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KPMG in South Africa

Regulatory Updates for the week ended 23 November, 2018

FinWatch – A Weekly Newsletter

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- [Regulatory Developments](#)
- [Market Developments](#)
- [Accounting / Auditing Update](#)
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Regulatory Developments

Brokerage and Securities Markets

Equity Express Securities Exchange clinches new listings

South Africa's fifth exchange, Equity Express Securities Exchange (ESEE), which exclusively trades restricted shares, clinched four new listings. ESEE, which is the first majority black-owned equity exchange in South Africa, listed the second broad-based BEE scheme on its platform. It only performs primary listings. Restrictions placed on ESEE-listed shares can range from specifications on who may own, such as BBBEE schemes, demographic and sector preferences, as well as limitations on the percentage of shares individual entities can hold. Though ESEE's licence only allows the platform to list shares with a restriction, the company has applied for a review of its licence to be able to list companies without restrictions. [Fin24](#)

Others

Supreme Court of Appeal dismisses the MFSA's application for special leave to appeal the judgment of the Full Court of the North Gauteng High Court on the interest rate regulations

The Supreme Court of Appeal has dismissed the Micro Finance South Africa's (MFSA) application for special leave to appeal the judgment of the Full Court of the North Gauteng

High Court in favour of the National Credit Regulator (NCR) and Department of Trade and Industry (DTI) on the regulations reducing the interest rates on short-term loans. The regulations reduced the interest rate on the second short-term loan in a calendar year from 5% to 3% per month. According to the Chief Executive Officer, the NCR welcomes the decision of the Supreme Court of Appeal and calls on all credit providers to support initiatives by government and the NCR to address consumer over-indebtedness. [NCR](#)

Financial Sector Conduct Authority (FSCA) published two discussions papers for public comment by 15 January 2019

- **Discussion paper on the implementation of a Short Sale Reporting and Disclosure Framework:** In response to the finding in the 2014 IMF Financial Sector Assessment Programme that South Africa did not have a reporting framework in place for short sales, the FSCA published a discussion paper that sets out proposals to address the shortcoming, comprising of flagging of short sale orders on an exchange trading system and the public disclosure of aggregated short sale transactions across authorised users of the exchange per security and a two-tier system for the reporting and disclosure of significant short positions held in shares admitted to trading on a regulated market.
- **Discussion paper on the implementation of Legal Entity Identifiers:** Legal Entity Identifiers (LEIs) is a 20-digit, alpha-numeric code introduced following the global financial crisis of 2008 to easily identify all participants in the financial system in order to facilitate assessment and the monitoring of financial stability. The aim of this discussion paper is to promote awareness of the global use of LEI's and to seek feedback from the market on the proposals for the implementation of LEIs in South Africa. [FSCA](#)

President signs Public Audit Amendment Act

The Public Audit Amendment Act was assented to by the President. Parliament passed the bill and sent it to the President in June 2018. The bill was tabled in Parliament in May 2018. The committee bill was drawn up by the standing committee on the auditor-general. The act aims to amend the Public Audit Act, 2004, so as to:

- Delete certain definitions and to insert new definitions;
 - Provide for certainty regarding the discretion of the Auditor-General with regard to certain audits;
 - Authorise the Auditor-General to undertake performance audits and to provide audit or audit related services to an international association, body, institution or organisation;
 - Provide for the Auditor-General to refer suspected material irregularities arising from an audit performed under this Act, to a relevant public body for investigation;
 - Empower the Auditor-General to take appropriate remedial action;
 - Provide for the Auditor-General to issue a certificate of debt where an accounting officer or accounting authority failed to recover losses from a responsible person and to instruct the relevant executive authority to collect the debt;
 - Provide for the establishment, powers and functions of a remuneration committee;
 - Provide for consultation between the Independent Commission for the Remuneration of Public Office-bearers and the remuneration committee;
 - Provide for additional reporting requirements;
 - Provide for the defraying of certain excess audit fees as a direct charge against the National Revenue Fund;
 - Revise the provisions relating to the appointment of an audit committee for the Auditor-General;
 - Provide that the Auditor-General makes regulations on specific issues; and
- Substitute certain expressions. [Sabinet](#)

Market Developments

International

FSB and standard-setting bodies publish final report on effects of reforms on incentives to centrally clear over-the-counter derivatives

The Financial Stability Board (FSB), the Basel Committee on Banking Supervision (BCBS), the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) published their final report on incentives to centrally clear over-the-counter (OTC) derivatives. The central clearing of standardised

OTC derivatives is a pillar of the G20 Leaders' commitment to reform OTC derivatives markets in response to the global financial crisis. A number of post-crisis reforms are, directly or indirectly, relevant to incentives to centrally clear. The report by the Derivatives Assessment Team (DAT) evaluates how these reforms interact and how they could affect incentives. [BIS](#)

Basel Committee publishes more details on global systemically important banks

The Basel Committee on Banking Supervision published information related to its 2018 assessment of global systemically important banks (G-SIBs), including additional details to help understand the scoring methodology. The publication accompanies the Financial Stability Board's release of the updated list of G-SIBs and includes:

- List of all the banks in the assessment sample;
- Denominators of each of the 12 high-level indicators used to calculate the banks' scores;
- The 12 high-level indicators for each bank in the sample used to calculate these denominators;
- Cut-off score used to identify the G-SIBs in the updated list and the thresholds used to allocate G-SIBs to buckets for the purpose of calculating the specific higher loss absorbency requirements; and
- Links to disclosures of all banks in the assessment sample. [BIS](#)

Conclusions from the Crypto assets Taskforce

In his speech at the Regulation of Cryptocurrencies event, the Executive Director of Strategy and Competition at the Financial Conduct Authority (FCA) spoke about how crypto assets have changed significantly in the last 10 years. The Crypto assets Taskforce brought together the FCA, HM Treasury and the Bank of England to explore the impact of crypto assets and distributed ledger technology (DLT) in financial services. The taskforce's final report was published at the end of October. There are examples of crypto assets and other applications of DLT delivering beneficial innovation in financial services. However, the taskforce has also identified 3 major harms: to consumers, to market integrity and the risk of financial crime. The FCA, HM Treasury and the Bank of England are each taking a number of steps over the coming months to address these harms and to encourage future beneficial innovation. [FCA](#)

FCA proposes introduction of price cap on rent-to-own firms

The Financial Conduct Authority (FCA) proposed to introduce a price cap on the rent-to-own (RTO) sector. The cap will come into force in April 2019 providing protection for some of the most financially vulnerable people in the UK. The changes are expected to save consumers up to 22.7 million GBP per year. The FCA has designed a bespoke price cap to fit the RTO market, limiting both the cost of the product and the charge for credit. Under the proposed cap, credit charges cannot be more than the cost of the product. In addition, RTO firms will need to benchmark the cost of products against the prices charged by 3 other retailers. [FCA](#)

Cyborg supervision – the application of advanced analytics in prudential supervision

The Executive Director of the UK Deposit Takers Supervision gave a speech at the workshop on research on bank supervision. This speech explores the impact of artificial intelligence (AI), and advanced analytics more broadly, on the safety and soundness of the firms the Prudential Regulatory Authority (PRA) supervises. It looks at how the PRA is starting to apply this technology to the way it supervises firms. In particular, it analyses the seeming tension in a supervisory regime that mainly uses human judgment, and PRA's increasing investment in automation, machine learning and AI. [Bank of England](#)

New Settlement Internalisation reporting requirement

From July 2019, firms will be obliged to report settlement internalisation to the Bank of England under Article 9 of the EU Central Securities Depositories Regulation (CSDR). Under the CSDR, an institution is considered to be a settlement internaliser if it settles transfer orders on behalf of clients on its own account rather than through a Central Securities Depository (CSD). This will apply to firms that have the regulatory permissions necessary to carry out the following activity:

- Arranging safeguarding and administration of assets; and
 - Safeguarding and administration of assets (without arranging). [FCA](#)
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Michelle Dubois
Senior Manager, Africa Regulatory CoE
Email ID: Michelle.Dubois@kpmg.co.za

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