SAICA
THE SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS

FINANCIAL SERVICES

Quarterly Brief

DECEMBER 2022

BANKING

Proposed amendments to the Regulations relating to Banks

To ensure that the legal framework for the regulation and supervision of Banks remains relevant and current, the Prudential Authority (PA) is proposing amendments to the Regulations relating to Banks to incorporate the remaining components of the Basel III post-crisis regulatory reforms issued by the Basel Committee on Banking Supervision (BCBS) into Regulations. The key changes include revisions to the approaches for credit risk, streamlining of the operational risk framework and refining the definition of the leverage ratio exposure measure. The proposed implementation date is 1 January 2024.

Proposed Directive – Conditions related to the completion of the operational risk form BA 400

For the measurement of a bank's exposure to operational risk, the PA has specified further conditions set out below, for banks to comply with in relation to the standardised approach.

In accordance with the requirements specified in regulation 33(4) of the proposed amended Regulations:

- The quality of the internal loss data must be reviewed by the internal and/or external auditors of the bank. The results of that review must be submitted to the PA in writing prior to the inclusion of the relevant loss data in the calculation of the bank's required amount of capital and reserve funds for operational risk, for approval.
- Losses can only be excluded from the loss component after being included in the bank's operational risk loss database for a minimum period of three years. If a bank wishes to exclude certain operational loss events that are no longer relevant to the risk profile, a formal written request must be submitted to the PA
- Banks that wishes to exclude divested activities from its business indicator, shall submit a formal request to the PA in writing with detailed information on the divested activities.

These items must be approved by the PA in writing before they are excluded from the bank's business indicator. These conditions become effective from the 1 January 2024 onwards.

Draft Prudential Standard: Stays on early-termination rights and resolution moratoria on contracts of designated institutions in resolution

The objective of the Draft Prudential Standard (the Standard) is to set out the principles and requirements for stays on early-termination rights and resolution moratoria on contracts of designated institutions in resolution that must be complied with by all designated institutions, in line with sound principles, practices and processes for the orderly resolution of a designated institution.

The Standard applies to all designated institutions, including contracts, that are governed under foreign law; and contain provisions for early termination rights and shall affect early-termination rights that arise only because of entry of a designated institution into resolution or in connection with the use of resolution powers by the South African Reserve Bank (SARB) in relation to a designated institution.

Matters related to fit and proper assessment requirements pertaining to directors, executive officers and beneficial owners

In the execution of its mandate, the PA requires that mutual banks comply with legislative requirements by implementing robust governance arrangements, including fit and proper requirements for the appointment of directors or persons responsible for the senior management of mutual banks and beneficial owners. The PA further requires mutual banks to implement the necessary measure to prevent persons with criminal records and other unfit persons from becoming beneficial owners of the mutual bank.

To enable the PA to effectively execute its responsibilities under applicable financial sector legislation, mutual banks and their auditors are required to perform and make available criminal background check reports of a serving or prospective director or executive officer to the PA within 30 calendar days of completing such screenings. This requirement came into effect from 1 November 2022

Guidance Note: Operational risk practices – completion and submission of the form BA 410

The Guidance Note on operational risk practices provides further guidance to banks regarding the completions and submission of the quarterly operational risk form BA410 and ensures consistency in terms of operational risk reporting across banks. It replaces the Guidance Note 9 of 2020.

In terms of this Guidance Note, for line items 1 to 63 of the return, only losses defined as operational risk losses in the Regulations relating to Banks) read with the relevant Basel framework, excluding credit boundary events, must be recorded and banks must apply a minimum gross loss threshold amount of R10 000; and

For line items 64 to 75, banks must apply a gross loss threshold amount of R5 million. A written description must be provided for all material operational risk losses, including material boundary losses. Furthermore, banks should highlight whether these material operational risk losses are related to credit risk or market risk.

Banks may, after consultation with the PA, use a lower threshold should they so wish.

Matters relating to domestic money or value transfer services (MVTS)

The PA issued a Directive for Banks and Mutual Banks on matters relating to domestic money or value transfer services (MVTS). In this Directive, banks are directed to register all existing and future MVTS agency arrangements with the PA, maintain an up-to-date schedule of all MVTS agency arrangements and to submit MVTS agency returns. The returns must be submitted to the PA on a bi-annual basis within 30 business days post the preceding six-month period. This directive came to effect on 1 October 2022.

Criteria for identifying simple transparent and comparable (STC) term and short-term securitisations

The PA issued a Directive on the criteria for identifying simple, transparent and comparable term and short-term securitisations in executing their key objective of prudential regulation and supervision of financial institutions in achieving a stable financial system that works in the interest of financial customers and that supports balanced and sustainable economic growth. This Directive sets out the qualification criteria for STC compliant securitisation and the additional criteria for the differentiated capital regulatory treatment. The STC criteria are non-exhaustive and non-binding and do not serve as a substitute for investor due diligence.

Guidelines related to risk management practices concerning the proliferation financing risk (PF).

Regulations relating to Banks (Regulations) requires, among others, that banks' policies, processes and procedures should be sufficiently robust to ensure that the bank or controlling company, inter alia, continuously receives relevant information relating to risk exposure incurred by any foreign operation and that every relevant foreign branch, subsidiary or operation of the bank or controlling company implements and applies AML/CFT measures consistent with the relevant Financial Action Task Force (FATF) Recommendations issued from time to time; and the higher of AML/CFT standards issued in the Republic of South Africa or the relevant host country are applied by the bank or controlling company.

This Guidance Note provides guidance to banks regarding the implementation of corporate governance, risk management, internal controls, policies, processes, and procedures to ensure banks' compliance and adequate risk management of exposure to the financing of proliferation of weapons of mass destruction (WMD), taking into account TATF Recommendations.

Proposed Directive: Matters related to the net stable funding ratio (NSFR).

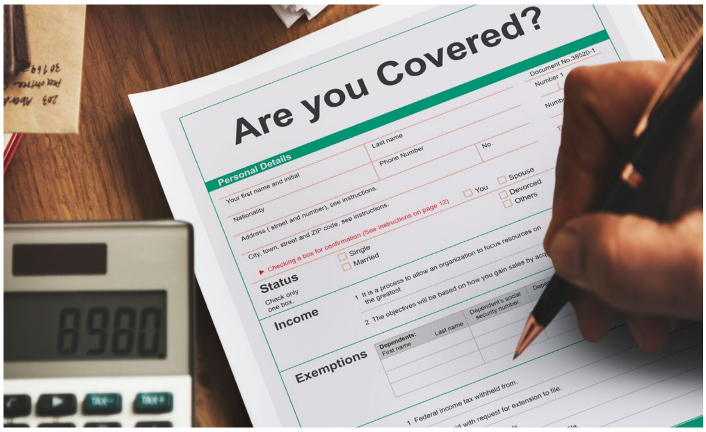
After the implementation of the Regulations relating to Banks Regulations, the Basel Committee on Banking Supervision (BCBS) issued various documents related to banks' exposure to liquidity risk, including revisions to the Basel III framework for the calculation of the minimum required NSFR. Accordingly, these revisions and related NSFR requirements were incorporated into the amendments to the Regulations.

This Directive serves to inform banks of the calibration of the bank's NSFR along with the national discretion on specified items of the NSFR and to provide clarity on the treatment of the Restricted-use Committed Liquidity Facility (RCLF) within the NSFR framework. Comments on the proposal were due 14 December 2022.

INSURANCE

Conduct Standard 2 of 2022 – Requirements relating to third party cell captive insurance business.

The Financial Sector Conduct Authority (FSCA) published the Conduct Standard setting out requirements that cell captive insurers must comply with in order to mitigate certain conduct of business-related risks that have been identified in respect of third-party cell captive insurance business arrangements. The requirements and limitations in the Conduct Standard replaces the Prudential Authority's licence condition limitation on licensed cell captive insurers, as the FSCA will be responsible for the supervision and enforcement of the Conduct Standard. The Conduct Standard came into effect on 1 October 2022.



Guidance on liquidity risk management for insurers

Although the Guidance Notice (Guidance) does not provide exhaustive guidance on liquidity risk management, it provides guidelines to insurers and reinsurers on the application of Governance and Operational Standards (GOIs) relating to liquidity risk management. Past experience has demonstrated that even solvent insurers may experience material financial distress, including failure, if liquidity is not managed prudently. This Guidance further illustrates approaches that should be considered in treating and managing an insurer's liquidity risk.

This Guidance is not applicable to obligations where the policyholder bears the liquidity risk.

MEDICAL SCHEMES

COVID Financial Reporting

In 2021 medical schemes were required to continue to submit the COVID financial reporting in excel as a transitional arrangement, in addition to the new system submissions as a parallel submission. The Council for Medical Scheme (CMS) issued circular 51 of 2022 confirming that the parallel submission of financial related COVID data is no longer required. The submission requirements as per circular 11 of 2021 still applies.

Standard guidelines on the format of business plans submitted to the Council for Medical Schemes.

The CMS published the updated standard guidelines for the preparation of a business plan. The industry is urged to use these standard guidelines when preparing submission to the regulator for registration of a new medical schemes, an amalgamation of a scheme and registration of new benefit options or the restructuring of existing ones.

Prescribed auditor report templates

The CMS published the prescribed statutory auditor report templates effective for the 2022 financial year. These statutory-required auditor reports have been developed by the CMS in consultation with the Independent Regulatory Board for Auditors' (IRBA) Committee for Auditing Standards (CFAS) Medical Schemes Task Group, which includes auditors of medical schemes. These changes were necessitated by the conforming amendments to the International Auditing and Assurance Standards Board's (IAASB) International Standards which become effective as of 15 December 2022, in line with the quality management standards. These amendments affected the ISAE 3000 (revised) auditor report template.

Imposition of approved levies for Medical Schemes 2023/24

The CMS proposed levies on medical schemes, which are imposed for the purposes of meeting the general regulatory and administrative costs of the CMS and the function performed by the Registrar of Medical Schemes.

The proposed levy for the 2023/24 levy year is set at an amount of R47.57 per principal member per year, which shall be paid in two equal instalments not later than 30 April for the first instalment and the second instalment by 31 July of every year.

RETIREMENT FUNDS

Conduct Standard 1 of 2022: Requirements Related to the Payment of Pension Fund

The Financial Sector Conduct Authority (FSCA) identified various shortcomings in Regulation 33 of the Pension Funds Act and proposed to revise and replace Regulation 33 with a Conduct Standard. The main objective of this Conduct Standard is therefore to replace Regulation33 with the necessary improvements by providing for the following matters that are currently provided for in Regulation 33:

- The minimum information to be contained in a contribution statement.
- Notification and reporting obligations; and
- The rate of interest payable on arrear contributions.

Subsequent to this communication, FSCA published format of documents in respect of Requirements Related to the Payment of Pension Fund Contributions in order to determine the formats for the above mentioned notifications and reports.

Requirements related to Regulatory Reporting and Audited Financial Statements for Pension Funds

The FSCA published the Draft Prudential Standard to update the regulatory reporting requirements and prescribed reporting formats. The revision of Regulation 28 required additional reporting requirements in relation to infrastructure assets and amendments to the asset spreading requirements. This necessitated the need to update the regulatory reporting requirements and the prescribed format of financial statements to further align to the International Financial Reporting Standards (IFRS), the International Accounting Standards (IAS) and local auditing requirements to ensure consistency in the application of financial reporting requirements across all pension funds and to consolidate all related requirements into one instrument. Comments are due 18 January 2023.

Extension for submission of the information on paid-up members of retirement funds

Following the number of requests to extend the deadline, and after careful consideration of the requests and the reasons provided, the FSCA extended the deadline for uploading information on paid-up members of retirement funds to 15 December 2022.

Regulation 28 Quarterly Reporting Requirements for Pension Funds.

The revision to Regulation 28 required additional reporting requirements in relation to infrastructure assets and other amendments to the asset spreading requirements.

The Regulation 28 amendments come into effect on 3 January 2023. It is imperative that the quarterly reports take into account the amendments and ensure that pension funds appropriately report on these matters. For this reason, the FSCA saw a need to update the quarterly reports in line with the amendments to Regulation 28, to ensure disclosure, consistency and transparency in the application of reporting requirements across all pension funds and therefore published the Draft Prudential Standard on Regulation 28 Quarterly reporting requirements.

Submission of actuarial valuation reports

The FSCA wishes to implement a process to expedite and streamline the consideration of submitted valuation reports. This process will enable the FSCA to expeditiously consider the change in financial position, resulting in faster turnaround times.

Accordingly, funds are requested to submit information, through a spreadsheet, which summarises the financial position of the fund together with the valuation report on the FSCA Retirement Online system. This spreadsheet does not replace the fund's actuarial valuation report. Its purpose is to streamline the process of consideration of the submitted valuation report.

The spreadsheet must be submitted together with all valuation reports that are submitted on the system after 1 January 2023 for funds that include a defined contribution category of members.

Draft Notice proposing an exemption of funds from the conditions in Board Notice 75 of 2009

Following a number of applications for funds to be exempted from section 28 of the PF Act, the FSCA is intending to exempt funds, from the requirements of paragraph 9 of the Board Notice, to enable an efficient process, on the following conditions:

a) that on the date that the fund takes a resolution to liquidate or partially liquidate the fund due to withdrawal of a participating employer, the fund or the relevant participating employer does not have more than 100 members: and
b) that all remaining requirements and conditions in the Board Notice are complied with.

REGULATED INDUSTRIES

Johannesburg Interbank Average Rate (JIBAR) Code of Conduct, Governance Process and Operating Rules

The South African Reserve Bank as the administrator of JIBAR with the primary responsibility for all aspects of the determination process and the integrity of the reference rate. The Code of conduct entails qualifying criteria, obligations and the governance process for JIBAR in the Republic of South Africa, including operating rules for contributors and will be assessed on a continuous basis for improvement and relevance.

Institutional Sector Classification Guide for South Africa (ISCG)

The Economic Statistics Department (ESD) of the South African Reserve Bank (SARB) collects economic data from most institutional sectors, including financial corporations, non-financial corporations, and other institutions in the private and public sectors. The data are submitted by institutions which participate in the SARB's sample and census surveys administered by ESD.

These data are used to compile macroeconomic statistics for the analysis of, among other things, sectoral balance sheets, money supply and credit aggregates, as well as the National Financial Account. This Guide identifies and categorises entities according to institutional sectors and provides elaborate definitions according to the guidelines of the ISCG, the System of National Accounts 2008 as well as other manuals and directives utilised by the ESD units in the SARB

Discussion paper on unclaimed assets in South Africa's financial sector, 2022.

The FSCA published this Discussion Paper with the aim to improve the extent to which unclaimed assets are reunified with their rightful owners or beneficiaries and minimise the extent of unclaimed assets in future. It aims to the build on the work conducted by the National Treasury in respect of unclaimed retirements benefits, to foster debate on how lost accounts and unclaimed assets should be treated in a way that is consistent with treating customer fairly principles. The FSCA further proposed other type of assets to be included within the scope of the proposed Unclaimed Assets Framework.

Policy Document supporting the Declaration of Crypto Assets as a financial product

The FSCA published the Declaration of a Crypto Assets as a financial product under the Financial Advisory and Intermediary Services Act, 2002 (FAIS Act), this Declaration was gazetted on 19 October 2022.Following the Declaration, the FSCA published this Policy Document to provide background to and contextualise the Declaration.

REGULATED INDUSTRIES CONT

Derecognition of Fitch as an eligible ECAI

The PA derecognised Fitch Ratings (Fitch) as an eligible external credit assessment institution (ECAI), implying that their ratings are longer used in the calculation of regulatory capital requirements. The PA had granted Fitch approval to be recognised as an eligible ECAI in terms of section 85A of the Banks Act, which allowed banks in South Africa to use the ratings issued by Fitch for calculating minimum required capital for regulatory purposes from 1 January 2008 onwards. The PA's derecognition of Fitch from being regarded as an eligible ECAI in South Africa, within 12 months from 18 July 2022.

Draft Prudential Standard on transfers of assets and liabilities of designated institutions in resolution.

The PA published the draft Prudential Standard on the transfer of assets and liabilities of designated institutions in resolution, which sets out minimum requirements, for a separability analysis and a transfer playbook, to be performed by designated institutions as well as the general and reporting requirements for designated institutions pertaining to transfers.

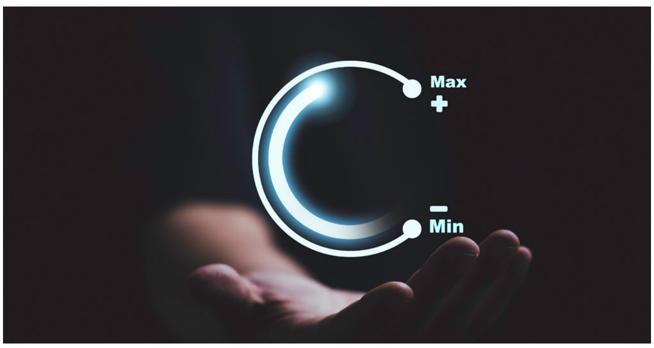
The Standard shall apply to all designated institutions, unless exempted by the PA, based on the resolution strategy set by the SARB. Comments due 20 December 2022

Requirements relating to the provision of a benchmark

The objective of the draft Conduct Standard is to propose a regulatory framework in terms of which benchmark administrators will be supervised, and whereby the provision of a benchmark will be regulated and is closely aligned to the International Organization of Securities Commissions (IOSCO) benchmark principles aimed at creating a level playing field amongst market participants.

Past cases of manipulation of interest rate benchmarks such as the London Interbank Offered Rate (LIBOR) and the Euro Interbank Offered Rate (EURIBOR), combined with allegations of manipulation of commodity and foreign exchange benchmarks, have highlighted the shortcomings in the regulatory framework for benchmarks in South Africa

The framework aims to ensure the accuracy, robustness and integrity of benchmarks and of the way benchmarks are determined. Comments due 06 February 2023.



New interest rate benchmark for observation by market participants - the South African Rand Overnight Index Average (ZARONIA)

The SARB published the ZARONIA, a financial benchmark that reflects the interest rate at which rand-denominated overnight wholesale funds are obtained by commercial banks. The publication of ZARONIA signifies an important milestone in the effort to reform interest rate benchmarks that are widely used as reference rates in the South African financial markets.

For comparison purposes, ZARONIA will be published together with the South African Rand Interbank Overnight Rate (ZARIBOR), a subset of ZARONIA that focuses on the interbank market segment. In addition, the SARB will make available a six-year historical record of ZARONIA and ZARIBOR in due course to give market participants a sense of the benchmarks prior to their publication. Market participants are urged not to use ZARONIA and ZARIBOR in financial contracts until the SARB and the Market Practitioners Group (MPG) indicate otherwise.

VALUATIONS

The International Organization of Securities Commissions (IOSCO) and the International Valuation Standards Council (IVSC) sign cooperation agreement

The IOSCO and the IVSC entered into a Statement of Cooperation aimed at developing a better understanding of the quality and consistency of valuations and the professional standards employed by valuers internationally, with the objective of mitigating risks to the quality of financial information for the protection of investors and for the stability of the financial system.

The Statement of Cooperation outlines steps both organisations will take to enhance their cooperation and build mutual understanding of the landscape surrounding the valuation profession and standard-setting process, including governance, due process, and credentialing.

IVSC Perspectives Paper on Intangibles Assets - Rethinking Brand Value

The IVSC issued Perspectives Paper on Intangible Assets aiming to contribute to realigning accounting and reporting standards with the value creation and preservation strategies utilised in modern business models. This paper examines how brands generate value for organisations, analyse how investors assess the enterprise value creation attributable to brands and discusses the value measurement techniques and assumptions used to estimate the value of brands.

IVSC makes new appointments to the Board of Trustees

The IVSC made three new appointments to its Board of Trustees during the 2022 AGM and took up their roles from October 2022. The new Trustees, consisting of corporate governance and financial services regulation consultant, a Corporate Law specialist and a Qualified Chartered Accountant, bring further finance and regulatory expertise to the IVSC's Board of Trustees.

The IVSC publishes the results of a survey exploring the evolution of Environmental, Social, and Governance (ESG) considerations in the valuation process.

In order to better understand evolving market needs, the ESG working group felt that it was important to carry out a survey of investors, businesses, and valuers concerning all types of valuations, including valuations for financial reporting, market capitalisations, secured lending and tax reporting purpose, in order to gain an understanding of the stage of evolution and development of each, in their consideration of ESG components.

IFRS FOUNDATION WORK PLAN

- Amendments to the Classification and Measurement of Financial Instruments
- Definition of a Lease—Substitution Rights (IFRS 16)
- Dynamic Risk Management
- Financial Instruments with Characteristics of Equity
- IFRS Accounting Taxonomy Update—Amendments to IFRS 16 and IAS 1
- International Tax Reform—Pillar Two Model Rules
- Lack of Exchangeability (Amendments to IAS 21)
- Post-implementation Review of IFRS 15 Revenue from Contracts with Customers
- Primary Financial Statements
- Provisions—Targeted Improvements
- Rate-regulated Activities
- Supplier Finance Arrangements

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