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# FINANCE AND BANKING ALERT

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### SOUTH AFRICA BUILDS UP TO BASEL III IMPLEMENTATION

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CLIFFE DEKKER HOFMEYR

# SOUTH AFRICA BUILDS UP TO BASEL III IMPLEMENTATION

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*Subsequent to the implementation of Basel III in South Africa on 1 January 2013, the Basel Committee on Banking Supervision (BCBS) issued revised requirements in respect of a wide range of matters which necessitated amendments to our existing regulations.*

On 20 May 2016 the Amendment to the Banks Act regulations (Regulations) in terms of s90 of the Banks Act, No 94 of 1990 (Banks Act) were published in the government gazette and will come into effect on 1 July 2016. A number of cosmetic changes have been made to the Regulations but a few material changes will be highlighted in this alert.

Subsequent to the implementation of Basel III in South Africa on 1 January 2013, the Basel Committee on Banking Supervision (BCBS) issued revised requirements in respect of a wide range of matters which necessitated amendments to our existing regulations. The Regulations now cater for the changes to capital disclosure requirements, changes to the Liquidity Coverage Ratio (LCR), requirements related to intraday liquidity management and public disclosure requirements related to the LCR.

Regulation 38(16) was amended to incorporate South African Reserve Bank (SARB) Directive 05/2014 which dealt with obtaining the Registrar of Banks consent before reducing qualifying capital and reserve funds. Regulation 38(5)(a)(i)(K) which deals with deductions which need to be made from a bank's common equity tier 1 capital and reserve funds has been amended to include "investment in a foreign branch" to clarify the treatment of capital invested in foreign branches.

Regulation 38(17) dealing with the calculation of a banks LCR has been substituted by a new Regulation 38(15) which incorporates the latest Basel III framework as well as SARB Directive 4/2014 which sets out a revised method for calculating the "exposure measure" under the LCR. Banks are required to apply the new requirements set out in Regulation 38(15) in order "to monitor the readiness of relevant institutions to implement and fully comply with the said requirements and any subsequent amendments thereto as a minimum standard from 1 January 2018..."

The LCR will help ensure that banks have sufficient high quality liquid assets to meet cash outflows during a liquidity stress period of 30 days. The LCR is set at 70% this year and will continue to increase until it reaches 100% in 2019. The Net Stable Funding Ratio (NSFR) was designed to encourage banks to use stable funding

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*As part of Basel III monitoring, South Africa has to submit data on a bi-annual basis to the Bank of International Settlements.*

sources and reduce their dependence on short-term funding and the new principles dealing with the calculation of a banks NSFR have been included in Regulation 26(14). Economists have stated that the NSFR requires long-terms assets to be funded with longer-term liabilities which could negatively affect the profitability of banks unless the additional costs are passed to the consumer.

Regulation 39(5) dealing with a banks risk management processes has been amended to make provision for a banks intraday liquidity positions. This will enable banks to monitor its intraday liquidity risk and its ability to meet payment and settlement obligations on a timely basis.

As part of Basel III monitoring, South Africa has to submit data on a bi-annual basis to the Bank of International Settlements. Currently, all G20 countries are in a transition phase to the full implementation of the Basel III framework. In order to facilitate the transition phase, an additional data column has been added to the form BA700 (ie the monthly/quarterly return concerning capital adequacy and leverage) for line items 27 to 89 which will be used to calculate the fully phased in Basel III capital adequacy ratio. Line item 98 (ie the capital adequacy ratio, after the application of all relevant capital transitional arrangements) has been added to reflect the fully phased in Basel III capital adequacy ratio based on current exposures.

The revised disclosure requirements which aim to promote market discipline were issued by the BCBS in 2015 and will supersede the existing Pillar 3 disclosure requirements first issued as part of Basel II in 2004. Extensive disclosure requirements including those prescribed in SARB Directive 3/2015, have now been incorporated in Regulation 43. Banks are to publish their first Pillar 3 report in accordance with the revised framework along with their annual report for the 2016 financial year end. For the reports in relation to the periods preceding the 2016 financial year end, the requirements in Regulation 43 prior to the amendments will apply.

Banks will be required to build archives of their Pillar 3 disclosures from 2016 onwards. The Regulations also contain two disclosure templates, one template must be used by banks for reporting periods up to and including 31 December 2018, and a separate template for reporting periods as of 1 January 2018 onwards. The revised Pillar 3 disclosure requirements will as a minimum apply to all banks at top consolidated level in accordance with Regulation 43(1) read with Regulation 43(3).



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*The Regulatory Consistency Assessment Program was set up by the BCBS to monitor the implementation of Basel II, Basel 2.5 and Basel III by member jurisdictions.*

A bank is also required to on a quarterly basis disclose to the public its tier 1 capital and reserve funds, the banks' exposure measure and the LCR.

The Regulatory Consistency Assessment Program was set up by the BCBS to monitor the implementation of Basel II, Basel 2.5 and Basel III by member jurisdictions.

While the full implementation of the Basel III regulations is not due until 1 January 2018, banks will be under pressure to conform to the new standards and should have already begun to report on how they are positioned for compliance.

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Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 3 BBBEE verification under the new BBBEE Codes of Good Practice. Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.



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