

**FINANCIAL SECTOR AND DEPOSIT INSURANCE LEVIES BILL [B3-2022]**

**PUBLIC COMMENTS RECEIVED ON THE LEVIES BILL (PARLIAMENTARY)**

**April 2022**

# List of Commentators

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**COMMENTS ON THE 2022 FINANCIAL SECTOR AND DEPOSIT INSURANCE LEVIES BILLS**

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| Clause 1: Definitions | | | | | | |
| **Reviewer** | **Section** | | | | **Comment** | **Response** |
| SAIA | Definitions | | | | We note the definition provided for a “supervised entity”. In terms of the Financial Sector Regulation Act paragraph (a) of supervised entity is defined as “a licensed financial institution”. The term financial institution is however not defined in the proposed Bill. It is therefore not clear what is meant by the term “financial institution”. The Financial Sector Regulation Act provides a definition for “financial institution”. It is defined as any of the following, other than a representative:  (a) A financial product provider  (b) A financial services provider  (c) A market infrastructure  (d) A holding company of a financial conglomerate or  (e) A person licensed or required to be licensed in terms of a financial sector law.  It is however not clear if this definition is applicable to the current Bill? We therefore suggest that a definition be included for “financial institution” to remove any uncertainty. It would be ideal if the definition is aligned with the Financial Sector Regulation Act. We would however recommend to limit the definition to categories (a), (b) and (c) of the said definition, considering there are no proposed levies for other licensed entities. | To ensure that the scope of entities that in fact are liable to pay levies in terms of the Bill are accurately captured, it is proposed to refine the definition of “supervised entity” as follows:  ‘‘supervised entity’’ means a financial institution envisaged in paragraph (a) of the definition of ‘‘supervised entity’’ in section 1(1) of the Financial Sector Regulation Act of the types listed in Schedules 1 to 6; |
|  |  | | | | **Clause 4: Amount and Payment of Financial Sector Levy** |  |
| **Reviewer** | **Section** | | | | **Comment** |  |
| SAIA | Clause 4 | | | | Since the establishment of the PA, the levy paid to the FSCA was split between the two Authorities. It is our submission; this is a more sensible approach which will ensure levy payments to both Authorities and alleviate insurers from unnecessary double levy payments and financial stress. One of the concerns raised during the proposal of the establishment of the twin peaks supervisory model was the cost of compliance, which would be as a result   |  | | --- | | of establishing two Authorities. At the time the Regulator has assured that the costs of compliance will not be affected. However, considering the proposed levies to both the PA and the FSCA, it is evident that the costs have significantly increased for insurers.  In light of this, we would like to propose that insurers that already pay Schedule 1 levies be exempted from paying the Schedule 2 levy and that the amount paid in Schedule 1 be split between the Authorities as has been done in the past.  It is further our submission that the introduction of this increases the barrier to entry for new financial institutions which would wish to enter into the financial services industry in that these levies would impact their financial soundness as and when they are required to make payment. Low penetration into the market would limit competition and would result in cost increases to consumers.  We further plead with the Authorities to reconsider the significant increase especially since it is introduced during a period where the pandemic has wreaked havoc for the financial industry, we would therefore recommend for levies to be applied in a measured manner and much lower than doubling the levies of insurers. | | The comment is noted. It is of paramount importance that the regulation and supervision of the financial sector is appropriately and adequately funded to enable the regulators to execute their mandates effectively. While all regulation comes with some costs, the cost of funding the regulators will be based on cost recovery and will be kept at a minimum. While the FSCA will be fully funded by the industry, the Reserve Bank will continue to fund a portion of the PA’s total costs from its resources. What the PA will recover from the industry are direct costs, indirect costs, which are estimated at 40% of the total costs will be funded by the Reserve Bank. Therefore, there is no duplication on the costs.  It is also understood that financial hardship may be experienced as a result of the pandemic. As noted above, the Authorities are empowered to grant exemptions from the payment of all or part of a levy in the circumstances set out in clause 11 of the Bill. On the basis that the principle underlying the charging of the levies is cost recovery, this cannot be supported because it will mean that the Authorities will not be sufficiently funded to execute their important mandates.  It should be noted that the FSCA will receive considerably less from the insurance industry than it currently does. See comment above for further detail. |
| **Clause 8: Special Levy** | | | | | | |
| **Reviewer** | **Section** | | | | **Comment** |  |
| FIASA | Clause 8 | | | | Again, while we acknowledge the reduction in the special levy amount from 15% to 7.5%, the proposed levies still represent a significant increase in levies in very tough economic conditions. | The comment is noted. As you have correctly noted, the special levy was reduced from 15% to 7.5%. This is a balance between ensuring that the Authorities have adequate resources for set-up and other required systems while also minimising the burden on the supervised entities. Kindly also note that the special levy will be imposed for only the first two levy years following the date of the commencement of the Bill.  The special levy is not only for establishing the PA/FSCA – it is for other expenses that are not part of the ordinary course of the regulation and supervision of financial institutions.  A special levy may be charged in accordance with the provisions of the Levies Bill to cover other initial costs. The estimate of expenditure has been published by the Authorities which included an estimate for the special expenditure in relation to a special levy proposal.  While three years have passed since the establishment of the two peaks, there are set-up projects e.g. enhanced IT processes that are yet to be implemented.  For the 2022/23 financial year, the FSCA, has budgeted for a deficit of R18 million even though it has made a provision for the special levies. This deficit will be funded by reserves. |
| SAIA | Clause 8(1) | | | | It is our understanding that a special levy will be payable for the first two years immediately following the effective date of the Bill. We however require clarity if this interpretation is accurate, or does this section suggest a special levy equal to the amount of the first two levy years would be payable at commencement. (I.e. is a special levy payable spread over the first two years or does this section suggest one payment equal to two years’ special levy.  It is further our submission that increased levies must be regarded in the context of the overall cost of regulatory changes, compliance and regulatory reporting and Considering that the increase is significant and is occurring during a period where the pandemic has wreaked havoc for the financial industry, we would like to propose that the levies should perhaps be implemented in a staggered manner, with the special levy being spread over more than two years in order to ensure that the impact on the industry is not debilitating. | A special levy will be calculated and payable, separately, in each of the two levy periods (years) following the commencement of the Bill. The idea is to spread the imposition of this levy over the first two years is a way of reducing the burden on industry.  The special levy was reduced from 15% to 7.5% to reduce the burden on industry and its also being spread over two years. The special expenditure earmarked for the special levy requires funding and a two-year spread seems reasonable.  This is a balance between ensuring that the Authorities have adequate resources for set-up and other required systems while also minimising the burden on the supervised entities. Kindly also note that the special levy will be imposed for only the first two levy years following the date of the commencement of the Bill.  The special levy is not only for establishing the PA/FSCA – it is for other expenses that are not part of the ordinary course of the regulation and supervision of financial institutions.  A special levy may be charged in accordance with the provisions of the Levies Bill to cover other initial costs. The estimate of expenditure has been published by the Authorities which included an estimate for the special expenditure in relation to a special levy proposal.  While three years have passed since the establishment of the two peaks, there are set-up projects e.g. enhanced IT processes that are yet to be implemented.  For the 2022/23 financial year, the FSCA, has budgeted for a deficit of R18 million even though it has made a provision for the special levies. This deficit will be funded by reserves.  As a general principle, the levies that are proposed to be imposed are to recover the operational costs of the regulators.  In accordance with section 239 of the FSR Act, a proposal for a special levy must also include the estimate of expenditure for the special expenditure in relation to a special levy. The Authorities have identified expenditures that they have earmarked for the special levies. This information will be shared with the industry together with the proposed budgets and budget forecasts |
| Strate | Section 8 | | | | 1. *The maximum set out in the Draft Bill:*   Section 8 of the Draft Bill provides for a special implementation levy by all supervised entities to establish the PA and FSCA (and also the Tribunal and Ombud Council). These levies are payable in the first two levy years and are calculated at the rate of 7.5% of the levies payable by a supervised entity to that regulatory body.  Based on the combined levies calculated on Schedule 1(PA) Central Securities Depository and Schedule 2(FSCA)Associated Clearing House, Strate’s special implementation levy could amount to an additional R2,426,760 (R1,213,380 for each of the first two levy years).   1. *Submission*   While this levy is in addition to the levies payable in Schedules 1 and 2, Strate acknowledges, and is grateful for, the reduction in the proposed rate of 7.5% from the previous rate of 15%. | The comment is noted. As you have correctly noted, the special levy was reduced from 15% to 7.5%. This is a balance between ensuring that the Authorities have adequate resources for set-up and other required systems while also minimising the burden on the supervised entities. Kindly also note that the special levy will be imposed for only the first two levy years following the date of the commencement of the Bill.  The special levy is not only for establishing the PA/FSCA – it is for other expenses that are not part of the ordinary course of the regulation and supervision of financial institutions.  A special levy may be charged in accordance with the provisions of the Levies Bill to cover other initial costs. The estimate of expenditure has been published by the Authorities which included an estimate for the special expenditure in relation to a special levy proposal.  While three years have passed since the establishment of the two peaks, there are set-up projects e.g. enhanced IT processes that are yet to be implemented.  For the 2022/23 financial year, the FSCA, has budgeted for a deficit of R18 million even though it has made a provision for the special levies. This deficit will be funded by reserves.  The Authorities have provided their budgets and budget forecast that will provide further information on their costs as well as what the special levies are meant to cover. These will be shared with the industry.  As a general principle, the levies that are proposed to be imposed are to recover the operational costs of the regulators.  In accordance with section 239 of the FSR Act, a proposal for a special levy must also include the estimate of expenditure for the special expenditure in relation to a special levy. The Authorities have identified expenditures that they have earmarked for the special levies. This information will be shared with the industry together with the proposed budgets and budget forecasts. |
| Clause 11: Exemption from Levies | | | | | | |
| Reviewer | | Section | | Comment | | Response |
| FIASA | | Clause 11 | | The feedback further notes that under justifiable circumstances, the Authorities are empowered to grant exemptions from the payment of all or part of a levy. As previously noted in discussions with Treasury, this process is overly burdensome for firms, and again does not take into consideration the overall hardship that will be created as a result of increases of this nature.  Furthermore, clause 11 is tightly worded and only allows exemption in specific circumstances, and makes no provision for those FSPs who are dual regulated by the CMS, and FSCA. Consideration needs to be given to an overall reduction of fees for intermediaries, as well as alternative payment mechanisms, i.e. monthly vs annual payments etc. | | Exemption from levies  11. (1) (a) The Financial Sector Conduct Authority may, in writing, on application by a supervised entity or on its own initiative, exempt a supervised entity or a type or category of supervised entities, from the payment of all or a part of the financial sector levy specified in Schedules 2 to 5, or the special levy referred to in section 8(2)(a), in respect of a levy year or a part of a levy year.  (b) The Prudential Authority may, in writing, on application by a supervised entity or on its own initiative, exempt a supervised entity or a type or category of supervised entities, from the payment of all or a part of the financial sector levy specified in Schedule 1, or the special levy referred to in section 8(2)(b), in respect of a levy year or a part of a levy year.  (c) The Corporation may, in writing, on application by a member or on its own initiative, exempt a member or a type or category of members from the payment of all or part of the deposit insurance levy specified in Schedule 6, in respect of the period referred to in section 9(3), or a part of that period.  For consideration- might we want to provide that the regulator could exempt a category of entities, or not only on application by a financial institution? As part of the process, upon agreement between the Authority and the supervised entity, the FSR Act, allows for a situation where a supervised entity may offer to pay a fee of a levy by specified instalments. As exemptions will not be justified in all circumstances, it is proposed that it is better to provide for exemptions from these fees on a case-by-case basis rather than for a general exemption. |
| Schedule 1: Financial Sector Levy Calculation for Supervised Entitiesin respect of Prudential Authority | | | | | | |
| **Reviewer** | **Section** | | | | **Comment** | **Response** |
| Strate | Schedule 1 | | | | **This is in references to the central securities depository;**   1. The maximum set out in the Draft Bill:   In terms of the Draft Bill, the new proposed levy payable by a CSD to the PA involves a base fee of R100,000 with a maximum of R1 500 000 per quarter. This could potentially result in an annual maximum levy of R6 000 000. While Strate acknowledges that the proposed variable fee has been reduced, the proposed maximum fee in the current Bill is higher than the figure proposed in the 2018 Bill of R1 000 000 per quarter.   1. The actuals based on the 2020 figures:   The following Table estimates the quarterly and total annual levies for Strate based on Strate’s 2020 statistics. In each quarter the base fee of R100,000 is exceeded. The Variable amount is calculated as follows: 0.000006% x G (G = value of trades settled over the quarter preceding the levy run) with the total levy being calculated as the sum of the base amount + the calculated variable amount.   |  | | --- | | *Quarter 1 Quarter 2 Quarter 3 Quarter 4 Total Annual Max. Annual* | |  | | *867,426 724,628 720,665 682,984 2,994,802 6,000,000* | |  |  1. Submission:   *(c1)* It is submitted that the proposed maximum levy is very high, and higher than the proposed figure in the 2018 Bill. It is not clear to Strate why the maximum levy has been increased in the current Bill. Strate humbly requests that this figure should be re-considered.  (c2)It is submitted that all the CSD and associated clearing house levies of the PA and the FSCA be viewed collectively, as they will have to be paid by a single supervised entity. In terms of the Draft Bill, Strate will have to pay 4 separate amounts to these 2 regulators. These amounts combined could potentially reach a maximum of R13.6 million as per Schedules 1 and 2 of the Draft Bill. This is extremely high and materially higher than the current R4,148 million paid to the FSCA. | As noted by Strate, while the proposed variable fee has been reduced, the proposed maximum fee was increased. This follows a comprehensive rationalisation of the levies charged to FMIs. The Authorities adjusted the levies for FMIs following the comments that were received on the 2018 version of the Bill. It must also be noted that while the maximum (cap) on a central securities deposit was increased from R1 000 000 per quarter, the maximum levy per quarter for an associated clearing house (ACH) was reduced from R1 250 000 to R500 000, as part of the rationalisation of the levies alluded to above.  The adjustment of the levies across all FMIs was meant to ensure that the different FMIs are charged a proportionate levy on the basis of their nature, size and complexity. In certain instances, the quarterly maximums were reduced e.g., the maximum for an ACH was reduced from R1 250 000 to R500 000. Strate is also licensed as an ACH and will benefit from the reduction of the quarterly maximum charged to ACH.  The way the levies are structured is such that each type of supervised entity is charged a separate levy based on the licensed activities performed. Furthermore, the adoption of a twin peaks approach to regulation in South Africa means that there are two separate regulators (the PA and the FSCA) which have separate regulatory responsibilities to the same supervised entities. The levies are imposed to fund their operations in pursuit of fulfilling their mandates.  Market infrastructures are critical to the maintenance of financial stability and given the close relationship between micro-prudential and macro-prudential oversight, the approach taken in the FSR Act is to mandate the PA to also oversee the safety and soundness of market infrastructures.  Furthermore, the PA together with the SARB and the FSCA assesses certain MIs on its observance of international principles such as the Principles for Financial Market Infrastructures-CPMI-IOSCO. The assessment allocations for the authorities consider the different mandates of the respective authorities. In order for the Authorities to be able to fulfil their mandate, it is also vital that they are adequately funded. While the Authorities acknowledge the increase in the regulatory costs, it must also be noted that the levies charged by the authorities are a bare minimum, to recover their operational costs. |
| Strate | Schedule 1 | | | | Associated Clearing House;   1. *The maximum set out in the Draft Bill:*   In terms of the Draft Bill, the new proposed levy payable by an associated clearing house to the PA is set at a maximum of R500,000 (with a base of 100,000) per quarter. This could potentially result in an annual maximum levy of R2,000,000.  Please note that the current FSCA Notice charged no levies on Strate for fulfilling the associated clearing house functions for bond securities. In terms of the Financial Markets Act an associated clearing house need not have separate rules or directives or clearing members to supervise. This is in line with the Financial Markets Act, and as a result this lessens the supervisory efforts on an associated clearing house. In addition, also in line with the Financial Markets Act, an associated clearing house does not take on additional risk by underwriting the performance by the buyers and sellers of securities. This therefore lessens activities required for prudential regulation.  Please re-consider this category.   1. *The actuals based on Strate’s 2020 figures:*   The following Table estimates the quarterly and the total annual levies for Strate based on Strate’s  2020 clearing figures for bond securities for the 2020 year. The levy formula is: *Levy = (Q1 Variable amount + Quarterly base) with a maximum levy of R500,000 per quarter. The Variable amount is calculated as follows: 0.000005% x I (I = value of trades cleared over the quarter preceding the levy run).*   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | |  |  |  |  |  |  | | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | 2,000,000 |   *(c) Submission:*  *(c1)* It will be noted that that the maximum calculated amount would have been reached in 3 of the 4 quarters of 2020.  *(c2)* Strate acknowledges the reduction in this proposed fee in the current Draft Bill. It is submitted that all the CSD and associated clearing house levies of the PA and the FSCA be viewed collectively, as they will have to be paid by a single supervised entity. In terms of the Draft Bill, Strate will have to pay 4 separate amounts to these 2 regulators. All these 4 amounts combined could potentially reach a maximum of R13.6 million as per Schedules 1 and 2 of the Draft Bill. This is extremely high and materially higher than the current R4,148 million paid to the FSCA.(c3) Strate humbly submits that, given the nature of an ACH that is fully integrated into a CSD, the levy for the ACH be treated similarly to that of a trade repository, with a fixed maximum of R 500 000 and R 100 000 for each of the FSCA and the PA, respectively. | As indicated in the previous comment, the annual maximum for an associated clearing house was reduced to R2 000 000 from R5 000 000 which was reflected in the 2018 version of the Bill. This was a significant reduction that took the comments that were received from the industry into account and also included a rationalisation exercise of levies across all FMIs.  It must also be noted that the principle underpinning the charging of the levies is that of cost recovery. The methodology that has been adopted for the calculation of the levies is such that it also takes proportionality into account. The larger players will contribute more towards the funding of the Authorities while the smaller players will contribute less and, in some instances, they will be exempt from paying any levy e.g., co-operative financial institutions.  It is important to reiterate that market infrastructures are critical to the maintenance of financial stability and given the close relationship between micro-prudential and macro-prudential oversight, the approach taken in the FSR Act is to mandate the PA to also oversee the safety and soundness of market infrastructures. There will be costs that will be borne in the prudential regulation and supervision of an associated clearing house, as a separately licensed activity. That cost is what the Authorities are seeking to recover.  Strate has two licensed activities. i.e., central securities depository and associated clearing house which would be separately regulated and supervised by two regulators for market conduct and prudential risks. According to the 2020 integrated financial report for Strate, given the annual operating costs for 2020 (two years ago), the R10.6 million levies payable to both the PA and the FSCA for both CSD and ACH, account for about 4%. When compared to the total revenue, it is about 0.3%. This is likely to even be lower under current financials. The Authorities do not agree to the proposal by Strate to have a fixed amount charged on an ACH. The annual maximum for an ACH has been reduced from R5 000 000 to R2 000 000. This is a significant reduction in the amount of levies that balances the need to ensure that the Authorities are adequately funded while also being mindful of the cost implications of the levies on the supervised entities. The levy proposals provide this balance. |
| Strate | Schedule 1 | | | | It has been indicated that the purpose of the proposed levies for the PA is to cover the prudential regulation of the supervised entity and it would, in principle, seem irrational and unfair to introduce two separate levies for a single entity given that only one entity will be prudentially reviewed notwithstanding that it carries two market infrastructure licences. | The NT does not agree with the comment. The approach that has been adopted is that the levies will be imposed for each of the different licensed activities undertaken by a supervised entity. Strate will be charged separate levies for its activities as a CSD and ACH and will also be regulated and supervised accordingly. |
| Strate | Schedule 1 | | | | Based on the proposed levies, Strate, which holds two market infrastructure licences (CSD and ACH), will bear the following separate levies:-  R 2,994 million plus R 1,983 million for the prudential regulation of the same entity, with one set of financial statements. Given that only one entity will be prudentially reviewed, Strate is of the view that only one levy should be payable, regardless of the fact that the entity carries two licences. | The NT disagrees with this comment. The approach that has been adopted is that the levies will be imposed for each of the different licensed activities undertaken by a supervised entity. Strate will be charged separate levies for its activities as a CSD and ACH and will also be regulated and supervised accordingly. There is a reason and purpose why the different activities even when performed by a single entity, are licensed, regulated and supervised separately. |
| Strate | Schedule 1 | | | | In addition to the levies for a CSD payable to the PA and the FSCA, in terms of the Draft Bill, Strate would also be liable to pay a levy in respect of its ACH licence. This would also result in further payments of R1,983 million to the PA and R2,0 million to the FSCA. The combined levy for an ACH would be R 3,983 million. This is a totally new, additional, levy that Strate has not paid previously. | The adoption of a twin peaks regulatory framework established two authorities (the PA and the FSCA) that are separate. Each one has its own objectives and functions. The levies are imposed to fund their operations in pursuit of fulfilling their mandates. The approach that has been adopted is that the levies will be imposed for each of the different licensed activities undertaken by a supervised entity. However, the underlying principle is that the levies imposed on the supervised entities are meant to recover the costs involved in the regulation of the sector. The notion that the levies that are currently paid to the FSCA should simply be split between the PA and FSCA will not work, and it also means that the Authorities will not be in a position to fund their budgets. The additional costs that are being imposed are a bare minimum to enable the Authorities to fund their operations. The contribution of all FMIs, including Strate to the funding of the PA, will amount to about 6% and the remainder of the source of funding is banks and insurers. |
| Strate | Schedule 1 | | | | Strate is of the view that the proportion of the total levies payable by Strate to the PA and FSCA are inordinately high, given the size of the entity that has to bear the levies. It has been indicated in the National Treasury’s impact study *(“Supplement to the Impact Study of the Twin Peak Reforms”*) that the issue of proportionality was considered. Indeed, a statement was made in the study that the 2017 profit before tax for all banks was about R 80 billion and the total levies and fees were about 0.34% of the total banks’ profits before tax (see paragraph 3.7 of the impact study). Applying the same principle, Strate’s 2020 profit before tax amounted to R 164 million yet Strate’s potential maximum combined levies payable to both the PA and FSCA would be in the order of R 13,6 million. Thus, the proposed Strate levies would equate to 8.3% of profit before tax. Using the 2020 data, the actual PA and FSCA levies that Strate would pay (R10,577 million) equates to 6,45% of Strate’s 2020 profit before tax. It is recognized that the proportionality of 0.34% stated by National Treasury as being reasonable for the banks cannot simply be applied to Strate given the materially different roles of the entities concerned, but it would still seem clear that the proposed levies, when applied to Strate, are inordinately high and totally out of proportion in comparison to the size and profitability of the entity that is expected to bear these levies. Strate remains committed to play its role as self-regulatory Organisation to produce the best results in terms | The NT disagrees with the notion that proportionality has not been applied in the charging of the levies. The total levies that will be paid by Strate to both Authorities account for about 4% of the total operating costs and 0.3% of the total revenue. The calculation of the levies has been structured in such a way that the Authorities can recover their operating costs. Proportionality, measured by either the size of a financial institution or the value of trades is used to determine the quantum of levies to be charged in a manner that ensures that the Authorities are sufficiently funded to execute their mandate. The measures that have been used in the formula are a proxy for size and the Authorities are of the view that the methodology used is appropriate and provides a balance between smaller and larger players.  NT notes the comparison that Strate makes with regard to banks. While all the FMIs will contribute 6% towards the funding of the PA, banks will contribute 61% of the total funding followed by insurers that will contribute 31%. While the direct costs of the PA will be funded from the levies, the SARB will continue to fund the indirect costs. In addition to the levies that banks will pay to the Authorities, they will also be liable to pay a levy on the deposit insurance as well as a premium. When considering the impact of the levies, it is vital to consider all these factors as well.  The main objective is to ensure that the Authorities are adequately funded in a manner that distributes the cost across all the industry players in a proportional manner. The NT is of the view that the proposed levies provide this balance. |
| Schedule 2: Financial Sector Levy Calculation for Supervised Entitiesin Respect of Financial Sector Conduct Authority | | | | | | |
| **Reviewer** | **Section** | | **Comment** | | | **Response** |
| SAIA | Schedule 2 | | **Financial Sector Levy Calculation for Supervised Entities in Respect of Financial Sector Conduct Authority**  In the description columns for both Non-Life and Life insurers it determines that the Gross written premium as stated in the most recent annual Qualitative Return Template submitted to the Financial Sector Conduct Authority. These templates are submitted to the Prudential Authority and we would therefore recommend for the column to be aligned with the submission process. | | | It is proposed that the following amendments will be included in Schedule 2 in table B:  In relation to the row for “Non-life Insurer” in the column for “description of variable”:  C = gross written pre- miums above R60 million  Gross written premiums as stated in the most recent annual Quantitative Return Template submitted to the [Financial Sector Conduct Authority] Prudential Authority in respect of the year preceding the levy year, in accordance with the pre- scribed requirements”  Also note in relation to the row for “Non-life Insurer”, the following typographical correction in the column for “Variable Amounts (Rands)” should be made:  V1 = 0.155%  x B [V2 =]  V2 =  0.047% x C  (effectively a line return needs to be inserted after “B”).  In relation to the row for “Life Insurer” in the column for “description of variable”:  “D = gross best estimate liabilities or technical provisions as a whole, adjusted to an absolute value per line of business as reported in the most recent annual Quantitative Return Template submit- ted to the [Financial Sector Conduct Authority] Prudential Authority in respect of the year preceding the levy year, in accordance with the prescribed requirements”  Similarly, in relation to the row for “Microinsurer”, in the column for “description of variable”, the following refinements should be included:  E = Gross written premiums below R60 million as stated in the most re- cent annual Quantitative Return Template submitted to the [Financial Sector Conduct] Prudential Authority in respect of the year preceding the levy year, in accordance with the pre- scribed requirements  F = Gross written premiums above R60 million as stated in the most re- cent annual Quantitative Return Template submit- ted to the [Financial Sector Conduct Authority] Prudential Authority in respect of the year preceding the levy year, in accordance with the prescribed requirements  Also, in the row for “Microinsurer”, in the column for Variable Amount(s) (Rands)”, the following typographical correction needs to be corrected:  V1=  0.1016% x  E[V2=]  V2=  0.0308% x F  Effectively, a line return needs to be inserted between “E” and “V2”.  Other similar formatting corrections in relation to the “Variable Amounts (Rands”) Column are the following, where effectively line returns need to be inserted:  On page 20, in the row for “Pension fund Administrator” to substitute what is currently in the block, to provide as follows:  “V1 = 870 x M  V2 = 1.05 xL”  On page 20, in the row for “Collective investment scheme in securities” to substitute what is currently in the block, to provide as follows:  “V1= 2 067 x N  V2= 0.000052%x O”  On page 20, in the row for “Collective investment scheme in hedge funds” to substitute what is currently in the block, to provide as follows:  “V1 = 2067x P  V2 = 0.00465% x Q”  On page 20, in the row for “Foreign Collective Investment Scheme” to substitute what is currently in the block, to provide as follows:  “V1 = 7 150x R  V2 = 0.000354% x S”  On page 21, in the row for “Collective investment scheme in participation bonds” to substitute what is currently in the block, to provide as follows:  “V1 = 2 067 x U  V2 = 0.000052%x V”  On page 21, in the row for “Category II, IIA or III ﬁnancial services provider” to substitute what is currently in the block, to provide as follows:  “V1 = 620 x W  V2 = 0.0018595% x X” |
| SAIA | Schedule 2 | | **Financial Sector Levy Calculation for Supervised Entities in Respect of Financial Sector Conduct Authority**  Considering that the number of representatives will be calculated using the average total number of key individuals plus the average total number of representatives, we would kindly request clarity as to how these averages will be calculated and confirmed prior to invoicing | | | The average number of key individuals will be calculated by adding the number of key individuals/representatives over the period 1 September – 31 August each year (according to the Authority’s system) and dividing that number by 12. The information will be detailed on the assessment notice issued in terms of section 242. |
| Strate | Schedule 2: | | **Central Securities Depository;**   1. *The maximum set out in the Draft Bill:*   In terms of the Draft Bill, the proposed levy payable by a CSD to the FSCA is set at a maximum of R900,000 (with a base of R 125 000) per quarter. This could potentially result in an annual maximum levy of R3,600,000.   1. *The actuals based on Strate’s 2020 statistics:*   The following Table estimates the quarterly and the total annual levies for Strate based on Strate’s 2020 settlement figures. The Base amount is R125 000. The Variable amount is calculated as follows: *0.000011% x G (G = value of trades settled over the quarter preceding the levy run).*   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | |  |  |  |  |  |  | | 900,000 | 900,000 | 900,000 | 900,000 | 3,600,000 | 3,600,000 |   *(c) Submission:*  *(c1)* From the above, it is noted that the maximum of R3,6 million payable by a CSD to the FSCA is likely to be applicable to Strate, given that the estimated quarterly levies based on 2020 figures already exceeds the quarterly maximum by a significant amount. Strate acknowledges the reduction in this proposed fee in the current Draft Bill. It is considered important to note that although this figure is actually lower than Strate’s current FSCA levy, the potential impact of this fee is exacerbated by the proposed imposition of the three additional levies (by the PA for the CSD and ACH, and by the FSCA for the ACH).  *(c2)* It is further submitted that all the CSD and ACH levies of the PA and the FSCA be viewed collectively, as they will have to be paid by a single supervised entity. For example, Strate will have to pay 4 separate amounts to these 2 regulators. All these 4 amounts combined could potentially reach a maximum of R13.6 million as per Schedules 1 and 2 of the Draft Bill. | | | Although it is noted that the total of levies payable by Strate will increase substantially, this is a consequence of the twin peak model of regulation. The two regulators are separate and each one has its own objectives and functions.  One fundamental principle that has also been adopted is that of cost recovery. As the industry would be aware, the Authorities are not profit-making organisations. The reason for imposing levies is to recover the costs involved in the regulation of the sector. |
| Strate | Schedule 2: | | Associated Clearing House;   1. *The maximum set out in the Draft Bill:*   In terms of the Draft Bill, the new proposed levy payable by an ACH to the FSCA is set at a maximum of R500 000 (with a base of R125,000) per quarter. This could potentially result in an annual maximum levy of R2,000,000.  Please note that the current FSB Notice charged no levies on Strate for fulfilling the associated clearing house functions. We believe this was due to the fact that the associated clearing house does not have separate rules or directives, or clearing members. This lessens the supervisory efforts by the regulatory bodies.  Please re-consider this category.  (b) The actuals based on Strate’s 2020 statistics:  The following Table estimates the quarterly and the total annual levies for Strate based on Strate’s 2020 clearing figures for bond securities for each quarter. The Base amount is R125 000. The Variable amount is calculated as follows: 0.000007% x I (I = value of trades cleared over the quarter preceding the levy run).   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | |  |  |  |  |  |  | | 500,000 | 500,000 | 500,000 | 500,000 | 2,000,000 | 2,000,000 |   (c) Submission:  (c1) Based on the 2020 statistics, the maximum would have been reached for each quarter of 2020.  (c2) It is further submitted that whilst the current draft does, indeed, provide for the distinguishing of an independent clearing house and an associated clearing house and the levies that would be payable by each of these entities, it would still appear that the ACH levies may be overstated  given that there are no clearing house rules or directives or clearing members to supervise, and also that an ACH does not take on additional risk by underwriting the performance by the buyers and sellers of securities.  *(c3)* It is further submitted that all the CSD and ACH levies of the PA and the FSCA be viewed collectively, as they will have to be paid by a single supervised entity. In terms of the Draft Bill, Strate will have to pay 4 separate amounts to these 2 regulators. All these 4 amounts combined could potentially reach a maximum of R13,6 million as per Schedules 1 and 2 of the Draft Bill.  This is extremely high.  (c4) Strate humbly submits that, given the nature of an ACH that is fully integrated into a CSD, the levy for the ACH be treated similarly to that of a trade repository, with a fixed maximum of R 500 000 and R 100 000 for each of the FSCA and the PA, respectively.  Please re-consider this category entirely. | | | It is correct that historically the FSCA did not impose a separate levy for the ACH. As explained above, the approach that has been adopted is that the levies will be imposed for each of the different licensed activities undertaken by a supervised entity. The approach taken with the Levies Bill is that levies must be paid per licence. |
| Strate | Schedule 2 | | The FSCA Notice did not contain any levy on clearing houses or associated clearing houses and Strate has always paid levies in its capacity as a CSD, notwithstanding its licence as an ‘associated clearing house’(“ACH”) for bonds. | | | It is correct that historically the FSCA did not impose a separate levy for the ACH. As explained above, the approach that has been adopted is that the levies will be imposed for each of the different licensed activities undertaken by a supervised entity. The approach taken with the Levies Bill is that levies must be paid per licence. |
| Strate | Schedule 2 | | Strate acknowledges the adjustments that have been made to the levies proposed in the 3rd draft Financial Sector Levies Bill, 2018 (dated 2 March 2018) but, based on the proposals contained in the new Draft Bill (2021), the total proposed levies payable by Strate remain substantially higher than the current R 4,148 million payable to the FSCA.  Based on the proposed levies, Strate, which holds two market infrastructure licences (CSD and ACH), will bear the following separate levies:-  a similar argument applies to the two separate levies (R3,6 million plus R2,0 million) payable to the FSCA for the market conduct supervision of one entity, Strate, again regardless of the fact that the entity carries two licences. | | | It is correct that historically the FSCA did not impose a separate levy for the ACH. As explained above, the approach that has been adopted is that the levies will be imposed for each of the different licensed activities undertaken by a supervised entity. The approach taken with the Levies Bill is that levies must be paid per licence. |
| Strate | Schedule 1 and Schedule 2 | | Using the statistics for the 2020 financial year for the purposes of calculation, Strate would be required to pay:  the PA a levy of R2,994 million in respect of its CSD licence, which combined with the levy payable to the FSCA of R3,6 million would make a total of R6,594 million payable. This still represents a substantial increase over what was paid by Strate in 2020. | | | The adoption of a twin peaks regulatory framework established two authorities (the PA and the FSCA) that are separate regulators, each one with its own objectives and functions. The levies are imposed to fund their operations in pursuit of fulfilling their mandates. The underlying principle is that the levies imposed on the supervised entities are meant to recover the costs involved in the regulation of the sector. What was paid by Strate in 2020, does not include the levy for the prudential regulation of Strate as a CSD. The notion that the levies that are currently paid to the FSCA should simply be split between the PA and FSCA will not work, and it also means that the Authorities will not be in a position to fund their budgets. The additional costs that are being imposed are a bare minimum to enable the Authorities to fund their operations. |
| Strate | Schedule 2 | | In addition to the levies for a CSD payable to the PA and the FSCA, in terms of the Draft Bill, Strate would also be liable to pay a levy in respect of its ACH licence. This would also result in further payments of R1,983 million to the PA and R2,0 million to the FSCA. The combined levy for an ACH would be R 3,983 million. This is a totally new, additional, levy that Strate has not paid previously. | | | It is correct that historically the FSCA did not impose a separate levy for the ACH. As explained above, the approach that has been adopted is that the levies will be imposed for each of the different licensed activities undertaken by a supervised entity. The approach taken with the Levies Bill is that levies must be paid per licence. |
| Strate | Schedule 2 | | Strate is of the view that the proportion of the total levies payable by Strate to the PA and FSCA are inordinately high, given the size of the entity that has to bear the levies. It has been indicated in the National Treasury’s impact study *(“Supplement to the Impact Study of the Twin Peak Reforms”*) that the issue of proportionality was considered. Indeed, a statement was made in the study that the 2017 profit before tax for all banks was about R 80 billion and the total levies and fees were about 0.34% of the total banks’ profits before tax (see paragraph 3.7 of the impact study). Applying the same principle, Strate’s 2020 profit before tax amounted to R 164 million yet Strate’s potential maximum combined levies payable to both the PA and FSCA would be in the order of R 13,6 million. Thus, the proposed Strate levies would equate to 8.3% of profit before tax. Using the 2020 data, the actual PA and FSCA levies that Strate would pay (R10,577 million) equates to 6,45% of Strate’s 2020 profit before tax. It is recognized that the proportionality of 0.34% stated by National Treasury as being reasonable for the banks cannot simply be applied to Strate given the materially different roles of the entities concerned, but it would still seem clear that the proposed levies, when applied to Strate, are inordinately high and totally out of proportion in comparison to the size and profitability of the entity that is expected to bear these levies. Strate remains committed to play its role as self-regulatory Organisation to produce the best results in terms of efficiency and the allocation of resources to enable our ability to strengthen regulation of financial sector activity; attain the specific legislative objectives through regulation; and apply the broader principles of financial regulation. | | | The NT disagrees with the notion that proportionality has not been applied in the charging of the levies. The total levies that will be paid by Strate to both Authorities account for about 4% of the total operating costs and 0.3% of the total revenue. The calculation of the levies has been structured in such a way that the Authorities can recover their operating costs. Proportionality, measured by either the size of a financial institution or the value of trades is used to determine the quantum of levies to be charged in a manner that ensures that the Authorities are sufficiently funded to execute their mandate. The measures that have been used in the formula are a proxy for size and the Authorities are of the view that the methodology used is appropriate and provides a balance between smaller and larger players.  NT notes the comparison that Strate makes with regard to banks. While all the FMIs will contribute 6% towards the funding of the PA, banks will contribute 61% of the total funding followed by insurers that will contribute 31%. While the direct costs of the PA will be funded from the levies, the SARB will continue to fund the indirect costs. In addition to the levies that banks will pay to the Authorities, they will also be liable to pay a levy on the deposit insurance as well as a premium. When considering the impact of the levies, it is vital to consider all these factors as well.  The main objective is to ensure that the Authorities are adequately funded in a manner that distributes the cost across all the industry players in a proportional manner. The NT is of the view that the proposed levies provide this balance. |
| Strate | Schedule 2 | | On the premise that the proposed levy for an ACH remains in place, it is the view of Strate that the quantum would need to be carefully reconsidered. As indicated above, the clearing house service in the South African market context is fully integrated into the CSD settlement model. In terms of the Financial Markets Act an associated clearing house need not have separate rules or directives and does not have clearing members to supervise. In addition, and also in line with the Financial Markets Act, an associated clearing house does not take on additional risk by underwriting the performance by the buyers and sellers of securities. This therefore lessens activities required for prudential regulation. In terms of the current draft, however, the levies attracted by the ACH, when calculated, equate to roughly 60% of what is expected to be paid by the CSD notwithstanding the limited, additional, supervisory burden created by the ACH licence.  Strate humbly submits that, given the nature of an ACH that is fully integrated into a CSD, the levy for the ACH be treated similarly to that of a trade repository, with a fixed maximum of R 500 000 and R 100 000 for each of the FSCA and the PA, respectively.  We acknowledge the adjustments that have been incorporated in the current Bill, and humbly request that the impact of the proposed levies on Strate be revisited. | | | The adoption of a twin peaks regulatory framework established two authorities (the PA and the FSCA) that are separate regulators, each one with its own objectives and functions. The levies are imposed to fund their operations in pursuit of fulfilling their mandates. The underlying principle is that the levies imposed on the supervised entities are meant to recover the costs involved in the regulation of the sector. What was paid by Strate in 2020, does not include the levy for the prudential regulation of Strate as a CSD. The notion that the levies that are currently paid to the FSCA should simply be split between the PA and FSCA will not work, and it also means that the Authorities will not be in a position to fund their budgets. The additional costs that are being imposed are a bare minimum to enable the Authorities to fund their operations. |
| General | | | | | | |
| **Reviewer** | **Section** | | **Comment** | | | **Response** |
| FIASA | General | | The Financial Intermediaries Association is a trade association that represents over 1700 businesses operating in the intermediated market of financial services (life, non-life, employee benefits, financial planning and discretionary investment management) of which 80% of these businesses are small to medium sized enterprises. Our members are all financial services providers who collectively employ in excess of 45 000 people countrywide. Included within our membership are also those members who hold both Category I and Category II licences.  The FIA strives to protect, develop, educate, promote and influence the professional service of our members and their employees, so that consumers can benefit from the value of advice, risk management and product fulfilment.  We thank you for the opportunity to comment again on the revised Draft Financial Sector and Deposit Insurance Levies Bill, and wish to make the following comments. | | | Noted. |
| FIASA | General | | Following the updated publication, and in order to understand the impact of the proposed Financial Sector and Deposit Insurance Levies Bill on our members, we have again undertaken a financial analysis, to look at different bands of members, and the cost of increases over time, as well as the impact of the Draft Bill relative to previous increases. We note the amendment to the V2 rate for Category II FSPs, and the correction to the Ombud levy. The table below reflects our findings in this regard, and you will note that even excluding the special levy, the increases are substantial, and far exceed inflation. | | | Noted |
| FIASA | General | | The table below (excel spreadsheet also provided separately) looks at the changes in the various levies for the years 2019/2020, 2020/2021 and the proposed change for 2021/2022 only, as we have previously shown that historically the levies have been increased at a rate that is considerably more than the official inflation rate over the years (see Annexure A).  Various types of intermediary operating at different scales have been used purely to get an idea of the broader impact across the membership base of the FIA. The different size of operation should not be seen as thresholds in any way, as the way that the levy applies is that the levy increases proportionally as the number of representatives increases due to the variable charge (and the assets under management in some categories of intermediary).  Column 21 provides the average annual escalation for the last two years based on the proposed levies in order to put the percentage increase in column 22 into perspective given the “concessionary” increase that was applied for 2020/2021, while column 23 looks to remove the impact of the proposed interim implementation levy on the basis that this will be a temporary measure only and is not part of the “normal” operating process. | | | The Table below is noted. |
| FIASA | General | | While we recognise the feedback provided in the response to comments on the February 2021 Levies Bill, we specifically note the comment that the increase in levy is largely due to the necessity to fund the financial sector bodies separately. As intermediaries do not fall within the jurisdiction of the Prudential Authority directly, it remains unclear as to why such high increases are necessary. | | | Schedule 1 does not have intermediaries. The PA does not charge levies to intermediaries, as a category. |
| FIASA | General | | As previously noted, it is estimated that intermediaries in South Africa suffered an income loss of some 18% in 2020 as a result of the pandemic and subsequent “lock downs” (Stalker Hutchison Admiral (SHA) Risk Specialists Annual Specialist Risk Review 2020). Increased regulation and discussions regarding reductions in commission are placing strain on an already strained market, meaning that many small and medium sized businesses may no longer be able to continue doing business. Intermediaries are the gateway to entrepreneurship, development and consumer advice and product education within the sector. Serious consideration needs to be given to the need to develop SMME’s in order stimulate economic growth. The proposed levies make entry into the market prohibitive.  Also, as previously noted, while product suppliers may increase their prices in mitigation, due to the highly competitive environment in which intermediaries operate, the challenge for our members is that they cannot transfer increases in costs to their clients. Their income is based on a fixed regulated commission, and even fee earnings are limited. This means that all increases reduce the profit margin, and hence sustainability of the intermediary. Ultimately though, it is the consumer who bears the costs of these increases, as indeed, product providers will increase their costs. as the cost of compliance, governance and doing business becomes more and more expensive. | | | The comment is noted. The comment provides mitigating circumstances which can be presented for consideration of an exemption in terms of clause 11 which is possible as provided for by the Bill. |
| FIASA | General | | We note the inclusion of the Socio-Economic Impact Assessment (Annexure A - SEIAS), and while we certainly understand that the proposals relate to the Twin Peaks model, and enhanced financial sector bodies, which aim to improve consumer outcomes, without a detailed understanding of the current and proposed future budget it is not possible to determine if these figures are reasonable and/or commensurate with the services being, or to be provided by the Regulator and to give effect to the implementation of the Twin Peaks model. | | | The comment is noted. The Budgets of the Authorities will be shared with the industry. |
| FIASA | General | | It is noted in your feedback that: ‘Although chapter 16 is not yet effective, the financial sector bodies will publish their budget for the 2021/22 financial year and proposed draft budget for the 2022/23 financial year together with the revised draft of the Bill. The FSR Act introduces financial sector bodies as separate bodies responsible for their own budgets. Under chapter 16 these bodies will be required to publish their budgets as well as levies proposals. As such it should be noted that the increase in levy is largely due to the necessity to fund these offices separately’.  It is imperative that the industry understand how these levies will enable the regulatory bodies to adequately perform their functions, and how the calculation is justified. The SEIAS makes statements regarding the fact that the levies will allow the regulatory bodies to carry out their statutory duties and functions adequately, but provides no clear indication of ‘how’ they intend to do this and very limited consideration of the impacts on firms, imposed by these proposed levies. | | | The comment is noted. The Budgets of the Authorities will be shared with the industry. |
| FIASA | General | | We urgently request that the necessary insight is provided into the rationale behind these levies, as well as evidence into the modelling undertaken to determine that these levies will actually enable the financial sector bodies to achieve financial and operational efficiencies together with the high-level outcomes described in the SEIAS. It is essential that the financial sector bodies conduct the appropriate assessments to ensure that the levies are not unduly burdensome on regulated entities.  The FIA hereby requests an opportunity to make verbal representations and provide more context to our submission during the public hearings. | | | The principle underpinning the charging of levies is cost recovery. The starting point is the Authorities’ budgets that will be funded from the levies. The assessments to determine whether the levies will not be burdensome on the regulated entities was conducted and the findings are captured in the SEIAS report. |
| Strate | General | | Prior to the enactment of the Financial Sector Regulation Act (No. 9 of 2017), market infrastructures, such as Strate, were regulated by a single regulator, the Financial Services Board (‘the FSB’), the predecessor of the Financial Sector Conduct Authority (‘the FSCA’). Paragraph 18 of the current notice published by the FSCA in Government Gazette No 43626 (Vol 443) of 19 August 2020 *Financial Services Board Act 97/1990: Levies on Financial Institutions* (the FSCA Notice), sets out the annual levies of central securities depositories (‘CSDs’). Sub-paragraph 18(1) of the FSCA Notice determined the levy for Strate (Pty) Ltd in the amount of R4,148,840, payable by not later than 30 September of the levy year (2020). This levy has been published annually and has been increased more or less in line with inflation on an annual basis, with the most recent increase having been calculated at 3% between the 2019/2020 and 2020/2021 year. | | | The comment is noted.  The adoption of a twin peaks regulatory framework established two authorities (the PA and the FSCA) that are separate regulators, each one with its own objectives and functions. The levies are imposed to fund their operations in pursuit of fulfilling their mandates. The underlying principle is that the levies imposed on the supervised entities are meant to recover the costs involved in the regulation of the sector. What was paid by Strate in 2020, does not include the levy for the prudential regulation of Strate as a CSD. The notion that the levies that are currently paid to the FSCA should simply be split between the PA and FSCA will not work and will mean that the Authorities will not be in a position to fund their budgets. The additional costs that are being imposed are a bare minimum to enable the Authorities to fund their operations. The levy increases will be aligned to inflation where possible. |
| Strate | General | | It is the understanding that the legislature intended that the total amount of levies would stay in line with the current position, although the basis for the calculation would change. Strate’s submission is mainly that a regulatory impact analysis would clearly indicate that Strate’s overall cost with regard to levies would drastically and materially increase under the current Draft Bill. | | | The adoption of a twin peaks regulatory framework established two authorities (the PA and the FSCA) that are separate regulators, each one with its own objectives and functions. The notion that the levies that are currently paid to the FSCA should simply be split between the PA and FSCA will not work, and it also means that the Authorities will not be in a position to fund their budgets. The underlying principle is that the levies imposed on the supervised entities are meant to recover the costs involved in the regulation of the sector. What was paid by Strate in 2020, does not include the levy for the prudential regulation of Strate as a CSD. The additional costs that are being imposed are a bare minimum to enable the Authorities to fund their operations. |
| Strate | General | | Strate is of the view that there does not seem to be any reasonable explanation for charging levies at such a high rate by both the Prudential Authority (‘the PA’) and the FSCA with regard to the total amount. There seems to be no correlation between the respective levy amounts charged by the PA and the FSCA and the nature, scope and intensity of the actual supervision to be performed by the separate Authorities. Strate would like to better understand the proportionality between the supervision and oversight of the PA and FSCA and the levies charged. It is not clear how the weighting has been allocated between the Authorities and the end result of the total amount appears incorrect. | | | As indicated above, the budgets of the Authorities, and accordingly the levy amounts are based on cost recovery. The demarcation of responsibilities with regard to market infrastructures are set out in the Memorandum of Understanding under section 77 of the Financial Sector Regulation Act. The principle that has been adopted in the consideration of the levies is that of cost recovery. The levies that the Authorities are proposing to charge are a bare minimum meant to ensure that the regulators are adequately funded to be able to appropriately supervise the sector. Failure to do so will have dire implications on the financial sector, the economy and the greater society. It is also important to note that in the case of the PA, the levies that will be charged are only to cover the direct costs. The SARB will continue to fund the indirect costs of the operations of the PA. If the levies were charged to cover all the operational costs of the PA, the levy amounts could have been much higher than what is being charged. |
| Strate | General | | Strate understands that the overarching intention of the legislator is that the separate Authorities should co-ordinate efforts in the interest of efficiency and not merely duplicate efforts. Unfortunately, the proposed levies contained in this draft still do not appear to reflect this thinking. | | | The NT does not agree with the comment that the levies payable to the PA and the FSCA would be a duplication.  The two authorities are separate and each one has its own objectives and functions. The levies are imposed to fund their operations in pursuit of fulfilling their mandates. The approach that has been adopted is that the levies will be imposed for each of the different licensed activities undertaken by a supervised entity.  One fundamental principle that has also been adopted is that of cost recovery. As the industry would be aware, the Authorities are not profit-making organisations. The reason for imposing levies is to recover the costs involved in the regulation of the sector. The notion that the levies that are currently paid to the FSCA should simply be split between the PA and FSCA will not work, and it also means that the Authorities will not be in a position to fund their budgets.  The formulation of the levies is such that the smaller institutions will pay less when compared to the larger ones. The base amount that is payable by a new entrant, as an example is set at a threshold that does not make the levy a barrier to entry.  It is of paramount importance that the regulation and supervision of the financial sector is appropriately and adequately funded to enable the regulators to execute their mandates effectively. While all regulation comes with some costs, the cost of funding the regulators will be based kept at a minimum. The supervised entities have an opportunity to comment on the budgets of the Authorities who are expected to collect enough resources to fund their operations and not to make a profit. While the FSCA will be fully funded by the industry, the Reserve Bank will continue to fund a portion of the PA’s total costs from its resources. What the PA will recover from the industry are direct costs, indirect costs, which are estimated at 40% of the total costs will be funded by the Reserve Bank, therefore there is no duplication of costs. |
| Strate | General | | Strate remains of the view that the proposed levies would have a negative impact on the investing public (both local and foreign) and SA inc. When one considers that the basis of calculation (i.e. the value of securities traded, cleared and settled) does not change throughout the lifecycle of the trade, it is contended that this would have a cumulative effect on the investing public, both local and foreign, as they may well be required to directly or indirectly bear these significantly higher levies. This could make savings and investments unaffordable to ordinary South African investors whom the Financial Sector Regulation Act framework seeks to protect and uplift, and unattractive to foreign investors whose participation in our markets provides the depth and liquidity that benefits all investors (including the pension funds). It is submitted that the negative socio-economic consequences of the proposed Bill should be carefully considered. | | | The comment is noted. Please see responses above. The NT disagrees with the notion that the proposed levies will have a negative impact on the investing public. The proposed levy formula has a maximum that can be charged regardless of the value of the securities traded, cleared or settled. The total levies to both Authorities that would be paid by Strate only account for 4% of the total operational costs and 0.3% of the total revenue. According to the 2020 integrated financial report for Strate, 7.5 million settlements were concluded during 2020. Assuming that the same number of settlements are concluded and considering the increase in the total levies by R6.5 million, this would translate to an R0.86 increase per trade. Given the important need to ensure that the regulators are adequately funded to undertake their mandate as well as the adverse effects of inadequate regulation and supervision of the financial sector, the NT is convinced that the proposed levies provide this important balance. There are high expectations from the society that the significant institutional supervisory reform that saw the introduction of a twin peaks framework will contribute to safeguarding the stability of the financial sector, including by further strengthening regulation and supervision. |
| Strate | General | | The combined proposed levy on Strate for both the CSD and the ACH payable to the PA and the FSCA collectively would be in the order of R10,577 million. As already indicated, this is drastically higher than the current levy payable by Strate of R 4,148 million.  Based further on the maximum levies proposed for Schedules 1 and 2 of the Draft Bill this could escalate to a total of R13,6m in a single year (compared to the current R4,148 million) should market activity increase.  The above amounts exclude the additional levies that are being proposed under Schedules 3 and 4 of the Draft Bill which are also completely new. | | | See response above. |

Legend

\*In this year the FSB levies dropped in anticipation of the introduction of the Tribunal levy, Ombud’s Council levy and the 15% special levy for the Twin Peaks implementation but the FAIS Ombud fees increased significantly.

\*\*Proposed

\*\*\*Previous calendar year (not aligned to the FSB’s levy year) Red = levy increase more than 10% above inflation Yellow = levy increase above inflation Dark green = Levy increase more than 10% below inflation Light green = Levy increase below inflation

NOTES

1) Apart from the years of 2008/9, 2014/15, 2016/17 and 2017/18 the increase in the levies have exceeded inflation, while the huge increases in 2005/6 to 2007/8 as well as 2021/21 and the proposed increase for 2021/22 mean that the levy increases would have been more than double the inflation rate since they were introduced.

2) This excludes the proposed additional tribunal and Ombuds Council levies at 2,5% of the base amount as well as the now proposed interim levy at 7,5% of the total.