

Finance Minister tables Financial Sector Regulation Bill

PRETORIA: Finance Minister Nhlanhla Nene has tabled the Financial Sector Regulation Bill, which gives effect to the Twin Peaks reform.



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"The Minister of Finance tabled the Financial Sector Regulation (FSR) Bill in Parliament after taking into account comments received on the bill published in December 2014," said National Treasury on Tuesday, 27 October 2015.

The FSR 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 and will reduce the possibility of regulatory arbitrage or forum shopping and close gaps in the regulatory system.

Following the global financial crisis in 2008, the bill aims to make the financial sector safer and make it work more effectively in the interests of all South Africans by reducing potential threats to financial stability and better protecting customers by building financial institutions that treat their customers fairly.

"This is also in line with the IMF Financial Sector Assessment Programme (FSAP) recommendations to South Africa to define clear and comprehensive institutional, governance and accountability arrangements for prudential and market conduct regulation," said National Treasury.

The tabling of the bill is the first step in the process to implement the Twin Peaks system, with Parliament now in charge of the process to finalise and enact the bill.

The first draft of the FSR Bill was published for comment in December 2013 with a second draft published in December 2014, taking into account comments received on the first draft, as well as inputs from stakeholder engagements with members of the public and various government departments.

According to National Treasury, further public consultations were held over the course of 2015 on the second draft of the bill.

"While no substantive changes in policy positions were necessary, further refinements have been made to the drafting of provisions in the FSR Bill to ensure technical accuracy and correct alignment with existing legislation in the financial sector."

Under the Twin Peaks model, 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 financial institutions while the FSCA will supervise how financial services firms conduct their business 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), appeals, and consumer advice and education across the financial sector.

Ensuring that there is coordination across all regulators in the financial system is an important supporting pillar to the reform.

These regulators include the Prudential Authority and Financial Sector Conduct Authority, the National Credit Regulator, the Financial Intelligence Centre, the Council for Medical Schemes and the South African Reserve Bank.

The Bill will be considered by the Standing Committee on Finance in Parliament, which is expected to invite public comments and submissions on the Bill.

"It is hoped that the Bill will be enacted next year, to enable implementation soon thereafter.

The tabled Bill (B34-2015) is available on the Parliamentary and National Treasury websites.

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