



Mr NM Nene
Chairperson: Portfolio Committee on Finance
Parliament of the Republic of South Africa
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8 May 2008

Dear Mr Nene,

**HEARINGS ON THE GENERAL FINANCIAL SERVICES LAWS AMENDMENT
BILL, 2008**

Your letter dated 18 April 2008, inviting PASA to express its views on the above Bill, refers.

The potential impact of the proposed changes on the National Payment System Act, 1998, (the Act) has been considered in conjunction with our members, as a result of which we offer the following comments:

1. Preamble to the Bill

The purpose of the proposed amendments to the Act may create the expectation that participation in payment instructions is open to any person. It is suggested that the statement should be qualified by the insertion of the following phrase:

1.1 "... in conjunction with the Reserve Bank and after meeting certain criteria approved by the Reserve Bank," after the words "... organs of state ...".

1.2 "... after meeting certain criteria approved by the Reserve Bank." after the words "... payment instructions;".

2. Section 1: Definition of "Clearing system participant"

Insert "system" after the words "designated clearing".

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3. Paragraph 6(3)(a)

Substitution of "clearing system participant" with "person" throughout this paragraph.

4. Paragraph 6(3)(a)(ii)

Substitution of the above paragraph with the following paragraph: "the Reserve Bank settlement system participant who settles payment obligations as contemplated in Section 4(2)(d) on behalf of the person that is the subject of designation".

5. Paragraph 6(3)(c)(ii)

Substitution of the above paragraph with the following paragraph: "whether or not the designated clearing system participant has knowingly furnished information or documents which are false or misleading in any material respect to the Reserve Bank in connection with its designation;"

6. Paragraph 6(3)(e)

Substitution of the above paragraph with the following paragraph: "The Reserve Bank shall, after having given written notice to the Reserve Bank settlement system participant who settles payment obligations on behalf of the designated clearing system participant, as well as the designated clearing system participant, vary or revoke the designation of the designated clearing system participant by notice in the Gazette."

7. Proposed change as a consequence of the proposed changes

7.1 Section 1: Definition of "systemic risk"

Insertion after the words "payment obligations" of the following phrase "including the payment obligations of clearing system participants,".

7.2 Although PASA has not been able to identify and quantify the unintended consequences of the proposed amendments, it is believed that such changes may have an impact on prudential and governance requirements of these institutions by the Reserve Bank and PASA. Allowing these new non-bank institutions to participate in clearing, may require Reserve Bank settlement system participants, "sponsoring" such new participants, to introduce formal collateral and liquidity requirements, outside of the normal business relationships.



It will be appreciated if you could brief the Committee on the comments contained herein.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Walter Volker", with a long horizontal flourish extending to the right.

Walter Volker
Managing Director

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