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Regulatory Updates for the week ended 12 March, 2021

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.

- Regulatory Developments
- Market Developments

Regulatory Developments

Matters related to the issuance of additional tier 1 capital instruments that contain contingent must pay provisions

The Prudential Authority (PA) issued a Directive in terms of section 6(6) of the Banks Act 94 of 1990 for all banks, branches of foreign institutions, controlling companies, eligible institutions and auditors of banks or controlling companies. Regulation 38(11)(b)(ii) of the regulations relating to Banks require the prior written approval of PA for the issuances of instruments qualifying as additional tier 1 capital (AT1) by banks and controlling companies.

The Directive's purpose is to direct banks in terms of the PA's requirements in relation to the provisions of regulation 38(11) of the Regulations for all applications by banks for the issuance of both local and foreign currency denominated AT1 instruments containing contingent must-pay provisions. *Link* *Link*

Flavour-of-the-year topic communication to insurers

The communication published by the PA offers information on the flavour-of-the-year topic for insurers for the 2021 calendar year, including the approach that will be followed by the PA with regard to the topic, i.e., the implementation of International Financial Reporting Standard 17. This Prudential Communication is applicable to all licensed insurers. *Link*

Reporting requirements in terms of regulation 46

The PA published a directive in terms of section 6(6) of the Banks Act 94 of 1990. It highlighted that Regulation 46 of the regulations relating to banks imposes certain reporting duties on the auditors of banks, controlling companies and branches of foreign institutions. The Directive's aim is to specify detailed references to the regulatory returns that have to be audited, reviewed or concluded upon under a limited assurance framework in part fulfilment of the auditors' respective reporting requirements in relation to regulation 46 of the Regulations. *Link*

Application for a licence as a controlling company of an insurance group

The PA has published an application guideline and form, for a license as a controlling company of an insurance group. This application form needs to be completed when applying to be licensed as a controlling company of an insurance group. *Link*

Market Developments

International

Locking down market abuse

Mr. Mark Steward, Executive Director of Enforcement and Market Oversight, delivered a speech at the Expert Forum: Market Abuse 2021. Following are a few highlights from his speech:

– Surveillance and investigation work reduced trading by certain actors whose trading prompted high numbers of suspicious transaction and order reports
– Increase in the FCA's proactive market monitoring and the introduction of some new initiatives, particularly a new approach to short selling reporting.
– Introduction of a new market cleanliness measure, the Potentially Anomalous Trading Ratio.
– Enforcement action taken in key market abuse cases against individuals and firms. *Link*

APRA urges life insurers and superannuation funds to address sustainability of insurance in superannuation

The Australian Prudential Regulation Authority (APRA) is urging life insurers and registrable superannuation entity (RSE) licensees to address concerning trends and practices in the provision of insurance to superannuation members. APRA has noted significant deterioration in group life insurance claims experience in 2019 and 2020, with the potential for the re-emergence of unpredictability and volatility in insurance premiums. APRA stated that if the observed trends and practices continue, members are likely to be affected by further substantial increases in insurance premiums or reductions in the value and quality of life insurance offered through superannuation. *Link*

ASIC consults on implementing a deferred sales model for add-on insurance products

ASIC is looking for stakeholder feedback on proposals for a regulatory Guide and prescribed customer information for the approaching deferred sales model for add-on insurance. The deferred sales model introduces a four-day pause between the sale of a principal product or service and the sale of an add-on insurance product. The deferred sales model was recommended by the Financial Services Royal Commission and has been implemented by amendments to the Australian Securities and Investments Commission Act 2001 to commence on 5 October 2021. *Link*

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