**Zolani Rento - Written submission and request for oral presentation by Michael Duerrfor the proposed SARB Amendment Bill in the SC on Finance - full version**

**From:** Michael Duerr
**To:** [redacted]parliament.gov.za>, [redacted]parliament.gov.za>
**Date:** 2010/08/23 04:51 AM
**Subject:** Written submission and request for oral presentation by Michael Duerrfor the proposed SARB Amendment Bill in the SC on Finance - full version
**Attachments:** Just Money SA Kopie.jpg; Just Money - proposal for monetary reform.doc

Dear Chairman,

I HAVE MY SAY (as my final response to the ad in the M&G of Friday, August 13th)

Michael Duerr - SARB shareholder since 2006 - e-mail: [redacted] - landline. [redacted] cell: [redacted]

a little bit about my background, knowledge and believe that I may contribute to further the case: MBA in Banking and Finance (Augsburg University), Portfolio Management (Munich), Goldman, Sachs Ltd. (London), Baring Securities Ltd. (Frankfurt/London), IR Investor Relations AG (Gruenwald/Germany), retired since 1998

I acknowledge receipt of your e-mail from August 18th and respond as follows:

My reasonable demand for postponement of the public hearing was turned down by you without consideration. I feel not taken serious by you and the process and reiterate the formal request: when you ask for public participation then you have to advertise the public with the right timeframe and give enough consideration for the deliberations.

I hereby request to be heard and be contacted immediately to arrange my travel plans. Thank you very much.

Written submission and request for oral presentation on August 25th:

to the Committee Secretary: Mr Zolani Rento (Select Committee on Finance), zrento@parliament.gov.za or tel no. 021 403-403 8071

I thank the Select Committee on Finance for the invitation to me as a shareholder, stakeholder and interested party to submit my written submission on the South African Reserve Bank Amendment Bill [B10-2010] and hereby ask for sufficient time for my oral presentation on August 25th.

The South African Reserve Bank Amendment Bill, 2010 ("the Bill") seeks to amend the South African Reserve Bank Act, 1989 (Act No. 90 of 1989) ("the Act") in order to achieve the following objectives:

To amend the Act, as

1) to provide for the amendment of certain definitions, the insertion of new definitions and the deletion of a definition;

2) to provide for the establishment of a Panel for the election of directors to the Board and the functions of the Panel;

3) to reinforce the requirements regarding the limitation on shareholding in the South African Reserve Bank and to prevent the abuse of those provisions;

4) to provide for the nomination of Directors by a broader base of the South African public and to broaden representation on the Board of the South African Reserve Bank;

5) to define clear criteria regarding when persons are disqualified from serving on the Board;

6) to provide for the confirmation of Board nominees against "fit and proper" and fiduciary criteria;

7) to clarify the powers and functions of the Board;

8) to provide for the possibility of the Governor and Deputy Governors being re-appointed to serve terms of office of less than five years.

I will address the specific content and necessary alterations to the above 8 points after my historic reflection why we are where we are; and where to go from here (with my suggestions for changes in the SARB Act and to the current monetary system).

This introduction is the foundation for the discussions and contributions about the Bill relating to the privately owned South African Reserve Bank (SARB), but I also feel inclined to clarify the matters raised by the Minister of Finance and the SARB Governor in recent weeks and months.

One has to differentiate two main SARB issues: Corporate Governance and Monetary Policy. The former is a legitimate and pressing demand from the shareholders to realise and support the independence of the functions of the Central Bank enshrined in the Constitution: Article 224 (2). The latter is a political discussion some shareholders are involved in as private persons. They are convinced that a change is necessary to the current fraudulent money system. This reform is being pursued through the normal political channels, from the President downwards.

The following paragraphs deal exclusively with the Corporate Governance crisis the SARB has perpetuated for years. To dissect the questions raised about private shareholding and ownership of the Central Bank of South Africa, one has to go back to the creation of this juristic person with the Currency and Banking Act of 1920 and the following creation of a public limited company in 1921. The SARB only exists because of the equity contributed by private persons, commercial banks and the Treasury, all owning roughly one third at the beginning. The initial capital injection of one million (South African) Pounds remains equal to the share capital of two million Rand today. All of today´s assets of the SARB have been built on the initial capital and the retained earnings in the reserves.

The clarification about the company status is found as a statement by the then Governor W.H. Clegg at the Annual General Meeting on June 11th 1926 (page 8 of the annual report), when he said, „I think we may fairly say that we are the only company (sic) in South Africa doing business ...".

The next legal proof of the company status is that shareholders have to pay stamp duty ever since the inception of the Stamp Duty Act. This is necessary for every company by law, whenever share ownership changes hands.

The shareholders also appointed the majority of the Directors on the SARB Board until the second and latest change of the SARB Act in 1989.

Since 1999 the Corporate Governance Statement in the SARB Annual Report reads as follows. „The Bank is committed to the principles of, and complies with, all significant requirements contained in the King Report on Corporate Governance" (page 28). Ten years later this has been reduced to „The Bank is committed to the principles of good Corporate Governance and complies, to a significant degree, with the requirements of the King ..." (AR 2008/2009, page 10). This neatly documents the continous evasion of obligations to the owners and the public by this dinosaur of a company.

It has recently been quoted, that the shareholders earn only a limited dividend. The dividend has remained the same since 1921 and even in the only year of a SARB loss in 1932, a dividend was paid. There has been therefore a continous creeping expropriation of shareholders, with the dividend remaining constant versus the outrageous, excessive money supply creation (since 1921 in average over 18% p.a.) with the resulting inflation and destruction of the value of the Rand.
Would one use the very conservative (on the low side) inflation figures released and published by SARB and SARB employees in books and working papers, the situation would look as follows: Jannie Roussouw (senior management SARB and acting Company Secretary) and Prof. Visnhu Padayachee (former longstanding SARB director) have

published "An analysis of inflation from a central bank perspective: The South African experience since 1921" in April 2008. With the enclosed CPI figures about the history of loss of purchasing power in South Africa (Appendix A and B) one would end up with the Rand 2 (which was the purchase price for one SARB share at inception in 1921) being worth 120 times the amount at the end of April 2010. This effidence makes the share worth Rand 240 by today. It is hard to fathom the price fixing methods of the SARB, being highlighted in the last presentatin to the Portfolio Committee at March 12th, that the price will be brought down to the "right price, Rand 1" (quote of the General Counsel in presentation). Additionally it has to be just addressed that the highest price for SARB share has been achieved in 1932, with South African Pounds 155 (or Rand 310 at 1932 prices). The CPI, according to the study of Roussouw/Padayachee, had a base of 100 in 1922 prices and was down to 87 in 1932 due to deflation of the time. This means that the multiplier for today's prizes are even higher.
This said it it hard to understand the slanderous remarks of SARB employees and Treasury officials about the real motives of the shareholdrs. There is no greed. There are just facts. One has to eliminate this biased fiction.

Some further history clarifies the situation: The current headquarters in Pretoria (Church St.) were bought in the business year 1926/27 for 86.5% of the dividend, that included the land, building and alterations. The Johannnesburg site and building was acquired from New Consoilidated Gold Fields in 1933/34 for 45% of the dividend payment. Even in 1939/40 the dividend payment equaled the purchase of the Pietermaritzburg and Port Elisabeth branches. Within the first 10 years of existence, the shareholders received nearly three times as much dividends as the government.

Shareholder activism is nothing new with the SARB, it has always existed since inception. The AGM on July 6th 1932 quotes a legal opinion by the Bank about shareholder rights. Enquiries about dividend increases and adjustments to the currency devaluation have been regular too. The Governor at the AGM at August 15th 1962 is quoted as referring to the dividend and increase: „Price was based on a yield comparable to that on other similar investments".

Shareholders naturally have a profit motive, that is implicit in any investment of own capital. Who would spend money to cheer and support some shady characters in the SARB? Shareholders are not the cheer-leaders of the Governor, we are not blasting our vuvuzelas for Corporate Nongovernance.

To heat up the procedures, some shareholders have embarked on a process to enforce their rights by international law, which overrides national law. The Minister of International Relations and Co-operation, the Minister of Trade and Industry and the Minister of Finance have been served with the necessary papers at March 9th and March 19th.

The following paragraphs clarify some of the shareholder demands and hint at the escalating shareholder activism of the next weeks and months to come, to rectify the corporate governance problems of and in the SARB:

There is a serious international conflict in the „Treaty between the Federal Republic of Germany and the Republic of South Africa concerning the Encouragement and Protection of Investments" and Protocol – both dated 11/09/1995 and ratified 10/04/1998 (called the „Treaty"). The importance of the International Law for South Africa is enshrined in the Constitution: Article 231 to 233.

The Republic of South Africa is in breach with the above mentioned Bilateral Investment Treaty in more than one respect, with sections of the current and proposed South African Reserve Bank Act (No. 90 of 1989) and the current and coming changes in the Amendment of Regulations framed under Section 36 of the SARB Act (called „RegSec36").

According to the treaty „Investments" are the shares of the South African Reserve Bank, „Returns" are the dividends resulting out of the share ownership, „Nationals" means the respective citizens. Article 3 prescribes that the South African State mustn´t subject foreign investments to treatment less favourable than that it accords investments of South Africans (national treatment). Article 4 extends full protection and security. Article 11 is referring to „Divergencies concerning investments between a contracting party (South Africa) and a national of the other contracting party (Germany) should as far as possible be settled amicably between the parties in dispute" … to be settled within 6 months since raised. It will be submitted for arbitration to possibly ICSID, when the activity (according to Article 3 of the Protocol) in the management, maintenance, use and enjoyment of SARB shares is further obstructed through the exclusion of voting rights for foreigners. Voting rights present no risk to public security and order, public health or morality.

On these points, the SARB Act and RegSec36 stand in breach of international law, in terms of over 30 existing BITs and should have been modified years ago. We urged the Minister of Finance to review the SARB Act urgently and to issue a revised RegSec36 to settle the dispute amicably before the next SARB AGM (23/09/2010).

The development and further the problems of the SARB Act and the RegSec36 are clarified in the following historic context and summary:

The Currency and Banking Act of 1920 created the corporate body to be called „The South African Reserve Bank" with

perpetual succession and power to sue and be sued in its corporate name. The stockholders (later term changed to shareholders) had the majority with 6 directors appointed by individual shareholders (banks had no voting power according to Section 10 (5) in the election of those) and five by the Government (Governor, Deputy Governor plus three directors). The private shareholders could hold up to 1% of the prescribed capital of the company. The voluntary or compulsory liquidation with a split of 60% for the Government, 40% for shareholders had no cap. The shareholders also elected annually two qualified accountants.

The Act No. 29 of 1944 to Consolidate and Amend the Laws relating to the SARB, and to make Provisions for Matters incidental to the Regulation of the Monetary System of the Union made some changes: Section 14 (1), the reduction of the maximum shareholding to 0.5% (still valid), Section 15 (3), the restriction of voting rights for foreigners (made sense at this time, but now it has to revert again), Section 16 (3), the 10% dividend cap, Section 23, the Regulations by the Governor-General (today RegSec36) and finally the Section 25 (3), the limitation to an average market price (as the shares were the gilt-edged stock of the time in South Africa and had a daily market price, with substantial daily turnover - through the listing on the JSE.

The South African Reserve Bank Act (No. 90 of 1989) commenced on 01/08/1989. The changes are listed below: Section 2 calls the Bank a jurisitic person. SARB is not a state department, nor a public body (although it fulfills the Access to Public Information Act (No.2 of 2000)), nor a public entity as it is not part of the Schedules of the Public Finance Management Act (No.1 of 1999) and it does not report directly to Partliament, nor a public office (according to Article 219) of the Constitution, nor a constitutional institution, as the enabling Act does not prescribe a report to Parliament or the President. It is also not a state company or state corporation (as incorrectly published in the last two Annual Reports, also audited in the notes).

What is left? It is a statutory body, a creature of statute due to the own enabling Act. This is however not in contradiction with the company status it has. Company Law has to be applied as it is with the best comparison in South Africa, the Public Investment Corporation, being founded as a stautory body with its own enabling Act in 2004, also a juristic person and the 100% shareholder is the Treasury. It is registered in Cipro and falls under the old and new company law. We accept that there a some slight variations to the theme in the SARB due to the fact that its inception has been before any company law in the Union of South Africa and hence the missing company registration. But fact is, it is a company and it is owned by the shareholders through their two million shares subscribed capital with ordinary registered shares. The SARB published itself on its own webpage since 2003 (www.resbank.co.za or www.reservebank.co.za):

Home > About us > Background & structure > Background of the Bank

Last Updated: 2003-02-17

**Ownership of the South African Reserve Bank**

Since its establishment, the Reserve Bank has always been privately owned. Today the Bank has more than 630 shareholders and its shares are traded on an Over the counter share transfer facility market (OTCSTF market) co-ordinated within the Reserve Bank. Except for the provision of the SA Reserve Bank Act that no individual shareholder may hold more than 10 000 shares of the total number of 2 000 000 issued shares, there is no limitation on shareholding.

The SARB as an Organ of State (Constitution Article 239) is the only plausible explanation, but the submission of the required financial papaers to the Auditor-General are missing.

The confusing statements from government officials in Treasury and from employees from SARB try to confuse the public opinion further. Please make up your mind and publish the real character of the current SARB.

The board of directors had been increased to 14, giving the State an equal footing to the shareholders with the change in 1989. This has been an expropriation as there was no compensation for the loss of influence on the part of the shareholders. This will not happen again with the proposed Amendment Bill, trying to increase the director majority to the favour of the government without compensation.

Section 21 states, that the shareholders have no liability at all, as the shares are fully paid up. This is the only section about shareholder obligations by law. The SARB is continuosly publishing incorrect statements about the shareholder situation. We have advised the Minister of Finance to issue a ministerial warning to immediately halt this unlawful behaviour and make good for past transgressions.

Section 22 (4) breaches the Treaty, as international nominees are not allowed. Please rectify/amend. Section 22 (6)

overrides the OTCSTF Rules (Over-The-Counter-Share-Trade-Facility, is constantly managed/manipulated by the Legal Department of the SARB). Shareholders with more than 10 000 shares shall as soon as possible dispose of the number of shares held in excess of 10 000. There is no stipulation in the SARB Act about the time horizon and for what price. Please clarify and nullify the OTCSTF Rules in this respect, better still would be to bring the shares back to a proper listing on the JSE with dematerialised, bearer and/or registered shares, as in the case of the Belgium central bank on Euronext.

Section 23 (3) subscribes that a shareholder who is not an ordinary resident in the Republic shall not be entitled to any vote at any meeting of shareholders – this is absolutely illegal. It is in contravention with almost all existing (and with a 20 year guarantee of the prescribed rights from the time of change or canelllation) BITs of South Africa in relation to those nationals and the national treatment clause. Either you immediately give those nationals the voting rights back or amend the SARB Act in this point within the next weeks before the proposed extraordinary general meeting in the next weeks.

Section 24 with the allocation of surplus is a creeping expropriation according to the Treaty, as to how much is being paid out to the State since the change of the Bank accounting to the Group accounting years ago. Section 24 stipulates that only nine-tenths of the Bank (not the Group) surplus shall be paid to the Government. Please rectify this mistake immediately and reimburse the company with the funds overpaid since inception of this procedure. We will press hard on this. The difference accrues to the reserve funds and the net asset value of the Bank and the owners.

In terms of the SARB mumbo-jumbo we have to stress Section 32 (1) (b), (c) and (3). The list of shareholders is available at the latest at the end of May every year to the Minister of Finance, who has to lay a copy upon the tables of parliament within two weeks of receipt. There is no secrecy and Section 33 Preservation of Secrecy does not apply. Hence section 33 applies to the General Counsel of the SARB, who has revealed more than once with witnesses and on tape shareholder information, which is prohibited by Section 33 (1) (a) (ii). This is punishable under Section 34 (1) (e) (iii) with imprisonment for a period not exceeding one year. We have to stress again, shareholders have no such obligation and are free to reveal the truth.

One remark referring to Section 38, the liquidation. This point has been raised by the SARB itself too often and always in a misleading and incorrect context. The cap of Section 38 (3) doesn´t apply anymore, as legally speaking, since the delisting of the SARB shares from the JSE in 2002, the shares are only an unlisted security. The OTC platform, manhandled very badly by the Bank itself, is not a market, it is a facility by name and nature. The facilitation process is totally corrupt and new complications and demands for buy/sell orders are added by the year. Now we have to complete eight pages of documents. Foreign nationals get a three page letter from the General Counsel by post (snail mail). The Bank wants original handwritten affadavits, certified in front of an embassy or high commission official, in Pretoria for them to make any move on the OTC platform. This entire process with all the delay from the inefficient Transfer Department takes a few months. Every person will agree that this nonsense has to stop immediately. At least every judge or arbitrator will have a good laugh about this facility.

Shareholders demand from the Minister supervision of the RegSec36 in relation to the following problems and contraventions (proof for every point in detail - on demand): Section 2: Shareholders are entitled to share certificates. People with successful transactions (payments done) in possession of papers from the SARB Transfer Department are still waiting for their share certificates after one year. Section 3: The share register is a mess and not up to date as required by the regulation. Section 4: The inspection of the share register by shareholders is often denied or obstructed. Section 6: The registered owner is treated as the absolute owner. There is a discrepancy between the beneficial and the true owner. The Bank is sending shareholder information and dividends knowingly to the wrong or deceased persons.

Section 10: Shares in the Bank constitute movable property and are freely transferable. Obviously not. Section 11: Transfer of shares take place by means of a written instrument of transfer. The CM42 should be enough to constitute a third party transaction, this has been turned down by the SARB. Section 16 (3) in the meeting of shareholders is obviously unknown. The discussion and consideration of the balance sheet and income statement of the Bank, the report by the board and the report by the auditors are missing in the last few AGMs, this omission is the main reason for the widely reported fracas. Moreover the Section 16 (5) to (7) with the appointment and renumeration of the auditors, the transaction of any business and the business arising from the aforegoing has never been taken seriously by the Governor, the Chairperson of the AGMs. To clarify the matter, we will call Section 17, an Extraordinary General Meeting within the next weeks with more than 10% of the voting rights. Section 18 has not being attended to, with invitations for the AGMs arriving too late and without proper and necessary documentation. Section 19: the placing of special business by shareholders with delivery to each shareholder (Section 20) has been breached various times.

Section 40 explicitly states that the management of the business and the control of the Bank is vested in the board. A further problem are the fiduciary responsibilities of the directors, the shareholders being deprived of some of their rights through this.

Section 56 to 63 with the Minutes are a special saga. According to Section 59 loose leaves of paper shall not be deemed to constitute a minute book … and the pages are consecutively numbered. Actually that procedure stopped in 1927, before your RegSec36 knew that it exists. Here we refer to the correspondence of the General Counsel. Next, Section 63 defines that no report purpoting to be a report … shall be circulated … unless it contains a fair summary of all material questions and comments. What a joke in reality. Just check it out yourself.

Section 67 makes us believe, that true accounts are not in generally accepted accounting principles. The real dilemma is that according to Section 75 the auditor has to report „whether the balance sheet is a full and fair balance sheet, and is properly drawn up so as to exhibit a true and correct view of the whole of the Bank´s affairs, and whether the affairs of the Bank have been conducted in accordance with the provisions of the Act and these regulations". The auditors´ opinion mentions neither accordance to the regulations and nor that it is a full and fair balance sheet (see Annual Report 31/03/2009, page 90f).

With all our knowledge about the SARB as active shareholders, we have to draw attention to the absent corporate governance. Shady SARB activities and lifeboats are under close scrutiny as the SARB announced its second only loss for the business year 2009/10 - since its inception 1921 -, cutting into the reserves and the shareholders´ net asset value.

The banking oligopoly perpetuated in collaboration with SARB high interest rates, high inflation. This has resulted in a creeping expropriation of the shareholders as dividends have been kept constant since 1921. With the share capital of one million South African Pounds the total assets were tenfold in the first business year (double in Rands). Now we have a staggering R 324 billion in assets at February 2010. All achieved with the same share capital. Now who is the rightful owner?

My written suggestions (which I would like to elaborate in more detail with my oral presentation and by answering possible questions of the honourable members of Parliament present) for the objectives to amend the Act, as

1) to provide for the amendment of certain definitions, the insertion of new definitions and the deletion of a definition:

Definitions in respect to the proposed amendment of section 4 of the Act; Board of Directors, and its additions are not necessary, as this proposed expropriation of shareholders without compensation is not acceptable and also not legal under the exisiting constitutional requirements in respect to international law. See the Bilateral Investment Treaty problems in this circumstance. Those are currently: Foreign shareholders are in lik circumstances to SA nationals and residents due to the fact that there is only one class of ordinary shares. "Fair and equitable treatment" triggers liability under the BITs and a duty to pay compensation. No expropriation without compensation.

"Nation treatment" and "full protection and security" are further problems for the proposed Bill in respect to the investment treaties.

Creeping expropriation is the real dilemma. Indirect or creeping expropriation in international investment law is the slow and incremental encroachment of one investor's ownership by a host state, which effectively neutralises such investor's rights and diminishes the value of its investment. The legal title (SARB share) to the property remains vested in the foreign investor, but the investor's rights of use of the property are diminished as a result of the interference by the state. It is clear in retrospect that SA entered into these BITs without appreciating the ability of such instruments to constrain significantly a new government's sweeping programme of socio-economic reform. The government of the day of signing and ratifying those BITs had a lack of understanding of the dangers inherent as a result of no legal or economic analysis of their risk. This last sentence is a original quote from the dti (DTI June 2009 - BIT Policy Framework Review - Executive Summary of Government Position Paper). "The executive has not been fully apprised of all the possible consequences of BITs."

With a further breach of international treaties, parliament would create not only confusion, but also diplomatic disturbance and will knowingly accept to face an international tribunal for arbitration. How do we solve this? Why is this a piecemeal approach again?

The compensation issue is "just and equitable" due to Article 25 of the Constitution, but overriden by the international treaty with "prompt, adaquate and effective" compensation with market value.

2) to provide for the establishment of a Panel for the election of directors to the Board and the functions of the Panel:

This is unacceptable and illegal, as long as the shareholders as the owners of the company are not entitled to any form of acceptable compensation. See point 1).

3) to reinforce the requirements regarding the limitation on shareholding in the South African Reserve Bank and to prevent the abuse of those provisions:

The current Act with Section 22 and 23 is self-explanatory. More details are in the Amendments and could be clarified further by an update of the RegSec36 through the Minister of Finance.

The prescribed way is a violation of constitutional rights, property rights, common law and international law. I will further elaborate those points in my oral presentation and will make proposals for the future shareholding and ownership structure in the SARB.

The proposed Amendments have to be annulled due to the fact that they are useless and confusing. Associate and close relative are not in breach with the current Act. No provision of the Act or the Regulations prevents/prohibits to garner support of other shareholders. Of course the principles of justice and good faith will prevail and hence the manner in which support is garnered is legal and not contra bones mores. Ideas got tested with other shareholders. Opinions have been formed and decisions made based on comprehensive and complete information.

4) to provide for the nomination of Directors by a broader base of the South African public and to broaden representation on the Board of the South African Reserve Bank:

This is a good and valid point, but it may be achieved by the right composition of the three government deployed directors next to the Governor and three Deputy Governor, all appointed by the President after consultation with the Minister of Finance and the Board. The missing broader base is not due to negligence from the shareholders, but due to the fact that the state itself made obviously wrong appointments. Fiddle with your own representatives, not with the shareholder power. You want to take more shareholder rights away, first negotiate and afterwards compensate.

5) to define clear criteria regarding when persons are disqualified from serving on the Board:

This is being defined since 1921. What has changed in the most recent time to necessitate this demand?

6) to provide for the confirmation of Board nominees against "fit and proper" and fiduciary criteria:

Directors should be fit and proper persons to hold their positions, and they owe a fiduciary duty and a duty of care and skill to the SARB. This requires that they should act in good faith and possess the level of knowledge, expertise and experience required to at all times adequately fulfil their roles as directors of the SARB. The current Board is lacking most of these qualities, a look at the attendence register speaks volumes. The SARB Board of Directors is currently holding roughly 4% of all the two million shares outstanding. Is there any conflict of interest?

The coming vacancy in the position of the Depty-Governor Mokate (her term is expiring in June) shows the dilemma. At the time of her appointment in 2005 the Sunday Times wrote:

**New deputy called 'incompetent' - Report by Public Protector blasts Mokate, write Wisani wa ka Ngobeni and Dominic Mahlangu** Jul 31, 2005 12:00 AM | **A DAY after Renosi Mokate was appointed deputy governor of the Reserve Bank, a report by Public Protector Lawrence Mushwana described her as "incompetent" and accused her of costing the state R70-million in oil-trading losses.**

We agree on fit and proper vetting, but by whom? The President appointed a Deputy Governor and the Public Protector calls her incompetent. Who is right and was this appointment legal in terms of fit and proper?

The shareholders have to be the gatekeepers in the vetting process, not the government in deploying cadres with interesting histories and incompetent as bankers. Even the former Governor got a crash course and has been sent around the world for nearly one year to make him fit and proper on paper. This is not good enough. People have to know their ropes and not learn it on the job.

7) to clarify the powers and functions of the Board:

This is enshrined in the enabling Act and the Amendments by the Minister. The Amendments can further curtail and clarify details and does not even need to be tabled, but only be gazetted and two weeks later it is in place. What sense makes this unnecessary confusion and proposed Amendment of

the Act?

So far the board claimed to be above the law. SARB shall be bound by the result of voting of an general meeting. The board of directors, being responsible for the management of the SARB in terms of section 4 (1) of the Act and section 40 (2) of the Regulations specifically provides therefore that the actions by the board should not be inconsistent with any earlier resolution passed at at general meeting of shareholders in accordance with or as authorised by the Act or the Regulations. This requirement has been neglected in 2003 with the majority vote for a dividend increase by the shareholders and the boards opposing view and movement.

8) to provide for the possibility of the Governor and Deputy Governors being re-appointed to serve terms of office of less than five years:

This is hard to understand in the light of the SADC Head of States declarations for the coming Common Market by 2015 and the single currency and single central bank by 2018. The SARB is headquartering the SADCBANKERS.ORG and developed with World Bank and IMF money a SADC Central Bank Model Act, ratified in April 2008 by all Governors of the 15 respective Central/Reserve Banks in SADC. This Model Reserve Bank Act is contrary to the proposed Amendment Bill. The Governor has a fixed tenure of six years and is only eligable for one re-election. This less than five year proposal is in contradiction with the own findings and binding SADC agreements. I would like to elaborate more on this point orally, as the SADC Model Bank Law is affecting the current and the proposed Act.

The Memorandum to the Bill prescribes that it is necessary to stop shareholders of the South African Reserve Bank from circumventing the Act's current limitation of a maximum of 10 000 shares per shareholder. This is all possible under the current Act. No Amendment is needed.

To clarify the powers and functions of the Board, which will primarily be those of governance, with all remaining powers and duties of the Bank as set out in section 10 of the Act being vested in and being exercised by the Governor and Deputy Governors. This demand of the proposal is also in contradiction with the ratified unified future SADC Central Bank Law. Why are the powers of the Directors cut back and the Governor promoted to be a CEO and a Chairman in one person, when the future reverts this back again. Piecemeal again.

Those written submisions will be explained and supplemented in more detail by my oral presentation. Please provide me with your presentation equipment details in the public hearings. Thanks for your consideration.

I have to add some remarks of concern and critique in repect to the proposed Bill at the end.

How is it possible that the Minister is not delivering what is required by the SARB Act. The enabling act mandates SARB to report to the Minister of Finance and SARB must request the Minister to table the necessary reports in parliament. The latest shareholder list tabled by the Ministry of Finance was in 2000, as far as my research verifies. Section 32 (3) of the SARB Act requires this paper to be tabled every year (since its inception 1921) around mid of June. The Minister should get the shareholder list with addresses and details from SARB latest by end of May and has to submit this list into the public domain within two weeks after receipt thereof. What are the consequences ot the failure to table a paper? The guide of the Clerk of Paper states: "It is important to understand that failure to table a paper in parliament as prescribed is a breach of the Constitution. Section 93 (3) (b) of the Constitution requires members of the cabinet to provide parliament with full and regular reports concerning matters under their control." The Treasury and SARB failed in the last nine years to fulfill their mandatory requirements and hence are in breach of the Constitution.

The dilemma for the proposed Bill is the slack in the oversight and the lack in foresight plus strategy. The whole process is piecemeal. This is shameful for the country and its citizens/residents. I got told that the SARB board had 20 minutes to