
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

NATIONAL TREASURY

NO. 633

04 JUNE 2020

FURTHER PROCESSING OF DRAFT AMENDMENTS TO REGULATIONS IN TERMS OF FINANCIAL SECTOR REGULATION ACT, 2017

The Minister of Finance, in Government Notice No. R1555 of 29 November 2019, gave notice as required in terms of section 288(4) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017 - "the FSRA"), of the publication for public comment of draft Amendments to Regulations which were published in Government Notice No. R405 of 29 March 2018, as amended, that are proposed to be made in terms of sections 61(4), 288 and 304 of the FSRA.

Amendments proposed to regulation 3 of the Regulations are intended to provide for a more effective transitional management committee during the transitional phase until the Commissioner of the Financial Sector Conduct Authority ("FSCA") assumes office.

Amendments proposed to regulations 9 to 11 of the Regulations are intended to provide for a more efficient and streamlined appointment process for the Commissioner and Deputy Commissioners of the FSCA.

Due to the suspension of Parliament as a result of the COVID-19 pandemic, it has not been possible to submit the draft Amendments to the Regulations to Parliament for 30 days while Parliament is in session. As Parliament gradually resumes activities through virtual meetings focusing initially on urgent matters related to addressing the pandemic, the consideration of matters such as the draft Amendments to the Regulation will, understandably, not be prioritised.

Delays in finalising the draft Amendments to the Regulations will result in delays to appointments being made for the positions of the Commissioner and Deputy Commissioners of the FSCA, which will lead to prejudice to financial customers and harm to the financial system. In this time of severe economic crisis globally and domestically resulting from the COVID-19 pandemic, it is critical that the FSCA is urgently capacitated to fulfil its mandate under the FSRA as effectively as possible. The FSCA is a vital institution for South Africa to weather and recover from this crisis, and it must have a strong, capable, effective leadership to play its role. The former Chairperson of the Financial Services Board, who in the Regulations is designated to perform the functions of the Commissioner of the Financial Sector Conduct Authority until a Commissioner is appointed, must shortly vacate the position, which makes the appointment of the Commissioner very urgent. Further delays will also defeat the object of the draft Amendments to the Regulations, which are specifically intended to expedite the appointments of the Commissioner and Deputy Commissioner.

It is, therefore, essential for the further processing of the draft Amendments to the Regulations to be completed under the urgent process provided for in section 288(7) and (8) of the FSRA. Public comments were invited on the draft Amendments to the Regulations, during the period between 29 November 2019 and 24 January 2020, which is longer than the minimum 7-day period required in section 288(7)(a)(ii) of the FSRA. One submission was received in response to the request for public comments, which is indicated in the consultation report that is published on the National Treasury website.

The draft Amendments to the Regulations will urgently be submitted to Parliament as required in section 288(8)(b) of the FSRA, for a period of 7 days, whether or not Parliament is in session.