South Africa

Type of state	Unitary
State / regional government level (number)	Provinces (9)
Local general government levels (number)	Municipalities (257)[1]
Total subnational liabilities, 2019 (state/regional + local)	ZAR 259.2 billion, (USD 17.9 billion eq.)
Local government outstanding liabilities, *% of total subnational, 2019*	100%
Total subnational liabilities growth, CPI adjusted[2],	10.35%
Total local government liabilities growth, CPI adjusted, 2016 to 2019	10.35%

Legal & regulatory environment	• Multiple forms of borrowing enabled; strong legal & institutional framework • Insolvency provisions outlined under law
Borrowing readiness	• Large metropolitan municipalities generally have significant own source revenues generation, some are rated and have tapped both bank-lending and capital markets • While some smaller municipalities are on solid financial footing, many face significant financial constraints & capacity issues in financial management • Some metropolitan municipalities have accessed a variety of instruments, including loans and bonds
Macro credit conditions	• Private lending is a large part of municipal borrowing portfolio, both from banks and pension funds/insurers • Low-growth economic outlook in the short- medium term

Highlights

- Some metropolitan municipalities have a well-established history of long-term borrowing with a variety of instruments (government and private bank loans, bonds via private placement and public auction)
- Municipal borrowing is governed by a well-defined legal and regulatory regime; the level of municipal defaults on long-term obligations is low
- While the municipal bond market is the most active (indeed the only) in Africa, direct lending in the form of loans from public and private financial institutions dominate (only 4 metropolitan municipalities have issued bonds)
- Aggregate municipal borrowing for municipalities remains well below the maximums suggested in central government guidelines, implying low levels of fiscal risk arising from local government borrowing

Borrowing legal & regulatory environment

Overview: South Africa is a unitary state with three delineated spheres of government: national, provincial and municipal. The 257 municipalities cover the entire territory of the country. Municipal boundaries are set by an independent body known as the Municipal Demarcation Board and municipal powers and functions are defined by the Constitution and acts of parliament. Pursuant to the Constitution, Section 155, municipalities are divided into 3 categories:

- Category "A" - 8 "Metropolitan" municipalities that have exclusive municipal executive and legislative authority in their areas:

- Category "C" – 44 "District" municipalities that cover the entire territory not covered by Metropolitan municipalities;
- Category "B" – 205 "Local" municipalities that share municipal executive and legislative authority in their areas with the category C municipalities within whose area they fall.

Municipalities have significant constitutional powers in terms of service delivery, expenditure and revenue generation.[3] All are responsible for long-term capital investment planning and implementation of infrastructure projects to support municipal service delivery.[4] Larger municipalities - in particular the metropolitan municipalities and the more populous local municipalities - have diversified income streams derived from taxes and fees, with own source revenue in excess of 70% of total. Intergovernmental transfers from the central government are provided in both unconditional and conditional streams. Equitable Share transfers are formula-based and unconditional and can be used for any legitimate purpose, including to secure borrowing. In addition, municipalities receive conditional grants that are tied to specific purposes. The percentage of these conditional transfers as a share of all transfers has remained consistent in recent years, declining only slightly from 42% of transfers in 2016 to 39% in 2021.[5]

The legal framework governing municipal expenditure assignments is wide in scope and areas of exclusive municipal authority are delineated in Schedule 5, Part B of the Constitution. Expenditure levels between categories of municipality are widely divergent. The greatest municipal expenditure per capita is concentrated in larger municipalities: as of 2016, the metropolitan municipalities had 40% of the country's population but accounted for 56% of total municipal expenditure. On the other hand, rural municipalities had 24% of the population but accounted for just 6% of total expenditure.[6] These discrepancies in terms of income and expenditure indicate that the municipalities potentially best suited for commercial borrowing are the 8 metropolitan municipalities and the largest Category B Local entities, defined as including secondary cities (B1) and large towns (B2).[7]

***Borrowing framework & process*:** Municipal governments are empowered by the Constitution to borrow and by national legislation to do so without requiring the explicit approval of provincial or national government. The Constitution of 1996 identifies municipalities as a distinct sphere of government. Under Chapter 13, Part D of the Constitution, municipalities are granted authority to engage in borrowing for "capital and current expenditure". Section 230A of the Constitution limits short-term borrowing to that which is "necessary" for bridging purposes during a fiscal year.[8]

Beyond the Constitution, the framework for municipalities is outlined by a series of legislative acts, amongst others the Municipal Structures Act (definition of municipalities and offices), the Municipal Systems Act (powers and functions in service delivery), the Municipal Property Rates Act and the Municipal Fiscal Powers and Functions Act (taxes and user charges). In terms of municipal finances including regulation of borrowing, the most important and detailed legislation is the 2003 Municipal Financial Management Act *(*MFMA).

The MFMA holds a comprehensive suite of rules governing municipal debt. Under Chapter 6, short-term debt must be resolved within the financial year and cannot be refinanced. Long-term debt can only be used for capital investment (including capitalized interest and services related to infrastructure development) and the refinancing of other long-term debts. Revenue pledges are permitted on own-source and equitable share transfer revenues, and many other forms of security can be pledged to secure lenders and investors. All debts must be denominated in ZAR and indexing to other currencies is not permitted. As outlined in Section 46 (3) of the MFMA, explicit approval is not required from Provincial or National government for a municipality to take on long-term liabilities. However, the borrowing can only proceed if the national and applicable provincial treasury have been notified in advance and have had the opportunity to provide comments to the municipal council.[9]

With respect to debt guarantees, municipalities can provide guarantees to wholly controlled subordinate entities; for any guarantees provided to entities of shared ownership the municipality must set aside a cash reserve equivalent to the total possible exposure and National Treasury approval is required (MFMA Section 50). In addition, municipalities must prepare consolidated accounts – including liabilities - for both the parent municipality and the municipal-owned entity. (MFMA Section 122 (2)). Provincial and National Government are prohibited from providing guarantees for municipal debt obligations. The use of guarantees provided by municipalities to municipal-owned entities is at most extremely rare and more likely non-existent. Johannesburg, for example, does not allow any of its 12 entities to issue debt on their balance sheets: any entity-level capital investment to be financed by debt is done as a city-level liability.[10]

Chapter 13 of the MFMA outlines rules for the resolution of municipal financial problems, including non-payment of short- and long-term obligations. The Act holds municipal officers as duty-bound to report serious financial issues to council and provincial authorities. In the case of default on long-term obligations, the Provincial Executive (the authority of the province in which the municipality resides) is mandated to work with the Municipal Financial Recovery Service of the National Treasury to develop a financial recovery plan. If the officers and council of the municipality do not take steps to implement the plan, the province has the power to dissolve the municipal council and appoint an administrator until a new council is elected.[11]

The financial recovery plan can include the liquidation of municipal assets and termination of employees, subject to the requirement that a municipality retains the ability to deliver a "minimum level of basic municipal services". This is defined in the MFMA as services necessary to ensure "acceptable and reasonable" quality of life and which if removed would endanger public safety, health or the environment. If further repayment of obligations cannot be made without imperiling the municipality's capacity to deliver basic services, a court can terminate the remaining liability burden (MFMA Section 155).

Borrowing restrictions: In its role to set the norms and standards of public financial management, in 2014 the National Treasury released *Circular No. 71*, which set out a variety of metrics and standard values to guide municipal borrowing with the following stated norms:

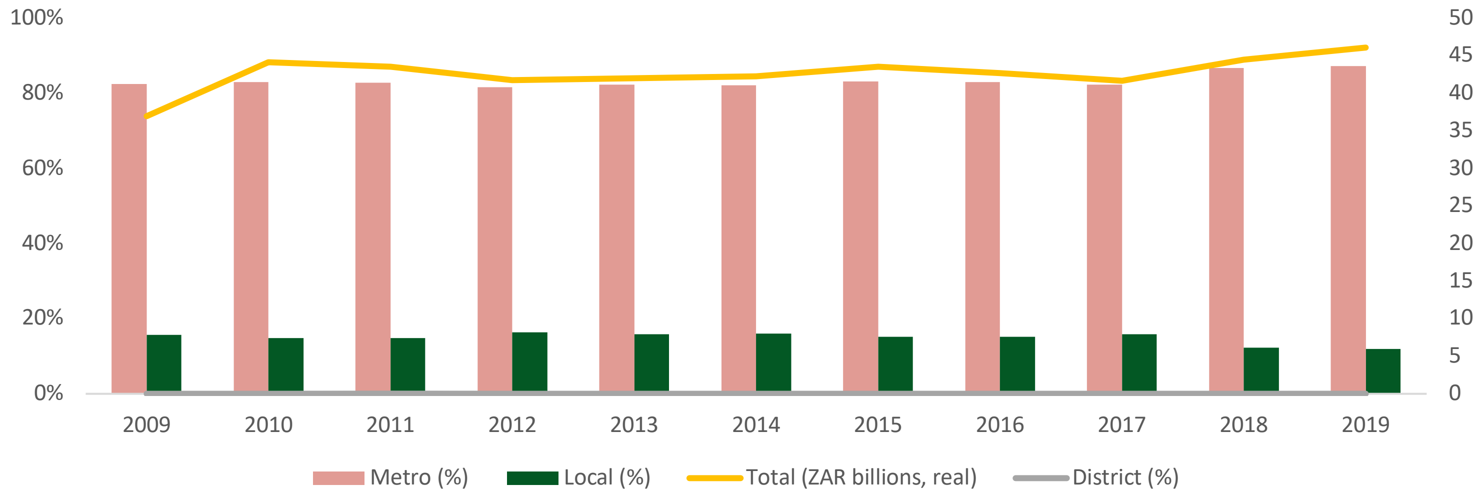
- Current assets/current liabilities - norm: 1.5 – 2.1
- Debt (total borrowings)/total operating revenue - norm: 45%
- Debt service as % of operating expenditure - norm: 6-8%

These ratios are only guidelines. Under Section 216 of the Constitution, the Treasury only has authority to interrupt intergovernmental transfers to a municipality that is in breach of standards specified in the Constitution.[12]

Debt management

Aggregate debt levels: Overall municipal outstanding long-term debt levels in South Africa have grown modestly in real terms over the last two decades. Over the period from 2010-2020, borrowing to fund capital investment across metros increased by just under 25% in real terms. Most of that borrowing was concentrated in the 8 metropolitan municipalities, which accounted for just under 90% of all long-term borrowing in 2020. Across all types of municipalities, outstanding long-term debt hovered at around 30-36% of all liabilities (current and non-current) for the 10-year period to 2020. As the biggest borrowers, the metropolitan municipalities finance about a quarter of capital investment through long-term borrowing. The remainder is through current revenues (25%) and capital transfers from the central government (50%).

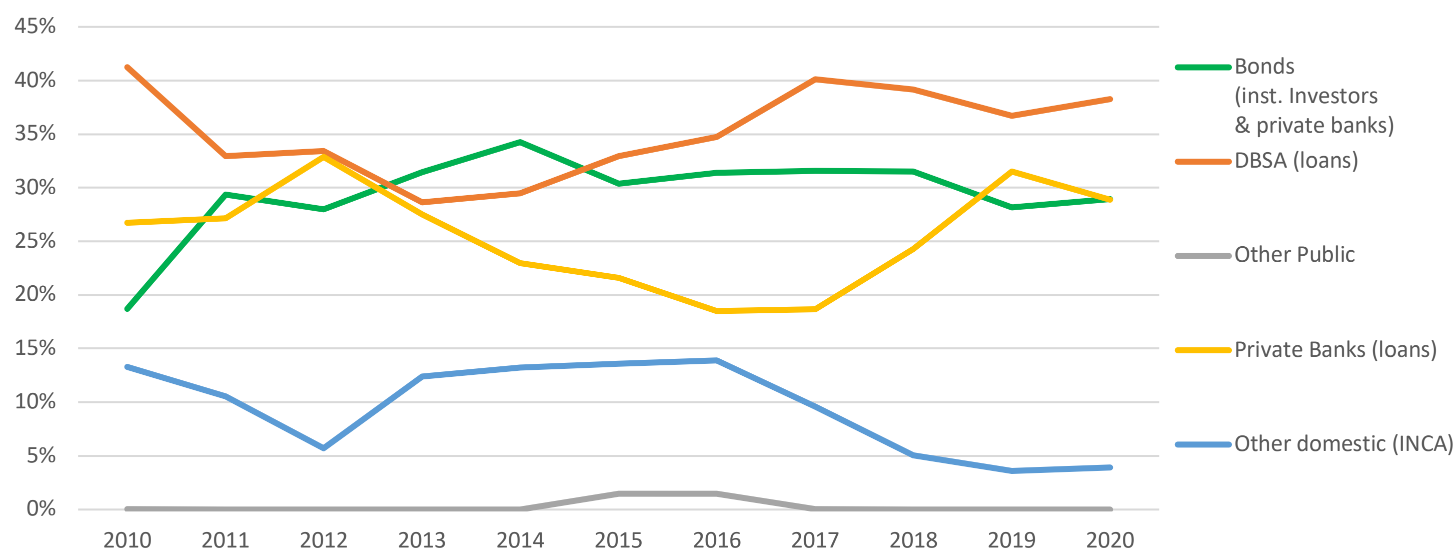
Figure 1: Outstanding Long-Term Debt, 2009-2019, South Africa Municipalities



Source: National Treasury (2020)

Lenders and types of instruments: The balance of borrowing instruments of the aggregate portfolio has remained consistent in the 10 years through to 2020. In 2020, loans made up 71% of the total stock of non-current borrowing, with bonds taking up the remaining 29%. While lending from the Development Bank of South Africa is significant (38% of non-current outstanding debt), private banks are also active in the municipal market, holding 29% of long-term debt. The lending is highly concentrated in a few metropolitan municipalities (Johannesburg, Tshwane, eThekwini and Cape Town).[13] This holds true for the Development bank of South Africa, which in 2020 disbursed ZAR 2 billion in credit to the top 5 Metros and ZAR 469 million to smaller Metros and large cities.[14]

Figure 2: Outstanding long-term debt by lender category/instrument South Africa Municipalities



Source: Stats SA, Financial Census of the Municipalities (2020)

The large metropolitan municipalities have availed themselves of bond financing since 2003, although outstanding bond debt has declined to 29% of outstanding borrowing in 2020.[15] This is another indication of the extent to which the large metropolitan municipalities dominate municipal borrowing; to date there have been only 4 issuers of municipal bonds (Cape Town, Ekurhuleni, Johannesburg and Tshwane). There have been over 25 issuances; most bonds have tenors between 10-15 years and are amortized on a bullet payment or level principal basis. Cape Town and Johannesburg have also issued certified green bonds, in 2014 and 2018 respectively. However, the secondary market for municipal bonds is limited, with bond issuances serving in the main as an avenue for static lending by banks, pension funds and other institutional investors.

Use of Special Purpose Entities and Public-Private Partnerships: Municipalities operate both with special purpose municipal entities as well as with PPP arrangements. In terms of the former, a number of municipalities have wholly-owned entities providing services to residents.[16] Johannesburg, for example, has 12 such entities listed on its website.[17] According to the Department of Treasury's Policy Framework for Municipal Borrowing: 2017 Update, municipal entities – whether under 100% or shared ownership by multiple municipalities – can borrow on the strength of their own creditworthiness. Borrowing by such entities does not require guarantees from parent entities, but parent municipalities can provide direct guarantees at the approval of council. In addition, borrowing by municipal entities can be secured by ring-fenced income streams (i.e. on terms other than general obligation).[18]

PPPs at the municipal level are authorized by the Municipal Finance Management Act (Section 120). While PPP structures have been used widely at the central and provincial levels of government, National Treasury records limited usage at the municipal level.[19] The most recent PPP at the local level listed by the Department of Treasury is the office park rehabilitation procured by Tshwane municipality in 2015. As per the Accounting Standards Board of South Africa, contingent liabilities arising from potential PPP related obligations are not reported on balance sheet, but as notes to the financial statements.[20]

Transparency & open data: Amongst its peer group of advanced developing countries, South Africa has a high standard of fiscal transparency for municipalities. In addition to the Auditor General Report (as mandated by the MFMA 2003), both National Treasury and Statistics South Africa publish open data on the finances of the municipalities. National Treasury maintains the Municipal Money and Municipal Data portals,[21] with actual and budgeted figures on all municipalities. Treasury also releases the quarterly Municipal Borrowing Bulletin with data on borrowing levels, sources and analysis. Statistics South Africa produces the annual Financial Census of the Municipalities,[22] which presents aggregated data on income, expenditure, borrowing levels and sources.

However, the Auditor General Report of 2019/2020 indicated that many municipalities have serious capacity limitations regarding the reporting of municipal financial data, with only 28% of municipalities providing quality financial statements for audit. In addition, only 16% of municipalities audits were returned as clean without qualification.[23]

Official, publicly available statistics on liabilities and borrowing

Item	***Total liabilities***	***Total liabilities breakdown by level of government***	***Sources of borrowing breakdown***	***Borrowing instruments breakdown***
Official source(s)	Statistics SA; National Treasury	National Treasury	Statistics SA; National Treasury	Statistics SA; National Treasury
Latest update (periodicity)	2019, (annual)	2019, (annual)	2019, (annual)	2019, (annual)

Financial and debt management: Municipal borrowing levels do not represent a significant fiscal risk in aggregate, as even the most active borrowing entities maintain levels well below the 45% threshold recommended in Circular No. 71. In aggregate, municipalities generate a significant amount of revenue from own sources – 71% (2020). However, the variance between municipal categories in terms of financial viability and revenue generation is significant: the metropolitan municipalities (Category A) garner 81% of their income from own sources, with revenues that account for over 60% of total aggregate income across all municipal categories. In comparison, rural municipalities only generate 24% of their income from own-sources, with a far greater reliance on transfers. In addition, the positive overall statistic for revenue generation is camouflaged by the fact that many municipalities have high amounts of uncollected fees for services. In 2020, it was reported by the Auditor General that as much as 63% of reported municipal revenue will never in fact be collected. As a result, close to half of the municipalities have short-term liabilities greater than cash available at the end of FY 2020 and the ability of just over a quarter (27%) of the municipalities to continue to meet their financial obligations is doubtful.[24] This opinion is also backed by a series of municipal rating downgrades in 2021 by Moody's, citing a combination of shortfalls in revenue collection combined with a low economic growth outlook.[25]

Subnational government finances: key ratios (2019)				
Level of government	***Total reported liabilities, % of total revenue***	***Borrowing (loans & bonds), % of total reported liabilities***	***Debt service, % of total expenditures***	***Operating surplus (deficit), % of total revenue***
Metros	54%	51%	5%	7%
Locals	59%	14%	3%	(3%)
Districts	40%	7%	1%	17%

Source: WB CCI-LGDB, 2020

Recent initiatives related to local government access to borrowing

Covid 19: Already buffeted by poor revenue collection and financial reporting, the impacts of Covid 19 and the associated costs & lack of economic growth have impacted many South African municipalities. The South Africa Local Government Association predicted that pressures from Covid 19 would result in a 5% drop in revenue, a possible decline of ZAR 4.25 billion, exacerbating an already serious financial situation for many municipalities.[26] The national government allocated ZAR 20 billion in additional funding for FY 2020/2021, with 55% in the form of additional Equitable Share transfers. With an estimated ZAR 30 billion in operating shortfall across municipalities, it is likely many municipalities will remain under financial duress in the short- to medium-term.[27]

Main legal provisions	
Approved lenders:	No restrictions
Instruments:	Loans, bonds, financing leases, and other debt instruments
Central govt guarantee:	No central or provincial guarantees of municipal liabilities permitted (MFMA, Section 51).
Revenue pledge of government transfers and other forms of security	Revenue pledges are allowed to back debt repayment structures. If an asset or revenue stream is pledged, the council must outline how the asset/stream is not essential to the provision of a minimum level of basic services. (MFMA, Section 48).

Institutions that can hold subnational financial depository accounts:	Transfers must be made to a designated “primary” bank account. The holding institution of the primary account must be a registered bank under the Banks Act, 1990 (MFMA, Section 8). South Africa has 34 officially registered banks.
Insolvency framework:	Chapter 13 of the Municipal Financial Management Act 2003 outlines the process of dealing with insolvency, default, creditor rights, and the roles and responsibilities to bring a municipality to financial sustainability (MFMA, Chapter 13).
Accounting basis:	Modified accrual basis; incomplete implementation.
Credit rating requirements for borrowing:	Credit ratings are not required, however there is an established system of rating agencies active in the municipal space. A relatively small number of municipalities have been rated.
Foreign currency borrowing:	Short- and long-term borrowing must be denominated in Rand and not indexed to any foreign currency (MFMA, Section 47). Under MFMA Section 163 there is an exception for trade credit for certain goods denominated in foreign currency.
Debt capacity limit:	Advisory stock and flow ‘norms’ set by National Treasury. The norm for total borrowings is 45% of total operating revenue and the norm for debt service is 6-8% of total operating revenue (MFMA Circular No.71, 2014).

Significant legal and regulatory instruments	
Primary legislation	
Constitution of South Africa, 1996	The Constitution of 1996 identified municipalities as a distinct sphere of government. Section 230A of the Constitution authorizes municipalities to borrow for current or capital expenditure, but the former is only permitted when necessary for bridging purposes within the financial year.
Municipal Financial Management Act, 2003	The MFMA is the most comprehensive set of rules governing municipal financial affairs. All long-term borrowing must be for capital investment and denominated in Rand. Municipalities can give guarantees to wholly-owned subsidiaries but no national or provincial guarantees can be given for municipal debts. Chapter 13 lays out the procedures and roles in the case of municipal default.
Municipal Systems Act, 2000	Defines the principle of cooperative governance between the National, Provincial and Local spheres. Chapter 5 sets out the rules governing integrated development planning; Chapter 9 governs credit control and debt collection of customer and taxpayer arrears.
Municipal Fiscal Powers and Functions Act, 2007	Provides the regulatory environment for municipalities as to the taxes, levies and duties that may be imposed under Section 229 of the Constitution.

Primary Regulation & guidelines	
MFMA Circular No. 95, Interventions and Debt Relief, 2019 (National Treasury)	Clarification for how municipalities in financial distress can seek relief under provisions in the *Municipal Financial Management Act 2003.*
MFMA Circular No. 71, Financial Ratios and Norms, 2014 (National Treasury)	*Circular No. 71* outlines multiple sets of ratio analysis to determine the financial health of a municipality. In terms of debt, the circular states that the outstanding debt stock should be 45% of total revenues (or less) and debt service no more than 8%. The recommendations are not binding.
MFMA Circular No. 49, Non-Payment of Obligations	*Circular No. 49* reemphasizes the power of the National Treasury to withhold transfer payments for municipalities that do not meet obligations under Section 216(1) of the National Constitution.

Organizational roles and responsibilities: debt	
National govt. regulatory & process	
National Treasury of South Africa	The Treasury has a constitutional mandate to monitor and provide guidance to municipalities on the legislative framework governing borrowing. Under Section 216 of the Constitution, certain norms and standards may be enforced by withholding transfer payments.
Municipal Financial Recovery Service	The Municipal Financial Recovery Service is housed in the National Treasury and was constituted under the Municipal Finance Management Act. Its role is to work with the respective municipal and provincial authorities to develop a financial recovery plan for distressed municipalities in terms of restructuring payment obligations and attaining sustainable financial viability.
Department of Cooperative Governance (DoCG)	The DoCG of the national government focuses on assisting municipalities in coordination with provinces and central government. DoCG oversees the Municipal Infrastructure Support Agent and the South Africa Local Government Association.
Municipal Infrastructure Support Agent (MISA)	MISA provides technical assistance and direction in relation to infrastructure investment of municipalities. It has an "Infrastructure Financing" sub-program that focuses on PPPs and commercial borrowing.
South Africa Local Government Association (SALGA)	SALGA is an autonomous association of all 257 South African local governments. A core thematic focus is innovative financing for infrastructure, including municipal bonds and pooled financing. SALGA is a constitutionally mandated element of the national Constitution.
Statistics South Africa	Provides the annual Financial Census of the Municipalities, with data that is drawn mostly from National Treasury databases.
Main lenders	
Development Bank of South Africa (DBSA)	DBSA is a significant lender to municipalities, accounting for 38% of the outstanding long term municipal debt in 2020. The DBSA portfolio is weighted significantly to larger municipalities, but it does include a sizeable technical assistance grant program for less financially viable municipalities.

Infrastructure Finance Corporation (INCA)	INCA managed two portfolios of funds for municipal infrastructure investment, but is no longer making new loans, and the outstanding portfolio has dwindled to a very small share of municipal obligations.
Private Banks & Institutional Investors	Commercial lending accounts for 52% of municipal borrowing. Of this segment, banks are responsible for 61% and institutional investors around 21%; this last group investing mainly in bonds issued by large Metros.[28]

Sources

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Glasser, Matt, *Municipal Bonds in Three Countries: India, South Africa and the United States*, Journal of Comparative Urban Law and Policy, Vol 4, 2020

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Organization for Economic Cooperation and Development, *Sub National Governments Around the World – Structure,* 2016

Statistics South Africa, *Financial Census of the Municipalities*, (multiple years)

Statistics South Africa, *Four Facts About Municipal Debt,* 2018

Notes

[1] CCI-LGBD examines borrowing at the local government level. In most countries, this can be broken up into regional governments and local governments. In South Africa's case, "local governments" includes all municipalities (Metro, District and Local).
[2] CPI adjusted numbers with 2016 as base year: www.worldbank.org/en/research/brief/inflation-database
[3] The Constitution of South Africa, 1996, Chapter 7, Section 157
[4] According to the Constitution, section 156 1(b), municipalities have executive authority and the right to administer all the matters pertaining to Part B of schedules 4 & 5 and any other matter as assigned by national or provincial legislation.
[5] Calculated from the division of revenue bills, 2016 and 2021
[6] Statistics South Africa, *Which Municipalities Spend the Most Per Resident?,* September 2017, Accessed at http://www.statssa.gov.za/?p=10487
[7] For detailed numbers of municipalities best suited for commercial borrowing, see Glasser, *Matt, Municipal Bonds in Three Countries: India, South Africa and the United States, Journal of Comparative Urban Law and Policy*, Volume 4, 2020.
[8] The Constitution of South Africa, 1996, Accessed at https://www.gov.za/documents/constitution/constitution-republic-south-africa-1996-1
[9] MFMA, Section 46 (3)
[10] For further reference on how Johannesburg finances it's municipal entities, see Nishendra Moodley, Comparative Models for the Governance of Urban Services – the Case of South Africa , 2021 (Pg 25-26)
[11] As they relate to the specific issue of financial management and credit issue resolution
[12] See National Treasury *Circular No. 71, 2014: http://mfma.treasury.gov.za/Circulars/Pages/Circular71.aspx* and *Section 2016* of the National Constitution
[13] Stats SA, *Four Facts about Municipal Debt*, 2018
[14] Development Bank of Southern Africa, *Integrated Annual Report*, 2020 (Pg 36)

[15] Glasser, pg 125
[16] For an official list of MOEs, see https://www.govpage.co.za/south-african-municipal-government-entities.html. In 2022 a report was issued under the auspices of MFMA whch detailed the current usage of municipal entities in South Africa: http://mfma.treasury.gov.za/Media_Releases/Pages/MunicipalEntities2022.aspx
[17] See: https://www.joburg.org.za/departments_/Pages/MOEs/Municipal-Entities-Home.aspx
[18] Department of Treasury, *Policy Framework for Municipal Borrowing: 2017 Update,* Pg 19
[19] Indeed, only 3 municipal PPPs are listed in the Treasury of South Africa *2021 Budget Report,* Annex E
[20] See Accounting Standards Board of South Africa, Generally Recognized Accounting Practice 19 (paragraph .34 'Contingent Liabilities", accessed at https://www.asb.co.za/wp-content/uploads/2021/03/GRAP-19-Provisions-CLCA-1-April-2021.pdf
[21] See https://municipaldata.treasury.gov.za/ and https://municipalmoney.gov.za/
[22] See http://www.statssa.gov.za/?page_id=1866&PPN=P9114&SCH=4409
[23] Auditor General of South Africa, *Consolidated General Report on the Local Government Audit Outcomes*, *Executive Summary*
[24] Auditor General of South Africa, *Consolidated General Report on the Local Government Audit Outcomes*, June, 2021, accessed at https://www.agsa.co.za/Reporting/MFMAReports/MFMA2019-2020.aspx
[25] Moodys, *Moody's downgrades 6 South African sub-sovereign issuers; ratings placed on review for further downgrade,* 2021
[26] SALGA 2020
[27] Ratings Afrika, *Majority of Local Municipalities in Financial Distress,* 2020
[28] Stats SA, *Municipal Borrowing Issue* 19, 2020