



The South African Institute of Stockbrokers (SAIS)

comments on

The Financial Sector Amendment Bill [B15-2020]

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Standing Committee on Finance

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1. Introduction

The South African Institute of Stockbrokers (SAIS) welcomes the opportunity afforded by The Parliament (Standing Committee on Finance) to comment on the Financial Sector Laws Amendment Bill [B15-2020] issued on the 06 May 2021.

The SAIS is the professional body for stockbrokers and other financial markets professionals. It not only represents members but is also the industry representative. As the voice for industry, the SAIS has a responsibility to ensure that perspectives and opinions of the broader financial markets industry are considered when commenting and interacting with the regulators and government.

2. Objective

The SAIS notes that the objective of the Amendment Bill is to provide for the amendments to various Acts, such as:

- 2.1 The Insolvency Act, 1936 to clarify the provisions of the Financial Sector Regulation Act, 2017 that apply to the liquidation or sequestration of the estate of a designated institution;
- 2.2 The South African Reserve Bank Act, 1989, to provide for the performance of resolution functions by the Reserve Bank;
- 2.3 The Banks Act, 1990, to exclude banks in resolution from the application of certain provisions; and
- 2.4 The Financial Sector Regulation Act, 2017, to establish a deposit insurance scheme, including a Corporation for Deposit Insurance and a Deposit Insurance Fund.

3. Comments

Given the above, the comments of the SAIS on the amendments to the Financial Sector Laws Amendment Bill are as follows:

- 3.1 The Insolvency Act, 1936, to **clarify that the provisions of the Financial Sector Regulation Act, 2017, apply to the liquidation or sequestration of the estate of a designated institution; to exclude dispositions made in case of resolution from the application of the Insolvency Act; to clarify and refine the application of certain provisions of the Insolvency Act:**

~~a.~~ The Financial Institutions (Protection of Funds) Act, 2001, to **exclude designated institutions in resolution from the application of certain provisions;**

~~a.b.~~ The Financial Markets Act, 2012, to **exclude designated institutions from the application of certain provisions; and to exclude designated institutions in resolution from the application of certain provisions; and**

~~a.c.~~ The Financial Sector Regulation Act, 2017, to **provide for the establishment of a framework for the resolution of designated institutions to ensure that the**

impact or potential impact of a failure of a designated institution on financial stability is managed appropriately; to designate the Reserve Bank as the resolution authority; to establish a deposit insurance scheme, including a Corporation for Deposit Insurance and a Deposit Insurance Fund; to provide for co-ordination, co-operation, collaboration and consultation between the Corporation for Deposit Insurance and other entities in relation to financial stability and the functions of those entities; **to make provision for designated institutions in connection with resolution matters; to further provide for information required to assess a levy;** to effect consequential and technical amendments to certain provisions; to accordingly amend the long title and the Arrangement of Sections;

4. Conclusion

Consistency and alignment of legislation and regulation is key in establishing and maintaining an effective South African regulatory landscape. The unintended consequence and impact of possibly conflicting legislation and regulation must be duly considered and every effort made to avoid such conflicts.

The SAIS has applied its mind to the Financial Sector Laws Amendment Bill and has no additional comment to provide.

The SAIS wishes to thank the Parliament (Standing Committee on Finance) for the opportunity afforded to it, to comment on the Financial Sector Laws Amendment Bill. The SAIS trusts that the comment will be considered and remains available should further clarity or discussion be required.