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KPMG in South Africa

Regulatory Updates for the week ended 09 February, 2018

FinWatch – A Weekly Newsletter

Find the latest edition of **FinWatch** which provides a gist of all regulatory developments impacting the financial services industry in South Africa.

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Regulatory Developments

Parts of Credit Amendment Bill unconstitutional

The Banking Association of South Africa (BASA) informed Parliament's Portfolio Committee on Trade and Industry of its concern related to the constitutionality of aspects of the proposed National Credit Amendment Bill. BASA reported that due to improved processes put in place by banks on a voluntary basis, the number of consumers with impaired records decreased since 2015. BASA has cautioned the Committee that the proposed Bill should not constrain credit provision, as that will impact financial inclusion in the country. BASA has raised concern on the economic reality of the impact if debt is wiped off the balance sheets of banks in terms of the processes provided by the Bill. [Fin24](#). For more information, please contact [Michelle Dubois](#).

Public Investment Corporation Amendment Bill under the spotlight

The private member's Bill is designed to provide for parliamentary oversight in respect of the appointment of the Public Investment Corporation's (PIC) Board Chairperson. The Bill also aims to regulate other aspects of the board's composition and to provide for greater transparency in operations of the PIC. The committee is also expected to expeditiously process legislation to give the Independent Regulatory Board of Auditors (IRBA) more teeth to act against irregularities by auditors and to write to the Minister of Finance to request that amendments by department be brought to Parliament by the end of March for finalisation. [Sabinet](#)

DTI gives input on Draft National Credit Amendment Bill

The Department of Trade and Industry has called for a departmental task team to be assembled to make technical inputs into the crafting of the Draft National Credit Amendment Bill. Some of the other recommendations made by the department include

- the Draft Bill be referred for constitutional certification in order to remove all constitutional uncertainties;
- the process of rule nisi be included when considering debt intervention applications so that all interested parties have the opportunity to make submissions on the return date in accordance with the audi alteram partem rule; and;
- that credit providers be allowed to make submissions to the National Credit Regulator (NCR) during the evaluation of applications. [Sabinet](#)

Other African countries

Zimbabwe to get 1.5 billion USD package to boost foreign investment (Zimbabwe)

According to the article, the Reserve Bank of Zimbabwe (RBZ), the African Export-Import Bank (Afreximbank) has promised a financial package of 1.5 billion USD to guarantee foreign investment into the Zimbabwean economy. Of the amount, 1 billion USD will go towards the guarantees while the balance of 500 million USD will go towards liquidity support. The article states that as part of the confidence-boosting measures, the RBZ also ring-fenced foreign portfolio investment on the Zimbabwe Stock Exchange (ZSE). [Fin24](#)

Knowledge-based economy needs to be driven by technology and innovation – Speech by BON governor (Namibia)

The Bank of Namibia (BON) Governor in his speech indicated a study commissioned in 2017 by the Bank and NAMFISA titled 'Building a High-Skilled Workforce in the Namibian Financial Sector: needs, priorities and actions' reaffirmed this assessment. The study found that the financial sector is impacted by technological changes, amongst others, and therefore recommends training in relevant skills to navigate these trends. [BON](#)

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Market Developments

International

FCA and ICO publish joint update on GDPR (UK)

The FCA and ICO is expected to be review the Memorandum of Understanding in place since 2014. While the ICO will regulate the EU General Data Protection Regulation (GDPR), complying with the GDPR requirements is also something the FCA will consider under their rules, for example, the requirements in the Senior Management Arrangements, Systems and Controls (SYSC) module. The FCA and ICO will continue to collaborate in the coming months to address concerns firms raise and support firms' preparations for the introduction of the GDPR in May 2018. [FCA](#)

FCA seeks feedback on non-workplace pensions (UK)

The Financial Conduct Authority published a Discussion Paper (DP) to gather views on the market for non-workplace pensions. The FCA is seeking feedback through the DP in order to better understand the market for non-workplace pensions, including whether competition is working well and if there are issues that need to be addressed in order to protect consumers. The FCA is looking to understand how the differences and similarities between the workplace and non-workplace markets impact competition and consumer outcomes. The particular areas of focus include:

- Product complexity;
- Factors which reduce consumer motivation and ability to invest time and effort in decisions;
- Whether customers can identify and freely move to more competitive products;
- Fund choice and the use of defaults; and
- If providers are competing on charges and if there are barriers to consumers identifying, and choosing, from more competitive products. [FCA](#)

Consultation paper on changes to FCA Handbook because of the changes introduced by the EU Benchmarks Regulation and the UK Benchmarks Regulations 2018 (UK)

The FCA proposes to apply its existing policies and procedures to exercise enforcement

powers under the Benchmarks Regulation. The FCA has further proposed a bespoke decision-making procedure for authorisation, registration, recognition and endorsement which would address amendments to DEPP. These proposals will be of interest to anyone who may be subject to regulation under the Benchmarks Regulation such as:

- benchmark administrators;
- firms that provide or contribute input data to benchmarks;
- service providers to whom functions, services or activities in the provision of a benchmark have been outsourced, or a person who is not the service provider but who is or has been party to a contract for such outsourcing; and
- other unauthorised persons subject to the Benchmarks Regulation. [FCA](#)

IAIS releases interim public consultation paper on an Activities-Based Approach (ABA) to systemic risk (Australia)

The interim consultation paper is intended to provide an opportunity for stakeholders to provide input into the development of an activities-based approach and feedback on the proposed steps that the IAIS will follow in its work on deriving activities-based policy measures. The paper does not include conclusive proposals on policy measures, as this will be subject of the next phase of work in 2018. [IAIS](#)

APRA moves to strengthen governance among private health insurers (Australia)

As part of the package designed to improving governance and decision-making in the private health insurance sector, APRA:

- replaced prudential standard HPS 510 Governance with the more forceful cross-industry equivalent standard, CPS 510, to strengthen governance practices;
- extended cross-industry prudential standard CPS 520 Fit and Proper to the industry to ensure the competency and integrity of anyone exercising material influence over a private health insurer;
- introduced HPS 310 Audit and Related Matters in recognition of the important role auditors can play in supporting prudential soundness; and
- revoked prudential standard HPS 350 Disclosure to APRA to streamline reporting and remove obsolete requirements. [APRA](#)

Taking action now on bank executive accountability (Australia)

The Banking Executive Accountability Regime (BEAR) was passed by the Senate on 7 February 2018. It imposes higher standards of behaviour on banking executives, with APRA empowered to seek fines where obligations are not met. BEAR will commence 1 July 2018 for large ADIs and 1 July 2019 for small and medium ADIs. Treasury will consult on a draft instrument defining the size of an ADI in due course. [Treasury, Australia](#)

APRA releases a paper outlining its policy priorities (Australia)

APRA's prudential policy priorities for 2018 include updating existing prudential requirements and introducing new components to the framework. Key areas of focus are:

- banking, including Basel III minimum capital requirements for ADIs and BEAR;
- insurance, such as reinsurance and governance, fit and proper and audit for PHIs;
- superannuation, specifically strengthening superannuation member outcomes and post-implementation review; and
- cross-industry initiatives such as information security and the Crisis Management Bill. [APRA](#)

ASIC Enforcement (Australia)

ASIC commences civil penalty proceedings against CBA for BBSW conduct

Proceedings have commenced against CBA in the Federal Court for unconscionable conduct and market manipulation concerning CBA's involvement in setting the BBSW rate in 2012. ASIC alleges CBA entered into products priced off the BBSW without disclosing trading practices and CBA's trading created an artificial price and false appearance with respect to the market on some products.

[ASIC](#)

ANZ refunds 10 million AUD for failing to disclose credit card charges

ANZ will refund 10.2 million AUD to business credit card accounts after it failed to properly disclose fees and interest charges for the product. [ASIC](#)

Update – Westpac remediates credit card customers more than 11 million AUD

Following ASIC's concerns about its credit card limit increase practices, Westpac reviewed its credit limit increases previously provided to affected cardholders where they subsequently faced financial difficulty, leading to Westpac providing

approximately 11.3 million AUD remediation to 3,400 credit card customers. [ASIC](#)

Competition in the Australian Financial System (Australia)

The Productivity Commission's (PC) draft report states that competition has been reduced due to a strong focus on prudential stability and found that customer loyalty is often unrewarded with existing customers kept on high margin products that boost institution profits, pointing to failure in the provision of information and advice. The PC also recommended one of the regulators be appointed as the competition champion. Submissions on the report are due 20 March 2018. [PC, Australia](#)

Mandatory Comprehensive Credit Reporting (Australia)

The government has released draft legislation for consultation on the mandatory comprehensive credit reporting regime, proposed to be effective 1 July 2018. It will require the major banks to supply 50% of their credit reporting data to credit reporting bodies by 1 July 2018, increasing to 100% a year later, with a 90-day transitional period. Banks will be required to demonstrate they have met their initial bulk and on-going data supply requirement or face penalties of up to 2.1 million AUD for each non-supply. ASIC will be responsible for the new regime. Submissions are due 23 February 2018. [Treasury](#)

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