PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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Standing Committee on Finance

Motion of Desirability on the Banks Amendment Bill [B 12 – 2018]

Mr Floyd Shivambu introduced the Banks Amendment Bill (B12-2018) (BAB) on 15 May 2018 to amend the Banks Act (Act No. 94 of 1990) to provide for a state-owned company to "register and conduct the business of a bank in terms of the Banks Act" and matters related to this. The Committee had public hearings on the Bill on 4 September, and deliberations on 11 September and 14 November 2018 and 5 March and 6 March 2019.

The majority in the Committee agreed with the approach in this Bill, but was also aware that National Treasury (NT) had also drafted a Bill dealing with state-owned banks, with a particular concern to ensure the long-delayed licencing of the Postbank. This Bill was promised in 2016 but because it had not yet been introduced at the time Mr Shivambu introduced his Bill we had to proceed with considering his Bill.

However, NT gazetted the Financial Matters Amendment Bill (FMAB) on 24 August 2018 for public comment and provided the Committee with a briefing on it on 20 November 2018. As the FMAB included provisions for the formation of a state-owned bank, the majority in the Committee felt that we should consider the BAB and FMAB together.

With the formal introduction of the FMAB, public hearings were held on 12 February 2019 and both Bills were considered.

The majority of the Committee decided that the FMAB was better because it provides for more qualifications and checks and balances on the formation of a state-owned bank and is drafted in the context of other applicable legislation that National Treasury is responsible for including the Public Finance Management Act and the Financial Sector Regulation Act.

There were 3 areas in particular that the FMAB was stronger:

1. It requires that if a state-owned company (SOC) wants to apply for authorisation to establish a bank it must first get the approval of the Minister of Finance, acting with the concurrence of the Executive Authority responsible for the SOC.
2. The assets of the SOC, its holding company and, if applicable, the holding company of the holding company, must exceed its liabilities.
3. It excludes municipal owned companies from applying for authorisation to establish a bank.

While the majority in the Committee fully support state-owned banks and in particular the expeditious processing of the licencing of the Postbank, we believe that because of the possible fiscal risks posed by state-owned banks which may require bailouts, the above qualifications are necessary to restrict the circumstances in which state-owned banks are formed and therefore believe that the FMAB provisions on state-banks are better than those in the BAB.

The Committee expresses its appreciation to Mr Shivambu for introducing the BAB which assisted us considerably in finalising the policy issues.

For the reasons set out above, the majority in the Committee decided to reject the motion of desirability, referred to in rule 286(4)(i) of the Rules of the National Assembly, on the Banks Amendment Bill (B12-2018) and vote instead for the Financial Matters Amendment Bill, (B1-2019).

	7 March 2019
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Mr Y Carrim, MP	Date

Chairperson: Standing Committee on Finance