

# Legal insight into banking and finance for 2024

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A new year always brings fresh opportunities and hope, but together with that optimism comes the uncertainty of imminent change. In the banking and finance sector, fortunately, these changes tend to unfold more carefully and cautiously than in other sectors.



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For a successful and prepared transition into 2024, we have highlighted some trends impacting the banking and finance sector from a legal perspective.

## Transition financing

Green financing is fast becoming a focal point in the banking industry with Southern Africa, particularly given the ample renewable energy potential. This was evidenced recently through the approval of a \$1bn loan from the World Bank to South Africa. The loan is for the promotion of long-term energy security and a low carbon transition.

Considering the sheer number and size of renewable energy projects required in this transition, it seems likely that sponsors of renewable energy projects will continue to look both locally and abroad for project financing.

## Emphasis on climate change

The long-awaited Climate Change Bill was passed by the National Assembly in October 2023 and is progressing through the final stages of legislative assent. Once approved, this legislation establishes a comprehensive legal framework for the regulation of the impacts of climate change, with the ultimate overall goal to achieve net-zero by 2050.

Banks and financial institutions will be impacted too by the pending finalisation of the Prudential Authority's draft guidance for banks and insurers on integrating climate risks into their governance and risk-management frameworks. The Prudential

Authority released the guidance in early August 2023 and has received comments on it.



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### Moving off the grey list

South Africa continues to make progress in its reforms aimed at prosecuting money laundering and terrorist financing. The ultimate aim remains for the Financial Action Task Force to remove South Africa's grey-listing status.

In latest developments, the Banking Association South Africa (Basa) and the South African Banking Risk Information Centre (Sabric), with the assistance of the Hawks, have established a forensic analysis centre aimed at improving the country's capacity to investigate and prosecute financial crimes. There has also been a greater emphasis on reporting fraud and holding accountable those who do not report fraud.

### Clarifying crypto

Introducing crypto regulations may play a significant role in whether South Africa's grey-listing status is removed. Regulating crypto, though, is not primarily for FATF reasons – there is a need for greater harmonisation of the financial laws regulating cryptocurrencies, especially regarding exchange control regulations.

### Implementing the two-pot system

The proposed changes to South Africa's pension regime have been discussed extensively. The two-pot system envisages future contributions being allocated to a retirement pot (two-thirds of contributions) and a savings pot (one-third of contributions). Implementation is taking centre stage for financial institutions in 2024 with the proposed deadline of 1 March 2024.



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### Phasing out Jibar

The transition from the Johannesburg Interbank Average Rate (Jibar) to using the risk-free reference rate of the South African Rand Overnight Index Average (Zaronia) continues apace, despite the cessation date for Jibar looking to be fixed only in the coming years. The focus for 2024 is on the preparations for Zaronia including agreeing conventions for the calculation of Zaronia-linked loans, bonds and cash products, educating market participants on the cessation, and anticipating tough legacy issues.

### Regional collaboration in the financial sector

The deployment of projects like the Pan-African Payment and Settlement System and the African Exchanges Linkage Project indicate a push for regional collaboration in 2024 and beyond. These regional collaborations have the wider aims of supporting cross-border trading across Africa, and supporting the African Continental Free Trade Area, within the banking and finance sector.

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