

NATIONAL TREASURY

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**DRAFT FINANCIAL SECTOR LAWS AMENDMENT BILL, 2018: PUBLICATION
FOR PUBLIC COMMENT**

The National Treasury publishes the Financial Sector Laws Amendment Bill for public comment. A copy of the Bill is available on the National Treasury's website, www.treasury.gov.za.

The Bill proposes to establish a framework for the orderly resolution of banks, systemically important non-bank financial institutions and holding companies of banks or systemically important non-bank financial institutions that are designated by the Governor of the Reserve Bank as systemically important.

Resolution refers to a process during which a competent authority, the resolution authority, takes over the control and management of the affairs of a designated institution that is failing or likely to fail in order to restructure or resolve the institution with the use of resolution tools in a manner that seeks to protect financial stability and minimise the reliance on public funds.

The aim of creating a resolution framework is to ensure that the impact of a failure by a bank or systemically important financial institution is managed in an orderly manner. It is proposed that the process of resolution take place under the management and control of the Reserve Bank which will be the Resolution Authority. In order to provide for this, certain amendments to the Financial Sector Regulation Act are proposed. More particularly, a new Chapter 12A is to be inserted: to deal with the resolution objectives, powers and functions of the Reserve Bank; and to provide for a Deposit Insurance Fund and the establishment of a Corporation for Deposit Insurance to administer the Fund.

To give effect to these proposed amendments, consequential amendments are required to the Insolvency Act, 1936 (Act No. 24 of 1936), the South African Reserve Bank Act, 1989 (Act No. 90 of 1989), the Banks Act, 1990, (Act No. 94 of 1990), the Mutual Banks Act, 1993 (Act No. 24 of 1993), the Competition Act, 1998 (Act No. 89 of 1998), the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001), the Co-operative Banks Act, 2007 (Act No. 40 of 2007), the Companies Act, 2008 (Act No. 71 of 2008), the Financial Markets Act, 2012 (Act No. 19 of 2012), and the Insurance Act, 2017 (Act No. 18 of 2017). Amendments are also proposed to the Mutual Banks Act, 1993 (Act No. 24 of 1993) to provide for issuing of guidance notes and directives to mutual banks by the Prudential Authority (which has replaced the Registrar of Banks).

Written comments on the draft Regulations should be submitted to commentdraftlegislation@treasury.gov.za by close of business on **07 November 2018**. Enquiries regarding the draft Bill may be made to Jeannine Bednar-Giyose at tel nr 012 315 5584.