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## KPMG in South Africa

*Regulatory Updates for the week ended 29 March, 2018*

### FinWatch – A Weekly Newsletter

Find the latest edition of **FinWatch** which provides a gist of all regulatory developments impacting the financial services industry in South Africa.

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## Regulatory Developments

### Insurance

#### **Publication for comment of the raft amendments to the Regulations to be made in terms of the Long-term Insurance and Short-term Insurance Act of 1998**

The draft amendments to the Regulations aim to:

align the Regulations (specifically terminology) with the Insurance Act, 2017 as enacted on 18 January 2018;

further strengthen policyholder protection by providing for more robust legislative requirements pertaining to the collection of premiums by intermediaries; and

amend the binder regulations to provide for certain procurement and transformation requirements. [NT](#)

#### **Life insurers block dishonest and fraudulent claims worth more than 1 billion ZAR**

Claims fraud statistics released by the Association for Savings and Investment South Africa (ASISA) highlighted that the number of irregular claims detected in 2016 more than tripled to 13,488 from 4,381 claims in 2015. The value of the thwarted fraudulent and dishonest claims jumped from 870.7 million ZAR in 2015 to 1.03 billion ZAR in 2016. However the high detection rate suggests that insurance companies have been successful able to implement improved measures to detect instances of fraud and dishonesty. Please see the Inside Edge below for a summary of the statistics. [ASISA](#)

## Others

### **Financial Sector Regulation Act in effect**

The Financial Sector Regulation Act has come into effect. The Act aims to put a twin peaks model of financial sector regulation in place in South Africa. The twin peaks model will see the Financial Sector Conduct Authority overseeing market conduct while the Prudential Authority will take responsibility for prudential regulation. [Sabinet](#)

### **Publication for comment on the draft Foreign Member Funds (FMF) Framework**

The proposed FMF framework aims to create a favourable regulatory environment that will facilitate the flow of foreign capital through South Africa and thereby make it attractive for foreign funds to be managed and invested into Africa and beyond through South Africa. The FMFs will be piloted through the collective investment structure. [Treasury](#)

### **Determinations in terms of section 291 of the Financial Sector Regulation Act, 2017**

The Minister of Finance determined that until 31 March 2021, the functions of the Prudential Authority and the Financial Sector Conduct Authority in relation to medical schemes would be exercised by the Council for Medical Schemes. [SARB](#)

### **SARB to bring payment system in line with fintech innovation**

According to the South African Reserve Bank (SARB) Vision 2025 strategy, South Africa's National Payments System will be overhauled in the next few years to accommodate the growing number of financial technology innovations and increase access to services for end users. Promotion of financial inclusion through mobile transactions is also a prominent feature in the policy document. [Fin24](#)

## Other African countries

### **Submission of statutory returns through ODCS (Mauritius)**

All licensed insurers are required under the law to submit their statutory filings via the FSC Online Data Capture System (ODCS) for the financial year ending December 31, 2017. However licensees are no longer required to submit a hard copy of the statutory returns. [FSC](#)

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## Market Developments

### International

#### **Record of the Financial Policy Committee meeting (UK)**

At its meeting on 12 March 2018, the Financial Policy Committee (FPC):

- Set the UK countercyclical capital buffer (CCyB) rate at 1%, unchanged from November;
- Reviewed progress on the checklist that it published in November, of actions that would mitigate risks of disruption associated with Brexit to important financial services used by households and businesses;
- Reviewed the financial stability risks from crypto-assets. It recognised the potential benefits of the technologies underlying crypto-assets and of their potential to create a more distributed and diverse payments system;
- Agreed to the 2018 stress test scenario being the same as that used in 2017, which would allow the Bank to isolate, as far as possible, the impact on the stress test results of the new accounting standard which came into effect on 1 January 2018 (International Financial Reporting Standard 9, or IFRS 9); and
- Agreed to the hurdle rates for the 2018 stress test evolving from those used in earlier years. [PRA](#)

#### **FCA announces changes to advice on pension transfers (UK)**

The Financial Conduct Authority (FCA) published new rules on pension transfer advice and is seeking views on additional changes, including adviser charging structures. The new rules and areas for discussion aim to improve the quality of pension transfer advice to help consumers make informed decisions for their individual circumstances. The new rules include requiring transfer advice to be provided as a personal recommendation that takes account of a consumer's individual circumstances. They also replace the current transfer value analysis with a requirement to undertake a personalised analysis of the consumer's

options and a comparison to show the value of the benefits being given up. [FCA](#)

**Proposed guidance on financial crime systems and controls: insider dealing and market manipulation (UK)**

FCA is consulting on changes to the Financial Crime Guide for firms, proposing to add a chapter on insider dealing and market manipulation and make miscellaneous changes as a result of recent regulatory changes to ensure the guide remains up to date. [FCA](#)

**RTGS Renewal Proof of Concept: Supporting DLT Settlement Models (UK)**

The Bank of England (BoE) is undertaking a Proof of Concept (PoC) to understand how a renewed RTGS service could be capable of supporting settlement in systems operating on innovative payment technologies, such as those built on DLT. The Bank is partnering with a range of firms developing payment arrangements using innovative technologies: Baton Systems, Clearmatics Technologies Ltd, R3 and Token. These firms are engaging with the PoC in a range of ways. The inclusion of multiple firms in the PoC will give broader insight into the range of functionality the BoE might need to offer to support this sector. [BoE](#)

**Industry funding update: ASIC publishes indicative levies for 2017-18 (Australia)**

Ahead of issuing final industry funding invoices in January 2019, ASIC published estimates of what regulated sectors will pay. The indicative levies published are based on ASIC's budgeted regulatory costs outlined in ASIC's draft Cost Recovery Implementation Statement (CRIS). The indicative levies provided remain an estimate and the amounts are likely to change when ASIC's actual regulatory costs are known in November. [ASIC](#)

**Insurance company pays 43,200 AUD in penalties for misleading car insurance advertising (Australia)**

ASIC was concerned that the advertisements gave consumers the impression that the insurance company would replace their car with a new one if the car was a total loss. However, important additional conditions applied in order to qualify for this benefit such as the car being manufactured after 2014 and insured exclusively with the company since purchase. The advertisements did not, in ASIC's view, adequately disclose or explain that these additional conditions applied. The advertisements included a disclaimer, but ASIC was concerned that this was insufficient to effectively qualify the predominant message of the advertising. [ASIC](#)

**EBA published an assessment of the current credit risk mitigation framework (International)**

The European Banking Authority (EBA) published a Report, which assesses the current Credit Risk Mitigation (CRM) framework, as part of its work on the review of the IRB approach. This Report is part of the 4th and last phase of the EBA's roadmap on the IRB approach, which also includes a review of supervisory practices, a harmonised definition of default and clarifications on modelling approaches to be used by institutions. [Press Release / Document](#)

**Mitigating systemic risk through Solvency II: EIOPA publishes the second paper of a series on systemic risk and macroprudential policy in the insurance sector (International)**

The European Insurance and Occupational Pensions Authority (EIOPA) published the second in a series of papers with the aim of contributing to the debate on systemic risk and macroprudential policy. Until now, the debate has mainly focused on the banking sector due to its prominent role in the recent financial crisis. Through this series of papers, EIOPA will ensure that any further extension of the debate to the insurance sector fully reflects the industry's specific nature. [Press Release](#)

**Commission puts in place first EU counter-measures on listed non-cooperative tax jurisdictions (International)**

The European Commission delivered on its pledge to ensure that the EU's common EU list of non-cooperative tax jurisdictions is backed up by effective countermeasures. [Press Release](#)

**ESMA clarifies MIFIR quoting obligations for systematic internalisers (International)**

The European Securities and Markets Authority (ESMA) has published its final report on proposed amendments to the Commission Delegated Regulation (EU) 2017/587 (RTS 1). RTS 1 further details the transparency requirements for equity instruments, including the

quoting obligations for Systematic Internalisers (SIs) under the Markets in Financial Instruments Regulation (MiFIR). In proposing to amend RTS 1, ESMA is aiming to level the playing field between trading venues and SIs and contribute to an efficient price discovery mechanism. [Press Release](#)

#### **ESMA consults on requirements for securitisation repositories (International)**

The European Securities and Markets Authority (ESMA) has published two consultation papers on draft technical standards implementing the Securitisation Regulation (SR), which was published in the Official Journal of the European Union on 28 December 2017. The consultation is open for feedback until 23 May 2018. [Press Release](#)

#### **ESMA clarifies treatment of packages under MIFIR's trading obligation for derivatives (International)**

The European Securities and Markets Authority (ESMA) has issued an opinion providing further guidance on the treatment of packages under the trading obligation for derivatives which the Markets in Financial Instruments Regulation (MiFIR) introduced on 3 January 2018. [Press Release](#)

#### **EBA updates list of public sector entities for the calculation of capital requirements (International)**

The European Banking Authority (EBA) published an updated list of regional governments and local authorities that may be treated as central governments for the calculation of capital requirements, in accordance with the EU Capital Requirements Regulation (CRR). [Press Release](#)

#### **Basel Committee discusses its work programme, current policy work, implementation of its standards, and initiatives to promote strong supervision (International)**

The Committee discussed its current policy work and:

- agreed to consult on a set of limited and targeted revisions to the revised market risk framework published in January 2016. A consultation paper setting out these revisions was published on Thursday 22 March. Committee members reiterated their expectation of full, timely and consistent implementation of the revised market risk framework by 1 January 2022;

- following its consultation on possible revisions to the assessment framework for global systemically important banks, the Committee agreed on a revised framework, which will soon be published; and

- agreed on a set of criteria and capital treatment for short-term simple, transparent and comparable securitisations; the accompanying standard will be published in due course. [BIS](#)

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## **Inside Edge**

### **Claims fraud statistics released by the Association for Savings and Investment South Africa (ASISA)**

Please [click here](#) for an infographic summarising the statistics released by ASISA.

**Please [click here](#) to access the previous issues of the External edition of FinWatch**

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