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Legislative and Industry Updates

A. Taxation Laws Amendment Bill, 2015

A previous Decoder (August 2015) dealt with the relevant provisions of the Taxation Laws Amendment Bill, 2015 (“TLAB”) relating to retirement funds and proposed changes to be implemented from 1 March 2016.

A revised TLAB was tabled in Parliament on 27 October 2015 by the Minister of Finance. The Bill is currently being discussed in parliamentary committees in November, and following clarity from that process, a separate Trustee Decoder will be issued.

B. Financial Sector Regulation Bill, 2015

On 27 October 2015, the Minister of Finance also tabled the Financial Sector Regulation Bill, which has far-reaching implications for the way financial regulation takes place in South Africa, with the proposed introduction of the “Twin Peaks” regulatory model. A previous Decoder (February 2015) detailed the proposed changes put forward in an initial draft of the Bill released in December 2014 by National Treasury.

Under the Twin Peaks model, two regulators will be established:

- (1) A Prudential Authority within the South African Reserve Bank (primarily looking at financial soundness, solvency and stability); and a
- (2) Financial Sector Conduct Authority, which will supervise how financial services firms conduct their business and treat consumers (often called “market conduct”). The FSCA would effectively replace the FSB.

The FSB and the SARB are currently preparing themselves for the coming change, by reviewing their current structure, staff and processes.

The tabled Bill is the first step from a legislative point of view for the implementation of the Twin Peaks model. When fully phased-in, the Twin Peaks system of regulation will focus on a more harmonised system of licensing, supervision, enforcement, customer complaints (including ombuds), appeals, and consumer advice and education across the financial sector. It will also require better co-ordination across all regulators in the financial system.

The Bill will now be considered by the Standing Committee on Finance in Parliament, which is likely to invite public comments and submissions on the Bill – with a view to implementation during the course of 2016.

C. Medium Term Budget Policy Statement (MTBPS)

In October 2015, as part of its normal budgetary and reporting cycle, the National Treasury released its medium term budget policy statement (MTBPS). The document outlines the economic context within which the next national Budget (2016) will be presented, along with the fiscal policy objectives and spending priorities of government over the next three years.

Key points from the MTBPS include:

- Recognition by Government that the world is experiencing low growth, particularly in developing countries like South Africa, and that in such a setting interventions are needed in order to promote growth in a tough environment. Treasury predicts GDP growth in SA of 1.5% for 2015 and 1.7% for 2016.
- The stabilisation of the gross government debt-GDP ratio is important and receiving attention. The plan for 2015/16 onwards is to stabilise the ratio at 50% (this ratio has increased relatively rapidly since 2009 levels of approximately 32%).
- Better oversight and financial management reform of state owned entities and improved public procurement procedures (central supplier database; eTender portal etc).
- Continuing to help address electricity capacity building and generation, and a further rollout of ideas put forward in the National Development Plan. The goal of the renewable energy individual power producer programme is to increase capacity by 17 000 MW by 2022. Thus far, private sector investment into the programme of R193 billion will result in an increase of 6 327 MW to the national grid.

A proposed medium term budget allocation of R542 billion including:

- R130 billion in roads and public transport
- R60 billion in public housing
- R55 billion in water infrastructure
- R50 billion in other municipal infrastructure
- R43 billion in school buildings
- R11 billion in tertiary education capital projects
- R30 billion in health facilities and equipment
- R20 billion to extend the electricity grid to poor households.
- In addition, infrastructure plans by large state-owned companies exceed R400 billion over the next three years.

The complete MTBPS and supporting documents can be found on the National Treasury's website: www.treasury.gov.za

D. Draft notice on Financial Soundness

In September 2015, the Financial Services Board released a draft notice on financial soundness. Section 18(1) of the Pension Funds Act gives the registrar of pension funds the power to prescribe conditions regarding valuations and financial soundness.

The provisions of the notice regarding valuations are naturally focused on actuarial issues, including: assumptions regarding the fund's assets and liabilities; determination of the discount rate; contingency reserve accounts and their basis etc.

Provisions on financial soundness issue guidance on the procedure to follow if the fund is not in a financially sound position, including the period within which underfunding must be rectified, and board approved scheme of arrangement submitted to the registrar on how this will be achieved. Where any return indicates that there is a deficiency in the fund, the fund must submit to the registrar a scheme within three months of the date of the return indicating that there was a deficiency (together with a report thereon by the fund's valuator).