs. There should be be internal and external audits, compliance supervision, a clear legal and regulatory framework and independence from the state.

8.9.4. Each co-operative must serve the needs of its members on a long-term basis. Co-operatives have to be profitable and competitive, and able to meet the challenges of changing markets.

8.9.5. CFIs can play a role in enabling participation in the economy through ownership, and allowing members to grow in terms of corporate governance skills and providing financial services such as savings and loans, insurance, business consultancy and advanced training. CFIs should promote savings and reduce inequality, unemployment and poverty.

8.10. Wealth Creation Global Co-operative

8.10.1. The Co-operative Banks Act 20 of 2007, in its current form, poses a barrier for black people to participate insofar as the 'minimum requirements' of a common bond are concerned. The 'common bond' requirement must be scrapped as it does not enable or encourage communities to work together in the formation of initiatives aimed at self-development.

8.10.2. The CBDA wasted money, time and resources while protecting its monopoly within the co-operatives sector. The CBDA should be dissolved with immediate effect.

8.10.3. The requirements imposed on co-operatives to have a minimum of 200 members and a R30 million ceiling effectively impede radical economic transformation and should be removed.

Non-Banking Subsector

Savings, Long-Term Insurance, Asset Management and Investments

8.11. The Johannesburg Stock Exchange (JSE)

8.11.1. The JSE explained that it has been in existence for about 130 years. JSE Ltd, the company which operates the JSE markets, is itself listed, with its listing being regulated by the FSB. The JSE is ranked among the top 20 stock exchanges in the world and currently trades about R22 billion a day. The JSE is ranked in the top three exchanges for the quality of its regulation in the 2016/2017 World Economic Forum's Global Competitiveness Survey.

8.11.2. The JSE had 325 listed companies on the Main Board, of which only 11 are black-owned. Black direct ownership, as at the end of 2013, in the top 100 listed companies (by market capitalisation) equated to 10%, and indirect black ownership through pension funds, retirement annuities and investment schemes was approximately 13%. This amounted to 23% black ownership, which exceeded white ownership, which stood at 22%.

8.11.3. The JSE's Black Stockbroker Enterprise Development Programme supports the sustainable development of black stockbrokers by providing them credits for their exchange activity which they are required to use to develop their businesses. Of the JSE's 62 equity trading members, 14 black stockbroking firms participate in this Programme.

8.11.4. In respect of the JSE, of its Board members, 55% are black as defined in the B-BBEE legislation and 45% are female. In the Executive Committee 36,6% of its members are black and 55% are female. Of the 498 JSE employees, 61% are black and 51% are female. The JSE acknowledged that while it had significantly transformed at all levels, there is room for improvement at the Executive level. The JSE has a level 2 B-BBEE rating with 18,35% black ownership in the company, of which 8% is direct black ownership.

8.11.5. In its subsequent presentation to the Finance Committee on 3 October, the JSE said that:

8.11.5.1. It has published a gender representivity policy at Board level and will provide an annual disclosure of progress on this.

8.11.5.2. It will publish a BEE policy in 2018, report on progress annually and publish a BEE scorecard annually.

8.11.5.3. In terms of empowerment, it will enable issuers to monitor and retain BEE ownership status and enable black individual investors to trade their BEE shares.

8.11.5.4. In terms of its enterprise development programme, it supports the sustainable development of its black stockholding firms, provides financial assistance through credits to be used in developing their firms, and supports 14 black stockbrokers out of a total of 62 equity trading partners.

8.12. Association for Savings and Investment South Africa (ASISA)

8.12.1. ASISA is an industry association for the savings and insurance subsectors. It represents 127 member firms, which include life insurance firms, collective investment schemes, linked investment service providers, multi-managers and asset management firms. The subsector managed about R9,1 trillion of the country's long-term savings and investments in pension and provident funds; retirement annuities; endowment policies; unit trusts; exchange traded funds; hedge funds; and risk protection policies such as life, disability and dread disease cover.

8.12.2. Through these savings held by the savings industry, ordinary people become shareholders of JSE-listed companies. As a result of this, the black portion of shareholding now measures about 23% of the shares of the top 100 companies listed on the JSE. 10% is through direct ownership by BEE strategic partners (6%), through community schemes (2,5%) and employee schemes (1,5%). 13% is indirect ownership through pension funds, life policies and retirement annuities.

8.12.3. ASISA argued that South Africa's savings, insurance and investment market was concentrated, but not monopolistic. It said it had observed that firms in the savings and insurance subsectors tended towards a structure of a few large players who attract large pools of assets, and many medium and smaller firms competing in specific niches. This structure can also be observed in mature markets such as the UK, US, Germany and Australia, as well as in developing markets such as Nigeria and Kenya. This structure was concentrated, but not monopolistic, as there was fierce competition and large-sized institutions were necessary to assist with (a) capital to fund future liabilities and to provide stability to savers and to the market; (b) capital to fund large-scale investments such as is required by government for new bond issues or infrastructure projects; and (c) scale to drive down costs for consumers.

8.12.4. The challenges in ensuring more individual ownership, black or white, of the insurance industry include:

8.12.4.1. Premiums paid on insurance contracts rarely exceed the sums assured.

8.12.4.2. Liabilities are certain for insurance companies, but growth in assets to back these liabilities is not assured. Significant shareholder capital is therefore required. Insurers currently hold in excess of R220 billion for this purpose.

8.12.4.3. At start-up phase, it may be possible for individuals to own insurance companies. However, as soon as liabilities start growing, shareholders with access to significant capital are required to back up the liabilities. Individuals, regardless of race, do not have access to the quantum of long-term capital required for this purpose. This is the case in most countries.

8.12.4.4. As in most countries, insurance companies in South Africa thus tend to be majority owned by institutional investors (referred to as mandated investors in BEE legislation).

8.12.5. Strides have been made to transform the savings and investments subsectors, but much more still needed to be done. ASISA statistics showed an increase of black ownership from 16% in 2005 to 31% in 2015, surpassing the 25% Ownership target. Management Control in boards increased from 30% to 49% over the same period and black executive directors increased from 22% to 47%, both missing the B-BBEE and FSC scorecard targets.

8.12.6. Black senior managers increased from 16% to 35% while black middle managers increased from 32% to 48%, missing the B-BBEE and FSC Scorecards targets. On Skills Development the targets were 3%, and over ten years the performance of the subsector increased from 1,2% to 4,9%.

8.12.7. ASISA members contributed over R400 million to an Enterprise and Supplier Development Fund to provide developmental and financial support to black financial advisors, panel-beaters and stock-broking firms and for other aspects of transformation. The ASISA Foundation contributed R40 million so far to support initiatives in consumer financial education.

8.13. Association for Black Securities and Investment Professionals (ABSIP)

8.13.1. ABSIP is an association of black professionals and companies within the financial sector founded 22 years ago. It represents about 9 100 professionals, companies and students. ABSIP believed that the central issue was the 'market structure' of financial services, which was monopolistic/oligopolistic in character. This structure led to barriers to entry and provided the incumbents with enduring competitive advantage over the new entrants.

8.13.2. There has not been enough change in the financial services sector in terms of black professionals playing leading and decision-making roles in the existing firms.

8.13.3. There are 42 black asset management companies in the country, which make up 35% of an industry of a total of 130 asset management firms. These black asset management companies managed less than 5% of the total assets managed by the industry. Most of the assets that black companies were managing come from institutional funds and only 2% were retail assets.

8.13.4. The major obstacles to growth by black asset management firms is lack of support or business from asset owners. There were a few large firms that owned the entire value chain; they own the full distribution channels from asset management to administration, risk, employee benefits, wealth management, linked investment services, life, collective investment schemes management and stockbroking.

8.13.5. ABSIP believes that the government was setting onerous compliance requirements for new entrants in the asset management subsector and they contradicted all policy directives on enabling deracialisation of the financial sector. There are only 5 black Hedge Fund managers in the country.

8.13.6. The number of black stockbroking firms remained disproportionately low with a market share of about 1,69% in an industry that traded over R11,7 trillion on the JSE per annum. There was no legislative support for black stockbrokers as the B-BBEE legislation was unenforced and voluntary. There was an uneven playing field and black brokerages are given low quality and illiquid trades to execute in an industry where business is allocated based on past connections beyond the industry. Black brokerage firms were unable to retain talent as they lost up-and-coming brokers and analysts to larger firms. Even as black talent left to these big firms, their work was not recognised as it did not feature in any meaningful ratings published in industry publications for well over 10 years now.

8.13.7. It was difficult to assess the market structure of subsectors and so a form of compulsory disclosure should be made a legal requirement to determine the state of market structure and whether transformation is meaningfully occurring or not. Such market structure information should be made annually, kept by regulatory authorities and published in order to ensure transparency. Acceptable concentration ratios shoud be made a regulatory requirement to achieve more competitive market structures across the asset management subsector.

8.13.8. There needs to be more allocation of resources to deracialise the financial services sector. The current government funding schemes for black start-ups are skewed towards other sectors such as construction, wholesale, mining and manufacturing. A dedicated fund for new black entrants into the financial services sector should be established to incentivise the deracialisation of the sector.

8.14. 27four Investment Managers (27four)

8.14.1. 27four is the only black woman-owned, managed and controlled retirement fund advisor and multi-manager in South Africa. The company was established 10 years ago and now has R53 billion worth of assets under management and advisory.

8.14.2. Black asset management firms managed less than 5% of the total assets of the South African savings and investments industry. 27four's research indicates that institutional investors have only allocated a small portion of their overall assets to black asset managers and this has been in traditional equity and fixed income mandates, resulting in fierce competition amongst black firms to gain access to this small pie. Only a few independent black asset managers can be defined as mainstream and many black firms have either been on the decline or have not reached critical mass. There is poor representation of black females at the top level and low participation in the retail industry by black firms as most of the assets they manage come from retirement funds.

8.14.3. Within the asset management space, there are high levels of concentration and oligopolistic behaviour where five large asset management firms owned and controlled the value chain. There are efforts within the industry to exclude black asset management firms from becoming part of the value chain. 27four held that suppliers to large retirement funds have been manipulating B-BBEE ratings in order to get business and to nudge out smaller players. The channels that distribute savings and investment products are very expensive and driven by high commission structures and by large enterprises that control the sector. Black companies do not own the means of production such as life companies and collective investment schemes managers (CIS) Mancos and can therefore not distribute their products broadly.

8.14.4. Key 'stumbling blocks' which prevent black asset managers from participating meaningfully in the industry include: lack of access to capital, onerous regulatory requirements and oligopolies which undermine competition. There has been no meaningful change in the sector post-apartheid and black businesses are struggling to access capital. The regulator is not playing a key role in enabling black businesses to catch up with white businesses.

8.14.5. Regulatory requirements for new entrants should be matched with support as without such support, new entrants will remain excluded. The FS Charter Council needs to do a lot more to ensure that compliance with the FSC is outcome and process-based. Compliance with the B-BBEE and FSC Retirement Fund Scorecards should be compulsory, rather than voluntary, and be accompanied by effective sanctions.

8.14.6. The Black Industrialists Fund that has been established does not cater for the financial services sector. 27four also questioned why the new CEO Fund set up by private sector CEOs and government was being managed by white instead of black asset managers with comparable skills. The DTI had missed an opportunity to empower black asset managers who will be sensitive to the needs of black Industrialists.

8.14.7. Asset owners, both retail and institutional, needed to be sensitised to the need to allocate capital in a manner that creates a balance between their fiduciary responsibilities and the deracialisation of the asset management subsector.

8.14.8. The current funding schemes for black start-ups are skewed towards other sectors such as construction, mining, agriculture, wholesale and manufacturing. A dedicated fund to support new entrants into the financial services sector needed to be established.

8.15. Maxima Advisors

8.15.1. Maxima Advisors submitted a written submission and did not attend the public hearings. Their submission focused on the asset management industry. The submission bemoaned the lack of transformation in this industry, indicating that black asset management companies only managed less than 5 percent of the total assets managed by the industry.

8.15.2. Maxima Advisors submitted that a state bank and a state insurance company should be established. They said that the GEPF should be reallocated to black fund managers in order to support the deracialisation of the financial sector.

Short-Term Insurance

8.16. South African Insurance Association (SAIA)

8.16.1. The SAIA explained that out of the 74 short-term insurance companies[10], 31 offer products in one or two segments of short-term insurance, 36 in 3 or more segments and 7 across all segments. SAIA explained that 6 insurers were state-owned[11] and 14 were captive insurers (meaning they only insured assets of their holding companies).

8.16.2. The top 6 short-term insurers had a market share of 56% and the top 10, 66%.

8.16.3. SAIA said that short-term insurers do not meet many of the targets set in the transformation scorecards. On Ownership, she explained that black economic interests amounted to only 18,97% out of a target of 25%, black women ownership stood at 8,49% against a target of 10% and black voting rights at 20,86% against a target of 25%.

8.16.4. On Management Control, the industry did not meet any targets set by the transformation codes. Black representation at Board level was at 28,57% against a target of 50%, and at 13,19% against a target of 25% for black women representation. At Executive Management level, black representation was 36,36% against a target of 50% and for black women, at 3,03% against a target of 25%. At Top Management level, black representation stood at 25% against a target of 40% and at 13% against a target of 20%, for black women. At senior management level, black representation was at 25,83% against a set target of 60% and 10,38% against a target of 30%

[10] ASISA's Submission said that there are 99 short-term insurance companies
[11] The state owned short-term insurers are Sasria, Landbank, Khula, Densecure, Export Credit Insurance and Escap.

for black women. At middle management, black representation was at 42% against a set target of 75% and at 20,63% against a target of 37,50% for black women. At junior management, black representation was at 70,14% against a set target of 80% and at 37,94% against a target of 40% for black women.

8.16.5. On Skills Development, the targets were not met when it came to Black Skills Spend, but were exceeded on Learnerships. On Enterprise and Supplier Development, in the last 3 years SAIA members exceeded the targets on BEE Spend, except for black women spend. On Financial Literacy and Socio-Economic Development, the targets were also exceeded but none were achieved on Financial Inclusion.

8.16.6. The number of people with motor insurance increased from 2,1 million in 2004 to 3,2 million in 2014, and households with contents insurance increased from 1,7 million to 2,2 million, over the same period.

8.17. Black Insurance Advisors Council (BIAC)

8.17.1. BIAC is an organisation of financial advisors in the industry established over 10 years ago. Despite the lack of financial support from the insurance companies, BIAC has a presence in all provinces. It was formed as a result of difficulties experienced by black independent financial advisors within the insurance subsector. These include (a) the 'influx of new regulations' which were onerous and created barriers to entry, (b) the failure by the FSB to profile independent financial advisors before it introduces such regulations, (c) lack of support of independent financial advisors from the Insurance Sector Education and Training Authority (INSETA), (d) the changing of independent contracts without consultations, forcing advisors to work for franchises, (e) the exodus of previously disadvantaged players, both experienced and young advisors, due to loss of business and income, high cost of operations and, (f) lack of representation of black independent advisors interests or needs at ASISA, INSETA and the FSB.

8.17.2. BIAC said there are several discriminatory practices by the insurance industry which disadvantage black independent financial advisors. The FSB introduced a 'conflict of interest' rule which has been misinterpreted by insurance companies to the detriment of previously disadvantaged independent financial advisors - insurance companies have capped their spend on the development of previously disadvantaged financial advisors to R1000 per annum.

8.17.3. Insurance companies are using what is referred to as a ‘binder agreement’ to pay retainer fees to independent financial advisors. They used ‘binder agreements’ in a discriminatory fashion and entered into such agreements with mostly advantaged white independent advisors. Black independent financial advisors were not benefiting from the monthly fees that are paid by insurance companies to other independent financial advisors for ‘premium collection’.

8.17.4. As a Non-Profit Organisation which sought to advance the interests of independent black financial advisors, BIAC is struggling to get any support from insurance companies. BIAC played a similar role in the sector to such associations as the Financial Intermediary Association (FIA) and Masthead, which are largely white. The lack of support for BIAC is because it represented the interests of those the industry aims to exclude from playing any meaningful role.

8.17.5. The franchise system introduced by the insurance industry disadvantages independent financial advisors as they are automatically and unilaterally signed up to brokers who operate far away from them and without their consent. This system makes more money for brokers who are mostly white and adds more operating costs for black independent advisors.

8.17.6. There is a lack of empowerment for black independent financial advisors and a lack of representation in higher decision structures of the insurance sector, including in ASISA and SAIA, which are not sensitive to transformation and inclusion of previously disadvantaged financial advisors. INSETA is not providing adequate support for black financial advisors.

8.17.7. The cost of financial advisory courses which are only offered by two institutions – Moonstone and FPI – is too high. Licence fees result in major cash flow problems for black independent financial advisors and the FSB should remove the ceiling and reduce the licence fees.

8.17.8. ASISA, FSB and SAIA should be transparent, accessible, involve previously disadvantaged individuals in consumer education and have open access to all their Committees. INSETA should account for the learners who have been placed in call centre companies and the lack of growth of SMMEs in the financial sector.

8.18. Black Insurance Owners Association (BIOA)

8.18.1. BIOA said that the financial sector was worth R12,3 trillion including banking and non-banking sector assets. Only 4% of these assets are in black hands.

8.18.2. SARB policies favoured the big banks as they only could secure money from it at the repo rate. This SARB policy has to be reviewed and be made more accommodative. The country's policies made it difficult for new banks to enter the market. After 23 years of democracy there still is no large black-owned bank in the country. Bank licensing requirements have to be more transparent and relaxed, especially the reserve and capital adequacy requirements, to encourage entry into the market.

8.18.3. Claims made through BEE scorecards and ratings that banks have transformed are not yet reflecting on the ground. Banks are key to the transformation of other sectors of the economy, yet there is still gatekeeping by whites, and business funding models still preferred white people and companies. Funding terms for black businesses have remained hostile and the treatment of black businesses by banks is similar to that of black consumers who are victims of expensive credit and tight payment terms.

8.18.4. The Insurance Bill in its current form is unconstitutional to the extent that it fails to incorporate express transformation objectives.

8.18.5. The medical schemes industry remained as untransformed as the banks and insurance companies. The Council for Medical Schemes is wrong to place the appointment of brokers in the hands of employers instead of the members.

8.18.6. The FSC is voluntary, is at variance with the B-BBEE Act and lacks proper implementation and compliance monitoring, supervision and enforcement.

8.18.7. The setting aside of only 30% for preferential procurement for black companies is inadequate and undermines effective transformation. Black ownership of companies is more desirable than B-BBEE. Only when black ownership is achieved should an enterprise be deemed to be always empowered. The current principle of 'once empowered, always empowered' undermines transformation and will eventually lead to 'white only ownership'.

8.19. South African Towing Board, South African Builders Contractors Civils Association, South African Auto Repairers and Salvage Association, Retail Automotive Aftermarket Federation and Western Cape Towing: Joint Submission

8.19.1. These organisations raised their frustrations about lack of transformation and monopolisation in the short-term insurance industry. While they recognised SAIA as an important industry body, they will not endorse any transformation initiatives by it as it was complicit in uncompetitive and racially discriminatory procurement practices by the short-term insurance companies. Despite SAIA participating in different initiatives by the DTI and black empowerment cooperative structures, the procurement from black service providers in vehicle towing and panel-beating has decreased over the years. These worsening conditions and the domination of the industry by a few white firms happened with SAIA's approval.

8.19.2. The short-term insurance industry procured goods of up to R95 billion per annum, but only spent R1.5 billion on black-owned tow truckers, panel-beaters and contractors.

8.19.3. The short-term insurance companies claim to be transformed but they give false reports in order to get favourable B-BBEE Scorecard ratings. The short-term insurance companies outsourced their work to 100% white-owned service providers, who own the whole value chain from call-centres to towing yards, panel shops and salvage yards.

8.19.4. There are many discriminatory practices, which included different rates of payment for services rendered for black and white service providers. Discounts, financial assistance and grants are only given to white service providers. This led to a very racially skewed and inequitable industry.

8.19.5. This lack of transformation and the current procurement system leads to violent confrontation in the streets among tow truckers and the closure of many black-owned businesses due to lack of business from the short-term insurance companies.

8.19.6. On 6 December 2014, a Memorandum of Agreement was signed committing all parties, government, insurers, service providers and other key stakeholders, to immediate transformation and procurement targets in the towing and panel-beating Industry, nationally. However, subsequently, very little has changed and there has been no meaningful transformation or significant spend on black-owned SMMEs. In addition, black service providers who were party to the signing of the Memorandum of Agreement are being victimised.

8.19.7. In the auto-body repair industry, the automotive manufacturers' approval system has created barriers to entry that prevent black service providers from participating in the industry. These regulatory barriers and industry practices have prevented SOEs, such as South African Airways, Government Garage, Eskom, and Telkom from procuring services from black service providers.

8.19.8. The failure by insurance companies to implement the Memorandum of Agreement and other government policies and legislation, particularly on transformation, has contributed to destroying black businesses.

8.19.9. Government should investigate the auto-body approval system urgently, as these approvals are discriminatory and illegal and are not allowed anywhere else in the world.

8.20. Financial Intermediaries Association of Southern Africa (FIA) and Association of Black Insurance Brokers (ABIB)

8.20.1. The intermediary sector must not only transform itself in terms of its racial profile, but also gain in market share amongst the new middle class.

8.20.2. Twin Peaks and RDR-related regulatory changes would result in increased compliance costs and potential reduction of certain revenue streams for small to medium financial intermediaries. The raft of new regulatory measures is hurting business.

8.20.3. New and emerging brokerages have limited access to funding for business expansion due to lack of collateral and poor business cash flow.

8.20.4. Regulatory requirements are onerous and create a barrier to entry, making it very difficult for black brokers and financial advisers to enter the market.

8.20.5. The FIA, as a member of the FS Charter Council executive committee, is committed to the broad transormation objectives of the sector, including the intermediate sector.

8.20.6. Restrictive conditions imposed by new regulation will leave consumers in the low income and emerging markets without appropriate advice.

8.20.7. The sector must address the challenges of transformation in its widest possible interpretation from race, gender, economic business models and promotion and protection of SMEs through to consumer education and new investments.

8.20.8. The sector must attract investors to assist with transformation by empowering small brokers to succesfully build a practice in today’s market, just like their predecessors’ intermediaries did before.

8.20.9. Measured entities that are not banks, long-term insurers, short-term insurers, stock exchanges or members of stock exchanges such as intermediaries will be measured for Ownership as per the DTI Generic Scorecard and requirements in the B-BBEE Codes of Good Practice, gazetted on 11 October 2013, gazette no. 36928.

8.20.10. The Sector should establish a council of intermediary representative associations (example ABIB, FIA, FSIN and others) to represent advisors and brokers. This council should work closely with DTI, NT and INSETA to seek funding for new and existing black IFAs; review allocation of insurers' Enterprise Development funding; and review conflicts of interest so that product suppliers can contribute to intermediary development.

PART VI

CROSS-SECTORAL INPUTS

9. Labour and Political Organisations

9.1. CONGRESS OF SOUTH AFRICAN TRADE UNIONS (Cosatu)

9.1.1. Cosatu believes that South Africa's financial sector has not been sufficiently transformed and is not responsive to ordinary workers.

9.1.2. More attention needs to be paid to issues of monopolies and collusion, foreign ownership, barriers to small entrants, the need for a state-owned bank, transformation and deracialisation, access to the financial sector in rural areas and townships, the wage gap, retrenchments and outsourcing, support for SMMEs, the need to create and save jobs, nationalising the South African Reserve Bank, exorbitant bank charges and interest rates, financial education and empowerment, auctioning of homes and cars, garnishee order abuses, loan sharks and debt relief, and a Financial Sector Summit.

9.1.3. Cosatu welcomes the FSRA as a critical building block to ensure greater stability for the financial sector. Cosatu believes, however, that significant problem areas remained unsolved by the FSRA. These include many of the issues raised in section 9.1.2 above.

9.1.4. Transformation targets must be strengthened, enforced and geared towards ensuring the deracialisation of the financial sector in terms of ownership, leadership, staffing and servicing; addressing the massive wage gaps, where bank CEOs make R30 million while bank cashiers earn R60 000 per annum; ending the growing trend of the sector to outsource key functions to labour brokers and of companies to employ casual workers; providing access to banking and financial services to the majority of South Africans who live in townships, informal areas and villages; and providing greater support and access to funding for SMEs.

9.1.5. There is a need to address the insufficient levels of job creation as well as the recent retrenchments in the banking sector. In this regard, the SARB's mandate should be expanded to include the need to protect jobs and to ensure job growth.

9.1.6. There should be regulation of charges set by the financial sector for products and services. Legislation in this regard should be biased towards the needs of ordinary consumers and empower government to deal with banks who consistently overcharge customers. Consumers face a wide variety of excessive bank charges and interest rates with little recourse for action. Caps on charges and clear criteria need to be set by regulators. While it may make theoretical text book logic to banks to charge higher interests rates to the poor, it does not make any economic or humanitarian sense. Those who can least afford it should be charged lower and more affordable interest rates to prevent a situation where the poor end up subsidising the rich who normally get charged lower interest rates and fees.

9.1.7. Banks should be monitored to ensure that they do not use the FSR legislation as an excuse to reduce lending to workers and SMMEs. The FSRA , Cosatu said, provides an ideal opportunity to 'force' banks to provide attractive interest rates to incentivise workers who invest and save. At the moment, there was no incentive to save as workers were offered below inflation interest rates for savings.

9.1.8. There is a great need for financial education and awareness among workers and the poor. The sector standards that will be set may not go far enough to empower consumers and will delegate financial education to financial service providers who are interested in pursuing profits above all else. It must be the regulators who are mandated to provide neutral mass financial education to all South Africans. Financial education and awareness should also target the insurance sector in order to curb the frequency with which consumers find themselves underinsured and 'conned' by insurers.

9.1.9. Banks rush to auction the homes and cars of defaulting customers and often bank officials sell them at below market value at auctions, sometimes to their family and friends, who then resell them shortly afterwards at a profit. This should be dealt with decisively through legislation.

9.1.10. There was wide-scale abuse of garnishee orders, and this needed to be tackled by government and the financial sector. Banks needed to tighten authorisation requirements for debit orders by requiring proof of consent. Cosatu said it believed that the pending Magistrates' Courts and Debt Collectors Bills will go a long way towards solving this issue.

9.1.11. The exponential growth of loan sharks and their preying upon the most poor and vulnerable required the NCA to be strengthened to curb abuse.

9.1.12. Space should be provided for the inclusion of organised labour and progressive civil society in the relevant oversight and accountability authorities and regulating bodies and their working groups as envisaged in the FSRA as they had a great deal of knowledge of challenges facing the sector and how they impact upon workers and the poor.

9.2. South African Communist Party (SACP)

9.2.1. The SACP explained that it is concerned by the high cost of financial services and products, which continued to exclude millions of workers and the poor. The failures to transform the sector rested on the lack of commitment by the sector to the FSC.

9.2.2. The oligopolistic market structure of the banks was not healthy for the economy and was a driver of inequality and disadvantaged the poor and workers. Measures must be found to make the product and pricing structures of the banks more transparent to encourage competition.

9.2.3. The SACP warned against the using of international financial regulatory standards such as Basel III to block transformation, arguing that these were developed for countries that did not experience oppression, as occurred in South Africa. The national goal of reconciliation and development should take the prime place.

9.2.4. The Banking Enquiry Panel Report (2008) should be revisited to take stock of the implementation of its recommendations.

9.2.5. A number of the elements of the Generic and FSC codes such as ownership and access to finance are not impressive. Parliament needs to decide what failure to implement transformation should mean for the licence conditions of firms who do not meet their transformation commitments. Parliament should co-operate with other institutions such as the Commission on Employment Equity to oversee the financial sector with respect to their implementation of employment equity plans.

9.2.6. The CBDA's efforts in promoting and developing co-operative banking are inadequate. The mandate of the CBDA has to be reviewed and it has to be well funded.

9.2.7. Postbank should be licensed for full banking services expeditiously and a state-owned bank should be established. Co-operative and State-Owned banks should not be required to meet the same set of regulations as commercial banks who are primarily established for profit-making.

9.2.8. The NPS is not structured to allow diverse role-players in the banking sector. Co-operatives had to transact through banks in order to be able to access the NPS, making them subservient to the mainstream banks. The NPS should be reviewed in line with the recommendations of the Banking Enquiry Panel of 2008 to enable access for other types of banks.

9.2.9. The SACP condemned the practice, by short-term insurers, of fleecing consumers by refusing to pay out insurance claims, as well as the immediate classification of customers as high risk, which was followed by increased premiums, where claims are paid.

9.2.10. The government should consider introducing mandatory community reinvestment legislation in order to force the sector to direct its profits towards meeting the social needs of communities they operate in.

9.2.11. The government should legislate for transformation as the financial sector had failed to meet transformation targets which they had voluntarily committed to.

9.3. Black First Land First (BFLF)

9.3.1. The BFLF is a black consciousness movement that is registered with the Independent Electoral Commission (IEC).

9.3.2. The lack of transformation in the economy was as a result of white monopoly capital, which has control over the media, the judiciary, capital and the state. White monopoly capital is corrupt and undermines development. White monopoly capital is a real phenomenon, controlled by a handful of white families including the Ruperts. The Competition Commission and the Public Protector have shown that the banks are corrupt. ABSA owes the country R26 billion which was stolen from the SARB.

9.3.3. The biggest beneficiary from the state’s procurement spend is white monopoly capital. For example, South African Airways spends R24 billion on procurement annually and 98% goes to white monopoly capital.

9.3.4. Government should deal strongly with the structural corruption of white monopoly capital, institute a judicial commission of inquiry into apartheid corruption and a judicial commission of inquiry into banks, which should include in its terms of reference the Oakbay closure of bank accounts. Another judicial commission of inquiry into SAA should be established to investigate the role played by Andrew Coleman in the downfall of the airline.

9.3.5. The Competition Commission Act should be amended to criminalise and increase the penalties imposed. Penalties for companies found in contravention of the Act should be 100 percent, rather than capped at 10% of their annual turnover for each year they are found to be involved in corrupt and anti-competitive conduct.

9.3.6. The Minister of Finance needs to to raise the percentage for black-owned business for procurement spend from government to 80 percent. The Minister of Finance should also ensure that the PIC mandates that 80% of asset management procurement goes to black asset managers.

9.3.7. BFLF supports the proposals by Prof Chris Malikane that the NDP must be abandoned, as it does not work. BFLF also supports the expropriation of banks, insurance companies, mines and other monopolies. A state bank must be established, which will consolidate all the state-owned financial institutions to facilitate affordable credit to progressive class forces. The Finance Minister should ensure that black banks such as Ithala, VBS and Postbank are given a full banking licence within a year, and 10 more banks must be licensed within the next five years.

9.3.8. SARB should be nationalised and a new economic plan to replace the NDP should be developed and must include the expropriation of all land without compensation.

10. CIVIL SOCIETY, ACADEMICS AND INDIVIDUALS

10.1. Financial Sector Campaign Coalition

10.1.1. The financial sector in South Africa was, in the first place, not established to serve the entire population. It historically emerged to serve the colonial extractive industries in mining and energy, while benefitting a few among the local population. This has not changed. It is therefore not surprising that transformation is very slow.

10.1.2. The FSC is premised on an attitude of big financial services firms doing the black population a favour.

10.1.3. The onerous requirements of international financial regulations such as Basel I, II and III are also not assisting in changing the racial patterns of ownership.

10.1.4. The government developmental financial institutions such as the Independent Development Corporation, PIC, Ithala Bank, PASA (Payment Association of South Africa) and Postbank should not have been omitted from the FSC. PASA is a body of gatekeepers that ensures the exclusion of smaller players in the banking sector in order to ensure its monopoly.

10.1.5. There are a few positives to transformation in that there has been a massive reversal in the number of unbanked among the economically active persons and some changes in the credit bureau operations. However, there is still a low culture of savings which is linked to over-indebtedness in the population.

10.1.6. There is a very high uptake of funeral policies while there is a low appetite for short-term risk cover. There is also a lack of consumer education. Sometimes product marketing is disguised as consumer education.

10.1.7. There is no clear account on how the sector has fared in ensuring the supply of affordable home loans to low-income households. Many other conditions which existed before the FSC was adopted in 2002, such as monopolisation, low levels of inclusion and ownership by blacks, few black people in management, boards and high skilled positions, lack of credit for black entreprenuers, and limited support of black firms by government and the private sector, still exist today.

10.1.8. The country needs punitive measures in order to ensure real transformation

10.2. Centre for Competition, Regulation and Economic Development (CCRED)

10.2.1. CCRED, based at the University of Johannesburg, said that barriers to entry in the financial services industry remain high. The entry of more businesses in the financial sector will bring many benefits, including lowering service and transaction costs, innovation of new dynamic products, creating more competition, triggering responsiveness from incumbents to lower prices and catering for the financially excluded. CCRED used the case study of the entry of Capitec Bank into the South African banking market, which showed that fees on low-cost accounts dropped by half from 2010 to 2014 due to the low fees at Capitec, saving consumers over R20 billion in fees in the process.

10.2.2. There is limited transparency in the pricing and comparability of financial products, particularly in the banking sector. The switching costs from one bank to another are also punitive. There are still challenges in the obtaining of licences and the setting up of infrastructure (such as ATMs) for new banks.

10.2.3. There is cartel conduct and collusion by banks, which suggested that there are flaws in banking supervision and that there is a limited reach of competition law, as penalties for collusive conduct are capped at 10% by the country's competition laws. Cartels arise in order to fight off new entrants into the market. Regulation was also used as a barrier to protect incumbency. The findings emanating from the Competition Commission's investigations and prosecutions should be used to 'open up regulation', as is done in such countries as the UK and the US.

10.2.4. Comparative studies on Mobile Money (MM) demonstrated the role of regulation in stifling the growth of MM in South Africa. MM is viewed as deposit-taking in South Africa. For new companies who want to engage in MM, they have to be linked with a bank, which creates barriers. In other countries such as Zimbabwe and Kenya, MM is thriving because it is mobile network operator-led and because of the flexible, adaptive and risk-taking regulatory environment.

10.2.5. There is very slow progress in implementing the 2008 Banking Enquiry Panel Report findings, by the Competition Commission, relating to penalising delays in switching customers, reducing banking costs for customers and ensuring transparency and comparability in pricing of bank products and service offerings.

10.2.6. The publishing of statistics relating to commercial lending to SMEs and black-owned businesses needs to be introduced and monitored. Development finance is not enough; the country requires long-term funding for new investments in productive assets. There is also a need to incentivise the provision of services to SMEs and black-owned entrants into the market, open up licensing, enact supportive legislation for branchless, co-operatives, and agency banking, and technology-based banking solutions.

10.3. Black Management Forum (BMF)

10.3.1. The BMF is opposed in principle to the existence of Sector Codes. They are unnecessary as the B-BBEE Generic Codes exist. All sectors should rather transform in accordance with the Generic Codes as Sector Codes are minimalist and are designed to pay lip service to transformation.

10.3.2. The 2012 FSC had lower targets of transformation as compared to the Generic Codes. While the latter has a target of 25% direct ownership, the 2012 FSC has a target of 10%. The Draft FSC should not be adopted if its targest are lower than those in the Generic Codes.

10.3.3. With respect to the Access to Finance and Empowerment Financing of the Draft FSC, the BMF objects to it as providing banking services and lending money and financing assets is normal business activity for banks and should not be used to measure transformation.

10.3.4. The BMF objected to the 'once empowered, always empowered' principle and it must be scrapped altogether.

10.3.5. On Skills Development, the BMF noted that the Employment Equity Commission (EEC) Report of 2016 indicated that the financial sector is not making any meaningful progress to break free from the apartheid-era workforce profile. The financial sector has not invested significantly in building critical skills in the right areas of the business and at the right pace and scale so as to create critical mass.

10.3.6. On ESD, black companies are not being given meaningful work in the financial sector. There are no black-owned and controlled companies in the critical value chain services of the sector such as Cash Management Services, ATM solutions, and Card Supplies.

10.3.7. There is evidence that the financial sector engages in practices of 'redlining' and racial profiling in pricing its services and products. BMF also highlighted the market concentration and collusion within the banking sector, arguing that section 73A of the Competition Act, which criminalises uncompetitive market conduct, is not only applicable to those who engaged in collusive conduct, but also to those who turned a blind eye. The Commission and the National Prosecuting Authority should work together to ensure criminal prosecution in that regard.

10.3.8. A financial sector-wide judicial inquiry to deal with issues of alleged malpractices pertaining to market conduct should be established.

10.4. Black Business Council (BBC)

10.4.1. The BBC believes that it is time to establish new banks that will grow the economy and contribute to radical economic transformation.

10.4.2. 51% of government's goods and services budget should be dedicated to Procurement from black-owned businesses. The Preferential Procurement Policy Framework Act should be repealed and the current procurement regulations should be reviewed.

10.4.3. A minimum of R30 billion from government should be made available to fund the Black Industrialist Development Programme and this funding should be matched by the private sector.

10.4.4. All new banking and insurance licences should be given to firms with a minimum of 51% black ownership.

10.4.5. The 'once empowered, always empowered' B-BBEE principle should be repealed from the Codes.

10.4.6. BEE transactions should be exempted from the Dividends Withholding Tax as there is high reliance on dividends to repay debt funding.

10.4.7. All new insurance licences must have a 51% minimum black ownership.

10.4.8. There must be set-asides of up to 35% for black entrepreneurs as a condition for licensing.

10.4.9. There must be a minimum of 30% of financial services companies that are allocated to black asset management companies as part of black enterprise development.

10.4.10. A Financial Sector Commission to monitor performance and progress of the sector must be established.

10.4.11. B-BBEE Ownership must be a JSE listing requirement.

10.4.12. There must be a review of the BEE Rating Agency and Audit Firms for Insurance.

10.4.13. An SMME fund with a minimum of R50 billion for black SMME funding should be established and funded by the financial services sector.

10.4.14. South African regulators should participate actively on BRICS initiatives that seek to establish a BRICS credit rating agency and the New International Payment Card System (NIPCS).

10.5. National Black Business Caucus (NBBC)

10.5.1. The NBBC is a membership-based organisation affiliated to the BBC.

10.5.2. The NCA does not prescribe the timeline for the issuing of section 129 letters by creditors as part of the bank repossession procedures, and this should be rectified.

10.5.3. There are unsavoury practices in the banking sector, including banks intimidating consumers in distress by sending bouncers to coerce them to sign Section 127 documents which stipulate a voluntary handover of property. It is made to seem like the handover was voluntary when it was actually done under duress. This practice is unlawful.

10.5.4. Banks repossess assets even when a debtor was involved in an accident and became temporarily incapacitated and unable to make payments as a result. Banks and other creditors should not be allowed to cancel a contract and repossess assets under such circumstances. Regulations should be introduced to ensure that in such circumstances a debt is frozen to enable a debtor to recover.

10.5.5. Banks often sell repossessed assets at unfairly low prices. In many cases, when debtors encounter difficulties, their interest in the asset is already more than that of the repossessing bank. However there is no equality of arms between debtors and creditors, even from the initial phases when the contract is signed. Debtors continue to be treated as if they have no stake or claim at all, despite having made enormous investments.

10.5.6. In many cases, repossessed assets are auctioned at below their market value, resulting in distressed debtors being harassed for the balance of the debt even though they have lost the assets and had no say over its auction price. The relevant laws and regulations need to be reviewed in order to protect consumers. A reserve price that is fair should be compulsory when the courts order repossession and auctioning of repossessed assets.

10.5.7. Banks and other financial service providers (FSPs) are usually granted default judgments against clients, without the client being afforded their constitutional right to be heard. This reflects badly on the law and the courts, who are supposed to hear both sides of the story before taking drastic and life-changing decisions.

10.5.8. The use of third party debt collection agents by creditors should be disallowed as third party debt collectors are unprofessional and prolong the process with the aim of billing more and making more money out of distressed consumers.

10.6. Osiba Holdings

10.6.1. South Africa's major commercial banks had collaborated to establish a nationwide small business advisory service called Sizanani, which operated successfully for several years but was later discontinued, leaving a crucial gap in the market. Commercial banks should be required to establish and fund a universally accessible business advisory service open to small businesses. This centre should be modelled on the lines of the discontinued Sizanani and the Small Business Advice Centre (SBAC) in Taiwan, which was established by public and private banks to provide advice to SMMEs. Such a centre should be staffed with highly skilled professionals, who are able to provide non-financial solutions to business challenges, as well as assistance to improve applications for loans where finance is required.

10.6.2. The credit guarantee schemes, such as the Khula Credit Guarantee Scheme (Khula Scheme), play an important role in mitigating the risk of lending to SMMEs and increasing access to finance. The uptake of the Khula Scheme by local commercial banks has, however, fallen dramatically. This was due to challenges related to the Khula Scheme and to the banks. Banks should be required to constructively re-engage with the Khula Scheme. Where there are problems with the Scheme – either in terms of design or execution – these should be resolved collaboratively and constructively. If banks are not willing to collaborate with the Khula Scheme, they should introduce other innovative instruments to enable increased lending to SMMEs.

10.6.3. In the short-term insurance industry, one of the biggest challenges for the small black-owned motor body repairers is lack of access to insurance work. The short-term insurance companies play an important role in channelling body repair work. There is a panel system that excludes the majority of black-owned panelbeating shops and favours established, mainly white-owned, repairers. Vehicle owners are deprived of taking their vehicles to body repair shops of their choice, even if such shops are well known by insurance companies. Insurance companies channel work to only approved repairers who are on their panel. This significantly disadvantages small black-owned repairers and thwarts competition.

10.6.4. During 2005-2007, a DTI sanctioned process of a special dispensation was agreed to with short-term insurers to not remove vehicles that are out of manufacturer warranty from repairers that are not on insurer panels. This dispensation held for a while, helping to improve access to jobs for small panelbeaters, but it was later abandoned.

10.6.5. Short-term insurance companies should be required to put in place a mechanism to significantly increase the quantum of repair work available to small black-owned body repairers nationally.

This should be closely monitored and insurance companies should be required to report on this regularly.

10.7. Regiments Capital

10.7.1. The Bill of Rights in the Constitution is violated by a lack of access to financial services. The financial sector in South Africa is not structured optimally to service human rights.

10.7.2. The country's financial services are skewed towards the wealthy and high earners, with limited innovation and competition compared to other vibrant emerging markets. India, for instance, had made advances which have improved access to financial services for the poor - over 200 million unbanked individuals have recently gained access to bank accounts within a period of two years. This expansion of banking services to the poor was initiated and funded by the government. The government also granted income tax exemptions, tax and patent costs rebates for start-ups. Financial inclusion and technological development should be supported by legislation to encourage start-ups and technological innovation.

10.7.3. The Competition Commission Banking Enquiry Panel Report of 2008 recommended that government should pass legislation for second and third-tier banks. It recommended that certain rules restricting the participation of duly qualified institutions as acquirers in the payment card schemes be abolished. It also recommended that the membership and governance of the Payments Association of South Africa (PASA) be revised to include qualified non-bank participants. It further recommended an approach that requires an explicit access policy for banks and nonbanks alike to the payment system.

10.7.4. At present, credit denial can be done for several reasons: there is no transparent system by which the customer can assess whether or not the decision was fair.

10.7.5. Credit allocation, interest and service charges are individual customer-focused with no evidence of risk pooling or cross-subsidisation. The poor borrow less and pay more. A solution must be designed and implemented which embodies the principles of risk pooling, cross-subsidisation and government guarantees to enable the poor to access credit at comparable rates to the wealthy and high earners.

10.7.6. There is a massive potential to more efficiently allocate capital to stimulate the economy, create employment and direct capital to national economic imperatives. Regulation 28 in the Pension Funds Act is inefficient as it limits asset allocation to alternative asset classes under the guise of prudence and this ignored economic imperatives in the National Development Plan (NDP). Tax policy is not being used at all to support the supply of more affordable housing for low and middle income earners. The Real Estate Investment Trust (REIT) pays zero tax if the investment is put into a pension fund. Government needs to offer a tax incentive to the housing sector, comparable to the benefits given to the REIT sector. The REIT incentive scheme is leading to a proliferation of shopping malls and office blocks instead of affordable housing.

10.7.7. There are a few gate-keepers that control too much of the investment allocation in the economy. Consultants to trustees often allocate pension scheme funds to managers they are comfortable with, as opposed to any objective merit. A critical evaluation of fund allocations is vital to continuously provide equitable fund allocations that support transformation. The 'vertical integration' seen in the asset management sector is anti-competitive.

10.7.8. The NT, the DTI and the Competition Commission need to evaluate the regulatory regime, the tax regime, concentration risks and vertical integration in the investment industry in order to more rationally align these with national imperatives in the NDP.

10.7.9. Although customers may be protected by various laws, given the cost of litigation and the knowledge deficit of the poor, they are not equipped or empowered to take effective action in the face of procedural and substantive unfairness.

10.8. FinMark Trust

10.8.1. FinMark Trust made a written submission and did not make an oral presentation. FinMark Trust conducts the Annual FinScope Surveys to determine how individuals source their income and manage their financial lives, as well as attitudes and perceptions regarding financial products and services.

10.8.2. The FinScope Surveys evaluate access to basic financial services, as one of the 13 resolutions of the 2002 Financial Sector Summit. They measure the levels of financial inclusion and the drivers of and barriers to the usage of financial products and services. They also assess current policies and the regulatory environment to determine its conduciveness to financial inclusion.

10.8.3. FinMark's recent research shows that since 2003, access to banking has increased across all social boundaries, but most noticeably for those who are in the vulnerable group (LSM 1-5). It said that further analysis shows that the growth was driven by both legislative and commercial initiatives of banks.

10.9. Microfinance South Africa (MFSA)

10.9.1. MFSA is a non-government organisation that represents 1098 micro lenders, the majority of whom have a turnover of less than R10 million per annum. MFSA said that transformation in the financial sector was rather slow but remains key in ensuring that there is inclusion and access to appropriate products for households and enterprises, economic growth, creation of more job opportunities, an opportunity to alleviate over-indebtedness and additional employment equity opportunities for the previously disadvantaged.

10.9.2. While there have been several new laws and regulatory changes to promote financial inclusion and protect consumers such as the National Credit Act, government needs to assist with making regulation and compliance requirements easily understandable and implementable and fit-for-purpose for micro-lenders. There is a need for training and support to ensure that their role in the credit market, businesses and business models remain accessible and sustainable.

10.9.3. MFSA acknowledged the gazetting of Credit Life Insurance Regulations which prescribe the capping of the amounts to be paid by consumers for Credit Life Insurance and the minimum benefits to be included in such policies. The review of Credit Life Insurance should be done in a rational manner. Credit Life Insurance that is done in a sustainable and ethical manner can lead to an introduction of other financial products to consumers, which can be beneficial to their livelihoods and can enhance Financial Inclusion.

10.9.4. MFSA is of the view that a number of transformation initiatives, especially with regard to regulation, have taken place in the financial sector in order to alleviate over-indebtedness and include fair and responsible credit.

10.9.5. The National Credit Amendment Bill 2017 (Committee Bill on Debt Relief) should make provision for the Prescription of Debt Relief Measures to alleviate household over-indebtedness in different economic circumstances. However, any legislated debt relief measures must be sustainable in the long term due to the severity of the adverse impact this will have on micro-lenders.

10.9.6. MFSA welcomed pending measures for electronically authenticated debit orders by consumers to prevent abuse or fraudulent debit orders. There is a need for real-time and clean data in the credit bureaus for new, closed, settled and cancelled credit agreements in order to support sustainable credit decisions.

10.9.7. The incentive to transform is not substantial. A more focused approach is required with more substantial benefits in order to promote transformation. More effective consumer education needs to be implemented, especially regarding access to credit, to ensure transformation.

10.10. Firstsource Money

10.10.1. Firstsource Money's presentation focused on the theory of money creation and supply. Money creation is the only vehicle through which nations produce, consume and grow their economies.

10.10.2. The role of money creation and supply is the prerogative of the state, not the private sector. Only 5% of money supply is created by government through the SARB, 95% is created and supplied by commercial banks. The government had abrogated its role to mainly the big four banks, yet those who create and allocate money are the real economic controllers of economic growth. Giving this power to commercial banks is the reason behind lack of growth in the economy. Government needs to claim its role back from private firms.

10.10.3. Many countries such as Germany, Canada, Japan, China and the Asian Tigers used 'sovereign money', through their Reserve Banks, to lift their economies. They use their Reserve Banks to supply money and to guide credit creation.

10.10.4. The SARB must be subjected to democratic control and its price stability mandate must be changed to that of targeting unemployment. The state (national) and public (community, regional and cooperative) banks need to be established and capitalised by the SARB.

10.10.5. The outcomes of banking system and structural reforms should be: high economic growth and low unemployment, easy distribution of wealth, stable macroeconomic fundamentals, easy industrialisation and innovation, lower costs of living and doing business and a definancialised economy, which focuses on industrialisation.

10.11. Actuaries Lekgotla (AL)

10.11.1. AL is a forum for black actuaries who work in the financial services sector and was formed in 2016. It was formed out of frustration with the slow pace of transformation and deracialisation, which impacted on blacks and women in the financial services sector.

10.11.2. It submitted that the Actuarial Society of South Africa is predominantly white and does not prioritise transformation. There are no black Chief Actuaries, Statutory Actuaries, Alternative State Actuaries or Head of Actuaries in the major insurance companies.

10.11.3. There are racial and gender discrepancies in pay, where blacks and women are underpaid compared to their white peers. There need to be salary audits every year in order to eliminate salary discrimination.

10.11.4. There are unequal opportunities across race and gender and lack of effective mentorship of junior actuaries by seniors. Blacks and women are denied opportunities to grow into senior positions. This slows down growth and transformation. More stringent measures need to be put in place through the FSC to encourage transformation and mentorship.

10.11.5. There is a low level of participation in the reviews of the FSC. The companies are not reporting to the FS Charter Council. The 2013 review shows a disappointing 5% participation, which suggests that companies are hiding their failures to meet the FSC targets. Those who do not participate in reviews should be named and shamed. Companies' FSC compliance reports should be made public and those companies that do not comply must be fined.

10.11.6. Some companies use a salary band to classify people as managers when they are merely specialists. This is tantamount to fronting, as it tends to boost management statistics unjustifiably, as some individuals who are classified as managers have no decision-making authority or resources.

10.11.7. Capital adequacy requirements for insurance companies are too high for small and medium enterprises to operate in the sector. The capital requirement should be R10 million rather than R15 million. There must also be targeted funding programmes for black SMEs. Audit rotation for actuarial consultants should be enforced in order to assist smaller consulting firms.

10.12. South African Development Foundation (SADF)

10.12.1. The SADF proposed that a fund of R5 billion a year be set up and managed by the DTI to fund start-ups in the financial sector. This fund should be set up through funds levied from banks, trusts and insurance companies. It should be directed at fullfilling some obligations of black economic empowerment that the financial sector is avoiding. The contribution to this fund should be over and above the requirement of the FSC.

10.12.2. There is a lack of funding for start-ups, not only from the financial sector, but also from development institutions such as the IDC, the NEF, the Jobs Fund and the DTI. Other than the DTI and the Jobs Fund, all the funding institutions are raising money from the financial markets and these markets set stringent conditions and use bank rules.

10.12.3. The Fund that the SADF suggests should be managed by the DTI should be ring-fenced for start-up businesses and should be separate from other current DTI programmes. While the DTI receives funding from NT, its programmes mainly finance big white and foreign-owned businesses.

10.12.4. Most accounts held by commercial banks are funds deposited by black people, but a very small amount of it goes back to them. The financial sector lends money to existing businesses only, hence many black people are unable to tap into the pool of funds controlled by the banks, insurance and investment management companies. Banks channel money to 2% of the population who are industrialists and property owners through buying shares and new properties. This means that black savings are used to fund white people. This happened in commercial property development where blacks are unable to get money to build their own properties and malls.

10.12.5. Most of the lending to blacks is not for business but for consumption (through the use of payslips and the NCA rules, through overdrafts, credit cards, motor vehicles and mortgages). About 90% of black people earn around R4 000 per month and normally do not qualify for even these loans. Black people cannot industrialise based on payslip-based loans. For business loans, banks use lending rules which exclude black-owned startups.

10.13. Intellidex

10.13.1. Intellidex's submission focused on the impact of the financial services sector in transforming the broader economy, the transformation of the financial sector and the level of market concentration.

10.13.2. The level of credit extended to the private sector compares to that of OECD countries, which averages around 149% of GDP. However, asset-poor individuals, who are predominantly black, find it difficult to access credit at low cost.

10.13.3. South African capital markets are sophisticated and deep, which makes the financing of transformation possible. The JSE is by far the largest capital market in Africa, enabling South

African companies to raise capital far more efficiently than companies elsewhere on the continent. It also provides liquidity for investors.

10.13.4. BEE transactions in the banking sector increase the risks of banks.

10.13.5. BEE deals done by the top 100 companies on the JSE collectively created R317 billion of wealth as at the end of 2014. Some BEE beneficiaries dispose of their shares and do not become long-term shareholders.

10.13.6. BEE deals should rather be seen as wealth creation and redistribution mechanisms than as ownership mechanisms. Black wealth creation is also important to transform the economy.

10.13.7. Market concentration in the banking sector has advantages in that it enables financial stability. A fragmentation of many banks constrains the scale of business that banks can do in that they cannot take on exposures that represent too large a percentage of their capital. The smaller the capital base of the bank, the smaller the exposures they are able to take. Larger banks could finance projects without incurring significant single exposures. A competitive market is also important as it decreases the costs for consumers. A concentrated market implies less competition. Competition can happen in three primary ways, through a) transaction and account fees, b) interest rates offered on loans, and c) risk level that is accepted.

10.13.8. Deracialisation of banks was important to eliminate racism that black consumers may experience when applying for credit and other products. Empowerment financing in the FSC should be used to set aside targeted financing for black businesses.

10.14. CASISA

10.14.1. CASISA focused on its representative, Mr Justin Lewis's experiences when it came to contrived liquidations. Mr Lewis said he was asked by Lloyds of London to investigate a case of alleged insurance fraud in South Africa: The use of auctioneers to undervalue assets, which the closure of Auction Alliance confirmed, for sale at pure profit, which a Scorpions investigation supported by PwC confirmed was designed to mislead the courts to facilitate fraud.

10.14.2. Many liquidations are contrived, judges are corrupted, banks have control of the court registrars and the Master's office, which deals with liquidations and sequestrations. One of the methods used to mislead the courts involves file management. It was done to get members of the bar and side bar to accept mandates with the potential to facilitate fraud.

10.14.3. CASISA aims to protect fundamental human rights and the independence of the judiciary and to hold legal professionals accountable.

10.14.4. The country's liquidation laws have to be reformed and corruption monitors should be appointed in the courts for victims to report to.

10.14.5. Auctioning repossessed houses for as little as R100 was outrageous. The late Hawks Judge authorised an investigation into the corruption of the courts by alleged 'trial fixing' in the UK widows case, which he considered as 'syndicated organised crime.

10.15. Payment Solutions

10.15.1. Payment Solutions focused on access to finance for the poor and reforming the rules and regulations related to debit orders. The biggest challenge is the high cost of credit, which is largely caused by lack of competition. There are no alternative sources of finance to bank loans.

10.15.2. The cheapest unsecured loan in the market costs approximately 47% of the amount lent, due to the collection, origination, contract and administration fees. 75% of employees are broke five days after payday. This leads to emergency payday lenders, who lend at a minimum of 5% interest per month, amounting to anywhere between 60% and 120% per year.

10.16. Ms Yvonne Oberholzer

10.16.1. Ms Oberholzer raised concerns about her experience when she applied for debt review, as provided for in the NCA. She stated that she had undergone debt review in 2012 and had paid the required amount every month for about a year. However, one of her creditors, a bank, had her sequestrated in 2013 based on Section 8(g) of the Insolvency Act (No. 24 of 1936), while she was still under debt review. She said that this section states that "(a) debtor commits an act of insolvency if he gives notice in writing to any one of his creditors that he is unable to pay any of his debts". She said this section was amended in 2014 by the insertion of section 8(A) stating that "debt review must not be regarded as an act of insolvency". This showed that debt review was never intended to be considered as an act of involvency.

10.16.2. She said that she was intimidated, bullied, threatened, and harassed by the Trustees from KPMG, including being arrested without a warrant in 2015, having her bedroom invaded, and losing her assets and home, as a result of this ordeal.

10.16.3. She submitted that a state-owned commercial bank should be established to give some competition to private banks.

10.17. Fred Arijs

10.17.1. Mr F Arijs is a former investment banker from Belgium and has been a property investor and developer in South Africa since 1997. He said that he and other private investors had formed a joint venture with a bank in two Plettenberg Bay projects between 2007 and 2008, with the bank having a 50 percent shareholding in these projects. In the first project, the bank was to provide feasibility, funding, and an exit strategy, as well as its know-how, network, experience and references. In the second project, it was to provide funding, and an exit strategy, as well as its know-how in the hospitality industry, its network, experience and references.

10.17.2. He told the Committees about the circumstances surrounding the failure of the joint venture which led to the loss of the two properties. He alleged that the bank had acted unfairly and in bad faith towards other shareholders by withholding crucial information from them. He said that the bank did not formally appoint directors to the project but simply seconded its employees. He said that the bank managed to avoid tying its assets to the project, and alleged that private investors were exposed to full risks and loss of millions of rands in abortive costs and interest.

10.17.3. He said that the bank called up the loans and sureties for the two projects, in spite of the private investors not being in arrears. It also prevented the private investors from sourcing an appropriate, alternative investment partner. Furthermore, when the private investors attempted to litigate, the bank called up other loans and sureties linked to them in order, he alleged, to intimidate them.

10.17.4. Mr Arijs recommended that a fund similar to the National Home Builders Registration Council Fund be established in order to provide the clients of banks with professional legal representation in instances where they face litigation from banks and other creditors in the financial sector. He was of the view that there is an inequality of arms between financial institutions and clients, as these big institutions had an unfair advantage which trumps the principle of equality before the law. He submitted that this fund should receive contributions from banks based on their collection of fees to ensure that the legal rights of the clients are protected.

10.17.5. He submitted that there should be full transparency from the banks with regard to their products and that clients should have full access to all documents, particularly the terms and conditions, and communication related to their client files and products.

10.17.6. He submitted that a support base/buffer should be created to assist clients when they incur temporary financial difficulties. He also said that foreclosures, repossessions and forced public auctions should be completely reorganised in favour of clients.

10.18. Ms Bridget Brun

10.18.1. Ms. Bridget Brun, in her written submission, raised concerns about the Draft FSC. She said that she believes it will mainly impact negatively on blacks.

10.18.2. She said that amended sector codes for all the other sectors, except the Financial Sector, had followed the precedent set by the 2013 Generic Codes in respect of Management Control and Skills Development. She said that for the targets to be achieved, they required ensuring that black people, by subgroup and gender, be economically empowered in order to ensure that they benefit equitably.

10.18.3. The Draft FSC deviated from this by allocating meagre bonus points to financial companies if their staff complement is made up of Africans. She argued strongly that in a country where the majority of the population is African, this approach is insulting, racist, anti-transformation, anti-economic development and 'reduced Africans to bonus points'. The implications of this approach is that an institution will only lose the 5 bonus points allocated for Management Control in the Draft FSC. She submitted that the Draft FSC should, like the other Sector Codes, legislate for the inclusion of Africans as part of the main targets rather than relegating their employment to the additional bonus points. She emphasised that this should be non-negotiable.

10.18.4. She said that on Skills Development the Draft FSC made no obligation for training and development spend on Africans. Financial institutions could score the full points without spending any money on developing African employees. She said that the way the Draft FSC was designed would favour Coloureds and Indians and discriminate against Africans.

10.18.5. She held that for transformation to occur, it should begin by ensuring that those who are most marginalised and least represented are targeted first for empowerment initiatives.

10.19. Mr Keith Leverstein

10.19.1. Mr. Keith Leverstein made a written submission. His submission focused of the Draft FSC and the delays in finalising it. He submitted that the delay in finalising the Draft FSC is responsible for the lower levels of transformation in the financial sector. Until such time as the Draft FSC is promulgated, the present one (2012 FSC) should be repealed so that the financial sector applies the 2013 B-BBEE Generic Codes. The FS Charter Council is dysfunctional and needs to be improved.

10.19.2. The general objective of the sector codes is to achieve more transformation than is prescribed by the Generic Codes. However, this was not the case with the 2012 FSC. The sector codes were being used by various industries to undermine the transformation targets stipulated in the Generic Codes. Companies in these sectors, including financial services and the 2012 FSC, had less to do in order to achieve higher levels of BEE compliance, such as spending less on skills development and achieving lower targets. The sector codes had to be realigned with the 2013 Generic Codes by May 2015. However, a notice (Notice 396 of 2015) to extend them was issued by the Minister of Trade and Industry in May 2015, setting a new deadline of October 2015.

10.19.3. Notice 396 further stated that a consideration to repeal sector codes that were not realigned by that time and ready for gazette would be given. However, up until now, the Minister of Trade and Industry has not followed up to repeal such sector codes including the FSC. Section 9(5) and 9(1) of the B-BBEE gives the Minister of Trade and Industry a right to repeal a sector code. In February 2016 the Minister did so, through Notice 184 of 2016, repealing the construction sector code and the Chartered Accountancy sector code. The other 7 remaining sector codes: FSC, Transport, AgriBEE, Property, IT, Forestry and Tourism, were not repealed by Notice 184. In March 2016, the new FSC was issued (through Notice 257) for public comment. Over a year later, the new FSC has not been finalised and gazetted, and there is no clear indication as to when this will happen.

10.19.4. A qualifying small enterprise (a company with an annual turnover of between 10 million and 50 million per annum) that achieves a Level 2 B-BBEE in the 2012 FSC would struggle to achieve Level 7 status under the requirements of the 2013 B-BBEE Act Generic Codes.

10.20. Mr Abie Adams

10.20.1. Mr Adams said that there was a lot of exploitation of the working class by financial institutions and this needed to be stopped. Insurance companies are selling products which serve to impoverish people. Their products were not designed to benefit people when they were alive. Parliament should enact laws that ban the selling of impoverishing products and encourage those which create wealth for people while they are still alive. There must be consumer awareness and education to help consumers to avoid buying these impoverishing products. Consumer education should also be made part of basic education curriculum from primary to secondary education.

10.20.2. Mr Adams said that Insurance companies have made huge profits through exorbitant premiums. When policyholders face difficulties and default, they lose all their contributions as premiums are not refunded. There must be laws and regulations which will require the reimbursement of at least 80 percent of premiums paid when a person faces difficulties and can no longer afford to pay. Difficulties leading to non-payment should include retrenchments, dismissal, retirement and lack of affordability.

10.20.3. Banking institutions charged exorbitant banking fees for services and products and Parliament should do something to stop this. Capitec bank was the only bank with affordable service fees and which had the interest of the people at heart.

10.20.4. An estimated US $50 billion was illegally exported every year from the African continent, undermining the socio-economic development of the continent. An investigation should be conducted into illicit financial flows, particularly from the financial services and mining sectors.

10.21. Mr Van Der Merwe

10.21.1. The financial services sector needs to recognise the important role that should be played by the FSC in transformation through the support and development of black entrepreneurs.

10.21.2. The FSC's impact on transformation has been minimal due to companies in the sector trying to get as many points for as little effort as possible, manipulating the Generic Codes and the FSC, and exploiting loopholes in legislation.

10.21.3. ESD is the key element on the BEE scorecard that has the highest potential to change South Africa through the development of black entrepreneurs. This would lead, ultimately, to job creation in the SME segment and beyond. The financial services sector is, however, undertaking low-impact ESD initiatives as well as fronting activities.

10.21.4. The ESD criteria in Code Series 400 of the Generic Codes and Statement FS400 and FS600 of the FSC were some of the key instruments that can be used to drive transformation throughout the economy. These codes sought to incentivise entities to engage actively in the development of black-owned SMMEs. There was a lack of commitment by the financial sector and corporates tend to follow a "tick box approach" to merely comply. This approach could jeopardise the achievement of the ends desired by the country's BEE transformation policies.

10.21.5. Some companies are issuing loans to 'ESD Funds' or 'ESD Facilitators' which do not get paid out to the actual beneficiaries. Corporates would then claim points for outstanding loans on an annual basis even though the money was never paid out to a beneficiary but to an ESD Fund which is controlled by a corporate. Another practice involves the provision of support to beneficiaries without any intent of involving these beneficiaries in the supply chain on a long-term basis. Corporates would claim ESD points for standard practices such as banks claiming points on loans given to black businesses, without any preferential treatment for those businesses.

10.21.6. The FSC should be strengthened to ensure that there is no double counting of initiatives and that any initiative claimed for must be supported by a cash flow that occurs within that specific year for which the Scorecard points are claimed.

10.21.7. The Coalition condemned the manipulation of loans to maximise the claiming of points. Low-impact initiatives were sometimes undertaken merely to claim points rather than to contribute meaningfully to transform and grow the sector. Corporates maliciously misinterpret the transformation codes in order to claim points in areas such as 'top-up loans', 'rotation or rolling loans' and the practice of 'onboarding' suppliers in order to claim points and without any prior supplier development plans.

10.21.8. Loans and investments should be excluded in the calculation of Total Measured Procurement Spend (TMPS) as per clause 6.4 of Statement FS400 of the FSC.

10.21.9. Any initiatives that could be classified as 'standard business practice' should be not be recognised as they fell short of the true spirit and intention of B-BBEE. Entities should only get recognition where they make an extra effort and not for initiatives that form part of their standard business practice.

10.22. Mr Sevaas De Kock

10.22.1. Co-operative banking was not successful in South Africa because of a lack of funding. Lack of funding results in the lack of development of micro-enterprises.

10.22.2. South Africa needs a formal platform to promote co-operative banking. There are many opportunities to expand financial inclusion, including through innovative and affordable products and embracing Mobile Money.

10.22.3. There is a need to adapt credit processes and lending methods, and accept household goods as collateral.

PART VII

11. NATIONAL TREASURY AND DTI RESPONSES TO THE PUBLIC HEARINGS

11.1 On 22 August the NT responded to the submissions. The full submission can be found on the NT website. Below is an overview of the response provided by NT recently. NT stresses that these are its tentative responses and it would need to further deliberate on them.

11.1.1 Principles for effective transformation: The following principles should underpin transformation policy and serve as a benchmark to evaluate proposals:

11.1.1.1 Promote inclusive and balanced growth, financial stability and confidence in the financial sector.

11.1.1.2 Be mass-based and sustainable, benefiting the most disadvantaged South Africans through the creation of new assets, capabilities and opportunities to build livelihoods and asset wealth.

11.1.1.3 Recognise the role of foreign capital in supporting South Africa's investment needs, but aim to reduce reliance on foreign capital by taking steps to grow the domestic savings pool.

11.1.1.4 Greater wealth equality for black South Africans cannot come only from the redistribution of current wealth, but also, where possible, through growing savings.

11.1.1.5 Ownership is not enough; transformation should focus on all elements effecting BEE as outlined in the B-BBEE codes, especially employment equity, management control, enterprise development and procurement.

11.1.1.6 Continue to confront cartels and collusion robustly.

11.1.1.7 Result in a deracialised economy that belongs to all, black and white, where the legacy of apartheid is no longer visible.

11.1.1.8 South Africa needs to transform in order to grow and we need to grow in order to transform.

11.1.2 Options for transforming the financial sector: A new FSC Summit as agreed in NEDLAC can further unpack the following proposals:

11.1.2.1 A stricter and strongly enforced Financial Sector Code (FSC), with higher targets and penalties for non-compliance.

11.1.2.2 Membership, representation and effectiveness of the FS Charter Council must be reviewed. CEOs should be brought back into decision-making, with industry subgroups established to look at targets headed by the CEOs.

11.1.2.3 Higher targets must be set, especially for ownership, management control, employment equity and procurement, with incremental timelines for compliance.

11.1.2.4 Ownership targets should possibly accommodate “spin-offs” e.g. part of the group sold off to a black industrialist/s

11.1.2.5 Financial inclusion should take into account take-up and usage, not just access.

11.1.2.6 Key objectives, like financial stability and better market conduct practices including treating customers fairly, are also transformational and must not be weakened.

11.1.2.7 Targets should not be hard-coded in law unless these initiatives fail. It is preferable that there is agreement between key parties on how to transform, otherwise transformation can be held up by legal challenges from parties who feel their ownership rights will be weakened.

11.1.2.8 Common and comparable data is required to measure progress, which requires improved reporting and monitoring.

11.1.2.9 Stronger consequences are required for failure to transform.

11.1.3 Higher ownership targets will require an understanding of trade-offs and an analysis of costs and benefits. For example, redistributing ownership through a BEE deal will dilute value for existing black shareholders. An assessment of a BEE deal for banks will need to consider the consequences of unencumbered capital on BEE partners on the one hand and lending to other South Africans, including disadvantaged blacks. In any event the funding of BEE transactions must be improved to ensure broad beneficiation and deal sustainability (away from the leveraged buy-out model). As multinationals dominate South Africa, as they do many advanced economies, there may also be trade-offs between BEE policy and policy on foreign direct investment, requiring us to consider the principle of ‘equity equivalence’.

11.1.4 Industry action plans for transformation agreed by government, business, labour and community with commitments signed by the Minister of Finance and CEOs

11.1.5 A concentrated and vertically integrated market structure compounded by inadequate support for enterprise development are leading impediments to the emergence of black industrialists and black SMEs in South Africa's financial sector, caused by:

11.1.5.1 Rigid and high barriers to entry, including regulation and capital costs.

11.1.5.2 Cumbersome regulation imposed on those wishing to enter the sector, at times reflecting disproportionate barriers to entry that favour the incumbents.

11.1.5.3 Insufficient access to capital for new and growing businesses, which according to the B-BBEE Commission promotes fronting. Though there are many state agencies established to fund such needs, there is a widespread view that new and growing businesses do not have sufficient access to capital.

11.1.5.4 Insufficient access to markets because of a concentrated and vertically integrated market structure and 'oldboys club'.

11.1.5.5 Co-operative financial institutions (CFIs) may support greater black participation in the ownership of banks and usage of bank services but have actually declined. The role of the CBDA should be reviewed to ensure that it supports the growth of this sector.

11.1.6 NT will need to consider the following :

11.1.6.1 Transformation action plans are developed for the banking, life insurance, asset management and non-life insurance sectors, to include such distribution channels (e.g. intermediaries) and procurement (e.g. of panel-beaters by short-term insurers) as may be relevant, with clear objectives and measurable deliverables. These should include the role of Postbank, encourage new banks by enabling 'dedicated' banks through the Banks Act, recognise black insurance brokers as the gateway for savings, recognise asset management and asset consultants as the primary allocators of capital, and pay attention to procurement by short-term insurers and government of panel-beaters.

11.1.6.2 Plans should underpin the FSC targets, be signed off by CEOs and the Minister of Finance, be published, and be monitored and evaluated through NEDLAC.

11.1.6.3 Each plan should promote black industrialists and black-owned SMEs through an explicit developmental framework, creating a business growth trajectory for businesses of different size and maturity, recognising the role of financing and procurement. At the same time, such funding must be sustainable, and lending to failing entities can generate a banking crisis, as can be seen from recent financial crises.

11.1.6.4 A plan to develop SMEs should consider at least better access to affordable funding, proportionate regulation to support new entrants, and enhanced technical and regulatory compliance support to these new entrants (possibly through an improved and extended CBDA).

11.1.6.5 Promote the sustainable development of co-operatives, including for banks and non-banks, and provide for graduation from informal to formal, to competing against large corporates.

11.1.7 To improve competition, support financial inclusion and build the financial sector, the bank action plan should explore the potential to facilitate the creation of a black-owned bank and state-owned bank (which should take into account Postbank and can include a rationalisation of existing DFIs).

11.1.8 Improved market conduct : Abusive practices must be addressed. NT will also consider the following:

11.1.8.1 Housing/asset finance initiatives should feed into and support National Treasury's financial inclusion policy.

11.1.8.2 The Financial Sector Conduct Authority must be establised urgently, and the Conduct of Financial Institutions Bill must be tabled.

11.1.8.3 National Treasury should revert back to Parliament on an investigation into foreclosure and repossession practices and propose a way forward.

11.1.8.4 Executives should be accountable for mistreatment of customers as dealt with in the Financial Sector Regulation Act and CoFI Bill.

11.1.8.5 Ombud system reforms provided for under twin peaks must be prioritised.

11.1.9 In response to the hearings, the DTI said that the financial services sector should be the key facilitator of transformation for the rest of the South African economy. Ownership should be viewed beyond extending shareholding by blacks to include funding for SMEs and black-owned businesses in other sectors. State regulatory institutions should actively use Section 10 of the B-BBEE Act, which deals with licensing of regulated businesses and procurement, as one of the tools of facilitating black ownership. Proposals that all new banking and insurance licences must be 51% black-owned can be implemented within the ambit of Section 10. All public institutions in the financial sector should legislate B-BBEE requirements as per section 10 of the Act in their sector regulations.

11.1.10 Greater emphasis should be on subsectors that are lagging behind, such as asset management. By 2019, state assets must be managed by asset management entities that are at least 51% black-owned and/or Level 4 B-BBEE status. A compulsory minimum requirement of B-BBEE Level 4 should be made a condition for listing companies on the JSE and other stock exchanges. When entities such as the JSE report, they need to distinguish between direct black ownership and indirect ownership through institutional investment. There also needs to be a clear measure of how much assets are in effective black ownership in the country (i.e. how much of the R4,8 trillion assets held by banks is owned and controlled by blacks).

11.1.11 The DTI supports the establishment of a fund of at least R5 billion per annum to support black businesses and industrial programmes. Sources for the fund could come from anti-competitive fines, contributions by financial institutions and from ESD contributions.

11.1.12 The DTI supports proposals by the Department of Labour on penalties for entities not compliant with management control and employment equity, and this should be included in the FSC.

11.1.13 80% of skills development in the financial sector must be on supporting black students through bursaries. Spending on consumer education should not be considered to be skills development.

11.1.14 ESD initiatives must be broader than their first-tier suppliers and include black industrialists and support black-owned entities in other sectors, especially manufacturing. They must be measured based on impact, not just contributions by financial institutions. Financial institutions must be incentivised to provide financial access to SMMEs, and this must include flexible risk assessment systems, favourable interest rate charges and debt management systems, and greater involvement of financial institutions in assisting black businesses in their operations.

11.1.15 Short-term insurance companies must phase out the current panel system for panel-beaters and towing services and at least 50% of the work within their value chain must be given to black-owned companies by 2021.

11.1.16 The DTI said that the NCR entered into a Memorandum of Understanding with the CBDA in February 2017 in order to provide a framework of co-operation between the two entities and to provide financial consumer education to members of the CBDA.

11.1.17 Credit providers should be encouraged to partner with building material suppliers and construction companies to disburse funds directly to these suppliers or introduce stores to be used solely for the purchase of building material in order to unlock funding for housing for low-income consumers in informal and rural areas, including those under traditional authorities. The

DTI stated that the NCR had no information of total credit that is allocated to women and historically disadvantaged persons but will begin to collect it.

11.1.18 The DTI reported that the Department of Human Settlements has entered into a Memorandum of Understanding with BASA in order to enhance the banking industry's appetite for developmental credit and provision for low-cost housing.

11.1.19 The DTI mentioned further that it had amended the NCA in 2014 to make provision for, among others, automatic removal of adverse consumer credit information within 7 days after receipt of all documentation following a settlement by a consumer of any obligation under any credit agreement. This was done in order to relieve consumers of having to approach lawyers and incur legal costs for the removal of paid-up judgments. Consumers should contact the NCR and the DTI regarding any credit regulatory matters for clarity.

11.1.20 The DTI submitted that the Draft FSC should be gazetted, in its current form, and be reviewed within 12 months in order to accommodate any further changes as a result of further negotiation and discussion, including proposals from these hearings and the proposed Summit. Parliament should monitor closely the process by FS Charter Council to review the Draft FSC.

PART VIII

12. COMMITTEES' OBSERVATIONS AND RECOMMENDATIONS

12.1 Overall approach of the Committees

12.1.1 As pointed out in section 1, this is the First Report of the Committees on Financial Sector Transformation, and it will be reviewed annualy. The reasons for this that are set out in that section are expanded on in the following paragraphs.

12.1.2 There are some issues on which the Committees need further information and discussion, including with relevant stakeholders, before we can make any decisive recommendations. The Committees will process these issues over the next year and more. We are politicians, not technical experts on the complex financial sector. We have sought to avoid making sweeping recommendations on issues that are at this stage too technically complex for us and the parliamentary support staff. We will also come back to these issues in time and decide on them. The recommendations in this Report are not all the recommendations the Committee may make; there will be further recommendations in the 2018 Report.

12.1.3 It is also possible that we may review some of our recommendations here over time if practical experience and better information suggests we do so.

12.1.4 The recommendations in this Report will not, obviously, be a response to every proposal made at the hearings. The focus will be mainly, certainly not wholly, on many of the proposals that had more general significance to a substantial number or category of the participants in the hearings and on which the Committees believe it is reasonable at this stage to make recommendations.

12.1.5 The Committees also had to find a balance between covering a sufficient number and range of issues and avoiding a long 'shopping list' of recommendations without taking into account what is reasonably practicable in the period ahead. Moreover, the Committees are concerned to avoid making endless recommendations that remain no more than words on paper and that we are unable to effectively monitor progress on and ensure outcomes on. In other words, there are strategic and tactical considerations in our overall approach to the recommendations we make.

12.1.6 This section includes both recommendations on which the Committees would like to see action and other issues that we would like the NT and/or DTI to consider for possible action.

12.1.7 The Committees note the commitments made by NT and DTI in section 11 above and will hold them to account for progress on them.

12.1.8 This section often refers to statistics provided at and proposals made at the hearings. The Committees' research staff were asked to check on the accuracy of the statistics, and that the MPs' interpretations of the proposals were reasonably correct. The research staff do not have the experience and technical skills that most of the participants in the hearings do and the members of our Committees certainly do not. Where it can be shown that the statistics that shaped the Committees' recommendations are inaccurate or the MPs misunderstood the proposals, the Committees will reconsider our recommendations. The Committees recognise that there are limits to what the financial sector alone can do, and that all sectors of the economy, not just the financial sector, have to contribute to economic transformation.

12.1.9 Obviously, all our recommendations cannot be implemented overnight; they will have to be phased in as part of an approach that has immediate, medium-term and long-term goals. The Committees will develop a programme based on the recommendations.

12.1.10 Very importantly, the Committees take into account that the Financial Sector Summit is to be held next year. Several of the Committees' recommendations will be considered in the FSC review process in the period ahead and by the Summit. The Committees will engage with the DTI and NT on the other recommendations also being considered through the review process and the Summit. The Committees believe that the Summit should be held in the first quarter of next year, but the preparatory work for it needs to be intensified. The Committees will finalise a 2nd Report on Financial Sector Transformation within 6 months of the FS Summit.

12.2. Finding the necessary balances to ensure transformation benefits all, but mainly the poor

12.2.1 There was considerable interest in the public hearings and a wide range of stakeholders took part in them. However, the different subsectors within the financial sector were represented by their associations with very limited direct participation from the businesses involved in those subsectors. While the Committees recognise that these businesses were largely represented by their associations, we would have certainly benefited more from their direct participation, particularly from black asset management firms, stockbrokers, insurers and the smaller banks.

12.2.2 The participants in the hearings were more polarised than is usually the case in hearings, with stakeholders who presented themselves as representing financially marginalised constituencies expressing huge frustration and anger at what they saw as the failures of the financial sector. The pace of transformation, they insist, is far too slow, and they blame not only the dominant players in the financial sector, but also the government significantly for this. It seemed that there was a sense in which every frustration these participants have with the effects of the significant slowdown in economic growth and increasing unemployment became concentrated on the financial sector. It was almost as if they were holding the financial sector responsible for every ill in the economy. Given the crucial role that the financial sector plays in the country's economy and in economic growth, this is perhaps understandable.

12.2.3 The Committees believe that more reliable statistics are necessary in order to assess the extent to which the financial sector has transformed. The Committees are concerned by the lack of coherent and consistent data on the implementation of the FSC and broader transformation in the financial sector. The Committees note the proposal by a stakeholder that there should be reliable statistics consistent across all databases on transformation of the sector and this should be extended to all sector codes as well as the amended generic Codes of Good Practice. Reporting on, for example, ownership statistics in the financial sector (such as JSE Annual Compliance and BEE Commission Compliance reporting) should include direct and indirect ownership as well as equity equivalent transactions, if any. The Committees agree with the proposal of another stakeholder that companies should disclose key transformation metrics and five-year trends on their websites within 6 months of the entities' year end.

12.2.4 The Committees express their serious concern about the low levels of participation by the financial sector in the annual FS Charter Council reviews. The sector is poorly monitored and evaluated. The 2013 Review Report of the FS Charter Council notes that only 70 out of 1423 financial institutions to whom the FSC targets are applicable responded to the call to submit annual results - a mere 4,92%. This is abysmal. The FS Charter Council says that it is mostly the large entities that are reporting. If there are entities that are experiencing problems in reporting, the Council needs to look into assisting them. More certainly needs to be done to get more entities to report. The Committees recommend that there should be an active campaign to make stakeholders and the public aware of the FSC, and we support the proposal at the public hearings that there should be a 'name and shame' approach to those who do not comply with its reporting requirements. The Committees support NT's proposal that CEOs should again be active in the decision-making processes of the FS Charter Council to 'ensure sector buy-in'.The Committees strongly recommend that the industry be compelled to provide the necessary information to the FS Charter Council, the newly established B-BBEE Commission and any other relevant state structure. The FSC should include a requirement for reporting to the FS Charter Council and the B-BBEE Commission. The need to report should also be a condition of licensing. There should be sanctions for non-compliance set out in the FSC and the B-BBEE Generic Codes. Together with SANAS-accredited verification agencies, the FS Charter Council and B-BBEE Commission need to investigate whether the statistics provided are accurate. The

Committees support the proposal in the FSC that verification agencies, which are auditors for B-BBEE, submit their reports directly to the Council. Consideration also needs to be given to Stats SA independently verifying the accuracy of the statistics. The FS Charter Council should submit these reports to the Ministers of Finance and Trade and Industry.

12.2.5 The Committees strongly recommend that the FS Charter Council be effectively capacitated and resourced, and if necessary restructured, to play its important role in the transformation of the financial sector. The FS Charter Council has not performed adequately and must also be held responsible for the inadequate transformation of the financial sector. There should be sanctions for the subjective failings of individuals in this regard. The Council needs to be held to account for its performance far more rigorously by the DTI and the PCTI. The B-BBEE Commission, which became operational in June 2016, also needs to be effectively capacitated and resourced and also held to account rigorously. The Committees will do this in various ways, including through receiving briefings from DTI, the FS Charter Council and the B-BBEE Commission regularly.

12.2.6 The lack of adequate and reliable statistics and the widely differing statistics provided by different stakeholders and the very divergent interpretations of them have provided challenges to the Committees in deciding on recommendations. The Committees believe that there were very sweeping statements made by several of the stakeholders on both sides of the divide, and while these statements are obviously inaccurate, they convey the depth of feelings of the participants and, in cases, their constituencies, and suggest how challenging it is going to be to arrive at a measure of consensus on further transformation of the financial sector. The dominant players in the financial sector insisted that there has been significant transformation even if they did not achieve several of the FSC and Generic Code transformation targets. Most other stakeholders insisted that there has been very little or no transformation in the sector and many of them do not believe statistics that suggested otherwise, often suggesting that these statistics have been manipulated or are simply false. It is clear that a significant number of stakeholders distrust and are even suspicious of the dominant corporates in the financial sector, and the Committees believe that these dominant players need to reach out more to those stakeholders, their own customers and the general public to explain what they have done to transform the financial sector. There needs to be more dialogue among the stakeholders directed towards more effective transformation of the sector.

NT, DTI, the FS Charter Council, the B-BBEE Commission and other relevant statutory bodies need to play a more active role in facilitating this, but the stakeholders should also engage more among themselves to ensure more effective transformation of the financial sector. Of course, it cannot be endless talk and little action. The aim of these engagements would be to arrive at least at a minimum degree of consensus on what needs to be done. As far as possible the transformation needs to be negotiated through various forums and informal engagements. Where there is no prospect of agreement on issues, Government and Parliament will have to take decisions after consultation with all the relevant stakeholders.

12.2.7 The Committees' overall view is that the financial sector has certainly transformed since 1994, but there needs to be more effective transformation consistent with the country's developmental needs. The banks and other sections of the financial sector are crucial to the economic growth and development goals of the country, and the transformation of the financial sector needs to be directed towards ensuring that the sector contributes effectively to this, both in its own and the country's interests. The Committees believe that there has been more transformation in the financial sector than has been made out by most stakeholders critical of the big players, even if less transformation than the big players make out. The Committees are clear that transformation does not mean a reckless populism that will ultimately undermine the interests of the poor and disadvantaged. Deracialisation is obviously a crucial aspect of transformation, but transformation is about much more than that. Transformation must, in fact, serve all classes and strata of the population, but primarily the poor and lower income earners. It should serve, crucially, to reduce the huge, unsustainable inequalities in our country, and not increase them. The Committees welcome NT's statement that transformation must not only benefit a few, but must be mass-based and sustainable. Transformation must also lead to inclusive economic growth that benefits the marginalised in society by bringing them into the mainstream of our economy. Financial sector transformation has to contribute to the overall economic transformation of the country as part of a developmental state. The majority in the Committees believe that the current perilous economic and political climate both reduces the prospects of a major transformation of the financial sector and, at the same time, makes it ever more necessary. The Committees are not calling for an overnight overhaul but the sector needs to transform more and more effectively and sustainably, within reasonable timelines, otherwise it will contribute to the social explosion looming in the country.

12.2.8 Managed appropriately, transformation will contribute to ensuring economic growth, development and job creation. The majority in the Committees believe that there is an interrelationship between transformation and growth as part of a radical economic transformation approach. Whatever other concerns the majority in the Committees have about NT's approach to radical economic transformation, we agree with NT's perspective that: 'Our growth challenge is intertwined with our transformation imperative. We need to transform in order to grow, we need to grow in order to transform. Without transformation, growth will reinforce inequality, without growth, transformation will be distorted by patronage.'

12.2.9 The Committees note the finalisation of the new FSC and the pending Financial Sector Summit to be convened by NEDLAC and that the targets in the revised FSC are compulsory, as is consistent with Section 9 of the B-BBEE Act. The available data indicates that there has been a regression in transformation in the financial sector, especially in ownership, management control and skills development. NT says that the Financial Sector Summit will ensure that there are measurable deliverables, clear timeframes, regular meetings to track progress on deliverables and consequences for non-delivery. The Committees agree with NT's proposal that there should be higher targets, especially on ownership, management control, procurement, skills development and financial inclusion. The targets on the latter should be about affordability, take-up and usage, not just access. The Committees also agree with NT that there is a need for a consistent approach to FSC target definitions, measurement and reporting. The Committees believe that the targets for black women involvement in executive and senior management control should be increased from the present percentages in the new FSC to at least 40%. The targets for consumer education and access to financial services should also be strengthened. Consideration should also be given to increasing the current 2% target for people with disabilities.

12.2.10 The Committees note the arguments supporting and opposing the differences between the 2013 B-BBEE Generic Codes targets and the FSC targets and believe that we need to discuss this further in a much more focused and concentrated way before arriving at any final conclusions. For example, the Committees note the arguments for the specificity of the financial sector, including that banks and long-term insurance companies are subject to global and domestic regulatory requirements, including in the case of banks and long-term insurance companies, on capital requirements. Banks and financial institutions, it is argued, are very different from other types of companies. Banks have a 'promise to pay' obligation - they are required to repay their depositors on demand. In other words, banks borrow short and lend long. To ensure that they are able repay on demand, they hold capital reserves and liquidity reserves. The liquidity reserves they have to hold are directly related to the type of deposits they have. In terms of Basel III, banks are required to hold enough liquidity to meet their expected outflows for a month - known as the 'liquidity coverage ratio'. This can be quite significant; for example, Standard Bank held R335,9 billion in liquidity in the 2015/2016 financial year. This protects depositors in case they want their money urgently, and protects the bank from a bank run. In addition, a bank must hold sufficient capital to protect depositors when the bank fails. Capital is set by the regulator depending on the riskiness of the particular bank's business. If a bank lends unsecured, then it needs to hold more capital. If a bank mainly lends for mortgages, it has to hold less capital because the underlying houses provide the security. Capital cannot be obtained in the form of a loan; it must be cash, known as 'unencumbered capital', because it is free of a loan obligation. This capital must come from the bank's owners (the shareholders). Big banks have built up this capital over many years by retaining earnings and by not paying dividends. This means that the capital has, gradually, over many years, been accumulated as the bank has grown. For new owners to have this unencumbered capital upfront is almost impossible. For this reason, usually when banks are sold, they are sold to other banks and not to new owners. In view of the specificity of the financial sector, the FSC deviates from the Generic Codes in the ownership element and banks and long-term insurers have an element for empowerment financing which has to serve as a catalyst for black business growth. The Committees also note that the B-BBEE Commission says that sector codes are 'allowed to deviate from targets and weightings used in the generic codes only where these are justifiable on sound economic principles, sectoral characteristics or empirical research'. However, the Commission says that these deviations are 'not instruments for sector codes to create a separate dispensation for industry players without enhancing the impact for black economic empowerment as this merely creates a myriad of rules for market players, thus undermining the effectiveness of B-BBEE.' The Committees recommend that NT, DTI, the FS Charter Council and B-BBEE Commission, through engagements among them and through the Summit process, address their differences on the disparities between the FSC and the Generic Codes and present a single report to the Committees within a month after the Summit. The engagements must take into account the recommendations of the Committees. The Committees will thereafter decide on their own positions on to what extent the specificity of the financial sector warrants the disparities with the Generic Codes and whether the substitutes for them are adequate.

12.2.11 The Committees believe that a balance has to be found between complying with global regulatory standards and managing the country's developmental needs. If there are to be differences between the Generic Codes and FSC targets, these must be negotiated with all the relevant stakeholders, reported to the Committees, and the reasons for these differences clearly explained to the public. However, the Committees are absolutely clear: financial institutions must achieve the targets in the FSC and must be penalised if they fail to do so. Achieving the targets should be a condition of the licensing of financial institutions as provided for in Section 10 (1) of the B-BBEE Act.

12.2.12 There have to be major punitive fines for the failure of financial institutions to achieve the FSC targets that serve as an effective deterrent.. The B-BBEE Commission needs to develop a system of effective fines and present a policy on this by June 2018. Consideration should be given to amending the B-BBEE Act and the Codes to clearly provide for such punitive sanctions. Consideration needs to be given to how financial institutions can be deterred from making their customers pay for these fines by increasing their fees.

12.2.13 There needs to be a vision of what the financial sector should look like in future and by when. This needs to be addressed through the Summit process and taken forward by the Committees in our next Report. For now, the Committees believe that there should be a diversified and more competitive financial sector comprising private, co-operative and state banks. These should take various forms and include specialised or monoline banks such as savings, mortgage and mutual banks. Foreign banks and investors wishing to invest in the country's financial sector should be encouraged to invest in greenfield operations in order to offer more competition instead of further cementing the market concentration of the 'big four' banks. Fintech can support their growth and they can operate either electronically, without brick and mortar branches, using technology to deliver cheaper and faster services, or as fintech companies and other non-financial institutions offering banking services (especially payment and credit) through a variety of technological platforms. State banks should also be established to provide more competition and more affordable services, particularly for customers that are neglected by private banks. New customer-owned banks such as mutual, co-operatives, credit unions, and savings banks should enter the market and play a more important role as they are not focused on profits per se, but on generating wealth for their customers (who are also their shareholders) while, at the same time, providing financial services to them. The existence of a variety of banks and bank ownership regimes should provide for more competition and diversification. Regulatory requirements should also differ depending on the systemic risks that the banks' assets and liabilities pose to the whole financial system. Requirements for their registration should differ and reduce barriers to entry for new players and different types of institutions. These and other aspects should be part of the overall transformation of the structure of the economy as part of a developmental state and directed towards significantly reducing the inequalities in our society.

12.3. Market concentration, monopolisation and ownership

12.3.1. The Committees agree with NT that there is a need for a 'more objective process and common framework to determine ownership data,' and supports its proposal on the publication of an annual ownership monitor to 'track ownership levels and also effect policies to aid transformation.'

12.3.2. In its 30 November 2016 Report on the FSR Bill referred to in section 2.4 above, it was pointed out that SCOF noted: '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.' The Committees note that the 'big four' banks control more than 80% of the total banking subsector assets and market. When Investec and Capitec are included, the 6 banks control over 90%.

12.3.3. The Committees note that black ownership in financial institutions set at 25% by the Generic Codes has declined over the years from 26% to 23%, and black women shareholding levels from the 10% in the FSC target to 8% . The Committees note that the new FSC includes a Growth Fund with an estimated value of R100 billion, which is not in the current 2012 codes, to provide support to black industrialists and black businesses in general for various funding needs including purchasing of shares. The Committees would like a report on progress in this regard by June 2018.

12.3.4. The Committees note the submissions around the 'once empowered, always empowered' principle and strong arguments that it will affect transformation negatively as black shareholders could be bought off by whites, so reducing demographic representation in an institution that is recognised as empowered. The Committees support the proposition that this principle be recognised only to the extent that is envisaged in the B-BBEE Act, which sets limits for such recognition, in order to encourage companies to always seek to retain and encourage black ownership of assets. In our last joint committee meeting to finalise this Report, the B-BBEE Commission stressed that in terms of the FSC, a Measured Entity is allowed to recognise a portion of black ownership after a black participant has exited through the sale or loss of shares subject to the following: a) the black participant has held shares for a minimum period of three years, (b) consideration of the net value created in the hands of black people, and (c) transformation has taken place within the Measured Entity from the period of entry of black participants to the exiting period. The Committees require the B-BBEE Commission to monitor that these rules are adhered to and are not manipulated.

12.3.5. It was said that the ownership patterns of banks resemble those of companies listed on the JSE. It was stated that the largest share (49%) of the top six South African banks is owned by foreigners, 34% by institutions such as pension funds, and the remaining 17% by other categories of investors, including individuals.

12.3.6. The Committees note the JSE's statement that black people now own 23% of the JSE listed shares - 13% through institutional investors such as the PIC (indirect ownership) and 10% through direct ownership of listed companies, while white South Africans own 22%. It was stated that foreign institutional investors own 39%, and 16% was unaccounted for. The Committees note further that of the 10% of direct ownership of stocks in the JSE, 6% is owned by strategic partners (black individuals and black owned companies), 2.5% by community schemes and 1.5% by employee schemes.

12.3.7. The Committees believe that it is important to know who owns JSE stocks as this would help to paint a clearer picture of the assets in black hands and assist decision-making on transformation. The Committees subsequently had a briefing from the JSE which clarified that the JSE has 375 listed companies. However, companies outside the top 100 only controlled 4,7% of equity securities and 6,9% of non-equity securities. The JSE said that it would be a daunting exercise to audit the ownership of such small percentages. The Committees believe that through NT's ownership monitor project, it would be possible to identify this ownership.

12.3.8. It was said that the short-term insurance industry did not meet many of the targets on ownership in the FSC and Generic Code targets and the Committees recommend that this be addressed urgently.

12.3.9. Related to section 12.2.10 above, the Committees also note NT's argument that new ownership targets must take into account the challenges associated with the principle of 'once empowered, always empowered', the regulatory requirement for unencumbered capital and measurement (including taking into account the percentage of foreign ownership) and local free-float. The Committees note the concerns that multinational companies will be less flexible to give away equity for the purposes of B-BBEE.

12.3.10. The Committees are of the view that it is important to promote black industrialists and black-owned businesses through an explicit developmental framework for the sector. The Committees recommend that the DTI, NT and the regulators work together to develop a framework to support black industrialists, SMEs and co-operatives to create better access to affordable funding. There are concerns about high barriers to entry, which include cumbersome regulations and capital costs. There are difficulties in the acquiring of licences and insufficient access to capital for new and growing businesses, particularly black-owned. The Committees further note the concerns raised about government funding for start-up companies being biased towards other sectors such as construction, mining, wholesale and manufacturing, with the new entrants into the financial sector being neglected. The Committees request the Ministers of Finance and Trade and Industry to explore the feasibility of establishing a fund dedicated to new black entrants in the financial services sector.

12.3.11. The Committees agree with participants that stressed that the high level of monopoly in the financial sector leads to high service charges for consumers and is conducive to bank collusion that has a negative impact on consumers and undermines the economy, as pointed out in Section 12.5 below.

12.3.12. The Committees recommend that government and other relevant institutions give concerted attention to reducing the high levels of monopoly in the banking subsector and encouraging new entrants into it. The Committees believe that NT should consider in what ways there can be more black, including African and women, ownership of the major banks. Progress on these goals should be reported to the Committees regularly. The Committees understand that there are very complex legal, economic, political and other challenges to address in this regard. Among many other issues, consideration needs to be given to the following:

12.3.12.1. Legislative changes to allow for proportional entry requirements for new entrants to support progressive growth from an informal entity like a stokvel through to becoming a small player, to becoming larger. The capital adequacy requirements for banks that are not systemically important financial institutions (SIFIs) should be lower, proportionally, and increase as they gain market share and accumulate assets and liabilities. Appropriate minimum standards should apply so that the depositors' interests are protected. It is particularly the poor and lower income groups who suffer disproportionately when banks collapse, and the easing of requirements cannot be at their expense. On the other hand, concerns about depositors, while absolutely important, should not be used as an excuse not to encourage new entrants into the market.

12.3.12.2. Compliance with the FSC be a condition for licensing.

12.3.12.3. The FSC requires that the South African ownership of banks, within reasonable timeframes, be mainly black, particularly African, with adequate ownership by women

12.3.12.4. The FSC requires that within certain timeframes blacks, particularly Africans, be the majority at all levels of management, with adequate inclusion of women.

12.3.12.5. Engaging with stakeholders to legislate where appropriate on these and other relevant proposals.

12.3.13. The Committees believe that the SARB needs to do far more to encourage competition in the financial sector and will engage with it in this regard.

12.3.14. The Committees believe that deposit insurance will promote confidence in smaller banks, and welcome the SARB's release of a draft policy paper on this.

12.3.15. The Committees note the advantages to having large-sized institutions in the insurance sector, which have, as was said at the hearings, the capital to fund future liabilities and provide stability to savers and to the market; capital to fund large-scale investments, such as in new government bond issues or infrastructure projects; and scale to drive down costs for consumers. While recognising this, the Committees recommend that government and other relevant institutions give concerted attention to reducing the high levels of monopoly in the insurance subsector and encouraging new entrants into it. The Committees believe that NT should consider in what ways there can be more black, including African and women, ownership of the major insurance companies. Progress on these goals should be given to the Committees regularly. The Committees understand that there are very complex legal, economic, political and other challenges to address in this regard. Among many other issues, consideration needs to be given to the following:

12.3.15.1. Legislative changes to allow for proportional entry requirements for new entrants to support progressive growth. The capital adequacy requirements for such companies should be lower, proportionally, and increase as they gain market share and accumulate assets and liabitilities. Appropriate minimum standards should apply so that the policyholders' interests are protected. It is particularly the poor and lower income groups who suffer disproportionately when insurance companies collapse and the easing of requirements cannot be at their expense. On the other hand, concerns about policy holders, while absolutely important, should not be used as an excuse not to encourage new entrants into the market.

12.3.15.2. Compliance with the FSC be a condition for licensing.

12.3.15.3. The FSC requires that the South African ownership of insurance companies, within reasonable timeframes, be mainly black, particularly African, with adequate ownership by women

12.3.15.4. The FSC requires that within certain timeframes blacks, particularly Africans, be the majority at all levels of management, with adequate inclusion of women.

12.3.15.5. Engaging with stakeholders to legislate where appropriate on these and other relevant proposals.

12.3.16. The Committees note that the linking of B-BBEE transformation with licensing is a requirement of Section 10 (1) of the B-BBEE Amendment Act and every organ of state and public entity has to apply any relevant code of good practice in terms of the Act in licensing and other decision-making. The Committees urge them to do so and for Parliament to hold them to account for this.

12.3.17. Consideration needs to be given to the FSC requiring asset management companies, within certain timeframes, to ensure that their South African ownership is mainly black with adequate ownership by women

12.3.18. The Committees stress that we support the easing of licensing and other requirements for new entrants in the financial sector, provided that the needs and interests of depositors and policyholders are protected. There needs to be a balance between focusing on the need for new entrants and deracialising the financial sector and protecting depositors and policy holders; both these aspects constitute important parts of transformation.

12.3.19. In 2012, the SCOF concluded that the licensing obligations for stock exchanges were overly onerous, and provision was made for new entrants in the Financial Markets Act. Since then four new stock exchanges have obtained licences: ZARX, A2X, 4 Africa Exchange (4AX) and Equity Express Securities Exchange. These exchanges are working to moblise capital for previously disadvantaged individuals. People can open investment accounts on the stock exchange with small amounts of capital. Currently the minimum size of a single trade is about R5 000. If individuals trade in amounts less than R5 000, the costs are prohibitive. Small entities can list. Currently, the costs of listing are very high. To list on the JSE's Main Board, a company must have a minimum of R500 million raised, while the capital raising requirement for the AltX is R50 million. On the new exchanges, entities can be much smaller than R50 million. The Commitees welcome these developments and will engage further on this.

12.4. Management Control

12.4.1. The Committees note that black people constitute the majority of managers in the banking industry. This is mostly at the junior to middle management levels. In senior management levels, whites are in the majority. Women are underrepresented at senior management level.

12.4.2. It was said at the hearings that the short-term insurance industry did not meet any of the management control targets in the Generic Codes. This needs to be addressed urgently.

12.4.3. In the rest of the financial sector blacks and women continue to be underrepresented at senior management level.

12.4.4. The representation of blacks and women in the Boards of firms in the financial sector is inadequate. The FS Charter Council reviews in 2014 and 2015 found that all the targets on Management Control were not achieved by the financial sector. There was 23,26% of black executive members of Boards of companies in 2014, which dropped to 22,59% in 2015 out of a target of 50%. Black women executive members were 11,91% in 2014, which increased to 13,27% in 2015, missing the 25% target in both years.

12.4.5. The Committees note that the B-BBEE Commission says that the Employment Equity Commission Report 2015/2016 shows that in the financial sector 68,4% of top manangement, 60,6% of senior management, 46,7% of professionally qualified and 26,9% of the skilled workforce comprised white males and females.

12.4.6. The Committees recommend that financial institutions seek to exceed the targets in the FSC for management and Boards.

12.5. Financial Inclusion and service charges

12.5.1. The Committees welcome the improvements in access to financial services, including the increase in the number of banked adult South Africans and other residents living in the country, as reported by the 2016 FinScope Survey, from 42% in 2003 to 77% in 2016 (or to 58% if SASSA card holders are excluded). However, the Committees would like to see an increase in this percentage. The Committees believe that there are high costs of access to financial services and poor infrastructure in townships and rural areas, as also emerged in the findings of the 2008 Banking Enquiry Panel report. The Committees note that it was said at the hearings that there is 'very slow progress in implementing the 2008 Banking Enquiry Panel Report findings, by the Competition Commission, relating to penalising delays in switching customers, reducing banking costs for customers and ensuring transparency and comparability in pricing of bank products and service offerings.'

12.5.2. The Committees note the concerns expressed at the hearings about the punitive fees charged to distressed consumers for bounced debit orders ('dishonour fees'), high fees for insurance products, the arbitrary categorisation of customers as high risk and the higher and discriminatory fees for people living with HIV. The Committees believe that these issues should be investigated.

12.5.3. The Committees recommend that as part of its report-back to the Committees on progress on the recommendations of this Report, NT explain what its response has been to the 2008 Banking Enquiry Panel report. The Committees are, for example, interested in the 2008 Report's proposal on the capping of punitive non-interest fees that are, as pointed out in section 12.5.2, charged by banks on bounced debit orders ('dishonour fees') and on cash withdrawals on ATMs of a rival bank. Both of these proposals seem reasonable to the Committees and unless the Committees find that there are strong arguments for why this should not be done, we will support them.
While recognising the value of fintech in encouraging financial inclusion, as dealt with in section 12.5.4 below, the Committees feel that banks should make ATMs more available in marginalised areas.

12.5.4. The Committees believe that there should be more access to affordable basic financial services and transactional accounts in an environment where innovative, fast-paced and disruptive financial technologies (fintech) are emerging. The Committees believe that Government and regulators need to keep on actively monitoring and evaluating the fintech space and developing flexible, risk-based regulatory approaches to fintech activities, especially in areas which may potentially promote the entry of smaller players and ensure access to affordable financial services. For example, consideration needs to be given to mobile-phone based transactional banking and its classification as deposit-taking in instances of basic money transfer. While not familiar with the complexities, the Committees have a sense that the experiences of other developing countries, especially on our continent, of mobile phone banking may have lessons for our country. While recognising that the financial institutions are part of a globalised financial system and have to conform to international regulatory standards, the Committees, once again, express their concern that NT does not sufficiently consider the experiences of other developing countries, particularly on our Continent. The Committees welcome the SARB's statement at the hearings that there is a need to establish an appropriate regulatory framework for money remittance service providers or money transfer operators who are not necessarily banks and to review the overall access path for service provision in the payment system. The Committees recommend that NT and the SARB develop a discussion paper on fintech including deposit-taking, transactional banking, lending, investments and the new virtual, crypto-currencies. The Committees are of the view that such responses should, as far as possible, be flexible, risk-based, enabling and draw lessons from both developed and developing countries. The Committees believe that fintech and digital banks can contribute significantly to reducing fees, encouraging competition and ensuring greater financial inclusion. We are interested to see how TymeDigital performs. Fintech also needs to be made use of more in the insurance subsector.

12.5.5. The Committees note that in the hearings it was said that: 'The country's financial services are skewed towards the wealthy and high-earners, with limited innovation and competition compared to other vibrant emerging markets. India, for instance, had made advances which have improved access to financial services for the poor - over 200 million unbanked individuals have recently gained access to bank accounts within a period of two years. This expansion of banking services to the poor was initiated and funded by the government. The government also granted income tax exemptions, tax and patent costs rebates for start-ups.' The Committees do not know if the experiences of India or of other countries pursuing similar approaches are of value to our country, but believe that NT and DTI should consider these experiences.

12.5.6. The Committees welcome the current processing of debt relief measures through a Committee Bill sponsored by the PCTI which seeks to bring limited debt relief to over-indebted people. The Bill will seek to balance the need for limited debt relief with the costs of such relief, which will be borne by the credit providers following appropriate consultation with them. The limited debt relief will be directed towards serving as an incentive for the creation of a culture of saving among people.

12.5.7. The Committees believe that consideration needs to be given to the view that the 'exponential growth of loan sharks and their preying upon the most poor and vulnerable required the National Credit Act to be strengthened to curb abuse.'

12.6. Repossessions and cancellation of insurance policies

12.6.1. The Committees unequivocally condemn cases of banks auctioning houses and cars unnecessarily below their market value when they repossess them and then at times reselling them at much higher prices.

12.6.2. The Committees support the proposals made in the hearings that the NCA be reviewed to ensure that homeowners do not lose their homes easily when they fall into financial distress due to loss of income and other similar hardships. Consideration also needs to be given to the proposal that there should be at least a financial recovery period of 12 months to protect homeowners.

12.6.3. The Committees believe that the Department of Justice and Correctional Services (DoJ) needs to consider amendments to the rules of court to require a reserve price to be determined by the courts in the auctioning of repossessed property of distressed consumers. The DoJ has informed the Committees that 'under the guidance of the Rules Board for Courts of Law' it 'was mandated to address these unacceptable practices, and amend rules and give effect to the constitutional court judgments as enunciated in *Gundwana v Steko* and *Jafta v Schoeman*, being leading cases that criticised the practice where a person's home could be sold in execution for a small debt. Special attention was given to execution against residential immovable property which constitutes a person's home, and for this purpose the Rules Board introduced procedures and provisions which inter alia: (a) regulate the procedure to declare residential immovable property executable; (b) regulate the judicial oversight process; (c) make it mandatory to consider alternative methods of satisfying the judgment debt; (d) allow for the setting of a reserve price by the court and regulate what may be done if the reserve price is not achieved' . According to the DoJ, these rules are expected to be gazetted on 17 November and come into effect by 22 December this year.

12.6.4. The Committees welcome the Constitutional Court action, led by Adv Douglas Shaw, against the major banks filed on behalf of about 250 applicants who seek damages for the auctioning of their houses far below their market value. The Committees note that Adv Shaw has proposed a Bill to address this. The Committees will refer this Bill to the DoJ and the Portfolio Committee on Justice and Constitutional Development for their consideration.

12.6.5. The Committees understand that some of the malpractices are carried out by companies that banks outsource to and the sheriffs, and note that the banks say they are attending to some of these excesses. However, we believe that there should be an inquiry into financial malpractices relating to the repossession of houses and cars, including their auctioning way below market value, including in one case in Soweto of R100; non-compliance with section 129 and 127 of the NCA, including allegations heard at the hearings about the use of bouncers by some banks to intimidate customers to hand over cars without following the prescribed legal processes; the alleged involvement of banks and court officials in misleading the courts in cases of liquidations, sequestrations, and repossessions; the alleged manufacturing of fake court orders by lawyers; and the alleged abuse of the Insolvency Act by creditors in instances where debtors are undergoing debt review. This inquiry should lead to policy and regulatory changes.

12.6.6. The Committees recommend that the Conduct of Financial Institutions (CoFI) Bill address some of these industry practices, particularly those relating to the repossession of homes and cars.

12.6.7. However, there also needs to be decisive action, in the meanwhile, to curb the malpractices and the Committees require NT to respond to this within 3 months of the adoption of this Report, after consulting other relevant Departments.

12.6.8. The Committees note that there is no 'equality of arms' between big financial institutions and most consumers, particularly in cases of litigation; in other words, because of enormous legal resources that financial institutions command, they are at a considerable advantage compared to most individual consumers who do not have enough money to engage the service of expensive attorneys and counsel. The Committees note that although customers of banks and insurance companies may be protected by a number of laws, the cost of litigation and lack of knowledge does not enable them to defend themselves effectively in the face of litigation. While appreciating the financial challenges, the Committees support in principle the establishment over time of a fund to provide legal professional representation to consumers in instances where they get litigated against by big financial firms. Consideration needs to be given to a proposal at the hearings that such a fund could receive annual contributions from the financial sector businesses based on their collection of fees. Such a fund could, over and above the industry Ombuds system, protect the rights of consumers.

12.6.9. The Committees recommend that the issues around repossessions also be addressed as soon as possible by the FS Charter Council which is planning to do so in its review of the Council's Affordable Housing Standards.

12.7. Support for smaller and other black businesses, including through procurement and enterprise and supplier development

12.7.1. The Committees note that the financial sector largely met the ESD targets, according to various reports presented.

12.7.2. While recognising the progress on targets, the Committees believe that the financial sector could do more to support enterprise development, especially in regard to SMEs and industrialists. There are several challenges that new entrants into the financial sector face, including the high barriers to entry posed by regulation and capital costs, the refusal of licences without adequate explanation and insufficient access to markets.

12.7.3. There have also been several complaints to the SCOF in recent months from black entrepreneurs about the negative effects of tightening legislation and regulations through the introduction of the new Twin Peaks model to transform the financial sector. This is one of the major reasons for the organisation of the public hearings. The new Twin Peaks model has been introduced through the FSRA and includes several other Bills, including the Insurance Bill, being processed currently and others to come. Twin Peaks is in good part a response to the 2008 financial and economic crisis and is aimed at reducing the prospects of such a crisis taking place in South Africa or the negative effects of such a global crisis in future on our country by regulating the banks more comprehensively and effectively and protecting financial customers as part of the overall transformation of the financial sector. Several black entrepreneurs say that this tightening of regulations, often influenced by global standards and regulations has the unintended effect of increasing the barriers to their entry and growth. The Committees believe that the Bills giving effect to the new Twin Peaks model need to take this into account, but should also balance the need to create more space for black entrepreneurs and the need to protect the interests of financial customers.

12.7.4. It has been said that companies tend to cherry-pick the easiest elements of empowerment financing that are backed by government guarantees when they finance empowerment deals, and tend to avoid financing other business projects that may have a more transformational impact. The Committees believe that government should consider disaggregating the combined empowerment financial targets in the banking and long-term insurance subsectors across the four different pillars of Empowerment Financing in order to give more weight to particularly those pillars that focus on funding black SMEs, rural and township entrepreneurs and new industries.

12.7.5. It was said at the hearings that ESD is being undermined by companies who allegedly engage in fronting to claim maximum B-BBEE points by rigging the system and exploiting loopholes in legislation and regulations. The Committees recommend that the B-BBEE Commission and FS Charter Council look into this and consider tightening the loopholes. The Committees believe that NT, DTI, the FS Charter Council and the B-BBEE Commission should consider the proposals made at the hearings that companies should not be allowed to claim ESD points for ‘ordinary business practices’ such as giving a loan to a black person or business, which should have been granted anyway. The Committees note that at the hearings it was proposed that loans and investments should be excluded in the calculation of Total

Measured Procurement Spend (TMPS) as per clause 6.4 of Statement FS400 of the new FSC. Consideration should be given to the proposals at the hearings that to claim ESD points, financial institutions should provide finance at discounted rates and on preferential terms and conditions; otherwise it would imply that ESD points are being given for ordinary lending and the provision of banking services as if the financial institutions are doing black people and businesses a favour when they actually pay the same generally applicable interest rates.

12.7.6. The Committees recommend that NT, the FSB and the insurance associations should investigate the concerns that were raised by BIAC in relation to the 'conflict of interest' rule, 'binder agreements', 'premium collection' and other regulatory barriers.

12.7.7. In the short-term insurance sector, there have been constant complaints, including at these hearings, that procurement spend does not flow to SMEs as a result of policies in the industry. These include the 'Preferred Insurance Service Provider System' and the 'Motor Manufacture Factory Approved System' which limit access to procurement opportunities for small and medium-sized black-owned panel-beaters, body repair shops and tow truck operators. The Committees believe that consideration needs to be given to the proposal made by the DTI that the panel system be phased out. This should be done in a planned way and should seek to avoid the big firms continuing to dominate. Consideration also needs to be given to the phasing out of 'Factory Approval' system. The interests of policyholders also need to be taken into consideration in decisions on these matters.

12.7.8. The Committees recommend that the FSC should facilitate improved access to markets for small and medium-sized black suppliers such as tow-truck operators and panel-beaters. The Committees recommend that black suppliers in this subsector should get more work from the government garage and the SOEs. The Committees also support a proposal made by DTI that procurement from black suppliers be increased to 50% by 2021.

12.7.9. The Committees further recommend that NT, the FSB, the DTI, the insurance associations and other players within the sector should work more effectively together with the towing and panel-beating SMEs and consider reintroducing the DTI special dispensation for short-term insurers to ensure that vehicles that are out of manufacturer warranty are not removed from repairers that are not on a panel system. The Committees note the 6 December 2014 Memorandum of Agreement signed committing all parties, government, insurers, service providers and other key stakeholders, to immediate transformation and procurement targets in the towing and panel-beating industry nationally. The Committees heard that this has not been properly implemented and request DTI to investigate this and consider introducing a new version of this, which should include setting targets for enterprise development and procurement from the SMEs.

12.7.10. The Committees will require regular report-backs on these issues and will convene a briefing within 6 months of the adoption of this Report. The PCTI, after consultation with the Small Business Development Portfolio Committee, will monitor progress thereafter.

12.7.11. Apart from small businesses, the financial sector's ESD also has to contribute to economic growth in general, and the Committees support the proposal in the hearings that the FSC should focus on enterprise and supplier development investments in key industrial sectors such as manufacturing, automotive, textiles and others that have a high labour absorption rate.

12.7.12. The Committees note that public entities and organs of state are not integrating the B-BBEE requirements in terms of section 10 of the B-BBEE Act, which deals with procurement. As government is regulating and urging the private sector to implement transformation, it is important that government also leads by example, especially in regard to the implementation of the country's procurement framework and procurement spend. The NT's pending Public Procurement Bill needs to address this effectively.

12.8. Skills Development

12.8.1. The Committees note that, according to the FS Charter Council reviews, the sector failed to meet some of its targets on the Skills Development transformation targets of the FSC and the Generic Scorecard. The Committees also note the Employment Equity Commission Report of 2016 that the financial sector is 'not making any meaningful progress to break free from the apartheid-era workforce profile. The financial sector has not invested significantly in building critical skills in the right areas of the business and at the right pace and scale so as to create critical mass.'

12.8.2. The Committees believe that Skills Development is very crucial in deracialising and transforming the sector. The Committees urge NEDLAC to pay special attention to the Skills Development element of the FSC and ensure that it prioritises blacks, particularly Africans and women, and aligns with the Generic Codes. The FS Charter Council says that the FSC targets are aligned to the Generic Codes. However, the management levels are 'tiered targets to ensure that the spend is concentrated at levels required to enhance skills required for senior and top management.'

12.8.3. The Committees recommend that INSETA should examine the challenges faced by BIAC and its constituency in respect of capacity building and skills development support for small black independent financial advisors. The Committees further urge the FSB and NCR to pay particular attention to the issues raised by a stakeholder regarding training and support for micro-lenders in order to ensure that their businesses and business models remain sustainable. The Committees also support the proposal by a stakeholder on the need to develop financial intermediaries through internships and graduate programmes targeted at financial advisors and brokers. This should also include how to be a leader in the emerging market space, practice management, and sales skills to ensure support and sustainability of new entrants.

12.9. Asset Management

12.9.1. It was said at the hearings that there are about 42 black asset management companies who make up 35% of an industry of about 130, but they control less than 5% of the R9 trillion assets under management. Most of the assets that black companies are managing come from institutional funds and only 2% are retail assets. The top 10 asset management firms hold approximately 70% of assets under management and 77% of the market

12.9.2. A few large firms, through vertical integration, it was said, owned the full distribution channel and value chain, including administration, risk management, employee benefits, wealth management, linked investment services, life insurance, collective schemes, stockbroking, and asset management. The lack of competition creates barriers to entry and access to business for black asset managers, stockbrokers and others in the value chain. The Committees recommend that appropriate targets must be set in the FSC for asset managers and asset consultants.

12.9.3. The Committees support the DTI proposal that by 2019, state assets must be managed by asset management entities that are at least 51% black-owned and/or have Level 4 B-BBEE status. The Committees note a stakeholder's proposal that the relevant entities should have Level 2 status and recommends that DTI engages further on this.

12.10. Actuaries and other professionals

12.10.1. The Committees heard at the hearings the allegations of the sidelining of black actuaries from senior and executive positions in the financial sector. It was said that there are no senior black actuaries in the major insurance companies in South Africa. It was also said that there is somehow a misrepresentation of some specialist professionals, because of the salaries they earn, as managers when they actually perform no strategic management functions. This misrepresentation served to present the sector as transformed, when it was actually not, just to claim management points for specialists who are actually not managers.

12.10.2. The Committees support the proposal in the hearings that there should be targeted, formal and effective mentorship programmes for black and female professionals to bridge the gaps in the financial sector.

12.10.3. The Committees recommend that an audit of specialist professions in the financial sector, such as actuaries, auditors, accountants, lawyers, hedge fund managers, asset managers, brokers, analysts and others, be conducted with the aim of putting measures in place, through the FSC, to encourage transformation and mentorship. This audit should lead to appropriate action. Professional bodies in the financial sector should apply the FSC Specialist Scorecard and comply with the FSC.

12.10.4. It was said that there are salary differentials between black and white actuaries. The Committees were not presented with any evidence of this, but if it is true that the salary differences are based on race, the Committees condemn this and recommend that the appropriate authorities investigate this.

12.11. Co-operative Banks and Financial Institutions

12.11.1. The Committees are concerned that there has not been sufficient penetration of CFIs and co-operative banks in the South African economy since the passing of the Co--operative Banks Act in 2007. The Committees note that Co-operative Banks and Financial Institutions only controlled assets of about R279 million, which is far lower than that of co-operative sectors in many countries in Africa and globally. The Committees believe that co-operative banks and CFIs are an important part of radical economic transformation and could expand access to financial services. The Committees support the proposal of the development of a National Co-operative Banking Strategy so that co-operatives begin to play a more significant role in the transformation of the financial sector and the economy. The Committees support NT's view that a 'developmental plan for co-operatives will need to consider at least: current barriers; how to create an enabling environment for CFIs to be sustainable; access to the payment system (the current review of the NPS Act is exploring options to facilitate "safe" access for non-banks); demand-side pressures related to how CFIs can better serve member needs; and access to South Africa's Deposit Insurance Scheme by co-operative banks and CFIs to foster growth and trust.'

12.11.2. The Committees note with concern that the CBDA, which is the regulator of co-operative banks and CFIs, functions with a budget of about R16 million per annum and recommend that consideration be given to increasing this budget appropriately to enable it to perform its functions more effectively, provided it is held to rigorous account for its performance and sanctions are applied to its staff who fail to perform.

12.11.3. The Committees recommend that NT engage with the CBDA about its concerns about the 'regulatory uncertainty' of CFIs and the proper location of the CBDA in view of the introduction of the Twin Peaks model.

12.11.4. The Committees also note the many proposals made during the public hearings including the need for a National Co-operatives Bank and recommend that NT and DTI give attention to them. The Committees also recommend that they consider strengthening the legislative and regulatory framework of the CBDA, CFIs and co-operative banks.

12.11.5. The Committees strongly recommend that the FSC set effective targets for the strengthening of the financial co-operatives subsector.

12.11.6. As mentioned above, the Committees welcome the publishing of the draft paper on the Deposit Insurance Scheme (DIS) by the SARB and agree that the introduction of deposit insurance will assist to promote confidence in smaller, including co-operative, banks.

12.12. Postbank, State-Owned and Black-Owned Banks

12.12.1. The Committees support the licensing of the Postbank as soon as possible to provide affordable banking services and expand financial inclusion, particularly in neglected rural areas and townships. The Postbank should contribute to changing the structure of the financial sector and to the developmental nature of the state. The Committees believe that the Postbank would accommodate key aspects of the role of a state-owned bank. At this stage, it would be better to focus on the Postbank and later, based on the experiences of Postbank, consideration can be given to whether there is a need for other state-owned banks and what their specific roles would be compared to the Postbank. The operation of the Postbank needs to be considered carefully, particularly its structure, governance, autonomy, and capitalisation, and its possible impact on competition and access to finance for businesses and affordable banking services. The relationship between the Postbank and the CBDA also needs to addressed.

12.12.2. The Committees note proposals for the establishment of a major black-owned bank to provide more competition in the commercial banking sector. The Committees support this.The stokvel economy in South Africa is estimated at R50 billion per annum, and the Committees note the views that it is already large enough to leverage resources for investment into more long-term asset ownership through the formation of a commercial bank, mutual and co-operative banks and CFIs. The Committees recommend that NT and the regulators consider ensuring that the licensing and regulatory environment is conducive and encourages the entry of such black-owned banks into the market.

12.13. Role of South African Reserve Bank

12.13.1. The Committees note the calls for the state to be the sole shareholder of the SARB and its mandate to include employment creation. There is concern that the SARB has private shareholders. There is a perception that these private shareholders influence the constitutional mandate of the SARB. The mandate of the SARB is to protect the value of the currency in the interest of balanced and sustainable economic growth. In terms of the FSRA, the SARB is now mandated to protect and enhance financial stability of the country, in addition to its primary mandate of price stability. The SARB is also responsible for the regulation and supervision of the banking system. The FSRA regime will see a Prudential Authority established, expanding the SARB's responsibility beyond licensed deposit-taking institutions to include insurance companies. The SARB also ensures the effective functioning of the NPS, undertakes economic data analysis and research, issues notes and coins, manages the official gold and foreign exchange reserves of the country, administers the country's remaining exchange control regulations, and acts as banker to government.

12.13.2. The Committees note that the SARB's monetary policy role aims at ensuring price stability or low inflation, which is a traditional function of central banks in some form or the other globally. It is held that high inflation has negative redistributive effects, as the poor suffer disproportionately from it; high inflation reduces their purchasing power. It can create uncertainties about the future and adversely affect investments, reducing growth and jobs. While the Committees recognise the value of these roles the SARB plays, we support the need for a discussion on the SARB's role in advancing socio-economic development.

12.13.3. When the SARB appeared before the SCOF on 1 August 2017, it was explained that the private shareholders of the SARB do not own the Bank and their rights are limited. They play no role whatsoever in the setting of monetary or financial stability policy, or in the day-to-day management of the Reserve Bank. Their shares are restricted to a maximum of 10,000 per subscriber out of 2 million issued shares and they receive a fixed return of 10 cents per share from profits, amounting to an overall dividend payment of R200,000 per year. 90% of the SARB's profits are transferred to government and the remaining 10% is allocated to the SARB's reserves. The private shareholders do not have any claim on the foreign exchange reserves of the

SARB, and they are unable, by means of a resolution or otherwise, to amend or change the SARB's decisions by deviating from the provisions of the SARB Act. While the Committees accept the SARB's explanations, we believe that if it is financially possible, the SARB's private shareholders should be bought out.

12.14. National Payment System

12.14.1. It was said at the hearings that that the present structure of the National Payment System is a barrier to entry into the banking sector for smaller players, co-operative banks and non-banks. The Committees recommend a review of the National Payment System Act (Act no 78 of 1998) to consider amending it appropriately to accommodate qualifying non-bank service providers and co-operative banks. The Committees recommend that NT also briefs the Standing Committee on Finance on the recommendations of the 2008 Banking Enquiry Panel Report on the NPS.

12.15. Bank Collusion on Currency Trading

12.15.1. The Committees unequivocally condemn any bank collusion on the manipulation of currency trading. We welcome the decision in February this year to refer allegations of bank collusion to the Competition Tribunal for prosecution. If there has been wrongdoing, not just the banks, but the individuals responsible should be acted against.

12.15.2. We also note the strong action taken elsewhere in the world, not least the UK and US, when similar actions of wrongdoing were proved.

12.15.3. It was said at the hearings that cartel conduct and collusion by banks suggests that there are 'flaws in banking supervision and that there is limited reach of competition law, as penalties for collusive conduct are capped at 10% by the country's competition laws'. Cartels fight off new entrants into the market. It was proposed that the findings emanating from the Competition Commission's investigations and prosecutions should be used to 'open up regulation' as is done in such countries as the UK and the US.

12.15.4. The Competition Commission's investigation has reinforced the need for the implementation of the FSRA and the adoption of other legislation to regulate the banks more effectively in the public interest. Consideration also needs to be given to whether further regulation is required should the banks be found guilty of collusion.

12.16. Illicit Financial Flows (IFFs)

12.16.1 By all accounts, the country loses a staggering amount of money through Illicit Financial Flows (IFFs), and with slow economic growth rates and severe stresses on the budget, the need for more decisive action to combat this has become even more urgent. The two Committees are working with other parliamentary committees on this, but there has been very little progress. The financial sector has to do far more to tackle IFFs. The Committees understand that the concept of IFFs includes activities which are criminal in nature, including outbound flows of money through outright tax evasion, money laundering and many other legally defined organised crime and corruption offences. However, there are also aggressive schemes of tax avoidance through base erosion and profit-shifting and other activities which are not defined as criminal. Consideration should be given, over time, to clearly defining in law many of these other activities as criminal. An option could be to incorporate these as 'Offences Relating to Illicit Financial Flows' in the Prevention of Organised Crime Act, Act 121 of 1998. The Committees urge the NT and the DTI to engage the DoJ in this regard to consider tightening the legal loopholes, especially in respect of the grey areas. However, those IFFs that are explicitly covered in our criminal codes such as outbound tax evasion, money laundering, organised crime and corruption should be aggressively prosecuted, including through pursuing South Africans identified in the Panama Papers and Paradise Papers who are suspected of engaging in IFFs. There must also be a concerted effort by the FIC and the Asset Forfeiture Unit to make effective use of the FIC's intervention mechanisms as provided for in section 34 of the FIC Act to freeze funds.

12.17. Statutory bodies in the financial sector need to be more effective

12.17.1. Generally, the statutory bodies that appeared before the Committees seemed to lament their situation and complain more than explain what exactly they were doing to transform the financial sector, without any recognition that they may also have weaknesses that they need to address. While recognising the resource and capacity constraints of some of them, the Committees believe that in general the statutory bodies are not as effective as they should be. The NT and DTI need to support them more and exercise more effective oversight over them, as must the parliamentary committees.

12.18. General Issues

12.18.1. The Committees welcome NT's statement that 'Many useful inputs were gained over the hearings that provide a solid foundation for the industry action plans. Regulators are already revisiting these learnings, for example the cost of internal auditors and the burden this poses on smaller businesses, and how to make FAIS Fit and Proper education and experience requirements more suitable in support of black brokers (for whom) English is not a first language. We will as part of this design process need to consider hard questions like whether a more intrusive regulatory framework has a bias towards big financial institutions, and if so how this bias can be reduced'. The Committees will most certainly hold NT to account for this over time.

12.19. Other Issues

12.19.1. Following engagements with the stakeholders, government needs to consider legislation on community reinvestment so that the sector contributes part of its profits towards meeting the social needs of the communities they operate in.

12.19.2. The government, regulators, other statutory bodies and financial institutions need to give greater attention to the financial education and literacy of their customers and the public generally. As part of this process consumers need to be educated that it will cost them more to pay back a loan should they pay it back over a longer duration.

12.19.3. It is necessary to distinguish between legitimate and unreasonable complaints made against the regulatory framework, as there may in some instances be good reasons for delays in regulatory approval, especially where there are concerns of sustainability or consumer abuse.

12.19.4. The Committees note that despite the landmark judgment by the Western Cape High Court following the matter brought by the University of Stellenbosch's Legal Aid Clinic, there are still complaints about the wide-scale abuse of garnishee orders.

The Committees are informed that the Magistrates' Courts and Debt Collectors Bills will go a long way in solving this issue. The Committees support the view that banks should tighten authorisation requirements for debit orders by requiring proof of consent. We also support measures that will ensure that customers be required to electronically authenticate debit orders in order to prevent abuse and fraud.

12.20. A Summary of the Key Recommendations

12.20.1. To have a fuller sense of these summarised, condensed recommendations it is necessary to consider the 'Observations and Recommendations" in sections 12.1 to 12.19 above. The recommendations are summarised in the very brief points below, with references in brackets to the sections above to which they refer:

12.20.2. Take into account that several issues raised here need to processed through a review of the FSC and the Financial Sector Summit to be held next year and Committees to make further final decisions thereafter (12.1.10)

12.20.3. An active campaign to make stakeholders and the public aware of the FSC. (12.2.4)

12.20.4. A 'name and shame' approach to those who do not comply with FSC reporting requirements. (12.2.4)

12.20.5. Industry be compelled, including through licensing conditions, to provide the necessary information to the FS Charter Council and the newly established B-BBEE Commission. FS Charter Council and B-BBEE Commission to investigate whether the statistics provided are accurate. Consideration be given to Statistics South Africa independently verifying the accuracy of the statistics. (12.2.4)

12.20.6. The FS Charter Council be effectively capacitated and resourced, and if necessary restructured, to play their important roles in the transformation of the financial sector. (12.2.5)

12.20.7. CEOs of financial institutions be active in the decision-making processes of the FS Charter Council to 'ensure sector buy-in'. (12.2.4)

12.20.8. FS Charter Council to perform more effectively, and sanctions for the subjective failings of individuals in this regard. Committees to hold Council and B-BBEE Commission to account for their performance far more rigorously in various ways. (12.2.5)

12.20.9. Higher FSC targets, especially on ownership, management control, procurement, skills development and financial inclusion. Higher targets for women in executive and senior management, and for people with disabilities. Strengthening of targets on consumer education and access to financial services. (12.2.9)

12.20.10. NT, DTI, the FS Charter Council and B-BBEE Commission through engagements among them and the Summit process address their differences on the disparities between the FSC and the Generic Codes and present a single report to the Committees within a month after the Summit. The Committees will thereafter decide on our own positions. (12.2.10)

12.20.11. Achieving targets be a condition of the licensing of financial institutions as provided for in Section 10 (1) of the B-BBEE Act. (12.2.11)

12.20.12. The DTI and B-BBEE Commission to develop a system of effective fines for failure to achieve targets and present a policy on this by June 2018. Consideration be given to amending the B-BBEE Act to provide for a system of fines (12.2.12)

12.20.13. Need for a vision of what the financial sector should look like in future and by when. To be addressed through the Summit process and aspects of vision in this Report to be taken forward by our Committees in our next Report. (12.2.13)

Market concentration, monopolisation and ownership

12.20.14. Decisions on 'once empowered, always empowered' be consistent with the B-BBEE Act.(12.3.4)

12.20.15. Government and other relevant institutions give concerted attention to reducing the high levels of monopoly in the banking subsector and encouraging new entrants. NT to consider in what ways there can be more black, including African and women, ownership of the major banks and also report on this regularly. Among many other issues, consideration needs to be given to the following:

12.20.16.1 Legislative changes to allow for proportional entry requirements for new entrants to support progressive growth from an informal entity like a stokvel through to becoming a small player, to becoming larger. Capital adequacy requirements for banks not systemically important financial institutions be lower. Appropriate minimum standards apply so that the depositors' interests are protected.(12.3.12.1)

12.20.16.2. Compliance with the FSC be a condition for licensing. (12.3.12.2)

12.20.16.3. FSC requires that the South African ownership of banks, within reasonable timeframes, be mainly black, particularly African, with adequate ownership by women. (12.3.12.3)

12.20.16.4. FSC requires that within certain timeframes blacks, particularly Africans, be the majority at all levels of management, with adequate inclusion of women.(12.3.12.4)

12.20.16.5. Engaging with stakeholders to legislate where appropriate on these and other relevant proposals. (12.3.12.5)

12.20.17. The SARB needs to do far more to encourage competition in the financial sector. (12.3.13)

12.20.18. Similar to the above recommendations on banks, government and other relevant institutions give concerted attention to reducing the high levels of monopoly in the insurance subsector and encouraging new entrants. NT to consider in what ways there can be more black, including African and women, ownership of the major insurance companies and also report on this regularly. Among many other issues, consideration needs to be given to the following:

12.20.18. 1 Legislative changes to allow for proportional entry requirements for new entrants to support progressive growth. Capital adequacy requirements for such companies be lower. Appropriate minimum standards to apply so that the policyholders' interests are protected. (12.3.15.1.)

12.20.18.2. Compliance with the FSC be a condition for licensing. (12.3.15.2)

12.20.18.3. The FSC requires that the South African ownership of insurance companies, within reasonable timeframes, be mainly black, particularly African, with adequate ownership by women. (12.3.15.3)

12.20.18.4. The FSC requires that within certain timeframes blacks, particularly Africans, be the majority at all levels of management, with adequate inclusion of women. (2.3.15.4.)

12.20.18.5. Engaging with stakeholders to legislate where appropriate on these and other relevant proposals. (12.3.15.5)

12.20.19. Support for the easing of licensing and other requirements for new entrants in the financial sector, provided the needs and interests of depositors and policyholders protected. Need for balance between focusing on the need for new entrants, and deracialising the financial sector and protecting depositors and policy holders; both these aspects are important parts of transformation. (12.3.18)

Management Control

12.20.20. Financial institutions should seek to exceed the targets in the FSC for management and Boards. (12.4.6)

Financial Inclusion, including service charges

12.20.21. NT to report on progress on implementing the recommendations of 2008 Banking Enquiry Panel report, in particular on the proposals on the capping of punitive non-interest fees that are charged by banks on bounced debit orders (‘dishonour fees’) and on cash withdrawals on ATMs of rival banks. Unless strong arguments to the contrary provided, these proposals should be implemented. (12.5.3)

12.20.22. Support the SARB on need for regulatory framework for money remittance service providers or money transfer operators who are not necessarily banks and review the overall access path for service provision in the payment system. Support FINTECH and digital banks to reduce fees, encourage competition and ensure greater financial inclusion. FINTECH also needs to be made use of more in the insurance subsector. (12.5.4)

12.20.23. NT and the SARB develop a discussion paper on fintech ranging from deposit-taking, transactional banking, lending, investments and the new virtual currencies. (12.5.4)

Repossessions and cancellation of insurance policies

12.20.24. Review National Credit Act to ensure that homeowners do not lose their homes easily when they fall into financial distress. Consideration be given to proposal for 12-month financial recovery period. (12.6.2)

12.20.25. Support changes to the Rules of Court and legislation to stop repossession abuses. (12.6.3 and 12.6.6)

12.20.26. Support the civil litigation action by Adv Douglas Shaw on behalf of applicants seeking damages for the auctioning of their houses below market value. (12.6.4)

12.20.27. An inquiry into abuses and decisive action. (12.6.5; 12.6.7)

Support for smaller and other black businesses, including through procurement and enterprise and supplier development

12.20.28. Balance need to introduce global standards and regulations with need for new entrants in the financial sector and other transformative goals. (12.7.3)

12.20.29. B-BBEE Commission and FS Charter Council tighten loopholes in policy and regulations to reduce prospects of the system being rigged. (12.7.5)

12.20.30. NT, the FSB and the insurance associations to investigate BIAC concerns about the 'conflict of interest' rule, 'binder agreements', 'premium collection' and other regulatory barriers. (12.7.6)

12.20.31. Consideration be given to DTI proposal that the panel system that affects small and medium-sized black-owned panel-beaters, body repair shops and tow truck operators be phased out. (12.7.7)

12.20.32. A proper balance between implementing global regulatory and other standards and ensuring the emergence of new black entrants in the sector. (12.7.9; 12.3.17)

12.20.33. To avoid cherry-picking the easiest elements of empowerment financing, government consider disaggregating the combined empowerment financial targets in the banking and long-term insurance subsectors across the four different pillars of Empowerment Financing to give more weight to particularly those pillars that focus on funding black SMEs, rural and township entrepreneurs, and new industries. (12.7.4)

12.20.34. FSC targets to facilitate improved access to markets for small and medium-sized black suppliers such as tow-truck operators and panel-beaters. Black suppliers get more work from the government garage and the SOEs. Support DTI proposal that procurement from black suppliers be increased to 50% by 2021. (12.7.8)

12.20.35. NT, the FSB, the DTI and the insurance associations and other players work more effectively together with the towing and panel-beating SMEs and consider reintroducing the DTI special dispensation for short-term insurers. Review 6 December 2014 Memorandum of Agreement on transformation and procurement targets in the towing and panel-beating Industry and consider introducing a new version of this, which should include setting targets for enterprise development and procurement from the SMEs. (12.7.9)

12.20.36. Report back to Trade and Industry Committee within 6 months of the adoption of this Report. (12.7.10)

Skills Development

12.20.37. INSETA to address BIAC challenges on capacity building and skills development support for small black independent financial advisors. (12.8.3)

12.20.38. FSB and NCR to pay particular attention to training and support for micro-lenders. Develop financial intermediaries through internships and graduate programmes targeted at financial advisors and brokers. To include how to be a leader in the emerging market space, practice management, and sales skills to ensure support and sustainability of new entrants. (12.8.3)

Asset Management

12.20.39. Appropriate targets to be set in the FSC for asset managers and asset consultants. (12.9.2)

12.20.40. Support DTI proposal that by 2019 state assets must be managed by asset management entities that are at least 51% black-owned and/or Level 4 B-BBEE status. DTI to consider that relevant entities should have Level 2 status. (12.9.3)

Actuaries and other professionals

12.20.41. Audit of specialist professions in the financial sector to encourage transformation and mentorship and implementation of the FSC Specialist Scorecard. (12.10.3)

Co-operative Banks and Financial Institutions

12.20.42. FSC to set effective targets for the strengthening of the co-operative subsector. (12.11.5)

12.20.43. Strengthen legislative and regulatory framework. (12.11.4)

12.20.44. Develop a Co-operative Banking Strategy. (12.11.1)

12.20.45. Increase CBDA's budget, provided they held to rigorous account and there are effective sanctions for poor performance. (12.11.2)

12.20.46. NT and DTI to consider a National Co-operative Bank. (12.11.4)

Postbank, State-Owned and Black-Owned Banks

12.20.47. Licensing of the Postbank as soon as possible. (12.12.1)

12.20.48. Based on experiences of the Postbank, consider whether need for another state-owned bank. (12.12.1)

12.20.49. Support formation of a major black-owned bank. NT and the regulators to consider ensuring that the licensing and regulatory environment conducive to encouraging the entry of black-owned banks into the market. (12.12.2)

Role of Reserve Bank

12.20.50. Support need for discussions on the SARB's role in advancing socio-economic development. (12.13.2)

12.20.51. If it is financially possible, the shares of the SARB's private shareholders should be bought out. (12.13.3)

National Payment System

12.20.52. A review of the National Payment System Act to consider amending it appropriately to accommodate qualifying non-bank service providers and co-operative banks. (12.14.1)

Bank Collusion on Currency Trading

12.20.53. Strong action against bank collusion on the manipulation of currency trading. (12.15.2)

12.20.54. Support Competition Tribunal process. (12.15.1)

12.20.55. If there has been wrongdoing, not just the banks, but the individuals responsible be acted against. (12.15.1)

12.20.56. Consider tightening legislation to reduce prospects of bank collusion. (12.15.4)

Illicit Financial Flows (IFFs)

12.20.57. Banks and law enforcement institutions to do more to combat IFFs. (12.16.1)

Statutory Bodies in Financial Sector Need to be More Effective

12.20.58. Statutory bodies be more effective even within their limited resources. Consider more resources, provided greater accountability and effective sanctions for poor performance. (12.17.1)

Other Issues

12.20.59. Consider community reinvestment legislation. (12.19.1)

12.20.60. Government, regulators, other statutory bodies and financial institutions to give greater attention to the financial education and literacy of their customers and the public generally. (12.19.2)

12.20.61. Distinguish between legitimate and unreasonable complaints against decisions by regulators. (12.19.3)

PART IX

13. Committees to Develop Programme

13.1 The SCOF and DTI Portfolio Committee will develop a programme to monitor responses to the observations and recommendations made above and work towards the implementation over time of the key recommendations. This will be done through a variety of ways, including the quarterly briefings received from NT and DTI, in the processing of legislation dealing with the transformation of the financial sector, bi-annual report-backs, debates in the House, and MPs' engagements in forums outside Parliament. Each Committee will develop its own programme in terms of this Report and share the outcomes of this with the other, and the Committees will also have a joint programme. The Committees will meet jointly at least twice a year to monitor progress on the recommendations in this Report.

13.2 The two Committees need to work closely with other relevant parliamentary committees on aspects of the programme.

13.3 Consistent with what has been proposed in section 12.1.9 above, the programme developed should not seek to do too much simultaneously without taking account of the Committees' capacities and resources and the limits of the overall parliamentary calendar. There has to a measure of prioritisation and sequencing.

13.4 The Committees have already followed up with stakeholders based on decisions to meet with them again taken at the hearings. The SCOF met with the CBDA and other stakeholders on co-operative banks on 23 August and with the JSE on 3 October.

13.5 The Committees are aware that, prompted by the hearings, several of the participants have been engaging with each other on the issues raised at the hearings. The Committees welcome that. Participants have also been engaging with the issues raised at the hearings in already existing forums in which they were active before the hearings and we hope that they are making some progress on these issues.

13.6 The Committees have assisted certain stakeholders by facilitating dialogue between them.

13.7 The Committees also need to work closely with relevant civil society stakeholders in taking forward our joint programme. The active participation of civil society in financial sector transformation can contribute to advancing the Committee's programme and the Committees' programme can also contribute to more active civil society participation.

13.8 The Committees will finalise a 2nd Report on Financial Sector Transformation within 6 months of the FS Summit.

PART X

14. Not overnight, but not slow either

14.1 As pointed out in section 12.1.9 above, the Committees do not expect that all our recommendations will be implemented immediately. There needs to be a phased approach with immediate, short-term and long-term aims. We are not calling for an overnight overhaul of the financial sector, but we are clear that further transformation cannot take place at a snail's pace either. As far as possible, the nature and pace of the transformation have to be negotiated with all the relevant stakeholders, but where there is no prospect of significant consensus on irreconcilable interests, government and Parliament have to take decisions. The huge inequalities in our country and the impatience and frustration of the excluded and marginalised in our society point to a huge social explosion looming that will consume all stakeholders in the financial sector, including government and Parliament. It is in all our interests that the financial sector makes an adequate contribution to the economic transformation our country so desperately needs.

15. Acknowledgements

15.1 The Committees note that the hearings contributed to our better understanding and technical knowledge of the financial sector and will certainly assist us in processing policies and legislation in this sector from now on. We thank all the participants for their contribution to the public hearings.

15.2 The Committees acknowledge the valuable contribution of the parliamentary research staff in the initial draft of this Report. We extend our appreciation to Dr Zakhele Hlophe, the SCOF Content Advisor, Ms Margo Sheldon, the DTI Portfolio Committee Content Advisor, Ms Antonia Manamela, the SCOF Researcher, and Ms Zokwanda Madalane, the DTI Portfolio Committee Researcher.

ANNEXURE

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Organisation	Participant
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	Mr Aubrey Bezuidenhout
Actuaries Lekgotla	Mr Olusheye Matlala
Admin Industrial	E Mahlaela
AQ Rate	Ms Brigitte Brun
Association for Savings and Investment South Africa (ASISA)	Ms Rosemary Lightbody
Association of Black Securities and Investment Professionals (ABSIP)	Ms Sibongiseni Mbatha
Banking Association of South Africa (BASA)	Mr Cas Coovadia
Barclays	Ms Maria Ramos
Black Business Council (BBC)	Dr Danisa Baloyi / Mr Sello Rasethaba
Black First Land First (BLF)	Mr Andile Mngxitama
Black Insurance Advisors Council (BIAC)	Mr Madiele Mpuru
Black Insurance Owners Association (BIOA)	Mr Makhubalo Ndaba
Black Management Forum (BMF)	Mr Busi Mavuso
Broad-Based Black Economic Empowerment Commission (B-BBEE Commission)	Ms Zodwa Ntuli
CASISA	Mr Justin Lewis
Centre for Competition, Regulation and Economic Development (CCRED)	Mr Thando Vilakazi
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South African Development Foundation (SADF)	Mr Timothy Maile
South African Towing Board	Mr Chris Olislage
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