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SOUTH AFRICAN RESERVE BANK
Prudential Authority

Prudential Communication 8 of 2023

Banks Act, 1990 (Act No. 94 of 1990)

Notice of invitation to comment – Draft Amendments to the Commercial Paper Exemption Notice, 1994

Objective of this Prudential Communication

This communication relates to the provisions of section 11(1) of the Banks Act, 1990 (Act No. 94 of 1990) in terms of which the Prudential Authority proposes to issue Amendments to the Commercial Paper Exemption Notice, 1994. The Prudential Authority is also publishing a Position Paper, which includes a questionnaire.

This communication further relates to section 101 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) which allows for engaging in consultations. The Prudential Authority in terms of the process for making regulatory instruments, such as an Exemption Notice, is publishing this notice inviting submissions in relation to the regulatory instrument.

1. Application

1.1 This Prudential Communication is for the attention of all interested parties, including bank and non-banks, in relation to the proposed Amendments to the Commercial Paper Exemption Notice, 1994 (CP Exemption Notice), and is applicable to all issuers of commercial paper.

2. Purpose

2.1 This Prudential Communication serves to communicate the intention to amend the CP Exemption Notice, issued in relation to section 11(1) of the Banks Act. The Prudential Authority is publishing a draft of the regulatory instrument and a position paper, which includes a questionnaire to obtain further information from issuers of commercial paper.

2.2 This Prudential Communication is issued in terms of section 101 of the Financial Sector Regulation Act and is a notice inviting submissions in relation to the regulatory instrument and stating where, how and by when submissions are to be made.

3. Notice of invitation for comment

3.1 In terms of section 11(1) of the Banks Act, no person shall conduct the “business of a bank” unless such person is a public company and registered as a bank in terms of the Bank Act. In terms of the Banks Act, as amended by the Financial Sector Regulation Act, 2017 No.9 of 2017 (FSRA), the

Prudential Authority, with the approval of the Minister of Finance (Minister), is entitled to designate certain activities as not being “the business of a bank” for purposes of the Banks Act.

- 3.2 Any non-bank person that issues commercial paper without complying with the provisions of the CP Exemption Notice would be conducting the “business of a bank” and be in contravention of section 11 of the Banks Act.
- 3.3 The objective of the CP Exemption Notice is to enable corporates to access the domestic capital market by issuing commercial paper to raise short term funding from investors, to fund their business or operational activities.
- 3.4 The evolution of market practices and the subsequent increased focus on financial stability, as well as structural challenges with the current CP Exemption Notice, have necessitated a comprehensive review of the legislative framework, which includes a review of the CP Exemption Notice.
- 3.5 The CP Exemption Notice, 1994 will be repealed and replaced with a new notice once approved by the Prudential Committee and the Minister and thereafter gazetted.
- 3.6 In this regard, the Prudential Authority publishes the following documentation in accordance with the provisions of section 101 of the Financial Sector Regulation Act for public consultation:
 - 3.6.1 Draft Amendments to the CP Exemption Notice – Annexure A;
 - 3.6.2 Position paper (including an industry questionnaire) explaining the rationale for the amendments to the CP Exemption Notice – Annexure B; and
 - 3.6.3 Comments Template: Draft Amendments to the CP Exemption Notice – Annexure C.

4. Submission requirements

- 4.1 Comments on the draft Amendments to the CP Exemption Notice must be made using the Industry Questionnaire in Annexure A of the Position Paper and the Comments Template in Annexure C and submitted to PA-Standards@resbank.co.za for the attention of Ms Videshree Rooplall on or before 15 August 2023.
- 4.2 Any enquiries regarding this communication must also be directed to the aforementioned e-mail address.

Fundi Tshazibana
Chief Executive Officer

Date: