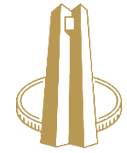


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SOUTH AFRICAN RESERVE BANK
Prudential Authority

Ref.: 15/8/1/3

To: All banks, controlling companies, branches of foreign institutions, eligible institutions and auditors of banks or controlling companies

Proposed Directive issued in terms of section 6(6) of the Banks Act 94 of 1990

Proposed amendments to the Regulations relating to Banks

Executive summary

In terms of section 90 of the Banks Act, 1990 (Banks Act), the Minister of Finance (MoF) may make regulations in respect of any matter required or permitted to be prescribed by regulation in terms of the Banks Act.

Since the inception of the Banks Act, the respective Banks Act returns (BA returns) and the related directives for the completion of the BA returns have formed an integral part of the Regulations relating to Banks (Regulations), issued in terms of section 90 of the Banks Act.

The Financial Sector Regulation Act 9 of 2017 (FSRA) read with the Banks Act make provision for the Prudential Authority (PA) to issue prudential standards and make determinations for financial institutions in respect of various matters, including matters in respect of which regulations may be prescribed in terms of the Banks Act.

To facilitate and support the ongoing work related to the Umoja System Implementation Project, which include the submission of various regulatory returns going forward, including various BA returns, the PA decided, among others, to remove the BA returns and the related directives for the completion of the BA returns from the Regulations. In future all BA returns and the related directives for the completion of the respective BA returns will be issued separately, in the form of Directives or Determinations.

All banks, controlling companies, branches of foreign institutions, eligible institutions and auditors of banks or controlling companies and any other interested person are hereby invited to submit their comments on the proposed Government Notice, attached to this proposed directive as Annexure 1, and the proposed implementation date of 1 October 2024, by no later than 24 May 2024.

1. Introduction

- 1.1 In terms of section 90 of the Banks Act, the MoF may make regulations in respect of any matter required or permitted to be prescribed by regulation in terms of the Banks Act.
- 1.2 Since the inception of the Banks Act, the respective BA returns to be completed by banks, controlling companies and branches of foreign institutions (hereinafter collectively referred to as 'banks'), and the related directives for the completion of the respective BA returns, among others, have formed an integral part of the Regulations, issued by the MoF in terms of section 90 of the Banks Act.
- 1.3 Subsequently, the PA has been established in terms of section 32 of the FSRA, with effect from 1 April 2018. Section 105 of the FSRA read with section 1A(4) of the Banks Act make provision for the PA to issue prudential standards for financial institutions in respect of various matters, including matters in respect of which regulations may be prescribed in terms of the Banks Act.
- 1.4 Furthermore, in terms of section 1A(3)(b) of the Banks Act, a reference in the Banks Act to a matter being determined must be read as a reference to the PA determining the matter in writing and registering the determination in the Register.
- 1.5 Following the global financial crisis that commenced in 2007, various international standard-setting bodies agreed to put in place, among others, comprehensive measures, policies, regulations, and extensive reforms to promote financial stability as well as the safety and soundness of individual financial institutions.
- 1.6 In this regard, the Basel Committee on Banking Supervision (BCBS) issued, among others, the Basel III post-crisis reforms for implementation by member jurisdictions.
- 1.7 South Africa is a member of the BCBS and remains committed to the full, timely and consistent adoption and implementation of all relevant frameworks, standards and requirements issued by the BCBS, including the relevant Basel III post-crisis reforms.
- 1.8 Due to the timelines associated with the Basel III post-crisis reforms, and to ensure that the regulatory framework in terms of which the PA regulates and supervises banks remains relevant, the PA in consultation with all relevant key stakeholders decided:
 - 1.8.1 To incorporate the Basel III post-crisis reforms into the Regulations, which already contains all the relevant internationally agreed frameworks, standards and requirements issued by the BCBS since the early 1990s.
 - 1.8.2 Once the Basel III post-crisis reforms have been incorporated into the Regulations, the PA will commence with a process to convert the then fully updated set of Regulations into Prudential Standards.

- 1.8.3 In future all BA returns and the related directives for the completion of the respective BA returns will be issued separately, in the form of Directives or Determinations, issued in terms of the Banks Act read with the FSRA, with the necessary enabling provisions to make specific determinations incorporated into the relevant Prudential Standards.
- 1.9 Currently, regulation 6 of the Regulations states, among others:
- 1.9.1 forms to be completed and submitted in terms of the Regulations can be obtained from the PA, and must be completed and submitted in accordance with the relevant instructions, directives and interpretations contained in the applicable chapters of the Regulations; and
- 1.9.2 banks are not obliged to use the forms provided by the PA, but any reproduction used by a bank or controlling company must in all respects correspond to the prescribed forms.
- 1.10 Towards the end of 2023, as an integral part of the Umoja System Implementation Project,¹ the Umoja team commenced engaging various key interested persons in respect of regulatory return submissions, among others.
- 1.11 To facilitate and support the ongoing work related to the Umoja System Implementation Project, which include the development of various regulatory returns during 2024, including various BA returns, the PA decided:
- 1.11.1 To recommend the deletion of all the BA returns and the related directives for the completion of the respective BA returns from the Regulations.
- 1.11.2 To propose the simultaneous issuance of all the BA returns and the related directives for the completion of the respective BA returns in the form of Directives and/ or Determinations in terms of the Banks Act read with the FSRA.
- 1.11.3 Not to make any amendments to any of the BA returns and the related directives for the completion of the respective BA returns during the processes envisaged in paragraphs 1.11.1 and 1.11.2 of this proposed Directive, other than any amendments directly related to the Umoja System Implementation Project, which essentially relate to the design of the returns.
- 1.11.4 To issue the related draft Government Notice attached hereto as Annexure 1 for consultation, as an integral part of the processes envisaged in paragraphs 1.11.1 and 1.11.2 of this proposed Directive.

2. Directive

- 2.1 Based on the aforesaid and in accordance with the provisions of section 6(6) of the Banks Act, all banks and other interested persons are hereby directed to take note of the proposed Government Notice, attached to this proposed directive as Annexure 1, with a proposed implementation date of 1 October 2024.

¹ Umoja is a system development project for a digital interface between the PA and regulated institutions aimed at providing a more integrated, efficient, and transparent operating model.

3. Invitation for comment

- 3.1 All banks and other interested persons are hereby invited to submit their comments on the proposed Government Notice, attached to this proposed directive as Annexure 1, and the proposed implementation date of 1 October 2024, to: SARB-PA@resbank.co.za, for the attention of Mr A J Smal, by no later than 24 May 2024.
- 3.2 All comments received may be published on the website of the PA, unless a respondent specifically requests confidential treatment.

Fundi Tshazibana
Chief Executive Officer

Date:

Encl. 1