



Prudential Communication 14 of 2022

Banks Act, 1990 (Act No. 94 of 1990)

Payment of annual licence fees by banks to the Prudential Authority

Objective of this Prudential Communication

This communication provides guidance on matters pertaining to the payment of the annual licence fees by banks, branches, or representative offices in light of the impending transition to the payment of annual levies. The requirement for the payment of the annual licence fees will be repealed by the Financial Sector and Deposit Insurance Levies (Administration) and Deposit Insurance Premiums Act, 2022 (Act No. 12 of 2022) (Levies Admin Act).

1. Application

1.1 This Prudential Communication is applicable to all banks, branches of foreign banks (branches) and representative offices registered in terms of the Banks Act, 1990 (Act No.94 of 1990) (Banks Act). However, the refunds proposed herein will not apply to representative offices. This is in light of the fact that the Financial Sector and Deposit Insurance Levies Act, 2022 (Act No. 11 of 2022) (Levies Act) does not currently provide for the imposition of levies on representative offices. Representative offices will be catered for under the Levies Act in subsequent financial years.

2. Purpose

2.1 The purpose of this Prudential Communication is to provide clarification on the payment of the annual licence fees, as well as the approach that will be undertaken by the Prudential Authority (PA) in order to address the potential issue for double-charging the banks and branches, once the Levies Act and the Levies Admin Act (collectively referred to as the Acts) come into effect.

3. Introduction

3.1 The Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (FSR Act) read together with the Acts, provide a legal basis for the imposition and collection of levies from the supervised entities, to fund the operations of the regulators and other bodies. In addition, the regulators are also empowered to determine and charge fees to fund the performance of specific functions under the FSR Act and the relevant financial sector laws.

3.2 The commencement date for Chapter 16 of the FSR Act and the Acts was initially envisaged for 1 April 2022. In light of the delays in the finalisation of the Acts, the

National Treasury announced through Government Notice No. 257 of 25 March 2022, the postponement of the commencement date of Chapter 16 to a future date that will be determined by the Minister of Finance.

- 3.3 On 6 December, the President assented to the Acts, and these were published in the Government Gazette 47695 and 47696 on 9 December 2022. A commencement date for the Acts is yet to be determined.

4. Transition from annual licence fees payments to annual levies

- 4.1 Section 35 of the Banks Act requires banks to obtain a licence pertaining to their particular business in respect of each year ending on the thirty-first day of December against payment of the prescribed licence fees. The consequential amendments proposed through the Levies Admin Act repeal the requirement for banks to pay annual licence fees. This is in light of the impending Financial Sector and Deposit Insurance Levies Act that will require banks to pay annual levies to the PA and other Authorities.

- 4.2 The PA noted the concern that the industry raised in the past about the potential for double-charging emanating from the transition from the payment of the annual licence fees to the payment of the annual levies once the Acts come into effect. Some banks have sought further clarity on this matter. Through this communication, the PA seeks to provide clarity on the payment of the annual licence fees and how the PA proposes to address the potential issue of double-charging once the Acts come into effect.

5. Expectation

- 5.1 While the Levies Admin Act repeals section 35 of the Banks Act, these provisions are still in effect until the commencement of the Acts and the PA expects all banks, branches and representative offices to make payment for their annual licence fees in accordance with the current process in place.

6. The way forward

- 6.1 In light of the impending implementation of the Acts and in order to cater for the transition from the payment of annual licence fees to the payment of annual levies and to ensure that banks are not double-charged, the PA seeks to clarify that it will refund the pro-rata surplus of the annual licence fees. This will be calculated taking into consideration the commencement date of the Acts.

- 6.2 As highlighted in paragraph 1 of this communication, the pro-rata refund indicated above will only apply to banks and branches, but not representative offices given that the Levies Act does not currently provide for the imposition of levies to representative offices. Representative offices will be catered for in subsequent financial years.

6.3 Any enquiries regarding this communication must be directed to the frontline supervisors of the respective bank.

Fundi Tshazibana
Chief Executive Officer

Date: