

FINANCIAL SECTOR LAWS AMENDMENT BILL [B15-2020]

*Proposed inconsequential amendments to the Standing Committee on Finance
from National Treasury*

26 MAY 2021

Financial Sector Laws Amendment Bill, 2020			
Clause	Current Wording	Proposed amendment	Committee Explanation
Clause 35	A bank as defined in the Banks Act 94 of 1990 (Banks Act), a mutual bank as defined in the Mutual Banks Act 124 of 1993 (Mutual Banks Act) and a co-operative bank as defined in the Co-operative Banks Act 40 of 2007 (Co-operative Banks Act)	'bank' means each of the following: (a) a bank as defined in the Banks Act; (b) a branch as defined in the Banks Act, (c) a mutual bank as defined in the Mutual Banks Act, 1993 (Act No. 124 of 1993); or (d) a co-operative bank as defined in the Co-operative Banks Act, 2007 (Act No. 40 of 2007);	<p>This is an alignment with the guidance of the International Association of Deposit Insurers' Core Principles of Effective Deposit Insurance Systems, that all deposit-taking institutions need to be members of the deposit insurance scheme.</p> <p>The amendment is a refinement of the definition of 'bank' to ensure that local branches of foreign banks are included as members of CoDI, this would be that all banks as defined in the Banks Act, Mutual Banks Act and Cooperative Banks Act should be members of CoDI.</p>
166BA	<u>(2) Without limiting subsection (1), the financial sector regulators must comply with any reasonable</u>	<u>2) Without limiting subsection (1), the financial sector regulators must comply with any reasonable request from the Corporation, including requests to -</u> i. <u>determine standards;</u> ii. <u>issue directives; and</u>	The current wording of clause 166BA(2) limits the use of standards for CoDI to public awareness, but clause 166BH(2) specifies that the interest on the fund liquidity should be

	<u>request from the Corporation, including requests to determine standards and issue directives, to promote awareness among financial customers of the protections afforded by this Chapter.</u>	<u>iii. promote awareness among financial customers of the protections afforded by this Chapter.</u>	<p>specified in a standard which would not be possible unless the wording of clause 166BA(2) is changed.</p> <p>This change is also required to allow CoDI to be able to request the financial sector regulators to issue standards for data collection, coverage rules, payout and other funding-related considerations.</p>
166BH	<u>(2) The Corporation must pay interest to members on the amount referred to in subsection (1), which interest must specified in the standard."</u>	<u>(2) The Corporation must pay interest to members on the invested portion of the amount referred to in subsection (1) which interest must be calculated as specified in the standard.</u>	<p>This funding model was a concession to allow a more cost-effective approach for banks. The current wording, however, requires CoDI to pay interest to members on the full amount members place on deposit with CoDI. If CoDI uses any of these funds for payout, this wording implies that the interest payable to banks will have to be calculated on the full deposit amount which will have significant cost implications for CoDI as CoDI would have to use its own interest earned on the deposits or even its own funds to be able to pay banks interest on the full amount of the deposits.</p> <p>The proposed amendment is crucial as potential payments borne out of CoDI's own funds would have the effect of potentially bankrupting the fund possibly perpetually to an extent that it would not be able to fulfill its mandate.</p> <p>The proposal is to pay interest only on the remaining deposits that are invested with CoDI after a payout has taken place. In practice, this will have the effect of banks earning a lower</p>

			return, but there will not be default on the deposits and they will still be able to treat the full amount as an asset.
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