



**national treasury**

Department:  
National Treasury  
REPUBLIC OF SOUTH AFRICA

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## **MEDIA STATEMENT**

### **TWIN PEAKS: Second draft of Financial Sector Regulation Bill and draft Market Conduct Policy Framework discussion document published for comment**

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National Treasury publishes a revised draft of the Financial Sector Regulation (FSR) Bill<sup>1</sup> for public comment. The revised Bill takes into account comments received on the first draft, published in December 2013, as well as input from stakeholder engagements with members of the public and various government departments.

Also being released is a discussion document “*Treating Customers Fairly in the Financial Sector: A Market Conduct Policy Framework for South Africa*” which is the first attempt to develop a comprehensive framework for how the market conduct regulator will operate, in order to ensure that financial institutions treat their customers fairly.

#### **Second draft of the Financial Sector Regulation Bill**

The Financial Sector Regulation Bill gives effect to the government decision in 2011 to shift to a Twin Peaks model of financial sector regulation for South Africa. Twin Peaks is a comprehensive and complete system for regulating the financial sector. It represents a decisive shift away from a fragmented regulatory approach to reduce the possibility of regulatory arbitrage or forum shopping and close gaps in the regulatory system.

Two regulators will be established – a Prudential Authority within the South African Reserve Bank and a new Financial Sector Conduct Authority (FSCA). The Prudential Authority will supervise the safety and soundness of banks, insurance companies and other financial institutions while the FSCA will supervise how financial services firms conduct their business

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<sup>1</sup> A response and explanatory document accompanies the FSR Bill and sets out further explanation of the Twin Peaks reform process and the intention of the second draft of the FSR Bill. Also accompanying the FSR Bill is a comments matrix detailing responses to the comments received on the first draft of the FSR Bill

and treat customers. The Reserve Bank will oversee financial stability within a policy framework agreed with the Minister of Finance.

The Twin Peaks system of regulation will (when fully phased in) focus on a more harmonised system of licensing, supervision, enforcement, customer complaints (including ombuds), appeal mechanism (tribunal) and consumer advice and education.

Key changes have been made to the second draft Bill in order to:

- *Improve its legal enforceability.* In particular many definitions have been reconsidered and additional areas have been added to improve legal application;
- *Provide both authorities with powers* in addition to the existing institution-specific laws so they are able to supervise and enforce financial sector laws and regulations in pursuit of their objectives;
- *Empower both authorities to issue standards* for financial institutions to follow;
- *Clarify the role of other financial sector regulators* under Twin Peaks. The role of the National Credit Regulator (NCR) was not explicitly explained in the first draft. Numerous stakeholders noted that as a key player, their role should be clarified. This has been done through explicit coordination and cooperation requirements;
- *Better align the governance arrangements* for the new regulatory agencies, including clarifying the institutional form of the Prudential Authority, which will operate within the Reserve Bank;
- *Align the Reserve Bank powers for systemic oversight* with its mandate for financial stability, provide greater clarity about these powers and how they may be used to fulfil this mandate;
- *Introduce a legal framework for regulating and supervising financial groups*, from both a prudential and a conduct perspective; and
- *Strengthen the ombuds system* by creating a stronger central coordinating role for the Financial Services Ombuds Council.

### ***Treating Customers Fairly in the Financial Sector: A Market Conduct Policy Framework for South Africa***

Also being released is a discussion document “*Treating Customers Fairly in the Financial Sector: A Market Conduct Policy Framework for South Africa*” which proposes a comprehensive framework for how the market conduct regulator will operate, in order to ensure that financial institutions treat their customers fairly.

The market conduct policy framework forms part of the Twin Peaks reform process, proposing a regulatory and supervisory framework for the new Financial Sector Conduct Authority (FSCA).

Poor customer outcomes in South Africa's financial sector have highlighted the need for stronger oversight of how financial institutions conduct their business and treat their customers. To better protect customers, the financial sector must be held to higher standards than generic consumer protection, and standards must be applied consistently across the sector.

As proposed in the policy documents, the various pieces of market conduct legislation applicable to the financial sector will be consolidated. The law will also empower the FSCA to supervise institutions more intensively, and take strict corrective actions against financial institutions based on the breach of principles in addition to monitoring compliance with rules.

The market conduct framework document also sets out proposals to support improved market conduct by better empowering financial customers. This includes improving the ombuds system so customers can easily and effectively lodge disputes against financial institutions, and refining financial education initiatives.

It should be noted that SA also underwent a Financial Sector Assessment Programme (FSAP) by the IMF this year, to assess the soundness of the financial sector in SA, and to assess compliance with global standards for banking, insurance and securities. The FSAP report is being released today by the IMF as part of its Article IV report. The FSR Bill released today does not take into account the recommendations made in the FSAP, but will do so at the same time as public comments are incorporated. The revised third version of the Bill is expected to be published for tabling in Parliament before the end of June 2015.

### **Stakeholder engagement process**

Comments on the FSR Bill will be accepted until **2 March 2015**, to take account of the December holiday period to [CommentDraftLegislation@treasury.gov.za](mailto:CommentDraftLegislation@treasury.gov.za)

Comments on the market conduct discussion document will be accepted until **8 April 2015** to [marketconduct@treasury.gov.za](mailto:marketconduct@treasury.gov.za)

Public workshops will be held as follows:

- Wednesday, 28 January 2015 – Johannesburg
- Friday, 30 January 2015 – Pretoria
- First week of February (tbc) – Cape Town

Interested parties should please contact [linda.vanzyl@treasury.gov.za](mailto:linda.vanzyl@treasury.gov.za) to register for the workshops.

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