
GOVERNMENT NOTICE

NATIONAL TREASURY

No. 1012

13 December 2013

INVITATION FOR PUBLIC COMMENTS ON DRAFT DEVELOPMENT BANK OF SOUTHERN AFRICA AMENDMENT BILL

The National Treasury hereby invites public comments on the draft Development Bank of Southern Africa Amendment Bill ("the draft Bill").

Background

The Development Bank of Southern Africa ("the Bank") was established in 1983 to perform an economic development function within the constitutional dispensation which then obtained. The transformation of the constitutional and economic dispensation of South Africa by virtue of the Constitutions of 1993 and 1996, and otherwise, necessitated the transformation of the role and function of the Bank in order to promote economic development and growth in the Southern African region within an integrated financial development system which has as its aim the efficient deployment of scarce resources. Through the Development Bank of Southern Africa Act, 1997, the Bank was reconstituted in order to promote, facilitate and by funding to mobilise the socio-economic development in Southern Africa, while efficiency, fairness, transparency and responsibility are promoted at the same time.

Main Objects of Bill

The main objects of the draft Bill are to propose amendments to the Development Bank of Southern Africa Act, 1997 ("the Act"), to enable the extension of the operations of the Bank to any national territory on the African continent and its oceanic islands, to increase the authorised share capital of the Bank and enable further increases, to provide for the application of certain legislation to the Bank and to adjust the regulation-making powers.

Currently the Bank may operate in South Africa and the territories of all other Member States of the South African Development Community (SADC). Extending the Bank's mandate will enable the Bank to participate in large scale infrastructure and other strategic projects on the African continent outside the SADC region which have the potential to enhance trade and economic growth on the continent and support South Africa's bi-national commissions and commitments to regional integration.

Proposed Amendments in the draft Bill

The draft Bill includes the following amendments:

- (a) Inserting definitions of authorised share capital, callable capital, Companies Act and issued share capital, and amending a definition of region (clause 1);
- (b) deleting an obsolete provision (clause 2);

- (c) inserting a specific provision in the Act on the countries in which the Bank may operate and enable the extension of its operations to any national territory on the African continent and its oceanic islands and adjust the regulation-making provision and the Preamble accordingly (clauses 3, 6(b) and 8);
- (d) aligning a provision with the terminology in the Companies Act, 2008 (clause 4);
- (e) increasing the authorised share capital of the Bank, amending the provisions regarding the issuing of certificates for issued shares, enabling the Minister to increase the authorised share capital and requiring the shareholders' approval for subscription by the shareholders to any portion of the balance of the authorised share capital on request of the board (clause 5);
- (f) amending the regulation-making provision by adding to the introductory provision, omitting the provision dealing with the region in which the Bank may operate to be replaced by a specific provision, including a power to regulate the use of callable capital to calculate the leverage ratio of the Bank and limiting the general regulation-making power to ensure constitutionality (clause 6); and
- (g) adjusting the provision enabling the application to the Bank of any provision of the Companies Act, 2008, the Banks Act, 1990, and other legislation (clause 7).

Access to draft Bill and submission of public comment

The draft Bill and Memorandum on its Objects are available on the National Treasury website, www.treasury.gov.za. Comment on the Bill -

- (a) emailed to CommentDraftLegislation@treasury.gov.za; or
 - (b) faxed to 086 741 8648,
- by 17 January 2014 will be considered.

Enquiries: Chief Directorate Legislation, National Treasury, tel nr 012 315 5983/5724.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504
Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737
Kaapstad-tak: Tel: (021) 465-7531