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**SOUTH AFRICAN RESERVE BANK****No. 404****25 May 2012****Designation of an activity not falling within the meaning of “The Business of a Bank”  
(A group of persons between the members of which exists a common bond)**

Under paragraph (cc) of the definition of “the business of a bank” in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), I René van Wyk, Registrar of Banks, with the approval of the Minister of Finance, hereby designate, with effect from 1 April 2012, the activity set out in paragraph 2 of the Schedule as an activity that does not fall within the meaning of “the business of a bank”, in order to be in line with the provisions of paragraph (cc) of the Banks Act, 1990 (Act No. 94 of 1990).

**RENÉ VAN WYK**  
**REGISTRAR OF BANKS**

## SCHEDULE

### 1. Definitions.—In this Schedule—

“a common bond” exists between—

- (a)
- i. members of a co-operative that chooses to identify itself by use of the name Financial Co-operative, Financial Services Co-operative, Credit Union or Savings and Credit Co-operative which members—
    - a. consist of persons who are employed by common employer(s) or who are employed within the same business district; or
    - b. have common membership in an association or organisation, including religious, social, co-operative, labour or educational groups; or
    - c. reside within the same defined community, rural or urban district, and which group receives funds from members against the issue of stock or by means of the subscriptions of members.
  - ii. members of a secondary financial co-operative consisting of primary financial co-operatives registered in terms of paragraph 3.(l) iv below.
- (b) members of a specific group consisting of employees of the same employer who are members of the same savings and credit scheme that is operated and administered on behalf of such group of employees in accordance with set rules agreed upon between such group of employees and their employer; or
- (c) members of a specific group that may be described by the term or concept known as “stokvel”, which—
- i. is a formal or informal rotating credit scheme with entertainment, social and economic functions;
  - ii. fundamentally consists of members who have pledged mutual support to each other towards the attainment of specific objectives;
  - iii. establishes a continuous pool of capital by raising funds by means of the subscriptions of members;
  - iv. grants credit to and on behalf of members;

- v. provides for members to share in profits and to nominate management; and
  - vi. relies on self-imposed regulation to protect the interest of its members; or
- (d) members of a specific group, governed in terms of rules agreed to and signed by the group's founders, exclusively established for the purpose of raising funds and applying or holding available such funds for housing advances to members, irrespective of whether or not such group is bound by its rules to terminate upon the expiration of a fixed period or upon the occurrence of an event specified in its rules.

**“employee”** means any person who is employed by or working for an employer and is receiving or entitled to receive any remuneration;

**“employer”** means any person whosoever employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him;

**“group”** means a number of natural persons;

**“member”**, in relation to a group as mentioned in subparagraph (a), (b), (c) and (d), means a person who contributes towards the funding of the group in order to obtain any benefit in terms thereof.

**“co-operative financial institution”** means any of the entities referred to in subparagraph (a) above;

**“other savings groups”**, means groups referred to in subparagraph (b),(c) and (d) above; and

**“CBDA”**, means the Co-operative Banks Development Agency, established under section 54 of the Co-operative Banks Act, Act No 40 of 2007.

## 2. Designated activity-

2.1. **co-operative financial institution**—subject to the conditions set out in paragraph 3, a co-operative financial institution may only provide, participate in or undertake the following services:

- (a) solicit and accept money from members
- (b) open savings accounts for its members, in the name of each member, into which that member may put or withdraw money and from which that member may instruct the co-operative financial institution to transfer or pay money;
- (c) borrow money from other organisation including government agencies and banking institutions up to a percentage of the assets held by it as prescribed by the CBDA;

- (d) open a savings account or cheque account in the name of that co-operative financial institution with any banking institution;
- (e) grant secured and unsecured loans to members to a maximum aggregate value prescribed by the CBDA;
- (f) conduct any additional services as may be prescribed by the CBDA; and
- (g) Invest money from its members in investments prescribed by the CBDA.

2.2. **other savings groups** - subject to the conditions set out in paragraph 3, other savings groups may accept by or on behalf of a group, between the members of which there exists a common bond, money from such members, the pooling of such money, and the utilisation thereof for one or more of the following objectives:

- (a) The relief of maintenance during minority, old age, widowhood, sickness or other infirmity, whether bodily or mental, of members or their husbands, wives, widows, widowers, children or other relatives or dependants;
- (b) the granting of annuities, whether immediate or deferred, to members or to nominees of members, or the endowment of members or nominees of members;
- (c) the provision of a sum of money to be paid or other benefit to be provided—
  - i. on the birth of a member's child;
  - ii. on the death of a member or any other person mentioned in paragraph (a) or in the form of an endowment insurance on the life of a member or such a person;
  - iii. towards the expenses in connection with the death or funeral of any member or any such person; or
  - iv. during a period of confined mourning by a member or such a person;
- (d) the acquisition of movable goods by a member;
- (e) the acquisition of any land by a member;
- (f) the erection, on any land, of buildings for residential or business purposes or the acquisition of any such buildings by a member;
- (g) the insurance against fire or other contingencies of the implements of the trade or calling of any member;
- (h) towards expenses in connection with any recreational or social event of a member;

- (i) the provision of a sum of money to a member on a member's leaving the services of his employer owing to dismissal, resignation or otherwise;
- (j) the relief or maintenance of members, or any group of members, when unemployed or in distressed circumstances;
- (k) the provision of money for the advancement of the education or training of members or of the children of members;
- (l) the establishment of any business by a member;
- (m) the development of the community to which the members belong;
- (n) the provision of means whereby members may receive interest or a dividend on their respective contributions or subscriptions.

**3. Conditions.**—the following conditions are applicable to co-operative financial institutions and other savings groups, namely:-

- (a) a co-operative financial institution shall at all times subject itself to supervision and regulation of the CBDA, which may delegate any such function or duty or part thereof to a representative body or support organisation accredited by the CBDA in terms of the Co-operatives Banks Act, Act No 40 of 2007. Current co-operative financial institutions regulated by the Savings and Credit Co-operative League of South Africa (SACCOL) and the South African Microfinance Apex Fund (samaf) must register with the CBDA within six months from the date of this notice.
- (b) in case of stokvels shall either be a member of or be affiliated to the National Stokvels Association of South Africa ("NASASA") or any such similar representative self-regulatory body approved by the Registrar of Banks in writing;
- (c) none of the activities of a co-operative financial institution and other savings groups may fall within the objectives of a pension fund organisation as set out in paragraph (a) or (b) of the definition of "pension fund organisation" in section one of the Pension Funds Act, 1956;
- (d) the rules of a co-operative financial institution and other savings groups shall not entitle any member at any time, albeit subject to any such notice as may be prescribed in the rules of a co-operative financial institution and other savings groups, to withdraw the full amount of his or her contributions;
- (e) the benefits of members of the co-operative financial institution and other savings group shall not be provided exclusively by way of loans that, in terms of the rules of a co-operative financial institution and other savings groups, must be repaid;
- (f) a co-operative financial institution and other savings groups shall keep, in one of the official languages of the Republic of South Africa, such accounting records as are necessary to fairly reflect the state of affairs and business of a co-operative financial institution and other savings groups and to explain the transactions and financial position of such co-operative financial institution and other savings groups;

- (g) a co-operative financial institution and other savings groups shall fix a date on which, in each year, its financial year will end, and such financial year shall be its annual accounting period;
- (h) a co-operative financial institution and other savings groups shall within 120 days after the end of each financial year cause annual financial statements, pertaining to its affairs and business in respect of that financial year, to be made out in one of the official languages of the Republic of South Africa;
- (i) a co-operative financial institution and other savings groups must fit into one of the following categories:
  - i. a co-operative financial institution and other savings groups that does not at any time hold contributions from members amounting in the aggregate to more than R3 million; or
  - ii. a co-operative financial institution and other savings groups that at any time holds contributions from members amounting in the aggregate to more than R3 million but not amounting in the aggregate to more than R30 million;
- (j) the financial statements of a co-operative financial institution and other savings groups that fits into the category mentioned in item (ii) of subparagraph (i) shall be presented to a person duly registered as an accountant and auditor, in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005), for purposes of the drawing up and presentation of a report.
- (k) in the event of the accountant and auditor being unable to make such report or to make it without qualification, he shall include in his report a statement to that effect and set forth the facts or circumstances that prevent him from so making his report or from making it without qualification;
- (l) copies of such audit report shall within 60 days after completion thereof in respect of a co-operative financial institution and other savings groups fitting into the category mentioned in item (ii) of subparagraph (i) be presented—
  - i. in the case of a co-operative financial institution, to the members of such co-operative financial institution and to the CBDA in writing.
  - ii. in case of other savings groups-
    - a. a group mentioned in subparagraph (b) of paragraph 1, to the members of such group and to their employer; or
    - b. a group mentioned in subparagraph (c) of paragraph 1, to the members of such group and NASASA or any such similar representative self-regulatory body approved by the Registrar in writing; or

c. a group mentioned in subparagraph (c) of paragraph 1, to the members of such group.

**4. Repeal of notice** — Government Notice R887 of 22 August 2008 published in Government Gazette No 31342 and Government Notice 1176 of 1 December 2006 published in Government Gazette No 21492 are hereby repealed and substituted by this notice.