

# Historical Aspects of the Cooperation and Collaboration Between the South African Reserve Bank and Other Role Players

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## Abstract

Prior to the enactment of the *Financial Sector Regulation Act (FSR Act)*, the regulation of cooperation and collaboration between the South African Reserve Bank (SARB) and other financial role players was not done for the purpose of protecting financial stability or promoting market integrity. The SARB, the Financial Services Board (FSB) and the Bank Supervision Department (BSD) were required by the *Banks Act* to harmonise supervisory actions and to share relevant information for operational purposes. The lack of adequate cooperation and collaboration arrangements to promote, protect, enhance and maintain financial stability and market integrity gave rise to regulatory gaps and overlapping functions in the financial sector. The provisions for cooperation and collaboration contained in the *Banks Act*, the *Financial Markets Act* and the *Financial Services Board Act*, and the establishment of the Financial Sector Contingency Forum (FSCF) were not adequate to foster effective cooperation and collaboration between the SARB, the BSD, the FSB and other financial role players.

## Keywords

Cooperation; collaboration; financial stability; market integrity; coordination.

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## 1 Introductory remarks

This article traces the regulation of the cooperation and collaboration between the South African Reserve Bank (SARB) and other relevant role players, such as the Financial Services Board (FSB), the Bank Supervision Department (BSD), the National Credit Regulator (NCR) and the National Consumer Commission (NCC) from 1921 when the SARB was established to 2018. Prior to the enactment of the *Financial Sector Regulation Act* (the *FSR Act*),<sup>1</sup> which established express provisions to regulate cooperation and collaboration between the SARB and other financial role players, the regulation of inter-agency coordination was provided under the *Banks Act*.<sup>2</sup> However, it should be noted that such cooperation and collaboration was not done to protect, promote, enhance and maintain financial stability and market integrity in South Africa.<sup>3</sup> Instead, cooperation and collaboration between the SARB, the FSB and the BSD were to harmonise their supervisory actions and to share relevant information for operational purposes. Cooperation and collaboration arrangements between the central bank and other financial role players are essential for the optimum operation of any financial system.<sup>4</sup>

Despite the lack of express cooperation and collaboration regulations to promote and protect financial stability between the SARB and the BSD, the FSB, the NCR and the NCC from 1921 to 2018, this article analyses the regulatory coordination arrangements that existed in South Africa prior to

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<sup>1</sup> *Financial Sector Regulation Act 9 of 2017 (FSR Act)* ss 32 and 56; Shipalana 2021 *African Portal* 4; Schmulow 2017 *LFMR* 169; Van Niekerk and Van Heerden 2020 *SALJ* 111.

<sup>2</sup> Van Zyl *et al* *Understanding South African Financial Markets* 12; Botha and Makina 2011 *International Business and Economics Research Journal* 28; Schmulow 2018 *Finweek* 34; Qumba 2022 *SALJ* 80.

<sup>3</sup> *Banks Act* 94 of 1990 (the *Banks Act*) s 4(3); Van Zyl *et al* *Understanding South African Financial Markets* 35; Falkena *et al* *Financial Regulation* 19; De Jager 2013b *SA Merc LJ* 495.

<sup>4</sup> Fontecchio 1994 *NC J Int'l L & Com Reg* 119-120; Buckley 2007 [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=975015](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=975015) 4; Kourabas "Trends and Theory in Financial Regulation" 38; Godwin and Ramsay 2015 *JBFLP* 242.

the *FSR Act*. For the purposes of this article, financial stability refers to a financial system that inspires confidence through its resilience to systemic risks and its ability to efficiently intermediate funds.<sup>5</sup> Additionally, market integrity refers to financial markets with low financial crime, strong enforcement mechanisms, fairness, efficiency and transparency of financial products.<sup>6</sup> Financial stability and market integrity are foundational elements to a functional and healthy financial sector as they contribute to sustainable economic growth, protection of investors and consumers, alleviation of economic inequality and are also essential for the mitigation of the systemic risks and financial crimes that undermine growth and development. Accordingly, this paper discusses the historical aspects of regulatory coordination between the SARB and other relevant financial role players for the purposes of protecting financial stability and maintaining market integrity in South Africa before 2018. The paper provides foundational aspects of regulatory coordination in South Africa so as to create insights that guide current developments on the regulation of cooperation and collaboration under the *FSR Act*.

## 2 The regulation of the cooperation and collaboration between the SARB and relevant role players from 1921 to 2018

The previous silo financial regulatory framework and supervision of financial regulators in South Africa was fairly complex and characterised by several financial role players.<sup>7</sup> Some of the key role players were the BSD of the SARB, the NCR, the NCC and the FSB.<sup>8</sup> The FSB was tasked with the regulation and supervision of the insurance sector, securities and fund managers.<sup>9</sup> The FSB and the Johannesburg Stock Exchange (JSE) jointly

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<sup>5</sup> Section 4 of the *FSR Act*; see related comments by Van Heerden and Van Niekerk 2020 *THRHR* 496; Van Heerden and Van Niekerk 2017 *LFMR* 154; Schinasi 2004 <https://www.imf.org/external/pubs/ft/wp/2004/wp04187.pdf> 4.

<sup>6</sup> Austin 2017 *William and Mary Business Law Review* 219; Schwartz, Byrne and Stempel *Market Integrity* 14; Fodor 2008 *JFC* 262.

<sup>7</sup> Van Niekerk and Van Heerden 2020 *SALJ* 109; also see Van Heerden and Van Niekerk 2017 *LFMR* 156. The silo regulatory approach included many financial regulators, such as the Financial Services Board that was established under the *Financial Services Board Act* 97 of 1990 (*FSB Act*) s 2; the Banks Supervision Department under the *Banks Act* s 4(4); see related comments by Rossouw 2011 *Economic History of Developing Regions* 12; Fourie 2021 *Economic History of Developing Regions* 119.

<sup>8</sup> Bordo 2007 <https://www.clevelandfed.org/publications/economic-commentary/2007/ec-20071201-a-brief-history-of-central-banks>; Rossouw 2011 *Economic History of Developing Regions* 12; Fourie 2021 *Economic History of Developing Regions* 119.

<sup>9</sup> *FSB Act* s 2; Bordo 2007 <https://www.clevelandfed.org/publications/economic-commentary/2007/ec-20071201-a-brief-history-of-central-banks>; Botha and Makina 2011 *International Business and Economics Research Journal* 28; De Jager 2013b *SA Merc LJ* 504.

supervised market intermediaries to ensure the existence of safe markets for buying and selling securities.<sup>10</sup> The BSD was responsible for prudential regulation and supervision of banks, and promoting the soundness of the banking system.<sup>11</sup> The financial regulatory framework in South Africa was disjointed, complex and susceptible to regulatory arbitrage, and there were no cooperation and collaboration arrangements between the SARB, the FSB, the BSD, the NCR and other relevant financial role players.<sup>12</sup> The lack of comprehensive and express cooperation and collaboration arrangements between the SARB and other financial role players might have been influenced by the efforts to ensure that the SARB remains an independent entity.<sup>13</sup> Notwithstanding the fact that the roles of the SARB as the lender of last resort, implementer of monetary policy and provider of emergency liquidity are unique to the SARB only, the financial stability mandate involves several other institutions and we argue that it cannot be fulfilled in isolation.<sup>14</sup> As such, there was a need for the SARB to cooperate and collaborate with other financial role players to fulfil its roles adequately and manage systemic risks.

According to the *International Monetary Fund - South Africa: Financial System Stability Assessment Report* of 2014, cooperation and collaboration between the SARB and other financial role players were only operational for supervisory purposes.<sup>15</sup> The *SARB Act* and the *Banks Act* stipulated that financial regulatory bodies should only share confidential information when necessary for supervisory purposes unless specified otherwise or required by a court order.<sup>16</sup> This entails that cooperation and collaboration between

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<sup>10</sup> Section 12 of the *FSB Act*; also see De Jager 2013a *SA Merc LJ* 353; Botha and Makina 2011 *International Business and Economics Research Journal* 28; De Jager 2013b *SA Merc LJ* 504.

<sup>11</sup> Van Niekerk and Van Heerden 2020 *SALJ* 109; Van Heerden and Van Niekerk 2017 *THRHR* 649; Van Heerden and Van Niekerk 2017 *LFMR* 156; Godwin 2017a *LFMR* 154.

<sup>12</sup> Rajendaran 2012 <https://blog.dvararesearch.com/2012/03/06/approaches-to-financial-regulation-and-the-case-of-south-africa/> 3; Schmulow 2020 *International Review of Financial Consumers* 5; Botha and Makina 2011 *International Business and Economics Research Journal* 28; De Jager 2013b *SA Merc LJ* 504.

<sup>13</sup> De Jager 2013b *SA Merc LJ* 504; s 244 of the *Constitution of the Republic of South Africa*, 1996 (the *Constitution*); Botha and Makina 2011 *International Business and Economics Research Journal* 28; Fourie 2021 *Economic History of Developing Regions* 119.

<sup>14</sup> De Jager 2013b *SA Merc LJ* 504; see related comments by Rossouw 2011 *Economic History of Developing Regions* 12; also see Fourie 2021 *Economic History of Developing Regions* 119.

<sup>15</sup> IMF 2014 <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/South-Africa-Financial-System-Stability-Assessment-42508> 78; Falkena *et al* *Financial Regulation* 23; De Jager 2013b *SA Merc LJ* 495; see related comments by Rossouw 2011 *Economic History of Developing Regions* 12.

<sup>16</sup> Section 33(2) of the *South African Reserve Bank Act* 29 of 1944 (*SARB Act*); see related comments by Rossouw 2011 *Economic History of Developing Regions* 12; Fourie 2021 *Economic History of Developing Regions* 119.

the SARB and other financial role players were not intended to protect and maintain financial stability and market integrity. Rather, their purpose was merely supervisory. However, despite the lack of express provisions on cooperation and collaboration, the FSB was able to cooperate and collaborate with other relevant regulatory bodies, such as the BSD, the Financial Sector Contingency Forum (FSCF), the SARB and other insurance groups to facilitate insurance supervision.<sup>17</sup> This is evidenced by the International Organisation of Securities Commission (IOSCO) Multilateral Memorandums of Understanding (MOU) that was concluded by the FSB and the IOSCO, to share information on systemic risks affecting the financial markets in South Africa. In 2007, a review of the South African financial sector was initiated by the National Treasury and it suggested financial regulatory reforms that focused on, *inter alia*, financial stability, market integrity and the regulation of effective cooperation and collaboration between the SARB and other role players. The suggested reforms were only implemented almost ten years later when the *FSR Act* was enacted with express regulations and a duty to foster cooperation and collaboration amongst the relevant role players.

It is clear from the discussion above, that there was not proper coordination, cooperation and collaboration between the SARB and other key financial role players such as the FSB, the BSD, the NCR and the relevant courts.<sup>18</sup> Thus, each of these role players were conducting their roles and functions in silos. Consequently, various challenges ensued that made the silo regulatory model flawed, risky, fragmented and difficult to manage and/or enforce to enhance market integrity, financial stability, market efficiency and public investor confidence in the South African financial sector.<sup>19</sup> Put differently, the silo regulatory approach caused different regulatory bodies and relevant role players to struggle to effectively and collaboratively focus on their role to curb financial crime and other systemic risks.<sup>20</sup> This uncoordinated and fragmented approach was also very difficult to implement to get positive results in the financial markets and financial

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<sup>17</sup> IMF 2014 <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/South-Africa-Financial-System-Stability-Assessment-42508> 78; *Financial Markets Act* 19 of 2012 (the *Financial Markets Act*) s 63; De Jager 2013b *SA Merc LJ* 495; also see Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 201.

<sup>18</sup> De Jager 2013b *SA Merc LJ* 504; see related comments by Rossouw 2011 *Economic History of Developing Regions* 12; also see Fourie 2021 *Economic History of Developing Regions* 119.

<sup>19</sup> Van Niekerk and Van Heerden 2020 *SALJ* 109; Van Heerden and Van Niekerk 2017 *THRHR* 649; Van Heerden and Van Niekerk 2017 *LFMR* 156; Godwin 2017a *LFMR* 154.

<sup>20</sup> IMF 2014 <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/South-Africa-Financial-System-Stability-Assessment-42508> 78; Falkena *et al* *Financial Regulation* 23; De Jager 2013b *SA Merc LJ* 495; see related comments by Rossouw 2011 *Economic History of Developing Regions* 12.

institutions. It was disjointed and very expensive for all regulatory bodies and key role-players to prioritise and allocate sufficient resources for the purposes of effectively combating financial crime and other systemic risks.<sup>21</sup> The SARB failed to coordinate and ensure optimal compliance from all relevant financial role players. Moreover, the fragmented silo regulatory approach was ineffectively managed and it gave rise to a poor financial regulatory framework in South Africa. It created various regulatory gaps and flaws such as inefficiency, duplication and/or overlapping of some roles and functions between the SARB and other key role players.<sup>22</sup> This has at times resulted in maladministration and poor utilisation of the limited resources in the South African financial sector.

The previous silo regulatory approach made it very difficult for regulatory bodies and key role players to promote awareness through financial education and other relevant measures across the South African financial institutions and financial markets.<sup>23</sup> Most of the regulatory challenges that occurred were either poorly resolved or completely unresolved by the SARB and/or other financial role players such as the FSB, the NCR and the courts. The poor coordination and collaboration between these key role players were exacerbated by a deep lack of transparency among these role players. It appears as if each role player was negatively competing with the other role players, creating a toxic financial regulatory environment in the South African financial sector, which gave rise to poor and unwanted negative outcomes.<sup>24</sup>

The fragmented silo regulatory approach was also negatively impacted by poor sharing of relevant regulatory information between the SARB, the FSB and other financial role players. This approach created unhealthy competition among key financial role players to the detriment of the South African financial sector, financial institutions and financial markets.<sup>25</sup> This created further problems of poor communication and collaboration between the SARB and different role players. As a result, there was a huge gap in

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<sup>21</sup> Van Niekerk and Van Heerden 2020 *SALJ* 109; Van Heerden and Van Niekerk 2017 *THRHR* 649; Van Heerden and Van Niekerk 2017 *LFMR* 156; Godwin 2017a *LFMR* 154.

<sup>22</sup> IMF 2014 <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/South-Africa-Financial-System-Stability-Assessment-42508> 78; *Financial Markets Act* 19 of 2012 (the *Financial Markets Act*) s 63; De Jager 2013b *SA Merc LJ* 495; also see Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 201.

<sup>23</sup> IMF 2014 <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/South-Africa-Financial-System-Stability-Assessment-42508> 78; *Financial Markets Act* 19 of 2012 (the *Financial Markets Act*) s 63; De Jager 2013b *SA Merc LJ* 495; also see Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 201.

<sup>24</sup> *SARB Act*, see s 2; Vermeulen 2021 *Economic History of Developing Regions* 252; Rossouw and Rossouw 2017 *Southern African Business Review* 6.

<sup>25</sup> *SARB Act*, see s 2; Vermeulen 2021 *Economic History of Developing Regions* 252; Rossouw and Rossouw 2017 *Southern African Business Review* 6.

the gathering, dissemination and sharing of important market information which at times caused duplication or overlapping of regulatory functions and poor collaboration and cooperation among key financial role players in the South African financial sector. The silo regulatory approach made it very difficult for the SARB, the FSB and other role players to make good and effective regulatory decisions that are mainly aimed at combating financial crimes and systemic risks.<sup>26</sup> There was little or no innovation from the SARB and other key role players to effectively cooperate and collaborate to promote market integrity, financial stability and public investor confidence. This fragmented and narrow approach to financial sector regulation hindered the growth of the financial markets and financial institutions in South Africa.<sup>27</sup> It appears most employees of key role players conducted their duties without closer cooperation and collaboration with their counterparts. This lack of collaboration and cooperation negatively impacted productivity, teamwork, and financial sector regulation in South Africa.

This paper provides a historical analysis of the cooperation and collaboration between the SARB and other financial role players from the time it was established until the enactment of the *FSR Act*. An analysis of the current regulatory framework on regulatory coordination in South Africa has already been done elsewhere and is beyond the scope of this paper.

### **2.1 The regulation of cooperation and collaboration between the SARB and other financial role players under the Currency and Banking Act**

The SARB was established by the *Currency and Banking Act* of 1920 as a private institution empowered to issue banknotes and coins, to uphold the credit markets of South Africa, and to prepare measures to manage systemic risks and financial crises in South Africa.<sup>28</sup> In 1944, the *Currency and Banking Act* was later replaced by the *South African Reserve Bank Act*.<sup>29</sup> The main mandate of the *SARB Act* was broadening the freedom and powers of the SARB by granting it powers to issue currency indefinitely, protect the value of the South African currency, and address any other

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<sup>26</sup> See related comments by Rossouw 2011 *Economic History of Developing Regions* 12; also see Fourie 2021 *Economic History of Developing Regions* 119; Botha and Makina 2011 *International Business and Economics Research Journal* 29.

<sup>27</sup> See related comments by Rossouw 2011 *Economic History of Developing Regions* 12; also see Fourie 2021 *Economic History of Developing Regions* 119; Botha and Makina 2011 *International Business and Economics Research Journal* 29.

<sup>28</sup> *Currency and Banking Act* 31 of 1920 (*Currency and Banking Act*), see s 3; Strakosch 1921 *Economic Journal* 174; see related discussion by Ojo and Zondi 2021 *Strategic Review for Southern Africa* 60.

<sup>29</sup> *SARB Act*, see s 2; Vermeulen 2021 *Economic History of Developing Regions* 252; Rossouw and Rossouw 2017 *Southern African Business Review* 6.

matter incidental hereto.<sup>30</sup> However, it appears that the *Currency and Banking Act* made no provision for cooperation and collaboration between the SARB and other financial role players to fulfil its mandates. In other words, at this stage there were no legislative provisions in the *Currency and Banking Act* nor in the *Banks Act* regulating cooperation and collaboration between the SARB and other role players to promote, protect and enhance financial stability and market integrity in South Africa.

## **2.2 The regulation of cooperation and collaboration between the SARB and other financial role players under the Banks Act**

The *Banks Act* was promulgated in 1990. The Act authorised the Registrar of Banks to conclude written arrangements relating to cooperation and collaboration between the SARB and other financial role players.<sup>31</sup> The Registrar of Banks was required to conclude written arrangements regarding cooperation and collaboration with any financial institution that the Registrar deemed fit for cooperation and collaboration.<sup>32</sup> These agreements were required to be in writing and presented in the form of MOUs. However, it should be noted that the scope and ambit for the required cooperation and collaboration between the SARB and other role players were limited to supervisory matters only.<sup>33</sup> This means that the *Banks Act* did not provide for cooperation and collaboration between the SARB and other financial role players to promote, protect, enhance and maintain financial stability and market integrity.<sup>34</sup>

According to the *Banks Act*, cooperation and collaboration arrangements between the SARB and other financial role players such as the FSB, the BSD, the NCR and the NCC also entailed their sharing relevant information with each other.<sup>35</sup> The *Banks Act* provides that the Registrar had to be

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<sup>30</sup> See related discussion by Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 195; Crockett 1996 *De Economist* 540.

<sup>31</sup> Section 4(3) of the *Banks Act* provided for cooperation between the SARB and a banking institution's host supervisor for the purposes of, *inter alia*, conducting on-site inspections and information sharing on matters of the financial status of the banking institution in question; ss 3 and 33 of the *SARB Act*; s 224 of the *Constitution*; Fourie 2021 *Economic History of Developing Regions* 118; Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 195.

<sup>32</sup> Section 4(3) of the *Banks Act*; see related comments by Malan and Pretorius 2001 *THRHR* 271; Bordo 2021 *Open Economies Review* 589; De Jager 2013b *SA Merc LJ* 499.

<sup>33</sup> Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 199; Fourie 2021 *Economic History of Developing Regions* 120; Rossouw 2011 *Economic History of Developing Regions* 8.

<sup>34</sup> Van Niekerk *Comparative Analysis of the Role of the Central Bank* 88; De Jager 2013b *SA Merc LJ* 499; Van Heerden and Van Niekerk 2020 *SALJ* 115.

<sup>35</sup> Section 89 of the *Banks Act*; Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 197; Bordo 2021 *Open Economies Review* 589; De Jager 2013b *SA Merc LJ* 499.



convinced that the information shared by the SARB was essential for the other financial role players to fulfil their roles and objectives.<sup>36</sup> For example, the SARB could only share information relating to financial credit markets with the NCR.<sup>37</sup> It seems as though the Registrar had the powers and authority to determine when and how the SARB could cooperate and collaborate with other financial role players. The advantage of this was that it served to safeguard against cumbersome coordination that could affect the roles and functions of the SARB. This was also essential to ensure that cooperation and collaboration between the SARB and other financial role players such as the FSB, the NCC and the NCR were relevant and adequate for the fulfilment of their regulatory functions.

To give effect to the provisions of the *Banks Act*, the SARB concluded an MOU to establish cooperation, collaboration and information-sharing arrangements with the FSB.<sup>38</sup> The MOU regarding cooperation and collaboration between the SARB and the FSB provided that the SARB and the FSB should meet regularly to discuss systemic issues.<sup>39</sup> The two role players agreed to converge regularly and discuss systemic issues. The MOU between the BSD and the FSB provided arrangements for shared supervisory mandates and sharing information relating to threatening systemic events. The BSD and the FSB also agreed on coordinating the supervision of financial conglomerates such as banks, mutual banks and other financial institutions.<sup>40</sup> It is submitted that this was one of the tacit ways through which cooperation between the SARB and prudential institutions was regulated. It should also be noted that cooperation and collaboration between the SARB and other role players in the past were not expressly prescribed to maintain, promote and enhance financial stability and market integrity in South Africa as it is under the *FSR Act*.<sup>41</sup> This can be attributed to the fact that no express provisions conferring the duty to promote,

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<sup>36</sup> Section 89 of the *Banks Act*, Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 197; Bordo 2021 *Open Economies Review* 589; De Jager 2013b *SA Merc LJ* 499.

<sup>37</sup> Section 89(2) of the *Banks Act*.

<sup>38</sup> See related comments by Rossouw 2011 *Economic History of Developing Regions* 12; also see Fourie 2021 *Economic History of Developing Regions* 119; Botha and Makina 2011 *International Business and Economics Research Journal* 29.

<sup>39</sup> IMF 2014 <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/South-Africa-Financial-System-Stability-Assessment-42508> 24; National Treasury 2022 <https://www.gov.za/news/media-statements/treasury-financial-sector-assessment-program%C2%A0south-africa%E2%80%99s-financial-system>.

<sup>40</sup> Van Niekerk *Comparative Analysis of the Role of the Central Bank* 88; IMF 2014 <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/South-Africa-Financial-System-Stability-Assessment-42508> 78; Rossouw 2011 *Economic History of Developing Regions* 12; also see Fourie 2021 *Economic History of Developing Regions* 119.

<sup>41</sup> Sections 26 and 76 of the *FSR Act*, see related comments by Van Niekerk and Van Heerden 2020 *SALJ* 118; Godwin 2017a *LFMR* 152.

maintain and enhance financial stability in South Africa on the SARB and other financial role players were made.<sup>42</sup> This resulted in the dominance and overburdening of other role players, which led to poor information sharing and cooperation amongst the role players.<sup>43</sup> As such, it can be said that cooperation and collaboration provisions under the *Banks Act* were not adequate to promote, maintain and enhance financial stability and market integrity in South Africa.

### **2.3 The regulation of cooperation and collaboration between the SARB and other financial role players under the Financial Services Board Act**

The *Financial Services Board Act*<sup>44</sup> was enacted in 1990. It authorised the FSB to discuss any matters of common interest with other financial role players, to mutually assist other financial role players and to participate in any proceedings to fulfil its roles and functions.<sup>45</sup> The *FSB Act* also empowered the FSB to enter bilateral MOUs regarding cooperation and collaboration with other financial role players.<sup>46</sup> It should be noted that the *FSB Act* provided that cooperation and collaboration between the FSB and other financial role players were done to promote financial stability, enhance the safety and soundness of financial institutions, coordinate supervisory actions and share information relevant to the fulfilment of its roles and functions. In this regard, it seems that the FSB was also tasked with assisting the SARB to promote and maintain financial stability in South Africa. However, we argue that the regulations relating to cooperation and collaboration under the *FSB Act* were not adequate to promote, protect and maintain financial stability and market integrity. There was a need for comprehensive arrangements to establish how the FSB could effectively cooperate and collaborate with the SARB to promote, protect and enhance financial stability and market integrity in South Africa.

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<sup>42</sup> De Jager 2013b *SA Merc LJ* 499; Van Heerden and Van Niekerk 2020 *SALJ* 109; see related comments by Rajendaran 2012 <https://blog.dvararesearch.com/2012/03/06/approaches-to-financial-regulation-and-the-case-of-south-africa/> 6.

<sup>43</sup> Davies and Green *Global Financial Regulation* 67; Collocott 2019 <https://hsf.org.za/publications/hsf-briefs/financial-regulation-in-south-africa-2013-brief-ii-of-ii-4/>; Rossouw 2011 *Economic History of Developing Regions* 15; De Jager 2013b *SA Merc LJ* 504.

<sup>44</sup> *FSB Act*, see s 12; see related comments by Collocott 2019 <https://hsf.org.za/publications/hsf-briefs/financial-regulation-in-south-africa-2013-brief-ii-of-ii-4/>; Rossouw 2011 *Economic History of Developing Regions* 15.

<sup>45</sup> See s 12 of the *FSB Act*.

<sup>46</sup> Section 12 of the *FSB Act*; see related comments by Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 199; Bordo 2021 *Open Economies Review* 585; De Jager 2013b *SA Merc LJ* 501.

#### **2.4 The regulation of cooperation and collaboration between the SARB and other financial role players under the Financial Markets Act**

The *Financial Markets Act*<sup>47</sup> was promulgated in 2012. It provided that the FSB, through the Registrar of Securities Services, should make the necessary arrangements to cooperate and collaborate with the Governor of the SARB to monitor and mitigate systemic risks that threaten market integrity.<sup>48</sup> The *Financial Markets Act* also provided that the cooperation and collaboration arrangements between the SARB and the FSB should include an arrangement to share information regarding any potential or actual systemic risks that threaten the integrity of the financial markets.<sup>49</sup> The authors submit that the regulation of cooperation and collaboration between the SARB and the FSB under the *Financial Markets Act* was focused on promoting market integrity in South Africa. In this regard, the regulation of cooperation and collaboration between the SARB and other financial role players under the *Financial Markets Act* was insufficiently effective and not adequate to promote financial stability in South Africa. This could have been due to the roles and functions of the FSB, which did not include the promotion and maintenance of financial stability. It should also be noted that prior to the *FSR Act*, the SARB's financial stability mandate was not expressly provided in the statute.<sup>50</sup> Nonetheless, we submit that the regulation of cooperation and collaboration between the SARB and other financial role players was effective but not adequate to promote and enhance market integrity in South Africa.

#### **2.5 The regulation of cooperation and collaboration between the SARB and other financial role players under the National Credit Act**

The *National Credit Act* (the *NCA*) was enacted in 2005. It established the NCR to regulate consumer credit provider institutions in South Africa.<sup>51</sup> The *NCA* provides that the NCR should cooperate and collaborate with the

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<sup>47</sup> *Financial Markets Act* s 30.

<sup>48</sup> See s 30 of the *Financial Markets Act*; also see related comments by Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 199; Bordo 2021 *Open Economies Review* 585.

<sup>49</sup> Section 30(2) of the *Financial Markets Act*; Swart and Lawack 2010 *Obiter* 626; Van Zyl *et al* *Understanding South African Financial Markets* 5; Goodspeed 2013 *South African Financial Market Journal* 6.

<sup>50</sup> De Jager 2013b *SA Merc LJ* 489; Van Heerden and Van Niekerk 2017 *LFMR* 157; Van Niekerk and Van Heerden 2020 *SALJ* 110; see related comments by Godwin 2017b *LFMR* 186.

<sup>51</sup> *National Credit Act* 34 of 2005 (*NCA*) s 2; Chitimira and Ncube 2020 *Acta Universitatis Danubius. Juridica* 28; Chitimira and Magau 2022 *EIRP Proceedings* 368.

SARB and other financial role players in matters of common interest.<sup>52</sup> The *NCA* also provides that the NCR should conclude MOUs regarding cooperation and collaboration to establish cooperation, collaboration and information-sharing arrangements between the NCR and the relevant financial role player.<sup>53</sup> It should be noted that the NCR is required to consult and discuss with the SARB or other relevant financial role players before it takes action against a credit provider. It is submitted that this provision ensures that there is mutual assistance, prior consultation and coordinated decision-making to promote transparency and consistency of action. It should be noted that the regulation of cooperation and collaboration between the SARB and other financial role players under the *NCA* is mentioned only for the purposes of enhancing the credit markets. However, it is our view that a stable and viable credit market promotes the integrity of financial markets by improving the accessibility of financial resources to consumers.<sup>54</sup> Accordingly, it can be said that the regulation of cooperation and collaboration under the *NCA* promotes market integrity and there is a need for consistent enforcement to ensure its effectiveness and adequacy.

## **2.6 The establishment of coordinating bodies to promote coordination between the SARB and other financial role players**

The Financial Sector Contingency Forum (FSCF) was established in 2003 to coordinate arrangements, plans and structures to manage financial crises in South Africa.<sup>55</sup> The member institutions of the FSCF were the SARB, the National Treasury, the FSB, the Banking Association of South Africa, the South African Insurance Association, the JSE, the Payments Association of South Africa, SA Bankers Services Company, South Africa's Central Securities Depository (Strate Limited) and the Association for Savings and Investment South Africa. The member institutions of the FSCF concluded a MOU to establish the roles and functions of each member institution to promote the optimum operation of the FSCF.<sup>56</sup> The MOU also established information-sharing arrangements between member institutions in relation to the execution of agreed actions to ensure the optimum operation of the

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<sup>52</sup> Sections 37 and 38 of the *NCA*; see related comments by Van Niekerk and Van Heerden 2020 *SALJ* 118; also see Chitimira and Ncube 2020 *Acta Universitatis Danubius. Juridica* 28; Chitimira and Magau 2022 *EIRP Proceedings* 369.

<sup>53</sup> Sections 17 and 57 of the *NCA*.

<sup>54</sup> See related comments by Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 71; Chitimira and Ncube 2020 *Acta Universitatis Danubius. Juridica* 28; Chitimira and Magau 2022 *EIRP Proceedings* 369.

<sup>55</sup> See related comments by Godwin, Howse and Ramsay 2017 *SALJ* 670; Van Niekerk and Van Heerden 2020 *SALJ* 120; IMF 2014 <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/South-Africa-Financial-System-Stability-Assessment-42508> 13.

<sup>56</sup> Goodspeed 2013 *South African Financial Market Journal* 6; Rossouw 2011 *Economic History of Developing Regions* 12; also see Fourie 2021 *Economic History of Developing Regions* 119.

whole financial system. We submit that the establishment of the FSCF was a relevant mechanism to foster cooperation and collaboration between the SARB and other financial role-payers in South Africa. Nonetheless, the FSCF did not specifically focus on promoting either financial stability or market integrity. Instead, the FSCF focused on ensuring regulatory coordination to ensure the effective operation of the whole financial system.

It should also be noted that in 2010, plans to establish a Council of Financial Regulators came underway. The purpose of the council was to enhance cooperation and collaboration between financial role players including the BSD, FSB, NCR, Financial Sector Assessment Programme (FSAP) and Financial Intelligence Centre (FIC).<sup>57</sup> However, the project to establish the Council of Financial Regulators did not progress because it was considered "less urgent". The SARB began publishing financial stability reviews every six months to improve reporting and information sharing in South Africa. In 2011, the Ministry of Finance published a document, *A Safer Financial Sector to Serve South Africa Better* (the Red Book), that suggested some considerations regarding cooperation and collaboration between the SARB and other role players in order to enhance the promotion and protection of financial stability and market integrity in South Africa.<sup>58</sup> Although the FSB and the SARB took measures to enhance cooperation and collaboration through sharing information to contribute to the effective oversight of financial conglomerates, cooperation and collaboration were not effectively and uniformly enforced in South Africa.<sup>59</sup> Accordingly, it can be said that despite the efforts to enhance cooperation and collaboration between the SARB and the FSB, the BSD, the NCC and the NCR, the lack of comprehensive arrangements and measures to foster cooperation and collaboration in South Africa resulted in poor and ineffective cooperation and collaboration between the SARB and other financial role players.

In 2008, a FSAP was performed by the International Monetary Fund (IMF) and the World Bank in South Africa.<sup>60</sup> The programme assessed the South African financial regulatory framework and outlined aspects of the

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<sup>57</sup> Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 26; Oosterloo and De Haan 2004 *Journal of Financial Stability* 258; Schoombee 2003 *South African Journal of Economic History* 33.

<sup>58</sup> Millard 2016 *PELJ* 2; also see Van Niekerk *Comparative Analysis of the Role of the Central Bank* 73; Van Zyl *et al Understanding South African Financial Markets* 34; Botha and Makina 2011 *International Business and Economics Research Journal* 28.

<sup>59</sup> See related comments by Angel and McCabe 2001 *Journal of Business Ethics* 591; Shefrin and Statman 1993 *Financial Analyst Journal* 25; Oosterloo and De Haan 2004 *Journal of Financial Stability* 259.

<sup>60</sup> Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 1, 15; Botha and Makina 2011 *International Business and Economics Research Journal* 32; Bradley, Padayachee and Rossouw 2021 *Economic History of Developing Regions* 201.

framework that required reform.<sup>61</sup> Amongst other things that were identified as requiring reform, the FSAP found that there was a need to prioritise and strengthen cooperation, collaboration and information-sharing arrangements between the SARB and other financial role players in South Africa.<sup>62</sup> It was also found that there existed a need to identify regulatory gaps and overlaps and establish clear demarcations of the roles and mandates of each regulator.<sup>63</sup> The FSAP noted that the lack of mechanisms to resolve policy disagreements amongst financial role players was a result of poor cooperation and collaboration amongst financial role players.<sup>64</sup> To address these shortcomings, the National Treasury tabled proposals for a new financial regulatory approach that prioritised cooperation and collaboration between the SARB and other financial role players in South Africa.

### **3 Cooperation and collaboration between the SARB and the FSB to protect financial stability and market integrity in South Africa**

The FSAP made recommendations to strengthen the cooperation, coordination and sharing of information among the SARB, the FSB and the NCR to protect, promote and enhance financial stability and market integrity in South Africa.<sup>65</sup> Accordingly, the BSD, as housed by the SARB, and the FSB entered into an MOU to formalise their cooperation, collaboration and information-sharing arrangements.<sup>66</sup> Therefore, the MOU outlined mechanisms for cooperation and collaboration between the SARB and the FSB.<sup>67</sup> The SARB and the FSB agreed to meet quarterly and discuss

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<sup>61</sup> Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 7, 23-24; Botha and Makina 2011 *International Business and Economics Research Journal* 32; Rossouw 2011 *Economic History of Developing Regions* 12; also see Fourie 2021 *Economic History of Developing Regions* 119.

<sup>62</sup> Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 7; Rossouw 2011 *Economic History of Developing Regions* 4; Fourie 2021 *Economic History of Developing Regions* 118.

<sup>63</sup> Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 23; De Jager 2013a *SA Merc LJ* 353; Botha and Makina 2011 *International Business and Economics Research Journal* 28; De Jager 2013b *SA Merc LJ* 504.

<sup>64</sup> Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 23-24; see related comments by Malan and Pretorius 2001a *SA Merc LJ* 35; Malan and Pretorius 2001b *SA Merc LJ* 163; Bordo 2021 *Open Economies Review* 591.

<sup>65</sup> Viñals and Brook 2009 <https://www.imf.org/external/np/pp/eng/2009/082809B.pdf> 5; Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 7; Schooner 2002 *Brooklyn J Int'l L* 412.

<sup>66</sup> Thomas 2011 <https://saiia.org.za/research/trade-in-financial-services-in-southern-africa-what-room-for-negotiators-post-2008-financial-crisis/> 42; Godwin, Howse and Ramsay 2017 *SALJ* 696; Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 23-24.

<sup>67</sup> IMF 2010 <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/South-Africa-Detailed-Assessment-of-Compliance-on-Basel-Core-Principles-for-Effective-24483>

matters relating to unprecedented events which might threaten financial stability, the effective functioning of the financial markets, supervisory issues and interrelated regulatory issues regarding effective cooperation and collaboration with other financial role players.<sup>68</sup> The MOU also clearly outlined the mandates and duties of each party to avoid the duplication of tasks and regulatory overlaps in relation to the regulation and supervision of financial markets in South Africa.<sup>69</sup> In 2010, the SARB and the FSB hosted several supervisory meetings to enhance information-sharing mechanisms, curb regulatory gaps in group supervision and help each regulator identify potential regulatory arbitrages and systemic risks that might threaten financial stability and the functioning of the financial markets.<sup>70</sup>

The FSB and the SARB also conducted regular meetings to resolve policy disagreements and matters involving the roles and responsibilities of the BSD, the NCR, the FIC and the NCC.<sup>71</sup> The SARB and the FSB worked together to resolve disputes relating to financial sector regulation. Given this background, it is clear that cooperation and collaboration between the SARB and the FSB were not done to enhance, maintain and promote financial stability and market integrity in South Africa. Moreover, such cooperation and collaboration were not regulated in terms of any formal legislative provision and were not adequate enough to promote, protect, enhance and maintain financial stability and market integrity in South Africa, as evidenced by the regulatory gaps and overlaps that had existed in the previous silo regulatory framework.<sup>72</sup> The lack of a robust regulatory framework can be said to be one of the reasons why cooperation and collaboration between the SARB, the BSD, the FSB, the NCC and the NCR was not consistent.

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4; Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 25.

<sup>68</sup> Viñals and Brook 2009 <https://www.imf.org/external/np/pp/eng/2009/082809B.pdf> 5; Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 26; Shefrin and Statman 1993 *Financial Analyst Journal* 22; Angel and McCabe 2001 *Journal of Business Ethics* 592-593.

<sup>69</sup> Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 26; see related comments by Angel and McCabe 2001 *Journal of Business Ethics* 591; Shefrin and Statman 1993 *Financial Analyst Journal* 25.

<sup>70</sup> Ferhani and Sayeh 2008 <https://www.imf.org/external/pubs/ft/scr/2008/cr08349.pdf> 26; Thomas 2011 <https://saiia.org.za/research/trade-in-financial-services-in-southern-africa-what-room-for-negotiators-post-2008-financial-crisis/> 44; also see Cooke *Future of Financial Regulation* 23.

<sup>71</sup> Swart and Lawack 2010 *Obiter* 626; Van Zyl *et al Understanding South African Financial Markets* 5; Botha and Makina 2011 *International Business and Economics Research Journal* 28; Goodspeed 2013 *South African Financial Market Journal* 6.

<sup>72</sup> Botha and Makina 2011 *International Business and Economics Research Journal* 28; De Jager 2013b *SA Merc LJ* 498; Angel and McCabe 2001 *Journal of Business Ethics* 589.

#### **4 Cooperation and collaboration between the SARB and the BSD to promote, protect, enhance and maintain financial stability and market integrity in South Africa**

The SARB was divided into different departments and each department had specific duties and functions to ensure the effective regulation and supervision of financial institutions.<sup>73</sup> The BSD cooperated with the SARB to regulate and supervise banking institutions to ensure financial stability and to protect the interests of the customers.<sup>74</sup> The BSD was also tasked with ensuring that the SARB complied with the relevant anti-money laundering and financing terrorism (AML/CFT) to combat money laundering activities that could threaten financial stability. This was effective in promoting market integrity and financial stability by preventing money laundering activities that threatened market integrity and financial stability. For example, in 2014 the BSD fined four banks in South Africa to the value of R125 million for failure to comply with the AML/CFT laws in South Africa.<sup>75</sup> In this regard, it is submitted that the cooperation and collaboration between the SARB and the BSD contributed to the promotion and protection of financial stability and market integrity in South Africa.

#### **5 The regulation of the cooperation and collaboration between the SARB and relevant regulatory bodies post 2018**

The *FSR Act* came into effect in 2017 as the primary legislation for financial sector regulation. The *FSR Act* introduced a new financial regulatory architecture that is embedded in effective cooperation and collaboration to promote, protect, maintain and enhance financial stability and market integrity in South Africa.<sup>76</sup> The *FSR Act* established two key financial role players, the Prudential Authority for prudential regulation and the Financial Sector Conduct Authority to regulate market conduct.<sup>77</sup> The *FSR Act* also expressly conferred the duty to promote, protect, enhance and restore

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<sup>73</sup> Swart and Lawack 2010 *Obiter* 626; Van Zyl *et al Understanding South African Financial Markets* 5; Botha and Makina 2011 *International Business and Economics Research Journal* 28; Goodspeed 2013 *South African Financial Market Journal* 6.

<sup>74</sup> Swart and Lawack 2010 *Obiter* 626; Goodspeed 2013 *South African Financial Market Journal* 6; see related comments by De Jager 2013b *SA Merc LJ* 495; Malan and Pretorius 2001 *THRHR* 66; Crockett 1996 *De Economist* 533; Schulze 2002 *SA Merc LJ* 440.

<sup>75</sup> *Financial Intelligence Centre Act* 38 of 2001 s 21; see related comments by Swart and Lawack 2010 *Obiter* 630; also see De Jager 2013b *SA Merc LJ* 499.

<sup>76</sup> Sections 26 and 76 of the *FSR Act*; Van Niekerk and Van Heerden 2020 *SALJ* 110; Godwin and Schmulow 2015 *SALJ* 759; Godwin 2017b *LFMR* 184.

<sup>77</sup> Sections 32 and 56 of the *FSR Act*; Sithole 2018 <https://qa.masthead.co.za/wp-content/uploads/2018/10/FCSA-Strategy-2018.pdf> 3; Godwin, Howse and Ramsay 2017 *SALJ* 665.



financial stability on the SARB.<sup>78</sup> The *FSR Act* established several mechanisms to foster cooperation and collaboration between the SARB and other financial role players to promote, protect, enhance and maintain financial stability and market integrity in South Africa.<sup>79</sup> Examples of these mechanisms are the statutory duty to cooperate and collaborate,<sup>80</sup> the statutory duty to conclude MOUs regarding cooperation and collaboration<sup>81</sup> and the establishment of bodies and forums to facilitate cooperation and collaboration between the SARB and other financial role players to promote, protect, enhance and maintain financial stability and market integrity in South Africa.<sup>82</sup>

## 6 Concluding remarks

In our view, the regulation of cooperation and collaboration between the SARB and other financial role players between 1921 and 2018 was characterised by a lack of detailed arrangements and effective measures to foster cooperation and collaboration between the SARB and other financial role players. The *Banks Act*, the *Financial Markets Act*, the *FSB Act* and the *NCA* included provisions for cooperation and collaboration but these provisions were not adequate to foster effective inter-agency coordination. This follows the fact that regulatory coordination was not done to promote financial stability and enhance market integrity but to fulfil supervisory roles and functions. For example, the *Banks Act* provides that financial regulatory bodies should only share confidential information when necessary for supervisory purposes unless specified otherwise or required by a court order. The lack of adequate cooperation and collaboration arrangements to promote, protect, enhance and maintain financial stability and market integrity gave rise to regulatory gaps and overlapping functions in the financial sector. The establishment of coordinating forums and committees at this time was ineffective due to the lack of underpinning regulations.<sup>83</sup> Accordingly, we submit that the regulation of cooperation and collaboration between the SARB and other financial role-players prior to the enactment of the *FSR Act* was not sufficiently robust and adequate to protect, promote,

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<sup>78</sup> Section 12 of the *FSR Act*; Van Niekerk and Van Heerden 2020 *SALJ* 115; Van Heerden and Van Niekerk 2017 *LFMR* 156, 158; see related comments by Llewellyn "Institutional Structure of Financial Regulation" 6.

<sup>79</sup> Qumba 2022 *SALJ* 108; Schmulow 2017 *AJICL* 395; Godwin, Li and Ramsay 2016 *HKLJ* 957.

<sup>80</sup> Sections 26 and 76 of the *FSR Act*; also see Van Niekerk and Van Heerden 2020 *SALJ* 115.

<sup>81</sup> Sections 27 and 77 of the *FSR Act*.

<sup>82</sup> Sections 20, 25, 79 and 83 of the *FSR Act*; Qumba 2022 *SALJ* 108; Osode 2021 *Interdisciplinary Journal of Economics and Business Law* 27; Godwin, Howse and Ramsay 2017 *SALJ* 668; Van Niekerk and Van Heerden 2020 *SALJ* 115.

<sup>83</sup> Van Zyl *et al Understanding South African Financial Markets* 35; Falkena *et al Financial Regulation* 28; see related comments by De Jager 2013b *SA Merc LJ* 495.

enhance and maintain financial stability and market integrity in South Africa.<sup>84</sup> If lessons from the global financial crisis are anything to go by, globalisation has increased the threat of systemic risk contagion from one jurisdiction to the other due to the increased intersection of financial markets. This has given rise to the need for effective regulatory coordination domestically and internationally so as to manage systemic risks.

The first time that cooperation and collaboration were comprehensively regulated in South Africa was in 2018 when the *FSR Act* came into effect. The *FSR Act* introduced the statutory duty to cooperate and collaborate between the SARB and other financial role players to promote financial stability, enhance market integrity and fulfil their regulatory roles and functions. Accordingly, it is our view that the establishment of clear roles and functions for the SARB and other financial role players was the first step in promoting effective coordination between the SARB and other financial role players in South Africa.<sup>85</sup> Cooperation, collaboration, information sharing, transparency and accountability are key aspects of promoting, protecting, enhancing and maintaining financial stability.<sup>86</sup> As such, the decision to provide for comprehensive cooperation and collaboration between the SARB and other financial role players is highly commendable.

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<sup>84</sup> Section 33(2) of the *SARB Act*; see related comments by Rossouw 2011 *Economic History of Developing Regions* 12; Fourie 2021 *Economic History of Developing Regions* 119; Botha and Makina 2011 *International Business and Economics Research Journal* 31.

<sup>85</sup> Schmulow 2017 *AJICL* 399; see related comments by Godwin, Li and Ramsay 2016 *HKLJ* 952; Van Heerden and Van Niekerk 2017 *LFMR* 158; Osode 2021 *Interdisciplinary Journal of Economics and Business Law* 23.

<sup>86</sup> Van Niekerk and Van Heerden 2020 *SALJ* 115; see related comments by Van Heerden and Van Niekerk 2017 *LFMR* 156; also see Van Heerden and Van Niekerk 2017 *THRHR* 640; Llewellyn "Institutional Structure of Financial Regulation" 21.

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*Currency and Banking Act* 31 of 1920

*Financial Intelligence Centre Act* 38 of 2001

*Financial Markets Act* 19 of 2012

*Financial Sector Regulation Act* 9 of 2017

*Financial Services Board Act* 97 of 1990

*National Credit Act* 34 of 2005

*South African Reserve Bank Act* 29 of 1944

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## List of Abbreviations

AJICL	African Journal of International and Comparative Law
AML/CFT	anti-money laundering and financing terrorism
Brooklyn J Int'l L	Brooklyn Journal of International Law
BSD	Bank Supervision Department
EIRP Proceedings	Proceedings of the International Conference on European Integration – Realities and Perspectives
FIC	Financial Intelligence Centre
FSAP	Financial Sector Assessment Programme
FSB	Financial Services Board
FSB Act	Financial Services Board Act 97 of 1990
FSCF	Financial Sector Contingency Forum
FSR Act	Financial Sector Regulation Act 9 of 2017
HKLJ	Hong Kong Law Journal
IOSCO	International Organisation of Securities Commission
IMF	International Monetary Fund
JBFLP	Journal of Banking and Finance Law and Practice
JFC	Journal of Financial Crime
JSE	Johannesburg Stock Exchange
LFMR	Law and Financial Markets Review
MOU	Memorandum of Understanding
NC J Int'l L & Com Reg	North Carolina Journal of International Law and Commercial Regulation
NCA	National Credit Act 34 of 2005

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NCC	National Consumer Commission
NCR	National Credit Regulator
PELJ	Potchefstroom Electronic Law Journal
SA Merc LJ	South African Mercantile Law Journal
SALJ	South African Law Journal
SARB	South African Reserve Bank
SARB Act	South African Reserve Bank Act 29 of 1944
THRHR	Tydskrif vir Hedendaagse Romeins-Hollandse Reg