

The Council of Southern African Bankers

by Tim Hart

As South Africa was established in the year 1652 by the Dutch East India Company as a stopover point for their ships plying trade between Holland and the Far East, it was only natural that European banking and savings organisations should have their origins in the countries which colonised the territory which is now South Africa. The earliest banks had their origins in Holland followed by those institutions introduced by the British when they acquired control of the Cape in 1804. Consequently most banks and Building Societies will find their parallel in Europe, Great Britain and the many countries around the world which were occupied and formed part of the British Empire.

In line with the customs and conventions in these countries, legislation was developed to regulate and control each specialised financial institution. There was also a distinct divide between those institutions which were equity based and those which were mutually owned. Each distinct form of institution was preserved in its special form by specific laws and kept separate from other forms of financial intermediaries for reasons which at the time that the laws were made were very valid. Over time, the legislators, aided and abetted by the banks and building societies, finally realised that the artificial separation of institutions which were engaged in basically the same activities, viz. the mobilisation of funds for the creation of credit, was absurd. In 1968 a process was commenced to allow building societies, if they so wished, to convert to equity



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based institutions which led to the promulgation on 28th June 1990 of the new Banks Act in South Africa. This Act replaced the various Banks Acts.

Mutual Building Societies which fell naturally into the deposit taking category of financial institutions were allowed to continue as such. The Mutual Building Societies Act is to be replaced with a new Mutual Banks Act which will then fully embrace these institutions as equal deposit-takers. In view of these developments it became necessary and most desirable to reorganise the trade associations which represented

the interests of the various banking organisations. At the time four associations were in operation, viz. the Clearing Bankers Association, Association of General Banks, Merchant Bankers Association and the Association of Mortgage Lenders.

The latter was a development of the Association of Building Societies which had represented mutual building societies since 1938. In 1990 when the new Banks Act was introduced and the advancing of funds for the purchase of private homes was no longer reserved for building societies alone, and most of the major societies converted to Banks, the Association of Building Societies was changed into The Association of Mortgage Lenders of South Africa, an Association to cater for the needs of any registered bank or building society which actively participated in the provision of mortgage funds.

The Association of Mortgage Lenders approached the other Associations with a view to the amalgamation of the four associations and after much deliberation the Council of Southern African Bankers was brought into being.

At the time of the launch, a memorandum was issued to all prospective members, the text of which is in Figure 1.

The majority of the banks and building societies invited to create the Council of South African Bankers (COSAB) agreed to do so and on 13th March 1992, the Council was

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Figure 1: The Memorandum circulated at the time of the launch of the Council of Southern African Mortgage Lenders

THE COUNCIL OF SOUTHERN AFRICAN BANKERS

Membership

Membership is open to all financial institutions registered as Banks and Mutual Building Societies in the Republic of South Africa, and to similar organisations registered and operating in Southern Africa.

Executive Board of the Council

The Executive Board will consist of -

- Chief Executive Officers of the five largest members.
- Two elected representatives of the other members
- The Chairmen of specialist associations

As there will no doubt be four specialist associations, the Executive Board will consist of eleven Directors who will each nominate an alternate.

Object

To represent Banks and Building Societies in Southern Africa in all matters affecting the industry.

Functions

The Council

- All matters of common concern to members.
- Administration of The Council of Southern African Bankers.
- Ensure proper functioning of Specialist Associations.
- Project the image of the Council to all parties concerned with special emphasis on parliamentary lobbying.
- Maintain established internal and international connections.

Special Interest Associations

Special interest associations will be established by the Council which will to all intents and purposes appear to the outside world to continue to function as independent associations. As many associations as may be necessary will be consti-

tuted. At present it is envisaged that four such associations may be necessary. Each association will have its own Chairman and executive committee but the Council will provide co-ordination and the necessary administrative back up.

It is envisaged that the following four Associations will be required initially;

- The Clearing Bankers Association of South Africa
- The Association of General Banks
- The Association of Merchant Banks
- The Association of Mortgage Lenders of South Africa

The associations will be made up of nominees of the members of The Council and each association will elect its own office bearers. The associations will pursue those issues which are special and peculiar to their own needs in the knowledge that the Council will be available at all times to give its full support to their requirements. Where matters arise which may affect the various associations differently, it will be necessary to refer these matters to the Council which will have to decide on the course most beneficial to the majority of members and the industry as a whole.

Funding

Funding of the Council's operations will be determined by a budget for the Council and separate subsidiary budgets for the respective associations. Subscriptions will be determined for the Council on the basis that 80% of the cost of administering the Council being funded by the five largest members and the remaining 20% to be equally distributed amongst the other members. The contribution to any association to which members delegate representatives will be determined by the Council of that association.

Voting

Voting on issues in general meetings of the Council will be decided by either a show of hands, in which case each member voting will have one vote, or if a poll is requested, then votes will carry a weighting proportionate to the funding of the Council. Each Director of the Execu-

tive Board of the Council will have one vote.

General

The items which will be delegated to the associations will have to be clearly defined in order to establish the areas of responsibility and accountability of each association. Matters which are of common interest to the various associations will be dealt with by sub-committees of the Council.

The management of the Council will be under the direction of a Director General who will be an experienced, knowledgeable, assertive and persuasive banker with experience and expertise at head office level. The management of the specialist associations will continue to be the responsibility of the Association's Director and its Council.

Although membership of the Council is restricted to registered banks and building societies only, members will be empowered to nominate representatives of their respective divisions to be members of one or more of the specialist associations.

As the Banks Act is once again being amended to improve the operations of that Act, and as we have been given notice of the possibility of the drawing up of a Financial Institutions Act, the need for the establishment of a strong cohesive body to represent banks and building societies is most desirable.

The proposed Council fulfills all the needs of all the financial institutions operating in Southern Africa and will, I am sure, make a significant contribution to enhancing the stature of the members which it will serve.

Barry Swart,
President, Clearing Bankers Association

19th February 1992.

Figure 2 : COSAB's Draft Mission Statement

DRAFT MISSION STATEMENT

Mission

To promote on a structured, pro-active and cost effective basis the interests of banks and building societies operating in Southern Africa. COSAB's mission is to be achieved by:

- Identifying those issues which are, or may become, self-evidently common to the general community of banks and building societies in South Africa, prioritising these issues, and developing and implementing appropriate and effective strategies to address these issues;
- Identifying those issues which are not of common concern to the general community of banks and building societies but which are of interest to one or more sectors of the community and ensuring that those issues are effectively addressed on a structured sectoral basis, and in a manner similar to common interests;
- Actively seeking to include in membership, subject to such changes as may be necessitated by circumstances, relevant deposit-taking institutions registered or operating outside of the Republic of South Africa but within the broader Southern African region;
- Liaising closely and pro-actively with all appropriate regulatory authorities and other relevant bodies (including political organisations) to establish and maintain interfaces which are effective for all parties;
- Liaising actively with corresponding bodies internationally;
- Maintaining cohesion within the COSAB membership through regular and effective communication;
- Enhancing the image of the broader banking industry through appropriate strategies;
- Promoting the observance of ethical standards through the adoption of a common code of ethics, without interfering in the domestic affairs of any member.

registered as a section 21 company which, for tax purposes, is not permitted to distribute profits to its sponsors. In May of that year, the Director General assumed office and COSAB was in business.

COSAB was requested to present its mission statement to the new executive board. The draft text of this statement is shown in Figure 2.

Enclosed in the draft mission statement was a reference to a possible code of conduct, which should desirably embrace a number of points, which are mentioned in the Draft Code of Conduct, shown in Figure 3.

Since its inception, COSAB had firstly to bring the participating four Associations together in one office. This was achieved in June of 1992. Thereafter the process of rationalisation of all the common services was necessary, a process which is well

advanced but not yet completed. As the four associations were completely independent and autonomous, and had different financial year ends, the winding down of each Association and the transfer of assets and liabilities to the common fund had to be completed. This process represented the administrative factors which the new Director General had to deal with. In addition a number of substantive issues which had to be addressed were identified.

They were:

- The future of the banking and building society industry in the new South Africa;
- The image of banking and the need for a code of conduct;
- Taxation :
 - The Taxation of savings in the Republic of South Africa;
 - Financial service levy which is imposed on financial institutions; and
 - The taxation of non-resident interest.
- The scope and nature of regulation has to

be examined, and especially the envisaged new Financial Services Act, which could have a dramatic impact on banks, as well as other financial institutions;

- The legislative inroads into the business of banking in a society which should be dominated by a free market independent banking system;
- As far as the banking industry in the new South Africa was concerned, it was necessary to establish contact with carefully identified key players in the most important political groupings;
- COSAB has full representation on the Economic Forum, a body which will participate in a meaningful manner in determining economic policy in the new South Africa;
- As far as taxation is concerned, contact with the relevant Departments, Ministers and Senior Advisors has been established and needs to be pursued;
- Continued attention must be given to any proposed new legislation and the Council's duty is to monitor such developments in order to ensure that legislation which could be detrimental to the banking fraternity must be opposed, and alternatives suggested. In this regard, it is necessary to develop a very effective lobbying mechanism, so that the points of view of the concerned banking institutions can be carried across to those who operate in the role of the lawmakers of the nation.

Although COSAB is still only a young organisation, it has all the potential for being a dynamic and cohesive force in the banking world of South Africa. I believe that COSAB is the correct way to go, and when the new Mutual Banks Act is promulgated to open the doors to a host of new community based financial institutions, it will be in a position to make an additional and meaningful contribution to the future development of South Africa. ■

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Figure 3 : COSAB's Draft Code of Conduct

DRAFT CODE OF CONDUCT

Purpose of the Code

COSAB and its members believe that it is important to the overall integrity of financial markets that fundamental business standards be codified inter alia within the banking industry. Such a code represents the collective opinion of the banking industry as to what constitutes sound business principles and practices. As such the Code is an important statement in the interests of the customers and clients of banks, and their regulatory authorities. The adoption of this code by the members of COSAB expresses the principle of voluntary self-regulation by the members of the banking industry in the field of good business conduct.

Nature of the Code

The Code will not have the force of law nor the status of a contract between banks and their customers and clients. Any aggrieved customer of a bank will, however, have a public statement subscribed to by all members of COSAB as to sound banking principles and practices against which to progress any legitimate complaints against the bank. If any customer, after exhausting the internal complaints procedures of a bank, still feels aggrieved on the basis of a possible breach of this Code he may ask the Director General of COSAB to mediate in the matter. Such a mediation exercise will however only be undertaken if the customer can establish to the satisfaction of the Director General a clear prima facie case of a breach of the Code.

Obviously any member of COSAB, which finds itself in a position where on a regular basis there are substantial public complaints against it of breaches of the Code, will expose itself to strong peer group pressure from within COSAB to conform to the Code.

Principles and Guidelines

The provisions of the Code fall into two categories. On the one hand the Code sets out three principles to be observed in banking business. These general principles are seen as a distillate of acceptable standards of responsible behavior, and have an obvious and universal application. On the other hand the Code lays down a series of guidelines, many of which are no more than examples of the application of the general principles. By their very nature an exhaustive list of guidelines is not possible and where a set of circumstances is not covered or is imperfectly covered by a guideline a common sense application of the general principles is necessary.

General Principles

Banks will:

- Act fairly and reasonably in their dealings with customers;
- Act responsibly to protect the legitimate interests of their depositors and shareholders;
- Act as responsible national institutions.

Guidelines

Banks will:

- not over represent or falsify claims as to the value of their services or products;
- take all reasonable steps to inform customers as to the terms and conditions attaching to any service or product, and of any change in those conditions;
- not collude or otherwise act in concert to the detriment of the legitimate interest of customers;
- cooperate through joint agencies where these are patently feasible and practical to deliver more cost effective services and products to customers;
- observe professional banking confidentiality except where legal compulsion to disclose operates;
- provide proper procedures for the handling of customer complaints;
- not knowingly indulge in activities where shareholders' and depositors' interests are put at abnormal risk;
- not discriminate against customers on grounds of gender, race or religion;
- not knowingly be a party to any advice or activity which is patently offensive on moral or legal grounds;
- conduct their relationships with the regulatory authorities on an open and cooperative basis;
- at all times conduct their affairs so as to win and keep the confidence of the authorities and the public.