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News
Industry and Markets

In his Budget Speech on 23 February 2011, Finance Minister Pravin Gordhan announced new policy proposals to transform the regulation of South Africa's financial sector.

Financial Services

Transformation of South Africa's financial sector regulation

These reforms will have a seismic effect on the whole of the financial services sector and are likely to have a great impact on SAICA members.

The detailed proposals are set out in the National Treasury's policy paper **A safer financial sector to serve South Africa better**, which can be accessed on the treasury website www.treasury.gov.za.

The key proposal is to separate 'prudential' and 'market conduct' regulation and thus move towards a 'twin-peaks' model of regulation. This would see the South African Reserve Bank (SARB) given lead responsibility for prudential regulation and the Financial Services Board (FSB) providing substantially stronger market conduct regulation. The policy also sets out government's proposals to achieve financial stability, consumer protection and financial inclusion, and is structured into the following four policy priorities:

Financial stability - This will be driven by the SARB and supported by the formation of a Financial Stability Oversight Committee co-chaired by the Governor of the SA Reserve Bank and the Minister of Finance.

Consumer protection and market conduct - The FSB and the National Credit Regulator will lead on this area, and a new market conduct regulator for banking services will be established within the FSB.

Expanding access to financial services - Here the National Treasury will lead. This includes a review of the Financial Sector Charter, further support to co-operative and dedicated banks, including Postbank, and the introduction of a 'micro insurance' framework.

Combating financial crime - This will be led by the enforcement agencies that investigate and prosecute abuses. Work with international partners will continue.

A Council of Financial Regulators will provide interagency co-ordination between the different regulators on issues of legislation, enforcement and market conduct.

It is envisaged that the reform process will take at least three years. However, to give effect to these proposals, new legislation will be introduced in 2011 dealing with: banking, financial markets, credit rating agencies and the regulatory powers of financial supervisors.

Legislation

Consumer Protection Act to impact on "trading as" names

Section 79 of the Consumer Protection Act, 2008, (CPA) prohibits any person from carrying on business except under the person's full name as recorded in an identity document or officially recognised or in the case of a juristic person (for example, a company), a business name registered with the Registrar of Companies.

This means that a trading name must be the registered name of the entity. Section 80 does, however, allow a person to register any number of business names that are used or will be used in carrying on business.

It should also be noted that, in terms of section 81 of the CPA, a business name may not be the same as, or confusingly similar to, an entity already registered under the Companies Act, the Close Corporations Act or the Co-operatives Act.

The name may also not be the same as, or similar to, a registered trade mark belonging to another person.

If an entity conducts business under a trading name that is not its registered name, the National Consumer Commission may require it to cease trading under that name.

The Commission may not take any action to enforce section 79(1) at any time against a person for the use of a business name, if that person:

- had registered that business name before 31 March 2011 in terms of any public regulation other than a repealed law; or
- was actively conducting business under that business name for a period of at least one year before the date on which section 79 took effect.

The possible proliferation of new registered business names will require vigilance on the part of businesses and trade mark proprietors to protect their intellectual property rights in respect of their registered names.

These sections (sections 79, 80 and 81) will only become effective on a date that will still be determined by the Minister and must be at least one year from the general effective date, which is one year from 31 March 2011, therefore any date as proclaimed after 31 March 2012.

It is however recommended that the business name is registered, either as a business name with the Commission or as a defensive name, which must be renewed every two years to ensure protection and future use of that name.

Thuthuka Pledge Update

Download the entire Jun 2011 issue - PDF




from the pen
- June 2011

In this issue we deal with the question of investments. How it can potentially grow our economy and how to define and plan for it, and we also identify the hotspot for future investments: Africa.

Sentiments about our continent, over the past few decades, have transitioned from the loathsome explorer age cries of 'Deep dark Africa' to the somewhat more realistic sentiments of 'Rich Africa, Poor Africans' to what the world now calls 'Africa – your time has come'. But if you're from this continent, then these sentiments are just that, sentiments. Because Africans have intuitively known for decades that our continent with its rich natural resources, is an untapped investor haven.

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Hi Duly - Please contact the Commissioner's office.
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Excellent article. Could I get a copy of the Consumer Protection Act 2011
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Readers who want to find out more about the Consumer Protection Act can contact the National Consumer Commission - Phone 0860 266 786 FAX : 0861 515 259, or email: ncc@thedti.gov.za or write to: P O BOX 30251, SUNNYSIDE PRETORIA, 0132
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Very informative
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THUTHUKA
inspiring success

The Thuthuka Pledge Campaign was launched with the aim of raising sufficient funding for our Thuthuka Bursary Fund. THANK YOU to all our members that have made their annual pledges through their organisations. But a special mention must be made of the members that have pledged in their personal capacity.

These pledges have allowed us to achieve our immediate goal to increase the number of first-year students placed at Thuthuka-accredited universities by 50 students when compared to 2010.

As we are way below our target of R15 million per annum, I would like to encourage our members who have not yet made their annual R500 pledges to do so and, in doing so, please think of how many lives that together, we would be able to change for the better.

As a CA(SA) you can be particularly proud of Thuthuka, which is the skills development and transformation initiative of SAICA. This initiative has proven to provide an effective and eminent means to achieve transformation and skills development through addressing the talent pipeline of students.

How can you make a Pledge?

Go to www.saica.co.za click on the Thuthuka banner on the SAICA homepage. You will be taken to the online pledge form that you will need to complete to begin the quick and easy pledge process.

Remember that for the Thuthuka Bursary Fund to take in 100 students at R35 000 a year requires R10.5 million over three years for each intake. This means that it is essential that every single member makes this pledge!

Your contribution, as a tax deductible item, may be relatively small, but it is essential to reach our targets and fulfill the students' dreams of one day becoming a CA(SA), like you and I.

The Hope Factory

The Hope Factory getting it right

What The Hope Factory is doing to improve the lives of the unemployed by training them to become entrepreneurs is in alignment with the findings of two recent research reports.

A recent impact assessment report by Greater Capital, commissioned by The Hope Factory, measured five key indicators: increased financial stability of the beneficiaries, increase in household income, positive impact on the broader community, plans that the beneficiaries have for the future and growth in entrepreneurial activities. All five indicators were found to be positive, with the suggestion that continuing attention is given to develop further the enterprises that emerge, as they currently fall into the bottom end of the business scale.

To emphasise this point, recently completed research by Finmark Trust looked specifically at survivalist-type enterprises within the rural and township areas, and found that this sector – Home Based Enterprises (HBEs), which covers low income subsistence, sustainable and growing businesses – contributes over R6bn to the economy per annum, considerably more than the craft sector which brings in R2bn. This confirms, therefore, that The Hope Factory's model is targeted at a small but important sector of the economy with the opportunity for growth if it is properly nurtured.

*For more information, visit www.thehopefactory.co.za.
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