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CC: THE NATIONAL TREASURY, REPUBLIC OF SOUTH AFRICA, SOUTH AFRICAN RESERVE BANK AND THE FINANCIAL SERVICES BOARD

RE; IOSCO TASK FORCE ON CROSS-BORDER REGULATION

Dear Ms Tendulkar

Thank you for the opportunity to respond to your consultation, we fully support the work of the IOSCO Task Force on Cross-Border Regulation, and would welcome IOSCO playing a greater role in ensuring the consistent local implementation of internationally agreed standards. Specifically, as suggested in the Consultation, we would see a role for IOSCO facilitating dialogue between policy makers and regulators, to improve early identification of cross border impacts.

As highlighted in the ongoing UK's Fair and Effective Markets Review¹ for example, fixed income, currencies and commodity markets are cross border in nature, underpinning almost every major financial transaction in the global economy, Including: (i) contributing to the determination of the borrowing costs of households, companies and governments, (ii) setting countries' exchange rates, (iii) influencing the cost of food and raw materials; and, (iv) enabling companies to manage financial risks associated with investment, production and trade. Therefore, inconsistent local implementation of global standards can undermine both the functioning of the real economy, and be potentially destabilising for the global financial system.

We have specific comments in four areas, relating to a current potential cross border regulatory issue:

Inconsistent implementation of global standards can be potentially destabilising to the financial system

A current example relates to the consistent global regulation of Benchmarks. For example, IOSCO members were involved in the agreement of the IOSCO Principles for Financial Benchmarks², but not all members however have been consulted on a potential material divergence from this internationally agreed standard in Europe.

This international standard clearly states; *“The Principles are not intended to supersede existing laws, regulations or relevant regulatory or supervisory frameworks in specific jurisdictions, including any IOSCO Principles or undertakings agreed with Regulatory Authorities relating to a specific type of Benchmark, or a related activity. Rather, these Principles are intended to provide guidance to Administrators, Submitters and regulators and supplement existing IOSCO Principles”*³. In September 2013 however, the European Commission proposed that non EU countries should adopt a legal basis for the implementation of these Principles, to permit EU supervised entities to continue to use non EU countries benchmarks in financial instruments and contracts.

Furthermore the approach which is being taken by the EU, disregards the opinionⁱ received from the EU macro-prudential supervisor, the European Central Bank, who raised concerns in summary that; many important investment products in the EU, particularly in derivatives and investment funds, reference non-EU benchmarks. Implementation of the Principles remains a matter for each country and hence, it’s uncertain whether all IOSCO members will implement them by means of legislation. In which case, it may be difficult for third countries, including those of G20 nations, to satisfy the equivalence conditions, As a consequence, a wide range of products referencing third country administered benchmarks, would have to be withdrawn and, *“the potential impact of such a move on financial stability could be significant”*.

Lack of communication of material divergences from internationally agreed standards

Despite this material and potentially destabilising divergence from this internationally agreed standard, the European Commission has not, to our knowledge, until very recently made any formal attempt to communicate the proposed equivalence requirements to all IOSCO members,

² <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD415.pdf>

³ P8 IOSCO Principles of Financial Benchmarks

particularly emerging markets and developing nations. This could result in non EU countries being unprepared for new EU requirements, and with very little time to make alternative arrangements, for contracts and financial instruments referencing non EU equivalent benchmarks.

Extraterritoriality

Although we fully support the use of mutual recognition as a cross border tool, care has to be taken not to breach national sovereignty. For example, mutual recognition based on an outcomes based assessment of regulation and supervision is a pragmatic approach to cross border regulation. This approach however, should not be used by IOSCO members to determine for other IOSCO members the basis for local implementation; for example, requiring another IOSCO member to adopt an international standard by primary legislation, as opposed to industry codes of conduct.

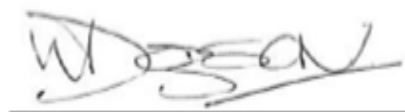
Fragmentation of global markets

As highlighted above, inconsistent local implementation of internationally agreed global standards, can introduce unnecessary barriers to cross border financial markets, undermining the functioning of the real economy and be potentially destabilising for the financial system.

Yours Sincerely



Andrew Hall
Head: SBSA Global Markets



Wendy Dobson
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Standard Bank Group (SBG) operates in 20 countries on the African continent, and is the largest African bank by assets and earnings; (total assets of R1 694 billion (USD162bn) and Headline earnings of R17 194 million (USD1.8 billion)).

¹ http://www.ecb.europa.eu/ecb/legal/pdf/en_con_2014_02_f_sign.pdf