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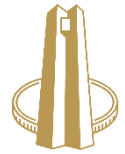
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SOUTH AFRICAN RESERVE BANK
Prudential Authority

Ref.: 15/8/1/4

DRAFT AMENDMENTS TO THE COMMERCIAL PAPER EXEMPTION NOTICE, 1994.

July 2023

INSTRUCTIONS

Please note the following instructions for filling in the template:

- For referencing purposes, please use the numbering as contained in the draft Amendments to the Commercial Paper Exemption Notice, 1994.
- Use a separate line for each comment.
- Commentators may insert extra rows to provide comments on sub-paragraphs or sub-items.
- Please send the completed template, in **Word Format**, on or before **11 August 2023** to: PA-Standards@resbank.co.za for the attention of Ms Videshree Rooplall.

Please note that late submissions will not be accepted, unless agreed to in writing by the Prudential Authority.

SECTION A - DETAILS OF COMMENTATOR

Name of organisation/individual:	SAICA Basel Task Group
If the commentator is an organisation, provide the name and designation of the contact person:	Neil Maree (Chairman: SAICA Basel Task Group)
Email address:	Neil.Maree@za.ey.com
Contact number:	+27 60 976 8028

SECTION B - COMMENTS ON DRAFT AMENDMENTS TO THE COMMERCIAL PAPER EXEMPTION NOTICE, 1994.

No	Paragraph	Comment
DEFINITIONS AND INTERPRETATION		
1	Definition: Material / Materiality	The draft does not define material or materiality for users to ensure uniform interpretation. Guidance should be provided on what is material. Please refer to paragraph 3 of our response below for more context.
CONDITIONS OF THE NOTICE		
2	3(1)(c)	Paragraph 3(1)(c) requires that confirmation be given that an issuer "...held net assets, as certified by its auditors and reflected in its audited financial statements, to a total value exceeding R100 million...". What is meant by "certified" is unclear. As an auditor, we would be limited to our responsibility, which is to audit the financial statements of the issuer, and to issue an auditor's report that includes our opinion on the annual financial statements as to whether they "are prepared, in all material respects, in accordance with the applicable financial reporting framework". We cannot comment on specific components of accounting, transactional and disclosure matters in the financial

No	Paragraph	Comment
		statements of an issuer. As such, as auditor's we would not be able to "certify" the net assets" of the issuer.
3	6(1)(a)(iv)	<p>"A description of the material risk factors of the issuer of commercial paper must be provided"</p> <p>The current draft does not include a clear definition of the term's "material" or "materiality," which could lead to inconsistent interpretations among users. It is important to provide guidance on what factors should be considered material to ensure a uniform understanding and interpretation of the term. By establishing a clear definition of materiality, users will have a more consistent framework for assessing and reporting on material risk factors on business conditions and financial information. This will ultimately enhance transparency and reliability in financial reporting.</p>
4	6(1)(d)(i)(aa)(B)	<p>Extract from the draft Regulations:</p> <p><i>6(1). An issuer of commercial paper, except an issuer referred to in subparagraphs 3(1)(c)(B) or (C) shall, in a placing document relating to such issuance of commercial paper, whether by private or public placement, disclose at least the following information –</i></p> <p>...</p> <p><i>Obligations of the issuer</i></p> <p><i>(d)(i) Financial Information</i></p> <p><i>(aa) The placing document must be accompanied by the issuer's latest interim or audited financial statements, provided that such financial statements -</i></p> <p>...; <i>or</i></p> <p><i>(B) shall comply with International Financial Reporting Standards (IFRS). In the instance where the issuer is a newly established entity with no financial history, a statement in which the auditor of the issuer confirms that the issuer is a going concern and can in all circumstances be</i></p>

No	Paragraph	Comment
		<p><i>reasonably expected to meet its commitments, thereby reflecting the adequacy of the liquidity and solvency of the issuer;</i> [Emphasis added]</p> <p>In terms of paragraph 9 of ISA 570 (Revised), <i>Going Concern</i> (ISA 570), in the audit of financial statements, the auditor's objectives are:</p> <p>(a) To obtain sufficient appropriate audit evidence regarding, and conclude on, the appropriateness of management's use of the going concern basis of accounting in the preparation of the financial statements;</p> <p>(b) To conclude, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern; and</p> <p>(c) To report in accordance with this ISA.</p> <p>In the "Auditor's Responsibilities for the Audit of the Financial Statements" section of the auditor's report, the auditor states:</p> <p><i>As part of an audit in accordance with ISAs, we exercise professional judgment and maintain professional scepticism throughout the audit. We also:</i></p> <p>...</p> <p><i>Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Group's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the consolidated financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to</i></p>

No	Paragraph	Comment
		<p><i>the date of our auditor's report. However, future events or conditions may cause the Group to cease to continue as a going concern.</i></p> <p>In addition, the auditor concludes as to whether the auditor has obtained reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. [Emphasis added]. This emphasises that the auditor does not provide piecemeal opinions of separate parts of the financial statements.</p> <p>As illustrated above, the auditor concludes on the appropriateness of management's use of the going concern basis of accounting and does not "confirm that the issuer is a going concern and can in all circumstances be reasonably expected to meet its commitments, thereby reflecting the adequacy of the liquidity and solvency of the issuer".</p> <p>Furthermore, this paragraph proposes that an auditor confirm that an issuer, where newly established with no financial history, is a going concern and can in all circumstances be reasonable expected to meet its commitments. We submit that, where there is no financial history, there is no basis for an auditor to be engaged to issue an opinion.</p> <p>Based upon the above, we submit to the Prudential Authority that the auditor cannot provide any comfort over whether or not an issuer is a going concern or whether the issuer can reasonably be expected to meet its commitments, thereby reflecting the adequacy of the liquidity and solvency. Instead, the responsibility rightly rests with the issuer. Indeed, it is International Accounting Standard (IAS) 1 which requires management to assess an entity's ability to continue as a going concern.</p>
5	6(1)(f)(i)(aa)	<p>Our response with regards to paragraph 6(1)(f)(i)(aa) is two-fold. Sections A and B below deal with the request for 'reasonable assurance' whereas section C deals with the matter of reporting any non-compliance.</p> <p><i>A. Background</i></p> <ol style="list-style-type: none"> 1. Currently an auditor performs a limited assurance engagement to express a conclusion as to whether anything has come to his/her attention which causes the

No	Paragraph	Comment
		<p>auditor to believe that the notes, issued in term of the applicable pricing supplement [dated dd mm yyyy] by the issuer under their domestic medium term note programme pursuant to the programme memorandum [dated dd mm yyyy] (collectively, the “Transaction”) does not comply, in all material respects, with the relevant provisions of the Commercial Paper Regulations, (Government Notice 2172 published in Government Gazette no. 16167 of 14 December 1994) (the “Notice”).</p> <ol style="list-style-type: none"> <li data-bbox="936 491 2143 927">2. A limited assurance engagement is an assurance engagement in which the auditor reduces engagement risk to a level that is acceptable in the circumstances of the engagement but where that risk is greater than for a reasonable assurance engagement as the basis for expressing a conclusion in a form that conveys whether, based on the procedures performed and evidence obtained, a matter has come to the auditor’s attention to cause the auditor to believe the subject matter information is materially misstated. The nature, timing, and extent of procedures performed in a limited assurance engagement is limited compared with that necessary in a reasonable assurance engagement but is planned to obtain a level of assurance that is, in the auditor’s professional judgment, meaningful. To be meaningful, the level of assurance obtained by the auditor is likely to enhance the intended users’ confidence about the subject matter information to a degree that is clearly more than inconsequential. <li data-bbox="936 948 2143 1043">3. The procedures currently performed by the auditor are limited to inspecting that the Applicable Pricing Supplement complies, in all material respects, with the requirements of the Notice. <li data-bbox="936 1064 2143 1192">4. A South African Institute of Chartered Accountants Basel Task Group (“Task Group”) was constituted in the last quarter of 2022 to determine whether a limited assurance engagement was an appropriate mechanism for the auditor to report on the Transaction. <li data-bbox="936 1212 2143 1276">5. The Task Group debated as to whether an Agreed-upon Procedures (“AUP”) engagement was a more appropriate mechanism to report on the Transaction. <li data-bbox="936 1297 2143 1393">6. In an AUP engagement, the auditor performs the procedures that have been agreed upon between the auditor and the Prudential Authority (engaging party), where the engaging party acknowledges that the procedures performed are appropriate for the

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		<p>purpose of the engagement. The auditor communicates the agreed-upon procedures performed and the related findings in the AUP report. The engaging party and other intended users consider for themselves the agreed-upon procedures and findings reported, and draw their own conclusions from the work performed.</p> <p>7. The work of the Task Group on this matter ceased in the first quarter of 2023 due to the pending issue of these draft Regulations. However, at the time, the members of the Task Group were erring on the side of a decision that, given the nature of the engagement, an AUP engagement may be most appropriate.</p> <p><i>B. Draft Regulation 6(1)(f)(i)(aa) – Initial obligations</i></p> <p>8. Draft Regulation 6(1)(f)(i)(aa) proposes that “The auditor of the issuer must confirm that the issuer and the issuance of the commercial paper reasonably complies with the provisions of this Notice at the time of initial issuance”.</p> <p>9. This draft Regulation indicates that the auditor is required to confirm that the commercial paper “reasonably complies...”.</p> <p>10. A reasonable assurance engagement requires the auditor reduces engagement risk to an acceptably low level in the circumstances of the engagement.</p> <p>11. The primary differences between the procedures for a reasonable assurance engagement and a limited assurance engagement (as explained in point 2 above) include:</p> <p>a) The emphasis placed on the nature of various procedures as a source of evidence will likely differ, depending on the engagement circumstances.</p> <p>b) In a limited assurance engagement, the auditor may:</p> <ul style="list-style-type: none"> - Select fewer items for testing than for reasonable assurance engagement; or - Perform fewer procedures (e.g., performing only analytical procedures in circumstances when, in a reasonable assurance

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		<p>engagement, both analytical procedures and other procedures would be performed).</p> <p>c) In a reasonable assurance engagement, analytical procedures performed in response to the engagement risk involve developing expectations that are sufficiently precise to identify material misstatements. In a limited assurance engagement, analytical procedures may be designed to support expectations regarding the direction of trends, relationships and ratios rather than to identify misstatements with the level of precision expected in a reasonable assurance engagement.</p> <p>d) When significant fluctuations, relationships or differences are identified, the auditor may obtain appropriate evidence in a limited assurance engagement by making inquiries and considering responses received in the light of known engagement circumstances.</p> <p>e) When undertaking analytical procedures in a limited assurance engagement the auditor may, for example, use data that is more highly aggregated, such as quarterly data rather than monthly data, or use data that has not been subjected to separate procedures to test its reliability to the same extent as it would be for a reasonable assurance engagement.</p> <p>f) The nature of this engagement does not lend itself to reasonable assurance as we report on disclosure and compliance with the commercial paper regulations as a whole as opposed to reporting on numbers include in the documentation prepared for the issuance of notes.</p> <p>12. We also set out in point 6 above the description of an AUP engagement.</p> <p>13. Although an AUP engagement does not provide assurance, and the Prudential Authority would consider for itself the agreed-upon procedures and findings reported and draw their own conclusions from the work performed, the auditor would perform the procedures that have been agreed upon between the auditor and the Prudential Authority, where the Prudential Authority would acknowledge that the procedures performed are appropriate for the purpose of the engagement.</p>

No	Paragraph	Comment
		<p>14. Based on the above, we request the Prudential Authority to:</p> <ul style="list-style-type: none"> (a) Please confirm whether or not the draft Regulation 6(1)(f)(i)(aa) proposes that the auditor is required to perform a reasonable assurance engagement. (b) Consider whether an AUP engagement is a more appropriate mechanism to report on the Transaction. <p><i>C. Non-compliance</i></p> <p>We note that the draft Regulations require confirmation on the compliance of the commercial paper with the provisions of the Notice “at the time of initial issuance and thereafter [to] report to the [Prudential] Authority in the event of non-compliance.”</p> <p>We also note that it is commonplace for secondary trading of commercial paper to occur and that there is no framework by which an auditor can monitor instances of non-compliance on a continual basis.</p> <p>The disclosures around the specific purpose of our report are driven by paragraph 69(f) of International Standard on Assurance Engagements (“ISAE 3000”) (Revised), <i>Assurance Engagements Other than Audits or Reviews of Historical Financial Information</i>. Consequently, our report alerts that:</p> <p>“Our report has only been prepared for the purpose of the initial issue of the Notes issued in terms of the Applicable Pricing Supplement under the Programme and is not suitable for another purpose. Our report is intended solely for your information and for the purpose described above and should not be distributed to or used by other parties. To the fullest extent permitted by law, we do not accept or assume responsibility to any other party, for our work, for this report.”</p> <p>Is it the intention of the Prudential Authority for issuers to obtain an auditor’s report on the <i>pro forma</i> pricing supplement relevant to the programme memorandum as well as with each initial issuance of commercial paper thereunder? Or is it only required for each initial issuance of commercial paper?</p>
6	6(f)(i)(bb)	<p>Similar to our comments around paragraph 6(d)(i)(aa)(B), where an entity has no financial history it is unclear what we would be engaged for.</p>

COMMENT TEMPLATE – PUBLIC CONSULTATION

No	Paragraph	Comment
		<p>We would also not be able to confirm that an issuer holds net assets to a total value exceeding R100 million. Again, our ability to respond to this paragraph would be limited to our responsibility as auditor, which is to audit the financial statements of the issuer, and to issue an auditor’s report that includes our opinion on the annual financial statements as whether they “are prepared, in all material respects, in accordance with the applicable financial reporting framework”. We cannot comment on specific components of accounting, transactional and disclosure matters in the financial statements of an issuer.</p>
7	6(f)(ii)(aa)	<p>This paragraph proposes that “where there has been a material change to the placing documents the auditors must re-confirm that the issuer and the issuance of the commercial paper still complies in all respects with the provisions of this Notice”. Yet, “material” is a subjective term and clarity would need to be given on what materiality levels should be considered.</p> <p>Furthermore, as proposed, <i>placing documents</i> include “the prospectus, pricing supplements, or final terms relevant to the programme memorandum, whether public or private placement”. Historically, the auditor has not been involved with placing documents beyond the scope of confirming that a specific issue complies in all material respect with the provisions of [the] Notice. Is it the intention of the Prudential Authority for the auditor to opine on these documents in addition to pricing supplements?</p> <p>Frameworks and guidance would need to be established in this regard.</p>
ANNEXURE A		
N/A	N/A	No comments applicable with regards to <i>Annexure A</i> .
GENERAL COMMENTS		
N/A		No general comments for consideration.