



SOUTH AFRICAN RESERVE BANK
Prudential Authority

Financial Sector Regulation Act, 2017 (Act No. 9 of 2017)

Prudential Standard **RAXX**

Requirements for Continuity of Access to Financial Market Infrastructures for Designated Institutions in Resolution

DRAFT FOR CONSULTATION - XXX

Objectives and key requirements of this Standard

This Standard sets out the principles and requirements for continuity of access to financial market infrastructures that designated institutions must comply with in line with sound principles, practices and processes for the orderly resolution of a designated institution.

This Standard gives effect to the objective(s) and requirements of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017).

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1. Commencement

- 1.1. This Standard comes into effect on DD-MM-YYYY.

Version number	Commencement date
01	DD-MM-YYYY

2. Legislative authority

- 2.1. This Standard is made in terms of section 105(2)(c) read with section 30(1A) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017).

3. Definitions and interpretation

- 3.1. In this Standard, **‘the Act’** means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) and any word to which the meaning has been assigned bears the meaning so assigned in terms of the Act, unless the context indicates otherwise.

- 3.2. For purposes of this Standard –

‘core business lines’ means business lines and associated services that represent material sources of revenue or profit and are essential for the sustainability of the designated institution;

‘core shared services’ means activities performed by a designated institution or outsourced to a third party where failure would impair a designated institution’s ability to continue its core business lines;

‘critical shared services’ means activities performed by or within the designated institution or outsourced to a third party, where failure would lead to the designated institution’s inability to perform critical functions;

‘financial market infrastructure’ means a multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions as defined in the Principles for Financial Market Infrastructure, issued in April 2012 by the Bank for International Settlements’ Committee on Payments and Market Infrastructures and the International Organisation of Securities Commissions. This definition includes a ‘market infrastructure’ as defined in section 1 of the Financial Markets Act, 2012 (Act No.19 of 2012) and the Act;

‘financial market infrastructure intermediary’ means a third-party that acts on behalf of a designated institution and facilitates the designated institution’s access to relevant financial market infrastructure services;

‘financial market infrastructure service’ means services, functions and/or duties performed by a financial market infrastructure or securities services provided by a financial market infrastructure intermediary, the discontinuation of which could materially impede a designated institution’s performance of one or more of its critical functions and core business lines;

‘governing body’ means a group of individuals empowered to provide oversight, make strategic decisions, and direct the operations of a designated institution, and who bears the ultimate responsibility for its governance, strategic leadership and compliance with applicable laws and regulatory requirements;

‘independent review’ means a review conducted by an internal or external audit function, an independent control function or a suitably qualified third party;

‘Reserve Bank’ means the South African Reserve Bank in its capacity as the resolution authority in terms of section 166A of the Act; and

‘resolution proof’ or ‘resolution resilient’ means, provided the substantive obligations for services continue to be performed by the designated institution, the relevant contracts governing the financial market infrastructure services received by such designated institution –

- (a) cannot be terminated, amended, or suspended solely on the grounds of such designated institution’s entry into resolution; and
- (b) may be transferred to a new recipient to facilitate the orderly resolution of a designated institution in resolution.

4. Application

- 4.1. This Standard applies to all designated institutions and must be read in conjunction with the Act and all relevant financial sector laws.

5. Roles and responsibilities

- 5.1. The governing body is responsible for ensuring that the designated institution complies with all the requirements set out in this Standard on a continuous basis.

6. Identification of providers of financial market infrastructure (FMI) services

- 6.1. A designated institution must identify and document all its direct FMI and/or FMI intermediary relationships with providers of FMI services and maintain a detailed and up-to-date record of such relationships.
- 6.2. The record referred to in paragraph 6.1. above must include, as a minimum:

- (a) the name and contact details of the provider of the FMI service, and the name and contact details of the related FMI service provided by an FMI intermediary;
- (b) commencement date upon which the FMI service was procured and came into effect and if applicable together with definitive end date of the FMI relationship;
- (c) a description of all services, including non-FMI services provided by the FMI to the designated institution;
- (d) a description of the participation method or type of access to the FMI service;
- (e) the name of the jurisdiction of registration, details of relevant regulatory, supervisory and, where relevant, the self-regulatory authority, of the provider of the FMI service; and
- (f) the governing law in terms of which the relationship between the designated institution and the provider of the FMI service is governed and whether such law recognises and/or supports South Africa's resolution framework and considers international best practices.

6.3. A designated institution must have measures in place to effectively communicate with its providers of FMI services during business as usual, as well as during periods of distress and while in resolution.

6.4. A designated institution must outline the rules and requirements for membership and/or participation in all FMIs and FMI intermediaries identified in accordance with paragraph 6.1 above that may affect continuity of access to FMIs during resolution.

7. Mapping and assessment of FMI services

7.1. A designated institution must have measures in place to assess all the FMI services it receives from the providers of FMI services.

7.2. A designated institution must map all FMI services it receives to:

- (a) legal entities;
- (b) critical functions;
- (c) critical shared services;
- (d) core business lines; and
- (e) core shared services.

8. Information relating to usage of FMI services

8.1. A designated institution must:

- (a) maintain a comprehensive record of transaction data that accurately reflects its relevant positions and use of FMI services;
- (b) maintain up-to-date records and be able to provide the Reserve Bank, upon written request, with at least the following information:
 - (i) an estimate of its funding and liquidity needs necessary to meet its FMI service obligations to ensure continuity of access to FMI services, which may include:
 - (aa) collateral requirements;
 - (bb) intraday liquidity requirements;
 - (cc) margin requirements; and
 - (dd) settlement and delivery obligations.
 - (ii) the usage and size of committed and uncommitted credit facilities received from providers of FMI services or from other third-party sources.
- (c) ensure that the information stipulated in paragraph (b) above, is organised and stored in an easily accessible manner;
- (d) review its record of providers of FMI services and FMI services it receives, at least once a year;
- (e) notify the Reserve Bank of any changes referred to in sub paragraph (d) above within three days of such changes; and
- (f) have in place an information management system capable of ensuring the integrity of information and facilitating the prompt availability, generation and provision of information as and when required by the Reserve Bank and/or the Prudential Authority.

9. Measures to maintain continuity of access to FMI services

9.1. A designated institution must:

- (a) have *ex-ante* arrangements in place to support continuity of access to FMI services during resolution;
- (b) establish, document, maintain, and enforce a risk management policy appropriate to the nature, scale and complexity of its business, to ensure continuity of access to FMIs during resolution;
- (c) identify risks and corresponding measures to mitigate all plausible risks identified that may affect continuity of access to FMI services during resolution;

- (d) detail circumstances under which providers of FMI services may restrict, terminate, and suspend access to FMI services and measures of mitigating such actions;
- (e) have in place arrangements for alternate providers of FMI services and a contingency plan that articulates specific measures to be undertaken should the circumstance arise whereby, there are no viable alternatives readily available;
- (f) review contracts with all its providers of FMI services and make appropriate arrangements to ensure that these contracts are resolution proof or resolution resilient;
- (g) conduct an impact assessment of termination, suspension and restriction to continuity of access to FMI services, on the designated institution's critical functions and core business lines;
- (h) prepare a detailed report, at least biannually, on the viability of its arrangements to support continuity of access to FMI services during resolution. The report must be subject to an independent review; and
- (i) upon request, provide the Reserve Bank with the report referred to in subparagraph (h) above.

10. General compliance requirement

- 10.1. A designated institution must have in place documented policies, procedures and practices for monitoring and ensuring compliance with the requirements in this Standard.
- 10.2. A designated institution is required to comply with the requirements contained herein on an ongoing basis and failure by a designated institution to comply with any provision contained in this Standard may result in regulatory action being taken by the Prudential Authority against such designated institution.

11. Reporting requirements

- 11.1. The form, manner, period for reporting in terms of this Standard will be determined by the Prudential Authority as directed by the Reserve Bank.

12. Short title

- 12.1. This Standard shall be called 'Prudential Standard **RAXX**-Requirements for Continuity of Access to Financial Market Infrastructures for Designated Institutions in Resolution'.