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Regulatory Updates for the week ended 04 May, 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

Brokerage and securities

Tough year for local hedge fund industry as it completes the conversion of assets to regulated CIS structures

The South African Hedge Fund Industry ended 2017 with assets under management of 62.4 billion ZAR, a decline of 5 billion ZAR from the 67.4 billion ZAR managed at the end of 2016. The 2017 statistics for the local hedge fund industry, released by the Association for Savings and Investment South Africa (ASISA) , show that this was the hedge fund industry's first decline in assets under management since 2011 when assets stood at only 31.4 billion ZAR. *ASISA*

Banking

The future of banking: Where will we go

The Big Four – Standard Bank, Nedbank, Absa and FNB – have dominated for years, but the rise of Capitec has upped the ante and now competitors from the insurance sector are stealing market share – Discovery offers a credit card facility, Old Mutual offers a Money Account and MMI has partnered with African Bank to offer credit to customers. But there's more competition to come, not only from the insurers – traditional banks need to watch their backs because if they're not going to offer what the new disruptors are willing to offer, they may well get left behind. The article discusses some of the key developments and trends expected in the banking sector in coming years. *Fin24*

Others

New credit rules bite into Lewis' revenue
The article states that furniture store Lewis' revenue was down 3.2% to R2.7bn mainly due to lower credit sales and changes to its insurance offering following an intervention of its credit assessment. The group's report revealed that the performance of the debtors book is "satisfactory". Debtor costs declined by 11.5% and collection rates improved to 76.2%, compared to 74.6% for the same period last year. However, the main credit risk for the group is that customers will not meet their payment obligations in terms of the sale agreements concluded, the report indicated. *Fin24*

FAIS Ombud office welcomes Naresh Tulsie
Mr Tulsie assumed the role of Ombud effective 1 May 2018, taking over from the previous Ombud, Ms Noluntu Nelisa Bam, who had served as the FAIS Ombud since 2010. *MM*

Other African countries

Revised positon on cryptocurrencies (Namibia)
The overall position of the Bank is that it does not recognise, support and recommend the possessing, utilisation and trading of cryptocurrencies in Namibia and by members of the public. Members of the public who do so will have no recourse to the Bank in the event of financial loss or misfortune. As such, the Bank strongly discourages any engagements or activities related to unregulated currencies such as cryptocurrencies. *BON*

Guideline on the operational framework for primary dealers (Mauritius)
The Guideline sets out the operational framework for primary dealers which took effect on 02 May 2018. The selection of primary dealers will be based on the following criteria:

- a minimum Tier 1 capital of 4 billion MUR;
- An average bid of 200 million MUR of securities at primary auction over the last six months;
- Evidence of secondary market trading would be an added advantage.

Primary dealers will be appointed for a period of one year, renewable annually. *BOM*

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Market Developments

International

FCA calls for more innovation to help consumers find the best mortgage deal (UK)
The FCA has identified a range of potential ways to make the market work better for consumers. These include:

- making it easier for consumers, at an early stage, to identify for which mortgage products they qualify, to assess and compare those products and, ultimately, to take out a mortgage;
- removing barriers to innovation in the sale of mortgages, including those due to aspects of FCA advice rules and guidance;
- making it easier for consumers to assess the strengths of different mortgage brokers. The FCA intends to work with the broker sector to develop metrics to help consumers compare brokers;
- helping certain longstanding borrowers who cannot switch. The FCA intends to explore options to help these customers, for example an industry-wide agreement to approve applications for a new mortgage deal from existing customers whose most recent mortgage was taken out before the financial crisis and who are up-to-date with payments. *FCA*

Consolidation of three UK Payment System Operators (UK)
The New Payment System Operator (NPSO) expects to take over responsibility for the Cheque and Credit Clearing Company over the next few months.
The successful consolidation of the three operators has been a key focus for both the Payment Systems Regulator (PSR) and the Bank of England. This is an important step in

bringing three payment systems together for the first time and will develop the capability and capacity of the operators, reducing the complexity and costs of having three separate retail payment system operators (PSOs). The NPSO will also be responsible for delivering the New Payments Architecture (NPA) - an industry-led initiative that aims to increase competition and resilience as well as enhance innovation across the payments and banking industry. *BOE*

Reviewing the funding of the Financial Services Compensation Scheme (FSCS) (UK)
This consultation paper seeks to ensure the FSCS continues to provide the right protection, works effectively and is funded fairly. Following the feedback received they have now made final rules (to take effect in April 2019), as follows:

- merging the Life and Pensions and Investment Intermediation funding classes;
- requiring product providers to contribute around 25% of the compensation costs which fall to the intermediation classes;
- moving pure protection intermediation from the Life and Pensions funding class to the General Insurance Distribution class

The FCA have also made rules to increase the FSCS compensation limit for investment provision, investment intermediation, home finance and debt management claims to £85,000, also from April 2019. The FCA are also consulting on draft rules to ensure that PIFs should have PII policies that do not limit claims, where the policyholder or a third party is insolvent, or where a person other than the PIF (eg the FSCS) is entitled to make a claim. The changes are intended to ensure that more consumer claims are paid by insurers which could help to reduce the cost of the FSCS to other firms. *FCA*

SONIA reform implemented (UK)
The Bank's aim in reforming SONIA is to strengthen a benchmark which is considered critical for the sterling financial markets. Previously, the benchmark was based on a market for brokered deposits which has limited transaction volumes. It now captures a broader scope of overnight unsecured deposits, by including bilaterally negotiated transactions alongside brokered transactions. Volumes underlying the rate based on the new methodology now average around 50 billion GBP daily, over three times larger than those underlying SONIA previously. *BoE*

Blockchain: considering the risks to consumers and competition (UK)
The speech highlighted the:

- Potential pros and cons of blockchain technology;
- Need for monitoring cryptoassets going forward;
- Importance of balancing of potential promise of Distributed Ledger Technology against the risks to competition which may emerge; and
- Need to encourage stakeholders to adopt the technology. *FCA*

Asset management: A regulatory perspective (UK)
The speech sets out some of the challenges for

- the FCA, the asset management market
- and regulatory developments in the sector. *FCA*

BIS international banking statistics at end-December 2017 (International)

- International banking activity gained momentum in Q4 2017, with cross-border claims increasing by 123 billion USD between end-September and end-December 2017 to 29 trillion USD. Intragroup activity led the increase, while credit to non-bank borrowers rose for the fourth consecutive quarter.
- Cross-border lending to emerging market economies (EMEs) rose by 55 billion USD in Q4 2017 to 4 trillion USD. The latest increase was concentrated on countries in emerging Asia and Africa and the Middle East. Claims on emerging Europe and Latin America declined.
- Banks' outstanding claims on offshore banking centres surpassed their previous peak recorded in 2008 during the Great Financial Crisis (GFC). Outstanding cross-border claims on offshore centres totalled 4.6 trillion USD at end-2017, compared with 4.3 trillion USD at end-March 2008. *BIS*

The market risk framework: 25 years in the making (International)
In his speech, the Secretary General of the Basel Committee opined that even after a quarter-century, central bankers globally lament the finalisation of the market risk framework as a never-ending story. The speech tries to answer three questions:

why has the Committee revised the market risk framework?
why has it taken so long to complete? and
_how do we get the framework finished in a timely manner? BIS

FSB publishes toolkit to mitigate misconduct risk (International)
The Financial Stability Board published the Strengthening Governance Frameworks to Mitigate Misconduct Risk toolkit which indicates 19 tools that firms and supervisors can use to overcome the causes and consequences of misconduct. This includes standards and codes of behaviour, measures to address misconduct in wholesale markets and use of compensation tools. FSB

ASIC consolidates guidance on market integrity rules for market participants (Australia)
As part of the consolidation process ASIC has:
- merged guidance from the various regulatory guides where appropriate;
- made minimal changes to reflect updated market integrity rule references as contained in the four consolidated market integrity rulebooks;
- removed information that is purely descriptive or no longer relevant;
- introduced new guidance on management structures as noted in Report 547 Response to submissions on CP 277 Proposals to consolidate the ASIC market integrity rules (REP 547); and
- tailored information to make guidance market neutral or, where required, more appropriately relate to relevant markets and participants. ASIC

APRA finalises new Restricted ADI licensing framework (Australia)
In an information paper, APRA set out the new Restricted ADI framework, which comes into effect immediately. The framework is designed to assist potential new entrants to the banking industry, particularly small firms with limited financial resources, to navigate the licensing process. Under the new framework, eligible entities can seek a Restricted ADI licence, allowing them to conduct a limited range of business activities for two years while they build their capabilities and resources. The framework establishes the eligibility criteria, minimum initial and ongoing requirements and application of the prudential and reporting standards during the restricted phase of operation. It also acts as a guide to help Restricted ADI applicants during the licensing process. APRA

ASIC welcomes AFCA authorisation (Australia)
The Australian Financial Complaints Authority (AFCA) will be able to deal with complaints about financial firms including banks, credit providers, insurance companies and brokers, financial advisers, managed investment schemes and superannuation trustees. It will operate significantly higher monetary and compensation limits for consumer and small business complainants, as well as provide enhanced access to free dispute resolution for primary producers. ASIC will oversee the operation of AFCA and receive reports including about systemic issues and serious contraventions by financial firms. AFCA will replace the two existing ASIC approved EDR schemes - the Financial Ombudsman Scheme (FOS) and the Credit and Investments Ombudsman (CIO) - and the statutory Superannuation Complaints Tribunal (SCT). ASIC

Beyond the BEAR Necessities, Wayne Byres, APRA Chairman, 2 May 2018, UNSW Centre for Law Markets and Regulation Seminar, Sydney (Australia)
In his speech, Chairman Byres states that BEAR provides a significant framework for promoting stronger accountability in the banking industry but more is needed to truly demonstrate accountability. He says that traditional prudential standards for financial resourcing may not be sufficient when an institution suffers from poor governance, weak culture or ineffective risk management. BEAR should be viewed as strengthening the prudential framework, not expanding its mandate. APRA

APRA announces plans to remove investor lending benchmark and embed better practices (Australia)
The Australian Prudential Regulation Authority (APRA) announced plans to remove the investor loan growth benchmark and replace it with more permanent measures to strengthen lending standards. The 10 per cent benchmark will no longer apply, Boards will be expected to confirm that:
- lending has been below the investor loan growth benchmark for at least the past 6 months;

lending policies meet APRA’s guidance on serviceability; and
_lending practices will be strengthened where necessary. *APRA*

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