

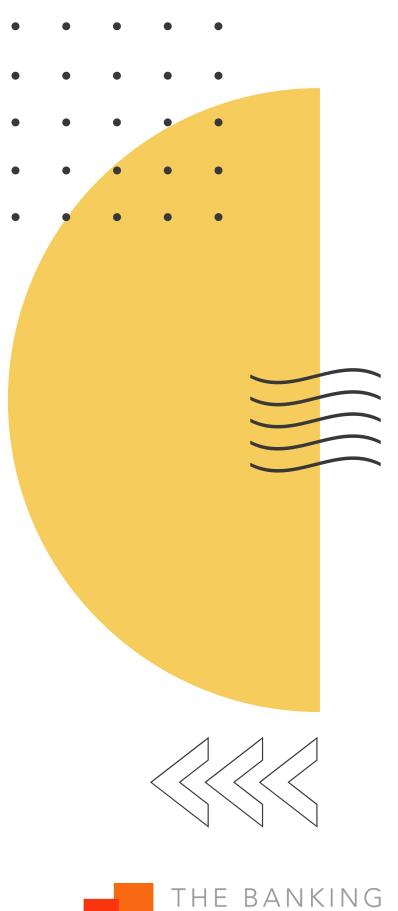
# PRESENTATION TO THE NATIONAL COUNCIL OF PROVINCES ON THE EMPLOYMENT EQUITY AMENDMENT BILL [B14B - 2020]

**22 February 2022** 

#### Introduction

The Banking Association South Africa (BASA) advances the interests of the industry with its regulators, legislators and stakeholders, to make banking sustainable, profitable and better able to contribute to the social and economic development and transformation of the country.

As the national association of domestic and international banks operating in South Africa, BASA advocates the views of the banks on legislation, regulation, and social and economic issues that affect the industry.





## Support for transformation

BASA and its members supports the intentions set by the Employment Equity Amendment Bill to accelerate transformation objectives in all sectors of the economy.

The Transformation in Banking Report published by BASA annually shows steady progress - across a number of the Broad-Based Black Economic Empowerment elements - towards targets set in the Amended Financial Sector Code, 2017.

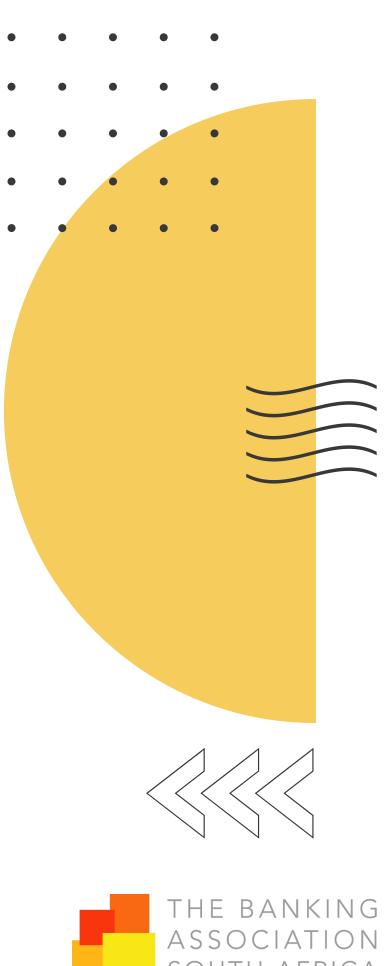
In publishing the Transformation in Banking Report, the industry is demonstrating its commitment to transparency about its challenges and success in achieving transformation goals

## Legislative environment

The comments we make must be viewed in the context of the regulatory environment banks operate in.

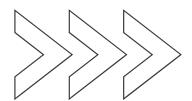
The Financial Sector Regulation Act, 2017 ("FSRA") states in section 28 that any organ of the State must in performing its functions have regard to the implications of its activities on financial stability and provide such assistance to the Reserve Bank and the Financial Oversight Committee to maintain and restore financial stability as the Reserve Bank and the Committee may request.

Our submissions herein are to provide information on how certain provisions of the Bill may impact the financial stability of the members of BASA and to make proposals for changes to the Bill.









Some of BASA's members have been designated as Systemically Important Financial Institutions by the Governor of the South African Reserve Bank in consultation with the Financial Stability Oversight Committee in terms of the Financial Sector Regulation Act, 2017 ("FSRA").

The FSRA already makes provision for fines and the matters the authority must have regard to in determining fines.

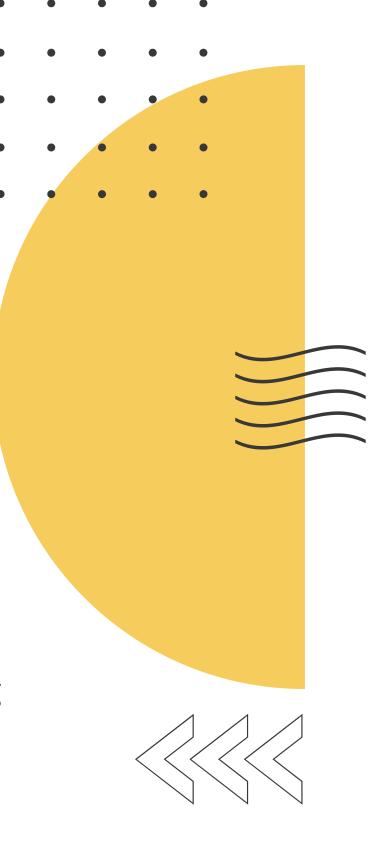
Fines relating to the targets will most likely negatively affect members' ESG scores. ESG compliance has become a major issue for international and local investors providing capital for banks.

In order to maintain financial stability, in so far as the fines and the factors to be taken into consideration in determining fines, is in conflict with the FSRA, the provisions of the FSRA should take precedence.

#### Section 15A

Section 15A-The Minister may, by notice in the Gazette, identify national economic sectors for the purposes of this Act, having regard to any relevant code contained in the Standard Industrial Classification of all Economic Activities published by Statistics South Africa...

• Section 15A(3) gives all the powers to the Minister to set targets in consultation with the National Minimum Wage Commission and not the relevant sector. This is concerning as this is not in alignment with previous NEDLAC agreements discussed by business and the social partners. BASA recommends that the Minister revert to the initial agreements negotiated at NEDLAC, namely that consultations will take place with the relevant sector bodies when setting sector targets. The provisions of the FSRA and financial stability must also be taken into account when setting these targets and penalties

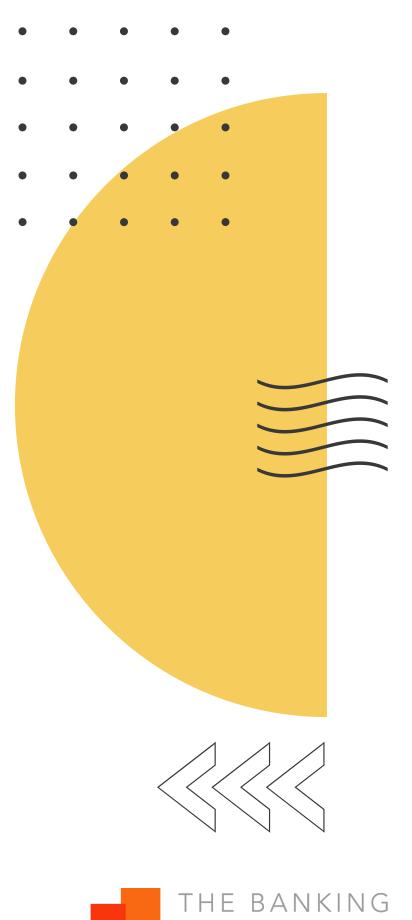




# Section 15A(4)

Section 15A(4) notice issued in terms of subsection (3) may set different numerical targets for different occupational levels, sub-sectors or regions within a sector or on the basis of any other relevant factor.

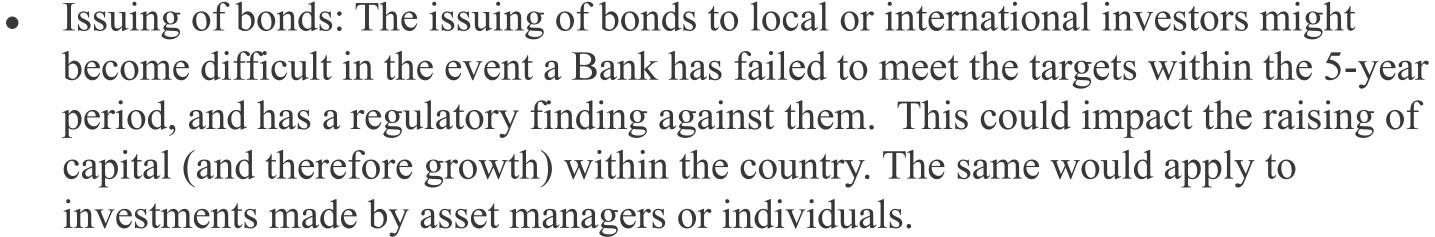
BASA is of the view that sector targets should be set nationally and not differentiated by region. If regional targets apply then businesses with a national footprint will have to comply with multiple sets of targets. This will result in a considerable burden in terms of restructuring, managing and monitoring the compliance requirements for businesses that operate nationally.







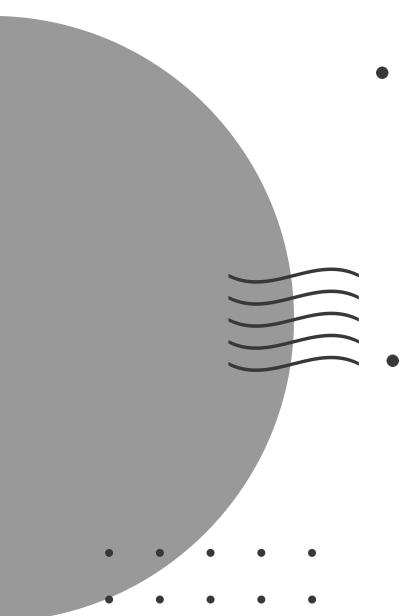
The unintended consequences of hard-coding targets with penalties include:

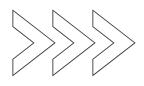


• One of the effects of the targets being hard coded is that it will make it very difficult to reach and comply with the intended goals in a 5 year period. The unintended consequences are the biggest risk for the banks. The main concern is how the banks will be perceived by asset managers that have to invest capital in the banks.

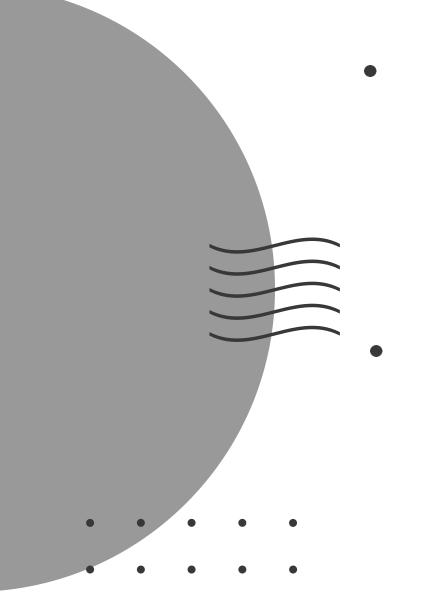
• Retrenchments of employees in crucial sectors in order to fit into the targets which may unintendedly lead to economic harm and or systematic risk.







# Concerns (continued)



The impact on the availability of specialised skills within the sector: in the event the targets are hard coded, and where there is a shortage of skills within SA, we may further encourage emigration and exit of skills and capital from the country. This could introduce systemic risk and potentially place parts of the fiscal system at risk.

Automation and improved efficiencies: Automation within the sector will result in reduced headcount at the lower occupational levels and this needs to be accounted for, failing which members of BASA will be unable to meet the targets.

In the detailed submission, BASA makes proposals about specific wording in Bill to address some of the concerns.



#### Recommendations



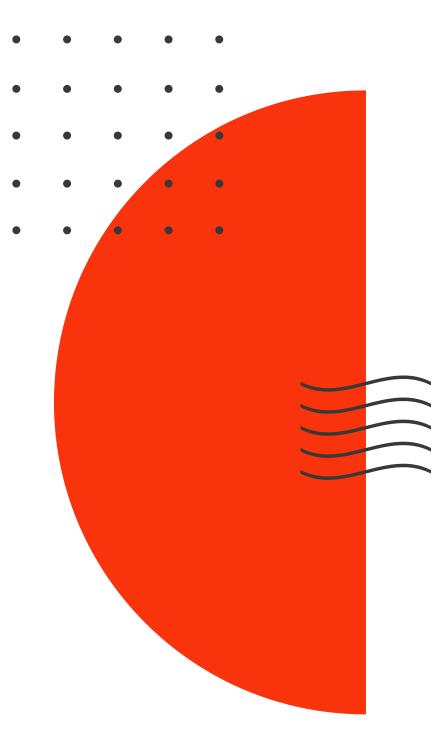
BASA recommends that the process to set targets should be consultative, transparent and use the best available and up to date evidence.



That the Minister consults with individual sectors before setting targets to ensure that targets are sector specific.



That the timelines to comply with targets be extended to a minimum of 10 years instead of 5 years, to allow for adequate time to transition and avoid unintended consequences.







# THANK YOU