



# Banks could face massive fines for price fixing

The banks implicated for price fixing by the Competition Commission could face heavy financial penalties as the Competition Tribunal can impose administrative fines of up to 10% of their turnover for collusive conduct.

“In a world of substantial and ever-increasing fines, as well as the potential for private damages actions, it would be critical for the banks to show that they have stringent compliance policies in place.



“This would assist in providing accurate data and reports to the authorities to show that the conduct complained of was that of a deviant employee/s, and not common practice,” says Anthony Crane, competition law partner at law firm, Dentons SA.

The commission said last week, that it has been investigating a case of price-fixing and market allocation in the trading of foreign currency pairs involving the rand since April 2015. It has now referred the case to the tribunal for prosecution against 17 banks, including three of South Africa's big banks.

Last year six banks in the United Kingdom were ordered to pay \$6bn for manipulating foreign exchange markets in 2013. Coupled with the fact that our courts are now getting to grips with private damages claims as indicated in the recent SAA/Comair matter, this could end up being an extremely expensive exercise.”

In addition, the banking sector was criticised in the State of the Nation Address for its highly-concentrated nature and so the timing of the referral is unfortunate for the banks. However, they now have an opportunity to formally respond to the allegations before the tribunal.

The banks being prosecuted are Bank of America Merrill Lynch International Limited, BNP Paribas, JP Morgan Chase & Co, JP Morgan Chase Bank NA, Investec Ltd, Standard New York Securities Inc, HSBC Bank Plc, Standard Chartered Bank, Credit Suisse Group; Standard Bank of South Africa Ltd, Commerzbank AG; Australia and New Zealand Banking Group Limited, Nomura International Plc, Macquarie Bank Limited ABSA Bank Limited (ABSA), Barclays Capital Inc, Barclays Bank plc.

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