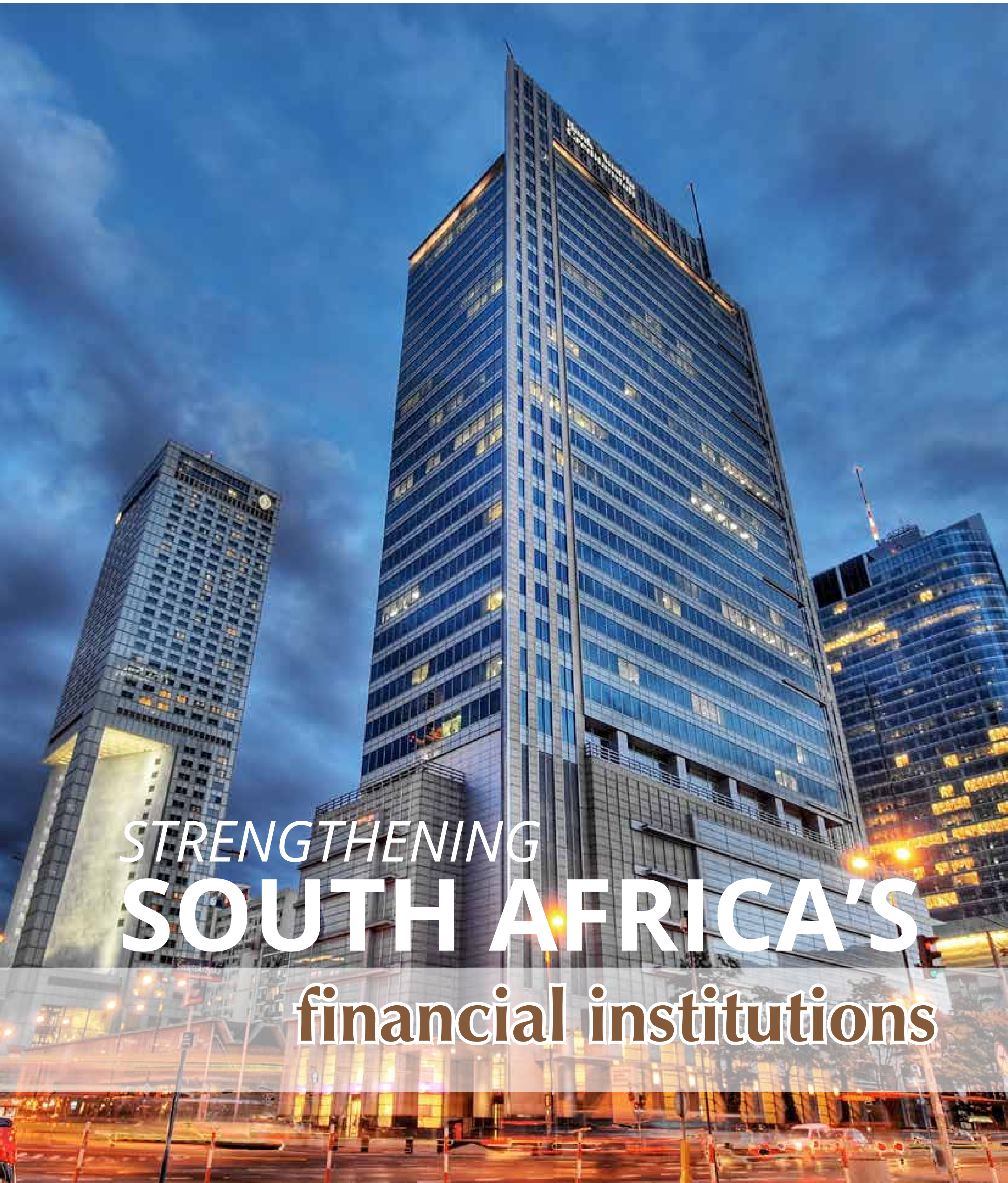
Financial Services Board Newsletter

# FSB bulletin

FIRST QUARTER 2016



## STRENGTHENING SOUTH AFRICA'S financial institutions



The new resolution framework is intended to: rectify inconsistencies; clarify the position of investors, depositors, policyholders and creditors in the event of a failure; ensure the fair and transparent allocation of losses with appropriate safeguards; put measures in place for the funding of resolution action; provide protection where it is needed most; and introduce the tools necessary for maintaining financial stability and ensuring the continuation of critical financial services.



Crowd-funding is an umbrella term used to describe the use of small amounts of money, obtained through an online web-based platform from a large number of individuals or organisations, to fund a project, a business or personal loan and other needs.



The competition is in its 20th year since inception and was initially intended to address the general public's lack of knowledge about financial products and to start the financial education of children while they are still at school.



Organisations currently operating based on LEI ROC endorsement will continue issuing LEIs while they undergo the GLEIF accreditation process.

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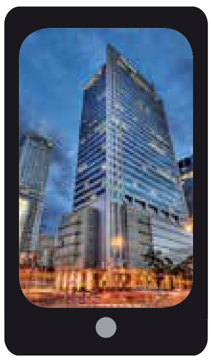

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**THE FSB BULLETIN**

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# EDITOR'S NOTE

by **Tembisa Marele**
Editor

I'm pleased to present the FSB Bulletin to you once again - a newsletter aimed at updating you on developments at the Financial Services Board and in the financial services regulatory environment at large.

In this issue, Francois Groepe, a member of the Board of the FSB and Deputy Governor of the Reserve Bank, gives us some insight into the Resolution Framework, which will guide the implementation of the Twin Peaks Model of financial regulation. He does this from the perspective of the SA Reserve Bank, as the bank will form a critical part of the Twin Peaks approach (as the prudential authority).

Still on this impending change, Roelof Goosen, the director responsible for financial inclusion at the National Treasury, looks at the policy considerations as the country steps up its efforts to create a financial services sector in which all South Africans can participate. More details on page 18.

**In this issue, Francois Groepe, a member of the Board of the FSB and deputy governor of the Reserve Bank, gives us insight on the Resolution Framework, which will guide the implementation of the Twin Peaks Model of regulation.**

You can also read the results of the recent Finscope survey, which explores the quality of financial education in South Africa.

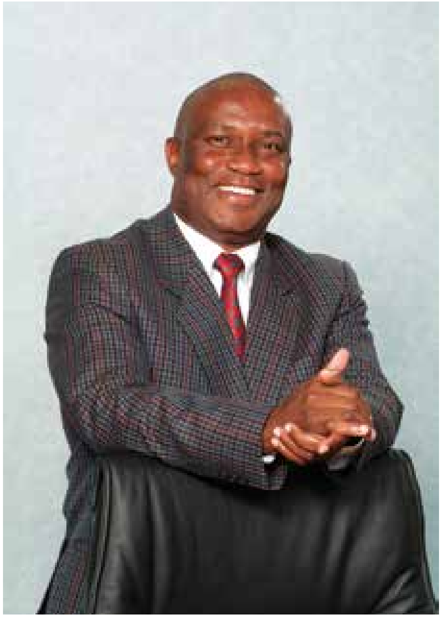
New organisations wishing to become Legal Entity Identifier issuers are required to be accredited by the Global Legal Entity Identifier Foundation. On page 16, we bring you the steps that such issuers need to take in order to be accredited.

Also in this issue, we delve into the subject of regulating crowd-funding in South Africa – the use of small amounts of money obtained from a large number of individuals to fund a programme.

As always, we invite you to send us any articles that you believe would be relevant for this publication and we will certainly consider them. We look forward to receiving your contributions and we welcome any feedback you may have.

Tembisa Marele
Editor

# EXECUTIVE OFFICER



by **Adv. Dube Tshidi**
Executive Officer

This issue of the FSB Bulletin comes at a time when we are moving even closer to the Twin Peaks model of financial regulation. Earlier this year, as we were preparing for this shift, we found ourselves dealing with issues that questioned the organisation's integrity and work ethic. While we have not been able to comment extensively on some of the allegations brought against us, what I wish to reiterate is that the FSB remains committed to the highest standards of corporate governance. Preventing and combating fraud and corruption, not only at the FSB, but also in the wider financial services sector, remains a key priority for us. As the FSB, we take our mandate of promoting and maintaining a sound financial investment environment in South Africa very seriously, and we will continue to do so.

As part of the fraud prevention programme, we have once again conducted a survey amongst our staff on Fraud and Fraud Awareness, the results of which will help us to benchmark current activities and perceptions regarding fraud and fraud deterrence at the FSB. The results of the survey are invaluable in providing us with critical information that will allow us to focus our resources on specific areas to ensure a practical and sustainable fraud risk management framework.

The FSB has stringent controls and governance procedures in place to ensure that the risk of impropriety is reduced to the absolute minimum.

**The FSB has stringent controls and governance procedures in place to ensure that the risk of impropriety is reduced to the absolute minimum.**

On the regulatory front, we will continue with our efforts to ensure that the industry is regulated effectively, particularly at this time, as we prepare for the transition to Twin Peaks. We will continue to update you on the developments.

The FSB Bulletin is one of the mechanisms through which we will keep you abreast of developments in the regulatory space, and we welcome your thoughts on how we can better serve you in this regard.

**Adv Dube Tshidi**
**Executive Officer**


# APPROVAL OF FIRST CIS Hedge Fund offering

The FSB has approved the first two hedge fund collective investment schemes. The schemes, one a Qualified Investor Hedge Fund (QIHF) and the other a Retail Investor Hedge Fund (RIHF), are registered under Novare Collective Investments management company. The schemes comprise 35 portfolios between them, and have been registered with effect from 27 November 2015. This represents a milestone in the collective investment schemes (CIS) industry, as this is the first time that a regulated hedge fund will be marketed as a product offering.

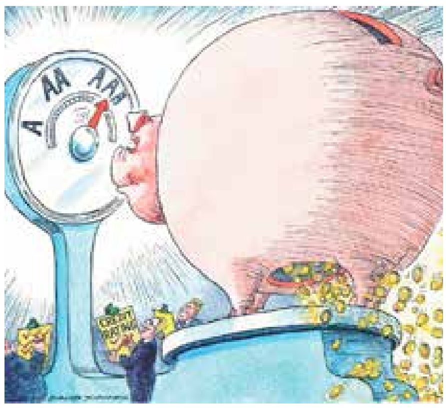
The FSB has received and is considering a further 20 applications from management companies wanting to register hedge fund collective investment schemes. These applications comprise 17 QIHFs and 13 RIHFs, and represent in excess of R95 billion in assets under management (AUM). The total AUM of these funds represents an increase of over 50% in AUM when compared to the previously unregulated hedge fund industry. This is indicative of the potential growth that is attributable to the certainty created through an effective regulatory framework.

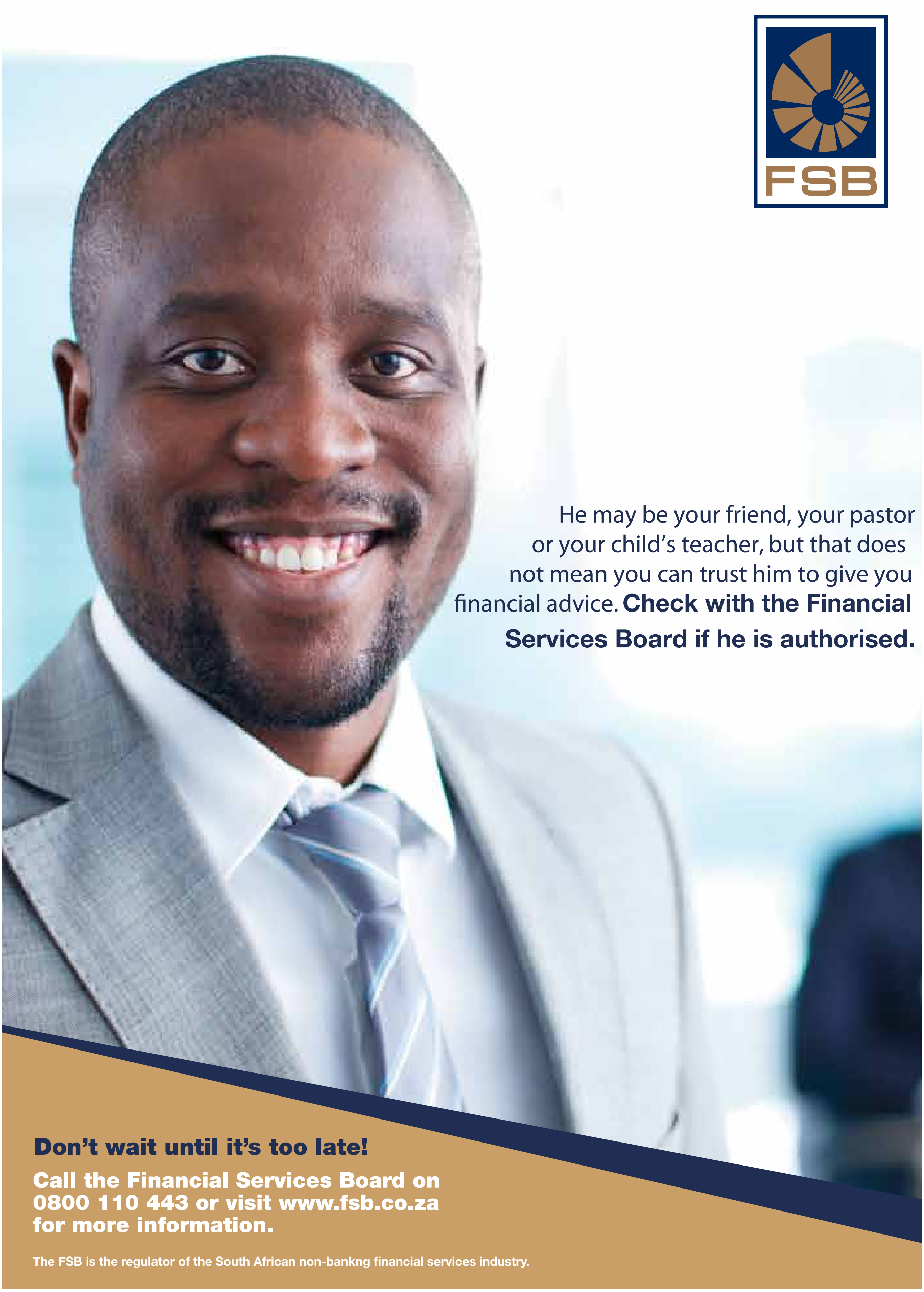
The FSB has employed a team of finance and investment professionals, headed by Udesh Naicker, that will oversee the registration of the management companies and the hedge fund industry at large.

# FITCH TO CONTINUE WITH Sovereign Ratings

The Registrar of Credit Rating Agencies at the FSB has granted Fitch Ratings Limited (Fitch) a two-year exemption from registration under the Credit Rating Services Act. The exemption is for the provision of Sovereign Ratings to the Republic of South Africa and ratings for state owned companies. The exemption is valid to 31 December 2017. The exemption was granted in terms of the powers afforded the Registrar in section 27 of the Credit Rating Services Act.

The National Treasury, in its capacity as the fiscal authority, issues sovereign debt on an annual basis and, when combined with redemptions, nominal gross debt is projected to grow in 2017/18. With this in mind, the exemption will allow Fitch to continue with the provision of Sovereign Ratings for South Africa. The move will also be of benefit to South Africa's investors.




FSB
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Don't wait until it's too late!
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for more information.
The FSB is the regulator of the South African non-bankng financial services industry.

# STRENGTHENING SOUTH AFRICA'S financial institutions

COVER FEATURE

*The Financial Stability Board Plenary has a wide range of tasks and issues it considers, including the approval and adoption of new standards relating to financial stability. Among others, the Reserve Bank is also represented in the respective Financial Stability Board committees tasked with developing and ensuring the implementation of standards and measures relating to jurisdictions' resolution frameworks, the most significant of these developments being the Key Attributes for Effective Resolution Frameworks (the Key Attributes).*

After the global financial crisis of 2007/8, one of the key items on the agenda of the G-20 (the Group of Twenty Finance Ministers and Central Bank Governors) was to address the 'too big to fail' problem. Since then, the various international standard-setting bodies, including the G-20 and the Financial Stability Board, have made significant progress in developing and promoting the implementation of enhanced regulatory standards to increase the resilience of the global financial sector to shocks.

Member countries of the G-20 remain committed to the objective of implementing measures that will allow large financial institutions to fail in a way that critical economic and financial functions continue uninterrupted and without taxpayer money, while maintaining the financial stability of the sector. Drawing on lessons learnt during the global financial crisis, the Financial Stability Board developed the *Key attributes for effective resolution regimes* (*Key Attributes*), which describe the minimum set of legal

*As a G-20 member, South Africa is committed to implementing the framework contained in the Key attributes. This is seen as a key element of a resilient financial sector that can withstand shocks and continue to serve the economy and all its stakeholders, even in the event of a systemic disruption or failure.*

powers, processes and governance arrangements that countries should have in place in order to achieve the orderly resolution of failing financial institutions.

As a G-20 member, South Africa is committed to implementing the framework contained in the *Key Attributes*. This is seen as a key element of a resilient financial sector that can withstand shocks and continue to serve the economy and all its stakeholders, even in the event of systemic disruption or failure.

**As a G-20 member, South Africa is committed to implementing the framework contained in the Key attributes.**

Unfortunately, our current framework for dealing with failed financial institutions

**Francois Groepe**

**FSB Board Member and Deputy Governor of the SA Reserve Bank**

is fragmented across various pieces of legislation and regulations and has a number of gaps which are highlighted in Table 1 in the "Strengthening South Africa's resolution framework for financial institutions" discussion paper (the 'discussion paper') and which identifies the shortcomings that the new framework should address.

The new resolution framework is intended to: rectify inconsistencies; clarify the position of investors, depositors, policyholders and creditors in the event of a failure; ensure the fair and transparent allocation of losses with appropriate safeguards; put measures in place for the funding of resolution actions; to provide protection where it is most needed; and to introduce the tools necessary for maintaining financial stability and ensuring the continuation of critical financial services.

Following publication of the discussion paper, the first public workshop was held in Cape Town on 15 September 2015; it focused on the proposals set out in the resolution discussion paper, including the shortcomings in the current framework that the proposals aim to address. A workshop was held to focus on public comments received on the discussion paper following its publication in August 2015, and an overview of policy makers' responses thereto. The proposals aim to strengthen South Africa's resolution framework in support of financial stability and, as such, take into account the unique characteristics of the South African financial market.

It is, however, important to set out the context within which these proposals have been developed and to briefly discuss the policy issues currently being considered internationally. The cross-border inter-connectedness of financial systems and the impact of spill-overs and spill-backs play a very important role in financial stability, as demonstrated with the 2007/8 global financial crisis.

Therefore, it is important to ensure a minimum level of uniformity between resolution frameworks and adequate cooperation between jurisdictions, in order to avoid severe negative consequences for the domestic financial sector when: a foreign financial institution with operations in South Africa is placed in resolution, or when a similar resolution action is taken by another home authority in respect of an entity operating in South Africa.

*The Reserve Bank, specifically, is represented at various levels and structures of the Financial Stability Board. In the Financial Stability Board Plenary committee, the Bank is represented by the Governor.*

## 1 International participation

South African policymakers participate actively in international standard setting bodies, in an effort to ensure that the standards and principles being adopted globally take into account the unique features of emerging markets (in general) and our financial sector (in particular), thereby limiting any possible adverse consequences for our economy. It is within this context that the proposals in the discussion paper have been developed.

As a member of the G20 and the Financial Stability Board, South Africa is represented by National Treasury, the South African Reserve Bank (Reserve Bank) and the FSB at all levels of the relevant international standard-setting bodies.

The Reserve Bank, specifically, is represented at various levels and structures of the Financial Stability Board. In the Financial Stability Board Plenary committee, the Bank is represented by the Governor. The Financial Stability Board Plenary has a wide range of tasks and issues that it considers, including the approval and adoption of new standards relating to financial stability. Among others things, the Reserve Bank is also represented at the Financial Stability Board committees tasked with developing and ensuring the implementation of standards and measures relating to jurisdiction resolution frameworks, the most significant of these developments being the Key Attributes.

The work relating to the implementation of the Key Attributes and other resolution related measures is an on-going process.

Various Financial Stability Board committees and groups have been tasked with monitoring implementation of the standards and developing the necessary measures and guidance to overcome any obstacles that prevent the successful implementation of resolution measures. Progress made by jurisdictions with the adoption and implementation of Key Attributes is reported to the G20 leaders on an annual basis. To this end, the Financial Stability Board has established the Resolution Steering Group (ReSG), where I represent the Reserve Bank, in my capacity as the Deputy Governor responsible for Financial Stability.

The ReSG has been tasked with overseeing various work streams that deal with issues such as cross-border implementation of resolution strategies, the resolution of financial market infrastructure, the principles and term sheet for Total Loss Absorbing Capacity (TLAC) in resolution, continuity of critical operations in resolution, practical aspects relating to bail-in execution and a list of other elements regarding the implementation of effective resolution strategies. The Reserve Bank participates in several working groups that report to the ReSG, including the Cross Border Crisis Management committee, the Financial Market Infrastructure (FMI) cross border crisis management group and the Bail-in Execution working group. The work of these groups includes research on implementation issues, developing measures to overcome obstacles, providing guidance on technical areas and making recommendations to the ReSG to improve available resolution measures. Reserve Bank staff have also participated in peer reviews of other G20 jurisdiction resolution frameworks, and have access to information gathered by the FSB in this area.

It is, therefore, evident that we have taken steps to ensure that the resolution framework for financial institutions in South Africa is not being developed in isolation, but with full consideration of developments and experiences in other countries as well as with agreed international best practice.

## 2 Recent international developments in the area of resolution

Since the 2007/8 global financial crisis, several developments have taken place to ensure that distressed financial institutions, especially Globally Systemically Important Banks (G-SIBs), can be dealt with in a way that minimises the impact on financial stability. As previously stated, the Key Attributes were published in 2011 and revised in 2014; but work on implementation measures that contribute to effective resolution has been on-going and will ultimately contribute to the improved resolvability of financial institutions and infrastructure.

A key initiative has been the development, and recent approval, of standard principles regarding the level of TLAC that G-SIBs should have available to absorb losses in the event of a resolution. On 9 November 2015 the Financial Stability Board published the TLAC principles and term sheet. The TLAC standard is designed to ensure that a distressed G-SIB has sufficient loss-absorbing and recapitalisation capacity available in resolution to enable the implementation of an orderly resolution that aims to: minimise the impact on financial stability, ensures the continuity of critical functions; and attempts to limit the exposure of taxpayers' money. Although South Africa does not intend replicating the TLAC term sheet unaltered, it is worth recognising that the principles on which it has been developed evolved through a thorough process of international research, debate and consultation, and that is thus serves as a valuable basis for our own loss-absorbing provisions.


The Financial Stability Board's Cross Border Crisis Management committee (CBCM) is focusing on the identification and mitigation of issues that may prevent the successful implementation of cross border resolution strategies. In this regard, the CBCM committee has identified specific focus areas, including access to FMIs, execution of bail-in strategies and TLAC implementation. As mentioned earlier, the Reserve Bank is represented on several of these working groups and, as such, has an opportunity, but also an obligation, to: influence the decisions being taken, to ensure that both emerging-market interest as well as our own national interests, are considered; and to gain insight into the experiences of other jurisdictions that had to conduct significant and complex resolutions during the 2007 financial crisis.

The efforts to address the risks posed by financial institutions extend beyond measures to increase their resolvability and there has been extensive work done to improve the overall safety and risk management of these institutions. The developments relating to enhanced capital and liquidity measures (through Basel III) are fairly well known, but more recent measures include work on step-in risk and the IFRS 9 accounting standards. In December 2015, the Basel Committee on Banking Supervision published a consultative document on the identification and measurement of step-in risk, which it describes as the risk that a bank may provide financial support to an entity under financial stress and beyond or in the absence of any contractual obligation. The document sets out proposals on potential approaches that could be used to reflect step-in risk in the prudential requirements of banks.

In July 2014 the International Accounting Standards Board completed the final step of its response to the 2007/8 global financial crisis with the publication of the IFRS 9 that deals with *Financial Instruments.* The new IFRS 9 standard, and other similar standards, do not only assist banks and regulators to better assess credit risk, they also improve the ability of the resolution authority to more accurately determine the position of a distressed entity and the possible market value that may be salvaged.

The measures taken to improve the overall soundness of individual financial institutions are relevant for resolution purposes, especially during times of systemic risk, as it will increase the resilience of the non-failing institutions should a stress event occur, which, in turn, increases the overall resilience of the financial sector. It is important, however, to ensure that these measures do not impair the resolution authority's ability to perform its duties and to ensure that any impact is minimised.

*A key initiative has been the development, and recent approval, of standard principles regarding the level of TLAC that G-SIBs should have available to absorb losses in the event of a resolution.*

## 3 Domestic cooperation

Cooperation between domestic financial sector authorities and regulators will be crucial to ensure that appropriate and viable resolution strategies are developed and implemented if and when necessary. Certain elements of the resolution framework need to be considered carefully and in a holistic manner, in order to avoid contradictions with or duplications of the regulatory framework. More specifically, issues such as TLAC versus prudential capital, the point of resolution versus regulatory point of non-viability (PONV), and regulatory supervision versus resolvability measures, are being considered.

Regulators will continue to cooperate, both internationally and locally, to ensure that an outcome is achieved that provides as much clarity as possible to the South African financial market.

## 4 Conclusion

In conclusion, there are good reasons why we need a resolution framework to protect the economy, the public and the rest of the financial sector against the potentially catastrophic effects of the failure of a systemically important financial institution, as articulated in the discussion paper. The envisaged Special Resolution Framework is bound to have implications for both the issuers of financial instruments. Many of the comments we received reflect the uncertainty created by the changing regime. As the risk of default and loss absorbency is transferred from the state to the private sector, it is bound to affect individual investors and issuers in various ways. However, this change is necessary and unavoidable, and we shall have to ensure that the calibration and implementation thereof is in the interests of broader financial stability in a South African context. Some of the comments promote the interests of certain groups of stakeholders, and understandably so. However, as policy makers, we have to consider the holistic picture and balance the risks and benefits of all groups of stakeholders.

Some of the comments we received also call for greater clarity on certain issues. Clarity is desirable for the clients and investors of financial institutions, for the institutions themselves, as well as for the authorities who have to implement regulatory action. However, one has to accept that a certain degree of flexibility is required for an environment that is dynamic, complex and unpredictable in many ways. The law is enabling and should provide adequate and balanced protection to all parties. Some of the certainty called for in the comments will only become apparent as the law is translated into practical policy guidance and institution-specific resolution plans. The safeguards included in the framework should, however, ensure that implementation occurs with care and after proper consultation.

*A key initiative has been the development, and recent approval, of standard principles regarding the level of TLAC that G-SIBs should have available to absorb losses in the event of a resolution.*

# LITTLE EVIDENCE TO SUPPORT ASSESSMENT of insurance market conduct risks

There is little or no evidence to indicate that insurers are continuously assessing and/or addressing market conduct risks relating to the distribution and servicing of policies through binder mandates. The outsourcing of insurer functions under these circumstances can significantly increase the risk of poor outcomes to customers. Alternatively, the absence of robust oversight processes increases the likelihood of insurers not being aware of the potential risks to customer outcomes that arise as a result of the chosen distribution model.

This is revealed in a report of the Binder Regulations Thematic Review: Key Findings, which also outlines a set of supervisory steps and regulatory proposals designed to ensure that the conduct of insurance business through binder arrangements does not undermine sound risk management or fair treatment of customers.
The review was conducted by the Insurance Division of the Financial Services Board (FSB) during 2014, with a focus on four main areas, namely:

- Compliance of binder agreements with regulatory requirements
- Governance and oversight of binder arrangements

**There were wide inconsistencies in the manner in which the data required in terms of binder agreements is shared by binder holders with insurers, ranging from manual submissions to various automated mechanisms. In many instances, the regulatory requirements relating to the sharing of data were not being adhered to in a satisfactory manner.**

**Farzana Badat**
**Head: Insurance Compliance**

*Key Findings, which also outlines a set of supervisory steps and regulatory proposals designed to ensure that the conduct of insurance business through binder arrangements does not undermine sound risk management or fair treatment of customers.*

- Reporting systems and access to information
- Binder fees paid to non-mandated intermediaries (NMIs), i.e. representatives or independent intermediaries other than mandated intermediaries or underwriting managers.

The report details the specific findings from the thematic review, and provides an overview of the expectations of the FSB regarding the manner in which insurers are required to manage their binder relationships.

The following general concerns were identified during the thematic review:

### Compliance of binder agreements with regulatory requirements

i. Information Letter 3 of 2013 emphasised that binder functions, and the activities incidental thereto, should be clearly described in all binder agreements. It was further explained that if a binder agreement does not contain a fee breakdown for each different binder function and/or activity related thereto, an insurer should at least be able to report to the FSB, as per the Annexures that formed part of the Information Letter. Information Letter 3 of 2013 allowed a 90-day alignment period (from 1 July 2013).

ii. Of concern is that the thematic review found that many binder agreements still do not comply with these regulatory expectations. Some of these agreements were also not compliant with the Binder Regulations, as they do not make provision for the requirements set out in Regulation 6.3 (a) – (t) of the Binder Regulations.

iii. Some binder agreements that were sampled included provision for intermediary functions (specifically the collection of premiums) and provided for the payment ofcommission, administration fees and/or outsourcing fees. It was not always clear what proportion of fees is linked to what particular type of function or activity.

iv. Regulatory action is being taken in instances of non-compliance.

### Governance and oversight of binder agreements

v. While most insurers appear to employ appropriate levels of due diligence prior to commencing business relationships with binder holders, there was significant disparity in the quality and effectiveness of on-going monitoring of existing binder arrangements.

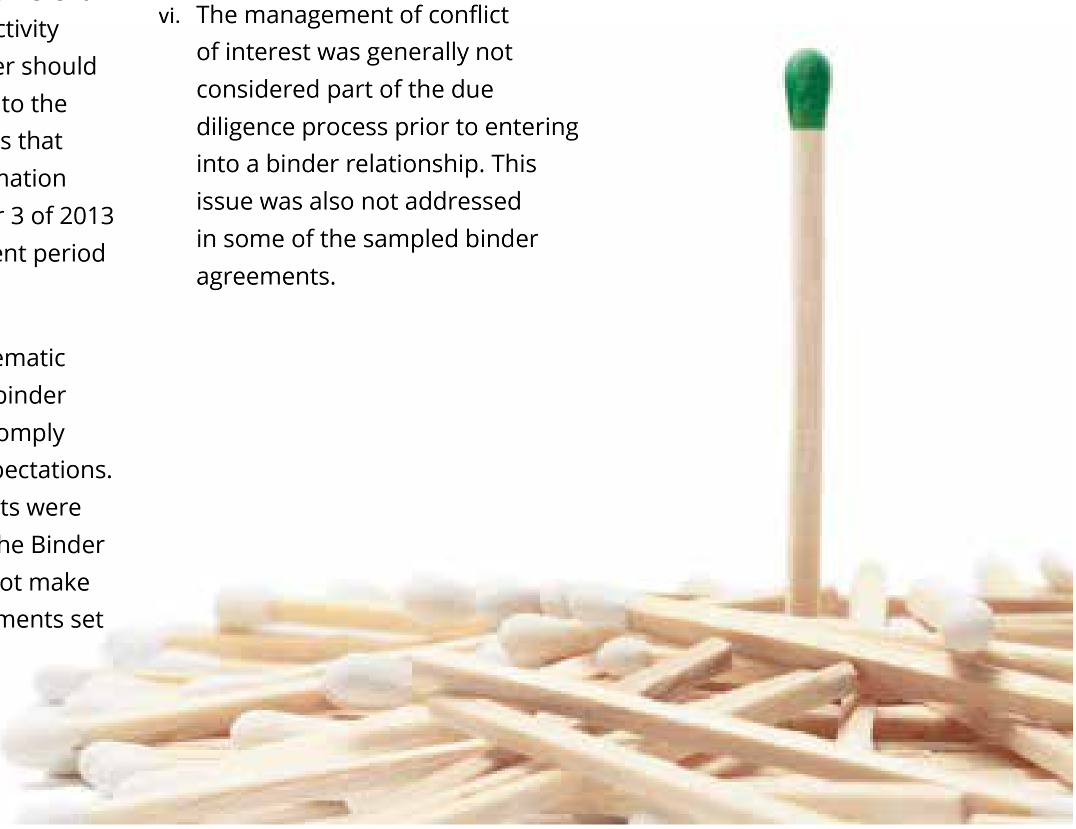
vi. The management of conflict of interest was generally not considered part of the due diligence process prior to entering into a binder relationship. This issue was also not addressed in some of the sampled binder agreements.

### Reporting systems and access to information

vii. There were wide inconsistencies in the manner in which the data required, in terms of binder agreements, is shared by binder holders with insurers, ranging from manual submissions to various automated mechanisms. In many instances, the regulatory requirements relating to sharing of data were not being adhered to in a satisfactory manner.

### Binder fees paid to NMIs

viii. Fees being paid to binder holders ranged from 0% to 100% of gross written premium (GWP). In some cases, insurer costs, and not the actual costs incurred by binderholders, served as a basis for the calculation of fees. In most cases, there was little or no assessment of the actual costs incurred by binder holders in performing the functions in question.



# REGULATION OF CROWDFUNDING in South Africa

Retha Stander

**Senior Manager: Legal and Policy**

Crowdfunding is an umbrella term describing the use of small amounts of money, obtained from a large number of individuals or organisations, to fund a project, a business or personal loan, and other needs through an online web-based platform.

There are different forms of crowdfunding such as:

- Loan-based crowdfunding where people lend money to individuals or businesses in the hope of a financial return in the form of interest payments and a repayment of capital over time. This is also referred to as peer-to-peer lending;
- Investment-based crowdfunding where people invest in debt securities or unlisted shares in new or established business. This is also referred to as equity crowdfunding;
- Rewards-based crowdfunding;
- Donation-based crowdfunding.

The first two categories are referred to as financial return crowdfunding and are particularly relevant to a regulator such as the FSB. In South Africa crowdfunding as a concept is not yet regulated as such.

The International Organization of Securities Commissions (IOSCO), of which South Africa is a member, on 9 July 2015, published a report on SME Financing through Capital Markets, which highlights the challenge to regulators to strike a balance between encouraging crowdfunding and mitigating the risk associated with it, and protecting investors. The FSB will be studying the report and consider the way forward.

However crowdfunding activities may already be subject to existing legislation and regulation depending in which area they are operated. For example the activities may fall within the ambit of-

- The Banks Act, where activities could be seen as deposit-taking;
- Companies Act, where the business in question is a company and activities fall within the definition of public offerings requiring certain disclosure requirements;
- Collective Investment Schemes Control Act, where investments are pooled and invested into securities;
- Financial Advisory and Intermediary Services Act; where the platform provides an intermediary service or advice of some sort relating to a financial product as defined in that Act;
- Financial Markets Act, where the online platform matches investors with issuers, and securities are traded on an over-the counter basis;
- National Credit Regulation Act, where the platform matches lenders with borrowers in order to provide unsecured loans.

A person interested in partaking in crowdfunding activity either by offering it or as an investor is advised to contact the FSB beforehand to establish whether the activity falls within the sphere of regulation as highlighted above as otherwise they may fall foul of the law.

# HOW TO BE A Legal Entity Identifier issuer

Elmarie Hamman
Specialist: Capital Markets

From 7 October 2015, new institutions that wish to become Legal Entity Identifier (LEI) issuers need to be accredited by the Global Legal Entity Identifier Foundation (GLEIF). GLEIF assumed the responsibility for accrediting organisations seeking to become LEI issuers with the conclusion of a Memorandum of Understanding between GLEIF and the LEI Regulatory Oversight Committee (ROC). Prior to that date, the LEI ROC was responsible for endorsing organizations as LEI issuers. Existing LEI issuers, previously endorsed by the LEI ROC, are referred to as 'pre-LOUs'.

The LEI ROC will not accept new applications for endorsement as LEI issuers. Each LEI issuer endorsed by the LEI ROC to date will apply to become GLEIF accredited. They are subject to the same evaluation criteria as any new organization seeking accreditation. Only GLEIF accredited organisations will be authorised to issue LEIs.

Organisations currently operating based on LEI ROC endorsement will continue issuing LEIs while they undergo the GLEIF accreditation process. All LEIs issued remain valid, regardless of whether the issuer succeeds in becoming GLEIF accredited or not. In the event that an organisation currently issuing LEIs should fail to meet the requirements of GLEIF accreditation, the LEIs already issued by that organisation would be transferred to a GLEIF accredited issuer.

Organisations seeking assistance with their application to become a GLEIF accredited LOU should direct their questions regarding the accreditation process by email to accreditation@gleif.org.

The accreditation process established by the GLEIF, which must be successfully completed by organisations seeking to become LEI issuers, is divided into two phases.

1. The first phase of the Accreditation Process requires the organisation seeking to become an LEI issuer, i.e. the Applicant LOU, to create an Accreditation Plan. This should outline the goals, objectives and capabilities of the Applicant LOU, and how it fits into the GLEIF's operational and control environment. After review and approval by the GLEIF, the Applicant LOU is required to sign the Master Agreement. This designates it as being a Candidate LOU and the second phase begins.
2. The second phase requires the Candidate LOU to submit the full set of Accreditation Documentation, as detailed in the Accreditation Checklist, to the GLEIF for review within six months of signing the Master Agreement. GLEIF then has a review period of no longer than three months to determine whether or not the candidate LOU:
   a. Passes and receives its Accreditation Certificate and is allowed to commence offering LEI services; or
   b. Fails and has its Master Agreement terminated and is not allowed to offer LEI services; or
   c. Passes provisionally. In this case, GLEIF provides an explanation of what authority the Candidate LOU now has with respect to offering LEI services and what it must do to receive the Accreditation Certificate.

The requirements that must be met throughout the Accreditation Process are further described in the Accreditation Manual.

**Organisations currently operating based on LEI ROC endorsement will continue issuing LEIs while they undergo the GLEIF accreditation process.**

> *The Legal Entity Identifier (LEI) is a unique 20-character alphanumeric code based on the ISO 17442 standard developed by the International Organization of Standardization, which is assigned to legal entities that are counterparties to financial transactions*

# Background:

In the wake of the 2008 financial crisis, regulators worldwide acknowledged their inability to identify parties to transactions across markets, products, and regions. The Financial Stability Board (FSB), together with the finance ministers and central bank governors represented in the Group of 20 (G20), therefore, advocated developing a universal Legal Entity Identifier (LEI) applicable to any legal entity that engages in financial transactions. The Legal Entity Identifier (LEI) is a unique 20-character alphanumeric code based on the ISO 17442 standard developed by the International Organization of Standardization, which is assigned to legal entities that are counterparties to financial transactions. The LEI code itself is neutral, with no embedded intelligence or country codes which would create unnecessary complexity for users.

In January 2013, the Global LEI System (GLEIS) was launched by the Financial Stability Board in order to, inter alia:

- Meet the G20 objectives of improved transparency, mitigation of systemic risk and protection against market abuse
- Assist regulatory authorities in conducting market surveillance and enforcement, supervision of market participants and resolution activities and in preparing high quality financial data, and to undertake other official functions
- Facilitate OTC derivatives central reporting by market participants to trade repositories
- Support improved risk management, increased operational efficiency, more accurate calculation of exposures, and other needs of the private sector

The GLEIS comprises of a three-tier federated structure made up of:

- An upper-level regulatory oversight body, the Regulatory Oversight Committee (ROC) designed to oversee the system (http://www.leiroc.org/)
- A middle-level Central Operating Unit governed by a foundation, the Global LEI Foundation (GLEIF) that operationally co-ordinates the system
- A lower-level of registrars, called Local Operating Units (LOUs) that assign LEIs

During the interim system of the LEI before the GLEIF was designated as the Central Operating Unit, the ROC assumed certain tasks of operational oversight and coordination of the GLEIS. During this period pre-LOUs were endorsed by the ROC. From 7 October 2015 the interim system ended with the conclusion of a Memorandum of Understanding between the GLEIF and the ROC.

## SOUTH AFRICAN DEVELOPMENTS

- The Financial Services Board serves on the LEI ROC Plenary and Executive Committee.
- Before 7 October 2015 the Financial Services Board acted as a Sponsoring Authority, responsible for the submission of applications by pre-LOUs to the ROC and confirmation to the ROC that all pre-LOU endorsement requirements have been complied with, both at the time of the application and on an on-going basis.
- Strate (Pty) Limited's (Strate) amended application to be endorsed as a pre-Local Operating Unit (LOU) was submitted to the Legal Entity Identifier Regulatory Oversight Committee (ROC) on 19 August 2015. On 18 December 2015 the ROC endorsed Strate as a pre-LOU. Strate is currently in the process to apply for accreditation as a LOU by the Global Legal Entity Identifier Foundation.
- As of the date of this endorsement, all certified codes issued by Strate are globally recognised by the ROC for reporting purposes.

# ENFORCEMENT SANCTIONS

## Pegasus Wealth Management fined R50 000

The Registrar of Collective Investment Schemes (Registrar) referred a case against Pegasus Wealth Management (Pty) Limited (Respondent) to the Enforcement Committee of the FSB. The referral related to a contravention of section 65 of the Collective Investment Schemes Act, 45 of 2002. The Registrar established that, during January 2015, the Respondent solicited investments from two investors in an unapproved foreign collective investment scheme that had not been approved by the Registrar.

The parties agreed on a penalty of R50 000, which was imposed by the Chairperson of the Enforcement Committee on 18 January 2016. In arriving at an appropriate penalty, the Registrar took into account, inter alia, that the contravention was as a result of a bona fide oversight and that the Respondent undertook to rectify the contravention by informing the affected clients regarding the correct position of the relevant fund.

The Respondent expressed regret for the contravention and co-operated with the Registrar to ensure that this matter was brought to finality and the Registrar was not aware of any prejudice caused to the affected clients as a result of the Respondent's actions.

## R10 000 penalty for contravention of FMA

The Enforcement Committee of the Financial Services Board has imposed an administrative penalty of R10 000 each on Mr Trevor Clyde Cokayne and Mr Warren Friedland for contravening Section 80(1)(b) of the Financial Markets Act, No 19 of 2012.

The Directorate of Market Abuse had referred the case against Mr Cokayne to the Enforcement Committee after investigation revealed that, on 12 July 2013, he had created an artificial price for the shares of Micromega Holdings Limited, an entity listed on the JSE.

Cokayne had made a bid and offer, which matched immediately, and the transaction caused the share price to decline to a price of 131 cps (from its prior day closing of 215 cps)– the price at which Cokayne bought the shares, in order to realise the maximum tax benefit. The transaction did not result in a change in the beneficial ownership of the shares bought and created an artificial price for the shares.

About an–hour-and-a-half later in the day, Warren entered into two open-market transactions, with the purpose of increasing Micromega's share price from 131 cps to 213 cps, which also created an artificial price for the shares.

The Enforcement Committee took several mitigating circumstances into account, including that both Mr Cokayne and Warren fully co-operated during the enforcement process and that they accepted responsibility and have shown remorse for their action.

## R15-million penalty imposed for market manipulation

The Enforcement Committee of the FSB has imposed a combined total of R15-million in administrative penalties on four respondents, for contravening Section 75 of the Securities Services Act, No 36 of 2004.

The Directorate of Market Abuse referred the respondents – Jacobus Frederik de Beer, Johannes Jacobus Verster, Mark Howard Weetman and Timotheus Pretorius – to the Enforcement Committee, for their involvement in an improper or manipulative trading practice in respect of the shares of Acc-Ross Holdings Limited. Acc-Ross Holding, which was listed on the JSE, later changed its name to Pinnacle Point Group Limited, also listed on the JSE.

The manipulative trading practice was employed, in a greater or lesser degree, by the four respondents from November 2006 to November 2008.

The Enforcement Committee imposed the following administrative penalties on the respondents: De Beer – R10 million; Verster – R3 million; Weetman – R1 million; and Pretorius – R1 million. The Enforcement Committee considered numerous aggravating and mitigating factors specific to the different respondents and the degree of participation of each.

"It is important that the reliability and integrity of institutions like the JSE should be maintained," the Chairperson of the Enforcement Committee said in the judgement. "The message must go out that contraventions of the sort found by this committee will attract serious consequences."

The respondents were also ordered to pay the costs of the inquiry.

## Discovery penalised for short-term insurance contravention

The Enforcement Committee of the Financial Services Board has levied a penalty of R100 000 against Discovery Insure Limited, following a referral by the Registrar of Short-term Insurance. The referral related to a contravention of section 44 of the Short-term Insurance Act (STIA), 53 of1998.

It was established that, from September 2014 to January 2015, Discovery offered a premium waiver for the month of January 2015 (through its Vitality Drive Program) to members of the public using the Gautrain, if they took up its short-term insurance products before 31 October 2014 , . The premium waiver was viewed by the Registrar as an inducement to take up short-term insurance policies in contravention of section 44 of the STIA.

The Registrar took into account, among other factors, that: the contravention was not intentional, but was a result of Discovery's mis-interpretation of the applicable legislation; and that Discovery expressed regret for its action, admitted the contravention and gave its full co-operation to the Registrar.

The Enforcement Committee is an administrative body that came into operation on 1 November 2008. It was created in terms of Section 10(3) of the Financial Services Board Act, 1990. The Enforcement Committee may impose administrative penalties, compensation orders and cost orders on respondents who are found to have contravened any law administered by the FSB. Copies of all the orders are available on the FSB website at www.fsb.co.za.

## R150 000 fine imposed on errant insurance broker

The Registrar of Financial Services Providers referred a case against Rowe Hooper Insurance and Investment Brokers CC to the Enforcement Committee of the FSB. The referral related to contraventions of section 2 and 8 of the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003, as well as section 7(3) of the Financial Advisory and Intermediary Services Act, 37 of 2002.

The Registrar established that, from November 2012 to June 2014, the respondent kept records of advice pertaining to specific clients, when in fact the advice recorded in the said documents was never given to the clients. The respondent also failed to conduct a suitability analysis, in order to ensure that the said clients obtained appropriate advice prior to taking up insurance policies. Moreover, the respondent conducted financial services business with a person who was not authorised by the Registrar to render financial services.

The parties agreed on a penalty of R150 000, which was imposed by the Chairperson of the Enforcement Committee on 27 October 2015. In arriving at an appropriate penalty, the Registrar took into account, inter alia, that the contravention was a result of a misunderstanding on the part of the Respondent's officer with regard to the application of the relevant legislation. The respondent also did not intend to prejudice clients who had taken insurance policies as a result of its action. It was also taken into account that, when officers of the Respondent became aware of the wrongful conduct, they acted promptly to rectify the non-compliance.

The penalty of R150 000 imposed on the Respondent is inclusive of the profits derived from the wrongful conduct.

## R500 000 fine imposed on stockbroking firm

The Registrar of Securities Services referred a case against Thebe Stockbroking (Pty) Limited to the Enforcement Committee of the FSB. The referral related to the respondent's contravention of Section 21(1)(a) and 21(2)(a) of the Financial Intelligence Centre Act, 38 of 2001.

Thebe Stockbroking, which is an authorised user of the JSE and an accountable institution, as envisaged in the Act, admitted the contravention and agreed to settle the matter. In determining the penalty, the Registrar took into account, amongst other matters, that Thebe Stockbroking:

- made a concerted effort to rectify the non-compliance and has been largely successful in doing so
- willingly disclosed the irregularities to its direct supervisor, i.e. the JSE
- implemented systems to ensure future compliance with the Act at the time of opening client accounts.

The Registrar also took into account that many of the non-compliant accounts were already dormant when the relevant provisions of the Act came into operation and the Enforcement Committee has not made a determination against Thebe Stockbroking previously.

# CONSUMERS, ADVISORS SHOULD prepare now for advice fees

The first phase of the Retail Distribution Review (RDR) will be implemented in early 2017, bringing South Africa a step closer to making direct payment for financial advice a greater reality. The implications of this change will be significant not only for consumers, but also financial advisors, and both need to prepare for the new advice scenario of RDR, says Masthead.

Billed as the biggest change in regulation in the advice world since the introduction of FAIS, RDR will, among other things, put an end to commission earned by financial advisors on investments - starting with lump sum investments. RDR forms part of the Financial Services Board's (FSB) framework that seeks to ensure fair outcomes to customers and tries to minimise potential conflicts between the interests of customers, product providers and advisors.

"It is important that consumers are made aware that advisors will be charging fees in lieu of commission falling away," said Ian Middleton, MD of Masthead. "This will require a mindset change, considering that most consumers don't generally think of commission as payment for advice. There is a perception that advice is given for free. Consumers need to realise that fees are just a different way of paying for what the advisor does for them."

In an RDR environment, consumers are likely to face various ways of charging by advisors. They could be billed an hourly rate for the cost of advice, just as they are billed when they consult a medical professional. Or they could be charged per use, which is effectively a transactional cost for services. Alternatively, in relation to investments, they could be billed a fee that is linked as a percentage to the size of the investment.

"Whichever method of charging is applied, the customer will be responsible to pay. But, they won't

**Ian Middleton**

**Managing Director**
**Masthead**

necessarily have to dig into their pockets to fund the fee," said Middleton. "The RDR proposals cater for a system whereby product providers can collect and pay fees to advisors on behalf of customers in much the same way that commission is currently paid from the product provider to the advisor on the sale of an investment product."

Besides consumers, financial advisors also need to prepare for an RDR environment. The single biggest challenge they face is how to articulate


*Besides consumers, financial advisors also need to prepare for an RDR environment. "The single biggest challenge they face is how to articulate their value proposition to customers and then link this to the right level of fee to charge," said Middleton.*

*"It is important that consumers are made aware that advisors will be charging fees in lieu of commission falling away,"*

their value proposition to customers and then link this to the right level of fee to charge. "If customers recognise the value advisors offer, and see them adding value on an ongoing basis, they will accept that they need to pay a fee and feel comfortable paying it, as they would for other services. If they don't experience value, they will not want to pay."

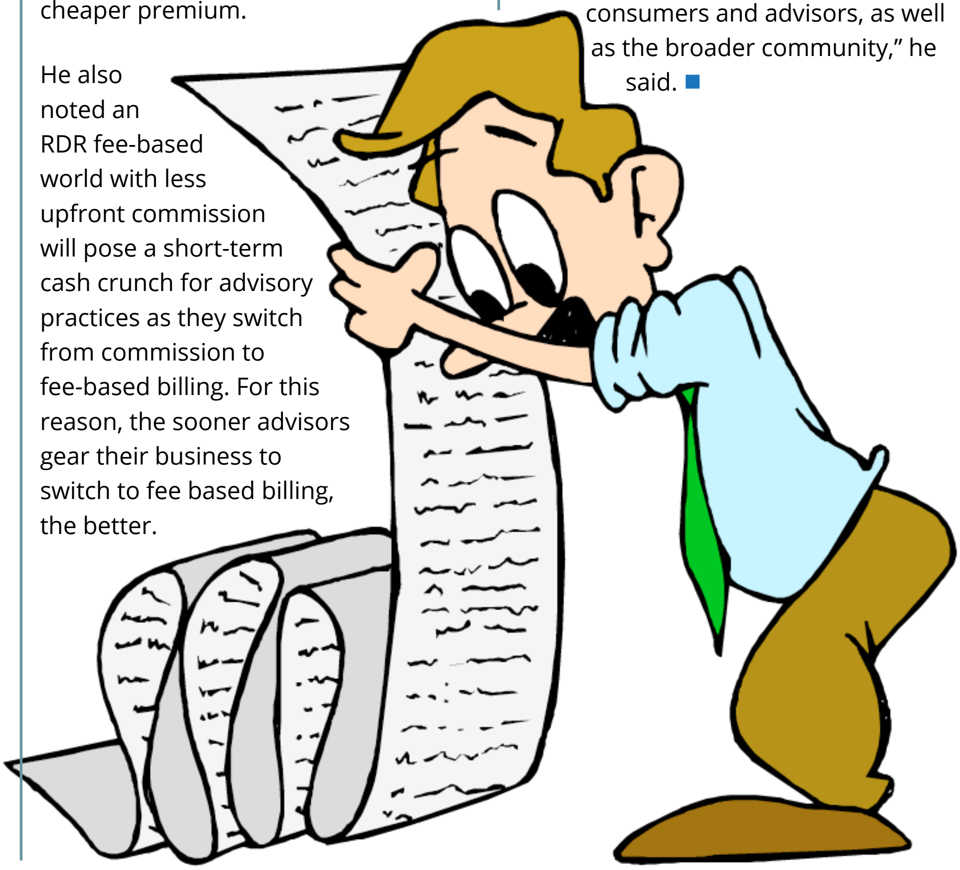
According to Masthead research among independent financial advisors to determine their RDR readiness, less than one in three advisors currently charges fees. Where they do, it's more likely to be in relation to advice on lump sum investments and short-term insurance.

"Of those who don't have a fee structure, a mere 8% say they would be very comfortable to implement a fee charging model," said Middleton. "Some 44% say they have some work to do before they can do so, while 42% say they are 'concerned'. This latter group raises a concern in that if these advisors choose not to implement fees and fall out of the market, the advice pool will notably shrink. This will impact consumers."

He added that another challenge for advisors is knowing where to pitch their fees. Advisors who have a sliding scale for fees on investments typically charge upfront fees of up to 1,5% and ongoing fees of up to 1% of the value of the assets. He said more than half of the advisors feel that fees, whether hourly rates or otherwise, should not be regulated by the FSB, mostly because their practices are too different. Others said the complexity of their customers' needs should determine fees. Some 16% believe that although the FSB should not regulate fees, it should provide guideline charges.

Middleton said further feedback from advisors revealed that 53% of advisors think consumers would pay for advice on risk products, as value is added through the advice given. "Advisors say that customers pay for time, trust and a relationship with their advisor. Those who believe customers would not pay for advice say their clients cannot afford fees and may resort to buying online or using direct marketers because they think they will get a cheaper premium.

He also noted an RDR fee-based world with less upfront commission will pose a short-term cash crunch for advisory practices as they switch from commission to fee-based billing. For this reason, the sooner advisors gear their business to switch to fee based billing, the better.



**Advisors who have a sliding scale for fees on investments typically charge upfront fees of up to 1,5% and ongoing fees of up to 1% of the value of the assets.**

Currently 57% of advisors earn more than half their income from new business. For 55% of advisors, more than half their new business income is based on upfront commission.

"South Africa is a highly under-insured, under-saved nation. It is imperative to have the right environment that ensures ease of access to financial advice at an affordable price. It is also important that a balance is achieved to ensure financial advisory practices remain viable businesses and the industry does not appear unattractive to new and younger entrants. In a market of ageing advisors, where the majority are over age 40, it is vital to attract younger candidates to participate in a succession plan.

"If we get the balance right, a win-win situation can be achieved for consumers and advisors, as well as the broader community," he said. ■

PROFILE

# ONE ON ONE

## *with* Manasse Malimabe

### *HoD FOR FAIS COMPLIANCE*

# ONE ON ONE *with* Manasse Malimabe

## *HoD FOR FAIS COMPLIANCE*

**What is the role of the FAIS Compliance Department?**

The role of the FAIS Compliance Department is to deal with complaints regarding alleged contravention of the FAIS Act and taking regulatory action (in the form of suspension or withdrawal) against non-compliance with the provisions of the FAIS Act by authorised financial services providers.

**Can you give us examples of the type of complaints your department deals with?**

A number of the complaints we receive relate mainly to persons or entities that render financial services without a licence.

**If you are approached by someone offering investment in a product you have not heard of, how do you establish if you should invest?**

You have to check with the FSB whether or not a person is authorised as a financial services provider or a representative of an authorised financial services provider and which financial products he or she is authorised to offer. You can do this by either phoning our call centre or doing a search on our website.

**How do you go about complaining to the FAIS Compliance department?**

You can phone our call centre, complete an online complaint form or simply send a complaint to FAISComplaints@fsb.co.za.

**What is the process followed by the department once a complaint is received?**

As soon as a complaint is received it gets registered, acknowledged and allocated to an analyst for investigation.

**How can I report an entity to the FSB without my identity being compromised?**

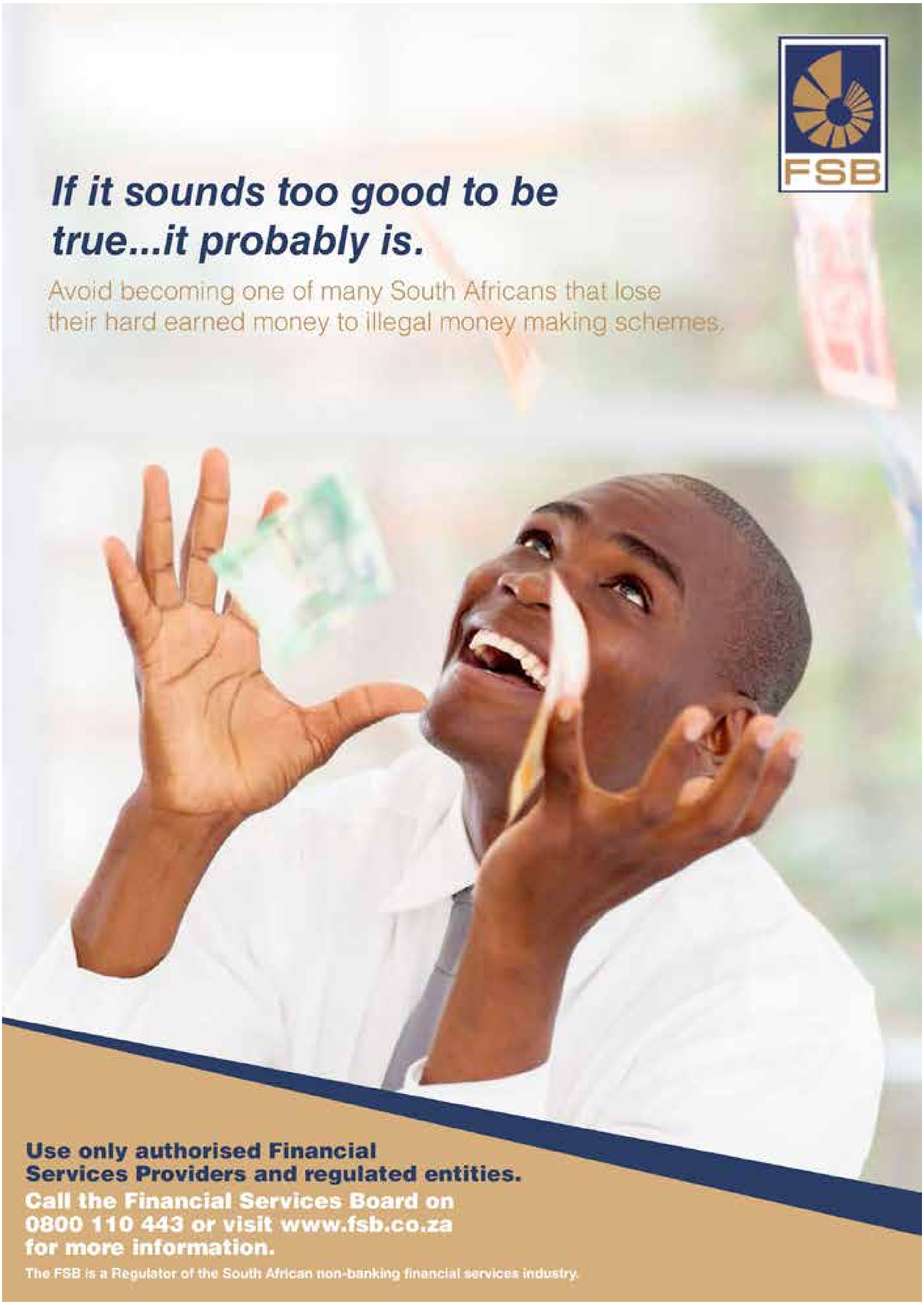
All whistle-blowers are protected and there are internal mechanisms to ensure that this is always the case.

**At what stage is a licence suspended or withdrawn?**

A licence is suspended for rectifiable contraventions and is withdrawn for serious contraventions, i.e. a lack of honesty and integrity or failure to comply with the conditions for lifting a suspension during the suspension period.

**What effect does suspension have on the FSP?**

The effect of suspension is that one cannot render financial services during the period of suspension. The suspension is lifted when the licensee has met all the conditions stipulated for the lifting of a suspension. ■


FSB
If it sounds too good to be true...it probably is.
Avoid becoming one of many South Africans that lose their hard earned money to illegal money making schemes.
Use only authorised Financial Services Providers and regulated entities.
Call the Financial Services Board on 0800 110 443 or visit www.fsb.co.za for more information.
The FSB is a Regulator of the South African non-banking financial services industry.

# WHAT IS FINANCIAL INCLUSION and why does it matter?

by **Roelof Goosen,** Independent Advisor, Financial Inclusion

Whilst ensuring financial inclusion requires specific focus and a sustained and consistent approach, in order to optimise the beneficial effect of the use of financial services in society, it should be seen as part of the broader developmental agenda in the country. Increased utilisation of financial services is a key enabler in poverty reduction and addressing inequalities in South African society. The policy statements and policy implementation approach included in this document should be seen against this wider background.

Financial inclusion is defined as the responsible provisioning to and use of regulated financial services by those segments of society where financial services are needed, but not provided or inadequately provided. It is a key element in the economic development toolkit of the country, just as financial exclusion is a significant developmental constraint.

Given the developmental objective of financial inclusion, it is clear that financial inclusion is not an end in itself. At an individual and household level, it is a key enabler in the improvement of the quality of life of households and individuals - and hence in the reduction of inequality in society.

At the small enterprise level, the appropriate use of financial services increases the financial viability of an enterprise and therefore improves the economic environment of the communities in which those enterprises operate. Responsible financial inclusion is, therefore, an important enabler in sustainable economic empowerment and development. In recent years, financial inclusion has gained recognition as one of the main pillars in the global development agenda. During the last 10 years, the number of financially excluded adults has decreased from approximately 2.5 billion to 2 billion, but this figure is still unacceptably high.

**The excluded rely on the cash economy and consequently on less efficient, inadequate and higher-risk financial services.**

*Financial inclusion is defined as the responsible provisioning to and use of regulated financial services by those segments of society where financial services are needed but not provided, or are inadequately provided. It is a key element in the economic development toolkit of the country, just as financial exclusion is a significant developmental constraint.*

The financially excluded do not have a savings account, do not receive credit from formal credit providers, do not have any type of insurance and rarely make or receive payments through formal financial institutions, thereby increasing their financial vulnerability. This exclusion exacerbates poverty, and contributes to continuing income inequality and slower economic growth. The excluded rely on the cash economy and consequently on less efficient, inadequate and higher-risk financial services. Appropriate access to financial services can empower individuals, particularly those in the lower income bracket, allowing them to better integrate into the economy, actively engage in their own development and protect themselves against economic shock. It can be used as a vital tool to improve the ability to escape from poverty. For example, accumulating savings increases the ability to send children to school and to keep them there, which in itself can start to break the generational cycle of poverty.

Any policy formulation and launch of financial inclusion initiatives must be preceded by an assessment of the state of financial inclusion in the country, whilst the results of policy measures and the effect of initiatives need to be monitored, in order to assess the effect of financial inclusion on the state. Monitoring and assessing financial inclusion is typically done in three dimensions, namely access to, use of and the quality of financial service provisioning. Access refers to the ease with which consumers can obtain financial services, and includes physical and electronic reach of service provisioning and affordability of financial services. The usage dimension refers to both the uptake of appropriate products and services, as well as how the acquired services are used after initial acquisition. Quality refers to matters relating to the way in which financial service provisioning takes place and includes consumer financial literacy and capability as well as market conduct issues. Monitoring of financial inclusion requires a number of indicators to adequately cover the most important aspects of the three dimensions mentioned.

Of increasing importance in the crafting of financial inclusion policies, and monitoring the effect of such policies and as the initiatives based on the policies, is assessing the socio-economic impact of the policies and initiatives. Since financial inclusion is an enabler, it is important that the effect of improved levels of financial inclusion be assessed, so as to determine whether or not the impact is sufficiently beneficial and achieves the desired outcomes. Indicators used to measure access, use and quality measure the direct effect of financial inclusion policies and initiatives and are reasonably well-established, both locally and internationally; but these indicators do not provide a measure of the actual impact on end-users of financial services. The methodology for impact assessment will be further developed and it is the intention of Government to strengthen this work.

The South African context

The benefits of improved financial inclusion speak directly to the national need to address remaining historical imbalances in terms of formal economy participation, and to enabling increased economic development. During the first twenty-one years of its democracy, South Africa has undertaken numerous reforms necessary to create an economy in which all South Africans can participate fully, and so derive benefit from and contribute to.

South Africa has a well-developed and well-regulated financial services sector, with a wide range of financial products and services, typically offered and supported through a national service network consisting of an increasing range of different types of points of service. This provides a solid base for sustainably and beneficially extending financial inclusion. Over the past two decades, the sector has developed in line with the changing domestic

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and international environment, and it remains a key contributor and enabler in the South African economy. The regulatory structures aimed at improved stability and efficiency of the financial sector, have been developed and strengthened to meet international standards and to serve the South African market better. The sector was able to weather the 2007 global financial crisis better than many other countries - particularly some developed countries - and is viewed as a key and able partner in taking financial inclusion forward in South Africa.

Progress has been made in improving retail financial inclusion in South Africa, resulting in 80% of South African adults using some form of financial services from a regulated financial service provider in 2014 - up from 55% in 2005. Access to credit at an individual level is generally not a constraint, with more than 50% of South African adults having access to some type of credit, although inappropriate (unproductive) use of credit remains an issue. The availability and use of appropriate insurance and savings products are at somewhat lower levels, but there is market focus aimed at improving this situation. Physical and digital access to financial services have improved significantly over the last decade, although there has been a slow-down in the rate of expansion in physical "main street" branches, with only limited use of non-traditional infrastructure - for example, the use of retailer branch networks to offer and support financial services. The provision of financial services to small enterprises is largely based on the same physical and digital footprint that is used for retail financial services. Although larger established SMEs have sufficient access to and use a range of appropriate financial services, small enterprises, and especially informal enterprises, lack sufficient access to responsible credit provisioning,

needs-driven insurance products and affordable transactional products and payment services.

The South African financial inclusion scenario compares favourably with other developing countries, but this masks some of the underlying issues in the South African financial inclusion landscape. Specifically, the purpose and level of retail use in some product categories is sub-optimal and has not led to a positive and sustainable impact for either the user of the services or the providers of the services. Examples of this phenomenon are the negative impact of the over-use of credit (over-indebtedness) and the lack of productive use of newly-opened transactional accounts. The uneven level of financial service provisioning and use by small enterprises, already mentioned, is a constraint on the development of this sector and requires a comprehensive approach to improve the situation. South Africa's financial infrastructure, specifically credit, payments and support infrastructure, is well-developed, but needs to be expanded to meet the requirements of the un-served and the under-served. It is the intention of Government to address these issues in conjunction with the major

*The benefits of improved financial inclusion speak directly to the national needs to address the remaining historical imbalances in formal economy participation in and to enabling increased economic development.*

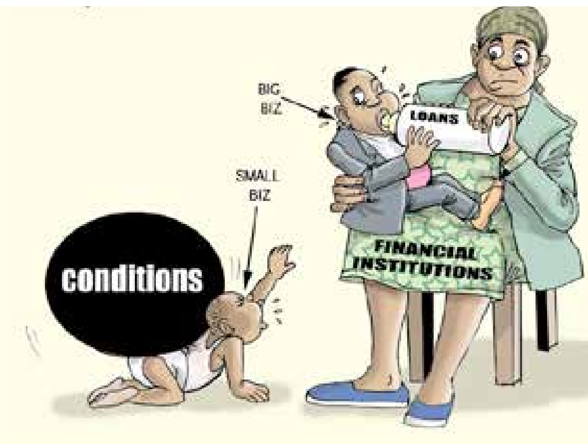
stakeholders in the financial services industry.

Remittances are often the first touch-point in the use of financial services and, as such, provide an on-ramp to further financial inclusion. Both domestic and cross-border remittances are widely used in South Africa. However, many of the current remittance flows go through the informal sector, especially cross-border remittances. This is concerning, from both a consumer protection perspective and in terms of the integrity of the financial system, whilst also not providing the desired financial inclusion on-ramp. It is the intention of Government to develop this market, with a view to achieving greater formalisation and greater efficiency.

In trying to address small enterprise access, especially to responsible financing, and to assist in the development of this market, government has created development financial institutions (DFIs) and other support agencies, such as the Small

**Remittances are often the first touch point in the use of financial services and, as such, provide an on-ramp to further financial inclusion.**

Enterprise Finance Agency, the Small Enterprise Development Agency, the National Empowerment Fund and the National Youth Development Agency. These DFIs and agencies offer products and services that include wholesale and retail financing, credit guarantees and other ancillary services (such as business development services) and the implementation of special sector schemes for specific industries (for example small agricultural development). However, the problem of inadequate infrastructure, lack of appropriate skills, governance issues and operational inefficiencies limit the impact that these DFIs and agencies have on the development of small enterprises. From a financial service provisioning perspective, it is the intention of Government to improve the situation for small enterprise financial services providers, including DFIs, by improving the credit infrastructure in the country. This broad initiative will be undertaken by engaging with the industry and other stakeholders, the objective being to improve service offerings to small enterprises. The intention is that improvement of the financial infrastructure will enable private sector service providers to significantly extend their services to smaller enterprises, thereby enabling DFIs to focus on developmental provisioning, rather than direct service provisioning.




The high level of market concentration in the provision of financial services in the country remains an issue, particularly in the banking sector, where the four big banks hold more than 80% market share, in terms of both assets and retail deposits. This is a concern, from a financial inclusion perspective, since more players in the market could lead to more appropriate products and services, a lower cost-to-user and increased market penetration, which would improve the level and sustainability of financial inclusion. Government has, over the past few years, introduced some legislation aimed at addressing this problem, such as the Co-operative Banks Act. However these initiatives have had little effect on competition or the establishment of alternative forms of financial service provisioning. There is, therefore, still a need for greater competition and for additional types of service providers to meet specific sectorial needs.

Consumer protection has been enhanced through a number of regulatory initiatives, including the introduction of the Financial Advisory and Intermediaries Services Act (2002), the National Credit Act (2005), the Consumer Protection Act (2008) and the gradual introduction of the Treating Customers Fairly (TCF) initiative. TCF encourages financial services providers to re-evaluate their company culture and to foster the attitude of treating customers fairly. It is hoped that the initiative will lead to better outcomes for both consumers and financial services providers. A major step forward was the publication of the Market Conduct Policy Framework, in 2014, with the objective of setting out the overall policy for market conduct regulation in the financial sector.

Even with these wide-ranging measures in place (developed to improve market conduct), market protection measures do not always take the low income market into account adequately. From a financial inclusion perspective, it is therefore important that market conduct policies and the framework explicitly address the needs of low income earners. Of prime importance is the promotion of financial literacy and capability, since informed and financially aware consumers will assist in guarding against market abuse and inappropriate use of financial services. ■

*Mr Roelof Goosen is a former director for financial inclusion at the National Treasury.*

# SOUTH AFRICAN financial inclusion levels stable

Levels of financial inclusion in South Africa remain stable, at 87%, despite the challenging macro-economic environment in the country, the 2015 FinScope survey has shown. The FinScope survey, which is said to be the source of financial inclusion data in South Africa and beyond, went beyond access to financial services in terms of its scope, as it also explored the extent of usage and quality of financial inclusion.

"The quality of financial inclusion should mean that there is a reasonable expectation for individuals to migrate out of poverty through effective use of financial products, coupled with a lower probability of those that are financially included slipping into poverty," the report states.

The 2015 SA FinScope survey was based on a nationally representative sample of 5000 adults who are 16 years or older. It went beyond measuring and tracking access to financial services, in order to look into the quality of financial inclusion by unpacking the benefits derived from the use of financial products and services.

About 31.2 million (84%) adults are formally served, that is, they have a bank account and use other formal non-banking products/services, compared to 80% in 2014. While overall inclusion figures have not changed substantially (compared to 86% in 2014), the make-up of inclusion in terms of product use has changed. The percentage of the population using banking services has increased from 75% in 2014 to 77% in 2015, while the percentage of adults relying exclusively on informal mechanisms to manage their money declined from 6%

Lesego Mashigo

**Manager: Stakeholder Relations and Media**

in 2014 to 3.4% in 2015. Consequently, there was also a marginal decrease in the excluded population, i.e. those who do not use financial products to manage their finances, as they either save at home or borrow from family and friends: from 14 % in 2014 to 13% in 2015.

The quality of financial inclusion was measured using the Quality of Inclusion Measure indicator (Q-FIM), which addresses:

i. the ability to use a transactional account to purchase goods and services

ii. use of a savings account to preserve wealth

iii. access to credit to increase productive capacity or improve quality of life

iv. use of insurance services as a protection against unforeseen events and risks.

Q-FIM illustrates that high levels of inclusion do not necessarily mean that people are benefitting from the financial products that they have; for example, 50% of financially included adults are 'thinly served'. The high level of thinly served adults amongst the financially included population is driven by low usage of digital payments. For example, only 13.7 million (37%) adults use digital payments on a monthly basis, of which 63% use traditional brick-and-mortar branches to pay bills, send remittances or make transfers. They do not make the best use of the transactional products they have to save on transactional cost, time, transport cost and queuing time, which means that this benefit (improving quality of life) is not enjoyed.

Similarly, low financial product optimisation is driven by a lack of product knowledge and a lack of innovative products that meet consumer needs. For example, FinScope shows that 5.5 million adults have two or more funeral cover policies from different providers. Innovative products and product consolidation of funeral cover policies could greatly increase the benefits received, and possibly reduce the monthly premiums – thus resulting in a well-balanced portfolio of products.

Shockingly, 56% of salaried adults do not have a retirement financial product. This places a burden on families and the state to provide for them when they are past working age. Making old-age/ retirement provisions increases the quality life of the family by preserving wealth.

Therefore Q-FIM seeks to find ways that consumers can maximise the utility and economic benefits of financial products they currently hold, leading to a shift from being thinly served to being adequately served.

According to the survey, 18.5 million people are insured; however: only 6.6million people have non-funeral insurance; 5.5 million people have two or more funeral cover products. A drop in life insurance products is evident in the 18 to 29 year old category: from 24% in 2014 to 15% in 2015; and among those earning between R1000 and R2999 per month. At least 13.7 million people have considered cancelling an insurance and investment policy, in order to pay back money that they have borrowed. ■

**The percentage of the population using banking services has increased from 75% in 2014 to 77% in 2015, while the percentage of adults relying exclusively on informal mechanisms to manage their money declined from 6% in 2014 to 3.4% in 2015. Consequently, there was also a marginal decrease in the excluded population, i.e. those who do not use financial products to manage their finances, as they either save at home or borrow from family and friends: from 14 % in 2014 to 13% in 2015.**

# DEEPENING THE GLOBAL INFLUENCE of African capital markets

Lesego Mashigo

Manager: Stakeholder Relations and Media

There is a need to deepen capital markets in African countries and ensure that these become more influential in shaping global regulatory decisions, according to Mr Bert Chanetsa, FSB Deputy Executive Officer for Investment Institutions.

Mr Chanetsa recently addressed stock exchange representatives, bankers, stockbrokers, fellow regulators and other role players in capital markets in Africa, at the 19th Annual African Securities Exchange Association (ASEA) Conference in Johannesburg.

*Mr Oscar N. Onyema, CEO of the Nigerian Stock Exchange and President of ASEA; Mr Mcebisi Hubert Jonas, Deputy Minister of Finance of South Africa; and Ms Nicky Newton-King, CEO, JSE, South Africa.*

*Conference delegates included bankers, stockbrokers, fellow regulators and other role players in the capital markets sector in Africa.*

From the perspective of the regulator in South Africa, Mr Chanetsa said that a pre-requisite for deepening such markets is, "an environment wherein companies are comfortable to yield aspects of their autonomy in readiness for capital raising, and investors (local and international) are comfortable to forego instant gratification and invest for the medium-to-long-term in assets (shares and debt instruments) on a reliable platform."

According to Chanetsa, the immediate mandate of the regulator in South Africa is to ensure that the markets are efficient and that the infrastructure provided not only creates value for money, but is also "beyond reproach".

He emphasised that it is important that appropriate standards and best practice is followed in terms of market infrastructure, adding that another

*Investors can only be encouraged to invest if they feel that the market infrastructure is above reproach and that it follows best practice and standards and that the markets are efficient and have the highest levels of integrity.*

part of the regulator's mandate is investor protection.

Investors can only be encouraged to invest if they feel that the market infrastructure is above reproach and that it follows best practice and standards and that the markets are efficient and have the highest levels of integrity.

In providing the regulator's perspective, Mr Chanetsa shared his global experiences with the audience - most notably his involvement with the International Organisation of Securities Commissions (IOSCO), where he is an elected board member and First Vice-Chair of the organisation's Growth and Emerging Markets Committee, and the Financial Stability Board of the G20.

"There is a need to demonstrate commitment to best practice which ensures market integrity and efficiency, and investor protection. One way of doing this is by taking up membership of and remaining in good standing with IOSCO, which is internationally recognised as the standard-setter for capital markets and securities regulation."

Mr Chanetsa mentioned that restrictions often encountered in the context of deepening capital markets in Africa and their influence globally, include restrictions on ownership, especially foreign ownership and exchange control (including restriction of repatriation of capital and remittances).

At least 24 securities exchanges from all over Africa were represented at this year's conference, which was hosted by the JSE. It was guided by the theme "Africa Evermore" and was aimed at extending "the narrative of Africa's promising economic potential".

"We are all aware of the emerging narrative of Africa's economic rise. The continent is offering investors investment and growth opportunities that would have been impossible to conceive of a decade ago," said Nicky Newton King, CEO of the JSE, while making opening remarks at the event.

*Mr Bert Chanetsa, Deputy Executive Officer, Financial Services Board (FSB) of South Africa; Ms Donna Oosthuyse, Director: Capital Markets, JSE, South Africa; and Dr Nkosana Moyo, Chairman of the Mandela Institute for Development Studies (MINDS). They were all part of the impressive line-up of speakers at the conference.*

*CEOs and heads of the 24 securities exchanges from all over Africa were represented at the conference.*

"Africa needs a solid capital markets ecosystem in order to attract investment and unlock the potential that exists on the continent," she said.

**Africa needs a solid capital markets ecosystem in order to attract investment and unlock the potential that exists on the continent**

Other topics discussed during the two-day conference included the question of whether or not increasing liquidity and transparency is a pipe-dream for the African continent and also how the economic health of African countries mobilise or jeopardise the capital markets value.

This was all in an effort to find ways to improve Africa's capital markets for future growth and also to enable Africa, especially its capital markets, to compete on the global stage. ■

# FSB PARTICIPATES IN KwaZulu-Natal speech contest

Lesego Mashigo

Manager: Stakeholder Relations and Media

*At the same time it promotes financial literacy in schools and creates awareness of consumer rights and available support, integrating theory and practice as an important principle of the National Curriculum Statement.*

*Hundreds of students filled the Port Shepstone civic centre hall to cheer their peers.*

The Consumer Education Department participated in the 20th KwaZulu-Natal Talk Money Contest in Port Shepstone on 23 October 2015. The competition is in its 20th year since inception and was initially intended to address the general public's lack of knowledge about financial products and to start the financial education of children while they are still at school. This year it was extended to 1 500 learners in schools from all KwaZulu-Natal education districts.

"The standard has been increasing dramatically over the past five years and we are very impressed with the quality of work done by the learners, their teachers and subject advisors," said Lyndwill Clarke, Head, Consumer Education, who was the chief adjudicator at the competition.

He also announced that the Financial Services Board will replicate the competition in Gauteng in 2016, in partnership with the Gauteng Department of Education.

Addressing the hundreds of students who filled the civic centre hall to cheer their peers, Clarke praised the finalists, saying that their participation would encourage them to make informed financial decisions.

"When you listen to them, you will realise that some of the things they speak about in their speeches were not learnt in the classroom - they had to go out and research," he commented, adding that doing research is important when making financial decisions.

The competition has been designed to encourage the consideration of careers in finance and in financial planning and entrepreneurship in particular. At the same time, it promotes financial literacy in schools and creates awareness of consumer rights and available support, integrating theory and practice as an important principle

*KZNFLA Trust Chair, Artwell Hlengwa, cutting the 20th anniversary cake, alongside the other dignitaries who attended the event.*

of the National Curriculum Statement. "The shortage of certified financial planners is of great concern. No wonder so many people do spend their money properly," said KZNFLA Trust Chair, Artwell Hlengwa.

A five-minute speech earned the finalists in the contest valuable prizes. With a speech titled, 'I wanna make my own money, my own way', the overall winner, Matthew van der Meer, from Glenwood High, walked away with a bursary to study financial planning from the Financial Planning Institute, as well as a laptop and a data projector for his school. The runner-up, Estcourt High School learner, Siphelele Mkhize, won a bursary to study a BCom degree, sponsored by Richfield Graduate Institute of Technology. Asanda Cele (Mthusi High School) finished in third place.

The top three, as well as the other nine district finalist also received tablets and goodie bags from the various KZNFLA partners, including the FSB, as well a data projector each for their schools.

Clarke adjudicated the competition, alongside: Godfrey Nti, CEO, Financial Planning Institute; Prem Govender, SA Savings Institute; Sithembiso Tshabalala, KZN Department of Education; and Sandra Dunn, INSETA.■

*The chief adjudicator, Lyndwill Clarke and the rest of his team deliberating on the winners.*

*The runner-up, Estcourt High School learner, Siphelele Mkhize, being congratulated by Artwell Hlengwa. In the background are the remaining finalists and their teachers.*


*Lyndwill Clarke and KZNFLA Trust Chair, Artwell Hlengwa congratulate Matthew van der Meer, the overall winner of the contest.*

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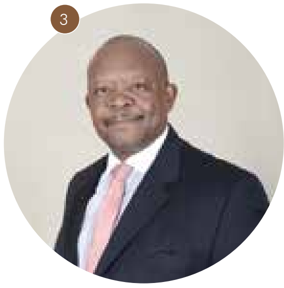
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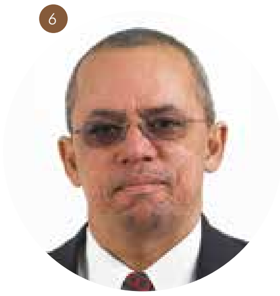
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# EXCO MEMBERS

(1) Adv. Dube Tshidi: FSB Executive Officer (2) Ms Rosemary Hunter: DEO Pensions
(3) Mr Bert Chanetsa: DEO Capital Markets and DMA (4) Mr Jonathan Dixon: DEO Insurance
(5) Ms Tshifhiwa Ramuthaga: Chief Information Officer (6) Mr Jurgen Boyd: DEO CIS
(7) Mr Marius du Toit: Chief Actuary (8) Ms Caroline da Silva: DEO FAIS

## VISION

The FSB's vision is to promote and maintain a sound financial investment environment in South Africa.

## MISSION

The FSB's mission is to promote the:

- fair treatment of consumers of financial services and products;
- financial soundness of financial institutions;
- systemic stability of financial services industries; and
- the integrity of financial markets and institutions.

## VALUES

At the FSB, we will act professionally at all times in all that we say and do. To this end, we undertake to:

- demonstrate the highest level of technical competence;
- conduct all our business at the highest level of confidence;
- collaborate effectively as team members to deliver effective services;
- enhance stakeholder synergy through collaboration;
- apply the regulatory framework in a consistent and fair manner; and
- treat all people with respect and empathy.