

South Africa

Competition Act, 1998

COVID-19 Block Exemption for the Banking Sector, 2020

Government Notice R355 of 2020

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COVID-19 Block Exemption for the Banking Sector, 2020

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Commenced on 23 March 2020

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1. Definition

In these Regulations any word or expression to which a meaning has been assigned in the Act shall bear that meaning and, unless the context otherwise indicates –

- 1.1 "Act" means the Competition [Act No. 89 of 1998](#), as amended;
- 1.2 "Bank" means a public company registered as a bank in terms of the Banks [Act no. 94 of 1990](#) (as amended);
- 1.3 "BASA" means the Banking Association of South Africa
- 1.4 "COVID-19" means the 2019 novel coronavirus (SARS-COV 2 / COVID-19);
- 1.5 "Minister" has the same meaning as defined in the Act; and
- 1.6 "National Disaster Management Act" refers to the National Disaster Management [Act No. 57 of 2002](#), as amended.
- 1.7 "PASA" means the Payments Association of South Africa

2. Purpose

The purpose of these Regulations is to exempt a category of agreements or practices between Banks, Banking Association of South Africa and/or Payments Association of South Africa from the application of sections 4 and 5 of the Act in response to the declaration of COVID-19 pandemic as a national disaster in terms of the Disaster Management Act, solely for the purpose of:

- 2.1 promoting concerted conduct to prevent an escalation of the national disaster and to alleviate, contain and minimise the effects of the national disaster;
- 2.2 enabling the banking sector to minimise the negative impact on the ability of customers, including both business and private individuals, to manage their finances during the national disaster, and be in a position to continue normal operations beyond the national disaster.
- 2.3 enabling the banking sector to manage the banking infrastructure, including the payment infrastructure, ATMs and branches.

3. Category of agreements or practices exempted

The Minister hereby exempts the following categories of agreements or practices in the banking sector from the application of sections 4 and 5 of the Act if undertaken at the request of, and in coordination with, the Minister or the Minister of Finance for the sole purpose of responding to the COVID-19 pandemic national disaster and which exclude communication and agreements in respect of prices unless specifically authorised by the Minister or the Minister of Finance:

Payments system

- 3.1 Agreements or practices with the sole purpose of ensuring essential payment systems continue to operate during the COVID-19 national disaster, which are limited to the development of industry monitoring, operational policies and contingency plans in respect of:

- 3.1.1. the continued availability of bank notes to ATMs, branches and businesses.
- 3.1.2. the continued provision of essential ATM, branch and corporate banking services.
- 3.1.3. the continued provision of electronic payments systems.

Debtor and credit management

- 3.2 Agreements or practices with the sole purpose of ensuring the management of debtors and extension of credit continue during the COVID-19 national disaster, which are limited to the development of industry policies and monitoring in respect of:
- 3.2.1 payment holidays and debt relief for business and individual debtors subject to financial stress.
 - 3.2.2. limitations set on asset repossessions of business and individual debtors subject to financial stress.
 - 3.2.3. the extension of credit lines to individuals and businesses subject to financial stress.

4. Scope of the exemption

The scope of these Regulations is limited only to agreements or practices specified under paragraph 3 and which have the sole purpose of responding to the COVID-19 pandemic national disaster as set out in paragraph 2.

5. Amendments to Regulations

Given the unpredictability of managing the COVID-19 pandemic, the areas of collaboration exempted in these Regulations may be expanded or reduced by the Minister by notice published in the Government Gazette in terms of these Regulations.

6.

To the extent that the banking sector identifies additional agreements or practices outside paragraph 3 that are necessary to achieve the purpose of these Regulations, the banking sector may request the Minister to expand the scope of the exemption.

7. Monitoring

The Banks, Banking Association of South Africa and/or Payments Association of South Africa must keep minutes of meetings held and written records of any agreements or practices falling within the scope of these exemptions.

8. Representations on these regulations:

- 8.1 any person may make written representations regarding these regulations and directions.
- 8.2 representations must reach the Department of Trade and Industry not later than 14 days from the date of publication of this notice.
- 8.3 Representations should be submitted by email to ministry@economic.gov.za.
- 8.4 following consideration of the representations, the Minister may amend these regulations and directions.

9. Short Title

These Regulations shall be called the COVID-19 Block Exemption for the banking sector, 2020.

10. Commencement and duration

These Regulations shall come into effect on the date of publication in the Government Gazette.

11.

These Regulations shall remain in operation for as long as the declaration of the COVID-19 in terms of the National Disaster Management Act as a national disaster subsists, or until they are withdrawn by the Minister whichever comes earlier.