

(Editorial Note: In terms of reg. 8 of this Notice, any person may make written representations regarding these regulations and directions to the Department of Trade and Industry no later than 14 days from the date of publication of this notice.)

GNR.355 of 23 March 2020: COVID-19 Block Exemption for the Banking Sector
(*Government Gazette* No. 43127)

	as amended by	
Notice R.502	Government Gazette 43280	Date 5 May 2020

DEPARTMENT OF TRADE AND INDUSTRY

I, Ebrahim Patel, Minister of Trade and Industry, after consultation with the Competition Commission, hereby in terms of section 10(10) read with section 78(1) of the Competition Act, 1998 (Act No. 89 of 1998) as amended, make the regulations as set out in the Schedule hereto.

The purpose of the exemption is to strengthen the Government's programs designed to fight COVID-19, after having declared a National State of Disaster published in Government Notice No. 313 of *Government Gazette* No. 43096 on 15 March 2020.

The regulations will come into effect on the date of publication hereof in the *Gazette*.

(Signed)

MR EBRAHIM PATEL
MINISTER OF TRADE, INDUSTRY AND COMPETITION

SCHEDULE

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;
- 1.1A. **“ASISA”** means the Association for Savings and Investment South Africa;
[Sub-reg. 1.1A inserted by GNR.502 of 5 May 2020.]
- 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);
- 1.4A. **“Financial Institution”** means an institution registered as a financial institution in terms of The Financial Sector Regulation Act, 2017;
[Sub-reg. 1.4A inserted by GNR.502 of 5 May 2020.]
- 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 categories of agreements or practices set out in paragraphs 3.1 and 3.2 when undertaken by banks and paragraph 3.2 when undertaken by financial institutions 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.

[Reg. 3 amended by GNR.502 of 5 May 2020.]

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, financial institutions, Banking Association of South Africa, Payments Association of South Africa and Association of Savings and Investment South Africa must keep minutes of meetings held and written records of any agreements or practices falling within the scope of these exemptions.

[Reg. 7 substituted by GNR.502 of 5 May 2020.]

8. **Representation on Regulations.**—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.
