

SCHEDULE 4

AMENDMENTS AND REPEALS

(Section 283)

Act No. and year	Short Title	Extent of repeal or amendment
Act No. 24 of 1936	Insolvency Act, 1936	<p align="center">1. The addition in section 35A(1) in the definition of "market infrastructure" of the following paragraphs:—</p> <p align="center">"<i>(d)</i> <u>a central counterparty as defined in section 1 of that Act and licensed under section 49 of that Act; or</u></p> <p align="center"><i>(e)</i> <u>a licensed external central counterparty as defined in section 1 of that Act;</u>".</p>
Act No. 24 of 1956	Pension Funds Act, 1956	<p align="center">1. Amendment of section 1—</p> <p><i>(a)</i> by the insertion in subsection (1) after the definition of "audit-exempt fund" of the following definition: " 'Authority' <u>means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;</u>";</p> <p><i>(b)</i> by the insertion in subsection (1) after the definition of "fair value" of the following definition: " 'Financial Sector Regulation Act' <u>means the Financial Sector Regulation Act, 2016;</u>";</p> <p><i>(c)</i> by the deletion in subsection (1) of the definition of "Financial Services Board";</p> <p><i>(d)</i> by the deletion in subsection (1) of the definition of "prescribed";</p> <p><i>(e)</i> by the insertion in subsection (1) after the definition of "publish" of the following definition: " 'Register' <u>means the Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act;</u>";</p> <p><i>(f)</i> by the deletion in subsection (1) of the definition of "registrar";</p> <p><i>(g)</i> by the insertion in subsection (1) after the definition of "this Act" of the following definition: " 'Tribunal' <u>means the Financial Services Tribunal established in terms of section 220 of the Financial Sector Regulation Act;</u>" and</p> <p><i>(h)</i> by the addition of the following subsection: "<u>(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.</u>".</p> <p align="center">2. The insertion after section 1 of the following section:</p> <p align="center">'Relationship between Act and Financial Sector Regulation Act</p> <p align="center"><u>1A.</u> (1) <u>A reference in this Act to the registrar or the Financial Services Board must be read as a reference to the Authority.</u></p> <p align="center">(2) <u>Except as otherwise</u></p>

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		<p><u>provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p><u>(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.</u></p> <p><u>(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being prescribed must be read as—</u></p> <p><u>(a) a reference to the matter being prescribed in a prudential standard or a conduct standard; or</u></p> <p><u>(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p><u>(5)(a) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.</u></p> <p><u>(b) A reference to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.</u></p> <p><u>(6)(a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.</u></p> <p><u>(b) The Authority may also publish the information or document on its web site.</u></p> <p><u>(7) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act.</u></p> <p><u>(8) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act."</u></p> <p>3. The repeal of section 3.</p> <p>4. Amendment of section 18—</p> <p>(a) by the substitution for subsection (1) of the following</p>

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		<p>subsection:</p> <p>"(1) [The registrar may prescribe criteria for financial soundness, and when] <u>If</u> any return under this Act indicates that a registered fund is not in a sound financial condition <u>as determined in accordance with prudential standards</u>, the [registrar] Authority may, save as provided in section 29, direct the fund to submit a scheme setting out the arrangements which have been made, or which it intends to make, to bring the fund into a financially sound condition within such period, and subject to such conditions, as determined by the [registrar] Authority."; and</p> <p>(b) by the substitution in subsection (5) for paragraph (a) of the following paragraph:</p> <p>"(a) The [registrar] Authority may at any time, [following an inspection carried out or investigation conducted under section 25, or for any other reason which the registrar may consider] <u>if it is</u> necessary in the interests of the members of a fund, direct that an investigation in terms of section 16 or an audit or both an audit and such investigation be conducted into the financial position of a fund generally or with reference to any financial aspect of the fund."</p> <p>5. The amendment of section 19—</p> <p>(a) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:</p> <p>"A registered fund may, if its rules so permit and subject to [the regulations] <u>prudential standards</u>, grant a loan to a member by way of investment of its funds or furnish a guarantee in favour of a person other than the fund in respect of a loan granted or to be granted by such other person to a member to enable the member—"; and</p> <p>(b) by the deletion of subsection (7).</p> <p>6. The repeal of section 25.</p> <p>7. The substitution in section 26 for subsection (1) of the following subsection:</p> <p>"(1) <u>Without limiting what a directive of a financial sector regulator may include, the Authority may, through a directive,</u> [The registrar may, after considering the interests of the members of a fund (or of the several categories of members if there is more than one such category)—</p> <p>(a) declare that a specific practice or method of conducting business is unacceptable, irregular or undesirable</p>

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		<p>and that such fund, administrator or person must refrain from conducting such practice or method of conducting business; or</p> <p>(b)] direct that the rules of [the] a fund, including rules relating to the appointment, powers, remuneration (if any) and removal of the board, be amended if [the results of an inspection or on-site visit under section 25 necessitates amendment of the rules of the fund or if the registrar is of the opinion that] the fund—</p> <p>[(i)](a) is not in a sound financial condition or does not comply with the provisions of this Act or the regulations affecting the financial soundness of the fund;</p> <p>[(ii)](b) has failed to act in accordance with the provisions of section 18; or</p> <p>[(iii)](c) is not being managed in accordance with this Act or the rules of the fund.".</p> <p>8. The insertion in Chapter VA before section 30A of the following section:</p> <p>"Ombud scheme</p> <p><u>30AA.</u> <u>The ombud scheme in relation to complaints regulated in terms of this Chapter is declared to be a statutory ombud scheme for the purposes of the Financial Sector Regulation Act."</u></p> <p>9. The substitution in section 30C(1) for the words preceding paragraph (a) of the following words: "The Minister shall[, after consultation with the Financial Services Board,] appoint—".</p> <p>10. The substitution for section 30D of the following section:</p> <p>"Main object of Adjudicator</p> <p>30D. (1) The main object of the Adjudicator shall be to dispose of complaints lodged in terms of section 30A(3) of this Act, <u>and complaints for which the Adjudicator is designated in terms of section 212 of the Financial Sector Regulation Act [in a procedurally fair, economical and expeditious manner].</u></p> <p>(2) <u>In disposing of complaints in terms of</u></p>

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		<p>subsection (1) the Adjudicator must—</p> <ul style="list-style-type: none"> (a) <u>apply, where appropriate, principles of equity;</u> (b) <u>have regard to the contractual arrangement or other legal relationship between the complainant and any financial institution;</u> (c) <u>have regard to the provisions of this Act;</u> <u>and</u> (d) <u>act in a procedurally fair, economical and expeditious manner."</u> <p>11. The substitution in section 30Q for the words preceding paragraph (a) of the following words:</p> <p>"The Adjudicator may [with the concurrence of the Financial Services Board]—".</p> <p>12. The substitution in section 30R(1) for paragraph (a) of the following paragraph:</p> <ul style="list-style-type: none"> (a) funds [provided by the Financial Services Board] <u>accruing to the Adjudicator in terms of legislation on the grounds of a budget submitted to, and approved [of] by, the [Financial Services Board] Minister; and"</u>. <p>13. The substitution in section 30S for the expression "Financial Services Board", wherever occurring in the section, of the expression "Minister".</p> <p>14. The substitution in section 30T for subsection (1) of the following subsection:</p> <p>"(1) [Despite the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the board of the Financial Services Board as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990),] <u>The Adjudicator is the accounting authority of the Office of the Adjudicator."</u></p> <p>15. The repeal of sections 33, 33A and 34.</p> <p>16. The deletion in section 36 of subsections (1)(bA) and (3).</p> <p>17. The deletion in section 37 of subsections (2) to (5).</p> <p>18. Amendment of the arrangement of sections—</p> <ul style="list-style-type: none"> (a) by the insertion after item 1 of the following item: <p>"1A. Relationship between Act and Financial Sector Regulation Act "; and</p> <ul style="list-style-type: none"> (b) by the insertion after item 30A of the

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		<p>following item:</p> <p style="text-align: center;">"30AA. Ombud scheme".</p>
Act No. 25 of 1956	Friendly Societies Act, 1956	<p>1. Amendment of section 1—</p> <p>(a) by the insertion in subsection (1) after the definition of "assets" of the following definition:</p> <p style="padding-left: 40px;">" <u>'Authority'</u> means the Financial Sector Conduct Authority established by section 56 of the Financial Sector Regulation Act;";</p> <p>(b) by the insertion in subsection (1) after the definition of "court" of the following definition:</p> <p style="padding-left: 40px;">" <u>'Financial Sector Regulation Act'</u> means the Financial Sector Regulation Act, 2016;";</p> <p>(c) by the deletion in subsection (1) of the definition of "prescribed";</p> <p>(d) by the insertion in subsection (1) after the definition of "principal officer" of the following definition:</p> <p style="padding-left: 40px;">" <u>'Register'</u> means the Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act;";</p> <p>(e) by the deletion in subsection (1) of the definition of "registrar"; and</p> <p>(f) by the addition of the following subsection:</p> <p style="padding-left: 40px;">"(3) Unless the context otherwise indicates, <u>words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.</u>"</p> <p>2. The insertion after section 1 of the following section:</p> <p style="text-align: center;"><u>Relationship between Act and Financial Sector Regulation Act</u></p> <p style="padding-left: 40px;"><u>1A. (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p style="padding-left: 40px;"><u>(2) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being prescribed must be read as—</u></p> <p style="padding-left: 80px;"><u>(a) a reference to the matter being prescribed in a prudential standard or a conduct standard; or</u></p> <p style="padding-left: 80px;"><u>(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p style="padding-left: 40px;"><u>(3) (a) A reference in this Act to the Authority announcing or publishing information</u></p>

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		<p>or a document on a web site must be read as a <u>reference to the Authority publishing the information or document in the Register.</u></p> <p><u>(b) The Authority may also publish the information or document on its web site.</u></p> <p><u>(4) A reference in this Act to a fee prescribed by regulation must be read as a reference to the relevant fee being determined in terms of section 238 of the Financial Sector Regulation Act.</u></p> <p><u>(5) The Authority must publish the following on the Register:</u></p> <p><u>(a) the registration of a society in terms of this Act and each cancellation of a registration;</u></p> <p><u>(b) any exemption or any withdrawal of an exemption referred to in sections 3(2) and (3), 25(1) or section 47(1)(bC); and</u></p> <p><u>(c) the rules of each registered friendly society, and each amendment of those rules."</u></p> <p>3. The substitution in section 3(1) for paragraph (a) of the following paragraph:</p> <p>"(a) which has been established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995. However, such a friendly society shall from time to time furnish the registrar with such statistical information as may be requested by the [Minister] Authority";</p> <p>4. The repeal of sections 4 and 32.</p> <p>5. The substitution in section 33 for subsection (1) of the following subsection:</p> <p>"(1) The registrar may, [with the consent of the Minister,] in regard to any registered society, apply to the court for an order in terms of paragraph (c), (d) or (e) of subsection (3), and a registered society may, in regard to itself, apply to the court for an order in terms of paragraph (b), (d) or (e) of that subsection, if the registrar or the society is of the opinion that it is desirable, because the society is not in a sound financial condition or for any other reason, that such an order be made in regard to the society:</p> <p>Provided that a society shall not make such an application except by leave of the court, and the court shall not grant such leave unless the society has given security to an amount specified by the court for the</p>

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		<p>payment of the costs of the application and of any opposition thereto, and has established <i>prima facie</i> the desirability of the order for which it wished to apply.";</p> <p>6. The repeal of sections 44 and 45.</p> <p>7. The deletion in section 47(1) of paragraphs (6A) and (bC).</p> <p>8. The deletion in section 48 of subsections (2), (3), (4) and (5).</p> <p>9. The substitution for the expression "registrar", wherever it occurs of the expression "Authority".</p> <p>10. Amendment of the arrangement of sections by the insertion after item 1 of the following item:</p> <p>"1A. Relationship between Act and Financial Sector Regulation Act ".</p>
Act No. 90 of 1989	South African Reserve Bank Act, 1989	<p>1. The amendment of section 3 by the addition of the following subsection, the existing subsection becoming subsection (1):</p> <p style="padding-left: 40px;"><u>"(2) In addition, the Bank is responsible for protecting and maintaining financial stability as envisaged in the Financial Sector Regulation Act, 2016."</u></p> <p>2. The substitution in section 10(1) for paragraph (v) of the following paragraph:</p> <p style="padding-left: 40px;">"(v) perform the functions assigned to the Bank by the Banks Act, 1990 (Act No. 94 of 1990), [and] the Mutual Banks Act, 1993 (Act No. 124 of 1993), <u>the Financial Sector Regulation Act, 2016 and other financial sector laws as defined in section 1(1) of the Financial Sector Regulation Act, 2016.</u>"</p> <p>3. The substitution in section 11 for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;"><u>"(2)(a) The provisions of [the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984),] Part 4 of Chapter 9 of the Financial Sector Regulation Act, 2016 except [sections 2 and 7] section 134 [thereof], shall [mutatis mutandis] apply with the changes necessary in the context in respect of an inspection carried out in terms of subsection (1).</u></p>

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		<p style="text-align: center;"><u>(b) Section 130 of the Financial Sector Regulation Act, 2016 does not apply in respect of an inspection carried out in terms of subsection (1).</u></p> <p>3. The substitution in section 12 for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">“(2) The provisions of [sections 4, 5, 8 and 9 of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984),] <u>Part 4 of Chapter 9 of the Financial Sector Regulation Act shall apply [mutatis mutandis] with the necessary changes required by the context in respect of an inspection carried out in terms of subsection (1).”.</u></p>
Act No. 94 of 1990	Banks Act, 1990	<p>1. The amendment of section 1—</p> <p>(a) by the insertion in subsection (1) after the definition of "allocated capital and reserve funds" of the following definition:</p> <p style="padding-left: 40px;">" 'Authority' means the Prudential Authority established in terms of section 32 of the <u>Financial Sector Regulation Act</u>";</p> <p>(b) by the deletion in subsection (1) of the definition of "board of review";</p> <p>(c) by the insertion in subsection (1) after the definition of "company" of the following definition:</p> <p style="padding-left: 40px;">" 'conduct standard' has the same meaning ascribed to it in terms of section 1(1) of the <u>Financial Sector Regulation Act</u>";</p> <p>(d) by the insertion in subsection (1) after the definition of "fellow subsidiary" of the following definition:</p> <p style="padding-left: 40px;">" 'Financial Sector Regulation Act' means the <u>Financial Sector Regulation Act, 2016</u>";</p> <p>(e) by the deletion in subsection (1) of the definition of "prescribed";</p> <p>(f) by the insertion in subsection (1) after the definition of "person" of the following definition:</p> <p style="padding-left: 40px;">" 'prudential standard' has the same meaning ascribed to it in terms of section 1(1) of the <u>Financial Sector Regulation Act</u>";</p> <p>(g) by the insertion in subsection (1) after the definition of "qualifying capital and reserve funds" of the following definition:</p> <p style="padding-left: 40px;">" 'Register' means the Financial Sector <u>Information Register referred to in section 247 of the Financial Sector Regulation Act</u>";</p> <p>(h) by the deletion in subsection (1) of the definition of "Registrar";</p> <p>(i) by the insertion in subsection (1) after the definition of "tier 2 unimpaired reserve funds" of the following definition:</p> <p style="padding-left: 40px;">“ 'Tribunal' means the Financial Services <u>Tribunal established in terms of section 220 of the Financial Sector Regulation Act</u>"; and</p> <p>(j) by the addition of the following subsection:</p> <p style="padding-left: 40px;">“(3) Unless the context otherwise</p>

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		<p><u>indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.</u>"</p> <p>2. The insertion after section 1 of the following section:</p> <p>"Relationship between Act and Financial Sector Regulation Act</p> <p><u>1A. (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p><u>(2) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.</u></p> <p><u>(3) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 90, a reference in this Act to a matter being prescribed must be read as—</u></p> <p><u>(a) a reference to the matter being prescribed in a prudential standard or a conduct standard; or</u></p> <p><u>(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p><u>(4)(a) Matters in respect of which regulations relating to banks may be prescribed in terms of this Act may also be made in prudential standards or conduct standards.</u></p> <p><u>(b) Regulations prescribed in terms of this Act that are in force immediately before the commencement of this subsection continue to be in force, but may be repealed by the Minister to allow for prudential or conduct standards to be made in terms of the Financial Sector Regulation Act, in respect of the subject-matter of those regulations.</u></p> <p><u>(c) Paragraph (b) does not limit the powers of the Minister in terms of this Act to prescribe regulations.</u></p> <p><u>(5) A reference in this Act to an inspection or an investigation in terms of section 6 of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act, but not a reference to an inspection in terms of section 83 or 84 of this Act.</u></p> <p><u>(6) (a) A reference in this Act to the Authority announcing or publishing information</u></p>

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		<p>or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.</p> <p><u>(b) The Authority may also publish the information or document on its web site.</u></p> <p><u>(7) A reference in this Act to a prescribed fee must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act.</u></p> <p><u>(8) A reference in this Act to a review of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</u></p> <p><u>(9) (a) If any requirements of the Financial Sector Regulation Act that are inconsistent with the provisions of this Act, the requirements of the Financial Sector Regulation Act prevail.</u></p> <p><u>(b) If any requirements in regulatory instruments made in terms of the Financial Sector Regulation Act are inconsistent with any provisions of regulatory instruments made in terms of this Act, the requirements in the regulatory instruments made in terms of the Financial Sector Regulation Act prevail.</u></p> <p>3. The repeal of section 3.</p> <p>4. The deletion in section 4 of subsections (1) and (2).</p> <p>5. The substitution in section 5 for subsection (2) of the following subsection:</p> <p>“(2) Any delegation under subsection (1)(a) shall not prevent the exercise of the relevant power by the [Registrar personally] Authority.</p> <p>6. The deletion in section 6 of subsections (1) and (2).</p> <p>7. The repeal of sections 8, 9 and 10.</p> <p>8. The amendment of section 23—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The Registrar may subject to the provisions of section 24, in the case of a bank registered as such, [with the consent of the Governor and after consultation with the Minister and] by notice in writing to the institution concerned cancel, or suspend on such</p>

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		<p>conditions as the Registrar may deem fit, such registration if the institution has not conducted any business as a bank during the period of six months commencing on the date on which the institution was registered as a bank.";</p> <p>(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: "The Registrar may, subject to the provisions of section 24, in the case of a bank registered as such, [after consultation with the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if—"; and</p> <p>(c) by the substitution for subsection (3) of the following subsection: "(3) The Registrar may, subject to the provisions of section 24, in the case of a bank registered as such, [after consultation with the Minister and] by notice in writing to the institution concerned cancel such registration if the institution has ceased to conduct the business of a bank or is no longer in operation."</p> <p>9. The substitution in section 52 for subsection (1A) of the following subsection: "(1A) Notwithstanding subsection (1), the Registrar may, by [means of a circular contemplated in section 6(4)] <u>notice published in the Register</u>, determine circumstances and conditions in terms whereof an application contemplated in subsection (1) is not required."</p> <p>10. The amendment of section 69A—</p> <p>(a) by the substitution for subsection (4) of the following subsection: "(4) A commissioner appointed under subsection (1) and any person or persons appointed under subsection (2) shall for the purpose of their functions in terms of this section have powers and duties in all respects corresponding to the powers and duties conferred or imposed [by sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), upon a registrar or an inspector contemplated in the Inspection of Financial Institutions Act, 1998] <u>on an investigator in terms of the Financial Sector Regulation Act</u>: Provided that for the purposes of this section, <u>those powers extend to the associates of the bank.</u></p> <p>[(a) any reference to an institution' or a 'financial institution' in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998, shall be deemed</p>

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		<p>to be a reference to a bank under curatorship or any of its associates; and</p> <p>(b) any reference to 'the registrar' and 'an inspector' in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998, shall be deemed to be a reference to the commissioner and any person appointed under subsection (2), respectively.]; and</p> <p>(b) by the substitution for subsections (4) and (5) with the following subsections:</p> <p>“(4) A commissioner appointed under subsection (1) and any person or persons appointed under subsection (2) shall for the purpose of their functions in terms of this section have powers and duties in all respects corresponding to the powers and duties conferred or imposed by [sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), upon a registrar or an inspector contemplated in the Inspection of Financial Institutions Act, 1998] <u>Part 4 of Chapter 9 of the Financial Sector Regulation Act</u>: Provided that for the purposes of this section—</p> <p>(a) any reference to [an “institution” or a “financial institution” in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998] <u>Part 4 of Chapter 9 of the Financial Sector Regulation Act</u> shall be deemed to be a reference to a bank under curatorship or any of its associates; and</p> <p>(b) any reference to [“the registrar”] “<u>a financial sector regulator</u> ” and “an [inspector] <u>investigator</u>” [in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998] <u>Part 4 of Chapter 9 of the Financial Sector Regulation Act</u> shall be deemed to be a reference to the commissioner and any person appointed under subsection (2), respectively.</p> <p>(5) When an investigation is made under this section and [section 4 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998),] <u>Part 4 of Chapter 9 of the Financial Sector Regulation Act</u> applies, [subsection (1)(a) of that section 136(1) of that Act shall [be deemed to have been amended as follows:</p> <p>‘(1) In carrying out an investigation into the business, trade, dealings, affairs or assets and liabilities of a bank under</p>

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		<p>curatorship, a commissioner may—</p> <p>(a) administer an oath or affirmation or otherwise examine any person who is, or formerly was, a director, servant, employee, partner, member or shareholder of the institution: Provided that the person examined, whether under oath or not, may have his or her legal adviser present at the examination: Provided further that on good cause shown the commissioner may direct that the proceedings under this paragraph shall be held <i>in camera</i> and not be accessible to the public;’] <u>apply with the changes necessary in the context in respect of an inspection carried out in terms of subsection (1) and the commissioner may on good cause shown direct that the proceedings under this paragraph shall be held <i>in camera</i> and not be accessible to the public.’; and</u></p> <p>(c) by the repeal of subsection (5A).</p> <p>11. The substitution in section 84 for subsection (5) of the following subsection:</p> <p>(5) For the purposes of the performance of the duties as set out in <u>subsection (4)</u>, the repayment administrator shall, in relation to the person subject to the relevant direction and in relation to the affairs of that person, have the powers conferred by [sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998)] <u>sections 136 to 138 of the Financial Sector Regulation Act</u>, upon an [inspector] <u>investigator</u> contemplated in those sections, as if the repayment administrator were an [inspector] <u>investigator</u> and the person subject to the direction were a financial institution contemplated in those sections.</p> <p>12. The deletion in section 90 of subsection (1)(e) and (g).</p> <p>13. The amendment of section 91—</p> <p>(a) by the substitution for in subsection (1) for paragraph (b) of the following paragraph:</p> <p>"(b) contravenes or fails to comply with a provision of section 7(3), (4) or (5), 34, 35, [37(1),] 38(1), 39, 41, 42(1), 52(1) or (4), 53, 55, 58, 59, 60(5)(a), 60(5)(b), 61(2), 65, 66, 67, 70(2), (2A)</p>

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		<p>or (2B), 70A, 72, 73, 75, 76, 77, 78(1) or (3), 79, 80, 84(1A) or 84(2),".</p> <p>(b) by the deletion in subsection (4) of paragraph (c); and</p> <p>(c) by the deletion of subsections (6), (6A) and (7);</p> <p>14. The repeal of section 91A.</p> <p>15. The substitution for the expression "Registrar" wherever it occurs of the expression "Authority".</p> <p>16. Amendment of the arrangement of sections—</p> <p>(a) by the insertion after item 1 of the following item:</p> <p>"1A. Relationship between Act and Financial Sector Regulation Act"; and</p> <p>(b) by the substitution for item 4 of the following item:</p> <p>"4. Authority".</p>
Act No. 97 of 1990	Financial Services Board Act, 1990	The repeal of the whole Act.
Act No. 8 of 1993	Financial Supervision of the Road Accident Fund Act, 1993	<p>The amendment of section 1—</p> <p>(a) by the insertion before the definition of "executive officer" of the following definition:</p> <p>" 'Authority' means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act, 2016;"; and</p> <p>(b) by the deletion of the definitions of "executive officer" and "Financial Services Board".</p>
Act No. 124 of 1993	Mutual Banks Act, 1994	<p>1. The amendment of section 1—</p> <p>(a) by the insertion in subsection (1) after the definition of "associate" of the following definition:</p> <p>" 'Authority' means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;";</p> <p>(b) by the deletion in subsection (1) of the definition of "board of appeal";</p> <p>(c) by the insertion in subsection (1) after the definition of "company" of the following definition:</p> <p>" 'conduct standard' has the same meaning ascribed to it in terms of the Financial Sector Regulation Act;";</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>(d) by the insertion in subsection (1) after the definition of "executive officer" of the following definition: <u>" Financial Sector Regulation Act means the Financial Sector Regulation Act, 2016;"</u>;</p> <p>(e) by the deletion in subsection (1) of the definition of "prescribed";</p> <p>(f) by the insertion in subsection (1) after the definition of "person" of the following definition: <u>" prudential standard has the same meaning ascribed to it in terms of the Financial Sector Regulation Act."</u>;</p> <p>(g) by the insertion in subsection (1) after the definition of "public" of the following definition: <u>" Register means the Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act;"</u>;</p> <p>(h) by the deletion in subsection (1) of the definition of "Registrar";</p> <p>(i) by the insertion in subsection (1) after the definition of "subsidiary" of the following definition: <u>" Tribunal means the Financial Services Tribunal established in terms of section 220 of the Financial Sector Regulation Act;"</u>; and</p> <p>(j) by the addition of the following subsection: <u>"(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act."</u></p> <p>2. The insertion after section 1 of the following sections:</p> <p>Relationship between Act and Financial Sector Regulation Act</p> <p><u>1A. (1) A reference in this Act to the Registrar must be read as a reference to the Authority.</u></p> <p><u>(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p><u>(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.</u></p> <p><u>(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 91, a reference in this Act to a matter being prescribed must be read as—</u></p>

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		<p><u>(a) a reference to the matter being prescribed in a prudential standard or a conduct standard; or</u></p> <p><u>(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p><u>(5)(a) Matters in respect of which regulations relating to banks may be prescribed in terms of this Act may also be made in prudential standards or conduct standards.</u></p> <p><u>(b) Regulations prescribed in terms of this Act that are in force immediately before the commencement of this subsection continue to be in force, but may be repealed by the Minister to allow for prudential or conduct standards to be made in terms of the Financial Sector Regulation Act, in respect of the subject-matter of those regulations.</u></p> <p><u>(c) Paragraph (b) does not limit the powers of the Minister in terms of this Act to prescribe regulations.</u></p> <p><u>(6) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.</u></p> <p><u>(b) The Authority may also publish the information or document on its web site.</u></p> <p><u>(7) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act.</u></p> <p><u>(8) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</u></p> <p><u>(9) (a) If any requirements of the Financial Sector Regulation Act that are inconsistent with the provisions of this Act, the requirements of the Financial Sector Regulation Act prevail.</u></p> <p><u>(b) If any requirements in regulatory instruments made in terms of the Financial Sector Regulation Act are inconsistent with any provisions of regulatory instruments made in terms of this Act, the requirements in the regulatory instruments made in terms of the Financial Sector Regulation Act prevail.</u></p> <p>3. The repeal of section 2.</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>4. The substitution in section 3 for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">“(2) Any delegation under subsection (1) (a) shall not prevent the exercise of the relevant power by the [Registrar personally] Authority.</p> <p>5. The deletion in section 4 of subsections (1) and (2).</p> <p>6. The repeal of sections 6, 7 and 8.</p> <p>7. The amendment of section 21—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, [with the consent of the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if the institution has not conducted any business as a mutual bank during the period of six months commencing on the date on which the institution was registered as a mutual bank.”;</p> <p>(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:</p> <p style="padding-left: 40px;">“The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, [with the consent of the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if—”; and</p> <p>(c) by the substitution for subsection (3) of the following subsection:</p> <p style="padding-left: 40px;">“(3) The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, [with the consent of the Minister and] by notice in writing to the institution concerned cancel such registration if the institution has ceased to conduct business as a mutual bank or is no longer in operation.”.</p> <p>8. The deletion in section 91 of subsection (1)(e) and (g).</p> <p>9. The deletion in section 92 of subsections (6) and (7).</p> <p>10. Amendment of the arrangement of sections by the insertion after item 1 of the</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>following items:</p> <p>"1A. Relationship between Act and Financial Sector Regulation Act".</p>
Act No. 52 of 1998	Long-term Insurance Act, 1998	<p>1. Amendment of section 1—</p> <p>(a) by the insertion in subsection (1) after the definition of "auditor" of the following definition:</p> <p><u>"Authority" means—</u></p> <p>(a) <u>in the case of sections 7, 9 to 17, 19 to 21, 23 to 35, 37 to 43, 56 and 59 to 62, the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;</u></p> <p>(b) <u>in the case of sections 8, 44 to 65, the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act; and</u></p> <p>(c) <u>in the case of sections 3, 4, 18, 22 and 36, either the Prudential Authority or the Financial Sector Conduct Authority, subject to consultation and co-ordination requirements set out in the Financial Sector Regulation Act;"</u>.</p> <p>(b) by the deletion in subsection (1) of the definition of "Board";</p> <p>(c) by the insertion in subsection (1) after the definition of "company" of the following definition:</p> <p><u>" 'conduct standard' has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"</u>;</p> <p>(d) by the insertion in subsection (1) after the definition of "financial reporting standards" of the following definition:</p> <p><u>" 'Financial Sector Regulation Act' means the Financial Sector Regulation Act, 2016;"</u>;</p> <p>(e) by the deletion in subsection (1) of the definition of "prescribe";</p> <p>(f) by the insertion in subsection (1) after the definition of "premium" of the following definition:</p> <p><u>" 'prudential standard' has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"</u>;</p> <p>(g) by the insertion in subsection (1) after the definition of "publish" of the following definition:</p> <p><u>" 'Register' means the Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act;"</u>;</p> <p>(h) by the deletion in subsection (1) of the definition of "Registrar";</p> <p>(i) by the insertion in subsection (1) after the definition of "this Act" of the following definition:</p> <p><u>" 'Tribunal' means the Financial Services</u></p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p><u>Tribunal established in terms of section 220 of the Financial Sector Regulation Act.</u>"; and</p> <p>(j) by the addition of the following subsection: <u>"(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act."</u></p> <p>2. The insertion after section 1 of the following sections:</p> <p>"Relationship between Act and Financial Sector Regulation Act</p> <p>1A. (1) <u>A reference in this Act to the Registrar, but not to the Registrar of Medical Schemes, or a reference to the Board must be read as a reference to the Authority.</u></p> <p>(2) <u>Except as otherwise provided for in this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p>(3) <u>A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.</u></p> <p>(4) <u>Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being prescribed must be read as—</u></p> <p>(a) <u>a reference to the matter being prescribed in a prudential standard or a conduct standard; or</u></p> <p>(b) <u>a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p>(5)(a) <u>A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.</u></p> <p>(b) <u>A reference to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.</u></p> <p>(6) <u>The references in sections 3(3) and 22(3) to an appeal to the board of appeal established by section 26 of the Financial Services Board Act must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</u></p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p data-bbox="879 241 1401 389">(7) <u>A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act.</u></p> <p data-bbox="879 445 1150 474">Regulatory instruments</p> <p data-bbox="879 517 1385 725">1B. <u>For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the <i>Gazette</i> is specifically required by this Act is a regulatory instrument."</u></p> <p data-bbox="799 781 1294 837">3. The substitution for section 2 of the following section:</p> <p data-bbox="879 896 1342 952">"Exercise of powers and performance of duties by Authority</p> <p data-bbox="879 967 1385 1115">2. (1) <u>The Authority, in fulfilling its responsibility for implementing this Act, must exercise its powers and perform its duties in terms of this Act subject to the Financial Sector Regulation Act.</u></p> <p data-bbox="879 1131 1394 1249">(2) <u>The Prudential Authority, in respect of sections 9, 15, 26 and 37 to 43, must act with the concurrence of the Financial Sector Conduct Authority.</u></p> <p data-bbox="879 1265 1390 1384">(3) <u>The Prudential Authority or the Financial Sector Conduct Authority, as the case may be, in respect of section 22, must act with the concurrence of the other Authority."</u></p> <p data-bbox="818 1440 1401 1496">4. The deletion in section 4 of subsections (2), (4) and (8).</p> <p data-bbox="879 1552 1171 1581">5. The repeal of section 5.</p> <p data-bbox="879 1630 1251 1659">6. The amendment of section 9—</p> <p data-bbox="772 1675 1401 1731">(a) by the substitution in subsection (3) for paragraph (b) of the following paragraph:</p> <p data-bbox="932 1747 1401 1832">" (b) <u>unless the applicant demonstrates to the satisfaction of the Authority that—</u></p> <p data-bbox="1034 1848 1394 2020"> (i) <u>it complies and has taken appropriate measures to continue to comply with the governance and risk management framework and financial soundness</u></p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p style="text-align: right;"> <u>requirements of this Act; its directors and managing executives meet the fit and proper requirements; and</u> (ii) <u>any persons that directly or indirectly control or own that applicant within the meaning of section 25 of this Act, meet the fit and proper requirements;</u>" ; and (iii) </p> <p>(b) by the addition in subsection (3) of the following paragraph:</p> <p style="padding-left: 40px;">"(cA) if the registration will be <u>contrary to the interests of prospective policyholders or the public interest.</u>"</p> <p>7. The amendment of section 10 by the insertion after paragraph (f) of the following paragraph:</p> <p style="padding-left: 40px;">"(fA) <u>relating to the business arrangements of the long-term insurer, including, but not limited to, the outsourcing arrangements that the long-term insurer may enter into;</u>"</p> <p>8. The amendment of section 11 by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">"(1) The [Registrar] Authority may, <u>by notice to the long-term insurer, amend, delete, replace or impose additional conditions contemplated in section 10, subject to which the long-term insurer is registered or deemed to be registered—</u></p> <p style="padding-left: 40px;">(a) upon application of a long-term insurer and having regard, with the necessary changes <u>required by the context</u>, to section 9(3)(b);</p> <p style="padding-left: 40px;">(aA) <u>when in the public interest or the interests of the policyholders or potential policyholders of the long-term insurer;</u></p> <p style="padding-left: 40px;">(b) when acting in accordance with section 12(2) or (3) or when giving an authorisation in accordance with section 35(2)(a), in relation to a long-term insurer; or</p> <p style="padding-left: 40px;">(c) if a long-term insurer has ceased to enter into certain long-term policies determined by the [Registrar] Authority to an extent which no longer justifies its continued registration in respect of those policies, and the long-term insurer has been allowed at least 30 days in which to make representations in respect of the matter [,by notice to the long-term insurer vary</p>

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		<p>a condition, subject to which the long-term insurer is registered or deemed to be registered, by amending or deleting it, or determine a new condition contemplated in section 10]."</p> <p>9. The deletion in section 22 of subsection (3).</p> <p>10. The amendment of section 26—</p> <p>(a) by the substitution for subsection (1) of the following subsection: "(1) Subject to this section, no person shall, directly or indirectly and without the prior approval of the [Registrar] Authority, acquire or hold shares or any other financial interest in a long-term insurer or a related party of that long-term insurer which results in that person, directly or indirectly, alone or with a related party, exercising control <u>within the meaning of section 2(2) of the Companies Act</u>, over that long-term insurer.";</p> <p>(b) by the substitution, in subsection (2) for paragraphs (a) and (b) of the following paragraphs: "<i>(a)</i> prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the aggregate nominal value of those shares, by itself or together with the aggregate nominal value of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of the total nominal value of all of the issued shares of the long-term insurer concerned; <i>(b)</i> after the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the total number of those shares, by itself or together with the total number of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of all the shares in a specific class of shares issued by the long-term insurer concerned.";</p> <p>(c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: "The approval referred to in subsection <u>(1) or (2)</u>—";</p> <p>(d) by the insertion in subsection (3) after paragraph (a) of the following paragraph: "<i>(aA)</i> <u>shall not be given if the person</u></p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p style="text-align: center;"><u>does not meet the fit and proper requirements;</u>"</p> <p>(e) by the substitution in subsection (4)(a) for the words preceding subparagraph (i) of the following words:</p> <p style="padding-left: 40px;">"compelling such shareholder to reduce, within a period determined by the Court, that shareholding to a shareholding not exceeding [25] <u>15</u> per cent of—"; and</p> <p>(f) by the deletion of subsections (5) and (6).</p> <p>11. The deletion in section 62 of subsections (2)(f) and (4)(a)(i).</p> <p>12. The substitution in section 66(1) for paragraph (a) of the following paragraph:</p> <p style="padding-left: 40px;">"(a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section [4(3), (4) or (5)(a)(i), 22(2) or 27(2);"</p> <p>13. The substitution in section 67(1) for paragraph (a) of the following paragraph:</p> <p style="padding-left: 40px;">"(a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section [4(2),(3) or (4),] 22(1) or (2), 27(1), 31(1), 35(1) or (2)(a) or 36(2);"</p> <p>14. The repeal of section 68.</p> <p>15. The amendment of Schedule 1—</p> <p>(a) by the substitution in Item 2(b) for subparagraph (i) of the following subparagraph:</p> <p style="padding-left: 40px;">"(i) an over-the-counter instrument, it is capable of being readily closed out and is entered into with a counterparty that <u>complies with criteria [for which the relevant criteria have been]</u> approved by the [Registrar] <u>Authority and any [subject to such] conditions as [he or she] the Authority may determine;</u>" and</p> <p>(b) by the substitution in Item 2(b) for subparagraph (iii) of the following subparagraph:</p> <p style="padding-left: 40px;">"(iii) any other instrument, it is regularly traded on a licensed stock exchange in the Republic, or on any other financial market in the Republic approved by the <u>[Registrar subject to such conditions as he or she may determine] Authority, which approval may be subject to conditions determined by the Authority.</u>"</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p style="text-align: center;">16. Amendment of the arrangement of sections—</p> <p>(a) by the insertion after item 1 of the following items:</p> <p style="padding-left: 40px;">"1A. Relationship between Act and Financial Sector Regulation Act</p> <p style="padding-left: 40px;">1B. Regulatory instruments"; and</p> <p>(b) by the substitution for item 2 of the following item:</p> <p style="padding-left: 40px;">"2. Exercise of powers and performance of duties by Authority".</p>
Act No. 53 of 1998	Short-term Insurance Act, 1998	<p>1. The amendment of section 1—</p> <p>(a) by the insertion in subsection (1) after the definition of "approved reinsurance policy" of the following definition:</p> <p style="padding-left: 40px;">" 'Authority' means—</p> <p style="padding-left: 80px;">(a) <u>in the case of sections 7, 9 to 17, 19 to 20, 22 to 34, 36 to 42, 56 and 59 to 62, the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;</u></p> <p style="padding-left: 80px;">(b) <u>in the case of sections 8, 43 to 55, the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act; and</u></p> <p style="padding-left: 80px;">(c) <u>in the case of sections 3, 4, 18, 21, 35, 57, 58 and 63, either the Prudential Authority or the Financial Sector Conduct Authority, subject to consultation and co-ordination requirements set out in the Financial Sector Regulation Act;</u>";</p> <p>(b) by the deletion in subsection (1) of the definition of "Board";</p> <p>(c) by the insertion in subsection (1) after the definition of "company" of the following definition:</p> <p style="padding-left: 40px;">" 'conduct standard' has the same meaning <u>ascribed to it in terms of the Financial Sector Regulation Act;</u>";</p> <p>(d) by the insertion in subsection (1) after the definition of "financial reporting standards" of the following definition:</p> <p style="padding-left: 40px;">" 'Financial Sector Regulation Act' means the <u>Financial Sector Regulation Act, 2016;</u>";</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>(e) by the deletion in subsection (1) of the definition of "Financial Services Board Act";</p> <p>(f) by the deletion in subsection (1) of the definition of "prescribe";</p> <p>(g) by the insertion in subsection (1) after the definition of "proportional reinsurance" of the following definition: " 'prudential standard' has the same meaning ascribed to it in terms of the <u>Financial Sector Regulation Act</u>";</p> <p>(h) by the insertion in subsection (1) after the definition of "publish" of the following definition: " 'Register' means the <u>Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act</u>";</p> <p>(i) by the deletion in subsection (1) of the definition of "Registrar";</p> <p>(j) by the insertion in subsection (1) after the definition of "transportation policy" of the following definition: " 'Tribunal' means the <u>Financial Services Tribunal established in terms of section 220 of the Financial Sector Regulation Act</u>"; and</p> <p>(k) by the addition of the following subsection: "(3) <u>Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.</u>"</p> <p>2. The insertion after section 1 of the following sections:</p> <p>"Relationship between Act and Financial Sector Regulation Act</p> <p>1A. (1) <u>A reference in this Act to the Registrar, but not the Registrar of Medical Schemes, or a reference to the Board, must be read as a reference to the Authority.</u></p> <p>(2) <u>Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p>(3) <u>A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.</u></p> <p>(4) <u>Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being prescribed must be read as—</u></p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>(a) <u>a reference to the matter being prescribed in a prudential standard or a conduct standard; or</u></p> <p>(b) <u>a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p>(5) <u>A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.</u></p> <p>(6) <u>A reference to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.</u></p> <p>(7) <u>The reference in sections 3(3) and 21(3) to an appeal to the board of appeal established by section 26 of the Financial Services Board Act must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act."</u></p> <p>(8) <u>A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act."</u></p> <p>Regulatory instruments</p> <p>1B. <u>For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument."</u></p> <p>3. The substitution for section 2 of the following section:</p> <p>"Exercise of powers and performance of duties by Authority</p> <p>2. (1) <u>The Authority, in fulfilling its responsibility for implementing this Act, must exercise its powers and perform its duties in terms of this Act subject to the Financial Sector Regulation Act.</u></p> <p>(2) <u>The Prudential Authority, in respect of sections 9, 15, 25 and 36 to 42, must act with the concurrence of the Financial Sector Conduct Authority.</u></p> <p>(3) <u>The Prudential Authority or the Financial Sector Conduct Authority, as the case may be, in respect of section 21, must act with the concurrence of the other Authority."</u></p>

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		<p>4. The deletion in section 4 of subsections (2), (4) and (8).</p> <p>5. The repeal of section 5.</p> <p>6. The amendment of section 9—</p> <p>(a) by the substitution in subsection (3) for paragraph (b) of the following paragraph:</p> <p>"(b) <u>unless the applicant demonstrates to the satisfaction of the Authority that—</u></p> <p>(i) <u>it complies and has taken appropriate measures to continue to comply with the governance and risk management framework and financial soundness requirements of this Act;</u></p> <p>(ii) <u>its directors and managing executives meet the fit and proper requirements; and</u></p> <p>(iii) <u>any persons that directly or indirectly control or own that applicant within the meaning of section 25 meet the fit and proper requirements."</u>and</p> <p>(b) by the addition in subsection (3) of the following paragraph:</p> <p>"(cA) <u>if registration will be contrary to the interests of prospective policyholders or the public interest."</u></p> <p>7. The amendment of section 10 by the insertion after paragraph (f) of the following paragraph:</p> <p>"(fA) <u>relating to the business arrangements of the short-term insurer, including, but not limited to, the outsourcing arrangements that the short-term insurer may enter into;"</u>.</p> <p>8. The amendment of section 11 by the substitution for subsection (1) of the following subsection:</p> <p>"(1) The [Registrar] Authority <u>may, by notice to the short-term insurer, amend, delete, replace or impose additional conditions contemplated in section 10, subject to which the short-term insurer is registered or deemed to be registered—</u></p> <p>(a) upon application of a short-term insurer and having regard, with the necessary changes <u>required by the context</u>, to section 9(3)(b);</p> <p>(aA) <u>when in the public interest or the interests of the policyholders or potential policyholders of the short-term insurer;</u></p>

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		<p>(b) when acting in accordance with section 12(2) or (3)₂ or when giving an authorisation in accordance with section 34(2)(a)₂ in relation to a short-term insurer; or</p> <p>(c) if a short-term insurer has ceased to enter into certain short-term policies determined by the [Registrar] Authority to an extent which no longer justifies its continued registration in respect of those policies, and the short-term insurer has been allowed at least 30 days in which to make representations in respect of the matter [,by notice to the short-term insurer vary a condition, subject to which the short-term insurer is registered or deemed to be registered, by amending or deleting it, or determine a new condition contemplated in section 10]."</p> <p>9. The deletion in section 21 of subsection (3).</p> <p>10. The amendment of section 25—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">"(1) Subject to this section, no person shall, directly or indirectly, and without the prior approval of the [Registrar] Authority, acquire or hold shares or any other financial interest in a short-term insurer or a related party of that short-term insurer which results in that person, directly or indirectly, alone or with a related party, exercising control <u>within the meaning of section 2(2) of the Companies Act</u> over that short-term insurer.";</p> <p>(b) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:</p> <p style="padding-left: 40px;">"(a) prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the aggregate nominal value of those shares, by itself or together with the aggregate nominal value of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of the total nominal value of all of the issued shares of the short-term insurer concerned;</p> <p style="padding-left: 40px;">(b) after the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the total number of those shares, by itself or together with the</p>

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		<p>total number of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of all the shares in a specific class of shares issued by the short-term insurer concerned.";</p> <p>(c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: "(3) The approval referred to in subsection <u>(1) or (2)</u>—";</p> <p>(d) by the insertion in subsection (3) after paragraph (a) of the following paragraph: "<u>(aA) shall not be given if the person does not meet the fit and proper requirements;</u>";</p> <p>(e) by the substitution in subsection (4)(a) for the words preceding subparagraph (i) of the following words: "compelling such shareholder to reduce, within a period determined by the Court, that shareholding to a shareholding not exceeding [25] 15 per cent of—"; and</p> <p>(f) by the deletion of subsections (5) and (6).</p> <p>11. The amendment of section 55 by the deletion of subsections (2)(f) and (4)(a)(i).</p> <p>12. The amendment of section 65 by the substitution in subsection (1) for paragraph (a) of the following paragraph: "(a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section [4(2), (3) or (4),] 21(1) or (2), 26(1), 34(2)(a) or 35(2);".</p> <p>13. The repeal of section 66.</p> <p>14. The amendment of Schedule 1—</p> <p>(a) by the substitution in Item 2(b) for subparagraph (i) of the following subparagraph: "(i) an over-the-counter instrument, it is capable of being readily closed out and is entered into with a counterparty <u>that complies with criteria [for which the relevant criteria have been]</u> approved by the [Registrar] Authority and any [subject to such] conditions as [he or she] the Authority may determine;" and</p> <p>(b) by the substitution in Item 2(b) for subparagraph (iii) of the following subparagraph: "(iii) any other instrument, it is regularly</p>

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		<p>traded on a licensed stock exchange in the Republic, or on any other financial market in the Republic approved by the [Registrar subject to such conditions as he or she may determine] <u>Authority, which approval may be subject to conditions determined by the Authority.</u>".</p> <p>15. The amendment of Schedule 3 by the substitution in Item 6(3) for paragraph (c) of the following paragraph:</p> <p style="padding-left: 40px;">"(c) subject to the conditions [he or she] that <u>the Authority may determine.</u>".</p> <p>16. Amendment of the arrangement of sections—</p> <p>(a) by the insertion after item 1 of the following items:</p> <p style="padding-left: 40px;">"1A. Relationship between Act and Financial Sector Regulation Act</p> <p style="padding-left: 40px;">1B. Regulatory instruments"; and</p> <p>(b) by the substitution for item 2 of the following item:</p> <p style="padding-left: 40px;">"2. Exercise of powers and performance of duties by Authority".</p>
Act No. 80 of 1998	Inspection of Financial Institutions Act, 1998	The repeal of the whole Act
Act No. 28 of 2001	Financial Institutions (Protection of Funds) Act, 2001	<p>1. The amendment of section 1—</p> <p>(a) by the deletion of the definitions of "administrative sanction" and "applicant";</p> <p>(b) by the insertion before the definition of "Companies Act" of the following definition:</p> <p style="padding-left: 40px;"><u>" 'Authority' means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;</u>";</p> <p>(c) by the deletion of the definitions of "board", "determination", "directorate" and "enforcement committee";</p> <p>(d) by the insertion after the definition of "financial institution" of the following definition:</p> <p style="padding-left: 40px;"><u>" Financial Sector Regulation Act' means the Financial Sector Regulation Act, 2016;</u>";</p> <p>(e) by the substitution for the definition of "law" of the following definition:</p> <p style="padding-left: 40px;"><u>" law', for the purposes of section 5A, means—</u></p>

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		<p>(a) <u>the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);</u></p> <p>(b) <u>this Act;</u></p> <p>(c) <u>the Pension Funds Act, 1956 (Act No. 24 of 1956);</u></p> <p>(d) <u>the Friendly Societies Act, 1956 (Act No. 25 of 1956);</u></p> <p>(e) <u>the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);</u></p> <p>(f) <u>the Financial Markets Act, 2012 (Act No. 19 of 2012);</u></p> <p>(g) <u>the Long-term Insurance Act, 1998 (Act No. 52 of 1998);</u></p> <p>(h) <u>the Short-term Insurance Act, 1998 (Act No. 53 of 1998);</u></p> <p>(i) <u>the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);</u></p> <p>(j) <u>the Credit Rating Services Act, 2012 (Act No. 24 of 2012);</u></p> <p>(k) <u>the Banks Act, 1990 (Act No. 94 of 1990);</u></p> <p>(l) <u>the Mutual Banks Act, 1993 (Act No. 124 of 1993);</u></p> <p>(m) <u>the Co-operative Banks Act, 2007 (Act No. 40 of 2007);</u></p> <p>(n) <u>the Companies Act, 2008 (Act No. 71 of 2008);</u></p> <p>(o) <u>the Close Corporations Act, 1984 (Act No. 69 of 1984);</u></p> <p>(p) <u>the Trust Property Control Act, 1988 (Act No. 57 of 1988);</u></p> <p>(q) <u>the Medical Schemes Act, 1998 (Act No. 131 of 1998); and</u></p> <p><u>including any subordinate legislation, enactment or measure made under these Acts;"</u>;</p> <p>(f) substitution for the definition of "registrar" of the following definition:</p> <p>" registrar" means—</p> <p>(a) the Authority [the registrar as defined in any of the Acts referred to in paragraph (a) of the definition of "financial institution" in section 1 of the Financial Services Board Act, 1990;</p> <p>(b) the executive officer defined in section 1 of the Financial Services Board Act, 1990]; or</p> <p>[(c)] (b) [except for the purposes of sections 6A to 6L,] the registrar of medical schemes referred to in section 1 of the Medical Schemes Act, 1998;";</p> <p>(g) by the deletion of the definition of "respondent"; and</p> <p>(h) by the addition in section 1 of the following subsection, the existing section becoming subsection (1):</p> <p>"(2) Unless the context otherwise indicates,</p>

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		<p><u>words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.</u>"</p> <p>2. The repeal of section 4A.</p> <p>3. The amendment of section 5—</p> <p>(a) by the substitution in subsection (5) for paragraph (e) of the following paragraph:</p> <p style="padding-left: 40px;">"(e) the costs incurred by the registrar in respect of an inspection of the affairs of the institution [concerned] <u>that was conducted in terms of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998) prior to its repeal, or a supervisory on-site inspection or investigation in terms of the Financial Sector Regulation Act;</u>"; and</p> <p>(b) by the substitution, in subsection (5) for subsection (7) of the following subsection:</p> <p style="padding-left: 40px;">"(7) The curator <u>of an institution</u> must furnish the registrar [of the institution concerned] with such [reports or] information concerning the affairs of that institution as the registrar may require."</p> <p>4. The repeal of sections 6, 7 and 9.</p>
Act No. 38 of 2001	Financial Intelligence Centre Act, 2001	<p>1. The substitution in section 45E for subsections (2) and (3) of the following subsections:</p> <p style="padding-left: 40px;">‘(2) The members of the Financial Sector Tribunal established in terms of section 220 of the Financial Sector Regulation Act, 2016, and appointed in terms of section 221 of that Act, are the members of the appeal board.</p> <p style="padding-left: 40px;">(3) Proceedings before the appeal board are to be conducted and determined in accordance with this Act.’</p> <p>2. The deletion of section 45E (4) to (11) and (13).</p>
Act No. 37 of 2002	Financial Advisory and Intermediary Services Act, 2002	<p>1. The amendment of section 1—</p> <p>(a) by the insertion in subsection (1) after the definition of "authorised financial services provider" of the following definition:</p> <p style="padding-left: 40px;"><u>" Authority means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;</u></p> <p>(b) by the deletion in subsection (1) of the definitions of "Board" and "board of appeal";</p>

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		<p>(c) by the insertion after the definition of "financial product" of the following definition:</p> <p style="padding-left: 40px;">" <u>Financial Sector Regulation Act</u> means the <u>Financial Sector Regulation Act, 2016</u>";</p> <p>(d) by the deletion in subsection (1) of the definition of "Financial Services Board Act";</p> <p>(e) by the insertion in subsection (1) in the definition of "financial product" after paragraph (g) of the following paragraph:</p> <p style="padding-left: 40px;">"<u>(gA)</u> <u>an investment, subscription, contribution, or commitment in a pooled fund</u>";</p> <p>(f) by the substitution in subsection (1) in the definition of "financial product" for paragraph (j) of the following paragraph:</p> <p style="padding-left: 40px;">"<u>(j)</u> any financial product issued by any foreign product supplier [<u>and marketed in the Republic</u>] and which in nature and character is essentially similar or corresponding to a financial product referred to in paragraph (a) to (i), inclusive";</p> <p>(g) by the substitution in subsection (1) for the definition of "fit and proper requirements" of the following definition:</p> <p style="padding-left: 40px;">" <u>'fit and proper requirements'</u> means the requirements [<u>published under</u>] <u>referred to in section 6A</u>";</p> <p>(h) by the substitution in subsection (1) for the definition of "intermediary service" of the following definition:</p> <p style="padding-left: 40px;">" <u>'intermediary service'</u> means, subject to subsection (3)(b), any act other than the furnishing of advice, performed by a person [<u>for or on behalf of a client or product supplier</u>]—</p> <p style="padding-left: 80px;">(a) the result of which is that a client may enter into, offers to enter into or enters into any transaction in respect of a financial product [<u>with a product supplier</u>]; or</p> <p style="padding-left: 80px;">(b) with a view to—</p> <p style="padding-left: 120px;">(i) buying, selling or otherwise dealing in (whether on a discretionary or non-discretionary basis), managing, administering, <u>conducting a valuation</u>, keeping in safe custody, maintaining or servicing a financial product [<u>purchased by a client from a product supplier or in which the client has invested</u>];</p> <p style="padding-left: 120px;">(ii) collecting or accounting for premiums or other moneys payable by the client [<u>to a product supplier</u>] in respect of</p>

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		<p>a financial product; or</p> <p>(iii) receiving, submitting [or], processing or settling the claims of a client [against a product supplier] in respect of a financial product;";</p> <p>(i) by the deletion in subsection (1) of the definition of "official web site";</p> <p>(j) by the insertion in subsection (1) after the definition of "Ombud" of the following definition: <u>" 'Ombud Council' means the council established in terms of section 176 of the Financial Sector Regulation Act;</u>";</p> <p>(k) by the insertion in subsection (1) after the definition of "person" of the following definition: <u>" 'pooled fund' means a collective investment undertaking, including investment compartments of a collective investment undertaking, constituted in any legal form, including in terms of a contract, by means of a trust, or in terms of statute, which—</u> <u>(a) raises capital from one or more investors to facilitate the participation or interest in, subscription, contribution or commitment to, a fund or portfolio, with a view to investing it in accordance with a defined investment policy for the benefit of the investors; and</u> <u>(b) does not require approval as a collective investment scheme in terms of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);"</u></p> <p>(l) by the insertion in subsection (1) after the definition of "publish" of the following definition: <u>" 'Register' means the Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act;</u>";</p> <p>(m) by the deletion in subsection (1) of the definition of "registrar";</p> <p>(n) by the insertion in subsection (1) after definition of "this Act" of the following definition: <u>" 'Tribunal' means the Financial Services Tribunal established in terms of section 220 of the Financial Sector Regulation Act;</u>";</p> <p>(o) by the deletion of subsection 1(3)(b)(ii); and</p> <p>(p) by the addition of the following subsection: <u>"(7) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act."</u></p> <p>2. The insertion after section 1 before</p>

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		<p>Chapter 1 of the following section:</p> <p>"Relationship between Act and Financial Sector Regulation Act</p> <p><u>1A. (1) A reference in this Act to the Board or the registrar must be read as a reference to the Authority.</u></p> <p><u>(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p><u>(3) A reference in this Act to the Authority determining or publishing a matter by notice in the <i>Gazette</i> must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.</u></p> <p><u>(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed, a reference in this Act to a matter being prescribed must be read as—</u></p> <p><u>(a) a reference to the matter being prescribed in a standard; or</u></p> <p><u>(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p><u>(5) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.</u></p> <p><u>(6) A reference in this Act to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.</u></p> <p><u>(7) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.</u></p> <p><u>(b) The Authority may also publish the information or document on its web site.</u></p> <p><u>(8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act</u></p> <p><u>(9) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the</u></p>

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		<p><u>decision by the Tribunal in terms of the Financial Sector Regulation Act.</u></p> <p><u>(10) For the purposes of this section, "standard" has the same meaning ascribed to it in terms of the Financial Sector Regulation Act.</u></p> <p>Regulatory instruments</p> <p><u>1B. For the purposes of the definition of "regulatory instrument" in section 1 of the Financial Sector Regulation Act, fit and proper requirements determined in terms of section 6A, codes of conduct drafted under section 15 and criteria and guidelines for the approval of compliance officers determined under section 17(2) are regulatory instruments."</u></p> <p>3. The repeal of section 2.</p> <p>4. The substitution in section 3(2)(b) for subparagraph (i) of the following subparagraph:</p> <p style="padding-left: 40px;">"(i) the fee payable [in terms of this Act]; and".</p> <p>5. The deletion in section 4 of subsections (1), (5) and (6).</p> <p>6. The substitution for section 6 of the following section:</p> <p>"Delegations</p> <p><u>6. (1) The Authority may, in writing, delegate to any person a power or duty conferred upon the Authority under this Act in respect of any matter relating to a standard referred to in section 6A(2)(a), (b) and (e).</u></p> <p><u>(2) The Authority must, where the delegation is to a person other than a staff member of the Authority, be satisfied that the person has sufficient financial, management, human resources and experience necessary for performing the delegated power or duty.</u></p> <p><u>(3) A delegation is subject to the limitations and conditions specified in the delegation.</u></p> <p><u>(4) A delegation does not divest the Authority of responsibility in respect of the delegated power or duty and anything done by a delegate in accordance with a delegation is deemed to be done by the Authority.</u></p> <p><u>(5) A delegation made under this section may be amended or revoked in writing at</u></p>

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		<p><u>any time, but an amendment or revocation does not affect any rights or liabilities accrued because of the acts of the delegate."</u></p> <p>7. The amendment of section 6A—</p> <p>(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: "[The registrar, for purposes of this Act, by notice in the Gazette—] A conduct standard may be made on any of the following matters:"; and</p> <p>(b) by the insertion after paragraph (a) of the following paragraph: <u>"(aA) may classify representatives into different categories; and"</u>.</p> <p>8. The amendment of section 8 by the substitution for subsections (1) and (1A) of the following subsections:</p> <p>“(1) An application for an authorization referred to in section 7(1), including an application by an applicant not domiciled in the Republic, must be submitted to the registrar in the form and manner determined by the registrar by notice on the official web site, and be accompanied by information to satisfy the registrar that the applicant complies with the fit and proper requirements [determined for financial services providers or categories of providers, determined by the registrar by notice in the Gazette, in respect of—</p> <p>(a) personal character qualities of honesty and integrity;</p> <p>(b) competence;</p> <p>(bA) operational ability; and</p> <p>(c) financial soundness.]</p> <p>(1A) If the applicant is a partnership, trust or corporate or unincorporated body, [the requirements in paragraphs (a) and (b) of subsection (1) do not apply to the applicant, but in such a case] the application must be accompanied by additional information to satisfy the registrar that every person who acts as a key individual of the applicant complies with the fit and proper requirements for key individuals in the category of financial services providers applied for, in respect of –</p> <p>(a) personal character qualities of honesty and integrity;</p> <p>(b) competence; and</p> <p>(c) operational ability,]</p> <p>to the extent required in order for such key individual to fulfill the responsibilities imposed</p>

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		<p>by this Act.”</p> <p>9. The amendment of section 9(1)—</p> <p>(a) by the substitution for paragraphs (c) and (d) of the following paragraphs:</p> <p>"(c) has failed to comply with any other provision of this Act <u>or any requirement under the Financial Sector Regulation Act, including a standard;</u></p> <p>(d) [is liable for payment of] <u>has failed to pay a levy [under section 15A of the Financial Services Board Act, 1990 (Act No. 91 of 1990), a penalty under section 41(2) and (3) or an administrative sanction under section 6D(2) of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001), and has failed to pay the said levy, penalty or administrative sanction], an administrative penalty, or [and] any interest in respect thereof;</u></p> <p>(b) by the substitution for paragraph (f) of the following paragraph:</p> <p>"(f) has failed to comply with <u>a regulator's [any] directive [issued under this Act]; or</u>".</p> <p>10. The substitution in section 13 for subsection (3) of the following subsection:</p> <p>"(3) [The] An authorised financial services provider must—</p> <p>(a) maintain a register of representatives, and key individuals of [such] those representatives, which must be regularly updated and be available to the [registrar] Authority for reference or inspection purposes].; <u>and</u></p> <p>(b) <u>within five days after being informed by the Authority of the debarment of a representative or key individual by the Authority, remove the name of that representative or key individual from the register referred to in paragraph (a).</u>"</p> <p>11. The substitution for section 14 of the following section:</p> <p>"Debarment of representatives</p> <p>14. (1) <u>An authorised financial services provider must debar a person who is or was, as the case may be—</u></p> <p>(a) <u>a representative of the financial services provider; or</u></p> <p>(b) <u>a key individual of such representative,</u></p>

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		<p><u>from rendering financial services if satisfied on the basis of available facts and information that the person—</u></p> <p>(i) <u>does not meet, or no longer complies with, the requirements referred to in section 13(2)(a); or</u></p> <p>(ii) <u>has contravened or failed to comply with any provision of this Act in a material manner; and</u></p> <p><u>the reasons for debarment occurred and became known to the financial services provider whilst the person was a representative of the provider.</u></p> <p>(2) <u>Before effecting a debarment in terms of subsection (1), the provider must ensure that the debarment process is lawful, reasonable and procedurally fair.</u></p> <p>(3) <u>A financial services provider must—</u></p> <p>(a) <u>before debarring a person—</u></p> <p>(i) <u>give adequate notice in writing to the person stating its intention to debar the person, the grounds and reasons thereof and any terms attached to the debarment, including, in relation to unconcluded business, any measures stipulated for the protection of the interests of clients;</u></p> <p>(ii) <u>provide the person with a copy of the financial services provider's written policy and procedure governing the debarment process; and</u></p> <p>(iii) <u>give the person a reasonable opportunity to make a submission in response;</u></p> <p>(b) <u>consider any response contemplated in paragraph (a)(iii), and may thereafter decide to debar or not to debar the person; and</u></p> <p>(c) <u>immediately notify the person in writing of—</u></p> <p>(i) <u>the financial services provider's decision;</u></p> <p>(ii) <u>the persons' rights set out in Chapter 15 of the Financial Sector Regulation Act; and</u></p> <p>(iii) <u>any formal requirements in respect of the proceedings for the reconsideration of the decision by the Tribunal.</u></p> <p>(4) <u>Where the debarment has been effected as contemplated in subsection (1), the financial services provider must—</u></p> <p>(a) <u>immediately withdraw any authority</u></p>

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		<p><u>which may still exist for the person to act on behalf of the financial services provider;</u></p> <p><i>(b)</i> <u>where applicable, remove the name of the debarred person from the register referred to in section 13(3);</u></p> <p><i>(c)</i> <u>immediately take steps to ensure that the debarment does not prejudice the interest of clients of the debarred person, and that any uncompleted business of the debarred person is properly attended to;</u></p> <p><i>(d)</i> <u>in the form and manner determined by the Authority, notify the Authority within five days of the debarment; and</u></p> <p><i>(e)</i> <u>with the notification referred to in paragraph (d), provide the Authority with the grounds and reasons for the debarment in the format that the Authority may require.</u></p> <p><u>(5) A debarment in terms of subsection (1) that is undertaken in respect of a person who no longer is a representative of the financial services provider must be commenced without undue delay from the date of the financial services provider becoming aware of the reasons for debarment, and not longer than three months from the date that the person ceased to be a representative of the financial services provider.</u></p> <p><u>(6) For the purposes of debarring a person as contemplated in subsection (1), the financial services provider must have regard to information regarding the conduct of the person as furnished by the Authority, the Ombud or any other interested person.</u></p> <p><u>(7) The Authority may, for the purposes of record keeping, require any information, including the information referred to in subsections (4)(d) and (e), to enable the Authority to maintain and continuously update a central register of all persons debarred in terms of subsection (1), and that register must be published on the web site of the Authority, or by means of any other appropriate public media.</u></p> <p><u>(8) A debarment effected in terms of this section must be reacted upon by the Authority as contemplated by this section.</u></p> <p><u>(9) A person debarred in terms of subsection (1) may not render financial services or act as a representative or key individual of a representative of any financial services provider, unless the person has complied with the requirements referred to in section 13(1)(b)(ii) for the reappointment of a debarred person as a representative or key individual of a</u></p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p><u>representative.</u>".</p> <p>12. The repeal of section 14A.</p> <p>13. The insertion after section 20 of the following section: "Ombud scheme <u>20A. The scheme in relation to complaints implemented by this Part is declared to be a statutory ombud scheme for the purposes of the Financial Sector Regulation Act."</u></p> <p>14. The amendment of section 20 by the substitution for subsection (3) of the following subsection: <p style="padding-left: 40px;">"(3) The objective of the Ombud is to consider and dispose of complaints <u>under this Act, and complaints for which the Adjudicator is designated in terms of section 208 of the Financial Sector Regulation Act</u>, in a procedurally fair, informal, economical and expeditious manner and by reference to what is equitable in all the circumstances, with due regard to—</p> <p style="padding-left: 40px;">(a) the contractual arrangement or other legal relationship between the complainant and any other party to the complaint; and</p> <p style="padding-left: 40px;">(b) the provisions of this Act <u>and the Financial Sector Regulation Act</u>."</p> <p>15. The substitution in section 21 for the expression "Board", wherever it occurs in the section of the expression "Minister".</p> <p>16. The amendment of section 22(1) by the substitution for paragraph (a) of the following subsection: <u>"(a) funds [provided by the Board] accruing to the Ombud in terms of legislation on the basis of a budget submitted by the Ombud to the [Board] Minister and approved by the latter; and"</u></p> <p>17. The amendment of section 23 by the substitution for subsection (1) of the following subsection: <u>"(1) [Despite the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the board of the Financial Services Board as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990),] The Ombud is the accounting authority of the Office."</u></p> <p>18. The repeal of section 26.</p> </p>

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		<p data-bbox="879 280 1198 311">19. The repeal of section 32.</p> <p data-bbox="770 360 1398 423">20. The deletion in section 35(1) of paragraphs (b), (c) and (d).</p> <p data-bbox="770 472 1331 535">21. The substitution for section 39 of the following section:</p> <p data-bbox="879 544 1299 575"><u>"Right to reconsideration of decision</u></p> <p data-bbox="879 584 1382 741">39. <u>Any person aggrieved by a decision of a financial services provider to debar that person in terms of section 14 may apply for the reconsideration of the decision to the Tribunal.</u>"</p> <p data-bbox="879 779 1289 810">22. The repeal of sections 41 and 44.</p> <p data-bbox="879 860 1278 891">23. The amendment of section 45—</p> <p data-bbox="770 900 1390 963">(a) by the deletion in subsection (1) of paragraph (a)(ii); and</p> <p data-bbox="770 972 1390 1034">(b) by the insertion after subsection (1) of the following subsection:</p> <p data-bbox="938 1043 1402 1106"><u>"(1A) The provisions of this Act do not apply to the—</u></p> <p data-bbox="938 1115 1402 1240"><u>(a) performing of the activities referred to in paragraph (b)(ii) and (iii) of the definition of "intermediary service" by a product supplier—</u></p> <p data-bbox="983 1249 1402 1375"><u>(i) who is authorised under a particular law to conduct business as a financial institution; and</u></p> <p data-bbox="983 1384 1369 1473"><u>(ii) where the rendering of such service is regulated under such law; and</u></p> <p data-bbox="938 1482 1390 1671"><u>(b) rendering of financial services by a manager as defined in section 1 of the Collective Investment Schemes Control Act, 2002, to the extent that the rendering of financial services is regulated under that Act.</u></p> <p data-bbox="938 1680 1390 1742"><u>(1B) The exemption referred to in—</u></p> <p data-bbox="938 1751 1402 1966"><u>(a) subsection (1A)(a) does not apply to a person to whom the product supplier has delegated or outsourced the activity, or any part of the activity, contemplated in paragraph (a) and where the person is not an employee of the product supplier; and</u></p> <p data-bbox="938 1975 1382 2033"><u>(b) subsection (1A)(b) does not apply to an authorised agent as defined in</u></p>

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		<p><u>section 1 of the Collective Investment Schemes Control Act, 2002.</u></p> <p>3. Amendment of the arrangement of sections—</p> <p>(a) by the insertion after item 1 of the following items:</p> <p style="padding-left: 40px;">1A. Relationship between Act and Financial Sector Regulation Act</p> <p style="padding-left: 40px;">1B. Regulatory instruments";</p> <p>(b) by the substitution for item 6 of the following item:</p> <p style="padding-left: 40px;">6. Delegations";</p> <p>(c) by the insertion after item 20 of the following item:</p> <p style="padding-left: 40px;">20A. Ombud scheme"; and</p> <p>(d) by the substitution for item 39 of the following item:</p> <p style="padding-left: 40px;">39. Right to reconsideration of decision".</p>
Act No. 45 of 2002	Collective Investment Schemes Control Act, 2002	<p>1. The amendment of section 1—</p> <p>(a) by the insertion after the definition of "authorised agent" of the following definition:</p> <p style="padding-left: 40px;"><u>" 'Authority' means the Financial Sector Conduct Authority established by section 56 of the Financial Sector Regulation Act;"</u>;</p> <p>(b) by the deletion of the definition of "Board";</p> <p>(c) by the insertion after the definition of "exchange securities" of the following definition:</p> <p style="padding-left: 40px;"><u>'Financial Sector Regulation Act' means the Financial Sector Regulation Act, 2016;"</u>;</p> <p>(d) by the deletion of the definitions of "official web site" and "prescribed";</p> <p>(e) by the insertion after the definition of "publish" of the following definition:</p> <p style="padding-left: 40px;"><u>" 'Register' means the Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act;"</u>;</p> <p>(f) by the deletion of the definition of "registrar";</p> <p>(g) by the insertion after the definition of "this Act" of the following definition:</p> <p style="padding-left: 40px;"><u>" 'Tribunal' means the Financial Sector Tribunal established in terms of section 219 of the Financial Sector Regulation Act;"</u>; and</p>

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		<p>(h) by the addition in section 1 of the following subsection, the existing section becoming subsection (1):</p> <p style="padding-left: 40px;"><u>"(2) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act."</u></p> <p>2. The insertion after section 1 of the following section:</p> <p style="text-align: center;">"Relationship between Act and Financial Sector Regulation Act</p> <p style="padding-left: 40px;">1A. (1) <u>A reference in this Act to the registrar must be read as a reference to the Authority.</u></p> <p style="padding-left: 40px;">(2) <u>Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p style="padding-left: 40px;">(3) <u>A reference in this Act to the Authority determining or publishing a matter by notice in the <i>Gazette</i> must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.</u></p> <p style="padding-left: 40px;">(4) <u>Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed, a reference in this Act to a matter being prescribed must be read as—</u></p> <p style="padding-left: 80px;"><u>(a) a reference to the matter being prescribed in a standard; or</u></p> <p style="padding-left: 80px;"><u>(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p style="padding-left: 40px;">(5) <u>A reference in this Act to an on-site visit in terms of a provision in this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.</u></p> <p style="padding-left: 40px;">(6) <u>A reference in this Act to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.</u></p> <p style="padding-left: 40px;">(7) (a) <u>A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.</u></p> <p style="padding-left: 80px;"><u>(b) The Authority may also</u></p>

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		<p><u>publish the information or document on its web site.</u></p> <p><u>(8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act.</u></p> <p><u>(9) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</u></p> <p><u>(10) For the purposes of this section, "standard" has the same meaning ascribed to it in terms of the Financial Sector Regulation Act."</u></p> <p>3. The repeal of sections 7 and 14.</p> <p>4. The amendment of section 15—</p> <p>(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p style="padding-left: 40px;">"If [the registrar, after an on-site visit or inspection under section 14, considers on reasonable grounds that] it is in the interests of the investors of a collective investment scheme or of members of the public [so require], the [registrar] Authority may—"</p> <p>(b) by the deletion in subsection (1) of the proviso to paragraph (f);</p> <p>(c) by the substitution in subsection (1) for paragraph (j) of the following paragraph:</p> <p style="padding-left: 40px;">"(j) if a manager fails to comply with a written request, direction or directive by the [registrar] Authority under this Act or the Financial Sector Regulation Act, do or cause to be done all that a manager was required to do in terms of the request, direction or directive of the [registrar] Authority."; and</p> <p>5. The amendment of section 15A—</p> <p>(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:</p> <p style="padding-left: 40px;">"(c) if deemed reasonably necessary in the interests of investors, at that time or at any time thereafter, and notwithstanding any steps already taken by the [registrar in accordance with paragraph (a) or (b) or any other provision of this Act, act in accordance with section 15] Authority."; and</p> <p>(b) by the substitution for subsection (3) of the following subsection:</p> <p style="padding-left: 40px;">"(3) For the purposes of this</p>

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		<p>section, "financial soundness requirement" means any requirement or limitation referred to in sections 85 to 89 inclusive, sections 91 to 96, inclusive, and section 105 and includes any other financial requirements imposed under this Act or by a standard."</p> <p>6. The repeal of sections 15B, 18, 22, 23 and 24.</p> <p>7. The substitution in sections 63 and 66 for the expression "Minister" wherever it occurs, of the expression "Authority".</p> <p>8. The amendment of section 112—</p> <p>(a) by the deletion of subsection (3); and</p> <p>(b) by the substitution for subsection (4) of the following subsection:</p> <p style="padding-left: 40px;">"(4) Any delegation under subsection (1)[,] or (2)(a) [or (3)(a)] does not prohibit the exercise of the power in question by the Minister, association or [registrar] <u>Authority</u>, as the case may be."</p> <p>9. The amendment of section 114 by the deletion of subsections (3)(d) and (6).</p> <p>10. The amendment of section 115 by the substitution for paragraph (c) of the following paragraph:</p> <p style="padding-left: 40px;">"(c) fails to comply with any direction, requirement, notice, rule or regulation under any provision of this Act or <u>the Financial Sector Regulation Act</u>,".</p> <p>11. Amendment of the arrangement of sections by the insertion after item 1 of the following item:</p> <p style="padding-left: 40px;">"1A. Relationship between Act and Financial Sector Regulation Act ".</p>
Act No. 37 of 2004	Financial Services Ombud Schemes Act, 2004	The repeal of the whole Act.
Act No. 40 of 2007	Co-operative Banks Act, 2007	<p>1. Amendment of section 1—</p> <p>(a) by the deletion of the definition of "appeal board".</p> <p>(b) by the insertion after the definition of "Agency" of the following definition:</p> <p style="padding-left: 40px;">" 'Authority' means the Prudential Authority established in terms of section 32 of the <u>Financial Sector Regulation Act</u>";</p> <p>(c) by the insertion after the definition of "business plan" of the following definition:</p> <p style="padding-left: 40px;">" 'conduct standard' has the same meaning</p>

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		<p style="text-align: center;"><u>ascribed to it in terms of the Financial Sector Regulation Act;</u>"</p> <p>(d) by the substitution for the definition of "co-operative bank" of the following definition:</p> <p style="padding-left: 40px;">" 'co-operative bank' means a co-operative <u>or a co-operative financial institution</u> registered as a co-operative bank in terms of this Act whose members—</p> <p style="padding-left: 80px;">(a) are employed by a common employer or who are employed within the same business district; or</p> <p style="padding-left: 80px;">(b) have common membership in an association or organisation, including a religious, social, co-operative, labour or educational group;</p> <p style="padding-left: 80px;">(c) reside within the same defined community or geographical area;"</p> <p>(e) by the insertion after the definition of "executive officer" of the following definition:</p> <p style="padding-left: 40px;">" 'Financial Sector Regulation Act' means the <u>Financial Sector Regulation Act, 2016;</u>"</p> <p>(f) by the insertion after the definition of "Fund" of the following definition:</p> <p style="padding-left: 40px;">" 'joint standard' has the same meaning <u>ascribed to it in terms of the Financial Sector Regulation Act;</u>"</p> <p>(g) by the deletion of the definition of "prescribed";</p> <p>(h) by the insertion after the definition of "proposed co-operative bank" of the following definition:</p> <p style="padding-left: 40px;">" 'prudential standard' has the same meaning <u>ascribed to it in terms of the Financial Sector Regulation Act;</u>"</p> <p>(i) by the insertion after the definition of "Public Finance Management Act" of the following definition:</p> <p style="padding-left: 40px;">" 'Register' means the <u>Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act;</u>"</p> <p>(j) by the deletion of the definition of "supervisor";</p> <p>(k) by the insertion after the definition of "this Act" of the following definition:</p> <p style="padding-left: 40px;">" 'Tribunal' means the <u>Financial Services Tribunal established in terms of section 220 of the Financial Sector Regulation Act;</u> and</p> <p>(l) by the addition in section 1 of the following subsection, the existing section becoming subsection (1):</p> <p style="padding-left: 80px;">"<u>(2) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.</u>"</p>

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		<p>2. The insertion after section 1 of the following section:</p> <p>"Relationship between Act and Financial Sector Regulation Act</p> <p><u>1A. (1) A reference in this Act to the supervisor must be read as a reference to the Authority.</u></p> <p><u>(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p><u>(3) A reference in this Act to the Authority or the Agency determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority or the Agency determining or publishing the matter by notice published in the Register.</u></p> <p><u>(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 86, or permits a matter to be prescribed by the Agency, including in a rule in terms of section 57, a reference in this Act to a matter being prescribed must be read as—</u></p> <p><u>(a) a reference to the matter being prescribed in a prudential standard or a conduct standard; or</u></p> <p><u>(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p><u>(5) Matters in respect of which regulations relating to co-operative banks and co-operative financial institutions may be prescribed in terms of this Act may also be prescribed in prudential standards or conduct standards in terms of the Financial Sector Regulation Act.</u></p> <p><u>(6) A reference to rules made by the Authority in terms of section 46 must be read as a reference to prudential or joint standards.</u></p> <p><u>(7) (a) A reference to an inspection in section 47 must be read as a reference to a supervisory on-site inspection or an investigation in terms of Chapter 9 of the Financial Sector Regulation Act.</u></p> <p><u>(b) A reference to an investigation by the Agency or the Minister in terms of section 73 must not be read as a reference to an investigation in terms of the</u></p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p><u>Financial Sector Regulation Act.</u></p> <p><u>(8) (a) A reference in this Act to the Authority or the Agency announcing or publishing information or a document on a web site must be read as a reference to the Authority or the Agency publishing the information or document in the Register.</u></p> <p><u>(b) The Authority or the Agency may also publish the information or document on its web site.</u></p> <p><u>(9) (a) A reference in this Act to a prescribed fee, other than a reference to a fee prescribed by the Agency, must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act.</u></p> <p><u>(b) The Agency, when determining a fee in terms of this Act, must comply with the requirements of section 238 of the Financial Sector Regulation Act.</u></p> <p><u>(10) A reference in this Act to an appeal of a decision of the Authority or the Agency must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</u></p> <p><u>(11) (a) The Authority must publish the following in the Register—</u></p> <p><u>(i) each registration in terms of section 8 and each amendment, suspension, lapsing and de-registration;</u></p> <p><u>(ii) each conversion of registration in terms of section 28; and</u></p> <p><u>(iii) each registration, suspension, and each suspension, lapsing and deregistration.</u></p> <p><u>(b) The Agency must publish the following in the Register—</u></p> <p><u>(i) each registration in terms of section 33, and each cancellation or suspension of registration; and</u></p> <p><u>(ii) each accreditation in terms of section 38, and each cancellation or suspension of accreditation.</u></p> <p>Regulatory instruments</p> <p><u>1B.</u> <u>For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, the following are regulatory instruments:</u></p> <p><u>(a) existing rules and standards made in terms of section 46 subsequent to the date on which this section comes into effect; and</u></p> <p><u>(b) rules made by the Agency in terms of section 57.</u></p> <p>3. The amendment of section 2 by the</p>

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		<p>substitution for paragraphs (b) and (c) for the following paragraphs:</p> <p>“(b) promote the development of sustainable and responsible co-operative banks <u>and co-operative financial institutions</u>; and</p> <p>(c) establish an appropriate regulatory framework and regulatory institutions for co-operative banks <u>and co-operative financial institutions</u> that protect <u>the interests of members of co-operative banks, co-operative financial institutions, and the public</u>,</p> <p>by providing for—</p> <p>(i) the registration of deposit-taking financial services co-operatives as co-operative banks <u>or co-operative financial institutions</u>;</p> <p>(ii) the [establishment of supervisors to ensure] appropriate and effective regulation and supervision of co-operative banks <u>and co-operative financial institutions</u>, and [to protect members and the public interest]; and</p> <p>(iii) the establishment of a Development Agency for Co-operative Banks to develop and enhance the sustainability of co-operative banks <u>and co-operative financial institutions</u>.”</p> <p>4. The amendment of section 3 by the substitution for the section of the following section:</p> <p>“3(1) This Act applies to all co-operative banks registered under this Act and to any [—</p> <p>(a) primary co-operative registered under the Co-operatives Act that takes deposits and—</p> <p>(i) has 200 or more members; and</p> <p>(ii) holds deposits of members to the value of one million rand or more; and</p> <p>(b) secondary or tertiary co-operative registered under the Co-operatives Act, whose members consist of at least—</p> <p>(i) two or more co-operative banks;</p> <p>(ii) two or more financial services co-operatives that take deposits; or</p> <p>(iii) one co-operative bank and one financial services co-operative that take deposits] <u>co-operative</u></p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p style="text-align: center;"><u>financial institution registered under this Act.</u></p> <p>[(2) A co-operative referred to in subsection (1) must, subject to section 91, within two months of meeting the criteria referred to in subsection (1) apply for registration as a co-operative bank in terms of this Act.]”.</p> <p>5. The amendment of section 4 by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) The Co-operatives Act applies to co-operative banks <u>and co-operative financial institutions</u> unless the application of a provision thereof has specifically been excluded or amended in this Act.”.</p> <p>6. The amendment of section 5 by the substitution for paragraphs (c) and (d) for the following paragraphs:</p> <p style="padding-left: 40px;">“(c) a secondary co-operative bank <u>whose members consist of at least—</u></p> <p style="padding-left: 80px;">(i) <u>two or more co-operative banks;</u></p> <p style="padding-left: 80px;">(ii) <u>two or more co-operative financial institutions; or</u></p> <p style="padding-left: 80px;">(iii) <u>one co-operative bank and one co-operative financial institution; and</u></p> <p style="padding-left: 40px;">(d) a tertiary co-operative bank <u>whose members consist of two or more secondary co-operative banks.</u>”.</p> <p>7. The insertion after section 41 in Chapter VII of the following Chapter :</p> <p style="text-align: center;">“CHAPTER VIIA CO-OPERATIVE FINANCIAL INSTITUTIONS</p> <p style="text-align: center;">Application for registration as co-operative financial institution</p> <p>40A. (1) <u>A co-operative financial institution must apply to the supervisor, or to the Agency if this function has been assigned or delegated to the Agency, for registration on the application form as prescribed.</u></p> <p style="padding-left: 40px;">(2) <u>The co-operative financial institution must submit copies of documents and any other information as prescribed, together with the application form referred to in subsection (1).</u></p> <p style="text-align: center;">Requirements for registration</p> <p>40B. (1) <u>In order to qualify for registration, or to continue to be registered, a co-operative financial institution must demonstrate, to the satisfaction of the supervisor, on an ongoing basis—</u></p> <p style="padding-left: 40px;">(a) <u>it has the requisite experience, knowledge, qualifications and competence to give</u></p>

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		<p><u>effect to its obligations;</u></p> <p><u>(b) it has sufficient human, financial, and operational capacity to function efficiently and competently;</u></p> <p><u>(c) it meets any prescribed threshold requirements in respect of membership, membership shares and deposits held;</u></p> <p><u>(d) it meets any other applicable prescribed requirements.</u></p> <p><u>(2)(a) A co-operative financial institution must, once it has reached a prescribed amount of members' deposits, apply for registration as a co-operative bank in terms of this Act.</u></p> <p><u>(b) If the responsibility for the registration of a co-operative financial institution has been assigned or delegated to the Agency, the Agency must recommend to the supervisor whether the application for registration as a co-operative bank should be approved or declined.</u></p> <p><u>(c) In the event that the application by a co-operative financial institution to register as a co-operative bank is declined—</u></p> <p><u>(i) the supervisor may determine that the co-operative financial institution concerned may not hold members' deposits exceeding a specified amount; and</u></p> <p><u>(ii) the co-operative financial institution concerned must re-apply for registration as a co-operative bank once the requirements to register as a co-operative bank have been met.</u></p> <p><u>(d) An amount determined by the supervisor in terms of paragraph (c)(i) –</u></p> <p><u>(i) must be based on the nature and size of the co-operative financial institution; and</u></p> <p><u>(ii) may not exceed the general maximum limit for holdings of deposits by any co-operative financial institution prescribed by the supervisor.</u></p> <p><u>(e) An application by a co-operative financial institution for registration as a co-operative bank must be accompanied by a letter of recommendation from the Agency, if applicable.</u></p> <p><u>(3) On the date that this section comes into operation, a co-operative financial institution that qualifies to be registered as a co-operative financial institution—</u></p> <p><u>(a) must apply for registration as a co-</u></p>

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		<p><u>operative financial institution in terms of this Act within 12 months from the date on which this section comes into operation; and</u></p> <p><u>(b) that holds members' deposits exceeding a prescribed threshold, but does not qualify to be registered as a co-operative bank, must not hold members' deposits exceeding an amount determined by the supervisor, based on the nature and size of the co-operative financial institution.</u></p> <p><u>(4) If the registration of co-operative financial institutions has been assigned or delegated to the Agency in terms of the Act, the Agency must inform the supervisor of the registration of a co-operative financial institution within 14 days of the registration.</u></p> <p>Registration of co-operative financial institution</p> <p>40C. <u>(1) The supervisor may grant an application for a licence on payment of the fee, prescribed by the supervisor, if the supervisor is satisfied that—</u></p> <p><u>(a) the application has been made in accordance with this Act; and</u></p> <p><u>(b) the co-operative financial institution complies with the requirements for registration referred to in section 40B.</u></p> <p><u>(2) The supervisor must, on registration, issue a certificate of registration to the co-operative financial institution and publish a notice of the registration in the Register.</u></p> <p>Suspension of registration or de-registration</p> <p>40D. <u>(1) The supervisor may, subject to subsection (4), de-register or, where appropriate, suspend the registration of a co-operative financial institution where the supervisor is satisfied that the co-operative financial institution—</u></p> <p><u>(a) has not commenced operating as a co-operative financial institution six months after the date of its registration as a co-operative financial institution;</u></p> <p><u>(b) has ceased to operate;</u></p> <p><u>(c) obtained registration through fraudulent means;</u></p> <p><u>(e) no longer meets the requirements for registration referred to in section 40B;</u></p> <p><u>(f) is unable to meet or maintain its prudential requirements referred to in section 40B;</u></p> <p><u>(g) has failed to comply with any condition imposed under this Act;</u></p>

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		<p><u>(h) has failed to comply with any directive issued under this Act; or</u></p> <p><u>(i) is de-registered or wound-up under the Co-operatives Act.</u></p> <p><u>(2) Where a co-operative financial institution has requested its deregistration, the supervisor may on submission of such a request, along with any other prescribed or requested information, de-register the co-operative financial institution.</u></p> <p><u>(3) (a) Where the supervisor suspends the registration of a co-operative bank under subsection (1), the supervisor may do so subject to any condition that the supervisor may determine.</u></p> <p><u>(b) The supervisor may revoke any suspension under subsection (1) if the supervisor is satisfied that the co-operative financial institution has complied with all the conditions to which the suspension was made subject.</u></p> <p><u>(4) (a) The supervisor may publish a notice of such de-registration or suspension in the Register.</u></p> <p><u>(b) The de-registration of a co-operative financial institution takes effect on the date specified in the notice referred to in paragraph (a).</u></p> <p><u>(c) Where a co-operative financial institution has applied for reconsideration of the decision of the supervisor referred to in subsection (1), the supervisor must not publish the notice referred to in paragraph (a) until the application for reconsideration of the decision has been finalised.</u></p> <p style="text-align: center;">Repayment of deposits on de-registration or lapsing of registration</p> <p><u>40E. (1) The supervisor may on the de-registration of a co-operative financial institution direct the co-operative financial institution to repay any deposits, including interest thereon, held by that co-operative financial institution as at the date of de-registration within the period specified in the directive.</u></p> <p><u>(2) A directive referred to in subsection (1) may—</u></p> <p><u>(a) apply to all deposits generally; or</u></p> <p><u>(b) differentiate between different types, kinds and amounts of deposits.</u></p> <p><u>(3) A co-operative financial institution that fails to comply with a directive under subsection (1) is deemed not to be able to pay its debts.</u></p> <p style="text-align: center;">Winding-up or judicial management of co-operative financial institution</p> <p><u>40F. (1) Despite the provisions of sections 72 (1), 73 (1) and 77 (2) of the Co-operatives Act—</u></p>

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		<p>(a) <u>the supervisor may—</u></p> <p>(i) <u>apply to a court that a co-operative financial institution be wound-up;</u></p> <p>(ii) <u>recommend to the Minister of Trade and Industry that a co-operative financial institution be wound-up; and</u></p> <p>(iii) <u>apply to a court for a judicial management order; and</u></p> <p>(b) <u>the Minister of Trade and Industry may not order that a co-operative financial institution be wound-up without the written concurrence of the supervisor, or the Agency, if functions of the supervisor have been assigned or delegated to the Agency as contemplated in this Act.</u></p> <p>(2) <u>Any application to a court for the winding-up, including the voluntary winding-up, of a co-operative financial institution must be served on the supervisor.</u></p> <p>(3) <u>Despite any other law, the Master of the High Court may only appoint a person recommended by the supervisor as a provisional liquidator or liquidator of a co-operative financial institution, unless the Master is of the opinion that the recommended person is not fit and proper to be appointed as a provisional liquidator or liquidator of the co-operative financial institution concerned.</u></p> <p>(4) <u>A liquidator of a co-operative financial institution that is voluntarily wound-up must submit to the supervisor any documents that the co-operative financial institution being wound-up would have been obliged to submit in terms of this Act.”.</u></p> <p>8. The repeal of sections 41 and 43.</p> <p>9. The amendment of section 44—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The supervisor may, in writing, delegate or assign any of the powers entrusted to [him or her] the supervisor in terms of this Act and assign any of the duties imposed on [him or her] the supervisor in terms of this Act to a deputy supervisor, <u>any other person employed by the South African Reserve Bank or to the Agency [a deputy supervisor or any other person].”</u>; and</p> <p>(b) by the insertion after subsection (3) of the following subsection:</p> <p>(3) (a) <u>References in Chapter VIIA to “supervisor” must be read as a reference to “Agency” to the extent that a power or function relating to the licensing of co-operative financial institutions has been delegated to the Agency.</u></p> <p>(c) <u>A reference in Chapter VIIA to “prescribed”</u></p>

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		<p>means “<u>prescribed by the Authority in standards</u>”, but to the extent that a power or function has been assigned or delegated to the Agency, the Agency may make rules in relation to the performance of those powers and functions, and “<u>prescribed</u>” must be read as referring to “<u>rules made by the Agency</u>”, to the extent that the power to regulate or supervise the licensing of co-operative financial institutions has been delegated to the Agency.”.</p> <p>10. The substitution for section 45 of the following section:</p> <p>“45. The supervisor, in addition to other functions conferred on the supervisor by or in terms of any other provision of this Act—</p> <p>(a) must take steps he or she considers necessary to protect the public in their dealings with co-operative banks <u>and co-operative financial institutions</u>;</p> <p>(b) may, on the written request of a co-operative bank, <u>co-operative financial institution, [a] representative body</u>, support organisation or auditor, extend any period within which any documentation, information or report must be submitted to [him or her] the supervisor;</p> <p>(c) must determine the form, manner and period, if a period is not specified in this Act, within which any documentation, information or report that a co-operative bank, <u>co-operative financial institution, [a] representative body</u>, support organisation or auditor is required to submit to the supervisor under this Act must be submitted;</p> <p>(d) may, despite the provisions of any law, furnish information acquired by [him or her] the supervisor under this Act to any person charged with the performance of a function under any law;</p> <p>(e) may issue guidelines to co-operative banks, <u>co-operative financial institutions</u>, members, supporting institutions and auditors on the application and interpretation of this Act and provide them with information on market practices or market or industry developments within or outside the Republic;</p> <p>(f) may publish a journal or any other publication, and issue newsletters and circulars containing information relating to co-operative banks <u>and co-operative financial institutions</u>; and</p> <p>(g) may take any measures [he or she] <u>that the supervisor</u> considers necessary for the proper performance and exercise of</p>

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		<p>[his or her] the supervisor's functions or duties or for implementation of this Act.”.</p> <p>11. The substitution for the section 46 of the following section:</p> <p>“Power to make [rules] standards</p> <p>46. (1) [The supervisor may prescribe rules with regard to] <u>A prudential, conduct or joint standard for or in respect of co-operative financial institutions and co-operative banks may be made on any of the following matters:—</u></p> <p>(a) [any] <u>Any</u> matter that is required or permitted to be prescribed in terms of this Act; and</p> <p>(b) any other matter for the better implementation of this Act or a function or power provided for in this Act.</p> <p>(2) [Rules] <u>Standards</u> referred to in subsection (1) may—</p> <p>(a) apply to co-operative banks <u>or co-operative financial institutions</u> generally; or</p> <p>(b) be limited in application to a particular co-operative bank <u>or co-operative financial institution</u> or kind of co-operative bank <u>or co-operative financial institution</u>, which may be defined in relation to either a type or budgetary size of co-operative bank <u>or co-operative financial institution</u> or to any other matter.</p> <p>[(3) (a) Before the supervisor prescribes any rule under this section, he or she must—</p> <p>(i) publish a draft of the proposed rule in the <i>Gazette</i> together with a notice calling for public comment in writing within a period stated in the notice, which period may not be less than 30 days from the date of publication of the notice; and</p> <p>(ii) secure the written approval of the Minister.</p> <p>(b) If the supervisor alters a draft rule because of any comment, he or she need not publish the alteration before prescribing the rule.</p> <p>(4) The supervisor may, if circumstances necessitate the immediate publication of a rule, publish that rule without the approval as contemplated in <u>subsection (3) (a) (ii).</u>”.</p> <p>12. The substitution for section 47 of the following section:</p> <p>“Inspections</p> <p>47. (1) [(a)] The supervisor may at any</p>

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		<p>time of his or her own accord, on application by at least 10 per cent of the members of or at the request of the judicial manager of a co-operative bank <u>or a co-operative financial institution</u>, inspect the business of a co-operative bank <u>or a co-operative financial institution</u> if the supervisor has reason to believe that the co-operative bank <u>or co-operative financial institution</u> is not conducting its affairs in accordance with the provisions of this Act or is contravening a provision of this Act.</p> <p>[(b) The supervisor has for the purposes of subsection (2) the powers and duties conferred or imposed upon a registrar by the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), and any reference in that Act to “registrar” must be construed as a reference to “supervisor” and any reference to “financial institution” must be construed as a reference to “co-operative bank”, provided that no warrant is required for search and seizure activities aimed at establishing regulatory compliance.]</p> <p>(2) The supervisor may take any measures and make any recommendation he or she considers appropriate following an inspection in terms of subsection (1), including a recommendation to—</p> <p>(a) the co-operative bank <u>or the co-operative financial institution</u>; and</p> <p>(b) the relevant prosecuting authority if the inspection was done on the authority of a warrant.”.</p> <p>13. The amendment of section 48—</p> <p>(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p>“The supervisor may, in order to ensure the implementation and administration of this Act or to protect members and the public in general, issue a directive to a co-operative bank <u>or a co-operative financial institution</u>—“; and</p> <p>(b) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:</p> <p>“ (a) apply to co-operative banks <u>or co-operative financial institutions</u> generally; or</p> <p>(b) be limited in its application to a particular co-operative bank <u>or co-operative financial institution</u>, or kind of co-operative bank <u>or co-operative financial institution</u>,</p>

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		<p>which may be defined either in relation to a type or budgetary size of co-operative bank or to any other matter.”.</p> <p>14. The amendment of section 49—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The supervisor may, despite and in addition to taking any step he or she may take under this Act, impose an administrative penalty on [the] <u>a co-operative bank or co-operative financial institution</u> for any failure to comply with a provision of this Act.”; and</p> <p>(b) by the substitution for subsection (1) of the following subsection:</p> <p>“(4) If a co-operative bank <u>or co-operative financial institution</u> fails to pay an administrative penalty within the specified period the supervisor may by way of civil action in a competent court recover the amount of the administrative penalty from the co-operative bank.”.</p> <p>15. The substitution for section 50 of the following section:</p> <p>“Information and reports</p> <p>[(1)] (a) The supervisor may on written notice require a co-operative bank, <u>co-operative financial institution</u>, a representative body or support organisation [of a co-operative bank] to submit to [him or her] <u>the supervisor</u>—</p> <p>(i) the information specified in the notice; or</p> <p>(ii) a report by an auditor or by any other person with appropriate professional skill, designated by the supervisor, on any matter specified in the notice.</p> <p>(b) A report required under [subsection (1)] <u>paragraph (a)</u> must be prepared at the expense of the co-operative bank, representative body or support organisation.”.</p> <p>16. The amendment of section 55 by the insertion after paragraph (l) of the following paragraph:</p> <p><u>“(lA) exercise powers and perform functions in relation to co-operative financial institutions, including regulatory and supervisory functions, as specified in terms of this Act, or which the supervisor may delegate or assign to the Agency;</u></p> <p>17. The amendment of section 57—</p>

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		<p>(a) by the substitution in subsection (1) for paragraph (aA) of the following paragraph:</p> <p>“(aA) the matters referred to in section 55 (1) (f) to (h) and <u>paragraph (aB) of this subsection</u>, in consultation with the supervisor;”;</p> <p>(b) by the insertion after paragraph (aA) of the following paragraph:</p> <p>“(aB) <u>co-operative financial institutions, in order to perform the Agency’s functions in relation to co-operative financial institutions, including regulatory and supervisory functions, as specified in terms of this Act, or which the supervisor may delegate or assign to the Agency;</u>”;</p> <p>(c) by the substitution in subsection (2) of the following subsection:</p> <p>“(2) Rules referred to in subsection (1) may—</p> <p>(a) apply to co-operative banks, representative bodies [or], support organisations <u>or co-operative financial institutions</u> generally; [or]</p> <p>(b) be limited in application to a particular co-operative bank, representative body [or], support organisation <u>or co-operative financial institution</u>, or kind of co-operative bank <u>or co-operative financial institution</u>, which may be defined either in relation to a type or budgetary size of co-operative bank <u>or co-operative financial institution</u>, or to any other matter; <u>and</u></p> <p>(c) <u>only apply to co-operative financial institutions, in the case of rules referred to in subsection (1)(aB).</u>”.</p> <p>18. The repeal of sections 75 and 76.</p> <p>19. The substitution for section 77 of the following section:</p> <p>“Unlawful use of word “co-operative bank,” <u>cooperative financial institution</u>” or “conduct of banking business of a co-operative bank” or a “<u>cooperative financial institution</u>.”</p> <p>77. (1) It is an offence for any person who is not registered as a co-operative bank under this Act to—</p> <p>(a) in connection with any business conducted by him, her or it—</p>

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		<p>(i) use or refer to himself, herself or itself by any name, description or symbol indicating, or calculated to lead persons to infer, that such person is a co-operative bank or a <u>cooperative financial institution</u> registered as such under this Act; or</p> <p>(ii) in any manner purport to be a co-operative bank or a <u>cooperative financial institution</u> registered as such under this Act; or</p> <p>(b) use in respect of any business a name or description that includes the expression “co-operative bank”, “co-op bank,” <u>cooperative financial institution</u> or any derivative thereof.</p> <p>(2) It is an offence for any person to conduct the business of any co-operative bank or a <u>cooperative financial institution</u> unless such person is registered as a co-operative bank or a <u>co-operative financial institution</u> in terms of this Act.</p> <p>(3) (a) It is an offence for a co-operative bank to provide, participate in or undertake banking services other than the services authorised in respect of the type of co-operative bank it is registered as in terms of this Act.</p> <p>(b) <u>It is an offence for a co-operative financial institution to provide, participate in or undertake services other than the services that it is authorised to provide as a registered co-operative financial institution in terms of this Act.”.</u></p> <p>20. The substitution for section 78 of the following section: “Untrue information in connection with applications 78. It is an offence for any person in connection with an application for registration as a co-operative bank or a <u>cooperative financial institution</u> to provide any information that to the knowledge of such person is untrue or misleading in any material respect.”.</p> <p>21. The substitution for section 79 of the following section: “Criminal liability of director, managing director, executive officer and other persons. 79. (1) It is an offence for any director, managing director or executive officer of a co-operative bank or a <u>cooperative financial</u></p>

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		<p><u>institution</u> to, directly or indirectly, be involved in or take part in the management of a co-operative bank or a cooperative financial institution while the business of the co-operative bank or a <u>cooperative financial institution</u> is carried on recklessly, with intent to defraud creditors of the co-operative bank or creditors of any other person, or for any fraudulent purpose.</p> <p>(2) It is an offence for any person other than a director, managing director or executive officer to knowingly, directly or indirectly, benefit from, be involved in or take part in the management of a co-operative bank or a <u>cooperative financial institution</u> while the business of the co-operative bank or a <u>cooperative financial institution</u> is carried on recklessly, with intent to defraud creditors of the co-operative bank or creditors of any other person, or for any fraudulent purpose.”.</p> <p>22. The substitution for section 82 of the following section:</p> <p>"Fair administrative action</p> <p>82. [Any] <u>Where</u> decision or other step of an administrative nature taken by the supervisor [,] <u>or the</u> Agency [or appeal board] that affects the rights of another person, the supervisor [,] <u>or the</u> Agency [or appeal board] must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless another fair administrative procedure has been provided for in this Act."</p> <p>23. The substitution for section 85 of the following section:</p> <p>"Indemnity</p> <p>85. Neither the supervisor[,], <u>or the</u> Agency [or appeal board] or any board member or employee or managing director thereof, nor a committee of the Agency or any member thereof incurs any liability in respect of any act or omission performed in good faith under or by virtue of a provision in this Act, unless that performance was grossly negligent."</p> <p>24. The substitution for section 87 of the following section:</p> <p>"Powers of Minister</p> <p>87. The Minister may delegate any of his or her powers in terms of this Act, excluding</p>

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		<p>the power to make regulations and the power to appoint the members of the Agency [or appeal board] to the Director-General or any other official of the National Treasury."</p> <p>25. The substitution for the long title of the Act for the following:</p> <p>"To promote and advance the social and economic welfare of all South Africans by enhancing access to banking services under sustainable conditions; to promote the development of sustainable and responsible co-operative banks and <u>co-operative financial institutions</u>; to establish an appropriate regulatory framework and regulatory institutions for co-operative banks and <u>co-operative financial institutions</u> that protect members of co-operative banks and <u>co-operative financial institutions</u>; to provide for the registration of deposit-taking financial services co-operatives as co-operative banks and <u>co-operative financial institutions</u>; to provide for the regulation and supervision of co-operative banks and <u>co-operative financial institutions</u>; and to provide for the establishment of co-operative banks supervisors and a development agency for co-operative banks; and to provide for matters connected therewith".</p> <p>26. Amendment of the arrangement of sections by—</p> <p>(a) the insertion after item 1 of the following items:</p> <p style="padding-left: 40px;">"1A. Relationship between Act and Financial Sector Regulation Act</p> <p style="padding-left: 40px;">1B. Regulatory instruments".</p> <p>(b) the insertion after item 40 of the following items:</p> <p style="padding-left: 40px;">"CHAPTER VIIA</p> <p style="padding-left: 40px;">CO-OPERATIVE FINANCIAL INSTITUTIONS</p> <p style="padding-left: 80px;">40A. Application for registration as co-operative financial institution</p> <p style="padding-left: 80px;">40B. Requirements for registration</p> <p style="padding-left: 80px;">40C. Registration of co-operative financial institution</p> <p style="padding-left: 80px;">40D. Suspension of registration or de-registration</p> <p style="padding-left: 80px;">40E. Repayment of deposits on de-registration or lapsing of registration</p>

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		<p style="text-align: center;">40F. Winding-up or judicial management of co-operative financial institution"; and</p> <p>(c) the substitution for item 77 of the following item:</p> <p style="text-align: center;">“77. Unlawful use of word “co-operative bank,” <u>cooperative financial institution</u>” or “conduct of banking business of a co-operative bank” or a “<u>cooperative financial institution</u>”.</p>
Act No. 19 of 2012	Financial Markets Act, 2012	<p style="text-align: center;">1. The amendment of section 1—</p> <p>(a) by the deletion in subsection (1) of the definition of "appeal board";</p> <p>(b) by the insertion in subsection (1) after the definition of "authorised user" of the following definition:</p> <p style="text-align: center;">“ '<u>Authority</u>' means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;</p> <p>(c) by the deletion in subsection (1) of the definition of "board";</p> <p>(d) by the insertion in subsection (1) after the definition of "bank" of the following definition:</p> <p style="text-align: center;">“<u>central counterparty</u>' means a clearing house that—</p> <p style="margin-left: 40px;">(a) <u>interposes itself between counterparties to transactions in securities, becoming the buyer to every seller and the seller to every buyer and thereby ensuring the performance of open contracts; and</u></p> <p style="margin-left: 40px;">(b) <u>becomes a counterparty to trades with market participants through novation, an open offer system or through a legally binding agreement;”;</u></p> <p>(e) by the substitution in subsection (1) for the definition of "clearing house directive" of the following definition:</p> <p style="text-align: center;">" '<u>clearing house directive</u>' means a directive issued by a licensed independent clearing house or a licensed central counterparty in accordance with its rules;”;</p> <p>(f) by the substitution in subsection (1) for the definition of "clearing house rules" of the following definition:</p> <p style="text-align: center;">" '<u>clearing house rules</u>' means the rules made by a licensed independent clearing house or a licensed central counterparty in accordance with this Act;”;</p> <p>(g) by the substitution in subsection (1) for paragraph (b) of the definition of "clearing member" of the</p>

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		<p>following paragraph:</p> <p>"(b) in relation to a licensed independent clearing house or a licensed central counterparty, a person authorised by that independent clearing house to perform clearing services or settlement services or both clearing services and settlement services in terms of the clearing house rules,";</p> <p>(h) by the insertion in subsection (1) after the definition of "Companies Act" of the following definition:</p> <p>" 'conduct standard' has the same meaning ascribed to it in terms of the <u>Financial Sector Regulations Act</u>;"</p> <p>(i) by the deletion in subsection (1) of the definition of "enforcement committee";</p> <p>(j) by the insertion in subsection (1) after the definition of "external authorised user" of the following definition:</p> <p>" 'external central counterparty' means a <u>foreign person who is authorised by a supervisory authority to perform a function or functions similar to one or more of the functions of a central counterparty as set out in this Act and who is subject to the laws of a country other than the Republic, which laws—</u></p> <p>(a) <u>establish a regulatory framework equivalent to that established by this Act; and</u></p> <p>(b) <u>are supervised by a supervisory authority;</u>";</p> <p>(k) by the insertion in subsection (1) after the definition of "external exchange" of the following definition:</p> <p>"external market infrastructure' means each of the following:</p> <p>(a) <u>An external central counterparty;</u></p> <p>(b) <u>an external central securities depository;</u></p> <p>(c) <u>an external clearing house;</u></p> <p>(d) <u>an external exchange;</u></p> <p>(e) <u>an external trade repository;</u>";</p> <p>(l) by the insertion in subsection (1) after the definition of "Financial Intelligence Centre Act" of the following definition:</p> <p>" 'financial sector law' has the same meaning ascribed to it in terms of the <u>Financial Sector Regulation Act</u>;</p> <p>'Financial Sector Regulation Act' means the <u>Financial Sector Regulation Act, 2016</u>;"</p> <p>(m) by the deletion in subsection (1) of the definition of "Financial Services Board Act";</p>

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		<p>(n) by the substitution in subsection (1) for the definition of "independent clearing house" of the following definition:</p> <p style="padding-left: 40px;">" 'independent clearing house' means a clearing house that clears transactions in securities on behalf of any person <u>in accordance with its clearing house rules</u>, and authorises and supervises its clearing members in accordance with its clearing house rules;"</p> <p>(o) by the insertion in subsection (1) after the definition of "issuer" of the following definition:</p> <p style="padding-left: 40px;">" 'joint standard' has the same meaning ascribed to it in terms of the <u>Financial Sector Regulation Act</u>;"</p> <p>(p) by the insertion in subsection (1) after the definition of "juristic person" of the following definition:</p> <p style="padding-left: 40px;">" 'licensed central counterparty' means a <u>central counterparty licensed under section 49</u>;"</p> <p>(q) by the insertion in subsection (1) after the definition of "licensed exchange" of the following definitions:</p> <p style="padding-left: 40px;">" 'licensed external central counterparty' means an <u>external central counterparty licensed under section 49A</u>;"</p> <p style="padding-left: 40px;">" 'licensed external trade repository' means an <u>external trade repository licensed under section 56A</u>;"</p> <p>(r) by the substitution in subsection (1) for the definition of "market infrastructure" of the following definition:</p> <p style="padding-left: 40px;">" 'market infrastructure' means each of the following-</p> <p style="padding-left: 80px;">(a) a licensed central counterparty;</p> <p style="padding-left: 80px;">[(a)](b) a licensed central securities depository;</p> <p style="padding-left: 80px;">[(b)](c) a licensed clearing house;</p> <p style="padding-left: 80px;">[(c)](d) a licensed exchange;</p> <p style="padding-left: 80px;">[(d)](e) a licensed trade repository;"</p> <p>(s) by the deletion in subsection (1) of the definition of "official website";</p> <p>(t) by the substitution in subsection (1) for the definition of "participant" of the following definition:</p> <p style="padding-left: 40px;">" 'participant' means a person authorised by a licensed central securities depository to perform custody and administration services or settlement services or both, in terms of the [central securities] depository rules, and includes an external participant, where appropriate;"</p> <p>(u) by the insertion in subsection (1) after the definition of "participant" of the following definitions:</p>

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		<p>" 'prescribed' means prescribed by the Minister by regulations, or by a conduct standard or a joint standard.";</p> <p>(v) by the deletion in subsection (1) of the definitions of "prescribed by the Minister" and "prescribed by the registrar";</p> <p>(w) by the insertion in subsection (1) after the definition of "prescribed" of the following definitions:</p> <p>" 'Prudential Authority' means the authority established in terms of section 32 of the <u>Financial Sector Regulation Act</u>;</p> <p>'prudential standard' has the same meaning ascribed to it in terms of the <u>Financial Sector Regulation Act</u>;</p> <p>'Register' means the <u>Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act</u>";</p> <p>(x) by the substitution in subsection (1) for the definition of "regulated person" of the following definition:</p> <p>" 'regulated person' means—</p> <p>(a) a licensed central counterparty;</p> <p>[(a)](b) a licensed central securities depository;</p> <p>[(b)](c) a licensed clearing house;</p> <p>[(c)](d) a licensed exchange;</p> <p>[(d)](e) a licensed trade repository;</p> <p>[(e)](f) an authorised user;</p> <p>[(f)](g) a clearing member;</p> <p>[(g)](h) a nominee;</p> <p>[(h)](i) a participant;</p> <p>[(i)](i) except for the purposes of section 3(6), sections 74 and 75, sections 89 to 92, and sections 100 to 103, an issuer; or</p> <p>[(j)](k) any other person [prescribed by the Minister in terms of section 5] specified in regulations for this purpose.";</p> <p>(y)by the substitution in subsection (1) in paragraph (a) of the definition of "securities" for subparagraph (v) of the following subparagraph:</p> <p>"(v) participatory interests in a collective investment scheme as defined in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), and units or any other form of participation in a foreign collective investment scheme approved by the [Registrar of Collective Investment Schemes] Authority in terms of section 65 of that Act; and";</p> <p>(z)by the substitution in subsection (1) in paragraph (c) of the definition of "settle" for subparagraph (ii) of the following subparagraph:</p>

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		<p>"(ii) the parties have appointed a licensed independent clearing house, <u>a licensed central counterparty</u> or a licensed central securities depository to settle a transaction, in which case it has the meaning assigned in paragraph (a);";</p> <p>(zA) by the insertion in subsection (1) after the definition of "transfer" of the following definition: <u>" 'Tribunal' means the Financial Services Tribunal established in terms of section 220 of the Financial Sector Regulation Act;</u>";</p> <p>(zB) by the substitution for subsection (3) of the following subsection: "(3) Where in this Act any supervisory authority is required to take a decision in consultation with the [registrar] Authority, such decision requires the concurrence of the [registrar] Authority."; and</p> <p>(zC) by the addition of the following subsection: <u>"(4) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act."</u></p> <p>3. The insertion after section 1 of the following section:</p> <p>"Relationship between Act and Financial Sector Regulation Act</p> <p><u>1A. (1) If the Minister has determined by notice in the <i>Gazette</i> that the amendments of this Act contained in Schedule 4 to the Financial Sector Regulation Act must come into operation before the provisions of the Financial Sector Regulation Act in terms of which the Authority is established come into operation, then until the date on which the Authority is established—</u></p> <p><u>(a) a reference to "Authority" must be read as a reference to the executive officer and a deputy executive officer referred to in section 1 of the Financial Services Board Act, who are the Registrar and the Deputy Registrar of Securities Services, respectively; and</u></p> <p><u>(b) the Registrar and Deputy Registrar of Securities Services exercise the powers and perform the functions of the Authority.</u></p> <p><u>(2) If the Minister has determined by notice in the <i>Gazette</i> that the amendments of this Act contained in Schedule 4 to the Financial Sector Regulation Act must come into operation before the provisions of the Financial Sector Regulation Act in terms of which the Prudential Authority is established come into operation, then until the date</u></p>

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		<p>on which the Prudential Authority is established—</p> <p><u>(a) a reference to “Prudential Authority” must be read as a reference to the Registrar of Banks ; and</u></p> <p><u>(b) the Registrar of Banks designated under section 4 of the Banks Act, 1990 (Act No. 94 of 1990) exercises the powers and performs the functions of the Prudential Authority.</u></p> <p><u>(3) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p><u>(4) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice in the Register.</u></p> <p><u>(5) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being prescribed must be read as—</u></p> <p><u>(a) a reference to the matter being prescribed in a prudential standard, a conduct standard, or a joint standard; or</u></p> <p><u>(b) otherwise, a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p> <p><u>(6) (a) A reference in this Act to an on-site visit in terms of a provision of this Act, must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.</u></p> <p><u>(b) A reference to an inspection or investigation in terms of a provision of this Act must be read as an investigation in terms of the Financial Sector Regulation Act.</u></p> <p><u>(7) (a) A reference in this Act to the Authority announcing or publishing information or a document on a website must be read as a reference to the Authority publishing the information or document in the Register.</u></p> <p><u>(b) The Authority may also publish the information or document on the Authority’s website.</u></p> <p><u>(8) A reference in this Act to a determined or prescribed fee, must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act.</u></p> <p><u>(9) A reference in this Act to an appeal of a decision of the Authority or market</u></p>

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		<p><u>infrastructure to the appeal board must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</u></p> <p>(10) <u>For the purposes of the Financial Sector Regulation Act, conduct standards made in terms of section 74 are regulatory instruments.</u>"</p> <p>4. The amendment of section 3—</p> <p>(a) by the substitution for subsection (3) of the following subsection:</p> <p style="padding-left: 40px;">"(3) Despite any other law, [other than the Financial Intelligence Centre Act,] if there is an inconsistency between any provision of this Act and a provision of any other national legislation, <u>except the Financial Intelligence Centre Act and the Financial Sector Regulation Act,</u> this Act prevails."; and</p> <p>(b) by the substitution for subsection (5) of the following subsection:</p> <p style="padding-left: 40px;">"(5) Despite any other law, if other national legislation confers a power on or imposes a duty upon an organ of state, <u>other than the South African Reserve Bank or the Prudential Authority,</u> in respect of a matter regulated under this Act, that power or duty must be exercised or performed in consultation with the [registrar] Authority, and any decision taken in accordance with that power or duty must be taken with the [approval] concurrence of the [registrar] Authority.".</p> <p>5. The amendment of section 4—</p> <p>(a) by the substitution in subsection (1) for paragraphs (e) to (g) of the following paragraphs:</p> <p style="padding-left: 40px;">“(e) act as a clearing member unless authorised by a licensed exchange [or], a licensed independent clearing house, a <u>licensed central counterparty, a licensed external central counterparty or an external central counterparty that is exempt from the requirement to be licensed in terms of section 49A,</u> as the case may be;</p> <p style="padding-left: 40px;">(f) act as a nominee unless that person is approved under section 76 <u>or under standards prescribed under the Financial Sector Regulation Act;</u></p> <p style="padding-left: 40px;">(g) perform the functions of or operate as a trade repository unless that person is licensed under section 56 <u>or section 56A, as the case may be;</u> or”;</p>

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		<p>(b) by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">"(2) A person who is not—</p> <p style="padding-left: 80px;">(a) licensed as an exchange, a central securities depository, a trade repository [or], a clearing house <u>or a central counterparty</u>;</p> <p style="padding-left: 80px;">(b) a participant;</p> <p style="padding-left: 80px;">(c) an authorised user;</p> <p style="padding-left: 80px;">(d) a clearing member;</p> <p style="padding-left: 80px;">(e) an approved nominee; [or]</p> <p style="padding-left: 80px;">(f) an issuer of listed securities[,]; <u>or</u></p> <p style="padding-left: 80px;">(g) <u>licensed as an external central counterparty, or exempt from the requirement to be licensed in terms of section 49A; or</u></p> <p style="padding-left: 80px;">(h) <u>licensed as an external trade repository,</u> may not purport to be an exchange, central securities depository, trade repository, clearing house, <u>central counterparty, external central counterparty, external trade repository,</u> participant, authorised user, clearing member, approved nominee or issuer of listed securities, as the case may be, or behave in a manner or use a name or description which suggests, signifies or implies that there is some connection between that person and an exchange, a central securities depository, trade repository, clearing house, <u>central counterparty, external central counterparty, external trade repository,</u> participant, authorised user or clearing member, as the case may be, where in fact no such connection exists."; and</p> <p>(c) by the substitution for subsection (5) of the following subsection:</p> <p style="padding-left: 40px;">"(5) (a) A clearing member may only provide the clearing services or settlement services for which it is authorised by a licensed exchange [or], licensed independent clearing house, or a <u>licensed central counterparty,</u> as the case may be, in terms of the exchange rules or clearing house rules, as the case may be.</p> <p style="padding-left: 80px;">(b) <u>A clearing member may only provide clearing services or settlement services for which it is authorised by a licensed external central counterparty or an external central counterparty that is exempt from the requirement to be licensed in terms of section 49A, with the joint prior written approval of the Authority, the Prudential Authority and the South African Reserve Bank."</u></p> <p>6. The amendment in section 5—</p> <p>(a) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs:</p>

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		<p>"(b) a category of regulated persons, other than those specifically regulated under this Act, if the securities services <u>provided, and the functions and duties exercised</u>, whether in relation to listed or unlisted securities, [provided] by persons in such category, are not already regulated under this Act, and if, in the opinion of the Minister, it would further the objects of the Act in section 2 to regulate persons in such categories;</p> <p>(c) the securities services that may be provided, and the functions and duties that may be exercised, by an external authorised user, external exchange, external participant, external central securities depository, external clearing house, <u>external central counterparty</u>, external clearing member or external trade repository, as the case may be, <u>if such securities services, or functions and duties have not been prescribed by this Act.</u>"; and</p> <p>(b) by the substitution for subsection (2) of the following subsection: “(2) An external authorised user, external exchange, external participant, external central securities depository, external clearing house, <u>external central counterparty</u>, external clearing member or external trade repository may only provide those securities services or exercise functions or duties, as the case may be, prescribed by the Minister in terms of subsection (1)(c).”.</p> <p>7. The amendment of section 6:</p> <p>(a) by the substitution for the heading of the section of following heading: “[Registrar and Deputy Registrar] The <u>Authority</u>”;</p> <p>(b) by the deletion of subsections (1) and (2);</p> <p>(c) by substitution in subsection (3) for the words preceding paragraph (a) of the following words: <u>“In performing [those] its functions in terms of this Act, the Authority—”;</u></p> <p>(d) by the substitution in subsection (3) for paragraph (k) of the following paragraph: “(k) may issue [guidelines] guidance notices on the application and interpretation of this Act.”;</p> <p>(e) by the substitution in subsection (3) for paragraph (m) of the following paragraph: “(m) may exempt any person or category of persons from the provisions of a section of this Act if the registrar is satisfied that —</p>

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		<p data-bbox="922 241 1390 360">[(i) the application of said section will cause the applicant or clients of the applicant financial or other hardship or prejudice; or]</p> <p data-bbox="922 371 1382 432">[(ii)](i) the granting of the exemption will not -</p> <p data-bbox="995 443 1326 504"><i>(aa)</i> conflict with the public interest; or</p> <p data-bbox="995 515 1382 575"><i>(bb)</i> frustrate the achievement of the objects of this Act; and</p> <p data-bbox="922 586 1390 705">(ii) <u>the application of said section will cause the applicant or clients of the applicant financial or other hardship or prejudice; or</u></p> <p data-bbox="922 716 1358 871">(iii) <u>in relation to an external market infrastructure, and with the concurrence of the South African Reserve Bank and the Prudential Authority, the applicant —</u></p> <p data-bbox="986 882 1402 1037"><i>(aa)</i> <u>is based in an equivalent jurisdiction in terms of section 6A and is authorised by the supervisory authority of such jurisdiction;</u></p> <p data-bbox="986 1048 1378 1167"><i>(bb)</i> <u>complies with any criteria prescribed in joint standards for the exemption of such persons; and</u></p> <p data-bbox="986 1178 1390 1453"><i>(cc)</i> <u>undertakes to co-operate and share information with the Authority, the South African Reserve Bank and the Prudential Authority to assist with the performance of functions and the exercise of powers in terms of financial sector law;”;</u></p> <p data-bbox="770 1496 1390 1556"><i>(f)</i> by the substitution in subsection (3) for paragraph <i>(n)</i> of the following paragraph:</p> <p data-bbox="866 1568 1390 1686">"<i>(n)</i> must inform the Minister and the Governor of any matter that in the opinion of the [registrar] Authority may pose systemic risk [to the financial markets; and]”;</p> <p data-bbox="770 1697 1369 1729"><i>(g)</i> by the deletion in subsection (3) of paragraph <i>(o)</i>;</p> <p data-bbox="770 1740 1398 1800"><i>(h)</i> by the substitution in subsection (5) for paragraph <i>(b)</i> of the following paragraph</p> <p data-bbox="922 1812 1398 2020">" (5) The [registrar] Authority must, where an exemption or a directive applies to all persons, regulated persons or securities services generally, publish the directive in the Gazette and on the [official registrar’s] Authority’s website, and a copy of the published exemption or directive</p>

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		<p>must be tabled in Parliament. ";</p> <p>(i) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words:</p> <p style="padding-left: 40px;"><u>"The [registrar] Authority may, with the concurrence of the Prudential Authority, and in accordance with the requirements prescribed by the Minister under section 5(1)(a), in conduct standards or joint standards for, or in respect of, securities services—"</u>;</p> <p>(j) by the substitution in subsection (7) for paragraph (b) of the following paragraph:</p> <p style="padding-left: 40px;">(b) prescribe conditions and requirements for the provision of securities services in respect of unlisted securities, including, but not limited to, [prescribing a code of conduct and] imposing reporting requirements;</p> <p>(k) by the substitution in subsection (7) for paragraph (d) of the following paragraph:</p> <p style="padding-left: 40px;">"(d) prescribe conditions and requirements in terms of which securities services in respect of specified types of unlisted securities may be provided, including[, but not limited to,] the manner in which clearing and settlement of such securities must take place;"</p> <p>(l) by the substitution in subsection (8) for the words preceding paragraph (a) of the following words:</p> <p style="padding-left: 40px;"><u>"In relation to the persons in the category prescribed [by the Minister under] in terms of section 5(1)(b), [the registrar] standards may—"</u>;</p> <p>(m) by the substitution in subsection (8) for paragraph (b) of the following paragraph:</p> <p style="padding-left: 40px;">"(b) prescribe conditions and requirements for the provision of securities services by such persons, including[, but not limited to,] prescribing [a code of conduct] conduct standards and imposing reporting requirements;"</p> <p>(n) by the substitution in subsection (8) for paragraph (d) of the following paragraph:</p> <p style="padding-left: 40px;">"(d) prohibit such persons from providing securities services or undertaking any activities which may frustrate the objects of [the] this Act or the Financial Sector Regulation Act."; and</p> <p>(o) by the addition of the following subsection:</p> <p style="padding-left: 40px;"><u>"(9) In relation to the securities services that may be provided, or the functions and duties that may be exercised by an external authorised user, external exchange, external participant, external central securities depository, external clearing</u></p>

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		<p><u>house, external central counterparty, external clearing member or external trade repository, as the case may be, as prescribed in terms of section 5(1)(c), joint standards may prescribe additional criteria for the approval, authorisation, licensing or exemption of those persons in the Republic, and for the equivalence recognition of the applicable foreign country."</u></p> <p>8. The insertion after section 6 of the following sections:</p> <p><u>"Equivalence recognition of foreign jurisdictions</u></p> <p><u>6A.</u> (1) <u>On application by an interested party the Authority, with the concurrence of the South African Reserve Bank and Prudential Authority, may determine that the regulatory framework of a specified foreign country as being equivalent ("equivalent jurisdiction") to the regulatory framework established in terms of financial sector law, if the legislative and regulatory framework established in that foreign country meets the objectives of the financial sector law.</u></p> <p>(2) <u>A recognition in terms of section 6A(1) must be published on the Authority's website and in the Register.</u></p> <p>(3) <u>The Authority must maintain a list of all foreign countries recognised under this section.</u></p> <p>(4) <u>When assessing the equivalence of the regulatory framework of a foreign country, the Authority, the South African Reserve Bank and the Prudential Authority must take into account –</u></p> <p>(a) <u>the nature and intensity of the supervisory authority's oversight processes, including direct comparison with the regime applied by the Authority, the Prudential Authority and the South African Reserve Bank, as the case may be;</u></p> <p>(b) <u>alignment of the foreign country's regulatory framework with relevant principles developed by international standard setting bodies applicable to market infrastructures;</u></p> <p>(c) <u>observed outcomes of the foreign regulatory framework applicable to market infrastructures relative to those in South Africa; and</u></p> <p>(d) <u>the need to prevent regulatory arbitrage.</u></p> <p><u>Withdrawal of recognition</u></p> <p><u>6B.</u> <u>The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, withdraw recognition where the criteria set out in section 6A are no longer met.</u></p>

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		<p><u>Principles of co-operation</u></p> <p><u>6C.(1)</u> The Authority must enter into a supervisory cooperation arrangement with the relevant supervisory authority from the equivalent jurisdiction for the purpose of performing its functions in terms of this Act.</p> <p><u>(2)</u> A supervisory co-operation arrangement referred to in subsection (1) must at least specify—</p> <p><u>(a)</u> the mechanism for the exchange of information between the Authority, the South African Reserve Bank, the Prudential Authority, and the relevant supervisory authorities (“the authorities”), including access to all information requested by the Authority regarding a licensed external market infrastructure;</p> <p><u>(b)</u> the mechanism for prompt notification to the Authority, the South African Reserve Bank and the Prudential Authority where the supervisory authority deems an external market infrastructure which it is supervising to be in breach of the conditions of its authorisation or of other law to which it is subject, or any other matter which may have an effect on the authorisation of the market infrastructure;</p> <p><u>(c)</u> the procedures concerning the coordination of supervisory activities including, where appropriate, for collaboration regarding the timing, scope and role of the authorities with respect to any cross-border supervisory on-site inspections;</p> <p><u>(d)</u> the processes the authorities should use if an authority subsequently determines that it needs to use requested supervisory information for law enforcement or disciplinary purposes, such as obtaining the consent of the requested authority and handling such information in accordance with the terms of existing memoranda of understanding for enforcement cooperation;</p> <p><u>(e)</u> the procedures for co-operation, including, where applicable, for discussion of relevant examination reports, for assistance in analysing documents or obtaining information from a licensed external market infrastructure and members of the controlling body or senior management; and</p> <p><u>(f)</u> the degree to which a supervisory authority may onward-share to a third party any non-public supervisory information received from another authority, and the processes for doing so.</p>

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		<p><u>(3) The Authority and supervisory authorities that have entered into supervisory co-operation arrangements in terms of subsection (1) must—</u></p> <p><u>(a) establish and maintain appropriate confidential safeguards to protect all non-public supervisory information obtained from another supervisory authority;</u></p> <p><u>(b) consult with each other and share risk analysis assessments and information to support the identification, assessment and mitigation of risks to markets and investors;</u></p> <p><u>(c) consult, co-operate and, to the extent possible, share information regarding entities of systemic significance or whose activities could have a systemic impact on markets;</u></p> <p><u>(d) co-operate in the day-to-day and routine oversight of internationally active licensed external market infrastructures;</u></p> <p><u>(e) provide advance notification and consult, where possible and otherwise as soon as practicable, regarding issues that may materially affect the respective regulatory or supervisory interests of another authority;</u></p> <p><u>(f) design mechanisms for supervisory co-operation to provide information both for routine supervisory purposes and during periods of crisis; and</u></p> <p><u>(g) undertake ongoing and ad hoc staff communications regarding internationally active licensed external market infrastructure as well as more formal periodic meetings, particularly as new or complex regulatory issues arise.</u></p> <p>9. The amendment of section 7—</p> <p>(a) by the substitution in subsection (3) for paragraph (a) of the following subsection:</p> <p style="padding-left: 40px;">"(a) be made in the manner and contain the information prescribed by the [registrar] Authority";</p> <p>(b) by the substitution in subsection (3)(c) for subparagraph (v) of the following subparagraph:</p> <p style="padding-left: 40px;">(v) the application fee [prescribed by the registrar] <u>determined in terms of the Financial Sector Regulation Act</u>";</p> <p>(c) by the substitution in paragraph (a) of subsection (4) of the following paragraph:</p> <p style="padding-left: 40px;">(a) The [registrar] Authority must publish a notice of an application for an exchange licence in two national newspapers at the</p>

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		<p>expense of the applicant, and on the [official] Authority's website.</p> <p>(d) by the substitution in subsection (4)(b) for subparagraphs (ii) and (iii) of the following subparagraphs:</p> <p>"(ii) [where] that the proposed exchange rules and listing requirements [may be inspected by] <u>are available on the website of the Authority for comments from</u> members of the public; and</p> <p>(iii) the period within, and the process by, which objections to the application <u>or rules and listing requirements</u> may be lodged with the [registrar] Authority;"; and</p> <p>(e) by the addition in subsection (4) of the following paragraph:</p> <p>"(c) <u>The Authority must publish the proposed exchange rules and listing requirements referred to in paragraph (b)(ii) on the Authority's website.</u>".</p> <p>10. The amendment of section 8—</p> <p>(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:</p> <p>"(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in relevant joint standards are met by the applicant, or the licensed exchange, as the case may be, [its directors]members of its controlling body and senior management;" and</p> <p>(b) by the addition of the following subsection:</p> <p><u>"(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.</u></p> <p><u>(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</u></p> <p><u>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</u></p> <p><u>(d) Requirements prescribed in terms of subsection (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards."</u></p>

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		<p>11. The amendment of section 9 by the substitution in subsection (4) for paragraph (a) of the following paragraph:</p> <p>“(a)The [registrar] Authority must publish a notice of an application for an amendment of the terms of an exchange licence or the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the [official] Authority’s website.”.</p> <p>12. The amendment of section 10—</p> <p>(a) by substitution in subsection (2) for paragraph (f) of the following paragraph:</p> <p>“(f) must, as soon as it becomes aware [thereof], inform the [registrar] Authority of any matter that it reasonably believes may [pose systemic risk to the financial markets] give rise to, or increase systemic risk.”; and</p> <p>(b) by the substitution in subsection (2)(i) for subparagraph (ii) of the following subparagraph:</p> <p>“(ii) may appoint [an associated or independent] a clearing house or central counterparty licensed under Chapter V to clear or settle transactions or both clear and settle transactions on behalf of the exchange;”.</p> <p>13. The amendment of section 11—</p> <p>(a) by the substitution in subsection (2) for paragraph (c) of the following paragraph:</p> <p>“(c) an exchange may take into account at a hearing information obtained by the registrar in the course of an on-site [visit or] inspection or investigation conducted [under section 95] in terms of the Financial Sector Regulation Act or obtained by the directorate in an investigation under section 84, read with section 85.</p> <p>(b) by the substitution in subsection (6) by the substitution for paragraphs (c) and (d) of the following paragraphs:</p> <p>(c) The [registrar] Authority must, as soon as possible after the receipt of a proposed amendment, publish —</p> <p>(i) the amendment on the [official] Authority’s website; and</p> <p>(ii) a notice in the Gazette that the proposed amendment is available on</p>

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		<p>the [official] Authority’s website, calling upon all interested persons who have any objections to the proposed amendment, to lodge their objections with the [registrar] Authority within a period of 14 days from the date of publication of the notice.</p> <p>(d) If there are no such objections, or if the [registrar] Authority has considered the objections and, if necessary, has consulted with the exchange and the persons who raised such objections and has decided to approve or amend the proposed amendment, the [registrar] Authority must publish —</p> <p>(i) the amendment and the date on which it comes into operation on the [official] Authority’s website; and</p> <p>(ii) a notice in the <i>Gazette</i>, which notice must state –</p> <p>(aa) that the amendment of the listing requirements has been approved;</p> <p>(bb) that the listing requirements as amended are available on the [official] Authority’s website and the website of the exchange; and</p> <p>(cc) the date on which the amendment of the listing requirements will come into operation.”;</p> <p>(c) by the substitution in subsection (7)(a) by the substitution for the words proceeding subparagraph (i) of the following words:</p> <p>“(a) The [registrar] Authority may, by notice in the <i>Gazette</i> and on the [official] Authority’s website, amend the listing requirements of an exchange — “ ; and</p> <p>(d) by the substitution in subsection (7) by the substitution for paragraph (b)(ii) of the following paragraph:</p> <p>“(ii) publish the reasons for the amendment, and the imperative for such amendment in the <i>Gazette</i> and on the [official] Authority’s website.”.</p> <p>14. The amendment of section 12(6) by the substitution for paragraph (b) of the following paragraph:</p> <p>“(b) If the refusal to list securities was due to any fraud or other crime committed by the issuer, or any material misstatement of its financial position or non-disclosure of any material fact, or if the removal of securities was due to a failure to comply with the listing requirements of the</p>

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		<p>exchange, no other exchange in the Republic may, for a period of six months from the date referred to in paragraph (a), grant an application for the inclusion of the securities concerned in the list kept by it, or allow trading in such securities, unless the refusal or removal is withdrawn by the first exchange or set aside on [appeal] reconsideration by the [appeal board in terms of section 105 Tribunal].”.</p> <p>15. The amendment of section 17—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The exchange rules must be consistent with this Act, <u>the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.</u>”;</p> <p>(b) by the insertion after subsection (2) of the following subsection:</p> <p>“(2A) <u>Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the rules.</u>”; and</p> <p>(c) by the substitution in subsection(4) for paragraph (a) of the following paragraph:</p> <p>“(4) (a) Subject to section 5(1)(c) and (2) and the requirements prescribed [by the registrar] <u>in joint standards</u>, the exchange rules may provide for the approval of external authorised users to be authorised users of the exchange.”.</p> <p>16. The amendment of section 25(2) by the substitution for the words preceding paragraph (a) of the following words:</p> <p>“The [registrar] <u>Authority</u> may[,]<u>prescribe standards</u> in respect of [a report] <u>reports</u> referred to in subsection (1)[, prescribe] <u>specifying—</u>”.</p> <p>17. The amendment of section 27—</p> <p>(a) by the substitution in subsection (3)(c) for subparagraph (iv) of the following subparagraph:</p> <p>“(iv) the application fee [prescribed by the registrar] <u>determined in terms of the Financial Sector Regulation Act;</u>”; and</p> <p>(b) by the substitution in subsection (4) for paragraph (a) of the following paragraph:</p> <p>“(a) The registrar must publish a notice of an application for a central securities depository licence in two national newspapers, at the expense of the applicant, and on the [official] <u>Authority’s</u> website.”; and</p>

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		<p>(c) by the addition in subsection (4) of the following paragraph:</p> <p style="padding-left: 40px;"><u>"(c) The Authority must publish the proposed depository rules referred to in paragraph (b)(ii) on the Authority's website."</u></p> <p>18. The amendment of section 28—</p> <p>(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:</p> <p style="padding-left: 40px;"><u>"(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in the relevant joint standards are met by the applicant, or the central securities depository, as the case may be, [its directors] members of its controlling body and senior management;"</u>; and</p> <p>(b) by the addition of the following subsection:</p> <p style="padding-left: 80px;"><u>"(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.</u></p> <p style="padding-left: 80px;"><u>(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</u></p> <p style="padding-left: 80px;"><u>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</u></p> <p style="padding-left: 80px;"><u>(d) Requirements prescribed in terms of (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards."</u></p> <p>19. The amendment of section 29 –</p> <p>(a) by the substitution (2) of the following subsection:</p> <p style="padding-left: 40px;"><u>"(2) The licence must specify the registered office of the central securities depository in the Republic and the places where the central securities depository may be operated, and that the central securities depository may not be operated at any other place without the joint prior written approval of the [registrar] Authority, the Prudential Authority and the South African Reserve Bank.</u></p> <p>(b) by the substitution for paragraph (a) in subsection (4) of the following paragraph:</p> <p style="padding-left: 40px;"><u>"(a) The [registrar] Authority must publish a notice of an application for an amendment of the terms of a central securities depository licence and the conditions subject to which the licence was granted in</u></p>

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		<p>two national newspapers at the expense of the applicant and on the [official Authority's website.]</p> <p>20. The amendment of section 30(2) by the substitution for paragraph (h) of the following paragraph:</p> <p>"(h) must, as soon as it becomes aware [thereof], inform the [registrar Authority] of any matter that it reasonably believes may [pose systemic risk to the financial markets] <u>give rise to, or increase, systemic risk;</u>".</p> <p>21. The amendment of section 33(1) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p>" <u>An issuer may convert certificated [Certificated] securities [may be converted] to uncertificated securities, at the election of the issuer or the holder of certificated securities,</u> and an issuer may, subject to subsection (2), issue uncertificated securities despite any contrary provision in—".</p> <p>22. The amendment of section 35—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The depository rules must be consistent with this Act, <u>the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.</u>”;</p> <p>(b) by the insertion after subsection (2) of the following subsection:</p> <p>“(2A) <u>Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the rules.</u> ”;</p> <p>(c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:</p> <p>"(4) (a) Subject to section 5(1)(c) and (2) and requirements prescribed [by the registrar] in conduct standards or joint standards, the depository rules may provide for the approval of external participants <u>or external central securities depositories</u> to be participants of the central securities depository."; and</p> <p>(d) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:</p> <p>“(ii) where a central securities depository has approved an external central securities depository as a participant, <u>for the identification of the relevant laws or depository rules that apply to each aspect of the participation, including, but not limited to, the laws regulating effectiveness against third parties and insolvency proceedings.</u>[—</p>

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		<p>(aa) the identification of the supervisory authority that supervises that external central securities depository;</p> <p>(bb) the identification of the relevant laws or depository rules that apply to each aspect of the participation, including, but not limited to, the laws regulating effectiveness against third parties and insolvency proceedings.]”.</p> <p>23. The amendment of section 36 by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) The [registrar] <u>Authority</u> may [direct] <u>determine</u> that any securities held by a central securities depository in its central securities account must, unless they are bearer instruments, money market securities or recorded in a uncertificated securities register in accordance with section 50 of the Companies Act and the depository rules, be registered in the name of that central securities depository or its wholly owned subsidiary, as defined in section 1 of the Companies Act, and approved by the [registrar] <u>Authority</u>.”.</p> <p>24. The amendment of the heading in Chapter V preceding section 47 by the substitution for the heading of the following heading:</p> <p style="padding-left: 40px;">“<u>Licensing of clearing house and central counterparty</u>”.</p> <p>25. The amendment of section 47—</p> <p>(a) by the substitution for the heading of the section of the following heading:</p> <p style="padding-left: 40px;">“<u>Application for clearing house licence and central counterparty licence</u>”;</p> <p>(b) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) A clearing house <u>and a central counterparty</u> must be licensed under section 49.”;</p> <p>(c) by the insertion after subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1A) <u>Subject to section 110(6), a central counterparty must be an independent clearing house.</u>”;</p> <p>(d) by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">“(2) A juristic person may apply to the registrar for a clearing house licence <u>or a central counterparty licence</u>.”;</p> <p>(e) by the substitution in subsection (3) for the words</p>

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		<p>preceding paragraph (a) of the following words: “An application for a clearing house licence <u>or central counterparty licence</u> must —“;</p> <p>(f) by the substitution in subsection (3)(c) for subparagraph (iii) of the following subparagraph: “(iii) the application fee [prescribed by the registrar] <u>determined in terms of the Financial Sector Regulation Act</u>”;</p> <p>(g) by the substitution in subsection (3)(c) for subparagraph (v) of the following subparagraph: “(v) in relation to an application for an independent clearing house licence <u>or a central counterparty licence</u>, a copy of the proposed clearing house rules that must comply with section 53; and”;</p> <p>(h) by the substitution in subsection (4) for paragraph (a) of the following paragraph: (a) The [registrar] <u>Authority</u> must publish a notice of an application for a clearing house licence in two national newspapers at the expense of the applicant and on the [official] <u>Authority’s</u> website.</p> <p>(i) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph: “(ii) in relation to an independent clearing house <u>or a central counterparty</u>, [where] <u>that</u> the proposed clearing house rules [may be inspected by] <u>are available on the Authority’s website for comments from members of the public; and</u>”;</p> <p>(j) by the addition in subsection (4) of the following paragraph: “(c) <u>The Authority must publish the proposed clearing house rules referred to in paragraph (b)(ii) on the Authority’s website.</u>”.</p> <p>26. The amendment of section 48—</p> <p>(a) by the substitution for the heading of the section of the following heading: “Requirements applicable to applicants for clearing house licence, <u>central counterparty licence</u> [and], <u>licenced clearing house and licenced central counterparty</u>”;</p> <p>(b) by the substitution for subsection (1) of the following subsection: “(1) An applicant for a clearing house licence and a licensed clearing house <u>and an applicant for a central counterparty licence and a licensed central counterparty</u> must—</p>

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		<p>(a) subject to the requirements prescribed by the Minister, have sufficient assets and resources, which resources include financial, management and human resources with appropriate experience, to perform its functions as set out in this Act;</p> <p>(b) <u>have</u> governance arrangements that are clear and transparent, promote the safety and efficiency of the clearing house <u>or central counterparty</u>, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders;</p> <p>(c) demonstrate that the fit and proper requirements prescribed [by the registrar] <u>in the relevant joint standards</u> are met by the applicant [or], the licensed clearing house <u>or the licensed central counterparty</u>, as the case may be, [its directors]<u>members of its controlling body</u> and senior management;</p> <p>(d) comply with the requirements prescribed [by the registrar]<u>in the joint standards</u> for the clearing or settlement of transactions in securities, or both;</p> <p>(e) implement an effective and reliable infrastructure to facilitate the clearing of securities cleared by the clearing house <u>or central counterparty</u>;</p> <p>(f) implement effective arrangements to manage the material risks associated with the operation of a clearing house <u>or central counterparty</u>;</p> <p>(g) have made arrangements for security and back-up procedures to ensure the integrity of the records of transactions cleared, settled or cleared and settled through the clearing house <u>or central counterparty</u>; and</p> <p>(h) in relation to an applicant for an independent clearing house licence [or], <u>a central counterparty licence</u>, a licensed independent clearing house <u>or a licensed central counterparty</u>, have made arrangements for the efficient and effective supervision of clearing members so as to ensure compliance with the clearing house rules and clearing house directives and this Act.”.</p> <p>(c) by the insertion after subsection (1) of the following subsection:</p> <p style="text-align: center;"><u>"(1A) Subject to subsection (1) and the regulations prescribed by the Minister, a central counterparty must—</u></p> <p style="text-align: center;"><u>(a) implement a margin system that establishes margin levels commensurate with the risks</u></p>

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		<p><u>and particular attributes of each product, portfolio, and market it serves;</u></p> <p><u>(b) collect and manage collateral held for the due performance of the obligations of clearing members or clients of clearing members;</u></p> <p><u>(c) establish and maintain a default fund to mitigate the risk should there be a default by a clearing member and to ensure, where possible, that the obligations of that clearing member continue to be fulfilled;</u></p> <p><u>(d) maintain initial capital as prescribed, including an appropriate buffer;</u></p> <p><u>(e) have a clearly defined default waterfall where the obligations of the defaulting clearing member, other clearing members and the central counterparty are legally and clearly managed;</u></p> <p><u>(f) provide an appropriate segregation and portability regime to protect the positions of clients of a defaulting clearing member; and</u></p> <p><u>(g) provide the necessary infrastructure, resources and governance to facilitate its post trade management functions and, in the event of default of one or more of the clearing members—</u></p> <p><u>(i) ensure sufficient risk policies, procedures and processes; and</u></p> <p><u>(ii) have sound internal controls for robust transaction processing and management."; and</u></p> <p>(d) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:</p> <p>“(2) The [registrar] Authority may –</p> <p>(a) require an applicant[or], a licensed clearing house or licensed central counterparty to furnish such additional information, or require such information to be verified, as the [registrar] Authority may deem necessary;</p> <p>(b) take into consideration any other information regarding the applicant, a licensed clearing house or licensed central counterparty, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or a licensed clearing house and the latter is given a reasonable opportunity to respond thereto; and”;</p> <p>(e) by the addition of the following subsection:</p> <p>“(3) (a) Despite subsection (1), requirements prescribed under this section</p>

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		<p><u>that are in force immediately before the commencement of this subsection continue to be in force.</u></p> <p><u>(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</u></p> <p><u>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</u></p> <p><u>(d) Requirements prescribed in terms of subsection (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards."</u></p> <p>27. The amendment of section 49—</p> <p>(a) by the substitution for the heading of the section of 49 the following heading:</p> <p style="text-align: center;"><u>“Licensing of clearing house and central counterparty”</u>;</p> <p>(b) by the substitution for subsection 1 of the following subsection:</p> <p style="padding-left: 40px;"><u>“(1) The [registrar] Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank and after consideration of any objection received as a result of the notice referred to in section 47(4) and subject to the conditions which the [registrar] Authority may consider appropriate, grant a clearing house licence to perform the functions referred to in section 50, if—”</u>;</p> <p>(c) by the insertion after subsection (1) of the following subsection:</p> <p style="padding-left: 40px;"><u>“(1A) Subject to the regulations or joint standards, the Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, and after consideration of any objection received as a result of the notice referred to in section 47(4) and subject to the conditions which the Authority may consider appropriate, grant a central counterparty licence to perform the functions referred to in section 50, if—</u></p> <p style="padding-left: 80px;"><u>(a) the applicant complies with the relevant requirements of this Act; and</u></p> <p style="padding-left: 80px;"><u>(b) the objects of this Act referred to in section 2 will be furthered by the granting of the licence.”</u>; and</p> <p>(d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:</p> <p style="padding-left: 40px;"><u>“(2) The clearing house licence and the central</u></p>

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		<p style="text-align: center;"><u>counterparty licence -</u>”;</p> <p>(e) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:</p> <p style="padding-left: 40px;">“(a) must specify the functions that may be performed by the clearing house <u>and central counterparty</u>, and the securities in respect of which those functions may be performed, any other terms and conditions of the licence, the registered office of the clearing house <u>and central counterparty</u>, and the places where the clearing house <u>and central counterparty</u> may be operated, and stipulate that the clearing house <u>and central counterparty</u>, may not be operated at any other place without the <u>joint</u> prior written approval of the <u>[registrar] Authority, the Prudential Authority and the South African Reserve Bank</u>; and;”</p> <p style="padding-left: 40px;">“(b) may specify that insurance, a guarantee, compensation fund, or other warranty must be in place to enable the clearing <u>house and central counterparty</u>, to provide compensation, subject to the clearing house rules, to clients of clearing members.”.</p> <p>(f) by the substitution in subsection (3) of the following subsection:</p> <p style="padding-left: 40px;">“(3) A clearing house <u>and a central counterparty</u>, may at any time apply to the <u>[registrar] Authority</u> for an amendment of the terms of the licence and the conditions subject to which the licence was granted.”;</p> <p>(g) by the substitution in subsection (4) for paragraph (a) of the following paragraph:</p> <p style="padding-left: 40px;">“(a) The <u>[registrar] Authority</u> must publish a notice of an application for an amendment of the terms of a clearing house licence <u>and central counterparty licence</u> and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the <u>[official] Authority’s</u> website.”.</p> <p>28. The insertion after section 49 of the following section:</p> <p><u>“Licensing of external central counterparty</u></p> <p style="padding-left: 40px;"><u>49A. (1) An external central counterparty must be licensed under this section to exercise functions or duties, or provide services as prescribed in terms of section 5(1)(c) and (2), unless it is exempt from the requirement to be licensed.</u></p> <p style="padding-left: 40px;"><u>(2) An external central counterparty from an equivalent jurisdiction may apply to the Authority for a licence.</u></p> <p style="padding-left: 40px;"><u>(3) An application for a licence in terms of this section must—</u></p>

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		<p>(a) <u>be made in the manner and contain information determined by the Authority;</u></p> <p>(b) <u>be accompanied by a copy of the proposed rules;</u></p> <p>(c) <u>be accompanied by the application fee determined in terms of the Financial Sector Regulation Act; and</u></p> <p>(d) <u>be supplemented by any additional information that the Authority may reasonably require.</u></p> <p>(4) (a) <u>The Authority must publish a notice of an application for a licence in two national newspapers at the expense of the applicant and on the Authority's website.</u></p> <p>(b) <u>The notice must state—</u></p> <p>(i) <u>the name of the applicant; and</u></p> <p>(ii) <u>the availability of the operating rules of the external central counterparty on the Authority's website, for members of the public.</u></p> <p>(5) <u>An applicant or a licensed external central counterparty must be either—</u></p> <p>(a) <u>a company as defined in section 1(1) of the Companies Act; or</u></p> <p>(b) <u>an external company as defined in section 1(1) of the Companies Act that is registered as required by section 23 of that Act.</u></p> <p>(6) <u>The Authority may -</u></p> <p>(a) <u>require an applicant or a licensed external central counterparty to furnish such information, or require such information to be verified, as the Authority may deem necessary in connection with the application; and</u></p> <p>(b) <u>take into consideration any other information regarding the applicant or the external central counterparty, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or the external central counterparty, as the case may be, and the latter is given a reasonable opportunity to respond thereto.</u></p> <p>(7) <u>Regulations or joint standards may prescribe additional criteria for the licensing of an external central counterparty, after taking into consideration the following factors:</u></p> <p>(a) <u>relevant international standards;</u></p> <p>(b) <u>the type and size of external central counterparty;</u></p> <p>(c) <u>the impact of the activities of the external central counterparty on the South African financial system;</u></p> <p>(d) <u>the degree of systemic risk posed by the activities of the external central</u></p>

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		<p><u>counterparty; and</u></p> <p><u>(e) any other factors that the Minister, the Authority, the South African Reserve Bank or the Prudential Authority, as the case may be, deem relevant.</u></p> <p><u>(8) The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, grant a licence if—</u></p> <p><u>(a) the applicant or the external central counterparty undertakes to co-operate and share information with the Authority, the Prudential Authority and the South African Reserve Bank to assist with the performance of functions and the exercise of powers in terms of financial sector law; and</u></p> <p><u>(b) the objects of this Act referred to in section 2 will be furthered by the granting of the licence.</u></p> <p><u>(9) A licensed external central counterparty must comply with the relevant requirements of this Act and any other terms and conditions of the licence.</u></p> <p><u>(10) The licence granted in terms of subsection (8) must specify those functions or duties, or services that may be provided by the external central counterparty and the securities in respect of which those functions or duties, or services may be performed.</u></p> <p><u>(11) A licensed external central counterparty may at any time apply to the Authority for an amendment of the terms of its licence or the conditions subject to which the licence was granted.</u></p> <p><u>(12) (a) The Authority must publish a notice of an application for an amendment of the terms of a licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the Authority’s website.</u></p> <p><u>(b) The notice must state –</u></p> <p><u>(i) the name of the applicant;</u></p> <p><u>(ii) the nature of the proposed amendments; and</u></p> <p><u>(iii) the period within which objections to the application may be lodged with the Authority.</u></p> <p><u>(13) The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, amend the terms of a licence or the conditions subject to which the licence was granted.</u></p> <p><u>(14) (a) In respect of regulations that may be prescribed in terms of subsection (7), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</u></p> <p><u>(b) Paragraph (a) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (7).</u></p>

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		<p><u>(c) Joint standards may be prescribed to address any matters that are not prescribed in regulations, or to provide detail that is additional to, but not inconsistent with, regulations prescribed by the Minister in terms of subsection (7).</u></p> <p>29. The amendment of the heading in Chapter V preceding section 50 by the substitution for the heading of the following heading:</p> <p style="text-align: center;"><i>“Functions of licensed clearing house <u>and licensed central counterparty</u>”.</i></p> <p>30. The amendment of section 50—</p> <p>(a) by the substitution for the heading of the section of the following heading:</p> <p style="text-align: center;"><i>“Functions of licensed clearing house <u>and licensed central counterparty, and power of Authority to assume responsibility for functions</u>”;</i></p> <p>(b) by the substitution for subsection (1) of the following subsection:</p> <p style="text-align: center;"><i>“(1) A licensed clearing house <u>and a licensed central counterparty</u> must conduct its business in a fair and transparent manner with due regard to the rights of clearing members and their clients.”;</i></p> <p>(c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:</p> <p style="text-align: center;"><i>“A licensed clearing house <u>and a licensed central counterparty</u>—”</i></p> <p>(d) by the substitution in subsection (2) for paragraph (b) of the following paragraph:</p> <p style="text-align: center;"><i>“(b) must, as soon as it becomes aware thereof, inform the [registrar] Authority of any matter that it reasonably believes may [pose systemic risk to the financial markets] <u>give rise to, or increase, systemic risk;</u>”;</i> and</p> <p>(e) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:</p> <p style="text-align: center;"><i>“A licensed independent clearing house <u>and a licensed central counterparty</u>, in addition to the functions referred to in subsection (2)—”;</i> and</p> <p>(f) by the insertion after subsection (3) of the following subsection:</p> <p style="text-align: center;"><i>“(3A) <u>A central counterparty, in addition to the functions referred to in subsections (1), (2) and (3), must—</u></i></p> <p style="text-align: center;"><i>(a) <u>interpose itself between counterparties to transactions in securities through the process of novation, legally binding agreement or open offer system;</u></i></p>

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		<p>(b) <u>manage and process the transactions between the execution and fulfilment of legal obligations between counterparties and clients; and</u></p> <p>(c) <u>facilitate its post-trade management functions.</u>"</p> <p>(g) by the substitution in subsection (4) for paragraph (b) of the following paragraph:</p> <p>"(b) The [registrar] <u>Authority</u> must, before assuming responsibility as contemplated in paragraph (a) -</p> <p>(i) <u>inform the clearing house or central counterparty of the [registrar's] Authority's intention to assume responsibility;</u></p> <p>(ii) <u>give the clearing house or central counterparty the reasons for the intended assumption; and</u></p> <p>(iii) <u>call upon the clearing house or central counterparty to show cause within a period specified by the [registrar] Authority why responsibility should not be assumed by the [registrar] Authority.</u>"</p> <p>31. The amendment of section 51—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) An independent clearing house <u>or a central counterparty</u> required under section 49(2)(b) to have insurance, a guarantee, a compensation fund, or other warranty in place, may impose a fee on any person involved in a transaction in listed or unlisted securities cleared or settled or both through the clearing house for the purpose of maintaining that insurance, guarantee, compensation fund or other warranty.”; and</p> <p>(b) by the substitution for subsection (2) of the following subsection:</p> <p>“(2) Any funds received or held by an independent clearing house <u>or a central counterparty</u> for the purpose of maintaining the insurance, guarantee, compensation fund or other warranty contemplated in section 49(2)(b), are for all intents and purposes considered to be "trust property" as defined in the Financial Institutions (Protection of Funds) Act and that Act applies to those funds.”.</p> <p>32. The amendment of section 52—</p> <p>(a) by the substitution for the heading of the section of the following heading:</p> <p>“Funds of mutual independent clearing house <u>or central counterparty</u>”;</p>

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		<p>(b) by the substitution for section 52 of the following:</p> <p style="padding-left: 40px;">“A mutual independent clearing house <u>or a central counterparty, as the case may be,</u> may require its clearing members to contribute towards the funds of the clearing house for the purpose of carrying on the business of the clearing house.”</p> <p style="text-align: center;">33. The amendment of section 53—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">(1) The clearing house rules must be consistent with this Act, <u>the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.</u></p> <p>(b) by the substitution in subsection (2) for paragraph (u) of the following paragraph:</p> <p style="padding-left: 40px;">“(u) for the administration of securities <u>and funds</u> held for own account or on behalf of a client by a clearing member, including the settlement of unsettled transactions, under insolvency proceedings in respect of that clearing member; and”;</p> <p>(c) by the substitution for paragraphs (z) and (aa) of subsection (2) of the following paragraphs:</p> <p style="padding-left: 40px;">“(z) for the segregation and portability of funds and securities held as collateral; [and]</p> <p style="padding-left: 40px;">(aa) that clearing members must notify the clearing house as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it; <u>and</u>”;</p> <p>(d) by the addition in subsection (2) of the following paragraph:</p> <p style="padding-left: 40px;">“(bb) <u>in the case of a central counterparty, for the default procedures to be followed, including close-out procedures, in the event of a default of a clearing member;</u>”; and</p> <p>(e) by the insertion after subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">“(2A) <u>Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the rules.</u>”;</p> <p>(f) by the substitution in subsection (4) for paragraph (a) of the following subsection:</p> <p style="padding-left: 40px;">“(a) Subject to section 5(1)(c) and (2) and the requirements prescribed [by the registrar; the] <u>in joint standards,</u> clearing house rules may provide for the approval of external clearing members to be clearing members of the clearing house.”.</p>

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		<p>34. The amendment of section 54—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">"(1) [Subject to the regulations prescribed by the Minister, a] <u>A</u> trade repository must be licensed under section 56."</p> <p>(b) by the substitution in subsection (3)(c) for subparagraph (iii) of the following subparagraph:</p> <p style="padding-left: 40px;">"(iii) the application fee [prescribed by the registrar] <u>determined in terms of the Financial Sector Regulation Act</u>"; and</p> <p>(c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:</p> <p style="padding-left: 40px;">“(a) The [registrar] <u>Authority</u> must publish a notice of an application for a trade repository licence in two national newspapers, at the expense of the applicant, and on the [official] <u>Authority’s</u> website.”.</p> <p>35. The amendment of section 55—</p> <p>(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:</p> <p style="padding-left: 40px;">"(c) demonstrate that the fit and proper requirements prescribed [by the registrar] <u>in the relevant joint standards</u> are met by the applicant, [its directors]<u>members of its controlling body</u> and senior management;”;</p> <p>(b) by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">"(2) The [registrar] <u>Authority</u> may [—</p> <p style="padding-left: 80px;">(a) require an applicant to furnish such additional information, or require such information to be verified, as the registrar may deem necessary;</p> <p style="padding-left: 80px;">(b)] take into consideration any other information regarding the applicant, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant and the latter is given a reasonable opportunity to respond thereto [; and</p> <p style="padding-left: 80px;">(c) prescribe any of the requirements referred to in subsection (1) in greater detail]“; and</p> <p>(c) by the addition of the following subsection:</p> <p style="padding-left: 40px;"><u>"(3)(a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.</u></p>

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		<p><u>(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then may be prescribed in joint standards or conduct standards.</u></p> <p><u>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</u></p> <p><u>(d) Requirements prescribed in terms of (1)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards."</u></p> <p>36. The amendment of section 56—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Subject to subsection (2) [and regulations prescribed by the Minister], the [registrar] Authority may, after consideration of any objection received as a result of the notice referred to in section 54(4), and subject to the conditions which the [registrar] Authority may consider appropriate, grant a trade repository a licence to perform the duties referred to in section 57.”; and</p> <p>(b) by the substitution in subsection (6) of paragraph (a) of the following paragraph:</p> <p>“(a) The [registrar] Authority must publish a notice of an application for an amendment of the terms of a trade repository licence and the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the [official] Authority’s website.”.</p> <p>37. The insertion after section 56 of the following section:</p> <p>"Licensing of external trade repository</p> <p>56A. (1) <u>An external trade repository must be licensed under this section to perform duties or provide services as prescribed by the Minister in terms of section 5(1)(c) and (2).</u></p> <p>(2) <u>An external trade repository from an equivalent jurisdiction may apply to the Authority for a licence.</u></p> <p>(3) <u>An application for a licence in terms of this section must—</u></p> <p>(a) <u>be made in the manner and contain the information determined by the Authority;</u></p> <p>(b) <u>be accompanied by the application fee determined in terms of the Financial Sector Regulation Act; and</u></p>

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		<p><u>(c) be supplemented by any additional information that the Authority may reasonably require.</u></p> <p><u>(4) (a) The Authority must publish a notice of an application for a licence in two national newspapers, at the expense of the applicant, and on the Authority's website.</u></p> <p><u>(b) The notice referred to in paragraph (a) must state—</u></p> <p><u>(i) the name of the applicant; and</u></p> <p><u>(ii) the period within, and the process by, which objections to the application may be lodged with the Authority.</u></p> <p><u>(5) Regulations or joint standards may prescribe additional criteria for the licensing of an external trade repository, after taking into consideration the following factors:</u></p> <p><u>(a) Relevant international standards;</u></p> <p><u>(b) the impact of the activities of the external trade repository on the South African financial system;</u></p> <p><u>(c) the degree of systemic risk posed by the activities of the external trade repository; and</u></p> <p><u>(d) any other factors that the Minister, the Authority, the South African Reserve Bank or the Prudential Authority deem, as the case may be, relevant.</u></p> <p><u>(6) The Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, grant a licence, if—</u></p> <p><u>(a) the applicant undertakes to co-operate and share information with the Authority, the Prudential Authority and the South African Reserve Bank to assist with the performance of functions and the exercise of powers in terms of financial sector law; and</u></p> <p><u>(b) the objects of this Act referred to in section 2 will be furthered by the granting of the licence.</u></p> <p><u>(7) A licensed external trade repository must comply with the relevant requirements of this Act and any other terms and conditions of the licence.</u></p> <p><u>(8) The licence granted in terms of subsection (6) must specify the services that may be provided by the trade repository and the securities in respect of which those services may be provided.</u></p> <p><u>(9) A licensed external trade repository may at any time apply to the Authority for an amendment of the terms of its licence or the conditions subject to which the licence was granted.</u></p>

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		<p>(10)(a) <u>The Authority must publish a notice of an application for an amendment of the terms of a licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the Authority's website.</u></p> <p>(b) <u>The notice must state -</u></p> <p>(i) <u>the name of the applicant;</u></p> <p>(ii) <u>the nature of the proposed amendments; and</u></p> <p>(iii) <u>the period within which objections to the application may be lodged with the Authority.</u></p> <p>(11) <u>The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, amend the terms of a licence or the conditions subject to which the licence was granted.</u></p> <p>(12) (a) <u>In respect of regulations that may be prescribed in terms of subsection (5), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</u></p> <p>(b) <u>Paragraph (a) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (5).</u></p> <p>(c) <u>Joint standards or conduct standards may be prescribed to address any matters that are not prescribed in regulations, or to provide detail that is additional to, but not inconsistent with, regulations prescribed by the Minister in terms of subsection (5)."</u></p> <p>38. The amendment of section 57—</p> <p>(a) by the substitution in subsection (2) for paragraph (b) of the following paragraph:</p> <p>"(b) make [the] information [prescribed by the registrar] <u>prescribed by the Authority in joint standards made with the concurrence of the South African Reserve Bank</u>, available to the [registrar] <u>Authority, the Prudential Authority, the South African Reserve Bank</u>, other relevant supervisory authorities and other persons, subject to the requirements prescribed by the [registrar] <u>Authority in joint standards made with the concurrence of the South African Reserve Bank</u> under section 58 [regarding] <u>as to the manner, form, and frequency of disclosure;"</u>; and</p> <p>(b) by the substitution for subsection (3) of the following subsection:</p> <p>"(3) [The registrar] <u>Joint standards</u> may prescribe [additional] <u>duties additional</u> to those referred to in subsection (2) [in greater detail]."</p>

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		<p data-bbox="836 271 1366 360">39. The amendment of section 58 by the addition of the following subsection, the existing section becoming subsection(1):</p> <p data-bbox="863 365 1394 517"><u>"(2) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.</u></p> <p data-bbox="863 533 1394 685"><u>(b) In respect of regulations prescribed in terms of subsection (1), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</u></p> <p data-bbox="863 701 1366 790"><u>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1).</u></p> <p data-bbox="863 806 1394 992"><u>(d) Requirements other than those that were prescribed in regulations referred to in paragraph (b) that were prescribed terms of subsection (1) before the commencement of this subsection, may be amended or repealed by conduct standards or joint standards. "</u></p> <p data-bbox="836 1039 1366 1099">40. The substitution for section 59 of the following section:</p> <p data-bbox="863 1144 1102 1173">"Annual assessment</p> <p data-bbox="863 1191 1394 1312">59. The [registrar] <u>Authority, in consultation with the Prudential Authority, must annually assess whether a licensed market infrastructure—</u></p> <p data-bbox="863 1330 1394 1697"> <ul style="list-style-type: none"> <li data-bbox="863 1330 1394 1420">(a) <u>complies with this Act, the Financial Sector Regulation Act and the rules of the market infrastructure;</u> <li data-bbox="863 1435 1394 1590">(b) <u>where applicable, complies with directives, and with requests, conditions or requirements of the [registrar] Authority in terms of [this Act] a financial sector law; or</u> <li data-bbox="863 1606 1394 1697">(c) <u>where applicable, gives effect to decisions of the [appeal board in terms of section 105] Tribunal."</u> </p> <p data-bbox="863 1760 1270 1789">41. The amendment of section 60—</p> <p data-bbox="767 1805 1366 1865">(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p data-bbox="863 1883 1394 2002"><u>"The [registrar] Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, cancel or suspend a licence if—";</u></p>

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		<p>(b) by the substitution in subsection (1)(a) for subparagraphs (ii) and (iii) of the following subparagraphs:</p> <p style="padding-left: 40px;">(ii) comply with a directive, request, condition or requirement of the [registrar] Authority in terms of [this Act] a financial sector law; or</p> <p style="padding-left: 40px;">(iii) give effect to a decision of the [appeal board in terms of section 105] Tribunal;"</p> <p>(c) by the substitution in subsection (1)(b) for the words preceding subparagraph (i) of the following words:</p> <p style="padding-left: 40px;">(b) after an [inspection in terms of section 95 of the affairs of the market infrastructure] investigation, the [registrar] Authority is satisfied on reasonable grounds that the manner in which it is operated is—“; and</p> <p>(d) by the substitution in subsection 1(b) for subparagraph (i) of the following subparagraph:</p> <p style="padding-left: 40px;">(i) not in the best interests of clearing members of independent clearing houses <u>or of central counterparties</u>, authorised users or participants, or users or members of the market infrastructure, as the case may be, and their clients; or”.</p> <p style="text-align: center;">42. The amendment of section 61—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) A market infrastructure may not conduct any additional business [which may introduce] if to do so would create or increase systemic risk.”;</p> <p>(b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:</p> <p style="padding-left: 40px;">“The [registrar] Authority may, if [the registrar is of the opinion] it considers that [the] a business, function or service referred to in subsection [(1)] (2) may—“;</p> <p>(c) by the substitution for the words following paragraph (b) of the following words:</p> <p style="padding-left: 40px;">“[prohibit or lay down requirements in respect of the] after consultation with the Prudential Authority and the South African Reserve Bank, make a determination specifying requirements in relation to the market infrastructure carrying on of such business, function or service.”; and</p> <p>(c) by the insertion after subsection (3) of the following</p>

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		<p>subsection:</p> <p style="padding-left: 40px;"><u>"(3A) The Authority may not make a determination in terms of subsection (3) in respect of a particular market infrastructure unless—</u></p> <p style="padding-left: 40px;"><u>(a) a draft of the determination has been given to the market infrastructure;</u></p> <p style="padding-left: 40px;"><u>(b) the market infrastructure has had a reasonable period of at least 14 days, to make submissions to the Authority about the matter; and</u></p> <p style="padding-left: 40px;"><u>(c) the Authority had regard to all submissions made to it in deciding whether or not to make the determination.</u></p> <p style="padding-left: 40px;"><u>(3B) If the Authority considers on reasonable grounds that it is necessary to make the determination urgently, it may do so without having complied, or complied fully, with subsection (3A)."; and</u></p> <p>(d) by the substitution for subsection (4) of the following subsection:</p> <p style="padding-left: 40px;"><u>"(4) The Authority must, within 14 days after making a determination in terms of subsection (3), give the market infrastructure a statement of its reasons for making a determination in terms of subsection (3), and a statement of the material facts on which the determination was made."</u></p> <p>43. The substitution in section 62 for paragraph (b) of the following paragraph:</p> <p style="padding-left: 40px;">"(b) an annual assessment, [in the manner prescribed by the registrar] in accordance with conduct standards or joint standards, of the arrangements referred to in [subparagraph] paragraph (a), the results of which must be published."</p> <p>44. The amendment of section 63—</p> <p>(a) by the substitution for the heading of the section of the following heading:</p> <p style="padding-left: 40px;"><u>"Demutualisation of exchange, central securities depository [or], independent clearing house or central counterparty";</u></p> <p>(b) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">"(1) An exchange, central securities depository, [or] independent clearing house or central counterparty which is not a public company or a private company as defined in <u>section 1</u> of the Companies Act, may convert</p>

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		<p>to a public company or private company with the approval of the [registrar] Authority and subject to [the conditions that the registrar may prescribe] requirements imposed by the Authority. ";</p> <p>(c) by the substitution in subsection (2) for paragraphs (a) – (k) of the following paragraphs:</p> <p>"(a) the exchange, central securities depository, [or] independent clearing house or central counterparty referred to in subsection (1) is deemed to be a company incorporated in terms of the Companies Act from a date determined by the [registrar] Authority in consultation with the exchange, central securities depository, [or] independent clearing house or central counterparty in question;</p> <p>(b) the Companies and Intellectual Property Commission, established by section 185 of the Companies Act, must accept the filed notice of incorporation of the exchange, central securities depository, [or] independent clearing house or central counterparty in terms of section 13 of that Act and register the entity in question as a company in terms of section 14 of that Act on the date referred to in paragraph (a);</p> <p>(c) the continued corporate existence of the exchange, central securities depository, [or] independent clearing house or central counterparty from the date on which it was first licensed [by the registrar] in terms of this Act is unaffected and any actions of the exchange, central securities depository, [or] independent clearing house or central counterparty before its conversion remain effectual;</p> <p>(d) the terms and conditions of service of employees of the exchange, central securities depository, independent clearing house or central counterparty are not affected;</p> <p>(e) all the assets and liabilities of the exchange, central securities depository [or], independent clearing house or central counterparty, including any insurance, guarantee, compensation fund or other warranty owned or maintained by the exchange, central securities depository [or], independent clearing house or central counterparty to cover any liabilities of the clearing members of independent clearing houses or central counterparties, authorised users or participants, as the case may be, to clients, remain vested in and binding upon the company or such other entity acceptable</p>

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		<p>to the registrar as the company may designate;</p> <p>(f) the company has the same rights and is subject to the same obligations as were possessed by or binding upon the exchange, central securities depository, independent clearing house <u>or central counterparty</u> immediately before its conversion;</p> <p>(g) all agreements, appointments, transactions and documents entered into, made, executed or drawn up by, with or in favour of the exchange, central securities depository, independent clearing house <u>or central counterparty</u> and in force immediately before the conversion remain in force and effectual, and are construed for all purposes as if they had been entered into, made, executed or drawn up by, with or in favour of the company, as the case may be;</p> <p>(h) any bond, pledge, guarantee or other instrument to secure future advances, facilities or services by the exchange, central securities depository, independent clearing house <u>or central counterparty</u> which was in force immediately before the conversion, remains in force, and is construed as a bond, pledge, guarantee or instrument given to or in favour of the company, as the case may be;</p> <p>(i) any claim, right, debt, obligation or duty accruing to any person against the exchange, central securities depository, independent clearing house or central counterparty or owing by any person to such exchange, central securities depository, independent clearing house <u>or central counterparty</u> is enforceable against or owing to the company, subject to any law governing prescription;</p> <p>(j) any legal proceedings that were pending or could have been instituted against the exchange, central securities depository, independent clearing house <u>or central counterparty</u> before the conversion may be continued or instituted against the company, subject to any law governing prescription; and</p> <p>(k) the licence of the exchange, central securities depository, [or] independent clearing house <u>or central counterparty</u>, remains vested in the company if the company complies with all the requirements of this Act in respect of an exchange, central securities depository, [or] independent clearing house <u>or central</u></p>

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		<p style="text-align: center;"><u>counterparty.</u>" .</p> <p>45. The amendment of section 64 by the substitution for paragraph (a) in subsection (5) of the following paragraph:</p> <p style="padding-left: 40px;">"(a) all the assets and liabilities of the amalgamating entities (or in the case of a transfer of assets and liabilities, of the entity by which the transfer is effected), including any insurance, guarantee, compensation fund or other warranty owned or maintained by any of them to cover any liabilities of clearing members of independent clearing houses <u>or central counterparties</u>, authorised users or participants, as the case may be, to clients, vest in and become binding upon the amalgamated entity or, as the case may be, the entity taking over such assets and liabilities or such other entity acceptable to the registrar as the parties to the amalgamation may designate;" .</p> <p>46. The amendment of section 65 by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">"(2) The members of the controlling body of a market infrastructure owe a fiduciary duty <u>and a duty</u> of care and skill to the market infrastructure, in the exercise of the functions as a market infrastructure." .</p> <p>47. The amendment of section 66—</p> <p>(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:</p> <p style="padding-left: 40px;">"(c) does not meet the fit and proper requirements prescribed [by the registrar] <u>in the relevant joint standards.</u>"; and</p> <p>(b) by the deletion of subsections (8) and (9).</p> <p>48. The amendment of section 67—</p> <p>(a) by the substitution for subsection(4) of the following subsection, respectively:</p> <p style="padding-left: 40px;">"(4) A person may not, without the prior approval of the [registrar] <u>Authority</u>, acquire shares or any other interest in a market infrastructure in excess of that approved under subsection (3)[, but not exceeding 49 per cent].";</p> <p>(b) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:</p> <p style="padding-left: 40px;">“[The] <u>An</u> approval referred to in subsection (3), (4) or (5)—“;</p> <p>(c) by the substitution in subsection (7) for paragraph (a) of the following paragraph:</p> <p style="padding-left: 40px;">“(a) compelling that person to reduce, within a</p>

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		<p>period determined by the court, the shareholding or other interests in the market infrastructure to a shareholding with a total nominal value not exceeding [15 or 49 per cent]—</p> <p>(i) <u>in a case where subsection (3) applies</u>, 15 per cent; or</p> <p>(ii) <u>49 per cent, [as the case may be,]</u> of the total nominal value of all the issued shares of the market infrastructure; and”;</p> <p>and</p> <p>(d) by the substitution for subsection (8) of the following subsection:</p> <p style="padding-left: 40px;">“(8) An application referred to in [subsections] subsection (3), (4) or (5) must be made in the manner and form prescribed by the [registrar] Authority.”.</p> <p>49. The substitution for section 69 of the following section:</p> <p style="padding-left: 40px;">"Report to [registrar] Authority</p> <p style="padding-left: 80px;">69. Within four months after the financial year-end of a market infrastructure, that market infrastructure must submit to the [registrar] Authority an annual report containing the details [prescribed by the registrar] determined in joint standards and audited annual financial statements that fairly present the financial affairs and status of the market infrastructure.”.</p> <p>50. The amendment of section 71—</p> <p>(a) by the insertion after subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1A) <u>Rules that are made by a market infrastructure may not contradict any regulation, conduct standard, prudential standard, or joint standard issued in term of this Act or the Financial Sector Regulation Act.</u>”;</p> <p>(b) by the substitution in subsection (2) for paragraphs (b) of the following paragraph:</p> <p style="padding-left: 40px;">“(b) The [registrar] Authority may, <u>after consultation with the Prudential Authority and the South African Reserve Bank</u>, subject to this section, amend the rules or issue an interim rule.”;</p> <p>(c) by the substitution in subsection (3) for paragraphs (b) and (c) of the following paragraphs:</p> <p style="padding-left: 40px;">“(b) The [registrar] Authority must as soon as possible after the receipt of a proposed amendment publish—</p> <p style="padding-left: 80px;">(i) the amendment on the [registrar’s] Authority’s website; and</p>

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		<p>(ii) a notice in the <i>Gazette</i> that the proposed amendment is available on the [registrar’s] Authority’s website,</p> <p>calling upon all interested persons who have any objections to the proposed amendment to lodge their objections with the [registrar] Authority within a period of 14 days from the date of publication of the notice.</p> <p>(c) If there are no such objections, or if the registrar has considered the objections and, if necessary, has consulted with the market infrastructure and the persons who raised such objections and has decided to approve or amend the proposed amendment, the [registrar] Authority must publish –</p> <p>(i) the amendment and the date on which it comes into operation on the [official] Authority’s website; and</p> <p>(ii) a notice in the <i>Gazette</i>, which notice must state –</p> <p>(aa) that the amendment to the rules has been approved;</p> <p>(bb) that the rules as amended are available on the [official] Authority’s website and the website of the market infrastructure; and”;</p> <p>(d) by the substitution in subsection (4) for paragraph (a) of the following paragraph:</p> <p>“(a) The [registrar] Authority, after <u>consultation with the Prudential Authority and the South African Reserve Bank</u>, by notice in the <i>Gazette</i> and on the [official] Authority’s website, may amend the rules of that market infrastructure—</p> <p>(e) by the substitution in subsection (4) for paragraph (b) of the following:</p> <p>“(b) Where the [registrar] Authority has amended the rules of a market infrastructure under paragraph (a), the [registrar] Authority must—”</p> <p>(f) by the substitution in subsection (4)(b) for subparagraph (ii) of the following:</p> <p>“(ii) give reasons for the amendment, and explain the imperative referred to in paragraph (a)(i), in the <i>Gazette</i> and on the [official] Authority’s website.”;</p> <p>(g) by the substitution in subsection (5) for paragraphs (a) and (b) of the following paragraphs:</p> <p>“(a) Subject to prior approval of the [registrar] Authority, a market infrastructure may</p>

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		<p>suspend any of the rules of that organisation for a period not exceeding 30 days at a time after reasonable notice of the proposed suspension has been advertised on the [official] Authority's website.</p> <p>(b) The [registrar] Authority may after <u>consultation with the Prudential Authority and the South African Reserve Bank</u>, for the period of such suspension, issue an interim rule by notice in the Gazette to regulate the matter in question.”; and</p> <p>(h) by the substitution in subsection (6)(a) for subparagraphs (iv) – (vii) of the following subparagraphs:</p> <p>“(iv) suspension or cancellation of the right to be a clearing member of an independent clearing house <u>or central counterparty</u>, an authorised user or a participant;</p> <p>(v) disqualification, in the case of a natural person, from holding the office of a director or officer of a clearing member of an independent clearing house <u>or central counterparty</u>, an authorised user or a participant, as the case may be, for any period of time;</p> <p>(vi) a restriction on the manner in which a clearing member of an independent clearing house <u>or central counterparty</u>, an authorised user or a participant may conduct business or may utilise an officer, employee or agent;</p> <p>(vii) suspension or cancellation of the authorisation of an officer or employee of a clearing member of an independent clearing house <u>or central counterparty</u>, an authorised user or a participant to perform a function in terms of the rules;”</p> <p>(i) by the substitution in subsection (6)(b) for subparagraph (iii) of the following subparagraph:</p> <p>“(iii) a market infrastructure may take into account at a disciplinary hearing any information obtained by the [registrar] Authority in the course of an inspection conducted [under section 95] <u>in terms of the Financial Sector Regulation Act;</u>”.</p> <p>51. The amendment of the heading for Chapter VIII, by the substitution for the heading of the following heading:</p> <p style="text-align: center;">CHAPTER VIII [CODE OF CONDUCT] <u>CONDUCT STANDARDS</u></p> <p>52. The amendment of section 74 —</p> <p>(a) by the substitution for the heading of the section</p>

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		<p>of the following heading:</p> <p style="text-align: center;">[Code of conduct] <u>Conduct standards</u> for regulated persons</p> <p>(b) by the substitution for subsection (1) of the following subsection:</p> <p style="text-align: center;">"(1) [The registrar may in an appropriate consultative manner prescribe a code of conduct for] <u>Conduct standards may prescribe requirements in relation to—</u></p> <p style="padding-left: 40px;">[(i)](a) authorised users, participants or clearing members of independent clearing houses <u>or central counterparties</u>; <u>or</u></p> <p style="padding-left: 40px;">[(ii)](b) any other regulated person, where the required standard of conduct is not prescribed in another law or [code of conduct] <u>conduct standard</u>, and a [code of conduct] <u>conduct standard</u> is necessary or expedient for the achievement of the objects of this Act.""; and</p> <p>(c) by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 40px;">“(2) A [code of conduct] <u>conduct standard</u> is binding on authorised users, participants or clearing members of independent clearing houses <u>or central counterparties</u> or any other regulated person in respect of whom the [code of conduct] <u>conduct standard</u> was prescribed, as the case may be, and on their officers and employees and clients.”.</p> <p style="text-align: center;">53. The amendment of section 75 by—</p> <p>(a) by the substitution for the heading of the section of the following heading:</p> <p style="text-align: center;">“Principles [of code of conduct] for <u>conduct standards</u>”;</p> <p>(b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p style="padding-left: 40px;">“(1) A [code of conduct] <u>conduct standard</u> for authorised users, participants or clearing members of independent clearing houses <u>or central counterparties</u> must be based on the principle that —”;</p> <p>(c) by the substitution in subsection (1) for paragraph (a) of the following paragraph:</p> <p style="padding-left: 40px;">“(a) an authorised user, participant or clearing member of an independent clearing house <u>or central counterparty must —</u>”;</p> <p>(d) by the substitution in subsection (2) for the words</p>

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		<p>preceding paragraph (a) of the following words:</p> <p>“(2) A [code of conduct] <u>conduct standard</u> for regulated persons, other than the regulated persons mentioned in subsection (1), must be based on the principle that the regulated person must —”;</p> <p>(e) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:</p> <p>“(3) A [code of conduct] <u>conduct standard</u> may provide for —”; and</p> <p>(f) by the substitution in subsection (3) for the paragraph (f) of the following paragraph:</p> <p>“(f) any other matter which is necessary or expedient to be regulated in a [code of conduct] <u>conduct standard</u> for the achievement of the objects of this Act.”.</p> <p>54. The amendment of section 76—</p> <p>(a) by the substitution for subsection (2) of the following subsection:</p> <p>“(2) The criteria for the approval of a nominee of an authorised user or a participant <u>and the ongoing requirements applicable to it</u> must be equivalent to [that applied by the registrar when approving a nominee under subsection (3)] <u>criteria determined in conduct standards for nominees.</u>”; and</p> <p>(b) by the substitution for subsection (3) of the following subsection:</p> <p>“(3) [(a) [The registrar may prescribe requirements for –</p> <p>(i) the approval of a nominee that is not approved as a nominee in terms of subsection (1); and</p> <p>(ii) approved nominees.] <u>A nominee that is not approved as a nominee in terms of subsection (1) must—</u></p> <p>(i) <u>be approved by the Authority; and</u></p> <p>(ii) <u>comply with conduct standards determined by the Authority.</u></p> <p>(b) The [registrar] <u>Authority</u> must maintain a list of all nominees approved under this section.”.</p> <p>55. The amendment of section 77—</p> <p>(a) by the deletion of the definition of "claims officer";</p> <p>(b) by the substitution in the definition of "inside information" for paragraph (b) of the following paragraph:</p>

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		<p style="text-align: center;">"(b) if it were made public, would be likely to have a material effect on the price or value of any security listed on a regulated market <u>or of any derivative instruments related to such security</u>"; and</p> <p>(c) by the substitution in the definition of "insider" in paragraph (a) for subparagraph (i) of the following subparagraph:</p> <p style="padding-left: 40px;">"(i) being a director, employee or shareholder of an issuer of securities listed on a regulated market <u>or an issuer of derivative instrument related to such security</u> to which the inside information relates; or".</p> <p style="text-align: center;">56. The amendment of section 78—</p> <p>(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:</p> <p style="padding-left: 40px;">"(a) An insider who knows that he or she has inside information and who deals, directly or indirectly or through an agent for his or her own account, in the securities listed on a regulated market <u>or derivative instruments related to such securities</u>, to which the inside information relates or which are likely to be affected by it, commits an offence.";</p> <p>(b) by the substitution in subsection (2) for paragraph (a) of the following paragraph:</p> <p style="padding-left: 40px;">"(a) An insider who knows that he or she has inside information and who deals, directly or indirectly or through an agent for any other person, in the securities listed on a regulated market <u>or in derivative instruments related to such securities</u>, to which the inside information relates or which are likely to be affected by it, commits an offence.";</p> <p>(c) by the substitution in subsection (3) for paragraph (a) of the following paragraph:</p> <p style="padding-left: 40px;">"(a) Any person who deals for an insider, directly or indirectly or through an agent, in the securities listed on a regulated market <u>or in derivative instruments related to such securities</u>, to which the inside information possessed by the insider relates or which are likely to be affected by it, who knew that such person is an insider, commits an offence.";</p> <p>(d) by the substitution in subsection (4) for paragraph (b) of the following paragraph:</p> <p style="padding-left: 40px;">"(b) An insider is, despite paragraph (a), not guilty of the offence</p>

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		<p>contemplated in that paragraph if such insider proves on a balance of probabilities that he or she disclosed the inside information because it was necessary to do so for the purpose of the proper performance of the functions of his or her employment, office or profession in circumstances unrelated to dealing in any security listed on a regulated market <u>or trading with a derivative instrument related to such security</u> and that he or she at the same time disclosed that the information was inside information."; and</p> <p>(e) by the substitution for subsection (5) of the following subsection:</p> <p style="padding-left: 40px;">"(5) An insider who knows that he or she has inside information and who encourages or causes another person to deal or discourages or stops another person from dealing in the securities listed on a regulated market <u>or in derivative instruments related to such securities</u>, to which the inside information relates or which are likely to be affected by it, commits an offence."</p> <p>57. The amendment of section 82—</p> <p>(a) by the substitution for the expression "Enforcement Committee" of the expression "Authority" whenever it occurs in this section;</p> <p>(b) by the substitution for subsection (4) of the following subsection:</p> <p style="padding-left: 40px;">"(4) Any amount recovered by the [board] Authority as a result of the proceedings contemplated in this section must be deposited by the [board] Authority directly into a specially designated trust account and—</p> <p style="padding-left: 40px;">(a) the [board] Authority is, as a first charge against the trust account, entitled to reimbursement of all expenses reasonably incurred by it in bringing such proceedings and in administering the distributions made to claimants in terms of subsection (5);</p> <p style="padding-left: 40px;">(b) the balance, if any, must be distributed by the [claims officer] Authority to the claimants referred to in subsection (5) in accordance with subsection (6); and</p> <p style="padding-left: 40px;">(c) any amount not paid out in terms of paragraph (b) accrues to the [board] Authority.";</p> <p>(c) by the substitution in subsection (5) for paragraph (a) of the following paragraph:</p>

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		<p style="text-align: center;">“(a) submit claims to the [directorate] Authority within 90 days from the date of publication of a notice in one national newspaper or on the [official] Authority’s website inviting persons who are affected by the dealings referred to in section 78(1) to (5) to submit their claims; and”; and</p> <p>(d) by the substitution in subsection (5)(b) for the words preceding subparagraph (i) of the following words:</p> <p style="text-align: center;">"prove to the reasonable satisfaction of the [claims officer] Authority that—".</p> <p>58. The substitution for section 83 of the following section:</p> <p style="text-align: center;">Attachments and interdicts</p> <p>83. On application by the [board] Authority, a court may in relation to any matter referred to in Chapter X grant an interdict or order the attachment of assets or evidence to prevent their concealment, removal, dissipation or destruction.’.</p> <p>59. The substitution for section 84 of the following section:</p> <p style="text-align: center;">" Additional powers of Authority</p> <p>84. <u>The Authority may –</u></p> <p>(a) <u>after consultation with the relevant regulated markets in the Republic,</u></p> <p style="padding-left: 20px;">(i) <u>make conduct standards, or</u></p> <p style="padding-left: 20px;">(ii) <u>give regulator’s directives for the implementation of such systems as are necessary for the effective monitoring and identification of possible contraventions of this Chapter; and</u></p> <p>(b) <u>make conduct standards for the disclosure of inside information.”.</u></p> <p>60. The substitution for section 85 of the following section:</p> <p style="text-align: center;">“Composition and functions of directorate</p> <p>85. (1)(a) <u>The Directorate established by section 12 of the Insider Trading Act, 1998 (Act No. 135 of 1998), and that continued to exist under the Securities Services Act, 2004 (Act No. 36 of 2004), continues to exist under the name Directorate of Market Abuse, despite the repeal of those Acts.</u></p> <p style="padding-left: 20px;">(b) <u>A reference to the Insider Trading Directorate in any law must, unless clearly inappropriate, be construed as a reference to the Directorate of Market Abuse.</u></p>

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		<p><u>(c) The Authority may determine the functions powers and duties of the directorate, which may include to consider and make recommendations relating to investigations into offences referred to in section 78, 80 and 81 of this Act and section 135(2) of the Financial Sector Regulation Act.</u></p> <p><u>(2)(a) The directorate consists of members and alternate members appointed by the Authority.</u></p> <p><u>(b) The members of the directorate holding office at the date that Part 6 of Chapter 17 of the Financial Sector Regulation Act comes into force remain as members for the terms and subject to the conditions applicable to them on their respective appointments</u></p> <p><u>(c) A member and an alternate member hold office for such period, not exceeding three years, as the Authority may determine at the time of his or her appointment and is eligible for reappointment upon the expiry of his or her term of office: Provided that if on the expiry of the term of office of a member reappointment is not made or a new member is not appointed, the former member must remain in office for a further period of not more than six months.</u></p> <p><u>(d) The Authority may remove a member of the directorate from his or her office on good cause shown and after having given the member sufficient opportunity to show why he or she should not be removed.</u></p> <p><u>(3) The members of the directorate may comprise –</u></p> <p><u>(a) not more than two members of staff of the Authority;</u></p> <p><u>(b) one person and an alternate from each of the licensed exchanges in the Republic;</u></p> <p><u>(c) one commercial lawyer of appropriate experience and an alternate;</u></p> <p><u>(d) one accountant of appropriate experience and an alternate;</u></p> <p><u>(e) one person of appropriate experience and an alternate from the insurance industry;</u></p> <p><u>(f) one person of appropriate experience and an alternate from the banking industry;</u></p> <p><u>(g) one person of appropriate experience and an alternate from the fund management industry;</u></p> <p><u>(h) one person of appropriate experience and an alternate that represents institutional investors;</u></p> <p><u>(i) one person of appropriate experience and an alternate nominated by the South African Reserve Bank;</u></p> <p><u>(j) one person of appropriate experience</u></p>

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		<p><u>and an alternate nominated by the Prudential Authority and</u></p> <p><u>(k) two other persons of appropriate experience and alternates.</u></p> <p><u>(4) The persons referred to in subsection (3) who are nominated —</u></p> <p><u>(a) must be available to serve as members of the directorate;</u></p> <p><u>(b) must have appropriate knowledge of financial markets; and</u></p> <p><u>(c) may not be practising authorised users.</u></p> <p><u>(5) The Authority must designate a chairperson who may not be the Commissioner of the Authority; and a deputy chairperson who performs the functions of the chairperson when the office of chairperson is vacant or when the chairperson is unable to perform his or her functions.</u></p> <p><u>(6) The members of the directorate may co-opt one or more persons as additional members of the directorate.</u></p> <p><u>(7) All members of the directorate, other than the additional members, have one vote in respect of matters considered by the directorate, but an alternate member only has a vote in the absence from a meeting of the member whom the alternate is representing.</u></p> <p><u>(8) The meetings of the directorate are held at such times and places as the chairperson may determine, but four members of the directorate may by notice in writing to the chairperson of the directorate demand that a meeting of the directorate be held within seven business days of the date of such notice.</u></p> <p><u>(9) The chairperson must determine the procedure of a meeting of the directorate.</u></p> <p><u>(10) The decision of a majority of the members of the directorate constitutes the decision of the directorate.”.</u></p> <p>61. The repeal of section 86.</p> <p>62. The substitution for section 88 of the following section:</p> <p>"Confidentiality and sharing of information</p> <p>88. The [directorate] Authority may share information concerning any matter dealt with in terms of this Chapter with the [institutions which have nominated persons to the directorate, the] Takeover Regulation Panel[,], established by section 196 of the Companies Act, the South African Reserve Bank, the Prudential Authority, the Independent Regulatory Board for Auditors constituted in terms of the Auditing Profession Act, a [licensed exchange, a licensed central securities depository, or a licensed independent clearing house] market infrastructure, the Financial</p>

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		<p>Intelligence Centre established by the Financial Intelligence Centre Act, the National Treasury, the Minister and the persons, inside the Republic or elsewhere, responsible for regulating, investigating or prosecuting insider trading, prohibited trading practices and other market abuses."</p> <p>63. The amendment in section 90 for paragraphs (a) and (b) of the following paragraphs, respectively:</p> <p>"(a) maintain on a continual basis the accounting records [prescribed by the registrar] <u>determined in joint standards</u> and prepare annual financial statements that conform with the financial reporting standards prescribed under the Companies Act and contain the information that may be [prescribed by the registrar] <u>determined in joint standards</u>;</p> <p>(b) cause such accounting records and annual financial statements to be audited by an auditor appointed under section 89, within a period [prescribed by the registrar] <u>determined in joint standards</u> or such later date as the [registrar] <u>Authority</u> may allow on application by a regulated person; and"</p> <p>64. The amendment of section 91</p> <p>(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following:</p> <p>“(2) When an auditor of a regulated person has conducted an audit in terms of subsection (1), the auditor must, subject to subsection (3), report to the regulated person or to the exchange, central securities depository, [or] independent clearing house <u>or central counterparty</u> in question, if the auditor is the auditor of an authorised user, participant or clearing member of an independent clearing house <u>or central counterparty</u>, and on request to the [registrar] <u>Authority</u> – ”</p> <p>(b) by the substitution for paragraph (b) of the following paragraph</p> <p>"(b) on the matters prescribed [by the registrar, including matters relating to the nominees of those regulated persons] <u>in conduct standards</u>."</p> <p>65. The substitution for section 94 of the following section:</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p style="text-align: center;">"General powers of [registrar] Authority</p> <p>94. (1) If the [registrar] Authority receives a complaint, charge or allegation that a person (hereinafter referred to as the respondent) who provides securities services (whether the respondent is licensed or authorised in terms of this Act or not) is contravening or is failing to comply with any provision of this Act, or if the [registrar] Authority has reason to believe that such a contravention or failure is taking place, the [registrar] Authority may investigate the matter [by directing that respondent in writing to—</p> <p style="padding-left: 40px;">(i) provide the registrar with any information, document or record reasonably required by the registrar about such services;</p> <p style="padding-left: 40px;">(ii) appear before the registrar at a specified time and place] in terms of the Financial Sector Regulation Act.</p> <p>(2) [Despite any contrary law, the registrar may, if] The power of the Authority to give a regulator's directive in terms of the Financial Sector Regulation Act extends to giving such a directive in respect of an advertisement, brochure or other document relating to securities that is [misleading or] for any reason objectionable[, direct that the advertisement, brochure or other document not be published or the publication thereof be stopped or that such amendments as the registrar considers necessary be effected]."</p> <p>66. The repeal of section 95.</p> <p>67. The amendment of section 96—</p> <p>(a) by the substitution for the heading of the following heading:</p> <p style="padding-left: 40px;">"Powers of [registrar] Authority after supervisory on-site [visit or] inspection or investigation";</p> <p>(b) by the substitution for the words preceding paragraph (a) of the following words:</p> <p style="padding-left: 80px;">"After [an] a supervisory on-site [visit or] inspection or an investigation has been conducted [under section 95], the [registrar] Authority may, in order to achieve the objects of this Act referred to in section 2—";</p> <p>(c) by the substitution for paragraph (c) of the following paragraph:</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p style="text-align: center;">"(c) direct the respondent to take any steps, or to refrain from performing or continuing to perform any act, in order to terminate or remedy any irregularity or state of affairs disclosed by the <u>supervisory on-site [visit or] inspection or investigation</u> [Provided that the registrar may not make an order contemplated in section 6D (2) (b) of the Financial Institutions (Protection of Funds) Act.]¹".</p> <p>68. The repeal of section 97.</p> <p>69. The amendment of section 98 by the addition of the following subsection: "<u>(5) This section does not affect Part 5 of Chapter 10 of the Financial Sector Regulation Act.</u>".</p> <p>70. The deletion of the following heading in Chapter XII preceding section 99: "<i>Enforcement Committee</i>".</p> <p>71. The repeal of section 99.</p> <p>72. The amendment of section 105—</p> <p>(a) by the substitution for subsection (1) of the following subsection: “(1) A person aggrieved by a decision of –</p> <p>(a) the [registrar] Authority under a power conferred or a duty imposed upon the [registrar] Authority by or under this Act or the Financial Sector Regulation Act;</p> <p>(b) an exchange to refuse an application by that person to be admitted as an authorised user;</p> <p>(c) an exchange to withdraw the authorisation of an authorised user or to direct an authorised user to terminate the access to the exchange by an officer or employee of such authorised user;</p> <p>(d) an exchange to defer, refuse or grant an application for the inclusion of securities in the list or to remove securities from the list or to suspend the trading in listed securities;</p> <p>(e) a central securities depository to refuse an application by a person to be accepted as a participant;</p> <p>(f) a central securities depository to terminate the participation of a participant or to direct a participant to terminate the access to the central securities depository by an officer or</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>employee of a participant;</p> <p>(g) an independent clearing house or <u>central counterparty</u> to refuse an application by a person to be admitted as a clearing member;</p> <p>(h) an independent clearing house or <u>central counterparty</u> to withdraw the authorisation of a clearing member or to direct a clearing member to terminate the access to the independent clearing house or <u>central counterparty</u> by an officer or employee of such clearing member;</p> <p>(i) an exchange, central securities depository, independent clearing house or <u>central counterparty</u> to impose a penalty on an authorised user, issuer, participant or clearing member of an independent clearing house or <u>central counterparty</u>, as the case may be, or on an officer or employee of an authorised user, issuer, participant or clearing member of an independent clearing house or <u>central counterparty</u>;</p> <p>(j) the claims officer referred to in Chapter X, may [appeal to the appeal board on the conditions determined by or under section 26 of the Financial Services Board Act and subject to this section] <u>approach the Tribunal for a reconsideration of the decision.</u>”; and</p> <p>(b) by the deletion of subsection (2).</p> <p>73. The amendment of section 108 by the substitution for subsection (1) of the following subsection:</p> <p>“(1)The [registrar] <u>Authority</u> may [prescribe] <u>determine</u> fees in respect of matters contemplated in this Act and, the person by whom the fee must be paid, the manner of payment thereof and, where necessary, the interest payable in respect of overdue fees.”.</p> <p>74. The amendment of section 109—</p> <p>(a) by the substitution for paragraph (5) of section 109 of the following:</p> <p>“(c) contravenes or fails to comply with the provisions of sections 4, 7(1), 24, 25(1), 27(1), 47(1), <u>49A(1A)</u>, 54(1), <u>56A(1A)</u> or a prohibition by the [registrar] <u>Authority</u> referred in terms of section 6(7), commits an offence and is liable on conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.”</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>75. The amendment of section 110—</p> <p>(b) by the substitution for subsection (5) of the following subsection:</p> <p>“(5) The [registrar] <u>Authority</u> may on or after the commencement of this Act, but prior to a date [determined] <u>prescribed</u> by the Minister, on reasonable grounds, on application or on the registrar’s own initiative, provide for any transitional arrangements regarding the application of any provision of this Act to a regulated person.”.</p> <p>(b) by the addition of the following subsection:</p> <p><u>(6) Despite any other provision of this Act, a clearing house performing the functions of a central counterparty must comply with any requirements imposed by regulations or standards, and must –</u></p> <p><u>(a) until 31 December 2021, be licensed as either an associated clearing house or an independent clearing house, and be approved by the Authority, the South African Reserve Bank and the Prudential Authority;</u></p> <p><u>(b) as of 1 January 2022, be licensed as both an independent clearing house and a central counterparty.</u></p> <p>76. The substitution for the long title for the following long title:</p> <p>“To provide for the regulation of financial markets; to license and regulate exchanges, central securities depositories, clearing houses, <u>central counterparties</u> and trade repositories; to regulate and control securities trading, clearing and settlement, and the custody and administration of securities; to prohibit insider trading, and other market abuses; to provide for the approval of nominees; to provide for [codes of conduct] conduct standards; to replace the Securities Services Act, 2004, as amended by the Financial Services Laws General Amendment Act, 2008, so as to align this Act with international standards; and to provide for matters connected therewith.”</p> <p>77. The substitution for the expression "registrar", wherever it occurs of the expression "Authority".</p> <p>78. Amendment of the arrangement of sections—</p> <p>(a) by the insertion after item 1 of the following item:</p> <p>"1A. Relationship between Act and Financial Sector Regulation Act”;</p> <p>(b) by the substitution for item 6 of the following item:</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p data-bbox="874 235 1374 293">"6. [Registrar and Deputy Registrar] <u>The Authority</u>";</p> <p data-bbox="770 353 1369 385">(c) by the insertion after item 6 of the following items:</p> <p data-bbox="874 400 1398 459">"6A. Criteria for recognition of external market infrastructures.</p> <p data-bbox="874 477 1222 508">6B. Withdrawal of recognition.</p> <p data-bbox="874 524 1230 555">6C. Principles of co-operation";</p> <p data-bbox="770 571 1362 629">(d) by the substitution for the heading in Chapter V preceding item 47 of the following heading item:</p> <p data-bbox="828 645 1270 703"><i>"Licensing of clearing house <u>and central counterparty</u>";</i></p> <p data-bbox="770 719 1385 750">(e) by the substitution for item 47 of the following item:</p> <p data-bbox="828 766 1337 824">"47. Application for clearing house licence <u>and central counterparty licence</u>";</p> <p data-bbox="770 840 1390 871">(f) by the substitution for item 48 of the following item:</p> <p data-bbox="818 887 1378 1014">"48. Requirements applicable to applicants for clearing house licence, <u>central counterparty licence [and], licensed clearing house and licensed central counterparty</u>";</p> <p data-bbox="770 1075 1390 1106">(g) by the insertion after item 49 of the following item:</p> <p data-bbox="866 1122 1259 1180">"49A. Licensing of external central counterparty";</p> <p data-bbox="770 1196 1340 1254">(h) by the substitution for the heading in Chapter V preceding item 50:</p> <p data-bbox="844 1270 1318 1328"><i>"Functions of licensed clearing house <u>and licensed central counterparty</u>";</i></p> <p data-bbox="770 1366 1390 1397">(i) by the substitution for item 50 of the following item:</p> <p data-bbox="818 1413 1355 1541">"50. Functions of licensed clearing house <u>and licensed central counterparty</u>, and power of [registrar] <u>Authority</u> to assume responsibility for functions";</p> <p data-bbox="770 1556 1369 1588">(j) by the insertion after item 56 of the following item:</p> <p data-bbox="866 1603 1374 1635">"56A. Licensing of external trade repository";</p> <p data-bbox="770 1650 1385 1682">(k) by the substitution for item 63 of the following item:</p> <p data-bbox="834 1697 1358 1787">"Demutualisation of exchange, central securities depository[<u>and</u>], independent clearing house <u>or central counterparty</u>";</p> <p data-bbox="770 1803 1390 1834">(l) by the substitution for item 69 of the following item:</p> <p data-bbox="866 1850 1275 1881">"69. Report to [registrar] <u>Authority</u>";</p> <p data-bbox="770 1897 1401 1955">(m) by the substitution for the heading of Chapter VIII of the following heading:</p> <p data-bbox="778 1971 1393 2029">"CHAPTER VIII [CODE OF CONDUCT] <u>CONDUCT STANDARDS</u>";</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>(n) by the substitution for item 74 of the following item: “74. [Code of conduct] <u>Conduct standards</u> for regulated persons”;</p> <p>(o) by the substitution for item 75 of the following item: “75. Principles [of Code of conduct] for <u>Conduct standards</u>”;</p> <p>(p) by the substitution for item 84 of the following item: “84. [Powers and duties] <u>Additional powers of [Financial Services Board] Authority</u>”;</p> <p>(q) by the substitution for the heading in Chapter XII preceding section 94 of the following heading: <i>Powers of [registrar] Authority and court</i></p> <p>(r) by the substitution for item 94 of the following item: “94. General powers of [registrar] Authority”;</p> <p>(s) by the substitution for item 96 of the following item: “96. Powers of [registrar] Authority after <u>supervisory on-site [visit or] inspection or investigation</u>”; and</p> <p>(t) by the deletion of the following heading in Chapter XII preceding item 99: “<i>Enforcement Committee</i>”.</p>
Act No. 24 of 2012	Credit Rating Services Act, 2012	<p>1. The amendment of section 1—</p> <p>(a) by the insertion in subsection (1) after the definition of "associate" of the following definition: “ 'Authority' means the <u>Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act</u>.”;</p> <p>(b) by the insertion in subsection (1) after the definition of "Companies Act" of the following definition: “ 'conduct standard' has the same meaning <u>ascribed to it in terms of the Financial Sector Regulation Act</u>.”;</p> <p>(c) by the deletion in subsection (1) of the definition of "deputy registrar”;</p> <p>(d) by the insertion in subsection (1) after the definition of "external credit rating agency" of the following definition: “ 'Financial Sector Regulation Act' means the</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p><u>Financial Sector Regulation Act, 2016</u>";</p> <p>(e) by the deletion in subsection (1) of the definitions of "Financial Services Board Act", "FSB official web site" and "prescribe";</p> <p>(f) by the insertion in subsection (1) after the definition of "rating category" of the following definition: "Register' means the <u>Financial Sector Information Register referred to in section 247 of the Financial Sector Regulation Act</u>";</p> <p>(g) by the deletion in subsection (1) of the definition of "registrar";</p> <p>(h) by the insertion in subsection (1) after the definition of "this Act" of the following definition: "Tribunal' means the <u>Financial Services Tribunal established in terms of section 220 of the Financial Sector Regulation Act</u>"; and</p> <p>(i) by the addition of the following subsection: "<u>(7) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.</u>"</p> <p>2. The insertion after section 1 of the following section:</p> <p>"Relationship between Act and Financial Sector Regulation Act</p> <p>1A. (1) <u>A reference in this Act to the registrar must be read as a reference to the Authority.</u></p> <p>(2) <u>Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</u></p> <p>(3) <u>A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.</u></p> <p>(4) <u>Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed, a reference in this Act to a matter being prescribed must be read as-</u></p> <p>(a) <u>a reference to the matter being prescribed in a conduct standard; or</u></p> <p>(b) <u>a reference to the Authority determining the matter in writing and registering the determination in the Register.</u></p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>(5) <u>A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.</u></p> <p>(6) <u>A reference in this Act to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.</u></p> <p>(7) (a) <u>A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.</u></p> <p>(b) <u>The Authority may also publish the information or document on its web site.</u></p> <p>(8) <u>A reference in this Act to a prescribed fee must be read as a reference to the relevant fee determined in terms of section 238 of the Financial Sector Regulation Act</u></p> <p>(9) <u>A reference in this Act to a review of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act."</u></p> <p>3. The amendment of section 5(1) by the substitution for paragraph (e) of the following paragraph: "(e) the application fee prescribed [by the registrar]; and".</p> <p>4. The repeal of sections 21 and 22.</p> <p>5. The deletion in section 23(1) of paragraph (h).</p> <p>6. The amendment of section 24— (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: "<u>A conduct standard for or in respect of credit rating agencies may be made on any of the following matters:</u>"; and (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: "The [rules] <u>conduct standards</u> contemplated in subsection (1) may—".</p> <p>7. The deletion in section 24 of subsections (3)</p>

Act No. and year	Short Title	Extent of repeal or amendment
		<p>and (4).</p> <p>8. The repeal of sections 25, 26, 27, 28, 30, 31 and 33.</p> <p>9. The deletion in section 34 of subsection (2).</p> <p>10. Amendment of the arrangement of sections by the insertion after item 1 of the following item:</p> <p>"1A. Relationship between Act and Financial Sector Regulation Act".</p>