It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 9 of 2017: Financial Sector Regulation Act, 2017

Mo go tsebiswa gore Mo-Presidente o dumetse molao o latelago, wona o tla gatiswa e le tsebis o kakaretso:—

Nmr 9 ya 2017: Molao wa Taolo ya Lephata la Ditshelete, 2017
To establish a system of financial regulation by establishing the Prudential Authority and the Financial Sector Conduct Authority, and conferring powers on these entities; to preserve and enhance financial stability in the Republic by conferring powers on the Reserve Bank; to establish the Financial Stability Oversight Committee; to regulate and supervise financial product providers and financial services providers; to improve market conduct in order to protect financial customers; to provide for co-ordination, co-operation, collaboration and consultation among the Reserve Bank, the Prudential Authority, the Financial Sector Conduct Authority, the National Credit Regulator, the Financial Intelligence Centre and other organs of state in relation to financial stability and the functions of these entities; to establish the Financial System Council of Regulators and the Financial Sector Inter-Ministerial Council; to provide for making regulatory instruments, including prudential standards, conduct standards and joint standards; to make provision for the licensing of financial institutions; to make comprehensive provision for powers to gather information and to conduct supervisory on-site inspections and investigations; to make provision in relation to significant owners of financial institutions and the supervision of financial conglomerates in relation to eligible financial institutions that are part of financial conglomerates; to provide for powers to enforce financial sector laws, including by the imposition of administrative penalties; to provide for the protection and promotion of rights in the financial sector as set out in the Constitution; to establish the Ombud Council and confer powers on it in relation to ombud schemes; to provide for coverage of financial product and financial service providers by appropriate ombud schemes; to establish the Financial Services Tribunal as an independent tribunal and to confer on it powers to reconsider decisions by financial sector regulators, the Ombud Council and certain market infrastructures; to establish the Financial Sector Information Register and make provision for its operation; to provide for information sharing arrangements; to create offences; to provide for regulation-making powers of the Minister; to amend and repeal certain financial sector laws; to make transitional and savings provisions; and to provide for matters connected therewith.

ARRANGEMENT OF SECTIONS

CHAPTER 1

INTERPRETATION, OBJECT AND ADMINISTRATION OF ACT

Part 1

Interpretation

1. Definitions
2. Financial products
MOLAO

Go tlhoma thulaganyo ya taolo ya ditšhelete ka go tlhoma Bothati jwa Tlhokomelo le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, le go naya ditheo tseo maatla; go boloka le go oketsa tlhomamo ya ditšhelete mo Rephaboliking ka go naya Banka ya Resefo dithata; go tlhoma Komiti ya Keolloho ya Tlhomamo ya Ditšhelete; go laola le go tlhokomela batlamedi ba dikuno tsu ditšhelete le batlamede ba ditrelo tsa ditšhelete; go tokafatsa boitshwaro jwa mmarakoa go sireletsa badirelwa ba ditšhelete; go tlameloa ka kholagano, tirisanommogo, kopano le therisana magareng ga Banka ya Resefo, Bothati jwa Tlhokomelo, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, Molaodi wa Bosthaba wa Sekolo, Senthara ya Bothloedi jwa Ditšhelete le ditheo tsu puso mabapi le tlhomamo ya ditšhelete le ditrelo tsa ditheo tsefo; go tlhoma Khansele ya Balaodi ba Thulaganyo ya Ditšhelete le Khansele ya Ditona ya Lephata la Ditšhelete; go tlameloa ka go dira didiriswa tsu taolo, go akaretsa le maemo a tlhokomelo, maemo a boitshwaro le maemo a a kopantsweng; go dira kabelo ya ga go abela ditheo tsu ditšhelete ditlaesense; go dira kabelo e e tseneyetsaang ditšhata tsu go kgoebokanya tshedimosoetsa le go dira ditlhathhobo tsa bothhokomedi tsu kwa tirong le dipatlisiso; go dira kabelo mabapi le beng ba ba bothhokwa ba ditheo tsa ditšhelete le tlhokomelo ya ditheo tsa ditšhelete tse di kopantsweng mabapi le ditheo tsa ditšhelete tse di matshwanele tseo e leng karolo ya ditheo tsu ditšhelete tse di kopantsweng; go tlameloa mabapi le ditheo tsa go gatelela melao ya lephata la ditšhelete, go akaretsa le go pateletsa dikotlhao tsa tsamaiso; go tlameloa mabapi le tshirelesto le tsewelesto ya ditshwanelo mo lephateng la ditšhelete jaaka go thagisitswe mo Molaatheoeng; go tlhoma Khansele ya Ombud le go e naya ditheo mabapi le dikema tsa ombud; go tlameloa mabapi le tshirelesto ya kuno ya ditšhelete le batlamede ba ditrelo tsa ditšhelete ke, dikema tse di maleba tsa ombud; go tlhoma Lekgotla la Ditirelo tsa Ditšhelete jaaka lekgotla le le ikemetseng le go le naya ditheo tsa go sekasekagape ditshwetsa tsa balaodi ba lephata la ditšhelete, Khansele ya Ombud le ditulaganyetsa tse di rileg tsa popegotheo ya mmarakoa; go tlhoma rejisetara ya Tshedimosoetsa ya Lephata la Ditšhelete le go dira kabelo ya go dira ga yona; go tlameloa ka ditulaganyo tsa go arogana tshedimosoetsa; go tlhoma Ditirelo tsa ditšhelete; go tlameloa ka ditheo tsa go dira melawana ga Tona; goba tshoebola le go phimola melao e e rileg ya lephata la ditšhelete; go dira dikabelo tsa kgabaganyo le ditshomarelo; le go tlameloa mabapi le merero e e amanang le ona.

THULAGANYO YA DIKAROLO

KGАОLO 1

TLHALOSO, MAITLHOMO LE TSAMAISO YA MOLAONONO

Karolo 1

Thalosatso

1. Ditlhaloso
2. Dikuno tsa ditšhelete
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

Part 2

Object and administration of Act

7. Object of Act
8. Administration of Act

Part 3

Application of other legislation

9. Inconsistencies between Act and other financial sector laws
10. Application of other legislation

CHAPTER 2

FINANCIAL STABILITY

Part 1

Powers and functions of Reserve Bank

11. Responsibility for financial stability
12. Monitoring of risks by Reserve Bank
13. Financial stability review

Part 2

Managing systemic events and risks in relation to systemic events

14. Determination of systemic events
15. Functions of Reserve Bank in relation to systemic events
16. Information to Minister
17. Responsibilities of financial sector regulators
18. Directives to financial sector regulators
19. Exercise of powers by other organs of state

Part 3

Financial Stability Oversight Committee

20. Establishment of Financial Stability Oversight Committee
21. Functions of Financial Stability Oversight Committee
22. Membership
23. Administrative support by Reserve Bank
24. Meetings and procedure

Part 4

Financial Sector Contingency Forum

25. Financial Sector Contingency Forum
3. Ditirelo tsa ditšhelete
4. Tlhomamö ya ditšhelete
5. Bothari jo bo rwalang maikarabelo
6. Ditheö tša ditšhelete tseo e leng ditheö tša molao

Karolo 2

Maitlhomo le tsamaiso ya Molao

7. Maitlhomo a Molao
8. Tsamaiso ya Molao

Karolo 3

Tiragatso ya molao o mongwe

9. Go sa tlhomamang magareng ga Molao le melao e mengwe ya lephata la ditšhelete
10. Tiragatso ya molawana o mongwe

KGAOLO 2

TLHOMAMO YA DITŠHELETE

Karolo 1

Ditšhata le diïiro tsa Banka ya Resefe

11. Maikarabelo a tlhomamö ya ditšhelete
12. Go lekolwa ga dikotsi ke Banka ya Resefe
13. Thadiso ya tlhomamö ya ditšhelete

Karolo 2

Go laola ditiragalo tse di rulaganeng le dikotsi mabapi le ditiragalo tse di rulaganeng

14. Tlhomamisö ya ditiragalo tse di rulaganeng
15. Ditirö tsa Banka ya Resefe mabapi le ditiragalo tse di rulaganeng
16. Tshedimosetsö go Tona
17. Maikarabelo a balaodi ba lephata la ditšhelete
18. Ditaelö go balaodi ba lephata la ditšhelete
19. Tiragatso ya ditšhata ka maphata a mangwe a puso

Karolo 3

Komiti ya Kelotlhoko ya Tlhomamö ya Ditšhelete

20. Go tlhongwa ga Komiti ya Kelotlhoko ya Tlhomamö ya Ditšhelete
21. Ditiro tsa Komiti ya Kelotlhoko ya Tlhomamö ya Ditšhelete
22. Boloko
23. Tshegetso ya tsamaiso ka Banka ya Resefe
24. Dikopano le tsamaiso

Karolo 4

Foramo ya Tshoganyetso ya Lephata la Ditšhelete

25. Foramo ya Tshoganyetso ya Lephata la Ditšhelete
Roles of financial sector regulators and other organs of state in maintaining financial stability

27. Memoranda of understanding relating to financial stability
28. Roles of other organs of state in relation to financial stability

Part 6
Systemically important financial institutions

29. Designation of systemically important financial institutions
30. Prudential standards and regulator’s directives in respect of systemically important financial institutions
31. Winding-up and similar steps in respect of systemically important financial institutions

CHAPTER 3
PRUDENTIAL AUTHORITY

Part 1
Establishment, objective and functions

32. Establishment
33. Objective
34. Functions

Part 2
Governance

35. Overall governance objective
36. Appointment of Chief Executive Officer
37. Role of Chief Executive Officer
38. Term of office of Chief Executive Officer
39. Removal of Chief Executive Officer
40. Acting Chief Executive Officer
41. Establishment of Prudential Committee
42. Role of Prudential Committee
43. Meetings of Prudential Committee
44. Decisions of Prudential Committee
45. Governance and other subcommittees
46. Duties of members of Prudential Committee and members of subcommittees
47. Regulatory strategy
48. Delegations
49. Disclosure of interests

Part 3
Staff, resources and financial management

50. Staff and resources
51. Resources provided by Reserve Bank
52. Duties of staff members
53. Financial management duties of Chief Executive Officer
54. Information by Chief Executive Officer
55. Annual reports and financial accounts


7

Karolo 5

Botsayakarolo jwa balaodi ba lephata la ditshelete le maphata a mangwe a puso mo go tshegetseng tlhomamo ya ditshelete

26. Tirisanommogo magareng ga Banka ya Resefe le balaodi ba lephata la ditshelete mabapi le tlhomamo ya ditshelete
27. Memorantamo wa tumalano o o mabapi le tlhomamo ya ditshelete
28. Botsayakarolo jwa maphata a mangwe a puso mabapi le tlhomamo ya ditshelete

Karolo 6

Ditheo tsa ditshelete tse di bothokwa tse di rulaganeng

29. Tshupo ya diteo tsa ditshelete tse di bothokwa tse di rulaganeng
30. Maemo a a bothokwa le ditaelo tsa balaodi mabapi le ditheo tsa ditshelete tse di bothokwa tse di rulaganeng
31. Go swetsa le dikgato tse di tshwanang mabapi le ditheo tsa ditshelete tse di bothokwa tse di rulaganeng

KGAOLO 3

BOTHATI JWA TLHOKOMELO

Karolo 1

Go thlongwa, maithlomo le ditiro

32. Go thlongwa
33. Maithlomo
34. Ditiro

Karolo 2

Puso

35. Maithlomo ka kakaretso a puso
36. Go thapiwa ga Motlhankedimogolo wa Khuduthamaga
37. Botsayakarolo jwa Motlhankedimogolo wa Khuduthamaga
38. Paka ya Tiro ya Motlhankedimogolo wa Khuduthamaga
39. Go tloswa ga Motlhankedimogolo wa Khuduthamaga
40. Motlhankedimogolo wa Khuduthamaga wa nama-o-tshwere
41. Go thlongwa ga Komiti ya Tlhokomelo
42. Botsayakarolo jwa Komiti ya Tlhokomelo
43. Dikopano tsa Komiti ya Tlhokomelo
44. Ditshwetsotse tsa Komiti ya Tlhokomelo
45. Puso le dikomititlaleletso tse dingwe
46. Ditiro tsa maloko a Komiti ya Tlhokomelo le maloko a dikomititlaleletso
47. Lean la balaodi
48. Ditholelo
49. Tshenolo ya dikgatlhegelo

Karolo 3

Badiri, ditlamelo le taolo ya ditshelete

50. Badiri le ditlamelo
51. Ditlamelo tse di tlamelwang ke Banka ya Resefe
52. Ditiro tsa maloko a badiri
53. Ditiro tsa taolo ya ditshelete tsa Motlhankedimogolo wa Khuduthamaga
54. Tshedimosetso ka Motlhankedimogolo wa Khuduthamaga
55. Dipegelo tsa ngwaga le diakhaonto tsa ditshelete
CHAPTER 4
FINANCIAL SECTOR CONDUCT AUTHORITY

Part 1
Establishment, objective and functions

56. Establishment
57. Objective
58. Functions

Part 2
Governance

59. Overall governance objective
60. Establishment and role of Executive Committee
61. Commissioner and Deputy Commissioners
62. Roles of Commissioner and Deputy Commissioners
63. Terms of office
64. Service conditions
65. Removal from office
66. Meetings of Executive Committee
67. Decisions of Executive Committee
68. Governance and other subcommittees
69. Duties of Commissioner, Deputy Commissioners and other subcommittee members
70. Regulatory strategy
71. Delegations
72. Disclosure of interests

Part 3
Staff and resources

73. Staff and resources
74. Duties of staff members
75. Information by Commissioner

CHAPTER 5
CO-OPERATION AND COLLABORATION

Part 1
Co-operation and collaboration

76. Co-operation and collaboration between financial sector regulators and Reserve Bank
77. Memoranda of understanding
78. Other organs of state

Part 2
Financial System Council of Regulators

79. Financial System Council of Regulators
80. Meetings
81. Working groups and subcommittees
82. Support for Financial System Council of Regulators
KGAOLO 4

BOTHATI JWA BOITSHWARO JWA LEPHATA LA DITŠHELETE

Karolo 1

Tlhomo, maithomo le ditiro

56. Tlhomo
57. Maithomo
58. Ditiro

Karolo 2

Puso

59. Maithomo ka kakaretso a puso
60. Tlhomo le botsyakarolo jwa Komitikhuduthamaga
61. Khomišenara le Batlatsakhomišenara
62. Botsyakarolo jwa Khomišenara le Batlatsakhomišenara
63. Paka ya tiro
64. Mabaka a tirolo
65. Go tloswa mo tirong
66. Dikopano tsa Komitikhuduthamaga
67. Ditshweto tsa Komitikhuduthamaga
68. Puso le dikomititlaleletso tse dingwe
69. Ditiro tsa Khomišenara, Batlatsakhomišenara le maloko a mangwe a komititlaleletso
70. Leano la bolaodi
71. Ditholelo
72. Tshenolo ya dikgatlhegelo

Karolo 3

Badiri le ditlamelo

73. Badiri le ditlamelo
74. Ditiro tsa maloko a badirimmogo
75. Tshedimosetso ka Khomišenara

KGAOLO 5

TIRISANOMMOGO LE KOPANO

Karolo 1

Tirisanommogo le kopano

76. Tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete le Banka ya Resefe
77. Memorantamo wa tumalano
78. Maphata a mangwe a puso

Karolo 2

Khansele ya Balaodi ba Thulaganyo ya Ditšhelete

79. Khansele ya Balaodi ba Thulaganyo ya Ditšhelete
80. Dikopano
81. Dithophwa tse di dirang le dikomititlaleletso
82. Tshegetso ya Khansele ya Balaodi ba Thulaganyo ya Ditšhelete
Part 3

Financial Sector Inter-Ministerial Council

83. Financial Sector Inter-Ministerial Council
84. Meetings
85. Protection for financial customers in terms of financial sector laws, National Credit Act and Consumer Protection Act
86. Independent evaluation of effectiveness of co-operation and collaboration

CHAPTER 6

ADMINISTRATIVE ACTIONS

Part 1

Administrative action committees

87. Establishment and membership
88. Terms of membership
89. Meetings
90. Application of Part to Ombud Council

Part 2

Administrative justice

91. Applicability of Promotion of Administrative Justice Act to administrative action by financial sector regulators
92. Procedures for specific administrative action in terms of Act
93. Processes for determining or amending administrative action procedures
94. Review of administrative action procedures
95. Revocation of decisions
96. Interpretation

CHAPTER 7

REGULATORY INSTRUMENTS

Part 1

Regulatory instruments

97. Interpretation
98. Process for making regulatory instruments
99. Substantially different regulatory instrument
100. Urgent regulatory instruments
101. Part does not limit other consultation
102. Making, publication and commencement of regulatory instruments
103. Submission of regulatory instruments to Parliament
104. Reports on consultation processes

Part 2

Standards

105. Prudential standards
106. Conduct standards
107. Joint standards
108. Additional matters for making standards
109. Standards requiring concurrence of Reserve Bank
110. General
Khansele ya Ditona ya Lephata la Ditšhelete

83. Khansele ya Ditona ya Lephata la Ditšhelete
84. Dikopano
85. Tshireletso ya barekedi ba ditšhelete go ya ka melao ya lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto le Consumer Protection Act
86. Tekanyetso e e ikemetseng ya nonofo ya tirisanommogo le kopano

KGАОLO 6

DITIRO TSA TSAMAIISO

Karolo 1

Dikomiti tsa tiro ya tsamaiso

87. Go tlhongwa le botokololo
88. Dipeelo tsa botokololo
89. Dikopano
90. Tiriso ya Karolo go Khansele ya Ombud

Karolo 2

Bosiamisi jwa tsamaiso

91. Tirego ya Promotion of Administrative Justice Act go tiro ya tsamaiso ka balodi ba lephata la ditšhelete
92. Ditsamaiso mabapi le tiro ya tsamaiso e e tsepameng go ya ka Molao
93. Dikgato tsa go thomamisa kgotsa go tshabololaditsamaiso tsa tiro ya tsamaiso
94. Thadiso ya ditsamaiso tsa kgato ya tsamaiso
95. Kgogelomorago ya ditshwetso
96. Tlhaloso

KGАОLO 7

DIDIRISWA TSA BOLAODI

Karolo 1

Didiriswa tsa bolaodi

97. Tlhaloso
98. Dikgato tsa go dira didiriswa tsa bolaodi
99. Didiriswa tsa bolaodi tsa pharologano e kgolo
100. Didiriswa tsa bolaodi tsa potlako
101. Karolo ga e lekanyetse ditherisano tse dingwe
102. Go dirwa, go phasalatswa le tshimololo ya didiriswa tsa bolaodi
103. Thomelo ya didiriswa tsa bolaodi kwa Palamenteng
104. Dipegeko ka ga dikgato tsa therisano

Karolo 2

Maemo

105. Maemo a tlhokomelo
106. Maemo a boitshwaro
107. Maemo a a kopantsweng
108. Merero ya tlaleletso ya go dira maemo
109. Maemo a a tlhokang tumelelo ya Banka ya Resefe
110. Kakaretso
CHAPTER 8
LICENSING

Part 1

Licensing requirements

111. Licence requirement in respect of providers of financial products and financial services, and market infrastructures

Part 2

Licences required in terms of section 111(1)(b) or (2) or section 162

112. Interpretation
113. Power to grant licences
114. Request for further information or documents by responsible authority
115. Relevant matters for application for licence
116. Determination of applications
117. Reporting obligations of licensee
118. Licences not transferable
119. Variation of licences
120. Suspension of licences
121. Revocation of licences
122. Continuation of licensed activity despite suspension or revocation of licence
123. Procedure for varying, suspending and revoking licences
124. Applications for licences

Part 3

Provisions relating to all licences under financial sector laws

125. Application
126. Concurrence of financial sector regulators on licensing matters
127. Compulsory disclosure of licences
128. Publication

CHAPTER 9
INFORMATION GATHERING, SUPERVISORY ON-SITE INSPECTIONS AND INVESTIGATIONS

Part 1

Application and interpretation

129. Application and interpretation of Chapter
130. Legal professional privilege

Part 2

Information gathering

131. Information gathering
13

KGAOLO 8

KABO YA LAESENSE

Karolo 1

Ditlohego tsa kaboy a laesense

111. Tlhokego ya laesense mabapi le batlamedi ba dikuno tsa ditšhelete, ditirelo tsa ditšhelete le ditulaganyeto tsa popegotheo ya mebaraka

Karolo 2

Dilaesense tse di tlhokegang go ya ka karolo IIII(1)(b) kgotsa (2) kgotsa karolo 162

112. Tlhaloso

113. Thata ya go aba dilaesense

114. Kopo ya tshedimosetso e ngwe kgotsa dikwalo ka bothati jo bo rwelela maikarabelo

115. Merero e e maleba ya go dira kopo ya laesense

116. Thomamiso ya dikopo

117. Go bega ditlamego tsa moabelwalaesaense

118. Dilaesense tse di sa sutisiweng

119. Pharologantsho ya dilaesense

120. Kemiso ya dilaesense

121. Phediso ya dilaesense

122. Go tswela pele ga tiro e e abetsweng laesense go sa kgathalesege tshekego kgotsa phediso ya laesense

123. Tsamaiso mabapi le go farologanya, go sekega le go fedisa dilaesense

124. Go dira kopo ya laesense

Karolo 3

Dikabelo tse di amanang le dilaesense tsotho tse di ka fa tlase ga melao ya lephata la ditšhelete

125. Tiragatso

126. Tumalano ya balaodi ba lephata la ditšhelete ka ga merero ya kabo ya laesense

127. Tshenolo ya pateletso ya dilaesense

128. Phasalatso

KGAOLO 9

KGUBOKANYO YA TSHEDIMOSETSO, DITLHATLHOBO TSA BOTLHOKOMEDI TSA KWA TIROSS LE DIPATLISISO

Karolo 1

Tiragatso le tlhaloso

129. Tiragatso le tlhaloso ya Kgaolo

130. Tshwanelo ya badiredi ba tsa molao

Karolo 2

Kgobokanyo ya tshedimosetso

131. Kgobokanyo ya tshedimosetso
Part 3

Supervisory on-site inspections

132. Powers to conduct supervisory on-site inspections
133. Interference with supervisory on-site inspections

Part 4

Investigations

134. Investigators
135. Powers to conduct investigations
136. Powers of investigators to question and require production of documents or other items
137. Powers of investigators to enter and search premises
138. Warrants
139. Interference with investigations

Part 5

Protections

Chapter 10

Enforcement

Part 1

Guidance notices and interpretation rulings

141. Guidance notices
142. Interpretation rulings

Part 2

Directives by financial sector regulators

143. Directives by Prudential Authority
144. Directives by Financial Sector Conduct Authority
145. Removal of person from position
146. Consultation requirements
147. Period for compliance
148. Revoking directives
149. Compliance with directives
150. Application and interpretation

Part 3

Enforceable undertakings

151. Enforceable undertakings

Part 4

Court orders

152. Compliance with financial sector laws
Karolo 3

Ditlhatlhobo tsa botlhokomedi kwa tirong

132. Dithata tsa go dira ditlhatlhobo tsa botlhokomedi kwa tirong
133. Go itshunyatshunya mo ditlhatlhobong tsa botlhokomedi kwa tirong

Karolo 4

Dipatlisiso

134. Babatlisisi
135. Dithata tsa go dira dipatlisiso
136. Dithata tsa babatlisisi tsa go botsolotsa le go kopa go lhagiswa ga makwalo kgotsa dintilha tse dingwe
137. Dithata tsa babatlisisi tsa go tsena le go phuruphutsa mo mafelong
138. Dithebolelo
139. Go itshunyatshunya mo dipatlisisong

Karolo 5

Ditshireletso

140. Ditshireletso

KGAOLO 10
KGATELELO

Karolo 1

Dikitsiso tsa kaelo le ditshwetso tsa tlhaloso

141. Dikitsiso tsa kaelo
142. Ditshwetso tsa tlhaloso

Karolo 2

Ditaelo tsa balaodi ba lephata la ditšhelete

143. Ditaelo ka Bothati jwa Tlhokomelo
144. Ditaelo ka Bothati jwa Boitshwago jwa Lephata la Ditšhelete
145. Go ntshiwa ga batho mo maemong
146. Ditlhokego tsa ditherisano
147. Paka ya go ikamanya
148. Kgogelomorago ya ditaelo
149. Boikamanyo le ditaelo
150. Tiragatso le tlhaloso

Karolo 3

Ditumalano tse di gatelelwang

151. Ditumalano tse di gatelelwang

Karolo 4

Ditaelo tsa Kgotlatshekelo

152. Go ikamanya le melao ya lephata la ditšhelete
Part 5

Debarment

153. Debarment
154. Consultation requirements
155. Where person cannot be located

Part 6

Leniency agreements

156. Leniency agreements

CHAPTER 11

SIGNIFICANT OWNERS

Part 1

Significant owners

157. Significant owners
158. Approvals and notifications relating to significant owners
159. Standards in respect of, and regulator’s directives to, significant owners

CHAPTER 12

FINANCIAL CONGLOMERATES

Financial conglomerates

160. Designation of financial conglomerates
161. Notification by eligible financial institution
162. Licensing requirements for holding companies of financial conglomerates
163. Non-operating holding companies of financial conglomerates
164. Standards for financial conglomerates
165. Directives to holding companies
166. Approval and prior notification of acquisitions and disposals

CHAPTER 13

ADMINISTRATIVE PENALTIES

167. Administrative penalties
168. Payment
169. Interest
170. Enforcement
171. Application of amounts paid as administrative penalties
172. Administrative penalty taken into account in sentencing
173. Remission of administrative penalties
174. Prohibition of indemnity for administrative penalties

CHAPTER 14

OMBUDS

Part 1

Ombud Council

175. Ombud Council
176. Objective
Karolo 5
Kganelo

153. Kganelo
154. Ditlhokego tsa therisano
155. Fa motho a sa kgone go fitlhelelwa

Karolo 6
Ditumalano tsa kutwelobotlhoko

156. Ditumalano tsa kutwelobotlhoko

KGAOLO 11
BENG BA BA BOTLHOKWA

Karolo 1
Beng ba ba botlokwa

157. Beng ba ba botlhokwa
158. Dithebolo le dikitsiso tse di amanang le beng ba ba botlhokwa
159. Maemo mabapi le, le ditaelo tsa molaodi go, beng ba ba botlhokwa

KGAOLO 12
DITHEO TSA DITŠHELETE TSE DI KOPANENG

Ditheo tsa ditšhelete tse di kopaneng

160. Go tlhongwa ga ditheo tsa ditšhelete tse di kopaneng
161. Kitšiso ka setheo sa ditšhelete se se matshwanedi
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DITLHABOLOLO LE DIPHEDISO
BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

CHAPTER 1

INTERPRETATION, OBJECT AND ADMINISTRATION OF ACT

Part 1

Interpretation

Definitions

1. (1) In this Act, unless the context indicates otherwise—

“administrative action” has the same meaning ascribed to it in terms of section 1 of the Promotion of Administrative Justice Act;

“administrative action committee” means a committee established in terms of section 87;

“administrative action procedure” means a procedure determined in terms of section 92;

“administrative penalty order” means an order in terms of section 167;

“Banks Act” means the Banks Act, 1990 (Act No. 94 of 1990);

“benchmark” means any index—

(a) by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument, is determined; or

(b) that is used to measure the performance of an investment fund with the purpose of tracking the return of such index or of defining the asset allocation of a portfolio or of computing the performance fees;

“business document” means a document held by a person in connection with carrying on a business;

“business premises” means premises, including a building or a part of a building, used by a person for carrying on a business;

“Chairperson” means the person holding the office of the Chairperson of the Tribunal in terms of section 220(4), and includes a person acting as the Chairperson;

“Chief Executive Officer” means the Chief Executive Officer of the Prudential Authority appointed in terms of section 36(1), and includes a person acting as the Chief Executive Officer;

“Chief Ombud” means a person appointed as the Chief Ombud of the Ombud Council in terms of section 188;

“collective investment scheme” has the same meaning ascribed to it in terms of section 1 of the Collective Investments Schemes Control Act, 2002 (Act No. 45 of 2002);

“Commissioner”, in relation to the Financial Sector Conduct Authority, means the Commissioner of the Financial Sector Conduct Authority appointed in terms of section 61(1), and includes a person acting as the Commissioner;

“Companies Act” means the Companies Act, 2008 (Act No. 71 of 2008);

“company” has the same meaning ascribed to it in terms of section 1 of the Companies Act;

“Competition Commission” means the Competition Commission established in terms of section 19 of the Competition Act, 1998 (Act No. 89 of 1998);

“conduct standard” means a standard made in terms of section 106;


“Consumer Protection Act” means the Consumer Protection Act, 2008 (Act No. 68 of 2008);

“contractor” means a person with whom a financial institution has entered into an outsourcing arrangement but does not include an independent contractor as described in the definition of “staff member”;

“ConsumerProtectionAct” means the Consumer Protection Act, 2008 (Act No. 68 of 2008);

“business document” means a document held by a person in connection with carrying on a business;

“benchmark” means any index—

(a) by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument, is determined; or

(b) that is used to measure the performance of an investment fund with the purpose of tracking the return of such index or of defining the asset allocation of a portfolio or of computing the performance fees;

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“Consumer Protection Act” means the Consumer Protection Act, 2008 (Act No. 68 of 2008);

“contractor” means a person with whom a financial institution has entered into an outsourcing arrangement but does not include an independent contractor as described in the definition of “staff member”;}
Tlhalosoa

1. (1) Mo Molaong ono, ntle le fa bokao bo tlhalosa ka mokgwa mongwe—
   “tiro ya tsamaiso” e na le bokao jo bo tshwanang le jo e tlhalositsweng ka jona go ya ka karolo 1 ya Promotion of Administrative Justice Act; 10
   “komiti ya tiro ya tsamaiso” e kaya komiti e e tlhomilweng go ya ka karolo 87;  
   “kgato ya tiro ya tsamaiso” e kaya kgato e e tlhomamisitsweng go ya ka karolo 92;  
   “taelo ya kothlao ya tsamaiso” e kaya taelo go ya ka karolo 167;  
   “Banks Act” o kaya Banks Act, 1990 (Molao 94 wa 1990); 15
   “kaelo” e kaya tshupanekelo nthwane le nthwane—
   (a) ka tshupetso e mo go yona tuelo e e duelwang ka fa tlase ga sediriso sa ditšhelate kgotsa konteraka ya ditšhelate, kgotsa boleng jwa sediriso sa ditšhelate, bo tlhomamiswang; kgotsa  
   (b) e e dirisetswang go lekanyetsa tiro ya letšo le peletso ka maithlomoh a go sala morago mohlaha wa poelo ya tshupanekelo eo kgotsa ya go tlhalosa kabo ya tho yo photonke kgotsa go tsenya tiragatso ya ditšelue mo k葫芦putareng;  
   “lokwalo la kgwebo”, mabapi le motho, le kaya lokwalo le le tshwetweng ke motho mabapi le go tseletetsa pele kgwebo; 25 
   “mafele a kgwebo” a kaya mafele, go akaretsa le moa go kgotsa kgotla karolo moa go, e e diriswang ke motho go tseletetsa kgwebo pele;  
   “Modulasetilo” o kaya motho yo o mo otising ya Modulasetilo le Lekgotla go ya ka karolo 220(4), le go akaretsa namo-o-sa-tshwere wa Modulasetilo;  
   “Mothlankedimogolo wa Khuduthamaga” o kaya Motlhankedimogolo ya Khuduthamaga ya Bothati jwa Thokomelo yo o thapi lweng go ya ka karolo 36(1), le go akaretsa namo-o-sa-tshwere wa Motlhankedimogolo wa Khuduthamaga;  
   “Ombud yo Mogolo” o kaya motho yo o thapi lweng jaaka Ombud yo Mogolo wa Kanhsele ya Ombud go ya ka karolo 188;  
   “sekema sa peelotsommo” se na le bokao jo bo tshwanang le jo se 35 tlhalositsweng ka jona mo karolong 1 ya Collective Investments Schemes Control Act, 2002 (Molao 45 wa 2002);  
   “Khomisenara”, mabapi le Bothati jwa Boitshwara jwa Lephata la Ditšhelate, o kaya Khomisenara wa Bothati jwa Boitshwara jwa Lephata la Ditšhelate yo o thapi lweng go ya ka karolo 61(1), le go akaretsa namo-o-sa-tshwere wa 40 Khomisenara;  
   “Companies Act” o kaya Companies Act, 2008 (Molao 71 wa 2008);  
   “setlamo” se na le bokao jo bo tshwanang le jo se 35 tlhalositsweng ka jona mo karolong 1 ya Companies Act;  
   “Khomisenya ya Kgaisano” e kaya Khomisenya ya Kgaisano e e tlhomilweng go ya ka karolo 19 ya Competition Act, 1998 (Molao 89 wa 1998); 45 
   “maemo a boitshwara” a kaya maemo a a dirilweng go ya ka karolo 106;  
   “Molaotheo” o kaya Molaotheo ya Rephaboliki ya Aforikaborwa, 1996;  
   “Consumer Protection Act” o kaya Consumer Protection Act, 2008 (Molao 68 wa 2008);  
   “mokonteraka” o kaya motho yo setheo sa ditšhelate se dirileng thulaganyo ya kabelano ya ka ditirelo go tswa kwa ntle mme fela a sa akaretsa mokonteraka yo o ikenetseng jaaka go bonetswe pele mo tlhalosong ya “leloko la badiri”; 50 
   “tiro ya taolo” e kaya nthwane le nthwane ya tse di latelang:  
   (a) Tiro ya boloedi jwa kotsi;  
   (b) tiro ya boikamanyi;
“control function” means each of the following:
(a) The risk management function;
(b) the compliance function;
(c) the internal audit function; and
(d) the actuarial function;

“Council for Medical Schemes” means the Council for Medical Schemes established in terms of section 3 of the Medical Schemes Act;

“Court” means a Superior Court as defined in section 1 of the Superior Courts Act, 2013 (Act No. 10 of 2013);

“credit” has the same meaning ascribed to it in section 1 of the National Credit Act;

“credit agreement” has the same meaning ascribed to it in section 1 of the National Credit Act;

“debarment order” means an order made in terms of section 153 or 205;

“Deputy Commissioner” means a person appointed as a Deputy Commissioner in terms of section 61(2), and includes a person acting as a Deputy Commissioner;

“Deputy Governor” means a person appointed in terms of section 4 or 6(1)(a) of the Reserve Bank Act as a Deputy Governor of the Reserve Bank;

“Director-General” means the Director-General of the National Treasury, and includes a person acting as the Director-General;

“disqualified person” means a person who—
(a) is engaged in the business of a financial institution, or has a direct material financial interest in a financial institution, except as a financial customer;
(b) is a member of the Cabinet, a member of the Executive Council of a province, a member of the National Assembly, a permanent delegate to the National Council of Provinces, a member of a provincial legislature or a member of a municipal council;
(c) is an office-bearer of, or is in a remunerated leadership position in, a political party;
(d) has at any time been removed from an office or position of trust;
(e) is or has been subject to debarment in terms of a financial sector law;
(f) is or has at any time been sanctioned for contravening a law relating to the regulation or supervision of financial institutions, or the provision of financial products or financial services or a corresponding law of a foreign jurisdiction;
(g) is or has at any time been convicted of—
(i) theft, fraud, forgery, uttering of a forged document, perjury or an offence involving dishonesty, whether in the Republic or elsewhere; or
(ii) an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Parts 1 to 4, or section 17, 20 or 21 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or a corresponding offence in terms of the law of a foreign country;
(h) is or has been convicted of any other offence committed after the Constitution came into effect, where the penalty imposed for the offence is or was imprisonment without the option of a fine;
(i) is subject to a provisional sequestration order or is an unrehabilitated insolvent;
(j) is disqualified from acting as a member of a governing body of a juristic person in terms of applicable legislation; or
(k) is declared by the High Court to be of unsound mind or mentally disordered, or is detained in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002);

“document” includes—
(a) a book, record, security, invoice, account and any other information appearing on a physical object;
(b) information stored or recorded electronically, digitally, photographically, magnetically or optically; and
(c) any device on, or by means of, which information is recorded or stored;
(c) tiro ya boruni jwa ka fà gare; le
d) tiro ya bogakolodi;
“Khansele ya Dikema tsa Kalafi” e kaya Khansele ya Dikema tsa Kalafi e e
tlhomilweng go ya ka karolo 3 ya Medical Schemes Act;
“Kgotlatshekelo” e kaya Kgotlatshekelo kgogo ya e tlahalotswe mo karolong 1 ya Superior Courts Act, 2013 (Molao 10 wa 2013);
“sekolo” se na le bokao jo bo tshwanang le jo bo fithelwango mo karolong 1 ya Molao wa Sekolo la Bosetshaba;
“tumalano ya sekolo” e na le bokao jo bo tshwanang le jo bo fithelwango mo karolong 1 ya Molao wa Sekolo la Bosetshaba;
“taelo ya kganelo” e kaya taelo e e dirilweng go ya ka karolo 153 kgotsa 205;
“Motlatsakomísenara” o kaya motho yo o thapilweng jaaka Motlatsakho-
mísenara go ya ka karolo 61(2), le go akaresta nama-o-sa-tshwere wa Motlatsakho-
mísenara;
“Motlatsammusisi” o kaya motho yo o thapilweng go ya ka karolo 4 kgotsa 6(1)(a) ya Reserve Bank Act jaaka Motlatsammusisi wa Banka ya Resefe;
“Mokaedikakaretso” o kaya Mokaedikakaretso wa Matlotlo a Bosetshaba, le go
akaresta nama-o-sa-tshwere wa Mokaedikakaretso;
“mothe yo o ileitsweng” o kaya motho yo—
(a) o samaganeng le kgwebo ya setheo sa ditšhelete, kgotsa yo o nang le
gkalihgo e e tlhameletseng mo setheong sa ditšhelete, ntle le fa e se jaaka
morekedi wa ditšhelete;
(b) e leng leloko la Kabinete, leloko la Khanelekhuduthamaga ya porofense, leloko la Kokoano Bosetshaba, kemedi ya leruri ya Khansele ya Bosetshaba ya Diporofose, leloko la kgotlathemolalo ya porofense kgotsa leloko la khanele ya me
tshwara;
(c) e leng modiredi wa, kgotsa o mo maemong a a duelang a boetedlepeje wale,
mokgatlho wa sepolotiki;
(d) ka nako ngwe le ngwe a kileng a tloswa mo ofising kgotsa maemong a
terasete;
(e) o kgotsa kileng a ganela go ya ka molao wa lephata la ditšhelete;
(f) o kgotsa kileng ka nako ngwe le ngwe a othaiwa semmuso ka ntlha ya go
tiola molao o o amanang le taolo kgotsa tlhathibolo ya ditheo tsì ditšhelete, kgotsa dikabelo tsa dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete kgotsa molao o o tsamaelanang le wa taolo wa bodištshaba;
(g) o kgotsa a kileng ka nako ngwe le ngwe a bonwa molato wa—
(i) bogodu, tsetsi, kutso ka leina, tlhagiso ya lokwalo le le utsiweng,
maikano a maaka kgotsa tlolomolo la e tshedimosetso e e
ka tswa e le ma Rephaboliking kgotsa gongwe le gongwe; kgotsa
(ii) tlolomolao go ya ka Prevention of Corruption Act, 1958 (Molao 6 wa
1958), Corruption Act, 1992 (Molao 94 wa 1992), Dikarolo 1 go fitlh́
4, kgotsa dikarolo 17, 20 kgotsa 21, tsa Prevention and Combating of
Corrupt Activities Act, 2004 (Molao 12 wa 2004), kgotsa tlo
tlomaela e e tsamaelanang go ya ka molao wa naga ntle;
(h) o kgotsa a kileng a bonwa molato wa tlolomolao ngwe le ngwe e e dirileng
morago ga fa Molaotheo ya seno ga tsengwa mo tirisong, moo kotlhao e
nen e pateleditswe motlotomolo ke kgotsa e e
ka tswa e le m o Rephaboliking kgotsa gongwe le gongwe; kgotsa
(i) o kgotsa a kileng a bonwa molato wa tlolomolao ngwe le ngwe e e dirileng
morago ga fa Molaotheo ya seno ga tsengwa mo tirisong, moo kotlhao e
nen e pateleditswe motlotomolo ke kgotsa e e
ka tswa e le m o Rephaboliking kgotsa gongwe le gongwe; kgotsa
(j) o ileitsweng go ka nna leloko la mokgatlho o o busang wa setheo go ya ka
molawana o o maleba; kgotsa
(k) o tlhomamitswitswe ke Kgotsatlatshekelo kgogo go sa itekanelang mo tlhala-
nyong kgotsa setsenong kgotsa o emisitswe go ya ka Mental Health Act, 2002
(Molao 17 wa 2002);
“lokwalo” le akaresta—
(a) buka, rekoto, photo, lenanethëko, akhaonelo te nshedimosetso ngwe le ngwe e e
tlhaglelelang mo selong ka nanama;
(b) nshedimosetso e e bolokilweng kgotsa gatisitsweng seileketeroni, nshedimo-
setsohopo, di gatsitsweng, semakenete kgotsa ka pono; le
(c) sediriwa sengwe le sengwe ka ga, kgotsa ka, se nshedimosetso e gatisitsweng
kgotsa bolokilweng;
“eligible financial institution” means each of the following:
(a) A financial institution licensed or required to be licensed as a bank in terms of the Banks Act;
(b) a financial institution licensed or required to be licensed as a long-term insurer in terms of the Long-term Insurance Act or a short-term insurer in terms of the Short-term Insurance Act;
(c) a market infrastructure; and
(d) a financial institution prescribed in Regulations for the purposes of this definition;
“enforceable undertaking” means an undertaking referred to in section 151 or 203;
“Executive Committee” means the Committee established in terms of section 60;
“Financial Advisory and Intermediary Services Act” means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);
“financial conglomerate” means a group of companies designated as a financial conglomerate in terms of section 160;
“financial crime” includes an offence in terms of—
(a) a financial sector law;
(b) sections 2, 4, 5 and 6 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);
(c) the Financial Intelligence Centre Act; or
(d) section 4 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004);
“financial customer” means a person to, or for, whom a financial product, a financial instrument, a financial service or a service provided by a market infrastructure is offered or provided, in whatever capacity, and includes—
(a) a successor in title of the person; and
(b) the beneficiary of the product, instrument or service;
“financial inclusion” means that all persons have timely and fair access to appropriate, fair and affordable financial products and services;
“financial institution” means any of the following, other than a representative:
(a) A financial product provider;
(b) a financial service provider;
(c) a market infrastructure;
(d) a holding company of a financial conglomerate; or
(e) a person licensed or required to be licensed in terms of a financial sector law;
“financial instrument” means—
(a) a share as defined in section 1 of the Companies Act;
(b) a depository receipt and other equivalent instruments;
(c) a debt instrument such as a debenture or a bond, but not a credit agreement;
(d) money market securities as defined in section 1(1) of the Financial Markets Act;
(e) a derivative instrument as defined in section 1(1) of the Financial Markets Act; or
(f) a warrant, certificate, securitisation instrument or other instrument acknowledging, conferring or creating rights to subscribe to, acquire, dispose of, or convert, the financial instruments referred to in paragraphs (a) to (e);
“Financial Intelligence Centre” means the Financial Intelligence Centre established in terms of section 2 of the Financial Intelligence Centre Act;
“Financial Intelligence Centre Act” means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);
“Financial Markets Act” means the Financial Markets Act, 2012 (Act No. 19 of 2012);
“financial product” means a financial product as defined in section 2;
“financial product provider” means a person that, as a business or as part of a business, provides a financial product;
“ditheo ts'a ditšhelete tse di matshwaneedi” di kaya ngwe le ngwe ya tse di latelang:

(a) Setho sa ditšhelete se se abetsweng lasense kgotsa se tlhoka go abelwa lasense jaaka banka go ya ka Banks Act;
(b) setheo sa ditšhelete se se abetsweng lasense kgotsa se tlhoka go abelwa lasense jaaka motlamedi wa inšorense wa paka e e telele go ya ka Long-term Insurance Act kgotsa motlamedi wa inšorense wa paka e e khutshwane go ya ka Short-term Insurance Act;
(c) thulaganyetsa ya popegotheo ya mmaraka; le
(d) setheo sa ditšhelete se se neetsweng mo Melawaneng go ya ka maithomo a thhaloso eno;

“tumalano e e gatelelwang” e kaya tumalano e e kailweng mo karolong 151 kgotsa 203;

“Komiti ya Khuduthamaga” e kaya Komiti e e tlhomilweng go ya ka karolo 60;

“Financial Advisory and Intermediary Services Act” o kaya Financial Advisory and Intermediary Services Act, 2002 (Molao 37 wa 2002);

“ditheo tsa ditšhelete tse di kopaneng” di kaya setlhopho sa ditlamo tse di thapilweng jaaka sa ditšhelete go ya ka karolo 160;

“bosenyi jwa ditšhelete” bo akaretsa tolomolao go ya ka—
(a) molao wa lepaha la ditšhelete;
(b) dikarolo 2, 4, 5 le 6 ts'a Prevention of Organised Crime Act, 1998 (Molao 121 wa 1998);
(c) Financial Intelligence Centre Act; kgotsa
(d) karolo 4 ya Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Molao 33 wa 2004);

“morekedi wa ditšhelete” o kaya motho yo, kuno ya ditšhelete, sediriswa sa ditšhelete, tirelo ya ditšhelete kgotsa tirelo e e tlhokilweng ke thulaganyetsa ya popegotheo ya mmaraka e abelwang kgotsa tlamelwang, kgotsa boemong jwa, ka maemo afe kgotsa afe, gape o akaretsa—
(a) mothathiami wa maemo a motho; le
(b) moamogela ditshwanelo ts'a kuno, sediriswa kgotsa tirelo;

“tsenyelsetso ya ts'a ditšhelete” e kaya gore batho botlhie ba na le phitshelole e e mo nakong e bile e lolame go dikuno le ditirelo ts'a ditšhelete tse di siameng, lolameng le go rekega;

“setheo sa ditšhelete” se kaya ngwe le ngwe ya tse di latelang, esele go na le kemedi:
(a) Moabi wa kuno ya ditšhelete;
(b) Moabi wa tirelo ya ditšhelete;
(c) thulaganyetsa ya popegotheo ya mmaraka;
(d) kgwebo e e okameng tse dingwe ya ditheo tse di kopantsweng tsa ditšhelete;

“setheo sa ditšhelete” se kaya ngwe le ngwe ya tse di latelang, esele go na le kemedi:
(a) Moabi wa kuno ya ditšhelete;
(b) Moabi wa tirelo ya ditšhelete;
(c) thulaganyetsa ya popegotheo ya mmaraka;
(d) kgwebo e e okameng tse dingwe ya ditheo tse di kopantsweng tsa ditšhelete;

“sediriswa sa ditšhelete” se kaya—
(a) šere jaaka e tlhalositswe mo karolong 1 ya Companies Act;
(b) setlankana sa peeleletso le didiriswa tse dingwe tse di lekanang;
(c) sediriswa sa molato se se jaaka tshupamolato kgotsaibonto, mme e seng tumalano ya sekoloto;
(d) tshireletso ya mmaraka wa madi jaaka e tlhalositswe mo karolong 1(1) ya Financial Markets Act;
(e) sediriswa sa se tswang jaaka go tlhalositswe mo karolong 1(1) ya Financial Markets Act;
(f) thebolo, setifikeiti, sediriswa sa bosireletsi kgotsa sediriswa sengwe se se amogelang, abelang kgotsa tlhamang ditshwanelo tsa go naa tokololo go, fitlhelela, rulaganya, kgotsa fetola, didiriswa tsa ditšhelete tse di kailweng mo ditemaneng (a) go fitlha go (e);

“Senthara ya Botlhodi ba ts'a Ditšhelete” e kaya Senthara ya Botlhodi ba ts'a Ditšhelete e e tlhomilweng go ya ka karolo 2 ya Financial Intelligence Centre Act;

“Financial Advisory and Intermediary Services Act” o kaya Financial Advisory and Intermediary Services Act, 2002 (Molao 37 wa 2002);

“Financial Intelligence Centre Act” e kaya Financial Intelligence Centre Act, 2001 (Molao 38 wa 2001);

“Financial Markets Act” e kaya Financial Markets Act, 2012 (Molao 19 wa 2012);
“financial sector body” means each of the following:
(a) The Prudential Authority;
(b) the Financial Sector Conduct Authority;
(c) the Tribunal;
(d) the Ombud Council;
(e) the Office of the Pension Funds Adjudicator; and
(f) the Office of the Ombud for Financial Services Providers;

“Financial Sector Conduct Authority” means the authority established in terms of section 56;

“financial sector law” means—
(a) this Act;
(b) a law listed in Schedule 1;
(c) a Regulation made in terms of this Act or made in terms of a law referred to in Schedule 1; or
(d) a regulatory instrument made in terms of this Act or made in terms of a law referred to in Schedule 1;

“financial sector regulator” means—
(a) the Prudential Authority;
(b) the Financial Sector Conduct Authority;
(c) the National Credit Regulator, but only in respect of Parts 2, 3 and 5 of Chapter 2, and Parts 1, 2 and 3 of Chapter 5; or
(d) the Financial Intelligence Centre, but only in respect of Parts 2, 3 and 5 of Chapter 2, and Parts 1, 2 and 3 of Chapter 5;

“financial service” means a financial service as defined in section 3;

“financial service provider” means a person that, as a business or as part of a business, provides a financial service;

“financial stability” means financial stability as defined in section 4;

“Financial Stability Oversight Committee” means the committee established in terms of section 20;

“financial system” means the system of institutions and markets through which financial products, financial instruments and financial services are provided and traded, and includes the operation of a market infrastructure and a payment system;

“Financial System Council of Regulators” means the council established in terms of section 79(1);

“financial year” means a period of 12 months commencing on 1 April of each year;

“foreign financial instrument” means an instrument provided outside the Republic, or provided by a person outside the Republic, that is similar to, or corresponds to, a financial instrument;

“foreign financial product” means a facility or arrangement provided outside the Republic, or provided by a person outside the Republic, that is similar to, or corresponds to, a financial product;

“Friendly Societies Act” means the Friendly Societies Act, 1956 (Act No. 25 of 1956);

“governing body” means—
(a) in relation to a financial institution, a person or body of persons, whether elected or not, that manages, controls, formulates the policy and strategy of the financial institution, directs its affairs or has the authority to exercise the powers and perform the functions of the financial institution, and includes—
(i) the general partner of an en commandite partnership or the partners of any other partnership;
(ii) the members of a close corporation;
(iii) the trustees of a trust;
(iv) the board of directors of a company; and
(v) the board of a pension fund referred to in section 7A of the Pension Funds Act; and
(b) in relation to an ombud scheme, the body of persons that oversees the affairs of the ombud scheme;
“kuno ya ditšhele” e kaya kuno ya ditšhele jaaka ya tlhalositswe mo karolong 2;

“moabi wa dikuno tsa ditšhele” o kaya motho yo, jaaka kgwebo kgotsa karolo ya kgwebo, a tlamelang ka kuno ya ditšhele;

“mokgatlho walephata la ditšhele” o kaya ngwwe le ngwwe ya tse di latelang:
(a) Bothati jwa Tlhokomelo;
(b) Bothati jwa Boitshwaro jwa Lephata la Ditšhele;
(c) Lekgotla;
(d) Khansele ya Ombud;
(e) Ofisi ya Moatlhodi wa Matlole a Penšene; le
(f) Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Ditšhele;

“Bothati jwa Boitshwaro jwa Lephata la Ditšhele” bo kaya bothati jo bo tlhomilweng go ya ka karolo 56;

“molao wa lephata la ditšhele” o kaya—
(a) Molao ono;
(b) molao o o neetsweng mo ņe-Juleng 1;
(c) Molawana o o dirilweng go ya ka Molao ono kgotsa o o dirilweng go ya ka molao o o o kailweng mo ņe-Juleng 1; kgotsa
(d) sediriswa sa taolo se se dirilweng go ya ka Molao ono kgotsa se se dirilweng go ya ka molao o o o kailweng mo ņe-Juleng 1;

“molaodi wa lephata la ditšhele” o kaya—
(a) Bothati jwa Tlhokomelo;
(b) Bothati jwa Boitshwaro jwa Lephata la Ditšhele;
(c) Molaodi wa Bosetšhaba wa Sekololo, fela mabapi le DiKarolo 2, 3 le 5 tsa Kgalo 2, le Dikarolo 1, 2 le 3 tsa Kgalo 5; kgotsa
(d) Senthara ya Bothlendi jwa Ditšhele, fela mabapi le Dikarolo 2, 3 le 5 tsa Kgalo 2, le Dikarolo 1, 2 le 3 tsa Kgalo 5;

“tirelo ya ditšhele” e kaya tirelo ya ditšhele jaaka e tlhalositswe mo karolong 3;

“moabi wa tirelo ya ditšhele” o kaya motho yo, jaaka kgwebo kgotsa karolo ya kgwebo, a tlamelang ka tirelo ya ditšhele;

“tlhomamo ya ditšhele” e kaya tlhomamo ya ditšhele jaaka e tlhalositswe mo karolong 4;

“Komititi ya Kelothoko ya Tlhomamo ya Ditšhele” e kaya komititi e e tlhomilweng go ya ka karolo 20;

“thulaganyo ya ditšhele” e kaya thulaganyo ya ditšhele le dišitele, le dišitele le ditirelo tsa ditšhele, dišitele le tlhalositswe mo karolong 20;

FriendlySocietiesAct, 1956(Molao 25 wa 1956);

“mokgatlho o o busang” o kaya—
(a) mabapi le setheo sa ditšhele, motho kgotsa mokgatlho wa batho, ba tlhomilweng kwetse 12 go simolola ka 1
Moranang wa ngwagwa ngwwe ya tse; le
(b) mabapi le setheo sa ditšhele, motho kgotsa mokgatlho wa batho, ba tlhomilweng kwetse 12 go simolola ka 1
Moranang wa ngwagwa ngwwe ya tse; le

FriendlySocietiesAct, 1956(Molao 25 wa 1956);

“mokgatlho o o busang” o kaya—
(a) mabapi le setheo sa ditšhele, motho kgotsa mokgatlho wa batho, ba tlhomilweng kwetse 12 go simolola ka 1
Moranang wa ngwagwa ngwwe ya tse; le
(b) mabapi le setheo sa ditšhele, motho kgotsa mokgatlho wa batho, ba tlhomilweng kwetse 12 go simolola ka 1
Moranang wa ngwagwa ngwwe ya tse; le

FriendlySocietiesAct, 1956(Molao 25 wa 1956);

“mokgatlho o o busang” o kaya—
(a) mabapi le setheo sa ditšhele, motho kgotsa mokgatlho wa batho, ba tlhomilweng kwetse 12 go simolola ka 1
Moranang wa ngwagwa ngwwe ya tse; le
(b) mabapi le setheo sa ditšhele, motho kgotsa mokgatlho wa batho, ba tlhomilweng kwetse 12 go simolola ka 1
Moranang wa ngwagwa ngwwe ya tse; le
“Governor” means the person appointed in terms of section 4 or 6(1)(a) of the Reserve Bank Act as the Governor of the Reserve Bank;
“group of companies” has the same meaning ascribed to it in terms of section 1 of the Companies Act;
“head of a control function” means a person appointed by a financial institution to ensure the performance of a control function, and includes a person so appointed through an outsourcing arrangement;
“holding company” means a holding company as defined in section 1 of the Companies Act, being a company incorporated in the Republic;
“index” means any figure—
(a) that is published or made available to the public; and
(b) that is regularly determined—
   (i) entirely or partially by the application of a formula or any other method of calculation, or by an assessment; and
   (ii) on the basis of the value of one or more underlying assets or prices, and any derivative thereof; and
(c) is determined to be an index for this purpose by the Financial Sector Conduct Authority;
“industry ombud scheme” means an arrangement with the following characteristics:
(a) The arrangement is established by one or more financial institutions;
(b) the purpose of the arrangement is to facilitate mediation and resolution of complaints from financial customers about financial institutions that are members of the ombud scheme; and
(c) mediation or resolution of the complaints in terms of the ombud scheme is undertaken by an ombud appointed in terms of the ombud scheme’s governing rules;
“Inter-Ministerial Council” means the Financial Sector Inter-Ministerial Council established in terms of section 83(1);
“interpretation ruling” means a statement in terms of section 142;
“inter-related” has the same meaning ascribed to it in terms of section 1 of the Companies Act;
“investigator” means a person appointed as an investigator in terms of section 134;
“joint standard” means a standard made in terms of section 107;
“juristic person” includes—
(a) a company, close corporation or co-operative incorporated or registered in terms of legislation whether in the Republic or elsewhere;
(b) an association, partnership, club or other body of persons of whatever description, corporate or unincorporated;
(c) a trust or trust fund;
(d) an entity referred to in paragraph (a), (b) or (c) that is in liquidation, under business rescue proceedings or under judicial management; and
(e) the estate of a deceased or insolvent person;
“key person”, in relation to a financial institution, means each of the following:
(a) A member of the governing body of the financial institution;
(b) the chief executive officer or other person in charge of the financial institution;
(c) a person other than a member of the governing body of the financial institution who makes or participates in making decisions that—
   (i) affect the whole or a substantial part of the business of the financial institution; or
   (ii) have the capacity to affect significantly the financial standing of the financial institution;
(d) a person other than a member of the governing body of the financial institution who oversees the enforcement of policies and the implementation of strategies approved or adopted by the governing body of the financial institution;
(e) the head of a control function of the financial institution; and
(f) the head of a function of the financial institution that a financial sector law requires to be performed;
“Mmusisi” o kaya motho yo o thapilweng go ya ka karo lo 4 kgotsa 6(1)(a) ya Reserve Bank Act jaaka Mmusisi wa Banka ya Rese;e “sethlopha sa ditlamo” se na le bokao jo bo tshwanang le jo se thalositsweng ka jona mo karolong 1 ya Companies Act; “tlhogo ya tiro ya taolo” o kaya motho yo o thapilweng ke setheo sa ditšhelete go netefatša go dira ga tiro ya taolo, le go akaretsa motho yo o thapilweng jalo ka thu laganyo ya go batla tiro le tswa kwa ntle; “kgwebo e e okameng tse dingwe” e kaya kgwebo e e okameng tse dingwe jaaka e thalositswe mo karolong 1 ya Companies Act, e lengl setlamo se se tsentsweng mo Rephaboliking; “tšhupanekelo” e kaya palo ngwe le ngwe— (a) e e phasaladitsweng kgotsa e e fililelelwang ke setšhaba; le (b) e e tlhamamiswang nako le nako— (i) ka botlalo kgotsa e seng ka botlalo ka tiriso ya fomula kgotsa mokgwa mongwe le mongwe pa palelo, kgotsa ka tekolo; le (ii) ka go klaega mo boleng jwa tho.to kgotsa ditlhotlhwa tse di fitlhegileng, kgotsa ditswa dinwe le dingwe tsa tsona; le (c) e tlhamamiswa go nna tšhupanekelo mabapi le maithlhomo ano ke Botha jwa Boithshwara jwa Lephata la Ditšhelete; “sekema sa ombud wa bodirelo” se kaya thulaganyo ya dipharologantsho tse di latelang: (a) Thulaganyo e tlhomilwe ke setheo sa ditšhelete se le esi kgotsa go feta; (b) maithlhomo a thulaganyo ke go noloftsya tšereganyo le tharabololo ya dingongorego ga tshwana go badiriša ba ditšhelete ke ga dikuno tse di tsepameng tsa ditšhelete kgotsa ditirelo tsa ditšhelete; le (c) tšereganyo kgotsa tharabololo ya dingongorego ga ya ka sekema sa ombud e dirwa ke ombud yo o thapilweng go ya ka melawana ya taolo ya sekema sa ombud; “Khansele ya Ditona” e kaya Khansele ya Ditona ya Lephata la Ditšhelete e e tlhomilweng go ya ka karo lo 83(1); “tšhweto ya tšhaloso” e kaya kanego go ya ka karo lo 142; “amanang” e na le bokao jo bo tshwanang le jo e thalositsweng ka jona mo karolong 1 ya Companies Act; “mmatlisisi” o kaya motho yo o thapilweng jaaka mmatlisisi go ya ka karo lo 134; “maemo a a kopantsweng” a kaya maemo a a diirilweng go ya ka karo lo 107; “setheo se se mo molaong” se akaretsa— (a) setlamo, setlamotekanyetsobeng kgotsa kgwebo tirisano e e tseyeleleditsweng kgotsa e e kwaditsweng go ya ka molawana o o ka tsong o le mo Rephaboliking kgotsa gongwe le gongwe; (b) mokgatlho, sephato, kgotsa setlhopha kgotsa mokgatlho wa batho wa tšhaloso efe, tshwaragano kgotsa ga s tshwaraganang; (c) terasete ya letlole la terasete; (d) setheo se se kailweng mo temaneng (a), (b) kgotsa (c) seo se lehaga nang le tswalokgwebo, ka fa tlase ga ditsamaiso tsa phaloso ya kgwebo kgotsa ka fa tlase ga taolo ya boathodi; le (e) ditlhotso tsa moswi kgotsa motho yo o phuthameng; “motho yo o bothokwa” , mabapi le setheo sa ditšhelete, o kaya ngwe le ngwe ya tse di latelang: (a) Leloko la mokgatlho o o busan ga wa setheo sa ditšhelete; (b) mothathankanogologo wa khuduthamaga kgotsa motho mongwe go ya laolang setheo sa ditšhelete; (c) motho yo mongwe kwa ntle ga leloko la mokgatlho o o busan ga setheo sa ditšhelete yo o dirang kgotsa yo o tsayang karolo mo go tseyang ditshweto tse di— (i) amang kgwebo yo tshilhe kgotsa karolo e e bothokwa ya kgwebo ya setheo sa ditšhelete; kgotsa (ii) ngang le bokgoni jwa go ama segolo maemo a ditšhelete a setheo; (d) motho yo mongwe kwa ntle ga leloko la mokgatlho o o busan ga setheo sa ditšhelete yo o bayang letlho go gatelelwa ga dipholisi le go tsemegang tirison ya maano a a dumeletseng (kgotsa amogetsweng) ke mokgatlho o o busang wa setheo sa ditšhelete; (e) tlhogo ya tiro ya taolo ya setheo sa ditšhelete; le
“legal practitioner” means a legal practitioner as defined in section 1 of the Legal Practice Act, 2014 (Act No. 28 of 2014);
“leniency agreement” means an agreement referred to in section 156;
“levy” means a levy imposed by a financial sector body in terms of legislation that empowers the imposition of a levy, and includes interest payable on an unpaid levy;
“licence” includes a written licence, registration, approval, recognition, permission, consent or any other authorisation in terms of a financial sector law, however it is described in that law, to provide a financial product, financial service or a market infrastructure;
“Long-term Insurance Act” means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);
“market infrastructure” means each of the following, as they are defined in section 1(1) of the Financial Markets Act:
(a) A central counterparty;
(b) a central securities depository;
(c) a clearing house;
(d) an exchange; and
(e) a trade repository;
“Medical Schemes Act” means the Medical Schemes Act, 1998 (Act No. 131 of 1998);
“Minister” means the Minister of Finance;
“National Credit Act” means the National Credit Act, 2005 (Act No. 34 of 2005);
“National Credit Regulator” means the National Credit Regulator established in terms of section 12 of the National Credit Act;
“National Payment System Act” means the National Payment System Act, 1998 (Act No. 78 of 1998);
“National Treasury” means the National Treasury established in terms of section 5 of the Public Finance Management Act;
“ombud” means each of the following:
(a) The Adjudicator as defined in section 1(1) of the Pension Funds Act;
(b) the Ombud for Financial Services Providers as defined in section 1(1) of the Financial Advisory and Intermediary Services Act;
(c) a person declared by a specific financial sector law to be a statutory ombud; and
(d) a person who has the function, in terms of the rules of a recognised industry ombud scheme, of mediating or resolving complaints to which the scheme applies;
“Ombud Board” means the Board of the Ombud Council established in terms of section 179(1);
“Ombud Council” means the Ombud Council established in terms of section 175;
“Ombud Council rule” means a rule made by the Ombud Council in terms of section 201;
“ombud scheme” means—
(a) an industry ombud scheme; or
(b) a statutory ombud scheme;
“organ of state” has the same meaning ascribed to it in terms of section 239 of the Constitution;
“outsourcing arrangement”, in relation to a financial institution, means an arrangement between a financial institution and another person for the provision to or for the financial institution of any of the following:
(a) A control function;
(b) a function that a financial sector law requires to be performed or requires to be performed in a particular way or by a particular person; and
(c) a function that is integral to the nature of a financial product or financial service that the financial institution provides, or is integral to the nature of the market infrastructure, but does not include—
(i) a contract of employment between the financial institution and a person referred to in paragraph (a) or (b) of the definition of “staff member”; or
(ii) an arrangement between a financial institution and a person for the person to act as a representative of the financial institution;
(f) motho yo o dirang tiro mo kgotsa go setheo sa ditšhelete e molao wa lephata la ditšhelete o batlang gore e dirwe;

“modirakamolao” o kaya modirakamolao jaaka go lhalositswe mo karolong 1 ya Molao wa Tiragatso ya tsa Molao, 2014 (Molao 28 wa 2014);

“tumalano ya kutwelo lobthoko” e kaya tumalano e e kaibang mo karolong 156;

“lekgethwana” le kaya lekgethwana lengwe le lengwe le le duelwang swa mokgatlho wa lephata la ditšhelete go ya ka molawana o o nangthata ya tse idiso ya lekgethwana, e bile le akaretsa morokotsos o o duelwang mo lekgethwangeng le le sa duelwang;

“laesense” e akaretsa laesense e e kwetsweng, kwadiso, thebolo, kamogelo, tetelelo, tumelelo kgotsa tumelelo ngwe le ngwe go ya ka molawao wa lephata la ditšhelete, mme fela go lhalositswe mo molaong oo, go tlamelale kuno ya ditšhelete, tirolo ya ditšhelete kgotsa thulaganyetso ya popegotheo ya mmarakaa;

“Long Term Insurance Act” o kaya Long-term Insurance Act, 1998 (Molao 52 wa 2000);

“thulaganyeto ya popegotheo” e kaya nngwe le nngwe ya tse di latelang, jaaka di lhalositswe mo karolong 1(1) ya Financial Markets Act:

(a) Mokgatlho o o kalithanelong le tirisano ya ditšhelete wa magareng;

(b) Bobelelo jwa magareng jwa ditlholo;

(c) setheo sa kgwebo sa dibanka;

(d) kananyo; le

(e) setheo sa kgwebo;

“Medical Schemes Act” o kaya Medical Schemes Act, 1998 (Molao 131 wa 1998);

“Tona” o kaya Tona ya Matlotlo;

“National Credit Act” o kaya 2005 (Molao 34 wa 2005);

“Bolaodi jwa Bosetšhaba jwa Sekoloto” bo kaya Bolaodi jwa Bosetšhaba jwa Sekoloto jo bo tlholmiweng go ya ka karolo 12 ya Molao wa Bosetšhaba wa Sekoloto;

“National Payment System Act” o kaya National Payment System Act, 1998 (Molao 78 wa 2000);

“Matlotlo a Bolaodi” a kaya Matlotlo a Bosetšhaba a a tlholmiweng go ya ka karolo 5 ya Public Finance Management Act;

“ombud” o kaya nngwe le ngwe ya tse di latelang:

(a) Mofatlhodi jaaka go lhalositswe mo karolong 1(1) ya Pension Funds Act;

(b) Ombud wa Batsamedu ba Ditirelo tsu Ditšhelete jaaka go lhalositswe mo karolong 1(1) ya Financial Advisory and Intermediary Services Act;

(c) motho yo o tlhomamisitsweng ke molao o o tsepameng wa lephata la ditšhelete go na ombud wa semolao; le

(d) motho yo o nang le tiro, go ya ka melawana ya sekema se se amogelelseng sa ombud wa bodirelo, ya go tsereganya kgotsa rarabololetse dingongoreng tse sekema se diragatswango tse tsona;

“Boto ya Ombud” e kaya Boto ya Khansele ya Bolaodi jwa Ombud e e tlholmiweng go ya ka karolo 179(1);

“Khansele ya Bolaodi ya Ombud” e kaya Khansele ya Bolaodi ya Sikemetsa ya odiriweng ke Khansele ya Bolaodi ya Ombud go ya ka karolo 201; sa ombud sa semolao sa ombud;

“setheo sa puso” se na le bokao jo bo tshwanang le jo se tlhalositsweng ka jona mo karolong 239 ya Moeletšhoba;

“thulaganyo ya go bona tirolo kwa ntle”, mabapi le setheo sa ditšhelete, e kaya thulaganyo maagareng sa setheo sa ditšhelete le motho yo mongwe mabapi le go tlamelale kgotsa mabapi le setheo sa ditšhelete sa ngwe ngwe ya tse di latelang:

(a) Tiro ya go laola;

(b) tiro e e tlhohwang go dirwa kgotsa go dirwa ka mokgwao o o rieng ke molao wa lephata la ditšhelete kgotsa mo motho yo o rieng; le

(c) tiro e e leng bothokwana mo go nmeng teng ga kuno ya ditšhelete kgotsa tirolo ya ditšhelete e e abelwang ke setheo sa ditšhelete, kgotsa e e leng bothokwa.
“panel” means a panel of the Tribunal constituted in terms of section 224;
“panel list” means the list referred to in section 225;
“panel member” means a member of a panel;
“party”, to proceedings on a reconsideration of a decision by the Tribunal, means—
(a) the person who applied for the reconsideration; and
(b) the decision-maker that made the decision;
“payment service” means a service provided to a financial customer to facilitate payments to, or from, the financial customer;
“payment system” has the same meaning ascribed to it in terms of section 1 of the National Payment System Act;
“Pension Funds Act” means the Pension Funds Act, 1956 (Act No. 24 of 1956);
“person” means a natural person or a juristic person, and includes an organ of state;
“Promotion of Administrative Justice Act” means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);
“Protection of Personal Information Act” means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
“provision of a benchmark” includes—
(a) administering the arrangements for determining a benchmark;
(b) collecting, analysing or processing input data for the purpose of determining a benchmark; and
(c) determining a benchmark through the application of a formula or other method of calculation or by an assessment of input data provided for that purpose;
“Prudential Authority” means the authority established in terms of section 32;
“Prudential Committee” means the committee established in terms of section 41;
“prudential standard” means a standard made in terms of section 105;
“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
“qualifying stake” means, in respect of a financial institution that—
(a) is a company, that a person, directly or indirectly, alone or together with a related or inter-related person—
(i) holds at least 15% of the issued shares of the financial institution;
(ii) has the ability to exercise or control the exercise of at least 15% of the voting rights attached to securities of the financial institution;
(iii) has the ability to dispose of or control the disposal of at least 15% of the financial institution’s securities; or
(iv) holds rights in relation to the financial institution that, if exercised, would result in the person, directly or indirectly, alone or together with a related or inter-related person—
(aa) holding at least 15% of the securities of the financial institution;
(bb) having the ability to exercise or control at least 15% of the voting rights attached to shares or other securities of the financial institution; or
(cc) having the ability to dispose of or direct the disposal of at least 15% of the financial institution’s securities;
(b) is a close corporation, that a person, directly or indirectly, alone or together with a related or inter-related person, holds at least 15% of the members’ interests or controls, or has the right to control, at least 15% of members’ votes in the close corporation;
(c) is a trust, that a person has, directly or indirectly, alone or together with a related or inter-related person—
(i) the ability to exercise or control the exercise of at least 15% of the votes of the trustees;
(ii) the power to appoint at least 15% of the trustees; or
(iii) the power to appoint or change any beneficiaries of the trust;
mo go mneng teng ga thulaganyetsa ya popegotho ya mmaraka, mme ga e akaretsa—
(i) konteraka ya tiro magareng ga setheo sa ditšhelete le motho yo o kailweng mo temaneng (a) kgotsa (b) ya tlhalosoa ya leloko la badirimomo; kgotsa
(ii) thulaganyo magareng ga setheo sa ditšhelete le motho mbapé le gore motho a dire jaaka kemedi ya setheo sa ditšhelete;
“panele” e kaya panele ya Lekgotla e e bopilweng go ya ka karolo 224;
“lenane la panele” le kaya lenane le le kailweng mo karolong 225;
“leloko la panele” le kaya leloko la panele;
“moamegi”, mo ditsamaisong mo tshékatshekopoletsong ya tswetso ka Lekgotla, o kaya—
(a) motho yo o dirileng kopo ya tshékatshekopoletsetso; le
(b) motsayatshwetso yo o tseng tswetsetso;
“tirelo ya tuelo” e kaya tirelo e e tlametsweng go morekedi wa ditšhelete go nolofatsa tuelo go, kgotsa go tswe go, morekedi wa ditšhelete;
“thulaganyo ya tuelo” e na le bokao jo bo tshwanang le jo e tlhalositsweng ka jona mo karolong 1 ya National Payment System Act;
“Pension Fund Act” o kaya Pension Funds Act, 1956 (Molao 24 wa 1956);
“motho” o kaya motho wa tlhölego kgotsa setheo, le go akaretsa setheo sa puso;
“Promotion of Administrative Justice Act” o kaya Promotion of Administrative Justice Act, 2000 (Molao 3 wa 2000);
“Protection of Personal Information Act” o kaya Protection of Personal Information Act, 2013 (Molao 4 wa 2013);
“kabelo ya kaelo” e akaretsa—
(a) tsamaiso ya ditshulaganyo tsa go tlhomamisa kaelo;
(b) go kgobokanya, go sekaseka kgotsa go tsamaisa tsenyo ya tshedimosetso mabapé le maîthlomo a go tlhomamisa kaelo; le
(c) go tlhomamisa kaelo ka tiriso ya fomula kgotsa mokgwa mongwe wa palelo kgotsa tekanyetsa ya tshedimosetso e e tsentsweng e e tlametsweng mabapé le maîthlomo ao;
“Bothati jwa Tlhokomelo” bo kaya bothati jo bo tlhomilweng go ya ka karolo 32;
“Komiti ya Tlhokomelo” e kaya komiti e e tlhomilweng go ya ka karolo 41;
“maemo a tlhokomelo” a kaya maemo a a dirilweng go ya ka karolo 105;
“Public Finance Management Act” o kaya Public Finance Management Act, 1999 (Molao 1 wa 1999);
“maemo a bokgoni” a kaya, mabapi le setheo se ditšhelete se—
(a) e leng setlamo, seo motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano—
(i) a nang le bonnye 15% ya dišere tsa setheo sa ditšhelete;
(ii) a nang le bokgoni jwa go diragatsa kgotsa go laola tiragatsa ya 15% ya ditshwanelo tsa go tlhopha tse di patagantsweng le ditšho tsa setheo sa ditšhelete;
(iii) a nang le bokgoni jwa go ntsha kgotsa go laola go ntshiwa ga bonnye 15% ya ditšho tsa setheo sa ditšhelete; kgotsa
(iv) yo o nang le ditshwanelo mabapé le setheo sa ditšhelete tse, fa di diragatswa, di ka nnang le ditlamorago tseo motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano—
(aa) a nang le bonnye 15% ya ditšho tsa setheo sa ditšhelete;
(bb) a nang le bokgoni jwa go diragatsa kgotsa go laola tiriso 15% ya ditshwanelo tsa go tlhopha tse di patagantsweng le dišere kgotsa ditšho tse dingwe tsa setheo sa ditšhelete; kgotsa
(cc) a nang le bokgoni jwa go ntsha kgotsa go laola go ntshiwa ga bonnye 15% ya ditšho tsa setheo sa ditšhelete; kgotsa
(b) e leng setlamotekanyešobeng, se motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano, a nang le bonnye 15% ya dikgatlhgo kgotsa ditlaolo tse diboutu maloko mo setlamotekanyešobeng;
(c) e leng terasete, se kaya gore motho o na le, ka tlhamalalo kgotsa e seng ka tlhamalalo, a le esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano—
“recognised industry ombud scheme” means an industry ombud scheme that is recognised in terms of section 194;
“Regulation” means a Regulation made in terms of section 288;
“regulator’s directive” means a directive issued by a financial sector regulator in terms of section 143, 144 or 159;
“regulatory instrument” means each of the following:
(a) a prudential standard;
(b) a conduct standard;
(c) a joint standard;
(d) an Ombud Council rule;
(e) a determination of fees in terms of section 237(1)(a);
(f) an instrument identified as a regulatory instrument in a financial sector law;
(g) an instrument amending or revoking an instrument referred to in paragraphs (a) to (f);
“related party”, in relation to a person (the “first person”), means a person connected to the first person in a manner described in section 2(1)(a), (b) or (c) of the Companies Act;
“Register” means the Financial Sector Information Register referred to in section 256;
“representative”, in relation to a financial institution, means a representative of the institution in terms of the Financial Advisory and Intermediary Services Act;
“Reserve Bank” means the South African Reserve Bank as referred to in section 223 of the Constitution, read with the Reserve Bank Act;
“Reserve Bank Act” means the South African Reserve Bank Act, 1989 (Act No. 90 of 1989);
“responsible authority”, for a financial sector law, means the responsible authority for the financial sector law as defined in section 5;
“section 27 memorandum of understanding” means a memorandum of understanding referred to in section 27;
“section 77 memorandum of understanding” means a memorandum of understanding referred to in section 77;
“securities services” has the same meaning ascribed to it in terms of section 1(1) of the Financial Markets Act;
“service provided by a market infrastructure” means business conducted or a function or duty performed by a market infrastructure in terms of the Financial Markets Act, and “services provided by market infrastructures” has a similar meaning;
“Short-term Insurance Act” means the Short-term Insurance Act, 1998 (Act No. 53 of 1998);
“significant owner”, of a financial institution, means a significant owner of the institution as described in section 157;
“special levy” means a levy imposed as a special levy by a financial sector body in terms of legislation that empowers the imposition of a levy;
“specific financial sector law” means a financial sector law, other than this Act, regulating a specific type of financial product, financial service or market infrastructure;
“staff member”, of a person, means—
(a) an employee, as defined in section 213 of the Labour Relations Act, 1995 (Act No. 66 of 1995);
(b) a natural person who is seconded to the person;
(c) a natural person who is engaged by the person on contract as an independent contractor to provide goods or services to the person or to perform functions or duties on behalf of the person under terms specified in the contract, but not in terms of an outsourcing arrangement;
“standard” means any of the following:
(a) a prudential standard;
(b) a conduct standard; and
(c) a joint standard;
(i) a rang le bokgoni jwa gpo diragatsa kgotsa go laola tiragatso ya bonnye 15% ya diboutu tsa badisi;
(ii) thata ya go thapa bonnye 15% ya badisi; kgotsa
(iii) thata ya go thapa kgotsa go fetola baamogeladitshwanelo bangwe le bangwe ba terasete.

“sekema sa ombud wa bodirelo se se amogetsweng” se kaya sekema sa ombud wa bodirelo se se amogetsweng go ya ka karolo 194;

“Molawana” o kaya Molawana o o dirilweng go ya ka karolo 288;
“taelo ya molaodi” e kaya taelo e e rebotsweng ke molaodi wa lephata la ditšhelete go ya ka karolo 143, 144 kgotsa 159;

“sedišiswa sa bōlaodi” se kaya nngwe le nngwe ya tse di latelang:
(a) Maemo a tlhokomelo;
(b) maemo a boitshwaro;
(c) maemo a a kopantsweng;
(d) mola wa Khansele ya Bolaodi jwa Ombud;
(e) tlhomamisyo ya dittuediso go ya ka karolo 237(1)(a);
(f) sedirišiswa se se supišlwe jaka sedirišiswa sa bōlaodi mo molaong wa lephata la ditšhelete; le
(g) sedirišiswa se se tlhalošalang kgotsa gogelang morago sedirišwa se se kaišlweng mo ditēnemeng (a) go fithla go (f);

“lethakore la lamano”, mabapi le motho (“motho wa nthla”), le kaya motho yo o amanang le motho wa nthla go ya ka mokgwa o o tlhalošitsweng mo karolo 2(1)(a), (b) kgotsa (c) ya Companies Act;

“Rejišetara” e kaya Rejišetara ya Tshedimosetso ya Lephata la Ditshelete e e kaišlweng mo karolo 256;
“kemedi”, mabapi le setheo sa ditšhelete, e kaya kemedi ya setheo go ya ka Financial Advisory and Intermediary Services Act;

“Banka ya Reseфе” e kaya Banka ya Reseфе ya Aforikaborwa jaka e kaišlweng mo karolo 223 ya Molaotheo, buisa mmogo le Reserve Bank Act;

“Reserve Bank Act” o kaya South African Reserve Bank Act, 1989 (Molao 90 wa 1989);

“bothati jo bo rwaŋaŋ maikaɾaɓeło” bo kaya bothati jo bo rwaŋaŋ maikaɾaɓeło jaka bo tlhalošitswe mo karoloŋ 5;

“karolo 27 memonالأردنānto wa tumaŋalo” e kaya memonとりあえず wa tumaŋalo o o kaišlweng mo karoloŋ 27;

“karolo 77 memonالأردنānto wa tumaŋalo” e kaya memonとりあえず wa tumaŋalo o o kaišlweng mo karoloŋ 77;

“diʃiɾeɬo tsa diʃiɾo” di na le bokao jo bo tshwanang le jo bo tlhalošitsweng ka jona mo karoloŋ 1(1) ya Financial Markets Act;

“tireɬo e tlaŋeʃtsweng ke thuɬaŋaŋeʃtyo ya popegeʃteyo ya mmaɾaŋa” e kaya kgwebo e e dirilweng kgotsa tiro e e dirilweng ka thuɬaŋaŋeʃtyo ya popegeʃteyo ya mmaɾaŋa go ya ka Financial Markets Act, le “diʃiɾeɬo tse di tlaŋeʃwag ke thuɬaŋaŋeʃtyo ya popegeʃteyo ya mmaɾaŋa” di na le bokao jo bo tshwanang;

“Short Term Insurance Act” e kaya Short-term Insurance Act, 1998 (Molao 53 wa 1998);

“mong yo o bοlħoƙa”, o kaya mong yo o bolħokwa wa setheo jaaka go tlhalošitswe mo karoloŋ 157;

“lekgеtʰwanə le le kgetʰgilēŋ” le kaya lekgеtʰwanə le le duediswag jaaka lekgеtʰwanə le le kgetʰgilēŋ ke mokgatlho wa lephata la ditšhelete go ya ka molawana o o neelanang ka maatla a tuediso ya lekgеtʰwanə;

“molaw o o tsepməŋ wa lephata la ditʃheletə” o kaya molaw wa lephata la ditšhelete, ntle le Molao ono, o o laolang mofuta o o tsepməŋ wa kuno ya ditšhelete, tireɬo ya ditšhelete kgotsa thuɬaŋaŋeʃtyo ya popegeʃteyo ya mmaɾaŋa;

“leloko la bədɨɾi” leo e lengl motho, le kaya—
(a) modiri , jaaka go tlhalošitswe mo karoloŋ 213 ya Labour Relations Act, 1995 (Molao 66 wa 1995);
(b) motho fela yo o boneng tʃhegetso mo mọthong;

“Maemo” a kaya nngwe le nngwe ya tse di latelang:
(a) Maemo a tlhokomelo;
“statutory ombud” means each of the following:
(a) The Adjudicator as defined in section 1(1) of the Pension Funds Act;
(b) the Ombud for Financial Services Providers as defined in section 1(1) of the Financial Advisory and Intermediary Services Act; and
(c) a person declared by a specific financial sector law to be a statutory ombud;
“statutory ombud scheme” means a scheme declared by a specific financial sector law to be a statutory ombud scheme;
“supervised entity” means each of the following:
(a) A licensed financial institution;
(b) a person with whom a licensed financial institution has entered into an outsourcing arrangement; and
(c) a representative of a financial institution;
“supervisory on-site inspection” means an inspection as contemplated in Part 3 of Chapter 9;
“systemic event” means an event or circumstance, including one that occurs or arises outside the Republic, that may reasonably be expected to have a substantial adverse effect on the financial system or on economic activity in the Republic, including an event or circumstance that leads to a loss of confidence that operators of, or participants in, payment systems, settlement systems or financial markets, or financial institutions, are able to continue to provide financial products or financial services, or services provided by a market infrastructure;
“systemically important financial institution” means a financial institution designated in terms of section 29;
“taxable income” has the same meaning ascribed to it in terms of section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);
“this Act” includes the Regulations and regulatory instruments made in terms of this Act;
“transformation of the financial sector” means transformation as envisaged by the Financial Sector Code for Broad-Based Black Economic Empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
“Tribunal” means the Financial Services Tribunal established in terms of section 219(1);
“Tribunal member” means a member of the Tribunal referred to in section 220;
“Tribunal rules” means rules made in terms of section 227;
“trust” has the same meaning ascribed to it in terms of section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988);
“trustee” has the same meaning ascribed to it in terms of section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988);
“website” means a website as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002); and
“winding-up” means the process of dissolving a financial institution that includes the selling of all assets, the paying off of creditors and the distribution of any remaining assets.

(2) In this Act, unless the context indicates otherwise, a word or expression derived from, or that is another grammatical form of, a word or expression defined in this Act has a corresponding meaning.

(3) A reference in a financial sector law, or in an instrument made or issued in terms of a financial sector law, to compliance with financial sector laws or to compliance with a particular financial sector law includes a reference to compliance with requirements in instruments made or issued in terms of the relevant financial sector laws.

Financial products

2. (1) In this Act “financial product” means—
(a) a participatory interest in a collective investment scheme;
(b) a long-term policy as defined in section 1(1) of the Long-term Insurance Act;
(b) maemo a boitshwaro; le
(c) maemo a a kopantsweng;

“ombud wa semolao” o kaya nngwe le nngwe ya tse di latelang:

(a) Moatlhodi jaaka go thalositswe mo karolong 1(1) ya Pension Funds Act;
(b) Ombud wa Batlamedi ba Ditirelo tsa Ditšeletse jaaka go thalositswe mo karolong 1(1) ya Financial Advisory and Intermediary Services Act; le
(c) motho yo o thomamasitsweng ka molao o o tsepameng wa lephata la ditšeletse go nna ombud wa semolao;

“sekema sa ombud sa semolao” se kaya sekema se se thomamasitsweng ke molao o o tsepameng wa lephata la ditšeletse go nna sekema sa ombud sa semolao;

“setheo se se thokometsweng” se kaya nngwe le nngwe ya tse di latelang:
(a) Setheo sa ditšeletse se se abetsweng laesense;
(b) motho yo setheo sa ditšeletse se se abetsweng laesense se dirileng thulaganyo ya go bona tirelo kwa ntle le ena; le
(c) moemedi wa setheo sa ditšeletse;

“tlhatlhabo ya tlhokomelo kwa tirong” e kaya tlhatlhobo e e tswang mo, kgotsa e e leng mokgwa mongwe mo Molaong ono, kgotsa e e leng mokgwa mongwe wa thutapuo, kgotsa e e tlhalositsweng mo Molaong ono le na le bokao jo bo tshwanang.

(2) Mo Molaong ono, ntle le fa tiriso e kaya ka mokgwa mongwe, lefoko kgotsa tlhagiso e e tswang mo, kgotsa e e leng mokgwa mongwe wa thutapuo, lefoko kgotsa tlhagiso e e thalositsweng kwakosa Molaong ono le na le bokao jo bo tshwanang.

Dikuno tsa ditšeletse

2. (1) Mo Molaong ono “dikuno tsa ditšeletse” di kaya—
(a) kgatlhego ya botsakarolo mo sekema se peelestommo;
(b) pholisi ya maka e e tele jaaka e thalositswe mo karolong 1(1) ya Long-term Insurance Act;
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(c) a short-term policy as defined in section 1(1) of the Short-term Insurance Act;
(d) a benefit provided by—
   (i) a pension fund organisation, as defined in section 1(1) of the Pension Funds Act, to a member of the organisation by virtue of membership; or
   (ii) a friendly society, as defined in section 1(1) of the Friendly Societies Act, to a member of the society by virtue of membership;
(e) a deposit as defined in section 1(1) of the Banks Act;
(f) a health service benefit provided by a medical scheme as defined in section 1(1) of the Medical Schemes Act;
(g) except for the purposes of Chapter 4 and section 106, the provision of credit provided in terms of a credit agreement regulated in terms of the National Credit Act;
(h) a warranty, guarantee or other credit support arrangement as provided for in a financial sector law;
(i) a facility or arrangement designated by Regulations for this section as a financial product; and
(j) a facility or arrangement that includes one or more of the financial products referred to in paragraphs (a) to (i).

(2) The Regulations may designate as a financial product any facility or arrangement that is not regulated in terms of a specific financial sector law if—
   (a) doing so will further the object of this Act set out in section 7; and
   (b) the facility or arrangement is one through which, or through the acquisition of which, a person conducts one or more of the following activities:
      (i) Lending;
      (ii) making a financial investment; and
      (iii) managing financial risk.

(3) For the purposes of subsection (2)(b)(ii), a person makes a financial investment when the person (the “investor”—
   (a) gives a contribution, in money or money’s worth, to another person and any of the following apply:
      (i) The other person uses the contribution to generate a financial return for the investor;
      (ii) the investor intends that the other person will use the contribution to generate a financial return for the investor, even if no return, or a loss, is in fact generated;
      (iii) the other person intends that the contribution be used to generate a financial return for the investor, even if no return, or a loss, is in fact generated; and
   (b) has no day-to-day control over the use of the contribution.

(4) For the purposes of subsection (2)(b)(iii), a person manages financial risk when the person—
   (a) manages the financial consequences to the person of particular events or circumstances occurring or not occurring; or
   (b) avoids or limits the financial consequences of fluctuations in, or in the value of, receipts or costs, including prices and interest rates.

(5) Regulations designating a financial product in terms of subsection (2) may specify the financial sector regulator that is the responsible authority for the designated product.

Financial services

3. (1) In this Act “financial service” means—
   (a) any of the following activities conducted in the Republic in relation to a financial product, a foreign financial product, a financial instrument, or a foreign financial instrument:
      (i) Offering, promoting, marketing or distributing;
      (ii) providing advice, recommendations or guidance;
      (iii) operating or managing;
(c) pholisi ya nako e e khutshwane jaaka e tlhalositswe mo karolong 1(1) ya Short-term Insurance Act;

(d) kunomolemo e e tlametsweng ke—
   (i) mokgathlo wa letlole la penêene, jaaka o tlhalositswe mo karolong 1(1) ya Pension Funds Act, go leloko la mokgathlo go ya ka botokololo; 5
   (ii) mokgathlo wa botsalano, jaaka o tlhalositswe mo karolong 1(1) ya Friendly Societies Act, go leloko la mokgathlo go ya ka botokololo;

(e) depositi jaaka e tlhalositswe mo karolong 1(1) ya Banks Act;

(f) kunomolemo ya tirelo ya boitekanelo e e abilweng ke sekema sa kalafi jaaka go tlhalositswe mo karolong 1(1) ya Medical Schemes Act;

(g) ntle le maitlhomo a a mabapi le Kgaelo 4 le karolo 106, dikabelo tsa sekoloto tse di tlametsweng go ya ka tumalano ya sekoloto e lao la olweng go ya ka Molao wa Bosetšaba wa Sekoloto;

(h) tsholofetso, tshireletsego kgotsa tse di kalafi jaaka go tlhalositswe mo molaong wa lephata la ditšhelete;

(i) sediriswa kgotsa thulaganyo e e dirilweng ke Molawana malebana le karolo eno jaaka kuno ya ditšhelete; le

(j) sediriswa kgotsa thulaganyo e e akaretsang kuno kgotsa dikuno tsa ditšhelete tse di ka lôlôweng go ditšhelete ma ditšhelete (a) go folha se (i).

(2) Molawana e ka tlhoma jaaka kuno ya ditšhelete sediriswa kgotsa thulaganyo ngwêle ngwêle e e sa laolweng go ya ka molao o o tsepameng wa setheo sa ditšhelete fa—

(a) go direng jalo, seno se tla ntshetsa pele maitlhomo a Molao ono a a tlhagisitsweng mo karolong 7; le 25

(b) sediriswa kgotsa thulaganyo ke ka yona, kgotsa go neng le yona, motho o ka dirang e le ngwêle kgotsa go fêta se dirôlo tse di lêtланg:
   (i) Kadimo;
   (ii) go dira peletso ya ditšhelete; le
   (iii) go laola dikotsi tsì ditšhelete.

(3) Mabapi le maitlhomo a karotôleletse (2)/(b)/(i), motho ("mmeletsi") o dira peletso ya ditšhelete fa a—

(a) etleetsa, ka tšelele kgotsa boleng jwa tšelele, go motho yo mongwe mme ngwêle ngwêle se tse di lêtланg e e diragatswa:
   (i) Motho yo mongwe o dirisa ketleetsa go tlîsa poelo ya ditšhelete go mmeletsi;
   (ii) mmeletsi o ikaela gore motho yo mongwe o ikaela gore dirisa ketleetsa go tlîsa poelo ya ditšhelete go mmeletsi, le fa go sena poelo, kgotsa tatlhegelo, e e dirilweng; le
   (iii) motho yo mongwe o ikaela gore ketleetsa e dirisetswe go direla mmeletsi poelo ya ditšhelete, le fa go sena poelo, kgotsa tatlhegelo, e e dirilweng; le

(b) sena taolo ya letsetsi le letsetsi mo tirisong ya ketleetsa.

(4) Mabapi le maitlhomo a karotôleletse (2)/(b)/(iii), motho o laola dikotsi tsì ditšhelete fa a—

(a) laola ditlamorago tsa tšelele go motho wa ditiragalo kgotsa mabaca a a ri.leneg a diragala kgotsa a sa diragale; kgotsa
   (b) tîla kgotsa lekanyesa ditlamorago tsa ditšhelete tsa go ya godimo le tla mo, kgotsa mo boleng jwa, dirasiti kgotsa ditshenyegelel, go akaretsa ditshenyegelel le dikolo tsa molokotsa.

(5) Molawana e e tlhoma kuno ya ditšhelete go ya ka karotôleletse (2) e ka totoabalets a boladî jwa lephata la ditšhelete gore ke jona bothati jo bo rwele ngwêle maikarabelo a go laola batlamedi ba kuno ya ditšhelete.

**Ditirelo tsa ditšhelete**

3. (1) Mo Molaong ono "**tirelo ya ditšhelete"** e kaya—

(a) ngwêle ngwêle ya dirito tse di lêtланg tse di dirwang mo Rephaboliing mabapi le kuno ya ditšhelete, kuno ya ditšhelete ya bodîshaba, sediriswa sa ditšhelete, kgotsa sediriswa sa ditšhelete sa bodîshaba:
   (i) Kabelo, tsweletso, papatso kgotsa phatlalatso;
   (ii) go tlamela ka kgakololo, dikatlanegiso kgotsa kaelo;
   (iii) go dirisa ka kgotsa tsa maitsa;
(iv) providing administration services;
(b) dealing or making a market in the Republic in a financial product, a foreign financial product, a financial instrument or a foreign financial instrument;
(c) a payment service;
(d) securities services;
(e) an intermediary service as defined in section 1(1) of the Financial Advisory and Intermediary Services Act;
(f) a service related to the buying and selling of foreign exchange;
(g) a service related to the provision of credit, including a debt collection service, but excluding the services of—
(i) a debt counsellor registered in terms of section 44 of the National Credit Act who provides the services of a debt counsellor as contemplated in that Act;
(ii) a payment distribution agent as defined in section 1 of the National Credit Act; or
(iii) an alternative dispute resolution agent, as defined in section 1 of the National Credit Act;
(h) a service provided to a financial institution through an outsourcing arrangement;
(i) any other service provided by a financial institution, being a service regulated by a specific financial sector law; and
(j) a service designated by the Regulations for this section as a financial service.

(2) A service provided by a market infrastructure is not a financial service unless designated by Regulations in terms of subsection (3).

(3) If doing so will further the object of this Act set out in section 7, the Regulations may designate as a financial service—
(a) any service that is not regulated in terms of a specific financial sector law if the service, that is provided in the Republic, relates to—
(i) a financial product, a foreign financial product, a financial instrument or a foreign financial instrument;
(ii) an arrangement that is in substance an arrangement for lending, making a financial investment or managing financial risk, all as contemplated in section 2(2) to (4); or
(iii) the provision of a benchmark or index; or
(b) a service provided by a market infrastructure.

(4) For the purposes of subsection (1)(b) of the definition of “financial service” in subsection (1)—
“dealing” means any of the following, whether done as a principal or as an agent:
(a) In relation to securities or participatory interests in a collective investment scheme, underwriting the securities or interests; and
(b) the buying or selling of the securities or interests for own account or on behalf of another person as a business, a part of a business or incidental to conducting a business;

“making a market” in a financial instrument takes place when—
(a) a person, through a facility, at a place or otherwise, states the prices at which the person offers to acquire or dispose of financial instruments, whether or not on the person’s own account; and
(b) other persons reasonably expect that they can enter into transactions for those instruments at those prices.

(5) Regulations designating a financial service in terms of subsection (3) may specify the financial sector regulator that is the responsible authority for the designated financial service.

Financial stability

4. (1) For the purposes of this Act, “financial stability” means that—
(a) financial institutions generally provide financial products and financial services, and market infrastructures generally perform their functions and duties in terms of financial sector laws, without interruption;
(iv) go tlamelwa ka ditirelo tsya tsamaiso;
(b) go samangana kgotso go dira mmaraka mo Rephaboliking mo kungon ya ditšhelete, kuno ya ditšhelete ya bodišhaba, sediriwa sa ditšhelete kgotso sediriwa sa ditšhelete sa bodišhaba;
(c) tirelo ya tuelo;
(d) ditirelo tsya ditloko;
(e) tirelo ya magareng jaaka e tšhalositswe mo karolong (1) ya Financial Advisory and Intermediary Services Act;
(f) tirelo e e amanang letheo le thekiso ya kananyo ya bodišhaba;
(g) tirelo e e amanang le kabelo ya sekolo, go akaretsa le tirelo ya kgobokanyo ya molato, mme ga e akaretsa ditirelo tsya—
(i) mogoakohlo wa tsa sekologoa o kwadisitswen ga ya ka karolo 44 ya Molao wa Bostšhaba wa Sekolo, o tšelang ka ditirelo tsya mogoakohlo wa tsa sekologoa ka go tšhalositswe mo Molaong oo;
(ii) modirelo yo o phatlalatsung tšelagalo jaaka ka go tšhalositswe mo karolong 1 ya Molao wa Bostšhaba wa Sekolo, kgotso;
(iii) moemedi yo mongwé wa tšharelo wa tšitulano, jaaka go tšhalositswe mo karolong 1 ya Molao wa Bostšhaba wa Sekolo;
(h) tirelo e e tlamelwango tšo setheo sa ditšhelete ka tšulanganyo ya go bona tirelo kwé ntle;
(i) tirelo ngwé le ngwé e e tlamelwango tšo setheo sa ditšhelete, le ngwé e e laolwé le molao o o tsepameng wa lephata la ditšhelete; le
(j) tirelo e e tlomileleng na Melawana ya karolo eno jaaka ya ditšhelete ya ditšhelete.
(2) Tirelo e e tlamelwango tšo tšulanganyo tšo popegotheo ya mmaraka ga se ya tirelo ya ditšhelete, ntle le fa e tlomilelwa na Melawana go ya ka karolotšalelelelo (3).
(3) Fa go dira jalo go tša tšelageto maikaelelo a Molao ono jaaka a tšhalositswe mo karolong 7, Melawana e ka tlhoma jaaka tirelo ya ditšhelete—
(a) tirelo ngwé le ngwé e e sa laolwé le molao o o tsepameng wa lephata la ditšhelete, e e tlamelwango tšo ditirelo; le
(b) tirelo e e tlamelwango tšo tšulanganyo tšo popegotheo ya mmaraka.
(4) Mabapi le maithlomo a karolo (1)/(b) a tšhalosyo ya “tšilelo ya ditšhelete” mo karolotšalelelelo (1)—
“go dirisana le”—, go kaya ngwé le ngwé ya tše di latelang, e dirilwe jaaka moookamedi kgotso moemedi:
(a) Mabapi le dipolo tsya dipolo kgotso botsayakarolo jwa kgathego mo sekemeng sa peletswaneng, go tšamaisa dipolo kgotso dipolo; le
(b) go rekisyo le go rekisyo dipolo kgotso morokotsa mbapile le maikarabelo bobona kgotso mo boemong jwa motho yo mongwé jaaka kgwebo, karolo ya kgwebo kgotso ka go tšamaela na le go dira kgwebo; 40
“go dira mmaraka” mo sediriwa sa ditšhelete go diragala fa—
(a) motho, ka tiriso ya sediriwa, kwa lefelung kgotso ka gongwe, a tšhalis ditlhotlha tše motho a di beleleng go fitlhelela kgotso go rulaganyo sediriwa sa ditšhelete, e ka tsa e ka kgotso e sa ka akhaonto ya motho yoo; le
(b) batho ba bangwe ka bafana ba solofela gore ba ka tšena mo kgwebesangany ga didiriwa tše ka ditlhotlha tše.
(5) Melawana e e tlomang tirelo ya ditšhelete go ya ka karolotšalelelelo (3) e ka tšepamisa boleudi jwa lephata la ditšhelete joo e leng botho bô bo rweleng maikarabelo a go laola batlamedi ba tirelo.

Tlhomamo ya ditšhelete

4. (1) Mabapi le maithlomo a Molao ono, “tlhomamo ya ditšhelete” e kaya gore—
(a) ditheo tsa ditšhelete ka kakaretso di tlamelwa dikuno tsa ditšhelete le ditirelo tsya ditšhelete, le ditlhalaganyo tsa popegotheo ya mmaraka di dira ka kakaretso ditiro le maikarabelo a tšona go ya ka melao ya lephata la ditšhelete, ntle le kgoreletso; 55
(b) financial institutions are capable of continuing to provide financial products and financial services, and market infrastructures are capable of continuing to perform their functions and duties in terms of financial sector laws, without interruption despite changes in economic circumstances; and

(c) there is general confidence in the ability of financial institutions to continue to provide financial products and financial services, and the ability of market infrastructures to continue to perform their functions and duties in terms of financial sector laws, without interruption despite changes in economic circumstances.

(2) A reference in this Act to maintaining financial stability includes, where financial stability has been adversely affected, a reference to restoring financial stability.

Responsible authorities

5. (1) Subject to subsection (2), the responsible authority for a financial sector law is the financial sector regulator identified in Schedule 2 as the responsible authority for that financial sector law.

(2) Despite subsection (1) and sections 2(5) and 3(5), if a section 77 memorandum of understanding provides for one of the financial sector regulators to delegate its functions and powers in relation to a provision of a financial sector law for which it is the responsible authority to another financial sector regulator, the other financial sector regulator is, to the extent of the delegation, the responsible authority for the provision.

Financial institutions that are juristic persons

6. Where a financial sector law imposes an obligation to be complied with by an entity that is a juristic person, the members of the governing body of that juristic person must ensure that the obligation is complied with.

Object and administration of Act

Object of Act

7. (1) The object of this Act is to achieve a stable financial system that works in the interests of financial customers and that supports balanced and sustainable economic growth in the Republic, by establishing, in conjunction with the specific financial sector laws, a regulatory and supervisory framework that promotes—

(a) financial stability;
(b) the safety and soundness of financial institutions;
(c) the fair treatment and protection of financial customers;
(d) the efficiency and integrity of the financial system;
(e) the prevention of financial crime;
(f) financial inclusion;
(g) transformation of the financial sector; and
(h) confidence in the financial system.

(2) When seeking to achieve the object of this Act, the Reserve Bank and the financial sector regulators must not be constrained from achieving their objectives and responsibilities as set out in sections 11, 33 and 57.

Administration of Act

8. The Minister is responsible for the administration of this Act.
(b) ditheo tsa ditšhelete di na le bokgoni jwa go tswelela pele go tlamela dikuno tsa ditšhelete, le ditšulaganyetsa tsa dipopegotheo tsa mmarakana di na le bokgoni jwa go dira ka kaketsetso ditiro le maikarabelo a tsona go ya ka melao ya lephata la ditšhelete, ntle le kgoreletso le fa go na le diphetogo mo mabakeng a ikonomi; le
go na le boikanyego ka kaketsetso mo bokgoning jwa ditheo tsa ditšhelete go tswelela pele go tlamela dikuno tsa ditšhelete le ditirelo tsa ditšhelete, le bokgoni jwa ditšulaganyetsa tsa dipopegotheo go tswelela go dira ditiro le maikarabelo a tsona go ya ka melao ya lephata la ditšhelete, ntle le kgoreletso le fa go na le diphetogo mo mabakeng a ikonomi.

(2) Kaelo mo Molaong ono ya go tsegetsa tlhomamo ya ditšhelete e akaretsa, mo tlhomamo ya ditšhelete e amegileng thata, kaelo ya go busetsa tlhomamo ya ditšhelete.

Bothati jo bo rwalang maikarabelo

5. (1) Go tsamaelana le karolotlaleletsos (2), bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete ke molaodi wa lephata la ditšhelete yo o kai lweng mo Șejuleg 2 jaaka bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete. (2) Ntle le karolotlaleletsos (1) le dikarolo 2(5) le 3(5), fa karolo 77 ya memorantamo wa tumalano o tlamela mabapi le ngwe ya boloedi jwa lephata la ditšhelete go rolela ditiro tsa yona le dithata mabapi le kabelo ya molao wa lephata la ditšhelete oo e leng bothati jo bo rwalang maikarabelo a boloedi jo bongwe jwa lephata la ditšhelete, boloedi jo bongwe jwa lephata la ditšhelete ke, go ya ka bogolo jwa tholelo, bothati jo bo rwalang maikarabelo mabapi le kabelo.

Ditheo tsa ditšhelete tseo e leng ditheo tsa molao

6. Fa molao ya lephata la ditšhelete o pateletsana tlamego e e tshwanetseng go diragatswe ka setheo seo se leng mo molaong, maloko a mokatilho o o busang wa setheo se se mo molaong a tshwanetsa go netefatsa gore go ikamangwela le pateletsego.

Karolo 2

Maitlhomo le tsamaiso ya Molao

Maitlhomo a Molao

7. (1) Maitlhomo a Molao ono ke go fitlhelela tsamaiso e e tlhomameng ya ditšhelete e e dirang go ya ka dikgatilhegelo tsa barekedi ba ditšhelete e bile e tsegetsa kgo yo ikonomi e e lekalekanang e e tsweletswang mo Rephaboliing, ka go tlhoma, mmogo le melao e e tsepameng ya lephata la ditšhelete, letlhomeso la boloedi le tlhokomelo le le nishetsang pele—

(a) tlhomameng ya ditšhelete;
(b) poloko e le itekanelo ya ditheo tsa ditšhelete;
(c) tsholo e e lolameng le tshireletso ya barekedi ba ditšhelete;
(d) bokgoni le tshiamo ya thulaganyo ya ditšhelete;
(e) thibelo ya bosenyi jwa ditšhelete;
(f) tsenyetsa mo go tsu ditšhelete;
(g) phetolo ya lephata la ditšhelete; le
(h) boikanyego mo thulaganyong ya ditšhelete.

(2) Fa go batlwa go fitlhelela le maitlhomo a Molao ono Bank ya Resefo le boloedi ba lephata la ditšhelete ga ba a thswanela go thibelwa mo go fitlheleleno maitlhomo a bona le maikarabelo jaaka go tlhagisitswe mo dikarolong 11, 33 le 57.

Tsamaiso ya Molao

8. Tona o rwa maikarabelo a tsamaiso ya Molao ono.
Part 3

Application of other legislation

Inconsistencies between Act and other financial sector laws

9. (1) In the event of any inconsistency between a provision of this Act, other than a Regulation or a regulatory instrument made under this Act, and a provision of another Act that is a financial sector law, the provision of this Act prevails.

(2) In the event of any inconsistency between a provision of a Regulation or a regulatory instrument made in terms of this Act and a provision of a Regulation or a regulatory instrument made in terms of a specific financial sector law, the provision of the Regulation or regulatory instrument made in terms of this Act prevails.

Application of other legislation

10. (1) The Consumer Protection Act does not apply to, or in relation to—

(a) a function, act, transaction, financial product or financial service that is subject to the National Payment System Act or a financial sector law, and which is regulated by the Financial Sector Conduct Authority in terms of a financial sector law; or

(b) the Reserve Bank, the Prudential Authority, the Financial Sector Conduct Authority, the Prudential Committee, the Executive Committee, the Chief Executive Officer, the Commissioner or a Deputy Commissioner.

(2) (a) Section 18(2) and (3) of the Competition Act, 1998 (Act No. 89 of 1998) applies, with the necessary changes required by the context, to a merger which requires the approval of the Minister, the Prudential Authority or the Financial Sector Conduct Authority in terms of a financial sector law.

(b) For the purposes of paragraph (a), “merger” means a merger as defined in section 12 of the Competition Act.

(c) Section 116(4) and (9) of the Companies Act applies, with the necessary changes required by the context, to an amalgamation or a merger which requires the approval of the Minister, the Prudential Authority or the Financial Sector Conduct Authority in terms of a financial sector law.

(d) For the purposes of paragraph (c), “amalgamation or merger” means an “amalgamation or merger” as defined in section 1 of the Companies Act.

CHAPTER 2

FINANCIAL STABILITY

Part 1

Powers and functions of Reserve Bank

Responsibility for financial stability

11. (1) The Reserve Bank is responsible—

(a) for protecting and enhancing financial stability; and

(b) if a systemic event has occurred or is imminent, for restoring or maintaining financial stability.

(2) When fulfilling its responsibility in terms of subsection (1), the Reserve Bank—

(a) must act within a policy framework agreed between the Minister and the Governor;

(b) may utilise any power vested in it as the Republic’s central bank or conferred on it in terms of this Act or any other legislation; and
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Karolo 3

Tiragatso ya molao o mongwe

Go sa tlhomamang magareng ga Molao le melao e mengwe ya lephata la ditšhelete

9. (1) Fa ka gongwe go na le go sa tlhomamang magareng ga kabelo ya Molao ono le kabelo ya Molao o mongwe oo e leng molao wa lephata la ditšhelete, kabelo ya Molao ono e a diragatswa.

(2) Fa ka gongwe go na le go sa tlhomamang magareng ga kabelo ya Molawana kgotsa sediriswa sa taolo se se dirilweng go ya ka Molao ono, le kabelo ya Molawana kgotsa sediriswa sa taolo se se dirilweng go ya ka molao o o tsepmang wa lephata la ditšhelete, kabelo ya Molawana kgotsa sediriswa sa taolo se se dirilweng go ya ka Molao ono e a diragatswa.

Tiragatso ya molawana

10. (1) Consumer Protection Act ga e diragatswe go, kgotsa mabapi le—

(a) tiri, tiragatso, kuno ya ditšhelete kgotsa tirelo ya ditšhelete tse di leng ka fa tlase ga National Payment System Act kgotsa molao wa lephata la ditšhelete, e bile di laolwa ke Bothati jwa Boitshwao jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete; kgotsa

(b) Banka ya Resefe, Bothati jwa Tlhokomelo, Bothati jwa Boitshwao jwa Lephata la Ditšhelete, Komiti ya Tlhokomelo, Komiti Khuduthamaga, Motlhankedimogolo wa Khuduthamaga, Khomisenara kgotsa Motsatsakho-mišenara.

(2) (a) Karolo 18(2) le (3) ya Competition Act, 1998 (Molao 89 wa 1998), e diragatsa, mmogo le diphetogo tse di maleba tse di thokwang ke maemo, go tshwaraganyo e e thokang thebolo go tswa go Tona, Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwao jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete.

(b) Mabapi le mailthlomo a temana (a), “tshwaraganyo” e kaya tshwaraganyo jaaka e tlhalositswe mo karolong 12 ya Competition Act.

(c) Karolo 116 (4) le (9) ya Companies Act e diragatsa, le diphetogo tse di thokwang ke maemo, go kopano kgotsa tshwaraganyo e e thokang thebolo ya Tona, Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwao jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete.

(d) Mabapi le mailthlomo a temana (c), “kopanyo kgotsa tshwaraganyo” e kaya “kopanyo kgotsa tshwaraganyo” jaaka e tlhalositswe mo karolong 1 ya Companies Act.

KGAOLO 2

TLHOMAMO YA DITŠHELETE

Karolo 1

Dithata le ditiro tsa Banka ya Resefe

Maikarabelo tlhomamo ya ditšhelete

11. (1) Banka ya Resefe e rwala maikarabelo a—

(a) go sireletsa le go oketsa tlhomamo ya ditšhelete; le

(b) fa tiragalo ya thulaganyo e diragetsa kgotsa e ka diragala, go busetsa le go tshegetsa tlhomamo ya ditšhelete.

(2) Fa e diragatsa maikarabelo a yona go ya ka karolotlaleletso (1), Banka ya Resefe e—

(a) tshvanetsa go dira go ya ka lethlhomeso la pholisi le go dumalanweng ka lona magareng ga Tona le Mmusisi;

(b) ka diragatsa thate e e neilweng jaaka banka ya bogareng ya Rephaboliki kgotsa eo e e abetsweng go ya ka Molao ono kgotsa molawana mongwe le mongwe; le
must have regard to, amongst other matters, the roles and functions of other organs of state exercising powers that affect aspects of the economy.

Monitoring of risks by Reserve Bank

12. The Reserve Bank must—
   (a) monitor and keep under review—
       (i) the strengths and weaknesses of the financial system; and
       (ii) any risks to financial stability, and the nature and extent of those risks,
            including risks that systemic events will occur and any other risks contemplated in matters raised by members of the Financial Stability Oversight Committee or reported to the Reserve Bank by a financial sector regulator;
   (b) take steps to mitigate risks to financial stability, including advising the financial sector regulators, and any other organ of state, of the steps to take to mitigate those risks; and
   (c) regularly assess the observance of principles in the Republic developed by international standard setting bodies for market infrastructures, and report its findings to the financial sector regulators and the Minister, having regard to the circumstances and the context within the Republic.

Financial stability review

13. (1) The Reserve Bank must, at least every six months, make an assessment of the stability of the financial system, herein referred to as the “financial stability review”.
   (2) A financial stability review must set out—
       (a) the Reserve Bank’s assessment of financial stability in the period under review;
       (b) its identification and assessment of the risks to financial stability in at least the next 12 months;
       (c) an overview of steps taken by it and the financial sector regulators to identify and manage risks, weaknesses or disruptions in the financial system during the period under review and that are envisaged to be taken during at least the next 12 months; and
       (d) an overview of recommendations made by it and the Financial Stability Oversight Committee during the period under review and progress made in implementing those recommendations.
   (3) Information which, if published may materially increase the possibility of a systemic event, only needs to be published in a financial stability review after the risk of a systemic event subsides, or has been addressed.
   (4) The Reserve Bank must—
       (a) submit a copy of each review to the Minister and the Financial Stability Oversight Committee for information and comment, and allow the Minister or the Financial Stability Oversight Committee at least two weeks to make comments, should they wish to do so;
       (b) publish the review, after having taken into account any comments that may have been received in terms of paragraph (a); and
       (c) table a copy of the review in Parliament.

Part 2

Managing systemic events and risks in relation to systemic events

Determination of systemic events

14. (1) The Governor may, after having consulted the Minister, determine that a specified event or circumstance, or a specified combination of events or circumstances, is a systemic event.
(c) tshwanetse go tsaya tsia, magareng ga mabaka a mangwe, botsayakarolo le ditiro tsa maphata a mangwe a puso tse di diragatsang ditshata tse di amang dintilha tsa ikonomi.

Go lekolwa ga dikotsi ke Banka ya Resefe

12. Banka ya Resefe e tshwanetse—
   (a) go ela tlhoko le go baya ka fa tlase ga thadiso—
      (i) dikgono le makoa a thulaganyo ya dišišele; le
      (ii) dikotsi dingwe le dingwe go tlhomamo ya dišišele, le tlhobelo le
           bogolo jwa dikotsi tseo, go akaretsa le dikotsi tsa gore ditiragalo tse di
           rulaganeng di tla diragala le dikotsi dingwe le dingwe tse di kailweng mo
           mabakeng a a tlhagisitsweng ke maloko a Komiti ya Keletlhoko ya
           Tlhomamo ya Dišišele kgotsa a begilwe go Banka ya Resefe ke
           molaodi wa lephata la dišišele;
   (b) go tsaya dikgato go fokotsa dikotsi go tlhomamo ya dišišele, go akaretsa le
        go gakolola balaodi ba lephata la dišišele, le lephata lengwe le lengwe la
        puso, ka ga dikgato tse di ka tseweng go fokotsa dikotsi tseo; le
   (c) nako le nako go lekanyetsa temogo ya ditheo mo Rephaboliking tse di
        tlhalobotsweng ke mekgatlho ya boditsabatsaba ya go tlhoma dikemo tsa
        thulaganyetsa ya popegotheo ya mmaraka, le go bega diphišthelelo tsa yona
        go balaodi ba lephata la dišišele le Tona, ka go el tla elo mabaka le maemo a
        mo gare ga Rephaboliki.

Thadiso ya tlhomamo ya dišišele

13. (1) Banka ya Resefe e tshwanetse, bonnye dikgwdi dingwe le dingwe tse thataro,
    go dira tekanyetsa ya tlhomamo ya thulaganyo ya dišišele, eo e kailweng fano jaaka
    “thadiso ya tlhomamo ya dišišele”.
    (2) Thadiso ya tlhomamo ya dišišele e tshwanetse go thagisa—
        (a) tekanyetsa ya Banka ya Resefe ya tlhomamo ya dišišele mo pakeng e ka
            fa tlase ga thadiso;
        (b) tlhagiso le tekanyetsa ya dikotsi go tlhomamo ya dišišele mo bonnyeng
            dikgwdi tse 12 tse di latelang;
        (c) tshosobanyo ya dikgato tse e di tserweng mmogo le balaodi ba lephata la
            dišišele go thagisa le go laola dikotsi, makoa kgotsa dikotsi mo
            thulaganyong ya dišišele mo pakeng e ka fa tlase ga thadiso le ao go
            bokolweng pele gore a tla diragala mo dikgwding tse 12 tse di latelang; le
        (d) tshosobanyo ya dikatlanegiso tse e di dirileng mmogo le Komiti ya
            Keletlhoko ya Tlhomamo ya Dišišele mo pakeng e ka fa tlase ga thadiso
            le tswelelopele e etšilheletsweng mo go tsenyeng tisong dikatlanegiso tseo.
    (3) Tshedimosetso e, fa e ka phasalatswa e ka gakatsang kgonagalo ya tiragalo e e
        rulaganeng, e tlhoka go phasalatswa mo thadisong ya thulaganyo ya dišišele morago ga
        go foketsega ga kotsi ya tiragalo e e rulaganeng, kgotsa e sekasekilwe.
    (4) Banka ya Resefe e tshwanetse go—
        (a) romela kgatiso ya thadiso ngwwe le ngwwe go Tona le Komiti ya Keletlhoko
            ya Tlhomamo ya Dišišele go bona tshedimosetso le tshwaelo, le go letla
            Tona kgotsa Komiti ya Keletlhoko ya Tlhomamo ya Dišišele go dira
            ditshwaelo bonnye dibi le di pedi fa ba eletsa go dira jalo;
        (b) phasalatsa thadiso, morago ga go tsaya tsia ditshwaelo dingwe le dingwe tse
            di ka tswang di amogetsew go ya ka temana (a); le
        (c) go baya fa pele ga Palamente khopi ya thadiso.

Karolo 2

Go laola ditiragalo tse di rulaganeng le dikotsi mabapi le ditiragalo tse di rulaganeng

Thhomamiso ya ditiragalo tse di rulaganeng

14. (1) Mmusiisi o ka, morago ga go rerisana le Tona, tlhomamisa gore tiragalo kgotsa
    lebaka le le tsepameng, kgotsa kopano e e tsepameng ya ditiragalo kgotsa mabaka, ke
    tiragalo e e rulaganeng.
(2) The Governor may, before making a determination in terms of subsection (1), consult the Financial Stability Oversight Committee.

(3) A determination in terms of subsection (1) may be made whether or not the event or circumstance, or combination of events or circumstances, has already occurred or arisen.

(4) The Governor may, after having consulted the Minister, determine that a specified systemic event has occurred or is imminent.

(5) The Governor—
   (a) must notify the Minister of a determination made in terms of subsection (1) or (4);
   (b) must keep the determination under review;
   (c) may, at any time, after having consulted the Minister, amend or revoke a determination in writing; and
   (d) must notify the Minister of any amendment or revocation of a determination made in terms of subsection (1) or (4).

(6) The Reserve Bank must notify the financial sector regulators of a determination in terms of this section, and of an amendment or revocation of such a determination.

(7) The Reserve Bank must, in respect of a determination made in terms of subsection (1) or (4), and any amendment or revocation of such a determination—
   (a) table the determination, or the amendment or revocation of the determination, in Parliament; and
   (b) publish the determination, or the amendment or revocation of the determination, on the Reserve Bank’s website.

Functions of Reserve Bank in relation to systemic events

15. (1) The Reserve Bank must take all reasonable steps—
   (a) to prevent systemic events from occurring; and
   (b) if a systemic event has occurred or is imminent, to—
      (i) mitigate without delay the adverse effects of the event on financial stability; and
      (ii) manage the systemic event and its effects.

(2) When acting in terms of subsection (1), the Reserve Bank must have regard to the need to—
   (a) minimise adverse effects on financial stability and economic activity;
   (b) protect, as appropriate, financial customers; and
   (c) contain the cost to the Republic of the systemic event and the steps taken.

Information to Minister

16. (1) If the Governor has in terms of section 14(4) determined that a systemic event has occurred or is imminent, the Governor must ensure that the Minister is kept informed of the event and of any steps being taken or proposed to manage the event and the effects of the event.

(2) The Reserve Bank may not, except with the Minister’s approval, take a step in terms of section 15 that will or is likely to—
   (a) bind the National Revenue Fund to any expenditure;
   (b) have a material impact on the cost of borrowing for the National Revenue Fund; or
   (c) create a future financial commitment or a contingent liability for the National Revenue Fund.

Responsibilities of financial sector regulators

17. If the Governor has in terms of section 14(4) determined that a systemic event has occurred or is imminent, each financial sector regulator must—
(2) Mmusisi o ka, pele ga go tlhomamisa go ya ka karolotlaleletso (1), rerisana le Komiti ya Keletlhoko ya Tlhomamo ya Ditšhelete.

(3) Tlhomamiso go ya ka karolotlaleletso (1) e ka dirwa fa ka gongwe tiragalo kgotsa lebaka, kgotsa kopano ya ditiragalo kgotsa mabaka, di diragetse kgotsa di simolotse.

(4) Mmusisi o ka, morago ga go rerisana le Tona, tlhomamisa gore tiragalo e e rulaganeng e e tsepameng e diragetse kgotsa e ka diragal.

(5) Mmusisi—
   (a) o tshwanetse go itsise Tona ka ga tlhomamiso e e dirilweng go ya ka karolotlaleletso (1) kgotsa (4);
   (b) o tshwanetse go bayla tlhomamiso ka fa tlace ga thadiso;
   (c) o ka, nako ngwe le ngwe, morago ga ga rerisana le Tona, tlhabolola, kgotsa gogela morago tlhomamiso ka go kwala; le
   (d) o tshwanetse go itsise Tona ka ga tlhabololo kgotsa kgogelomorago ya tlhomamiso e e dirilweng go ya ka karolotlaleletso (1) kgotsa (4).

(6) Banka ya Resefe e tshwanetse go itsise balaodi ba lephata la ditšhelete ka ga tlhomamiso go ya ka karolo eno, le ka ga tlhabololo kgotsa kgogelomorago ya tlhomamiso eo.

(7) Banka ya Resefe e tshwanetse, mabapi le tlhomamiso e e dirilweng go ya ka karolotlaleletso (1) kgotsa (4), le tlhabololo ngwe le ngwe kgotsa kgogelomorago ya tlhomamiso eo—
   (a) go bayla fe pele ga Palamente tlhomamiso, kgotsa tlhabololo kgotsa phimolo ya tlhomamiso; le
   (b) go phasalatsa tlhomamiso, kgotsa tlhabololo kgotsa phimolo ya tlhomamiso, mo webesaeteng ya Banka ya Resefe.

Ditiro tsa Banka ya Resefe mabapi le ditiragalo tse di rulaganeng

15. (1) Banka ya Resefe e tshwanetse go tsaya dikgato tsothle tse di maleba—
   (a) go thibela ditiragalo tse di rulaganeng go direga; le
   (b) fa tiragalo e e rulaganeng e diregile kgotsa e ka direga, go—
      (i) thibela ntle le tsheny o ya nako ditlamorago tse di masisi tsa tiragalo mo tlhomamong ya ditšhelete; le
      (ii) laola tiragalo e e rulaganeng le ditlamorago tsa yona.

(2) Fa e diragatsa go ya ka karolotlaleletso (1), Banka ya Resefe e tshwanetse go tsaya tsa thokogo ya go—
   (a) fokotsa ditlamorago tse di masisi mo tlhomamong ya ditšhelete le tiro ya ekonomi;
   (b) sireletsa, jaaka go tshwanetse, barekedi ba ditšhelete; le
   (c) laola ditshenyegelo tsa tiragalo e e rulagantsweng go Rephaboliki le dikgato tse di tsengw.

Tshedimosetso go Tona

16. (1) Fa Tona go ya ka karolo 14(4) a tlhomamisitse gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, Mmusisi o tshwanetse go netefatsa gore Tona o itsisiwe ka ga tiragalo le dikgato dingwe le dingwe tse di tsengw kgotsa tshitsintsweng go laola tiragalo le ditlamorago tsa yona.

(2) Banka ya Resefe e ka se, ntle le thebolo ya Tona, tseye kgato go ya ka karolo 15 e e ka kgotsa e e nang le kgonagalo ya go—
   (a) tlaletla Leitole la Botšëbab la Botšëbab la Lotseno go ditshenyegelo dingwe le dingwe;
   (b) nna le kutlwalo e e botlhokwa mo ditlothothwakadimong go Leitole la Botšëbab la Lotseno; kgotsa
   (c) tlhola boitlamo jwa ditšhelete jwa isago kgotsa molato wa tshoganyetso go Leitole la Botšëbab la Lotseno.

Maikarabelo a balaodi ba lephata la ditšhelete

17. Fa Mmusisi go ya ka karolo 14(4) a tlhomamisitse gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, molaodi mongwe le mongwe wa lephata la ditšhelete e tshwanetse—
(a) provide the Reserve Bank with any information in the possession of the financial sector regulator, which may be relevant for the Bank to manage the systemic event or the effects of the systemic event; and
(b) consult the Reserve Bank before exercising any of their powers in a way that may compromise steps taken or proposed in terms of section 15 to manage the systemic event or the effects of the systemic event.

Directives to financial sector regulators

18. (1) The Governor may direct a financial sector regulator, in writing, to provide the Reserve Bank with information specified in the directive that the Reserve Bank or the Governor needs for exercising their powers in terms of section 14 or 15, that is in the possession of the financial sector regulator or obtainable by it.

(2) (a) If the Governor has in terms of section 14(4) determined that a systemic event has occurred or is imminent, the Governor may, in writing, direct a financial sector regulator to assist the Reserve Bank in complying with section 15 by acting in accordance with the directive when exercising its powers.

(b) A directive in terms of paragraph (a) may include directions aimed at—
(i) supporting the restructuring, resolution or winding-up of any financial institution;
(ii) preventing or reducing the spread of risk, weakness or disruption through the financial system; or
(iii) increasing the resilience of financial institutions to risk, weakness or disruption.

(3) The Prudential Authority, Financial Sector Conduct Authority and the Financial Intelligence Centre must comply with a directive issued to it in terms of subsection (1) or (2).

(4) The National Credit Regulator must comply with a directive issued to it in terms of subsection (1) or (2), provided that the Minister has consulted the Minister responsible for consumer credit matters on the directive.

Exercise of powers by other organs of state

19. (1) If the Governor has in terms of section 14(4) determined that a systemic event has occurred or is imminent, an organ of state exercising powers in respect of a part of the financial system may not, without the approval of the Minister, acting in consultation with the Cabinet member responsible for that organ of state, exercise its powers in a way that is inconsistent with a decision or steps taken by the Governor or the Reserve Bank in terms of this Part, in order to manage that systemic event or the effects of that systemic event.

(2) Any unresolved issues between the Minister and that Cabinet member must be referred to Cabinet.

(3) Subsection (1) does not apply to the financial sector regulators.

Part 3

Financial Stability Oversight Committee

Establishment of Financial Stability Oversight Committee

20. (1) A committee called the Financial Stability Oversight Committee is hereby established.

(2) The primary objectives of the Financial Stability Oversight Committee are to—
(a) support the Reserve Bank when the Reserve Bank performs its functions in relation to financial stability; and
(b) facilitate co-operation and collaboration between, and co-ordination of action among, the financial sector regulators and the Reserve Bank in respect of matters relating to financial stability.
Ditaelo go balaodi ba lephata la ditshelete

18. (1) Mmusisi o ka laela molaodi wa lephata la ditshelete, ka go kwalap, go tlamelatla Banka ya Resefe ka tshedimosetso e e thalositsweng mo taelong e Banka ya Resefe kgotsa Mmusisi a e thhokang go diragatsa dithata tsa gagwe go ya ka karolo 14 kgotsa 15, eo e leng mo diatleng tsa molaodi wa lephata la ditshelete kgotsa e fitlhelelwang ke jona.

(2) (a) Fa Mmusisi go ya ka karolo 14(4) a thhomasilitse gore tiragalo e e rulaganeng e diregile kgotsa e ka diragala, Mmusisi o ka, ka go kwalap, laela molaodi wa lephata la ditshelete, go thusa Banka ya Resefe go ikamanya le karolo 15 ka go dira go tsamaelana le taelo fa bo diragatsa dithata tsa jona.

(b) Taelo go ya ka temana (a) e ka akaretsa dintlha tsa di kaletlaeng go —
(i) tshegetsa kagose ˇwa, tharabololo kgotsa tshwetso ya setheo sengwe le sengwe sa ditshelete;
(ii) thibela kgotsa folokota go anama ga dikotsi, makoa kgotsa dikgoreletsi mo thulaganyong ya ditshelete; kgotsa
(iii) oketsa bokgoni jwa ditho le ditshelete go emelana le dikotsi, makoa kgotsa dikgoreletsi.

(3) Bothati jwa Thlhokomelo, Bothati jwa Boitshwaro jwa Leophata la Ditshelete le Senthara ya Botlhodi jwa Ditshelete di tshwanetse go ikamanya le taelo e e rebotsweng go tsona go ya ka karolotlaletso (1) kgotsa (2).

(4) Boaolaodi jwa Boktshhaya jwa Sekolo bo tshwanetse go ikamanya le taelo e e rebotsweng go ya ka karolotlaletso (1) kgotsa (2), fela fa Tona a rerisane le Tona e e rebotsweng go ya ka karolotlaletso (1) kgotsa (2).

Tiragatso ya dithata ka maphata a mangwe a puso

19. (1) Fa Mmusisi go ya ka karolo 14(4) a thhomasilitse gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, lephata la puso le le diragatsang dithata tsa lona mabapi le thulaganyo ya ditshelete le ka se, ntle le thebolo ya Tona, ka go dira ka therisano le leloko la Kabinete le le rwelelo maa karabelo a lephata lea le Kabinete le le rwelelo maa karabelo a lephata lea, diragatse dithata tsa lona ka mokgwa o o sa tsamaelaneng le thshwetso kgotsa dikgato tse di tsamaelaneng kgotsa Banka ya Resefe go ya ka Karolo eno, gore go laole tiragalo eo e e rulaganeng kgotsa ditlamorago tsa tiragalo eo e e rulaganeng.

(2) Dintlha dingwe le dingwe tse di sa raro baborolewang magareng ga Tona le leloko lea la Kabinete di tshwanetse go romelwa kwa Kabineteng.

(3) Karolotlaletso (1) ga e diragatswe mo balaoding ba lephata la ditshelete.

Karolo 3

Kомити я Kelotlhoko я Thlhomamo я Ditshelete

Go tlhongwa ga Komiti я Kelotlhoko я Thlhomamo я Ditshelete

20. (1) Komiti e e bidiwang Komiti я Kelotlhoko я Thlhomamo я Ditshelete e a tlhongwa.

(2) Matlhonomagolo a Komiti я Kelotlhoko я Thlhomamo я Ditshelete ke go —
(a) tshegetsa Banka ya Resefe fa Banka ya Resefe e dira ditiro tsa yona mabapi le thlhomamo ya ditshelete; le
(b) noloفائجا tirisaanommogo le kgalagano magareng ga, le kopanyo ya tiro magareng ga, balaodi ba lephata la ditshelete le Banka ya Resefe mabapi le merero e e amanang le thlhomamo ya ditshelete.
Functions of Financial Stability Oversight Committee

21. The Financial Stability Oversight Committee has the following functions:
   (a) To serve as a forum for representatives of the Reserve Bank and of each of the financial sector regulators to be informed, and to exchange views, about the activities of the Reserve Bank and the financial sector regulators regarding financial stability;
   (b) to make recommendations to the Governor on the designation of systemically important financial institutions;
   (c) to advise the Minister and the Reserve Bank on—
      (i) steps to be taken to promote, protect or maintain, or to manage or prevent risks to, financial stability; and
      (ii) matters relating to crisis management and prevention;
   (d) to make recommendations to other organs of state regarding steps that are appropriate for them to take to assist in promoting, protecting or maintaining, or managing or preventing risks to financial stability; and
   (e) any other function conferred on it in terms of applicable legislation.

Membership

22. (1) The Financial Stability Oversight Committee consists of the following members:
   (a) The Governor;
   (b) the Deputy Governor responsible for financial stability matters;
   (c) the Chief Executive Officer;
   (d) the Commissioner;
   (e) the Chief Executive Officer of the National Credit Regulator;
   (f) the Director-General;
   (g) the Director of the Financial Intelligence Centre; and
   (h) a maximum of three additional persons appointed by the Governor.

   (2) A member of the Financial Stability Oversight Committee referred to in terms of subsection (1)(h) holds office for the period, and on the terms, determined by the Governor.

Administrative support by Reserve Bank

23. (1) The Reserve Bank must provide administrative support, and other resources, including financial resources, for the effective functioning of the Financial Stability Oversight Committee.

   (2) The Reserve Bank must ensure that minutes of each meeting of the Financial Stability Oversight Committee are kept in a manner determined by the Governor.

Meetings and procedure

24. (1) The Financial Stability Oversight Committee must meet at least every six months.

   (2) The Governor—
      (a) may convene a meeting of the Financial Stability Oversight Committee at any time; and
      (b) must convene a meeting if requested to do so by the Chief Executive Officer, the Commissioner or the Chief Executive Officer of the National Credit Regulator.

   (3) (a) The Governor chairs a meeting of the Financial Stability Oversight Committee at which the Governor is present.
      (b) If the Governor is not present at a meeting, the Deputy Governor responsible for financial stability matters chairs the meeting.

   (4) (a) A member of the Financial Stability Oversight Committee who is unable to attend a meeting may, after notice to the other members and with the concurrence of the person who will chair the meeting, nominate an alternate to attend that meeting in the member’s absence.
Ditiro tsa Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete

21. Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete e na le ditiro tse di latelang:
   (a) Go dira jaaka foramo ya baemedi ba Banka ya Resefe gapa boloadi bongwe le bongwe jwa lephata la ditšhelete bo tshwanetse go itsiswe, le go refosana dikakanyo, ka ga ditirwana ts'a Banka ya Resefe le balaodi ba lephata la ditšhelete mabapi le tlhomamo ya ditšhelete;
   (b) go dira dikatlaneqiso go Mmusisi ka ga ga tlhomiwa ga ditheo tse di rulaganeng tsa ditšhelete tse di bothlokwa;
   (c) go gakolola Tona le Banka ya Resefe ka ga—
      (i) dikgato tse di ka tsewang go tlahlosa, sireletsa kgotsa tlamela, kgotsa go laola kgotsa thibela dikotsi go, tlhomamo ya ditšhelete; le
      (ii) merero e e amanang le taolo ya dikotsi le thibelo;
   (d) go dira dikatlaneqiso go maphata a mangwe a puso mabapi le dikgato tse di maleba go bona go ka di isaya go thusa mo go tlahloseng, sireletseng kgotsa tlameleen, kgotsa laoleng kgotsa thibelen dikoitsi go tlhomamo ya ditšhelete;  le
   (e) tiro nngwe le nngwe eo e e neetsweng go ya ka molawana o o maleba.

Boloko

22. (1) Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete e na Le maloko a a latelang:
   (a) Mmusisi; 20
   (b) Motlatsamnusisi yo o rwalang maikarabelo a merero ya tlhomamo ya ditšhelete;
   (c) Motlhankedimogolo wa Khuduthamaga;
   (d) Khomisenara;
   (e) Motlhankedimogolo wa Khuduthamaga wa Bolaodi jwa Bosethhaba jwa Sekoloto;
   (f) Mokaedikakaretso;
   (g) Mokaedi wa Senthara ya Botlhodi jwa Ditšhelete; le
   (h) tekanyetso ya batho ba le bararo ba tlaleletso ba ba theplweng ke Mmusisi.

(2) Lelo-lo la Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete e e kailweng go ya ka karolotlaleletso (1)(h) le dira go ya ka paka, le ka dipeelo, tse di tlhomamisitsweng ke Mmusisi.

Tshegetso ya tsamaiso ka Banka ya Resefe

23. (1) Banka ya Resefe e tshwanetse go tlamela tshegetso ya tsamaiso, le ditlamelwana tse dingwe, go akaretsa le ditlamelwana tsa ditšhelete, gore Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete e dire ka matsetseleko.

(2) Banka ya Resefe e tshwanetse go netefatsa gore metsotsa ya kopano nngwe le nngwe e a tsewa, ka mokgwa o o tlhomamisitsweng ke Mmusisi.

Dikopano le tsamaiso

24. (1) Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete e tshwanetse go kopana bonnye mo dikgweding dingwe le dingwe tse thataro.
   (2) Mmusisi—40
      (a) o ka bitsa kopano ya Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete nako ngwe le nngwe; le
      (b) o tshwanetse go bitsa kopano fa a kopilwe go dira jalo ke Motlhankedimogolo wa Khuduthamaga, Khomisenara kgotsa ke Motlhankedimogolo wa Khuduthamaga ya Bolaodi jwa Bosethhaba jwa Sekoloto.

(3) (a) Mmusisi o okamela kopano ya Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete eo Mmusisi a leng teng mo go yona.
   (b) Fa Mmusisi a seyo mo kopanong, Motlatsamnusisi yo o rweleng maikarabelo a merero ya tlhomamo ya ditšhelete o okamela kopano.

(4) (a) Lelo-lo la Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete le le sa kngoneng go tsenela kopano le ka, morago ga go itsise maloko a mangwe le ka tumalano ya motho yo o tla okamela kopano, tlhopha mongwe yo o refoasanang nae go tsenela kopano eo boemong jwa gagwe. 55
(b) An alternate referred to in paragraph (a) has, for that meeting, the same rights as the member of the Financial Stability Oversight Committee.

(5) The Financial Stability Oversight Committee may determine its procedures, including quorum requirements.

(6) The person chairing a meeting may invite any person, including a representative of an organ of state or a financial institution, to attend the meeting.

(7) The Financial Stability Oversight Committee may establish separate working groups or subcommittees.

(8) In the event of an equality of votes on a matter that may be voted upon by the Financial Stability Oversight Committee, the person chairing a meeting has a casting vote in addition to a deliberative vote.

Part 4

Financial Sector Contingency Forum

25. (1) The Governor must establish a forum called the Financial Sector Contingency Forum.

(2) The primary objective of the Financial Sector Contingency Forum is to assist the Financial Stability Oversight Committee with—

(a) the identification of potential risks that systemic events will occur; and

(b) the co-ordination of appropriate plans, mechanisms and structures to mitigate those risks.

(3) The Financial Sector Contingency Forum is composed of at least eight members, including—

(a) a Deputy Governor designated by the Governor, which Deputy Governor is the Chairperson;

(b) representatives of each of the financial sector regulators;

(c) representatives of other organs of state, as the Chairperson may determine; and

(d) representatives of financial sector industry bodies and any other relevant person, as the Chairperson may determine.

(4) The Financial Sector Contingency Forum must meet at least every six months.

(5) The Financial Sector Contingency Forum must be convened and must function in accordance with procedures determined by the Governor.

(6) The Reserve Bank must provide administrative support, and other resources, including financial resources, for the effective functioning of the Financial Sector Contingency Forum.

Part 5

Roles of financial sector regulators and other organs of state in maintaining financial stability

Co-operation among Reserve Bank and financial sector regulators in relation to financial stability

26. (1) The financial sector regulators must—

(a) co-operate and collaborate with the Reserve Bank, and with each other, to maintain, protect and enhance financial stability;

(b) provide such assistance and information to the Reserve Bank and the Financial Stability Oversight Committee to maintain or restore financial stability as the Reserve Bank or the Financial Stability Oversight Committee may reasonably request;

(c) promptly report to the Reserve Bank any matter of which the financial sector regulator becomes aware that poses or may pose a risk to financial stability; and

(d) gather information from, or about, financial institutions that concerns financial stability.
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(b) Mongwe yo o refosanang nae yo o kailweng mo temaneng (a), mo kopanong eo, o na le ditšhwanelo tse di tshwanang le tsa leloko ka Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete.

(5) Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete e ka tlhomamisa ditsamaiso tsa yona, go akaretse le ditlhokego tsa khoramo.

(6) Motho yo o okametseng kopano o ka laletsa motho mongwe le mongwe, go akaretse le moemedi wa lephata la puso kgotsa setheto sa ditšhelete, go tsetela kopano.

(7) Komiti e ka tlhoma ditlhopha tse di farologaneng tsa tiro kgotsa dikomitiitlaleletso.

(8) Mo lebakeng la fa diboutu di lekana mo morerong o o ka boulweng ke Komiti, motho yo o okametseng kopano o ka dira boutu e e kgethegileng mo godimo ga boutu e e dirilweng ke bolthe.

Karoło 4

Foramo ya Tshoganyetso ya Leaphata la Ditšhelete

Foramo ya Tshoganyetso ya Leaphata la Ditšhelete

25. (1) Mmusisi o tshwanetse go tlhoma foramo, e e bidiwang Foramo ya Tshoganyetso ya Leaphata la Ditšhelete.

(2) Maithlhomomagolo a Foramo ya Tshoganyetso ya Leaphata la Ditšhelete ke go thusa Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete ka—

(a) go tlhagisa dikotsi tsa kgonagalo ya go direga ga diriragalo tse di rulaganeng; le

(b) kopanyo ya maano a a maleba, mekgwa le dipopego go fokotsa dikotsi tseo.

(3) Foramo ya Tshoganyetso ya Leaphata la Ditšhelete e bopilwe ka bonnye maloko a le robedi, go akaretse le—

(a) Motlatamwusisi yo o thapihweng ke Mmusisi, yo e leng Modulasetilo;

(b) dikemedi tsa tshalodi bangwe le bangwe ka lephata la ditšhelete;

(c) dikemedi tsa maphata a mangwe a puso, jaaka Modulasetilo a ka tlhomamisa; le

(d) dikemedi tsa mekgatlho ya madirelo a lephata la ditšhelete le motho mongwe le mongwe yo o maleba, jaaka Modulasetilo a ka tlhomamisa.

(4) Foramo ya Tshoganyetso ya Leaphata la Ditšhelete e tshwanetse go kopana mo dikgweding dingwe le dingwe tse thataro.

(5) Foramo ya Tshoganyetso ya Leaphata la Ditšhelete e tshwanetse go kopana mo ditšhelete le e tshwanetse go gorana mo modamela le ditšamaiso tse di tlhomamisitsweng ke Mmusisi.

(6) Banka ya Resefe e tshwanetse go tlamleng ka tshegetseng ya tlhomamisa, le ditlamegwa tse dingwe, go akaretse le ditlamegwa tsa ditšhelete, gore Foramo ya Tshoganyetso ya Leaphata la Ditšhelete e dire ka matsetseleko.

Karoło 5

Botsayakaro lo jwa balaodi ba lephata la ditšhelete la maphata a mangwe a puso mo go tshegetseng tlhomamo ya ditšhelete

Tirisangommoga magareng ga Banka ya Resefe le balaodi ba lephata la ditšhelete mabapi le tlhomamo ya ditšhelete

26. (1) Balaodi ba lephata la ditšhelete ba tshwanetse—

(a) go dirisanommoga le go kopana le Banka ya Resefe, le ka bobona, go tshegetseng, sireletseng le go oketsa tlhomamo ya ditšhelete;

(b) go neelana ka thuos eo le tshebomosetseng go Banka ya Resefe le Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete go tshegetseng kgotsa busetsa tlhomamo ya ditšhelete, jaaka go kopile Banka ya Resefe kgotsa Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete;

(c) go bega ka potlako go Banka ya Resefe morero mongwe le mongwe o o lemoanyaka le molaodi wa lephata la ditšhelete e le o o lisiang kgotsa o o ka lisiang dikotsi mo tlhomamong ya ditšhelete; le

(d) go kgobokanya tshetengosetseng go tswe go, kgotsa ka ga, ditheo sa ditšhelete tsedimo amang tlhomamo ya ditšhelete.
(2) The Reserve Bank must, when exercising its powers in terms of this Chapter, take into account—
   (a) any views expressed and any information reported by the financial sector regulators; and
   (b) any recommendations of the Financial Stability Oversight Committee.

Memoranda of understanding relating to financial stability

27. (1) The financial sector regulators and the Reserve Bank must, not later than six months after this Chapter takes effect, enter into one or more memoranda of understanding with respect to how they will co-operate and collaborate with, and provide assistance to, each other and otherwise perform their roles and comply with their duties relating to financial stability.

   (2) The financial sector regulators and the Reserve Bank must review and update the memoranda of understanding as appropriate, but at least once every three years.

   (3) A copy of a memorandum of understanding must, without delay after being entered into or updated, be provided to the Minister and the Cabinet member responsible for consumer credit matters.

   (4) The validity of any action taken by a financial sector regulator in terms of a financial sector law, the National Credit Act or the Financial Intelligence Centre Act is not affected by a failure to comply with this section or a memorandum of understanding contemplated in this section.

Roles of other organs of state in relation to financial stability

28. An organ of state, other than a financial sector regulator, must—
   (a) in performing its functions, have regard to the implications of its activities on financial stability; and
   (b) provide such assistance and information to the Reserve Bank and the Financial Stability Oversight Committee so as to maintain and restore financial stability as the Bank or the Committee may reasonably request.

Part 6

Systemically important financial institutions

Designation of systemically important financial institutions

29. (1) (a) The Governor may, by written notice to a financial institution, designate the institution as a systemically important financial institution.

   (b) The power of the Governor in terms of paragraph (a) may not be delegated.

   (2) Before designating a financial institution in terms of subsection (1) as a systemically important financial institution, the Governor must—

      (a) give the Financial Stability Oversight Committee notice of the proposed designation and a statement of the reasons why the designation is proposed, and invite the Committee to provide advice on the proposal within a specified reasonable period; and

      (b) if, after considering the Committee’s advice, the Governor proposes to designate the financial institution in terms of subsection (1), invite the financial institution to make submissions on the matter, and give it a reasonable period to do so.

   (3) In deciding whether to designate a financial institution in terms of subsection (1), the Governor must take into account at least the following:

      (a) The size of the financial institution;
      (b) the complexity of the financial institution and its business affairs;
      (c) the interconnectedness of the institution with other financial institutions within or outside the Republic;
      (d) whether there are readily available substitutes for the financial products and financial services that the financial institution provides or, in the case of a market infrastructure, the market infrastructure;
      (e) recommendations of the Financial Stability Oversight Committee;
      (f) submissions made by or for the institution; and
      (g) any other matters that may be prescribed by Regulation.
Memorantamao wa tumalano o o mabapi le thomamonya ya ditšhelete

27. (1) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse, e seng mo sebakeg sa dikgwedi tse thataro morago ga go tsenngwa tirisong ga Kgaolo eno, go tsena mo memorantamong wa tumalano o le esi kgotsa go feta mabapi le ka mokgwa o ba tla dirisanang le go kopana ta teng, le go thusana, le go dira ditiro tsa bona le go ikamanya le ditiro tsa bona tse di amanang le thomamonya ya ditšhelete.

(2) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse go thlathloha le go tshabolola memorandum wa tumalano jaaka go tshwanetse, fela bonnye gangwe mo dingwageng tse tharo.

(3) Kgatiso ya memorandum wa tumalano o tshwanetse tle le tshekyo ya nako fa go sena go tsenwa mo go yona kgotsa tlhabololwa, go romelwa go Tona le lelolo le Kabinete le le rwalang maikarabelo a merero ya sekoloto sa badirisi.

(4) Kamogelesego ya tiro ngwe e ngwe e dirilweng ke molaodi wa lephata la ditšhelete go ya ka molao wa lephata la ditšhelete, Molao wa Bosetshaba wa Sekoloto kgotsa Molao wa Senthara ya Bothodi jaaka ditšhelete ga e be a go tshoego la ikamanya le karolo eno kgotsa memorandum wa tumalano o o kailweng mo karolong eno.

Botsayakarolo jwa maphata a mangwe a puso mabapi le thomamonya ya ditšhelete

28. Le phata la puso, ntle le molaodi wa lephata la ditšhelete, le tshwanetse—

(a) mo go direng ditiro tsa lona, go tsaya tsa bokao jwa ditiro tsa lona mo thomamong ya ditšhelete; le

(b) go neelana ka thuso eo le tshedimosetsa go Banka ya Resefe le Komiti ya Kelothloko ya Thlomamonya ya Ditšhelete go tshelagetsa le go busetsa thomamonya ya ditšhelete, jaaka Banka kgotsa Komiti e kopa.

Karlo 6

Ditheo tsu ditšhelete tse di botlhokwa mo thulaganyong

Go tlhongwa ga ditheo tsu ditšhelete tse di botlhokwa tse di rulaganeng

29. (1) (a) Mmusisi o ka, ka kitsiso e e kwaletsweng setheo sa ditšhelete, tlhoma setheo jaaka setheo sa ditšhelete se se botlhokwa mo thulaganyong.

(b) Thata ya Mmusisi go ya ka temana (a) ga e rolelwe.

(2) Pele go tlhongwa setheo sa ditšhelete go ya ka karololaleletso (1) jaaka setheo sa ditšhelete se se botlhokwa mo thulaganyong, Mmusisi o tshwanetse go—

(a) naya Komiti ya Kelothloko ya Thlomamonya ya Ditšhelete, morago ga moo setheo sa ditšhelete, kitsiso ya tlhomo e e tshitsintsweng le polelo ya mabaka a gore goreng tlhomo e tshitsintswe; le

(b) laletsa setheo sa ditšhelete go dira ditšheletse le gaba se naya nako e e lekaneng go dira se.

(3) Mo go swetseng ka ga go tlhongwa ga setheo sa ditšhelete go ya ka karololaleletso (1), Mmusisi o tshwanetse go tsaya tsa bonnye tse di latelang:

(a) Bogolo jwa setheo sa ditšhelete;

(b) tharangano ya setheo sa ditšhelete le merero ya sona ya kgwebo;

(c) kgogakago ya setheo le ditheo tse dingwe tsa ditšhelete mo gare ga kgotsa kwa ntle ga Rephaboliki;

(d) a go na le dikemisetsa tse di baakantsweng tsa dikuno tsa ditšhelete le ditirelo tsa ditšhelete tse di tlamelwang ke setheo sa ditšhelete;

(e) dikatlanengiso tsa Komiti ya Kelothloko ya Thlomamonya ya Ditšhelete;

(f) ditšheletse tse di dirilweng ke kgotsa mababi le setheo; le

(g) merero mengwe le mengwe e e ka newang ke Molawana.
(4) (a) If the Governor has determined in terms of section 14(4) that a systemic event has occurred or is imminent, the Governor may designate a financial institution as a systemically important financial institution without complying, or complying fully, with subsection (2) or (3).

(b) If the Governor acts in terms of paragraph (a) and designates a financial institution without complying, or complying fully, with subsection (2) or (3), the financial institution may make submissions on the designation to the Governor within 30 days after being notified of the designation.

(c) The Governor must consider any submissions in terms of paragraph (b) and, by notice to the financial institution, either confirm or revoke the designation.

(5) The designation of a financial institution as a systemically important financial institution does not imply, or entitle the financial institution to, a guarantee or any form of credit or other support from any organ of state.

(6) The Governor may, in writing, revoke a designation made in terms of this section.

(7) A designation, and the revocation of a designation, in terms of this section must be published.

Prudential standards and regulator’s directives in respect of systemically important financial institutions

30. (1) To mitigate the risks that systemic events may occur, the Reserve Bank may, after consulting the Prudential Authority, direct the Prudential Authority to impose, either through prudential standards or regulator’s directives, requirements applicable to one or more specific systemically important financial institutions or to such institutions generally in relation to any of the following matters:

(a) Solvency measures and capital requirements, which may include requirements in relation to counter-cyclical capital buffers;

(b) leverage ratios;

(c) liquidity;

(d) organisational structures;

(e) risk management arrangements, including guarantee arrangements;

(f) sectoral and geographical exposures;

(g) required statistical returns;

(h) recovery and resolution planning; and

(i) any other matter in respect of which a prudential standard or regulator’s directive may be made that is prescribed by Regulations made for this section on the recommendation of the Governor.

(2) The Prudential Authority may make prudential standards or issue regulator’s directives as contemplated in subsection (1).

(3) The Prudential Authority must notify the Reserve Bank and the Financial Stability Oversight Committee of any steps taken to enforce a prudential standard made or a regulator’s directive issued in terms of subsection (2), and the effect of those steps.

Winding-up and similar steps in respect of systemically important financial institutions

31. (1) None of the following steps may be taken in relation to a systemically important financial institution or a systemically important financial institution within a financial conglomerate without the concurrence of the Reserve Bank:

(a) Suspending, varying, amending or cancelling a licence issued to that financial institution;

(b) adopting a special resolution to wind up the financial institution voluntarily;

(c) applying to a court for an order that the financial institution be wound up;

(d) appointing an administrator, trustee or curator for the financial institution;

(e) placing the financial institution under business rescue or adopting a business rescue plan for the financial institution;
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(4) (a) Fa Mmusisi a tlhomamisitse go ya ka karolo 14(4) gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, Mmusisi o ka tlhoma setheo sa ditšhelete jaaka setheo sa ditšhelete se se bothlokwa mo thulaganyong ntle le go ikamanaya, kgotsa go ikamanya ka gotlhe, le karolotlaleletsog (2) kgotsa (3).

(b) Fa Mmusisi a dira go ya ka temana (a) le go tlhoma setheo sa ditšhelete ntle le go ikamanya, kgotsa go ikamanya ka gotlhe, le karolotlaleletsog (2) kgotsa (3), setheo sa ditšhelete se ka dira ditlhagiso ka ga go tlhongwa go Mmusisi mo matsatsing a le 30 morago ga go itsisiwe ka ga go tlhongwa.

(c) Mmusisi o tshwanetse go tsaya tsia ditlhagiso dingwe le dingwe go ya ka temana (b), le ka kitiso go setheo sa ditšhelete, go ka netetfatsa kgotsa gogela morago tlhomo.

(5) Go tlhongwa ga setheo sa ditšhelete jaaka setheo sa ditšhelete se se bothlokwa mo thulaganyong kgotsa go kae gore, kgotsa ga go neye setheo sa ditšhelete tetla ya, tshiroleletsogo kgotsa mokgwa mongwe le mongwe wa sekoloto kgotsa tshegetse ngwe go tswa go lephata lengwe le lengwe la puso.

(6) Mmusisi o ka, ka go kwala, gape le go ya ka kgato e e tlhokegang, gogela morago tlhomo e e dirilweng go ya ka karolo eno.

(7) Tlhomo, le kgogelomorago ya tlhomo, go ya ka karolo eno e tshwanetse go phasalatswa.

Maemo a a bothlokwa le ditaelo tsa bolaodi mabapi le ditheo tsa ditšhelete tse di bothlokwa tse di rulaganeng

30. (1) Go fokotsa dikotsi tsa gore ditiragalo tse di rulaganeng di ka diragala, Banka ya Resefe e ka, morago ga go rerisana le Bothati jwa Thlhokomelo, laela Bothati jwa Tlhokomelo go pateletsa, ka ditaelo kgotsa maemo a tlhokomelo, ditlhokegole gase di diragatsweng go e le ngwe kgotsa go feta ya ditheo tsa ditšhelete tse di bothlokwa mo thulaganyong kgotsa go ditheo tse di karaketsa mabapi le ngwe le ngwe ya ditlha tse di latelang:

(a) Dilekanyo tsa phutlhamo le ditlhokegole tsa khapetlele, tse di ka akaretsang ditlhokego mabapi le disireletsi tsa khapetlele tse di sa tlwaelegang;
(b) dikamanngo magareng ga khapetlele ya kadimo le dišere;
(c) phathalatsokgwebo;
(d) dibopego tsa setheo;
(e) ditlhaganyo tsa tsho ya dikotsi, go akaretsa ditlhaganyo tsa tshiroleletsogo;
(f) diltlhagiso tsa lephata le kgato; dipoelo tse di tlhokegang tsa dipalopalo;
(b) tšogamaano ya poelo le tharabololo; le
(i) morero mongwe le mongwe o o mabapi le maemo a tlhokomelo kgotsa taelo ya molaodi e e ka dirwang e e neetsweng ka Melawana e e dirilweng mo katlanegisoro ya Mmusisi.

(2) Bothati jwa Thlhokomelo bo ka dira maemo a tlhokomelo kgotsa bo ka rebola ditaelo tsa molaodi jaaka go kalwe mo karolotlaleletsong (1).

(3) Bothati jwa Thlhokomelo bo tshwanetse go itsise Banka ya Resefe le Komiti ya Kelothlhoko ya Tlhomamo ya Ditšhelete ka ga dikgato dingwe le dingwe tse di tserweng go gatelela taelo e e ntshitsweng kgotsa maemo a tlhokomelo a a dirilweng go ya ka karolotlaleletsog (2), le ditllumorago tsa dikgato tse.

Go swetsa le dikgato tse di tlhongwa manabapi le ditheo tsa ditšhelete tse di bothlokwa tse di rulaganeng

31. (1) Ga go epe ya dikgato tse di latelang e e ka tsewang mabapi le setheo se ditšhelete se se bothlokwa mo thulaganyong kgotsa setheo sa ditšhelete se se bothlokwa mo thulaganyong mo gare ga ditheo tsa ditšhelete tse di kopantsweng ntle le thebolo ya Banka ya Resefe:

(a) Go sekega, go fetola, go tlhabolola kgotsa go phimola laesene e e reboletseng setheo se sa ditšhelete;
(b) go dirisa tharabololo e e kgethegileng go konotelela setheo sa ditšhelete ka boithaopo;
(c) go dira kopo go kgotlatshekelo ya gore setheo sa ditšhelete se konotelelwe;
(d) go thapa motsamaisi, molthokomedi kgotsa molhominamisi mo setheoeng sa ditšhelete;
(e) go baya setheo sa ditšhelete ka fa tšase ga phaloso ya kgwebo kgotsa tiriso ya leano la phaloso ya kgwebo mo setheoeng sa ditšhelete;
(f) entering into an agreement for amalgamation or merger of the financial institution with a company; and

(g) entering into a compromise arrangement with creditors of the financial institution.

(2) A step referred to in subsection (1) that is taken without the Reserve Bank’s concurrence is void.

CHAPTER 3
PRUDENTIAL AUTHORITY

Part 1
Establishment, objective and functions

Establishment

32. (1) An authority called the Prudential Authority is hereby established.

(2) The Prudential Authority is a juristic person operating within the administration of the Reserve Bank.

(3) The Prudential Authority is not a public entity in terms of the Public Finance Management Act.

Objective

33. The objective of the Prudential Authority is to—

(a) promote and enhance the safety and soundness of financial institutions that provide financial products and securities services;

(b) promote and enhance the safety and soundness of market infrastructures;

(c) protect financial customers against the risk that those financial institutions may fail to meet their obligations; and

(d) assist in maintaining financial stability.

Functions

34. (1) In order to achieve its objective, the Prudential Authority must—

(a) regulate and supervise, in accordance with the financial sector laws—

(i) financial institutions that provide financial products or securities services; and

(ii) market infrastructures;

(b) co-operate with and assist the Reserve Bank, the Financial Stability Oversight Committee, the Financial Sector Conduct Authority, the National Credit Regulator and the Financial Intelligence Centre, as required in terms of this Act;

(c) co-operate with the Council for Medical Schemes in the handling of matters of mutual interest;

(d) support sustainable competition in the provision of financial products and financial services, including through co-operating and collaborating with the Competition Commission;

(e) support financial inclusion;

(f) regularly review the perimeter and scope of financial sector regulation, and take steps to mitigate risks identified to the achievement of its objective or the effective performance of its functions; and

(g) conduct and publish research relevant to its objective.

(2) The Prudential Authority must also perform any other function conferred on it in terms of any other provision of this Act or other legislation.

(3) The Prudential Authority may do anything else reasonably necessary to achieve its objective, including—

(a) co-operating with its counterparts in other jurisdictions; and

(b) participating in relevant international regulatory, supervisory, financial stability and standard setting bodies.
(f) go tsena mo tumalanong ya kopanyo kgotsa tshwaraganyo ya setheo sa ditšhelete le setlamo; le
(g) go tsena mo thulaganyong ya tumalano le banayasekoloto ba setheo sa ditšhelete.

(2) Kgato e e kailweng mo karotlolatelelelele (1) e e tserweng ntle le thebolo ya Banka ya Resefe ga e na pateletso ya semolo.

KGAOLO 3

BOTHATI JWA TLHOKOMELO

Karlo 1

Go tlhomiwa, mailthomo le ditiro

Go tlhongwa

32. (1) Bothati jo bo bidiwang Bothati jwa Tlhokomelo bo a tlhongwa.
(2) Bothati jwa Tlhokomelo ke setheo se se dirang mo tsamaisong ya Banka ya Resefe.
(3) Bothati jwa Tlhokomelo ga se setheo sa setšhaba go ya ka Public Finance Management Act.

Mailthomo

33. Mailthomo a Bothati jwa Tlhokomelo ke go—
(a) tsholetsa le go oketsa pabalesego le tshiayo ya ditheo tsa ditšhelete tse di tlamelang ka dikuno tsa ditšhelete le ditirelo tsa ditlioto; le
(b) tsholetsa le go oketsa pabalesego le itekanelo ya thulaganyetso ya popegotheo ya mmaraka;
(c) sireletsa barekedi ba ditšhelete kgatlanhong le kotsi ya gore ditheo tse tsa ditšhelete di ka palelwa ke go fitlhela ditlamego tsa tsong; le
(d) thusa mo go tshegetseng tlhomamo ya ditšhelete.

Ditiro

34. (1) Gorebo fitlhela mailthomo a jona, Bothati jwa Tlhokomelo bo tswanetse—
(a) go laola le go tlhokomela, go tsamaelana le melao ya lephata la ditšhelete—
(i) ditheo tsa ditšhelete tse di tlamelang ka dikuno tsa ditšhelete kgotsa ditirelo tsa ditlioto; le
(ii) ditulaganyetso tsa popegotheo ya mmaraka;
(b) go dirisana mmogo le, le go thusa Banka ya Resefe, Komiti ya Kelothoko ya Tlhomomo ya Ditšhelete, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, Bolaodi jwa Bosteṣ̌haba jwa Sekoloto le Senthara ya Bothhodi jwa Ditšhelete, jaaka go tlhokega go ya ka Molao ono;
(c) go dirisana mmogo le Khaسئele ya Dikema tsa Kalafi mo go sekasekeng merero ya dikgatlhegelo tse di tshwanang;
(d) go tshegetsa kgaisano ya leruri mo kabelo ya dikuno tsa ditšhelete le ditirelo tsa ditlioto, go akaretsa le tirisanommogo le kopano le Khomisene ya Kgaisano;
(e) go tshegetsa tseneyelesto ya ditšhelete;
(f) thadiso ya ka gale ya modiko le boteng jwa Bolaodi jwa lephata la ditšhelete,
le go tsaya dikgato go fokotsa dikotsi tse di supilweng mo go fitliheleleng mailthomo a bona kgotsa mo go direng ditiro tsa bona ka matsetseleko; le
(g) go dira le go phasalatsa patlisiso e e tsamaelanaŋ le mailthhomo a jona.
(2) Bothati jwa Tlhokomelo bo tswanetse go dira tiro ngwe le ngwe e bo e abetsweng go ya ka kabelo ngwe le ngwe ya Molao ono kgotsa molawana mongwe le mongwe.
(3) Bothati jwa Tlhokomelo bo ka dira sengwe le sengwe se se tlhonekang go fitlhelela mailthomo a jona, go akaretsa le—
(a) go dirisana mmogo le badiri-ka-bona mo ditao long tse dingwe; le
(b) go tsaya karolo mo bolaodi jwa boditšhabatšhaha, bothhokomeding, tsepmong ya ditšhelete le mo mekgatlhong e e bayang maemo.
(4) When performing its functions, the Prudential Authority must—

(a) take into account the need for a primarily pre-emptive, outcomes focused and risk-based approach, and prioritise the use of its resources in accordance with the significance of risks to the achievement of its objective; and

(b) to the extent practicable, have regard to international regulatory and supervisory standards set by bodies referred to in subsection (3)(b), and circumstances in the Republic.

(5) The Prudential Authority must perform its functions without fear, favour or prejudice.

**Part 2**

**Governance**

**Overall governance objective**

35. The Prudential Authority must manage its affairs in an efficient and effective way, and establish and implement appropriate and effective governance systems and processes, having regard to, among other things, internationally accepted standards and practices in these matters.

**Appointment of Chief Executive Officer**

36. (1) The Governor must, with the concurrence of the Minister, appoint a Deputy Governor who has appropriate expertise in the financial sector, other than the Deputy Governor responsible for financial stability, as the Chief Executive Officer of the Prudential Authority.

(2) When appointing a Deputy Governor as the Chief Executive Officer, that Deputy Governor and the Governor must agree, in writing, on—

(a) the performance measures that will be used to assess the Deputy Governor’s performance as the Chief Executive Officer; and

(b) the level of performance to be achieved against those performance measures.

(3) A person may not be appointed or hold office as the Chief Executive Officer if the person—

(a) is a disqualified person; or

(b) is not ordinarily resident in the Republic.

**Role of Chief Executive Officer**

37. (1) The Chief Executive Officer—

(a) is responsible for the day-to-day management and administration of the Prudential Authority; and

(b) subject to section 42(b), must perform the functions of the Prudential Authority, including exercising the powers and carrying out the duties associated with those functions.

(2) When acting in terms of subsection (1), the Chief Executive Officer must implement the policies and strategies adopted by the Prudential Committee.

**Term of office of Chief Executive Officer**

38. (1) A person appointed as the Chief Executive Officer—

(a) holds office for a term no longer than five years, as the Governor may determine;

(b) is, at the expiry of that term, eligible for re-appointment for one further term; and

(c) must vacate office before the expiry of a term of office if that person—

(i) resigns as Chief Executive Officer, by giving at least three months written notice to the Governor, or a shorter period that the Governor may accept;
(4) Fa bo dira ditiro ts'a bona, Bothati jwa Tlhokomelo bo tshwanetse—
(a) go tsaya tsa tloko ya tsamaiso e e bonelang pele seholosegolo, e e ikengengleng ka dipolo le e e itshetlegileng ka mokgwa o o tshweneng mo dikotsing, le go baya kwa pele tiriso ya dithamelwana ts'a bona go tsamaelana le bothokwa jwa dikotsi mo go fitlhelelelo maitlhomo a jona; le
(b) go ya ka moo go kgomagalogang, go tsaya tsa maemo a taolo le tlokomelo a bodišthabatšhaha a a theiweng ke mekgatšho e e ka tšiweng mo kaloro-
tlaletšsong (3)(b), le maemo mo Rephaboliking.

(5) Bothati jwa Tlhokomelo bo tshwanetse go dira ditiro ts'a jona ntle le poifo, tseoletšhakore le kgobelelo.

KAROLO 2

PUSO

MAITLHOMO KA KAKARETSO A PUSO

35. Bothati jwa Tlhokomelo bo tshwanetse go laola merero ya bona ka bokgoni le nonono, le go tlhoma le go tseny a tiriso dikgato le dithulaganyo tse di maleba e bile di nonofile tse puso, ka go ela tlhoko, mo gare go dilo tse dingwe, maemo le ditiragatsa tse di amogetsweng bodišthabatšhaha mo mabakeng ano.

GO TTHAPIWA GA MOTHLANKEDIMOGOLO WA KHUDUTHAMAGA

36. (1) Mmusisi o tshwanetse, ka tumalano le Tona, go thapa Motlatsammusisi yo o leng mōtseengan mō lepahteng la dišhelele, ntle le Motlatsammusis yo o rwallang mākarabelo a thomamo ya dišhelele, jaaka Motlakedimogolo wa Khuduthamaga wa Bothati jwa Tlhokomelo.
(2) Fa go tthapiwa Motlatsammusis jaaka Motlakedimogolo wa Khuduthamaga, Motlatsammusisi yoo le Mmusisi ba tshwanetse go dumalana, ka go kwala, ka—
(a) ditekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiryo ya Motlatsammusis jaaka Motlakedimogolo wa Khuduthamaga; le
(b) boemo jwa tiro jo bo tshwanetseng go fitlhelela kgatlhanong le ditekanyetsotiro tse.

(3) Motho a ka se tthapiwe kgotsa ga tshwara maemo a Motlakedimogolo wa Khuduthamaga fa motho—
(a) e le motho yo o ileditšweng; kgotsa
(b) e se moagi wa tlhölewa ga Rephaboliki.

BOTSAYAKARLO JWA MOTHLANKEDIMOGOLO WA KHUDUTHAMAGA

37. (1) Motlakedimogolo wa Khuduthamaga—
(a) o rwalla mākarabelo a taolo ya letsatsi le letsatsi le tsamaiso ya Bothati jwa Tlhokomelo; le
(b) go tsamaelana le karolo 42(b), o tshwanetse go dira ditiro ts’a Bothati jwa Tlhokomelo, go akaretse le go diragatsa dithate le go dira ditiro tse di tsamaelanang le ditiro tse.
(2) Fa a dira go ya ka karolotlaletšo (1), Motlakedimogolo wa Khuduthamaga o tshwanetse go diragatsa dipholisi le maano tse di amogetsweng ke Komiti ya Tlhokomelo.

PAKA YA TIRO YA MOTHLANKEDIMOGOLO WA KHUDUTHAMAGA

38. (1) Motho yo o thapilweng jaaka Motlakedimogolo wa Khuduthamaga—
(a) o tthapiwe paka e e sa feteng dingwaga tse tlhano, jaaka Mmusisi a ka tlhomamisa;
(b) o, kwa bokhutlong jwa paka eo, na le tshwanelo ya go ka tthapiwa gape sebaka sa paka e le esie e e okeditśweng; le
(c) o tshwanetse go tswa mo ofising pele ga bokhutlo jwa paka ya tiro fa motho yoo—
(i) a rola tiro jaaka Motlakedimogolo wa Khuduthamaga, ka go naya Mmusisi kisiso e e kwetsweng ya sebaka sa bonnye dikgwedi tse tharo, kgotsa paka e e khutshwane e e ka amogelwang ke Mmusisi;
(ii) ceases to hold office as Deputy Governor; or
(iii) is removed from office as Chief Executive Officer.

(2) The Governor must, at least three months before the end of the Chief Executive Officer’s first term of office, inform the Chief Executive Officer whether the Governor proposes to re-appoint the person as Chief Executive Officer.

Removal of Chief Executive Officer

39. (1) The Governor must, subject to due process, remove the Chief Executive Officer from office if the Chief Executive Officer becomes a disqualified person.

(2) The Governor may, with the concurrence of the Minister, remove the Chief Executive Officer from office if an independent inquiry, established by the Governor with the concurrence of the Minister, has found that the Chief Executive Officer—

(a) is unable to perform the duties of office for health or other reasons;
(b) has failed in a material way to achieve the level of performance against the performance measures agreed to in terms of section 36(2);
(c) has failed in a material way to discharge any of the responsibilities of office, including any responsibilities entrusted in terms of legislation; or
(d) has acted in a way that is inconsistent with continuing to hold the office.

(3) If an independent inquiry has been established in terms of subsection (2), the Governor may suspend the Chief Executive Officer from office pending a decision on the removal of the Chief Executive Officer.

(4) Without limiting subsection (2)(c), the Chief Executive Officer must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the Prudential Committee without the leave of the Prudential Committee.

(5) If the Chief Executive Officer is removed from office in terms of subsection (2), the Minister must, within 30 days, submit the report and findings of the independent inquiry to the National Assembly.

Acting Chief Executive Officer

40. The Governor may appoint a senior staff member of the Prudential Authority or a Deputy Governor to act as Chief Executive Officer when the Chief Executive Officer is absent from office, suspended or is otherwise unable to perform the functions of office.

Establishment of Prudential Committee

41. (1) A committee called the Prudential Committee is hereby established for the Prudential Authority.

(2) The Prudential Committee consists of the Governor, the Chief Executive Officer and the other Deputy Governors.

Role of Prudential Committee

42. The Prudential Committee must—

(a) generally oversee the management and administration of the Prudential Authority to ensure that it is efficient and effective; and
(b) act for the Prudential Authority in the following matters:

(i) Authorising the Chief Executive Officer to sign, on behalf of the Prudential Authority, a section 27 or section 77 memorandum of understanding and any amendment to such a memorandum;
(ii) delegating powers of the Prudential Authority to the Financial Sector Conduct Authority in terms of a section 77 memorandum of understanding;
(iii) adopting the regulatory strategy of the Prudential Authority, and any amendment to the strategy;
(iv) adopting the administrative action procedures of the Prudential Authority, and any amendment to those procedures;
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(ii) a llogela tiro jaaka Motlatsammusisi; kgotsa
(iii) a llogediswa tiro jaaka Motlhankedimogolo wa Khuduthamaga.

(2) Mmusisi o tshwanetse, bonnye dikgwedi tse tharo pele ga bokhutlo jwa paka ya tiro ya Motlhankedimogolo wa Khuduthamaga, go itsise Motlhankedimogolo wa Khuduthamaga fa e le gore Mmusisi o tshitsinya go thapa motho yoo gape jaaka Motlhankedimogolo wa Khuduthamaga.

Go tloswa ga Motlhankedimogolo wa Khuduthamaga

39. (1) Mmusisi o tshwanetse, go tsamaelana le kgato e e maleba, go tlosa Motlhankedimogolo wa Khuduthamaga mo tirong fa Motlhankedimogolo wa Khuduthamaga a nna motho yo o ileditsweng.
(2) Mmusisi o ka, ka tumalano le Tona, tlosa Motlhankedimogolo wa Khuduthamaga mo tirong fa patlisiso e e ikemetseng, e e tholomilweng ke Mmusisi ka tumalano le Tona, e fitheletse gore Motlhankedimogolo wa Khuduthamaga—
(a) ga a kgone go dira ditiro tsa ofisi ka nthla ya boitekanelo kgotsa mabaka mangwe;
(b) a paletswe ka gotlhe go fitlhelela boemo jwa tiro kgatlhanong le ditekanyetsotiro tse go dumalanweng ka tsona go ya ka karolo 36(2);
(c) a paletswe ka gotlhe go diragatsa ngwe le ngwe ya maikarabelo a ofisi, go akaretsa ngwe le ngwe ya maikarabelo ao a a neilweng go ya ka molawana; kgotsa
(d) a dirile ka mokgw a o o sa tsamaelaneng le go tswelela go nna mo tirong.
(3) Fa patlisiso e e ikemetseng e tholomilwe go ya ka karolotlalelesto (2), Mmusisi o ka sekega Motlhankedimogolo wa Khuduthamaga mo tirong fa go so nse go letiwe tshwetsetso ya go tlosa Motlhankedimogolo wa Khuduthamaga.
(4) Ntle le go lekanyetsa karolotlalelesto (2)(c), Motlhankedimogolo wa Khuduthamaga o tshwanetse go tsewa jaaka a paletswe ka gotlhe go diragatsa maikarabelo a tirofa a sa nna teng mo dikopanong tse pedi tse di latelanang tsa Komiti ya Tlhokomelo ntle le khunulogo ya Komiti ya Tlhokomelo.
(5) Fa Motlhankedimogolo wa Khuduthamaga a tlositswe mo tirong go ya ka karolotlalelesto (2), Tona o tshwanetse go romela pegelo le diphitlhelelo tse patlisiso e e ikemetseng go Kokoano Bositshaba mo matsatsing a le 30.

Motlhankedimogolo wa Khuduthamaga wa nama-o-tshwere

40. Mmusisi o ka thapa leloko le legolwane la badirammogo ba Bothati jwa Tlhokomelo kgotsa Motlatsammusisi go ka tshwara marapo jaaka Motlhankedimogolo wa Khuduthamaga fa Motlhankedimogolo wa Khuduthamaga a seyo mo tirong, a sekegilwe kgotsa ka gongwe a sa kgone go dira ditiro tse ofisi.

Go tlhongwa ga Komiti ya Tlhokomelo

41. (1) Komiti e e bidiwang Komiti ya Tlhokomelo e tlhomelwa fano Bothati jwa Tlhokomelo.
(2) Komiti ya Tlhokomelo e na le Mmusisi, Motlhankedimogolo wa Khuduthamaga le Batlatsammusissi ba bangwe.

Botsayakarolo jwa Komiti ya Tlhokomelo

42. Komiti ya Tlhokomelo e tshwanetse—
(a) ka kakaretso go ela tlhoko taolo le tsamaiso ya Bothati jwa Tlhokomelo go netefatsa gore bo na le bokgoni le nonofo; le
(b) go direla Bothati jwa Tlhokomelo mo mabakeng a a latelang:
(i) Go dumelela Motlhankedimogolo wa Khuduthamaga go saena, mo boemong jwa Bothati jwa Tlhokomelo, memorantamo wa tshwanetse mo karolo 27 kgotsa karolo 77 le thlabololo ngwe le ngwe ya memorantamo oo;
(ii) go rolela dithata tsa Bothati jwa Tlhokomelo go Bothati jwa Boitshwara jwa Lephata la Ditshelete go ya ka karolo 77 ya memorantamo wa tshwanetse mo karolo 27 kgotsa karolo 77 le thlabololo ngwe le ngwe ya memorantamo oo;
(iii) go amogela leano la taolo la Bothati jwa Tlhokomelo, le thlabololo ngwe le ngwe ya leano;
(iv) go amogela ditsamaiso tsa tiro ya tsamaiso ya Bothati jwa Tlhokomelo, le thlabololo ngwe le ngwe go ditsamaiso tseo;

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(v) appointing members of subcommittees of the Prudential Authority required or permitted by a law, and giving directions regarding the conduct of the work of any subcommittee;

(vi) making prudential standards, joint standards and other regulatory instruments in terms of financial sector laws;

(vii) making determinations of fees in terms of financial sector laws; and

(viii) any other matter assigned in terms of a financial sector law to the Prudential Committee.

Meetings of Prudential Committee

43. (1) (a) The Prudential Committee must meet as often as necessary for the performance of its functions. (b) An audio or audio-visual conference among a majority of the members of the Prudential Committee, which enables each participating member to hear and be heard by each of the other participating members, must be regarded as a meeting of the Prudential Committee, and each participating member must be regarded as being present at such a meeting.

(2) Meetings of the Prudential Committee are held at times and, except where subsection (1)(b) applies, at places determined by the Governor.

(3) A quorum for a meeting of the Prudential Committee is a majority of its members.

(4) (a) The Governor chairs meetings of the Prudential Committee at which the Governor is present.

(b) If the Governor is not present at a meeting, a Deputy Governor other than the Chief Executive Officer, who is nominated by the Governor, or selected in accordance with a procedure determined by the Governor, chairs the meeting.

(5) The Governor or the Deputy Governor chairing a meeting of the Prudential Committee may invite or allow any other person, including a representative of the Financial Sector Conduct Authority or the National Credit Regulator, to attend a meeting of the Prudential Committee, but a person who is invited has no right to vote at the meeting.

(6) The members may regulate proceedings at Prudential Committee meetings as they consider appropriate.

(7) The Chief Executive Officer must ensure that minutes of each meeting of the Prudential Committee are kept in a manner determined by the Chief Executive Officer.

Decisions of Prudential Committee

44. (1) (a) A proposal before a meeting of the Prudential Committee becomes a decision of the committee if a majority of the members present, or regarded as being present, and voting on the proposal, vote for the proposal. (b) In the event of an equality of votes on a proposal, the person chairing the meeting has a casting vote in addition to a deliberative vote.

(2) The Prudential Committee may, in accordance with procedures determined by it, make a decision on a proposal outside a meeting of the Prudential Committee.

(3) A decision of the Prudential Committee is not invalid merely because—

(a) there was a vacancy in the office of a member when the decision was taken; or

(b) a person who was not a member participated in the decision, as long as such person did not vote.

Governance and other subcommittees

45. (1) The Prudential Committee must establish—

(a) a subcommittee to review, monitor and advise the Prudential Committee on the risks faced by the Prudential Authority and plans for managing those risks; and

(b) a subcommittee to advise the Prudential Committee on measures that must be taken to ensure that the Prudential Authority complies with its obligations in relation to auditing and financial management.
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Dikopano tsa Komiti ya Tlhokomelo

43. (1) (a) Komiti ya Tlhokomelo e tshwanetse go kopana kgapetsakgapetsa fa go tloheka go dira ditiro isa yona. 

(b) Khonferenese ya kuto kgotsa kutlopono magareng ga bontsi jwa maloko a Komiti ya Tlhokomelo, e kgontshang leloko lengwe le lengwe le le tsayang karolo go utlwa le go utlwelela ke mongwe le mongwe wa maloko a mangwe a a tsayang karolo, e tshwanetse go tsewa jaaka kopano ya Komiti ya Tlhokomelo, e bile leloko lengwe le lengwe le le tsayang karolo le tshwanetse go tsewa jaaka fa le le teng kwa kapanong eo. 

(2) Dikopano ts Komiti ya Tlhokomelo di tshwarwa ka nako le, ntle le moo karolatlaleletso (1)/(b) e diragatsweng, ka mafelong a a tlhomasitsweng ke Mmuseisi.

(3) Khoramo ya kopano ya Komiti ya Tlhokomelo ke bontsi jwa maloko a yona.

(4) (a) Mmuseisi o okamela dikopano tsa Komiti ya Tlhokomelo tse a leng teng mo go tsona. 

(b) Fa Mmuseisi a se teng kwa kapanong, Motlatsamamutisi, yo mongwe yo e seng Motlhankeledimogolo wa Khuduthamaga, yo o supilweng ke Mmuseisi kgotsa yo o tshophiwiweng go ya ka tsamaiso e e tlhomasitsweng ke Mmuseisi, o akamela kopano.

(5) Mmuseisi kgotsa Motlatsamamutisi yo o okametseng kopano ya Komiti ya Tlhokomelo o ka laletsa kgotsa letla motho mongwe le mongwe, go akaretse le kemedi ya Botlhokwa jwa Boitshwaro a Lephata la Ditshelete kgotsa Bolaodi jwa Bosothebaba jwa Sekoloto, go tlako kopano ya Komiti ya Tlhokomelo, fela motho yo o laleditsweng ga a nna tlwaelo ya ga tlopho kwa kapanong. 

(6) Maloko a ka laola ditamaiso kwa dikopanong ts Komiti ya Tlhokomelo jaaka ba bona go le maleba. 

(7) Motlhankeledimogolo wa Khuduthamaga o tshwanetse go netefatsa gore metsotsa ya kopano e gatiswa ka mokgwagwa o o robotsweng ke Motlhankeledimogolo wa Khuduthamaga. 

Ditshwetso ts Komiti ya Tlhokomelo

44. (1) (a) Tsitsinyo e e dirilweng kwa kapanong ya Komiti ya Tlhokomelo e nna ditshwetso ya komiti e e kailweng fa bontsi jwa maloko a a tileng kapanong, kgotsa a a tseesweng go nna teng kwa kapanong, le ao a ka tsayang karolo mo tsekaitshekong ya tsitsinyo, a boutela tsitsinyo. 

(b) Mo lebakeng la fa diboutu ts tsitsinyo di lekana, motho yo o okametseng kopano o dira boutu ya mokgoldakgang mo godimo ga boutu ya tswaelo. 

(2) Komiti ya Tlhokomelo e a, go tsamaelana le ditamaiso tse ditlomasitsweng ke komiti e e kailweng, dira ditshwetso ka ga tsitsinyo kwa ntle ga kopano ya komiti.

(3) Tshwetso ya Komiti ya Tlhokomelo ga e tlhoke kamogelegese fela ka nthla ya gore—

(a) go nnile le phatlatiro mo ofising ya leloko fa tshwetso e e ne e tsewa; kgotsa 

(b) motho yo o neng e se leloko o tsere karolo mo tshwetso e, fa fela motho yoo a sa bouta.

Puso le dikomitiitaleletso tse dingwe

45. (1) Komiti ya Tlhokomelo e tshwanetse go tlhoma—

(a) komitiitaleletso go sekaseka, leloko le go gakolola Komiti ya Tlhokomelo ka ga dikotsi tse Bothati jwa Tlhokomelo bo lebaganeng le tsona le maano a go laola dikotsi tse; le

(b) komitiitaleletso go gakolola Komiti ya Tlhokomelo ka ga dikgato tse di tshwanetseng go tsewa go netefatsa gore Bothati jwa Tlhokomelo bo ikamanya le ditlamego ts jona mabapi le boruni le taolo ya ditšhelete.
(2) The Prudential Committee may establish one or more other subcommittees for the Prudential Authority, with functions that the Prudential Committee may determine.

(3) (a) The Prudential Committee determines the membership of a subcommittee established in terms of this section.

(b) The majority of the members of a subcommittee established in terms of subsection (1) may not be staff members of the Prudential Authority or the Reserve Bank.

(c) A subcommittee established in terms of subsection (2) may include persons who are neither members of the Prudential Committee nor staff members of the Prudential Authority.

(d) A disqualified person may not be a member of a subcommittee established in terms of this section.

(4) The Prudential Committee may, instead of establishing a subcommittee referred to in subsection (1), assign the subcommittee’s function to a committee of the Reserve Bank performing a similar function.

(5) A member of a subcommittee established in terms of this section, including a member who is not in the service of an organ of state, holds office for the period, and on the terms and conditions, and terms regarding remuneration, as determined by the Prudential Committee.

(6) A subcommittee established in terms of subsection (1) must be chaired by a person who is not the Governor, a Deputy Governor, the Chief Executive Officer or a staff member of the Prudential Authority.

(7) A subcommittee established in terms of this section determines its procedures subject to any directions by the Prudential Committee.

(8) The Chief Executive Officer must ensure that minutes of each meeting of each subcommittee established in terms of this section are kept in a manner determined by the Prudential Committee.

Duties of members of Prudential Committee and members of subcommittees

46. (1) A member of the Prudential Committee or of a subcommittee established in terms of section 45(1) must—

(a) act honestly in all matters relating to the Prudential Authority; and

(b) perform the functions of office as a member—

(i) in good faith;

(ii) for a proper purpose; and

(iii) with the degree of care and diligence that a reasonable person in the member’s position would exercise.

(2) A person who is or has been a member of the Prudential Committee or of a subcommittee established in terms of section 45(1) may not use that position or any information obtained as such a member to—

(a) improperly benefit himself or herself or another person;

(b) impede the Prudential Authority’s ability to perform its functions; or

(c) cause improper detriment to another person.

(3) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

Regulatory strategy

47. (1) The Prudential Committee must, within six months after the date on which this Chapter takes effect, adopt a regulatory strategy for the Prudential Authority to give general guidance to the Prudential Authority in the achievement of its objective and the performance of its regulatory and supervisory functions.

(2) A regulatory strategy must—

(a) state—

(i) the regulatory and supervisory priorities for the Prudential Authority for the next three years; and

(ii) the intended key outcomes of the strategy;

(b) set guiding principles for the Prudential Authority on—

(i) how it should perform its regulatory and supervisory functions;
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(2) Komiti ya Thlokomelo e ka tlhoma komiti e le esi kgotsa go feta e e nang le diitiro tse di tla tlhumamiswisiwe ke Komiti ya Keoletlhoko ya Bothati jwa Thlomokomelo.

(3) (a) Komiti ya Thlomokomelo e tlhoma kimo botokololo jwa komititlaleletso e e tlhomilweng go ya ka karolo eno.

(b) Bontsi jwa maloko a komititlaleletso e e tlhomilweng go ya ka karolotlalaleltso (1) bo ka se nne badirammogo ba Bothati jwa Thlomokomelo kgotsa Banka ya Resefē.

(c) Komititlaleletso e e tlhomilweng go ya ka karolotlaleletso (2) e ka akaretsa batho bao e seng maloko a Komiti ya Thlomokomelo kgotsa badirammogo ba Bothati jwa Thlomokomelo.

(d) Motho yo o ileditsweng o ka se nne leloko la komititlaleletso e e tlhomilweng go ya ka karolo eno.

(4) Komiti ya Thlomokomelo e ka, boemong jwa go tlhoma komititlaleletso e e tlhomilweng mo karolotlaleletso (1), naya tiro ya komititlaleletso go komiti ya Banka ya Resefē e e dirang tiro e e tshwanang.

(5) Lelo la komititlaleletso e e tlhomilweng go ya ka karolo eno, go akaretsa le leloko le le seng mo tirelong ya lephata la puso, o thapiwa mo pakeng, le go ya ka mabaka le dipeelo, le dipeelo tse di amanang le mogolo, jaaka go tlhomamisitswe Komiti ya Thlomokomelo.

(6) Komiti e e tlhomilweng go ya ka karolotlaleletso (1) e tshwanengte go okamelwa ke motho yo o seng Mmusisi, Motlatsammusisi, Motlhakemedimogolo wa Khuduthamaga kgotsa leloko la badirammogo ba Bothati jwa Thlomokomelo.

(7) Komititlaleletso e e tlhomilweng go ya ka karolo eno e tlhomamisa ditsamaaiso tsatsa yona go tsamaelana le kaelo ya Komiti ya Thlomokomelo.

(8) Mophokeng Mogolo wa Khuduthamaga o tshwanengte go netefatsa gore metsotsotse ya kopano ngwe le ngwe ya komititlaleletso e e tlhomilweng go ya ka karolo eno e tsholwa go ya ka mokgwa o o tlhomamisitsewe ke Komiti ya Thlomokomelo.

Ditiro tsa maloko a Komiti ya Thlomokomelo le maloko a dikomititlaleletso

46. (1) Lelo la Komiti ya Thlomokomelo kgotsa komititlaleletso e e tlhomilweng go ya ka karolo 45(1) le tshwanetse go—

(a) dira ka botshepegi mo mererong yotlh e e amanang le Bothati jwa Thlomokomelo; le

(b) dira ditiro tsotfise jaaka leloko—

(i) le le ikanyegang;

(ii) mabapi le maitlhomo a nnete; le

(iii) ka tlhokomelo e e tseneletseng le matsetseleko tse motho yo o mo maemong a leloko a ka di diragatsang.

(2) Motho yo o leeng kgotsa yo o kileng a nna leloko la Komiti ya Tlhokomelo kgotsa komititlaleletso e e tlhomilweng go ya ka karolo 45(1) o ka se dirise maemo ao kgotsa tshedimosetso ngwe le ngwe e a e filltheletseng jaaka leloko leo go—

(a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tselo e e sa siamang;

(b) kgoreletsa Bothati jwa Thlomokomelo go dira tiro ya jona; kgotsa

(c) thatafaletsa motho yo mongwe.

(3) Mabapi le maitlhomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a lekanetswa go kunomolemo ya ditšheletseng go kgotsa thatafaletso ya ditšhele.

Leano la bolaodi

47. (1) Komiti ya Thlomokomelo e tshwanetse, mo dikgweding tse thataro morago ga lethla la go tseangga tirisong ga Kgaolọ eno, go amogela leano la bolaodi gore Bothati jwa Thlomokomelo bo neye kgakololo e e akaretsang go Bothati jwa Thlomokomelo mo go fitlheleleleleleng maikaelelo la lego le dira ditiro tsa jona tsa bolaodi le bothlhokomedi.

(2) Leano la bolaodi le tshwanetse go—

(a) thagisa—

(i) ditlapa leloko la bolaodi le bolothokomici tse Bothati jwa Thlomokomelo mo dingwageng tse tharo tse di latelang; le

(ii) dipololoe tse di bothlhoka tse di lebeletseng tsa leano;

(b) thlama ditheo tsa kaelo boemong jwa Bothati jwa Thlomokomelo ka ga—

(i) mokgwa o bo tshwanetseng go dira ditiro tsa jona tsa bolaodi le bothlhokomici;
(ii) the matters to which it should have regard in performing those functions;
(iii) its approach to administrative actions; and
(iv) how it should give effect to the requirements applicable to it with respect to—
   (aa) transparency;
   (bb) openness to consultation; and
   (cc) accountability; and
(c) be aimed at giving effect to section 34(4).

(3) The Prudential Committee must review the regulatory strategy at least annually, and may amend it at any time.

(4) (a) Before the Prudential Committee adopts a regulatory strategy or an amendment to a regulatory strategy, it must—
   (i) provide a copy of the draft of the strategy or amendment to the Minister, the Financial Sector Conduct Authority and the National Credit Regulator; and
   (ii) invite comments from the Minister, the Financial Sector Conduct Authority and the National Credit Regulator, on the draft, to be made within a period specified by the Prudential Committee.
(b) The period referred to in paragraph (a)(ii) must be at least one month.

(5) In deciding whether to adopt a regulatory strategy or an amendment of a regulatory strategy, the Prudential Authority must have regard to all comments made on the draft.

(6) The Prudential Committee must seek to minimise, to the extent that is practicable and appropriate, inconsistencies between the Prudential Authority’s regulatory strategy and the Financial Sector Conduct Authority’s regulatory strategy.

(7) The Chief Executive Officer must—
   (a) provide a copy of the Prudential Authority’s regulatory strategy, and each amendment, as adopted, to the Minister, the Financial Sector Conduct Authority and the National Credit Regulator; and
   (b) publish the regulatory strategy and each amendment.

Delegations

48. (1) The Prudential Committee may, in writing—
   (a) delegate any power or duty referred to in section 42(b)(viii) to the Chief Executive Officer or another staff member of the Prudential Authority; and
   (b) at any time, amend a delegation made in terms of paragraph (a).
(2) The Chief Executive Officer may, in writing—
   (a) delegate to a staff member of the Prudential Authority or an official or staff member of the Reserve Bank any power or duty assigned or delegated to the Chief Executive Officer in terms of a financial sector law, except the power to delegate contained in this subsection;
   (b) delegate to an administrative action committee the power to impose administrative penalties that are specified in the delegation, if the Prudential Authority establishes an administrative action committee; and
   (c) at any time amend a delegation made in terms of paragraph (a) or (b).
(3) A delegation in terms of subsection (1)(a) or (2)(a) may be to a specific person or to a person holding a specific position.
(4) Any power or duty of the Prudential Authority may be delegated to the Financial Sector Conduct Authority by a section 77 memorandum of understanding in accordance with a framework and system of delegation developed by the financial sector regulators to ensure that any delegation does not constrain the Prudential Authority or the Financial Sector Conduct Authority from achieving their respective objectives as set out in sections 33 and 57.
(5) A delegation in terms of this section—
   (a) is subject to the limitations and conditions specified in the delegation;
(ii) merero e bo tshwanetseng go e ela tlhoko mo go direng ditiro tsa jona;
(iii) ithagiso ya jona go ditiro tsa tsamaiso; le
(iv) ka moo bo ka neelanang ka ditlhokego tse di maleba go jona mabapi le——

(a) ponaletshego;

(bb) ditherisano tse di seng bofitlha; le

(cc) boikarabelo; le

(c) go lebiswa go mo tsaamelaeng le ditheo tsa karolo 34(4).

(3) Komiti ya Tlhokomelo e tshwanetse go sekaseka leano la bolaodi bonnye ngwaga le ngwaga, le go ka le tlhabolola nako ngwe le ngwe.

(4) (a) Pele ga Komiti ya Tlhokomelo e ka amogela leano la bolaodi kgotsa tlhabololo go leano la bolaodi, e tshwanetse——

(i) go tlamela ka kgatiso ya thalo ya leano kgotsa tlhabololo go Tona, Bothathi jwa Boitshwara jwa Lephata la Ditšheletse le Bolaodi jwa Botšetšaba jwa Sekoloto; le

(ii) go laletsa distshwaelo go tswa go Tona, Bothathi jwa Boitshwara jwa Lephata la Ditšheletse le Bolaodi jwa Botšetšaba jwa Sekoloto, ka ga thalo, gore di dirwe mo pakeng e e kailweng ke Komiti ya Tlhokomelo.

(b) Paka e e kailweng mo temaneng (a)(ii) e tshwanetse go nna bonnye kgwedi e le esi.

(5) Mo go swetseng ka ga go amogela leano la bolaodi kgotsa tlhabololo ya leano le bolaodi, Bothathi jwa Tlhokomelo bo tshwanetse go tsaya tsia distshwaelo tsothle tse di dirilweng mo thalong.

(6) Komiti ya Tlhokomelo e ka distshwaelo go leano la bolaodi le Bolaodi jwa Tlhokomelo, hlopho tse go tshwanetse, go sa tsaamelaeng magareng ga leano la bolaodi la Bothathi jwa Tlhokomelo le leano la bolaodi la Bothathi jwa Boitshwara jwa Lephata la Ditšheletse.

(7) Motlhankedimogolo wa Khuduthamaga o tshwanetse——

(a) go tlamela kgatiso ya leano la bolaodi la Bothathi jwa Tlhokomelo, le tlhabololo ngwe le ngwe jaaka e amogetswe, go Tona, Bothathi jwa Boitshwara jwa Lephata la Ditšheletse le Bolaodi jwa Botšetšaba jwa Sekoloto; le

(b) go phasalatsa leano le tlhabololo ngwe le ngwe.

Ditholelo

48. (1) Komiti ya Tlhokomelo e ka, ka go kwala——

(a) rolela thata ngwwe le ngwe kgotsa tiro e e kailweng mo karolong 42(b)(viii) go Motlhankedimogolo wa Khuduthamaga kgotsa modirammogomo mongwe wa Bothathi jwa Tlhokomelo; le

(b) ka nako ngwe le ngwe, tlhabololo tholelo e e dirilweng go ya ka temana (a).

(2) Motlhankedimogolo wa Khuduthamaga o ka, ka go kwala——

(a) rolela go modirimmogo wa Bothathi jwa Tlhokomelo kgotsa mokantoro kgotsa molahmulti kgotsa modirammomo wa Banka ya Resefhe thate ngwwe le ngwe kgotsa tiro e e neilweng kgotsa roletsweng Motlhankedimogolo wa Khuduthamaga go ya ka molao wa lephata la ditšheletse, ntle le thate ya tholelo e e umakilweng mo karolotlaleleletsong eno;

(b) rolela go komiti ya tiro ya tsamaiso thate ya go paneletsa dikothla tsa tsamaiso tse di tsemapisitsweng mo tholelogeng, fa Bothathi jwa Tlhokomelo bo tla mokardimo komiti ya tiro ya tsamaiso; le

(c) ka nako ngwe le ngwe go tlhabolola tholelo e e dirilweng go ya ka temana (a) kgotsa (b).

(3) Tholelo go ya ka karolotlalelelso (1)(a) kgotsa (2)(a) e ka dirwa go motho yo o tsepameng kgotsa go motho yo o tshweneng maemo a a tsepameng.

(4) Thata ngwwe le ngwe kgotsa tiro ya Bothathi jwa Tlhokomelo e ka rolelwgo wa Bothathi jwa Boitshwara jwa Lephata la Ditšheletse ka memorantamo wa tulumano wa karolong 77 go tsaamelaana le lethlomeso le thulaganyo ya tholelo e e tlhabolotsweng le balaodi ba lephata la ditšheletse go netefatsa gore tholelo ngwe le ngwe ga e tshieble Bothathi jwa Tlhokomelo kgotsa Bothathi jwa Boitshwara jwa Lephata la Ditšheletse mo go fitleheleleng matlhomo a jona a a tlhalositsweng mo dikarolong 33 le 57.

(5) Tholelo go ya ka karolo eno——

(a) e tsaamelaana le ditekanyetso le dipelo tse di tlhalositsweng mo tholelogeng;
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(b) does not divest the Prudential Authority, the Prudential Committee or the Chief Executive Officer of responsibility in respect of the delegated power or duty; and

(c) may be revoked at any time, but a revocation does not affect any rights or liabilities accrued because of the acts of the delegate.

(6) Anything done by a delegate in accordance with a delegation in terms of this section must be regarded as having been done by the Prudential Authority.

(7) This section does not affect a power under a specific financial sector law to delegate a power of the Prudential Authority.

Disclosure of interests

49. (1) A member of the Prudential Committee or of a subcommittee established in terms of section 45(1) must disclose, at a meeting of the Prudential Committee or subcommittee, as the case may be, or in writing to each of the other members of that committee or subcommittee, any interest in any matter that is being or may be considered by the relevant committee that—

(a) the member has; or

(b) a person who is a related party to the member has.

(2) A disclosure referred to in subsection (1) must be given as soon as practicable after the member becomes aware of the interest.

(3) (a) A member who has, or who has a related party who has, an interest that is required to be disclosed in terms of subsection (1), may not participate in the consideration of, or decision on, a matter to which the interest relates unless—

(i) the member has disclosed the interest as required by subsection (1); and

(ii) the other members of the Prudential Committee or subcommittee have decided that the interest does not affect the proper execution of that member’s functions in relation to the matter.

(b) Any consideration of, or decision on, a matter which does not comply with paragraph (a) is void and must be reconsidered or decided without the member present.

(4) (a) Each member of the Prudential Authority’s staff and each person to whom a power or function of the Prudential Authority has been delegated must make timely, proper and adequate disclosure of their interests, including the interests of a related party, that could reasonably be seen as interests that may affect the proper execution of their functions of office or the delegated power.

(b) The Chief Executive Officer must ensure that paragraph (a) is complied with.

(5) For the purposes of this section, it does not matter—

(a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or

(b) when the interest was acquired.

(6) For the purposes of this section, a person does not have to disclose—

(a) the fact that that person, or a person who is a related party to that person, is—

(i) an official or employee of the Reserve Bank; or

(ii) a financial customer of a financial institution; or

(b) an interest that is not material.

(7) A failure by a person to disclose a material interest in accordance with this section and any guidelines that may be prescribed by the Minister in terms of section 288(3) constitutes—

(a) a breach of the duties in section 46 or 52, whichever section is applicable to the person; and

(b) an offence in terms of section 265.

(8) When a person has failed to disclose a material interest in terms of this section, the Prudential Committee must publish a notice on the Prudential Authority’s website that a failure to disclose a material interest occurred, which notice must include the details of the failure.

(9) The Chief Executive Officer must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.
(b) ga e amoge Bothati jwa Thlhokomelo, Komiti ya Thlhokomelo kgotsa Molthankedimoigolo wa Khuduthamaga maikarabelo mabapi le thata e e roletsweng kgotsa tiro; le
(c) e ka gogelwa morago nako nngwe le nngwe, mme kgogelomorago ga e ame ditshwanelo dipe kgotsa melato tse di bonweng ka ntlha ya ditlamorago tsa tholelo.

(6) Sengwe le sengwe se se dirweng ke moroledi go tsamelaena le tholelo go ya ka karolo eno se tshwanetse go tsewa jaaka se setse se dirilwe ke Bothati jwa Thlhokomelo.

(7) Karolo eno ga e ame thata ka fa tlase ga molao o o rileng wa lephata la ditšhlete ya go rolela thata kwa Bothating jwa Thlhokomelo.

Tshenolo ya dikgatlhegelo

49. (1) Leloko la Komiti ya Thlhokomelo kgotsa komitiitlaleletso e e tlhomilweng go ya ka karolo 45(1) le tshwanetsetse go senola, kwa kopanong ya Komiti ya Thlhokomelo kgotsa komitiitlaleletso, go ya ka mabaka, kgotsa ka go kwalela mongwe le mongwe wa maloko a mongwe a komiti eo kgotsa komitiitlaleletso, kgatlhegelo nngwe le nngwe mo morerong o o tsaweng kgotsa o o tla tsaweng tsia ke komiti e e maleba ya gore—
   (a) leloko le na le yona; kgotsa
   (b) motho yo o amanang le leloko o na le yona.

(2) Tshenolo e e kailweng mo karolotlaleletsong (1) e tshwanetsetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le sena go itse ka ga kgatlhegelo.

(3) (a) Leloko le lenang le, kgotsa le wa losika la gagwe a nang le, kgatlhegelo e e tshwanetseng go senolwa go ya ka karolotlaleletso (1), le ka se tseye karolo mo tshekatshekon sog ga kgotsa mo tshwetsong ya, morero o kgatlhegelo e amanang le ona ntle le fa—
    (i) leloko le senotse kgatlhegelo jaaka go tloheka go ya ka karolotlaleletso (1); le
    (ii) maloko a mongwe a komiti eo a swetidise gore kgatlhegelo e e se tsele gore e ama go diro tiro go gi siameng ga leloko lebapi le morero.

(b) Tshetshesho kgotsa le nngwe le nngwe ya, kgotsa tshwetsyo ya, morero o o o sa ikamanyeng le temana (a) ga e amogelesege e bile e tshwanetsetse go sekasekwa ga pepe kgotsa go swetswa ntle le go nna tse le leloko.

(4) (a) Mongwe le mongwe wa leloko la badiri ba Bothati jwa Thlhokomelo le mongwe yo o roletsweng thata ya Bothati jwa Thlhokomelo o tshwanetsetse go diro tshenolo ya dikgatlhegelo tsa gagwe ka nako, tshiamo le tekelo, go akarela e dikgatlhegelo tsa letlhakore le a amanang le lona, tseo di ka tsaweng jaaka dikgatlhegelo tse di ka ba amang mo go direng ditiro tsa ofisi ka thomamo kgotsa tha e e roletswe.

(b) Molthankedimoigolo wa Khuduthamaga o tshwanetse go netefatsa gore temana (a) e a obamelwa.

(5) Mabapi le matlhomo a karolo eno, ga go kgathalesege—
   (a) gore kgatlhegelo ke e e tlhamaletsetse, motspodia, ya tséthele kgotsa e seng ya tséthele; kgotsa
   (b) gore kgatlhegelo e fitlheletsew leng.

(6) Mabapi le matlhomo a karolo eno, ga go tloheke gore motho a senole—
   (a) ntlha ya gore motho yoo, kgotsa motho yo e leng lethakore la kamano go motho yoo, ke—
      (i) molthankedi kgotsa modiri wa Banka ya Resef; kgotsa
      (ii) morekedi wa ditele re se theo sa ditšhlete; kgotsa
   (b) kgatlhegelo e e senang boleng.

(7) Go palelwa ga motho go senola ka ga kgatlhegelo go tsamelaena le karolo eno le dikaelo dingwe le dingwe tse di ka neelwang ke Tona go ya ka karolo 288(3) go nna le ditlamorago tsa—
   (a) tlolo ya ditlamego mo karolong 46 kgotsa 52, karolo nngwe le nngwe e e diragatswang mo mothong; le
   (b) tlolo ya molao go ya ka karolo 265.

(8) Fa motho a paletsewse ke go senola kgatlhegelo ya gagwe go ya ka karolo eno, Komiti ya Thlhokomelo e tshwanetsetse go phsalatsas kisitso mo webesaeteng ya Bothatin wa Thlhokomelo e e ka ga go diragala ga go palelwa ke go senola kgatlhegelo.

(9) Molthankedimoigolo wa Khuduthamaga o tshwanetsetse go tsela rejesetseya da ditšheleno tsotlhe tse di dirilweng go ya ka karolo eno le ya ditšhutowo tsotlhe tse di dirilweng go ya ka karolo eno.
Staff and resources

50. (1) The Prudential Authority must determine the personnel, accommodation, facilities, use of assets, resources and other services that it requires to function effectively.
(2) The Prudential Authority may—
   
   (a) enter into secondment arrangements in respect of persons;
   
   (b) engage persons on contract otherwise than as employees;
   
   (c) enter into contracts;
   
   (d) acquire or dispose of property;
   
   (e) insure itself against any loss, damage, risk or liability that it may suffer or incur; and
   
   (f) do anything else necessary for the performance of its functions.
(3) The Prudential Authority may not enter into a secondment arrangement in respect of a person, or engage persons on contract, unless the person and the Prudential Authority have agreed in writing on—
   
   (a) the performance measures that will be used to assess that person’s performance; and
   
   (b) the level of performance that must be achieved against those measures.

Resources provided by Reserve Bank

51. (1) The Reserve Bank must provide the Prudential Authority with the personnel, accommodation, facilities, use of assets, resources and other services determined in accordance with section 50(1) and as agreed to by the Reserve Bank.
(2) The Reserve Bank must second the personnel that it provides in terms of subsection (1) to the Prudential Authority.

Duties of staff members

52. (1) A person who is or has been a staff member of the Prudential Authority may not use that position or any information obtained as a staff member to—
   
   (a) improperly benefit himself or herself or another person;
   
   (b) impede the Prudential Authority’s ability to perform its functions; or
   
   (c) cause improper detriment to another person.
(2) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

Financial management duties of Chief Executive Officer

53. The Chief Executive Officer must—
   
   (a) recommend to the Prudential Committee fees for prudential supervision by, and other services provided by, the Prudential Authority in terms of this Act and other financial sector laws, and levies in terms of levies legislation;
   
   (b) exercise the utmost care to protect the assets and records of the Prudential Authority;
   
   (c) act with fidelity, honesty, integrity and in the best interests of the Authority in managing the financial affairs of the Prudential Authority;
   
   (d) on request, disclose to the Minister or the Governor all material facts relating to the affairs of the Prudential Authority, including those reasonably discoverable, that in any way may influence decisions or actions of the Minister or the Governor;
   
   (e) seek, within the Chief Executive Officer’s sphere of influence, to prevent any prejudice to the financial interests of the Republic;
Karolo 3

Badiri, ditlamelo le taolo ya dišhelete

Badiri le ditlamelo

50. (1) Bothati jwa Tlhokomelo bo tshwanetse go tlhomamisa badiri, marobalo, didiriswa, tiriso ya dithoto, ditlamelwana le ditirelo tse dingwe tseo bo batlang gore di dire ka nonefo.

(2) Bothati jwa Tlhokomelo bo ka—

(a) tsena mo diθhulaganyong tsa go tlatsa mabapi le batho;

(b) go thapa batho jaaka bakonteraka go na le jaaka badiri;

(c) go tsena mo dikonterakeng;

(d) go reka le go rekisa thoto;

(e) go ṭhɔsɔ kqatlhanong le ditatlhegelo, ditshenyegelo, kotsi kgotsa molato eo bo ka lebaganang le yona kgotsa ba nna le yona; le

(f) go dira sengwe le sengwe se se tlhokegang go dira ditiro tsa jona.

(3) Bothati jwa Tlhokomelo bo ka se tsene mo thulaganyong ya go tlatsa mabapi le motho, kgotsa go tsenya batho mo dikonterakeng, ntle le fa motho le Bothati jwa Tlhokomelo ba dumalane ka go kwala ka—

(a) datekanyetsotiro tse di tla diriswang go lekanyetsa tiro ya motho yoo; le

(b) boemo jwa tiro jo bo tshwanetseg go filhelelwa kqatlhanong le datekanyetso tseoo.

Ditlamelo tse di tlamelwang ke Banka ya Resefe

51. (1) Banka ya Resefe e tshwanetse go tlamela Bothati jwa Tlhokomelo ka badiri, marobalo, didiriswa, tiriso ya dithoto, ditlamelwana le ditirelo tse dingwe tse di tlhomamisitsweng go tsamaelana le karolo 50(1) le jaaka go dumetswe ke Banka ya Resefe.

(2) Banka ya Resefe e tshwanetsetse go tlatsa badiri bao e tlamelanang ka bona go ya ka karolotlaleletso (1) go Bothati jwa Tlhokomelo.

Ditiro tsa maloko a badiri

52. (1) Motho yo e leng kgotsa yo o kileng a nna lelolo la badiri ba Bothati jwa Tlhokomelo o ka se dirise maemo ao kgotsa tshedimose tse ogwe le ogwe e e bonweng fa e ne e le lelolo la badiri go ka—

(a) una molemo ka boena kgotsa go dira motho yo mongwe a uno molemo ka tsel e e sa siamang;

(b) kgoreletsa Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa

(c) thatafaletsa motho yo mongwe.

(2) Mabapi le maθlhomo a karolo eno, “kunomoθlemo” le “thatafaletso” ga di a lekanyetsa go kunomoθlemo ya dišhelete kgotsa thatafaletso ya dišhelete.

Ditiro tsa taolo ya dišhelete tsa Motlhankedimogolo wa Khuduthamaga

53. Motlhankedimogolo wa Khuduthamaga o tshwanetse—

(a) go atlanegisa go Komiti ya Tlhokomelo dituelo tsa thlokonomelo ya bothokomedi ka, le ditirelo tse dingwe tse di tlamelwang ke, Bothati jwa Tlhokomelo go ya ka Molao ono le melao e mengwe ya lephata la dišhelete, le makgethwana go ya ka molawana wa makgethwana;

(b) go bonitsa thlokonomelo e kgolo go sereletsa dithoto le direkoto tsa Bothati jwa Tlhokomelo;

(c) go dira ka boikanye yo, botshepegi, tshiamo le ka kgatlhegelo e e tseneletseng ya Bothati mo go laoleng merero ya dišhelete ya Bothati jwa Tlhokomelo;

(d) ka kopo, go senolela Tona kgotsa Mmusisi ditilha ka botlalo tse di amanang le Bothati jwa Tlhokomelo, go akaretsa le tse o di ribolotsweng ka mabaka, tse o ka mokgwa mongwe di ka susumetsang dišhetseng kgotsa ditiro tsa Tona kgotsa Mmusisi;

(e) go batla, mo tshusumetsong ya Motlhankedimogolo wa Khuduthamaga, go thibela kgobelelo ngwe le ngwe go dikgatlhegelo tsa dišhelete tsa Rephaboliki;
(f) ensure that the Prudential Authority has and maintains—
   (i) effective, efficient and transparent systems of financial and risk management;
   (ii) an effective, efficient and transparent system of internal audit; and
   (iii) a procurement and provisioning system that is fair, equitable, transparent, competitive and cost-effective;

(g) take appropriate and cost-effective steps to—
   (i) collect revenue due to the Prudential Authority;
   (ii) prevent losses resulting from criminal conduct and expenditure that is not in accordance with the Prudential Authority’s operational policies; and
   (iii) manage available working capital efficiently and economically;

(h) manage and safeguard the assets of the Authority, and manage the revenue, expenditure and liabilities of the Authority;

(i) establish systems and processes to ensure that effective and appropriate disciplinary steps are taken against any staff member of the Authority who—
   (i) contravenes a law relevant to the performance of the Authority’s functions; or
   (ii) engages in conduct that undermines the financial management and internal control systems of the Authority; and

(j) generally ensure that the Authority complies with its legal obligations.

Information by Chief Executive Officer

54. (1) The Chief Executive Officer must provide the Prudential Committee and the National Treasury with the information, returns, documents, explanations and motivations that may be prescribed by Regulation for this section or that the Prudential Committee or the National Treasury may request.

(2) Subsection (1) does not require or permit the provision of information about persons identifiable from the information.

Annual reports and financial accounts

55. (1) The Chief Executive Officer must—
   (a) ensure that full and proper records of the financial affairs of the Prudential Authority are kept and maintained;
   (b) prepare financial accounts for the Prudential Authority for each financial year which will form part of the annual report of the Reserve Bank; and
   (c) submit to the Minister, within five months after the end of each financial year, for tabling in the National Assembly an annual report on the activities of the Prudential Authority during that financial year, including particulars of any matters that may be prescribed by Regulation for this section.

(2) The financial accounts of the Prudential Authority referred to in subsection (1)(b)—
   (a) must be disclosed in the annual report of the Reserve Bank in a manner that reflects the direct costs that accrue to the Prudential Authority; and
   (b) may be disclosed in the form of an annexure to the annual report of the Reserve Bank.
(f) go netefatsa gore Bothathi jwa Tlhokomelo bo na le gape bo tshegetsa—
   (i) dithulaganyo tsa taolo ya dišhelete le kotsi tse di nonofileng, di na le bokgoni le ponalatsego;
   (ii) thulaganyo ya boruni jwa ka fa gare e e nonofileng, e na le bokgoni le ponalatsego;
   (iii) thulaganyo ya tshenkelo le kabelo e e lolameng, lekalekanang, bonalatsegang, gaisionang le tlhotlhwa e e nonofileng;

(g) go tsaya dikgato tse di maleba gape di le tlhotlhwa e e nonofileng go—
   (i) kgobokanya lotsono le le kolotwang Bothathi jwa Tlhokomelo;
   (ii) thibela ditathhegelo tse di bakilweng ke maithsholo a bosenyi le ditshenyegelo tse di sa tsamaelaneng le dipholisi tsa tsa¬maiso tsa Bothathi jwa Tlhokomelo; le
   (iii) laola khabitule ya tiro e e leng teng ka nonefo le tshomarelo;

(h) laola le go sirelesta dithoto tsa Bothathi; le go laola lotsono, ditshenyegelo le melato ya Bothathi;

(i) tlhoma dithulaganyo le ditsamaiso go netefatsa gore dikgato tsa kgalemno tse di nonofileng e bile di le maleba di a tsewa kgathanong le leloko la badirimmo ya Bothathi le le—
   (i) tloang molao o o malebana le tiragatso ya ditiro tsa Bothathi; kgotsa
   (ii) amegang mo maithsholong a a nyenyeso tsa Bothathi ya dišhelete le dithulaganyo tsa ka fa gare tsa taolo tsa Bothathi; le

(j) netefatsa ka kakaretsa gore Bothathi bo ikamanya le ditlamego tsa jona tsa semo¬lao.

Tshedimosetso ka Môthankedimogolo wa Khuduthamaga

54. (1) Môthankedimogolo wa Khuduthamaga o tshwanetse go tlamela Komiti ya Tlhokomelo le Matlofo a Bosetshaba ka tshedimosetso, dipolo, dikwalo, dithaloselo le ditshategotse tse di ka neelwango ke Molawana wa karolo eno kgotsa en e ka kopiwane ke Komiti ya Tlhokomelo kgotsa Matlofo a Bosetshaba.

(2) Karolotlalelelo (1) ga e thloho kgotsa dumelelele kabelo ya tshedimosetso ka ga batho ba ba ke supitwango go tswa mo tshedimosetsong.

Dipegelo tsa ngwaga le diakhaonto tsa ditšhelete

55. (1) Môthankedimogolo wa Khuduthamaga o tshwanetse go—
   (a) netefatsa gore direkoto tse di feletseng tse nnete tsa merero ya ditšhelete tsa Bothathi jwa Tlhokomelo di a tsholwa le go thokomelwa;
   (b) baakanya diakhanto tsa ditšhelete tsa Bothathi jwa Tlhokomelo ngwaga mongwe le mongwe wa ditšhelete tse di tla nnang karolo ya pegelo ya ngwaga ya Banka ya Resefe; le
   (c) romelela Tona mo dikgwedeng tse tlhano morago ga bokhutlo jwa ngwaga mongwe le mongwe wa ditšhelete, mabapi le go di baya fa pele ga Kokoano Bosetshaba pegelo ya ngwaga e e ka ga ditiro tsa Bothathi jwa Tlhokomelo mo ngwageng oo wa ditšhelete, go akaretsa le dinthla tsa morero mongwe le mongwe tse di ka neelwango ke Molawana wa karolo eno.

(2) Diakhanto tsa ditšhelete tsa Bothathi jwa Tlhokomelo tse di kaiweng mo karolotlalelelo (1) (b)—
   (a) di tshwanetse go senolwa mo pegelone ya Banka ya Resefe ka mokgwa o o bonishang ditshenyegelo ka tlhamalalo tse di tswang kwa Bothating jwa Tlhokomelo; e bile
   (b) di ka senolwa ka mokgwa wa mametlelelo go pegelo ya ngwaga ya Banka ya Resefe.
CHAPTER 4
FINANCIAL SECTOR CONDUCT AUTHORITY

Part 1

Establishment, objective and functions

Establishment

56. (1) The Financial Sector Conduct Authority is hereby established, as a juristic person.

(2) The Authority is a national public entity for the purposes of the Public Finance Management Act, and despite section 49(2) of the Public Finance Management Act, the Commissioner is the accounting authority of the Financial Sector Conduct Authority for the purposes of that Act.

Objective

57. The objective of the Financial Sector Conduct Authority is to—

(a) enhance and support the efficiency and integrity of financial markets; and

(b) protect financial customers by—

(i) promoting fair treatment of financial customers by financial institutions; and

(ii) providing financial customers and potential financial customers with financial education programs, and otherwise promoting financial literacy and the ability of financial customers and potential financial customers to make sound financial decisions; and

(c) assist in maintaining financial stability.

Functions

58. (1) In order to achieve its objective, the Financial Sector Conduct Authority must—

(a) regulate and supervise, in accordance with the financial sector laws, the conduct of financial institutions;

(b) co-operate with, and assist, the Reserve Bank, the Financial Stability Oversight Committee, the Prudential Authority, the National Credit Regulator, and the Financial Intelligence Centre, as required in terms of this Act;

(c) co-operate with the Council for Medical Schemes in the handling of matters of mutual interest;

(d) promote, to the extent consistent with achieving the objective of the Financial Sector Conduct Authority, sustainable competition in the provision of financial products and financial services, including through co-operating and collaborating with the Competition Commission;

(e) promote financial inclusion;

(f) regularly review the perimeter and scope of financial sector regulation, and take steps to mitigate risks identified to the achievement of its objective or the effective performance of its functions;

(g) administer the collection of levies and the distribution of amounts received in respect of levies;

(h) conduct and publish research relevant to its objective;

(i) monitor the extent to which the financial system is delivering fair outcomes for financial customers, with a focus on the fairness and appropriateness of financial products and financial services and the extent to which they meet the needs and reasonable expectations of financial customers; and

(j) formulate and implement strategies and programs for financial education for the general public.

(2) In relation to a financial institution that is a credit provider regulated in terms of the National Credit Act, the Financial Sector Conduct Authority may, in addition to regulating and supervising the financial institution in respect of the financial services
56. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo a tlhongwa, jaaka setheo se se mo molaong.
   (2) Bothati ke setheo sa setšaba sa bosetšaba mabapi le maitlhomo a Public Finance Management Act le, ntle le karolo 49(2) ya Public Finance Management Act, le kwa ntle ga karolo 49(2) ya Public Finance Management Act, Khomišenara ke moitseanape yo o ikarabelang wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mabapi le maitlhomo a Molao ono.

Maikaelelo

57. Maikaelelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ke go—
   (a) oketsa le go tshegetsa nonofo le tsiamo ya thulaganyo ya ditšhelete; le
   (b) sreleetsa barekedi ba ditšhelete ka go—
      (i) ntshetsa pele tsholo e e lolameng ya badirelwa ba ditšhelete ka ditheo tsu ditšhelete; le
      (ii) tlamela barekedi ba ditšhelete le bao ba tla nnang barekedi ba ditšhelete ka mananeo a thuto ya tsu ditšhelete, le ka go tsheletsa bobuisokwalo jwa tsa ditšhelete le bokgoni jwa barekedi ba ditšhelete le bao ba tla nnang barekedi ba ditšhelete go tsayaa ditšhwetsa tse ditšhelete; le
   (c) thusa go tshegetsa thlomamo ya ditšhelete.

Ditiro

58. (1) Go fitlhelela maikaelelo a jona, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go—
   (a) laola le go tlhokomela, go tsamaelana le melao ya lephata la ditšhelete, boitshwaro jwa ditheo tsu ditšhelete;
   (b) dirisana mmogo le, le go thusa, Banka ya Resefe, Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete, Bothati jwa Thlhomelang ywa Molao la Botlhokomela le Bolaodi jwa Bothati jwa Sekoloto, jaaka go tlhokega go ya ka Molao ono;
   (c) dirisana mmogo le Khansele ya Dikema tsu Talafelo ya Kgaisano e e seelo ya Ditšhelete, go akaretsa le ka go dirisana mmogo le go kopana le Khomishenana ya Kgaisano;
   (d) ntshetsa pele, go fitlhelela mo go tsamaisaneng le phitlhelelong ya maikaelelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, kgaisano e e tseletseng ywa dikuno tsu ditšhelete le ditirelo tsa ditšhelete, go akaretsa le ka go dirisana mmogo le go kopana le Khomishenana ya Kgaisano;
   (e) ntshetsa pele tsewelela ya ditšhelete;
   (f) tlhathloba nako le nako modiko le seelo tsu bolaodi jwa lephata la ditšhelete, le go tsayaa dikgato go fordotsa dikotsi tse ditupilungweng go fitlhelela maikaelelo a jona kgotsa tiragatso e e nonofileng ya ditiro tsa jona;
   (g) tsamaisa go kgothokamgwa ga makgethwana le go phatlalatsa madi a a amogetsweng mabapi le makgethwana;
   (h) dira le go phasalatsa patlisiso e e malebana le maikaelelo a jona;
   (i) tlhokomela seelo se thulaganyo ya ditšhelete e abelang barekedi ba ditšhelete dipolo tse ditloameng ka teng, ka go tsupama mo tloameng le tshiamong ya dikuno tsu ditšhelete le ditirelo tsa ditšhelete le seelo se a bota ditšhelete ya ditšhelete mo setšhabeng ka kakaretsa.
   (j) tlhama le go tsena tiriqo mong a mananeo a a mabapi le thuto ya tsu ditšhelete le ditirelo tsa ditšhelete le seelo se a bota ditšhelete ya ditšhelete mo setšhabeng ka kakaretsa.

(2) Mabapi le setheo sa ditšhelete se a lao wa setšha le se loavweng ya ka Molao ya Boitshwabo ya Sekoloto, Bothati jwa Boitshwabo jwa Lephata la Ditšhelete bo ka, mo godimo ga go laola le go tlhokomela setheo sa ditšhelete mabapi

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that the financial institution provides, and notwithstanding section 2(1)(g), regulate and supervise the financial institution’s conduct in relation to the provision of credit under a credit agreement only in respect of those matters referred to in section 108.

(3) The Financial Sector Conduct Authority must also perform any other function conferred on it in terms of any other provision of this Act or other legislation.

(4) The Financial Sector Conduct Authority may do anything else reasonably necessary to achieve its objective, including—

(a) co-operating with its counterparts in other jurisdictions; and
(b) participating in relevant international regulatory, supervisory, financial stability and standard setting bodies.

(5) When performing its functions, the Financial Sector Conduct Authority must—

(a) take into account the National Credit Act and regulatory requirements for financial institutions that are authorised and regulated under that Act;

(b) take into account the need for a primarily pre-emptive, outcomes focused and risk-based approach, and prioritise the use of its resources in accordance with the significance of risks to the achievement of its objective; and

(c) to the extent practicable, have regard to international regulatory and supervisory standards set by bodies referred to in subsection (4)(b), and circumstances prevalent in the Republic.

(6) The Financial Sector Conduct Authority must perform its functions without fear, favour or prejudice.

Part 2

Governance

Overall governance objective

59. The Financial Sector Conduct Authority must manage its affairs in an efficient and effective way, and establish and implement appropriate and effective governance systems and processes, having regard, among other things, to internationally accepted standards in these matters.

Establishment and role of Executive Committee

60. (1) A committee called the Executive Committee is hereby established for the Financial Sector Conduct Authority.

(2) The Executive Committee consists of the Commissioner and the Deputy Commissioners.

(3) The Executive Committee must—

(a) generally oversee the management and administration of the Financial Sector Conduct Authority to ensure that it is efficient and effective; and

(b) act for the Financial Sector Conduct Authority in the following matters:

(i) Authorising the Commissioner to sign, on behalf of the Financial Sector Conduct Authority, a section 27 or section 77 memorandum of understanding and any amendments to such a memorandum;

(ii) delegating powers of the Financial Sector Conduct Authority to the Prudential Authority in terms of a section 77 memorandum of understanding;

(iii) adopting the regulatory strategy of the Financial Sector Conduct Authority, and any amendments to the strategy;

(iv) adopting the administrative action procedures of the Financial Sector Conduct Authority, and any amendments to those procedures;

(v) appointing members of subcommittees of the Financial Sector Conduct Authority required or permitted by a law, and giving directions regarding the conduct of the work of any subcommittee.
le ditirelo tsa ditšhelete tse di tlamelwang ke setheo sa ditšhelete, le go sa nyatswe karolo 2(1)(g), laola le go tlhokomela maitsholo a setheo sa ditšhelete mabapi le kabelo ya sekoloto ka fa tlase ga tumalano ya sekoloto fela mabapi le merero e e kalweng mo karolong 108.

(3) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse gape go dira tiro ngwe le ngwe e bo e neetsweng go ya ka kabelo ngwe le ngwe ya Molao ono kgosoa molawana mongwe le mongwe.

(4) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka dira sengwe le sengwe se se tlhokegang go fithelela maikaelelo a jona, go akaretsa ga—
   (a) dirisana mmogo le badirikabona mo ditaolong tse dingwe; le
   (b) tsaya karolo mo bolaoding jwa boditišhabatšhaba jo bo maleba, tlhokomelo, tšhomom ťa ditšhelete le mekgatlho e e bayang maemo.

(5) Mo go direng ditiro tsa jona, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go—
   (a) tsaya tšia Molao wa Bosetšhaba wa Sekoloto le ditlhokgeo tsa tao tso ditheo tsa ditšhelete tse di dumeletsweng le go laošwa ka fa tlase ga Molao oo;
   (b) tsaya tšia tlhokgeo ya ithagiso e bologo e tšibelang, e e tsepameng mo dipooleng le mokgwao o o theišlweng mo dikotsing, le go tšisa pele tiriso ya ditlamelwana tsa jona go tsamәelane la bothlokwa jwa dikotsi mo go filheleleneng maikaelelo a jona; le
   (c) go ya ka moo kyo ka kgonegag, go tsaya tšia boloadi jwa boditišhabatšhaba le maemo a tšholomela a a beilweng e e mekgatlho e e kalweng mo karolotlaletšong (3)(b), le maemo a a renang mo Rephaboloking.

(6) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go dira ditiro tsa jona ntle le letshого, tseoletlhaeke kgosoa kgbolelo.

Karolo 2

Puso

Maithlomo ka Kakaretso a puso

59. Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go laola merero ya jona ka nonofo le bokgoni, le go tlhoma le go tsenya mo tiriso go dithulaganyo tsa tsamaiso le ditirego tse di maleba gape di na le bokgoni, ka go elwa tlhoko, mo gare ga tse dingwe, ga maemo a a amogelesegang boditišhabatšhaba mo mererong eno.

Tlhome lebotsayakaro tsa Komiti Khuduthamaga

60. (1) Komiti e e bdiwang Komiti Khuduthamaga e tlhongwa mabapi le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(2) Komiti Khuduthamaga e na le Khomišênara le Batlatsakomišênara.

(3) Komiti Khuduthamaga e tshwanetse go—
   (a) baya leitlho ka kakaretso taolo le tsamaiso ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go netefatsa gore bo nonofilе e bile bo na le bokgoni; le
   (b) diра boemong jwa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mo mererong e e latelang:
      (i) Go dumelela Khomišênara go saena, mo boemong jwa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, memorantamo wa tumalano wa karolo 27 kgosoa karolo 77 le dithabololo dingwe le dingwe go memorantamo oo;
      (ii) go rolêla ditlhata tsê Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go Bothati jwa Tlhokomelo go ya ka karolo 77 ya memorantamo wa tumalano;
      (iii) go amogela leano la taolo la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, le dithabololo dingwe le dingwe go leano;
      (iv) go amogela ditsamaiso tsa tiro ya tsamaiso ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, le dithabololo dingwe le dingwe go ditsamaiso tseo;
      (v) go thapa maloko a dikomiti tsê Bothati jwa Boitshwaro jwa Lephata la Ditšhelete tse di tlhokegag kgosoa letleletsweng ke molao, le go neelana ka dikâelo mabapi le tiragatsâ ya tiro ya komiti ngwe le ngwe;
(vi) making conduct standards, joint standards and other regulatory instruments in terms of financial sector laws for which it is the responsible authority;
(vii) granting, varying, suspending and revoking licences in terms of a financial sector law;
(viii) making determinations of fees in terms of financial sector laws;
(ix) any other matter assigned in terms of a financial sector law to the Executive Committee.

Commissioner and Deputy Commissioners

61. (1) The Minister must appoint a person who is fit and proper and has appropriate expertise in the financial sector as the Commissioner of the Financial Sector Conduct Authority.
(2) The Minister must appoint at least two, but no more than four, persons who have appropriate expertise in the financial sector as Deputy Commissioners.
(3) The Commissioner and Deputy Commissioners serve in a full-time executive capacity.
(4) A process for the selection of persons for appointment as Commissioner or Deputy Commissioner must be prescribed by Regulation.
(5) (a) The Commissioner may designate a Deputy Commissioner to act as Commissioner when the Commissioner is absent from office.
(b) If the Commissioner is unable to designate an acting Commissioner in terms of paragraph (a), or if the office of Commissioner is vacant, the Minister may designate a Deputy Commissioner to act as Commissioner during the Commissioner’s absence or pending the appointment of a Commissioner.
(6) A person may not be appointed or hold office as Commissioner or Deputy Commissioner if the person—
(a) is a disqualified person; or
(b) is not ordinarily resident in the Republic.
(7) When appointing the Commissioner or Deputy Commissioner, the Minister and the person appointed must agree, in writing, on—
(a) the performance measures that must be used to assess the person’s performance; and
(b) the level of performance to be achieved against those performance measures.

Roles of Commissioner and Deputy Commissioners

62. (1) The Commissioner—
(a) is responsible for the day-to-day management and administration of the Financial Sector Conduct Authority; and
(b) subject to section 60(3)(b), must perform the functions of the Financial Sector Conduct Authority, including exercising the powers and carrying out the duties associated with those functions.
(2) The roles of the Deputy Commissioners are determined by the Executive Committee.
(3) When acting in terms of subsection (1) or (2), the Commissioner or a Deputy Commissioner must implement the policies and strategies adopted by the Executive Committee.

Terms of office

63. (1) A person appointed as Commissioner or Deputy Commissioner—
(a) holds office for a term determined by the Minister, which term may not be longer than five years;
(b) is, at the expiry of that term, eligible for re-appointment for one further term; and
(c) must vacate office before the expiry of a term of office if that person—
(i) resigns by giving at least three months written notice to the Minister, or a shorter period that the Minister may accept; or
(ii) is removed from office as Commissioner or Deputy Commissioner, as the case may be.
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(vi) go dira maemo a boitshwaro kgotsa maemo a kopanelo, le didiriswa tse dingwe tsa bolaodi go ya ka melao ya lephata la ditšhelete eo e leng bolaodi jo bo rwalang maikarabelo;
(vii) go neelana, go farologantsha, go seckega le go gogela morago dilaesense go ya ka molao wa lephata la ditšhelete;
(viii) go tlhomamisa dituelo go ya ka melao ya lephata la ditšhelete;
(ix) morero mongwe le mongwe o o abetsweng go ya ka molao wa lephata la ditšhelete go Komiti Khuduthamaga.

Khomisënara le Batlatsakhomišenara

61. (1) Tona o tshwanetse go thapa motho yo o nang le boitseanape jo bo maleba mo lepheteng la ditšhelete jaaka Khomisënara wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.
(2) Tona o tshwanetse go thapa bonnye batho ba le babedi, mme e seng go feta ba le bane, ba ba nang le boitseanape jo bo maleba mo lepheteng la ditšhelete jaaka Batlatsakhomišenara.
(3) Khomisënara le Batlatsakhomišenara ba dira mo maemong a nako e e tletseng a khuduthamaga.
(4) Kgato ya go tlhopha batho ba ba tla thapiwang jaaka Khomisënara kgotsa batlatsakhomišenara e ka klaelwa ka Molawana.
(5) (a) Khomisënara o ka thapa Motlatsakhomišenara go tshwara marapo nakwana jaaka Khomisënara fa Khomisënara a seyo mo ofising.
(b) Fa Khomisënara a sa kgone go thapa Khomisënara wa nama-o-tshwere go ya ka temana (a), kgotsa fa go go na le plhathathi mo ofising ya Khomisënara, Tona o ka thapa Motlatsakhomišenara go tshwara marapo nakwana jaaka Khomisënara ka nako e Khomisënara a seng teng kgotsa go fitlhela go thanwa Khomisënara.
(6) Motho a ka se thi piwe, kgotsa go nna go nna mo tirong jaaka, Khomisënara kgotsa Motlatsakhomišenara fa motho—
(a) a ileditswe; kgotsa
(b) e se moagi wa Rephaboliki ka tlhago.
(7) Fa a thapa Khomisënara kgotsa Motlatsakhomišenara, Tona le motho yo o thapi lweng ba tshwanetse go dumalana, ka go kwal a, ka—
(a) ditekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiro ya motho yoo; le
(b) boemojwatirojobotshwanetseng go fitlhela go kagatlhanong le ditekanyetso tseo.

Botsayakarolo jwa Khomisënara le Batlatsakhomišenara

62. (1) Khomisënara—
(a) o rwala maikarabelo a taolo le tsama iso ya letsatsi le letsatsi ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le
(b) go tsamaelanana le karolo 60(3)(b), o tshwanetse go dira di tiro tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, go akaretsa le go diragatsa ditlha le maikarabelo a a tsamaelanang le ditiro tseo.
(2) Ditiro tsa Batlatsakhomišenara di tlhomamiswa ke Komitikhuduthamaga.
(3) Fa a dira go ya ka karotlalaletsos (1) kgotsa (2), Khomisënara kgotsa Motlatsakhomišenara o tshwanetse go tsenya mo tirisong dipholisi le maano tse di amogetsweng ke Komitikhuduthamaga.

Paka ya ofisi

63. (1) Motho yo o thapi lweng jaaka Khomisënara kgotsa Motlatsakhomišenara—
(a) o dira sebaka sa paka e e tlhomamisisetsweng ke Tona, paka eo e ka se feta dingwaga tse tlhano;
(b) o, ka nako ya bokhutlo jwa paka eo ya tiro, na le tshwanelo ya go lhophiwa gape sebaka sa paka e nngwe gape; le
(c) o tshwanetse go tlogela tiro pele ga paka e ya bokhutlong fa motho yoo—
(i) a rola tiro ka go kwalela Tona kitsiso ya bonnye dikgwedi tse tharo, kgotsa nako e khutshwane e Tona o ka e amogelang; kgotsa
(ii) o bele seditswe mo tirong jaaka Khomisënara kgotsa Motlatsakhomišenara, go ya ka boemo.
(2) The Minister must, at least three months before the end of a person’s first term of office as Commissioner or Deputy Commissioner, inform the person whether the Minister proposes to re-appoint that person as Commissioner or Deputy Commissioner, as the case may be.

Service conditions

64. (1) Subject to this Act, the Commissioner and the Deputy Commissioners hold office on the terms and conditions determined in writing by the Minister.

(2) The terms and conditions of office of the Commissioner or a Deputy Commissioner may not be reduced during that person’s term of office.

Removal from office

65. (1) The Minister must, subject to due process, remove the Commissioner from office if the Commissioner becomes a disqualified person.

(2) The Commissioner must, subject to due process and with the concurrence of the Minister, remove a Deputy Commissioner from office if the Deputy Commissioner becomes a disqualified person.

(3) The Minister may remove the Commissioner from office if an independent inquiry established by the Minister has found that the Commissioner—

(a) is unable to perform the duties of office for health or other reasons;

(b) has failed in a material way to achieve the level of performance against the performance measures agreed to in terms of section 61(7);

(c) has failed in a material way to discharge any of the responsibilities of office, including any responsibilities entrusted in terms of legislation; or

(d) has acted in a way that is inconsistent with continuing to hold the office.

(4) If an independent inquiry has been established in terms of subsection (3), the Minister may suspend the Commissioner from office pending a decision on that person’s removal from office.

(5) The Commissioner may, with the concurrence of the Minister, remove a Deputy Commissioner from office if an independent inquiry established by the Commissioner, with the concurrence of the Minister, has found that the Deputy Commissioner—

(a) is unable to perform the duties of office for health or other reasons;

(b) has failed in a material way to achieve the level of performance against the performance measures agreed to in terms of section 61(7);

(c) has failed in a material way to discharge any of the responsibilities of office, including any responsibilities entrusted in terms of legislation; or

(d) has acted in a way that is inconsistent with continuing to hold the office.

(6) If an independent inquiry has been established in terms of subsection (5), the Commissioner may suspend the Deputy Commissioner from office pending a decision on that person’s removal from office.

(7) Without limiting subsection (3)(c) or (5)(c), the Commissioner or a Deputy Commissioner, as the case may be, must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the Executive Committee without the leave of the Executive Committee.

(8) If the Commissioner or a Deputy Commissioner is removed from office in terms of this section, the Minister must, within 30 days, submit the report and findings of the independent inquiry to the National Assembly.

Meetings of Executive Committee

66. (1) (a) The Executive Committee must meet as often as necessary for the performance of its functions.

(b) An audio or audio-visual conference among a majority of the members of the Executive Committee, which enables each participating member to hear and be heard by each of the other participating members, must be regarded as a meeting of the Executive Committee, and each participating member must be regarded as being present at such a meeting.
(2) Tona o tshwanetse, bonnye dikgwedi tse tharo pele ga paka ya nthla ya tiro ya motho jaaka Khomişenara kgotsa Motsatsakhomişenara e ya bokhutlong, go itise motho yoo fa Tona a thitsinya go mo thapa gape jaaka Khomişenara kgotsa Motsatsakhomişenara kgotsa mnyaa, go ya ka boemo.

Mabaka a tirelo

64. (1) Go tsamaelana le Molao ono, Khomişenara le Motsatsakhomişenara ba thapiwa go ya ka dipeelo le mabaka tse di thhomamisitsweng ka go kwalwa ke Tona.
(2) Dipeelo le mabaka tsa go thapiwa ga Khomişenara kgotsa Motsatsakhomişenara di ka se fokotswe ka paka ya tiro ya motho yoo.

Go tloswa mo ofising

65. (1) Tona o tshwanetse, go tsamaelana le dikgato tse di maleba, go tlosa Khomişenara mo tirong fa Khomişenara a nna motho yo o ileditsweng.
(2) Khomişenara o tshwanetse, go tsamaelana le dikgato tse di maleba le tumalano le Tona, go tlosa Motsatsakhomişenara mo tirong fa Motsatsakhomişenara a nna motho yo o ileditsweng.
(3) Tona o ka tlosa Khomişenara mo tirong fa patlisiso e e ikemetseng e e thomilweng ke Tona e filheletse gore Khomişenara—
   (a) ga a kgone go dira ditiro tse a di thapetsweng ka nthla ya boitekanelo kgotse mabaka a mangwe;
   (b) o paletswe ka gotlhe go filhelela boemo jwa tiro kathamang le ditekanyetsotiro tse go dumalanweng ka tsona go ya ka karolo 61(7);
   (c) o paletswe ka gotlhe go diragatsa ngwe le ngwe ya maikarabelo a tiro, go akaretsa ngwe le ngwe ya maikarabelo a a abilweng go ya ka molawana; kgotse
   (d) o dirile ka mokgwana o o sa tsamaelaneng le go ka tswelela pele go dira.
(4) Fa patlisiso e e ikemetseng e thomilweng go ya ka karololtaleletso (3), Tona o ka sekega Khomişenara mo tirong go letilwe tshwetso ya go tlosa motho yoo mo tirong.
(5) Khomişenara o ka, ka tumalano le Tona, tlosa Motsatsakhomişenara mo tirong fa patlisiso e e ikemetseng e e thomilweng ke Khomişenara, ka tumalano le Tona, e filheletse gore Motsatsakhomişenara—
   (a) ga a kgone go dira tiro e e e thapetsweng ka nthla ya boitekanelo kgotse mabaka a mangwe;
   (b) o paletswe ka gotlhe go filhelela boemo jwa tiro kathamang le ditekanyetsotiro tse go dumalanweng ka tsona go ya ka karolo 61(7);
   (c) o paletswe ka gotlhe go diragatsa ngwe le ngwe ya maikarabelo a tiro, go akaretsa ngwe le ngwe ya maikarabelo a a abilweng go ya ka molawana; kgotse
   (d) o dirile ka mokgwana o o sa tsamaelaneng le go ka tswelela pele go dira.
(6) Fa patlisiso e e ikemetseng e thomilwwe go ya ka karololtaleletso (5), Khomişenara o ka emisa Motsatsakhomişenara mo tirong go ya ka karoloeno, Tona o tshwanetse; momatsatsingale 30, goromelape gegolediphilhelelo tsa patlisiso e e ikemetseng go Kokoano Bosetsįhaba.

Dikopano tsa Komitikhuduthamaga

66. (1) (a) Komitikhuduthamaga e tshwanetse go kopana kgapetsakgapetsa ga go thohokego go dira ditiro tsa yona.
   (b) Khonderene ya kutlo kgotsa kutlopono magareng ga bontsi jwa maloko a Komitikhuduthamaga, e e kgotshang leloko lengwe le lengwe le le tsayang karolo go utlwa le go utlwelela ke mongwe le mongwe we maloko a mangwe a a tsayang karolo, e tshwanetse go tsewa jaaka kopano ya Komiti ya Khuduthamaga, e bile leloko lengwe le lengwe le le tsayang karolo le tshwanetswe go tseelwa gore le teng kwa kopanong eo.
(2) Meetings of the Executive Committee must be held at times and, except where subsection (1)(b) applies, at places determined by the Commissioner.

(3) A quorum for a meeting of the Executive Committee is a majority of its members.

(4) (a) The Commissioner chairs the meetings of the Executive Committee at which the Commissioner is present.

(b) If the Commissioner is not present at a meeting, a Deputy Commissioner nominated by the Commissioner or selected in accordance with a procedure determined by the Commissioner, chairs the meeting.

(5) The Commissioner or Deputy Commissioner chairing a meeting of the Executive Committee may invite or allow any other person, including a representative of the Prudential Authority, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes or the National Credit Regulator, to attend the meeting, but a person who is invited has no right to vote at the meeting.

(6) The members may regulate proceedings at Executive Committee meetings as they consider appropriate.

(7) The Commissioner must ensure that minutes of each meeting of the Executive Committee are kept in a manner determined by the Commissioner.

Decisions of Executive Committee

67. (1) (a) A proposal before a meeting of the Executive Committee becomes a decision of the Executive Committee if a majority of the members present, or regarded as being present, and who may participate in the consideration of the proposal, vote for the proposal.

(b) In the event of an equality of votes on a proposal, the person chairing the meeting has a casting vote in addition to a deliberative vote.

(2) The Executive Committee may, in accordance with procedures determined by it, make a decision on a proposal outside a meeting of the Executive Committee.

(3) A decision of the Executive Committee is not invalid merely because—

(a) there was a vacancy in the office of a member when the decision was taken; or

(b) a person who was not a member participated in the decision, as long as such person did not vote.

Governance and other subcommittees

68. (1) The Director-General must establish—

(a) a subcommittee to review, monitor and advise the Executive Committee on the remuneration policy of the Financial Sector Conduct Authority; and

(b) a subcommittee to review, monitor and advise the Executive Committee on the risks faced by the Financial Sector Conduct Authority and plans for managing those risks.

(2) The Executive Committee may establish one or more other subcommittees for the Financial Sector Conduct Authority, with functions that the Executive Committee may determine.

(3) (a) The Director-General determines the membership of each subcommittee established in terms of subsection (1).

(b) The majority of the members of a subcommittee established in terms of subsection (1) may not be staff members of the Financial Sector Conduct Authority.

(c) The Executive Committee determines the membership of each subcommittee established in terms of subsection (2).

(d) A subcommittee established in terms of subsection (2) may include persons who are neither members of the Executive Committee nor staff members of the Financial Sector Conduct Authority.

(e) A disqualified person may not be or remain a member of a subcommittee established in terms of this section.

(4) A member of a subcommittee established in terms of this section, including a person who is not in the service of an organ of state, holds office for the period, and on the terms and conditions, including terms regarding remuneration, determined by the Director-General or the Executive Committee, as the case may be, who established the subcommittee.
(2) Dikopano tsa Komitikhuduthamaga di tshwanetse go tshwarwa ka nako le, ntle le mo karolotlaleletso (1)/(b) e diragatswang, kwa mafelong a a tlhomamisitsweng ke Khomišenara.

(3) Khoramo ya kopano ya Komitikhuduthamaga ke bontsi jwa maloko a yona.

(4) (a) Khomišenara o okamela dikopano tsa Komitikhuduthamaga tseo Khomišenara a leng teng kwa go tsona.

(b) Fa Khomišenara a se teng kwa kapanong, Motlatsakhomišenara yo o tlhophiweng ke Khomišenara kgotsa a tlhophiwie go tsamaela e le tsamaiso e e tlhomamisitsweng ke Khomišenara, o okamela kopano.

(5) Khomišenara kgotsa Motlatsakhomišenara yo o okametseng kopano ya Komitikhuduthamaga o ka laletsa kgotsa letlelela motho mongwe le mongwe, go akaretsa moamedi wa Bothathi jwa Thlomokomelo, Banka ya Resefe, Senthara ya Bothhodi jwa tsa Ditšhelete, Khanele ya Dikema tsa Kalafi kgotsa Bolaodi jwa Bosesìhaba jwa Sekololo, go tsenela kopano, mme motho yo o laleditsweng o ka tsaya karolo mme ga a na tshwanelo ya go bouting mo kopanong.

(6) Maloko a ka laola ditsamaiso kwa dikopanong tsa Komitikhuduthamaga jaaka a bona go tshwanetse.

(7) Khomišenara o tshwanetse go netefatsa gore metsotsa ya kopano nngwe le nngwe e Konimi e tsholwa ka mokgwa o o tlhomamisitsweng ke Khomišenara.

Ditšweto tsa Komitikhuduthamaga

67. (1) (a) Tshitsinyo pele ga kopano ya Komitikhuduthamaga e nna tshwetso ya Komitikhuduthamaga fa bontsi jwa maloko a a leng teng, kgotsa a a tseelwang gore a teng, le ao a ka tsayang karolo mo go sekasekeng tshitsinyo, a boutela tshitsinyo.

(b) Fa go diragala gore diboutu tsa tshitsinyo di lekane, motho yo o okametseng kopano o ka dira bontsi u e e kgethegileng mo godimo ga boutu e e tlwaelegileng.

(2) Komiti ya Khuduthamaga e ka, go tsamaela le ditsamaiso tse di tlhomamisitsweng ke Komitikhuduthamaga, tsaya tshwetso ka ga tshitsinyo kwa ntle ga kopano ya Komitikhuduthamaga.

(3) Tshwetso ya Komitikhuduthamaga e amogelesega fela ka ntlha ya—

(a) fa go nmile le phatlirio kwa tirong ya leloko fa tshwetso e ne e tsewa; kgotsa

(b) fa motho yo o neng e se leloko a tsere karolo mo tshwetsong, fa fela motho yoo a sa bouta.

Puso le dikomiti tlaletso dingwe

68. (1) Mokaedikakaretso o tshwanetse go tlhoma—

(a) komititlaleletso go thadisa, lekola le go gakolola Komitikhuduthamaga ka ga pholisi ya moputso ya Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete; le

(b) komititlaleletso go thadisa, lekola le gakolola Komitikhuduthamaga ka ga dikotsi tse Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete bo lebaganeng le tsena le maano a go laola dikotsi tseo.

(2) Komitikhuduthamaga e ka tlhometla Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete komititlaleletso e le nngwe kgotsa go feta, eo ditiro tsa yona di ka tlhomamisitsweng ke Komitikhuduthamaga.

(3) (a) Mokaedikakaretso o tlhomamisa botokololo jwa komititlaleletso nngwe le nngwe e e tlhomilweng go ya ka karolotlaleletso (1).

(b) Bontsi jwa maloko a komititlaleletso e e tlhomilweng go ya ka karolotlaleletso (1) bo ka se nne maloko a ladiramnogga ba Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete.

(c) Komitikhuduthamaga e tlhomamisa botokololo jwa komititlaleletso nngwe le nngwe e e tlhomilweng go ya ka karolotlaleletso (2).

(d) Komititlaleletso e e tlhomilweng go ya ka karolotlaleletso (2) e ka akaretsa batho bao e seng maloko a Komitikhuduthamaga kgotsa badiramnogga ba Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete.

(e) Motho yo o ileditsweng o ka se nne kgotsa o ka se tswelele go nna leloko la komititlaleletso e e tlhomilweng go ya ka karolo eno.

(4) Leloko la komititlaleletso e e tlhomilweng go ya ka karolo eno go akaretsa le motho yo o seng mo tirelong ya lephata la puso, yo o dirang sebaka s a paka, le go ya ka dipelo le mabaka, le dipelo mabapi le moputso, tse di tlhomamisitsweng ke Mokaedikakaretso kgotsa Komitikhuduthamaga, jaaka mabaka a ntse, yo o tlhomileng komititlaleletso.
(5) A subcommittee established in terms of subsection (1) must be chaired by a person who is not the Commissioner, a Deputy Commissioner or a staff member of the Financial Sector Conduct Authority.

(6) A subcommittee established in terms of this section determines its procedures, subject to any directions of the Director-General or the Executive Committee, as the case may be, who established the subcommittee.

(7) The Commissioner must ensure that minutes of each meeting of each subcommittee established in terms of this section are kept in a manner determined by the Executive Committee.

Duties of Commissioner, Deputy Commissioners and other subcommittee members

69. (1) The Commissioner, each Deputy Commissioner and each member of a subcommittee of the Financial Sector Conduct Authority established as contemplated in section 51(1)(a)(ii) of the Public Finance Management Act or of section 68 of this Act must—

(a) act honestly in all matters relating to the Financial Sector Conduct Authority; and

(b) perform the functions of office as a member—

(i) in good faith;

(ii) for a proper purpose; and

(iii) with the degree of care and diligence that a reasonable person in that person’s position would exercise.

(2) A person who is or has been a person mentioned in subsection (1) must not use the position, or any information obtained because of the position, to—

(a) improperly benefit himself or herself or another person;

(b) impede the Financial Sector Conduct Authority’s ability to perform its functions; or

(c) cause improper detriment to another person.

(3) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

Regulatory strategy

70. (1) The Executive Committee must, within six months after the date on which this Chapter takes effect, adopt a regulatory strategy for the Financial Sector Conduct Authority to give general guidance in the achievement of its objective and the performance of its regulatory and supervisory functions.

(2) A regulatory strategy must—

(a) state—

(i) the regulatory and supervisory priorities for the Financial Sector Conduct Authority for the next three years; and

(ii) the intended key outcomes of the strategy;

(b) set guiding principles for the Financial Sector Conduct Authority on—

(i) how it should perform its regulatory and supervisory functions;

(ii) the matters which it should have regard to in performing those functions;

(iii) its approach to administrative actions; and

(iv) how it should give effect to the requirements applicable to it with respect to—

(aa) transparency;

(bb) openness to consultation; and

(cc) accountability; and

(c) be aimed at giving effect to section 58.

(3) The Executive Committee must review its regulatory strategy at least annually, and may amend it at any time.
(5) Komititlaletse e e tlhomilweng go ya ka karolotlaleletso (1) e tshwanetse go okamelwa ke motho yo o seng Khomišenara, Motlatsakhomisenara kgotsa leloko la badirammogo ba Bothati jwa Boitsharlo jwa Lephata la Ditšhelete.

(6) Komititlaletse e e tlhomilweng go ya ka karolo eno e tlhomamisa tsa maise ya yona, go tsamaelana le kaelo ya Mokaedikakaretso kgotsa Komitikhuduthamaga, jaaka mabaka a ntse, yo o tlhomileng komititlaletso.

(7) Khomišenara o tshwanetse go netefatsa gore metsotsa ya kopano ngwwe le ngwwe ya komititlaletse e e tlhomilweng go ya ka karolo eno e tsholwa ka mokgwa o o tlhomamisitsweng ke Komitikhuduthamaga.

**Ditiro tsa Khomišenara, Batlatsekhomišenara le maloko a mangwe a komititlaletso**

69. (1) Khomišenara, Motlatsakhomišenara mongwe le mongwe le leloko lengwe le lengwe la komititlaletse ya Bothati jwa Boitsharlo jwa Lephata la Ditšhelete e e tlhomilweng jaaka go kaible le mo korong 51(1)(a)(ii) ya Public Finance Management Act kgotsa karolo 68 ya Molao ono ba tshwanetse go—

(a) dira ka botshepegi mo mererong yothe e e amanang le Bothati jwa Boitsharlo jwa Lephata la Ditšhelete; le

(b) dira ditiro tse ba di thapetsweng jaaka maloko—

(i) a a tshepalang; le

(ii) a maithomo a a siameng; le

(iii) a tlhomileleng e e tsho yo o mo maemong ao a ka di diragatsang. 15

(2) Motho yo kaible kgotsa yo o kaible le mo korong 1(1) go kaible la tshwanela go dirisa maemo, kgotsa tshedeimosetsa ngwwe le ngwwe e a e fitleletse kgotsa ntlha ya maemo, go—

(a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tsele e e sa siamang; le

(b) go xoreletsa Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa

(c) xatafaletsa motho yo mongwe. 20

(3) Mabapi le maithomo a karo eno, “kunomolemo” le “xatafaletso” ga di a lekanayetswa go kunomolemo ya ditšhelete kgotsa xatafaletso ya ditšhelete.

**Leano la bolaodi**

70. (1) Komitikhuduthamaga e tshwanetse, mo dikgwedwing tse thatoro morago ga lethla la go tseengwa tirisong ga Kgaolo eno, go amogela leano la bolaodi la Bothati jwa Boitsharlo jwa Lephata la Ditšhelete go neelana ka kaelo ya kakaretso mo go fitleletse nga maikelwelo a Bothati jwa Boitsharlo jwa Lephata la Ditšhelete le go dira ditiro tsa yona tsa bolaodi le boltokomedi. 35

(2) Leano la bolaodi le tshwanetse—

(a) go tlhagisa—

(i) ditfapelwa tsa bolaodi le boltokomedi tsa Bothati jwa Boitsharlo jwa Lehalata la Ditšhelete tsa dingwagwa tse tharo tse di tiang; le

(ii) dipelo tse di boltokwa tse di ikaileletseng tsa leano;

(b) go tlhagisaetsa Bothati jwa Boitsharlo jwa Lephata la Ditšhelete ditheo tsa kaelo ka ga—

(i) mokgwa o bo tshwanetseg go dira ditiro tsa bolaodi le boltokomedi ka ona;

(ii) merero e e tshwanetseg go e ela tlhoko mo go direng ditiro tseo;

(iii) tlhagisa ka jona go ditiro tsa tsmaiso; le

(iv) ka mokgwa o e tshwanetseg go diragatsa ditlhoko tse di diragatsweng go jona mabapi le—

(aa) ponalatshego;

(bb) go kgona go rerisana; le

(cc) boikarelo; le

(c) go nna le maikelwelo a go kgontsha go nna teng ga karo eno 50

(3) Komitikhuduthamaga e tshwanetse go thadisa leano la yona la bolaodi bonnye ngwagwa le ngwagwa, e bile e ka le thabolola nako ngwwe le ngwwe.
(4) (a) Before the Executive Committee adopts a regulatory strategy or an amendment to a regulatory strategy, it must—

(i) provide a copy of the draft of the strategy or amendment to the Minister, the Prudential Authority and the National Credit Regulator; and

(ii) invite comments from the Minister, the Prudential Authority and the National Credit Regulator, on the draft, to be made within a period specified by the Executive Committee.

(b) The period referred to in paragraph (a)(ii) must be at least one month.

(5) In deciding whether to adopt a regulatory strategy or an amendment of a regulatory strategy, the Executive Committee must have regard to all comments made on the draft.

(6) If the Minister agrees, the Financial Sector Conduct Authority’s adopted regulatory strategy may be incorporated into its corporate plan in terms of section 52(b) of the Public Finance Management Act.

(7) The Executive Committee must seek to minimise, to the extent that is practicable and appropriate, inconsistencies between the Financial Sector Conduct Authority’s regulatory strategy and the Prudential Authority’s regulatory strategy.

(8) The Commissioner must—

(a) provide a copy of the Financial Sector Conduct Authority’s regulatory strategy, and each amendment, as adopted, to the Minister, the Prudential Authority and the National Credit Regulator; and

(b) publish the regulatory strategy and each amendment.

Delegations

71. (1) The Executive Committee may, in writing—

(a) delegate any power or duty of, or delegated to, the Financial Sector Conduct Authority in terms of a financial sector law to the Commissioner or a Deputy Commissioner, except—

(i) the power to delegate contained in this subsection; and

(ii) the powers referred to in section 60(3)(b)(i) to (viii);

(b) delegate to an administrative action committee the power to impose administrative penalties that are specified in the delegation, if the Financial Sector Conduct Authority establishes an administrative action committee; and

(c) at any time, amend a delegation made in terms of paragraph (a) or (b).

(2) The Commissioner may, in writing—

(a) delegate any power or duty assigned or delegated to the Commissioner in terms of a financial sector law, except the power to delegate contained in this subsection, to—

(i) a Deputy Commissioner; or

(ii) a staff member of the Financial Sector Conduct Authority; and

(b) at any time, amend a delegation made in terms of paragraph (a).

(3) A Deputy Commissioner may, in writing—

(a) delegate any power or duty delegated to that Deputy Commissioner in terms of a financial sector law, except the power to delegate contained in this subsection, to a staff member of the Financial Sector Conduct Authority; and

(b) at any time, amend a delegation made in terms of paragraph (a).

(4) A delegation in terms of subsection (2)(a)(ii) or (3)(a) may be made to a specified person or to a person holding a specified position.

(5) Any power or duty of the Financial Sector Conduct Authority may be delegated to the Prudential Authority by a section 77 memorandum of understanding in accordance with a framework and system of delegation developed by the financial sector regulators to ensure that any delegation does not constrain the Prudential Authority or the Financial Sector Conduct Authority from achieving their respective objectives as set out in sections 33 and 57.

(6) A delegation made in terms this section—

(a) is subject to the limitations and conditions specified in the delegation;
(4) (a) Pele Komitikhuduthamaga e ka amogela leano la bolaodzi kgotsa tlhabololo ya leano la thlaboedi, e tshwanetse go—
   (i) tlamela Tona, Bothathi jwa Thihokomelo le Bolaodzi jwa BotsiShaba jwa Sekoloto ka kgatiso ya leano kgotsa tlhabololo e e thadilweng; le
   (ii) laleta ditshwaelo go tswa go Tona, Bothathi jwa Thihokomelo le Bolaodzi jwa BotsiShaba jwa Sekoloto, ka ga thadiso, tseo di tshwanetseng go dirwa mo pakeng e e tsepamisitsweng ke Komitikhuduthamaga.
(b) Paka e e kailweng mo temaneng (a)(ii) e tshwanetse go ma bonnye kgwedi e le esi.

(5) Mo go tseyeng tshwetse ka ga go amogela leano la bolaodzi kgotsa tlhabololo ya leano la bolaodzi, Komitikhuduthamaga e tshwanetse go tsaya tsia ditshwaelo tsothle tse di dirilweng mo thaleng.

(6) Fa Tona a dumela, leano la bolaodzi la Bothathi jwa Boitshwaro jwa Lephata la Ditshhelete le le amogetsweng le ka tsemyelelwana mo leanong la setlamo go ya ka karolo 52(b) ya Public Finance Management Act.

(7) Komitikhuduthamaga e tshwanetse go isa thase, go ya ka boemo jo bo kgonagang e bile bo le maleba, go sa thomang magareng ga leano la bolaodzi la Bothathi jwa Boitshwaro jwa Lephata la Ditshhelete le leano la bolaodzi la Bothathi jwa Thihokomelo.

(8) Khomišenara o tshwanetse go—
   (a) tlamela Tona, Bothathi jwa Thihokomelo le Bolaodzi jwa BotsiShaba jwa Sekoloto ka kgatiso ya leano labolaodzi la Bothathi jwa Boitshwaro jwa Lephata la Ditshhelete; le
   (b) phasalatsa leano la bolaodzi le tlhabololo ngwe le ngwe.

Ditholelo

71. (1) Komitikhuduthamaga e ka, ka go kwala—
   (a) rolela thae ngwe kgotsa tiro ya, kgotsa go rolela go, Bothathi jwa Boitshwaro jwa Lephata la Ditshhelete go Khomišenara kgotsa Motlatsakhomišenara, ntle le—
      (i) thae ya go rømeletsa e e tlhagelelang mo karotlaleletsong eno; le
      (ii) dithata tše di kailweng mo karologong 60(3)(b)(ii) go fitlha go (viii);
   (b) rolela go komiti ya tsamaiso ya tiro thae ya go lefisa dikothlao tsa tsamaiso tse di tsepamisitsweng mo thomeletsong, fa Bothathi jwa Boitshwaro jwa Lephata la Ditshhelete bo tlhoma komiti ya tsamaiso ya tiro; le
   (c) ka nako ngwe le ngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a) kgotsa (b).

(2) Khomišenara o ka, ka go kwala—
   (a) rolela thae kgotsa tiro ngwe le ngwe e e neetsweng kgotsa neetsweng Khomišenara go ya ka molao wa lepaha la ditshhelete, ntle le thae ya go rømeletsa e e tlhagelelang mo karotlaleletsong eno, go—
      (i) Motlatsakhomišenara; kgotsa
      (ii) leloko la badirimmono ba Bothathi jwa Boitshwaro jwa Lephata la Ditshhelete; le
   (b) ka nako ngwe le ngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a).

(3) Motlatsakhomišenara o ka, ka go kwala—
   (a) rolela thae kgotsa tiro ngwe le ngwe e e roletsweng go Motlatsakhomišenara yoo go ya ka molao wa lepaha la ditshhelete, ntle le thae ya go rømeletsa e e tlhagelelang mo karotlaleletsong eno, go leloko la badirimmono ba Bothathi jwa Boitshwaro jwa Lephata la Ditshhelete; le
   (b) ka nako ngwe le ngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a).

(4) Tholelo go ya ka karotlaleletsso (2)(a)(ii) kgotsa (3)(a) e e direlwa motho yo o supilweng kgotsa go motho yo o tshwereng maemo a a tsepameng.

(5) Tholelo kgotsa tiro ngwe ya Bothathi jwa Boitshwaro jwa Lephata la Ditshhelete e ka rolewa go Bothathi jwa Thihokomelo ka karolo 77 ya memorandum wa tumalano go tsaamaelana la lelhomeso le thulaganyo ya tholelo e e tlhabolotsweng ke balaodzi ba lepaha la ditshhelete go netefatsa gore tholelo ngwe le ngwe ga e tibeše Bothathi jwa Thihokomelo kgotsa Bothathi jwa Boitshwaro jwa Lephata la Ditshhelete gore bo fithelele maika elelo a jona jaaka a tlhagisitswe mo dikarologong 33 le 57.

(6) Tholelo e e dirilweng go ya ka karolo eno—
   (a) e go ya ka ditekanyetso le dipeloa tše di tlhalositsweng mo tholelogong eno;
(b) does not divest the Financial Sector Conduct Authority, the Commissioner or the Deputy Commissioner concerned of responsibility in respect of the delegated power or duty; and

(c) may be revoked in writing at any time, but a revocation does not affect any rights or liabilities accrued because of the acts of the delegate.

(7) Anything done by a delegate in terms of the delegation must be regarded as having been done by the Financial Sector Conduct Authority.

(8) This section does not affect a power under a specific financial sector law to delegate a power of the Financial Sector Conduct Authority.

Disclosure of interests

72. (1) A member of the Executive Committee must disclose, at a meeting of the Executive Committee, or in writing to each of the other members, any interest in any matter that is being or is intended to be considered by him or her, whether or not at a meeting of the Executive Committee, being an interest that—

(a) the member has; or

(b) a person who is a related party to the member has.

(2) A disclosure in terms of subsection (1) must be given as soon as practicable after the member concerned becomes aware of the interest.

(3) (a) A member referred to in subsection (1) may not perform a function in relation to the matter concerned unless—

(i) the member has disclosed the interest as required by subsection (1); and

(ii) the other members of the Executive Committee have decided that the interest does not affect the proper execution of the member’s functions in relation to the matter.

(b) Any consideration of, or decision on, a matter which does not comply with paragraph (a) is void and must be reconsidered or decided without the member present.

(4) A member of a subcommittee of the Financial Sector Conduct Authority established as contemplated in section 51(1)(a)(ii) of the Public Finance Management Act or section 68(1) of this Act must disclose, at a meeting of the subcommittee, or in writing to each of the other members of that subcommittee, any interest in a matter that is being or is intended to be considered by that subcommittee, being an interest that—

(a) the member has; or

(b) a person who is a related party to the person has.

(5) A disclosure in terms of subsection (4) must be given as soon as practicable after the member concerned becomes aware of the interest.

(6) A member referred to in subsection (4) may not participate in the consideration of or decision on that matter by the subcommittee unless—

(a) the member has disclosed the interest in accordance with subsection (4); and

(b) the other members of that subcommittee have decided that the interest does not affect the proper execution of the member’s functions in relation to the matter.

(7) (a) Each member of the Financial Sector Conduct Authority’s staff and each other person to whom a power or function of the Financial Sector Conduct Authority has been delegated must make timely, proper and adequate disclosure of their interests, including the interests of a related party, that could reasonably be seen as interests that may affect the proper execution of their functions of office or the delegated power.

(b) The Commissioner must ensure that paragraph (a) is complied with.

(8) For the purposes of this section, it does not matter—

(a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or

(b) when the interest was acquired.

(9) For the purposes of this section, a person does not have to disclose—

(a) the fact that that person, or a person who is a related party to that person, is—

(i) an official or employee of the Financial Sector Conduct Authority; or

(ii) a financial customer of a financial institution; or

(b) an interest that is not material.

(10) The Commissioner must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.
(b) ga e amoge Bothati jwa Boitshwara jwa Lephata la Ditšhelete, Khomišenara kgotsa Motlatsakhomišenara yo o amegang mabapi le thata kgotsa tiro e e roletsweng; le
c) e ka gogelwa morago ka go kwala nako ngwe le ngwe, go latela ditšwanelo dingwe le dingwe tse di ka tswang di fitšheletswe.

(7) Sengwe le sengwe se se dirišweng ke baemedi go ya ka tholelo se tšhwaneštetse go tsewa jaaka se dirišwete ke Bothati jwa Boitshwara jwa Lephata la Ditšhelete.

(8) Karolo eno ga e ame thata e e ka fa tšase ga molao wa lephata la ditšhelete o o rileng wa go rolela thata ya Bothati jwa Boitshwara jwa Lephata la Ditšhelete.

**Tšhenolo ya dikgatlhegelo**

72. (1) Lelošo la Komitiikhuduthamaga le tšhwaneštetse go senola, mo kopanong ya Khuduthamaga, kgotsa ka go kwalela go mongwe le mongwe wa maloko, kgatlhego ngwe le ngwe mo morerong o o kgotsa o a ikaeletseng go o tsaya tsia, kwa kopanong kgotsa e seng kwa kopanong ya Komitiikhuduthamaga, go ka nna kgatlhegelo e—

(a) lelošo le nang le yona; kgotsa

(b) motho yo o amang le lelošo a nang le yona.

(2) Tšhenolo go ya ka karolotlaletšo (1) e tšhwaneštetse go dirwa ka bonako jo bo kgonagalang morago ga fa lelošo le le amegang le sena go lemoga ka kgatlhegelo.

(3) (a) Lelošo le le kaišweng no karolotlaletšoeng (1) le ka se die tiro mabapi le morero o o kaišweng fa fela—

(i) lelošo le senoste kgatlhegelo go tsamaelana le karolotlaletšo (1); le

(ii) maloko a mangwe a Komitiikhuduthamaga a swētīse gore kgatlhegelo ga e ame ka gope go dira tiro ka matsētseleko ga lelošo mabapi le morero o o amegang.

(b) Tshekatsheko ngwe le ngwe ya, kgotsa tšhwetsa ka ga, morero o o sa ikamanyeng le temana (a) ga e amogešeše e bile e tšhwaneštetse go sekaseša gape kgotsa go swetswa lelošo le se teng.

(4) Lelošo la komitiikhaleletšo ya Bothati jwa Boitshwara jwa Lephata la Ditšhelete jo bo thlišwengišweng go ya ka karolo 51(1)(a)(ii) ya Public Finance Management Act kgotsa karolo 68(1) ya Molao ono le tšhwaneštetse go senola, kwa kopanong ya komitiikhaleletšo, kgotsa ka go kwalela mongwe le mongwe wa maloko a komitiikhaleletšo, kgatlhegelo ngwe le ngwe mo morerong o o kgotsa o komitiikhaleletšo e ikašelelang go o sekaseka, e le kgatlhegelo e—

(a) lelošo le nang le yona; kgotsa

(b) motho yo o amang le lelošo a nang le yona.

(5) Tšhenolo go ya ka karolotlaletšo (4) e tšhwaneštetse go dirwa ka bonako jo bo kgonagalang morago ga fa lelošo le le amegang le sena go lemoga ka kgatlhegelo e.

(6) Lelošo le le kaišweng no karolotlaletšoeng (4) le ka se tšeeeyo karolo mo tšhekatshekong ya kgotsa tšhwetsa ya morero oo ke komitiikhaleletšo fa fela—

(a) lelošo le senoste kgatlhegelo go tsamaelana le karolotlaletšo (4); le

(b) maloko a mangwe a komitiikhaleletšo eo a swētīse gore kgatlhegelo eo e ka se ame ka gope go dira ditiro ka matsētseleko ga lelošo mabapi le morero o o amegang.

(7) (a) Lelošo lengwe le lengwe la badirimmogo ba Bothati jwa Boitshwara jwa Lephata la Ditšhelete le motho mongwe le mongwe yo o amegang go direng tiro ya Bothati jwa Boitshwara jwa Lephata la Ditšhelete kgotsa tiragatsa ya diithata tsa jon a o tšhwaneštetse go senola ka nako, nepagalo le thlišoma, dikgatlhegelo, go akareša le dikgatlhegelo tsa losika, tseo di ka amang go dira ditiro tsa bona ka matsētseleko kgotsa thata e e roleštsweng.

(b) Khomišenara o tšhwaneštetse go netefatsa gore temana (a) e a diragatswa.

(8) Mabapi le mašitho mo karolo eno, go ga kgathalešeše—

(a) gore kgatlhegelo e tšhamaletše, ga e a thlhamala, ya šišeletse kgotsa e e seng ya šišeletse; kgotsa

(b) fa kgatlhegelo e e ne e fitšheletša.

(9) Mabapi le mašitho mo karolo eno, motho ga a tšhwaneštetse go senola—

(a) ntlha ya gore motho yoo, kgotsa motho yo o amang le ena, ke—

(i) mothakandi kgotsa mothapwa wa Bothati jwa Boitshwara jwa Lephata la Ditšhelete; kgotsa

(ii) morokeši da ditšhelete wa setheo sa ditšhelete; kgotsa

(b) kgatlhegelo e e seng ya botšholeka.

(10) Khomišenara o tšhwaneštetse go tšhola rešiseta ya ditšhenolo tšoštle tse di dirišweng go ya ka karolo eno le ka ga ditšhsweto tšoštle tse di dirišweng go ya ka karolo eno.
Staff and resources

73. (1) The Financial Sector Conduct Authority may, in accordance with applicable law—
   (a) for the work of the Financial Sector Conduct Authority—
      (i) appoint persons as employees;
      (ii) enter into secondment arrangements; or
      (iii) engage persons on contract otherwise than as employees;
   (b) enter into contracts;
   (c) acquire and dispose of property;
   (d) insure itself against any loss, damage, risk or liability that it may suffer or incur; and
   (e) do anything else necessary for the performance of its functions.
(2) The Financial Sector Conduct Authority may not enter into a secondment arrangement in respect of a person, or engage persons as employees or on contract, unless the person and the Authority have agreed in writing on—
   (a) the performance measures that must be used to assess that person’s performance; and
   (b) the level of performance that must be achieved against those measures.

Duties of staff members

74. (1) A person who is or was a staff member of the Financial Sector Conduct Authority may not use that position or any information obtained as a staff member to—
   (a) improperly benefit himself or herself or another person;
   (b) impede the Financial Sector Conduct Authority’s ability to perform its functions; or
   (c) cause improper detriment to another person.
(2) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

Information by Commissioner

75. (1) The Commissioner must provide the Executive Committee and the National Treasury with the information, returns, documents, explanations and motivations that may be prescribed by Regulation for this section or that the Executive Committee or the National Treasury may request.
(2) Subsection (1) does not require or permit the provision of information about persons identifiable from the information.

CHAPTER 5
CO-OPERATION AND COLLABORATION

Part 1
Co-operation and collaboration

76. (1) The financial sector regulators and the Reserve Bank must co-operate and collaborate when performing their functions in terms of financial sector laws, the National Credit Act, and the Financial Intelligence Centre Act, and must for this purpose—
Badiri le ditlamelwana

73. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka, go tsamaelana le molao o o maleba—
   (a) mabapi le tiro ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete—
      (i) thapa batho jaaka badiri;
      (ii) tsena mo thulaganyong ya kadimisano; kgotsa
      (iii) rerisana le batho ka ga konteraka fela e seng jaaka bathapiwa;
   (b) tsena mo dikonerakeng;
   (c) fitlhelela le go fetisa thoto;
   (d) inšora kgatlhanong le talthegele, tshenyego, dikotsi kgotsa molato e bo ka e itemogelang kgotsa ya nna ka fa tša lela ga yona; le
   (e) dira sengwe le sengwe se se thokeng le go dira ditiro tsa jona. (2) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka se tsene mo thulaganyong ya kadimisano mabapi le motho, kgotsa go rerisana le batho jaaka bathapiwa kgotsa mo konterakeng, fa fela motho yoo le Bothati ba dumalane ka go kwala ka—
   (a) ditekanyetsotiro tse di tshwanetseng go diriswa go tlhatlhoba tiro ya motho yoo; le
   (b) boemo jwa tiro jo bo tshwanetseng go fitlhelelwà kgatlhanong le ditekanyetsos tseco.

Ditiro tsa maloko a badirimmogo

74. (1) Motho yo e leng kgotsa yo e neng e le leloko la badirimmogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete o kase dirise maemo ao kgotsa tshedimosetso ngwe le ngwe e a e boneng jaaka leloko la badirimmogo go—
   (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tsela e e sa siamang;
   (b) kgoreletsa Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa
   (c) thatafaletsa motho yo mongwe.
   (2) Mabapi le maitlhomo a karolo eno, “kunomolemo” le “thatafaletsa” ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletsa ya ditšhelete.

Tshedimosetso ka Khomisišenara

75. (1) Khomišenara o tshwanetse go tlamela Komitikhuduthamaga le Matlotlo a Bosetšhaba ka tshedimosetso, dipolo, dikwalo, ditlhaloso le ditšegetso tse di ka neelwang ke Molawana mabapi le karolo eno kgotsa tshedimosetso e Komiti Khuduthamaga kgotsa Matlotlo a Bosetšhaba a ka e kopang.
   (2) Karotšalamaletsa (1) ga e tlhoko kgotsa neye teta kabelo ya tshedimosetso ka ga batho ba ba ka supiwaŋ go tšwa mo tshedimosetsong.

KGAOLO 5

TIRISANOMMOMO LE KOPANO

Karo 1

Tirisanommomo le kopano magareng ba balaodi ba lephata la ditšhelete le Banka ya Resefe

76. (1) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse go dirisanommomo le go kopana fà ba dira ditiro tsa bona go ya ka melao ya lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto, le Financial Intelligence Centre Act, ba tshwanetse mabapi le maitlhomo ano—
generally assist and support each other in pursuing their objectives in terms of financial sector laws, the National Credit Act and the Financial Intelligence Centre Act;

(b) inform each other about, and share information about, matters of common interest;

(c) strive to adopt consistent regulatory strategies, including addressing regulatory and supervisory challenges;

(d) co-ordinate, to the extent appropriate, actions in terms of financial sector laws, the National Credit Act and the Financial Intelligence Centre Act, including in relation to—

(i) standards and other regulatory instruments, including similar instruments provided for in terms of the National Credit Act and the Financial Intelligence Centre Act;

(ii) supervisory on-site inspections and investigations;

(iv) actions to enforce financial sector laws, the National Credit Act and the Financial Intelligence Centre Act;

(v) information sharing;

(vi) recovery and resolution; and

(vii) reporting by financial institutions, including statutory reporting and data collection measures;

(e) minimise the duplication of effort and expense, including by establishing and using, where appropriate, common or shared databases and other facilities;

(f) agree on attendance at relevant international forums; and

(g) develop, to the extent that is appropriate, consistent policy positions, including for the purpose of presentation and negotiation at relevant South African and international forums.

(2) The financial sector regulators and the Reserve Bank must, at least annually as part of their annual reports, or on request, report to the Minister, the Cabinet member responsible for administering the National Credit Act and the National Assembly on measures taken to co-operate and collaborate with each other.

Memoranda of understanding

77. (1) The financial sector regulators and the Reserve Bank, must, as soon as practicable but not later than six months after the date on which this Chapter comes into effect, enter into one or more memoranda of understanding to give effect to their obligations in terms of section 76.

(2) A delegation of a power or duty by a financial sector regulator to another financial sector regulator must be effected by a memorandum of understanding entered into in terms of this section.

(3) The validity of any action taken by a financial sector regulator, the Reserve Bank or the Governor in terms of a financial sector law, the National Credit Act and the Financial Intelligence Centre Act is not affected by a failure to comply with this section or a memorandum of understanding in terms of this section.

(4) The financial sector regulators and the Reserve Bank must review the memoranda of understanding at least once every three years and amend them as appropriate.

(5) The financial sector regulators and the Reserve Bank must provide a copy of each memorandum of understanding entered into in terms of this section, and each amendment of such a memorandum of understanding, to the Minister and the Cabinet member responsible for administering the National Credit Act.

(6) The financial sector regulators and the Reserve Bank must each publish each memorandum of understanding in terms of this section and each amendment thereof.

Other organs of state

78. (1) An organ of state that has a regulatory or supervisory function in relation to financial institutions must, to the extent practicable, consult the financial sector regulators and the Reserve Bank in relation to the performance of that function.
Molao wa Taolo ya Lephata la Ditshelete, 2017

GOVERNMENT GAZETTE, 22 AUGUST 2017
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(a) ka kakaretsa go thusana le go tsehegetsana mo go filtheleleng maikaelelo a bona go ya ka melao ya lephata la ditshelete le, Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act;
(b) go sedimosetsana ka, le go arogana tshedimosetso ka meroro ya kgatlhego e e tshwanang;
(c) go leka ka thata go amogela maano a taolo a a thhomameng, go akaretsa le go rarabolola dikgwetlhgo ts’a taolo le thlomolile;
(d) go rulanganya, ka mokgwa o o maleba, ditiro mabapi le melao ya lephata la ditshelete, Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act, go akaretsa mabapi le—
(i) maemo le didiriswa tse dingwe ts’a taolo, go akaretsa didiriswa tse di tshwanang le tse di tlameletsweng go ya ka, Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act;
(ii) kabo ya dilaeense;
(iii) ditlhatlhobo tsa bothokomedi tsa kwa tirieng le dipatlisiso;
(iv) ditiro tsa go gatelela melao ya lephata la ditshelete Molao wa Bosetšhaba wa Sekoloto;
(v) karogano ya tshedimosetso;
(vi) pusetso le tharabololo; le
(vii) pegelo ka ditheo tsa ditshelete, go akaretsa pegelosemolao le mokgwa ya go kgobokanya tshedimosetso;
(e) go isa tlase sebedi sa matsapa le ditsheyegelo, go akaretsa le go tlhoma le go dirisa, mo go tshwanetseg, dideithabeiise tse di tshwanang kgotsa tse di aroganwang le diboboafatsi tse dingwe;
(f) go dumalana ka go mmeng teng kwa diforamong tsa bodiθhatabitsha tse di maleba le;
(g) go tiθhabolola, go ya ka mokgwa o o maleba, maemo a a thhomameng a pholisi, go akaretsa mabapi le tiθhago le therasano kwa diforamong tse di maleba tsa Aforikaborwa le tsa bodiθhatabitsha.

(2) Balaodi ba lephata la ditshelete le Banka ya Resefe ba tshwanetse, bonnye ka ngwaga, jaaka karolo ya dipelegelo tsa bona tsa ngwaga kgotsa go kopilwe, go begela Tona, maloko a Kabinete a a diragatsang Molao wa Bosetšhaba wa Sekoloto le Kokoano Bosetšhaba ka ga dikgato tse di tserweng go dirisana mmogo le go kopana.

Memorantamo wa tumalano

77. (1) Balaodi ba lephata la ditshelete le Banka ya Resefe, ba tshwanetse, ka bonako jo bo kgonganagaleng fela e seng morago ga dikgwedi tse thataro tsa go tsenngwa tirisong ga Kagolo eno, go dira Memorantamo wa tumalano o le esi kgotsa go feta go diragatsa ditlamego tsa bona go ya ka karolo 76.

(2) Tholelo ya thata kgotsa tiro ke molaodi le ditshelete go molaodi yo mongwe wa lephata la ditshelete go tshwanetse go tsenngwa tirisong ka Memorantamo wa tumalano o o dirielweng go ya ka karolo eno.

(3) Kamogelego ya kgato ngwwe le ngwwe e e tserweng ke molaodi, Banka ya Resefe kgotsa Mnisisi go ya ka melao ya lephata la ditshelete kgotsa Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act ga e angwe ke go palelwana go ikamanya la karolo eno kgota Memorantamo wa tumalano go ya ka karolo eno.

(4) Balaodi ba lephata la ditshelete le Banka ya Resefe ba tshwanetse go thadisa Memorantamo wa tumalano bonnye gangwe mo dingwageng dingwe le dingwe tse thrano le go o tiθhabolola jaaka go tshwanetse.

(5) Balaodi ba lephata la ditshelete le Banka ya Resefe ba tshwanetse go tlamele Tona le maloko a Kabinete a a tamaisang Molao wa Bosetšhaba wa Sekoloto ka kgatiso ya Memorantamo wa tumalano mongwe le mongwe o o dirielweng go ya ka karolo eno, le tiθhabololo ngwe le ngwwe ya Memorantamo oo wa tumalano.

(6) Balaodi ba lephata la ditshelete le Banka ya Resefe ba tshwanetseng go phasalatsa Memorantamo wa tumalano mongwe le mongwe wa tumalano o o dirielweng le tiθhabololo ngwe le ngwwe ya ona.

Maphata a mangwe a puso

78. (1) Lephata la puso le le nang le tiro ya balaodi kgota boθhokomedi mabapi le ditheo tsa ditshelete le tshwanetse, ka mokgwa o o kgonganagaleng, go rerisana le balaodi ba lephata la ditshelete mabapi le go dira tiro eo.
(2) A financial sector regulator or the Reserve Bank may, in writing, request an organ of state referred to in subsection (1) to provide information about any action that the organ of state has taken or proposes to take in relation to a financial institution specified in the request.

(3) The organ of state must comply with a request in terms of subsection (2), but this subsection does not require or permit an organ of state to do something that contravenes a law.

Part 2

Financial System Council of Regulators

Financial System Council of Regulators

79. (1) The Financial System Council of Regulators is hereby established.

(2) The objective of the Financial System Council of Regulators is to facilitate co-operation and collaboration, and, where appropriate, consistency of action, between the institutions represented on the Financial System Council of Regulators by providing a forum for senior representatives of those institutions to discuss, and inform themselves about, matters of common interest.

(3) The Financial System Council of Regulators must be composed of the following members:

(a) The Director-General;
(b) the Director-General of the Department of Trade and Industry;
(c) the Director-General of the Department of Health;
(d) the Chief Executive Officer;
(e) the Commissioner;
(f) the Chief Executive Officer of the National Credit Regulator;
(g) the Registrar of Medical Schemes;
(h) the Director of the Financial Intelligence Centre;
(i) the Commissioner of the National Consumer Commission;
(j) the Commissioner of the Competition Commission;
(k) the Deputy Governor responsible for financial stability matters; and
(l) the head, however described, of any organ of state or other organisation that the Minister may determine.

Meetings

80. (1) Meetings of the Financial System Council of Regulators must be held at least twice a year, or more frequently as determined by the Director-General.

(2) The Director-General, or an alternate nominated by the Director-General, chairs the meetings of the Financial System Council of Regulators.

(3) The Director-General must convene a meeting at the request of a member of the Financial System Council of Regulators.

(4) A member of the Financial System Council of Regulators may, with the concurrence of the Director-General, nominate a senior official of the member’s institution to act as an alternate for the member.

(5) Meetings of the Financial System Council of Regulators must be conducted in accordance with procedures determined by it.

Working groups and subcommittees

81. (1) The Financial System Council of Regulators must establish working groups or subcommittees in respect of the following matters:

(a) Enforcement and financial crime;
(b) financial stability and resolution;
(c) policy and legislation;
(d) standard-setting;
(e) financial sector outcomes;
(2) Molaodi wa lephata la ditshelete kgotsa Banka ya Resefe o ka, ka go kwala, kopa lephata la puso le le kailweng mo karolotlaleleetsong (1) go neelana ka tshedimosetso ka ga kgato magwe le ngwe e e tserweng ke lephata la puso kgotsa e le tshitsinyang go ka e tsaya mabapi le setheo sa ditshelete se se tsepamisitsweng mo kopong.

(3) Lephata la puso le tshwanetse go ikamanya le kopo go ya ka karolotlaleletso (2), mme karolotlaleletso eno e tlhoke kgotsa neye tetraka lephata la puso go dira sengwe se se kgatlananong le molao.

Karolo 2

Khansele ya Balaodi ba Thulaganyo ya Ditšhelete

Khansele ya Balaodi ba Thulaganyo ya Ditšhelete 10

79. (1) Khansele ya Balaodi ya Thulaganyo ya Ditšhelete e a tlhongwa.
(2) Maikaelelo a Khansele ya Balaodi ya Thulaganyo ya Ditšhelete ke go noloafatsa tirisanommogo le kopano, le, mo go tlhokeganya, tlhomamonya ya tiro, maderaego ga ditho tse di emetsweng mo Khanseleng ya Balaodi ya Thulaganyo ya Ditšhelete ka go abelana ka forama ya baemedi la bagolo ka ditheo tse go buisana, le go itshedimosa ka, merero ya kgatlhego e e tshwanang.

(3) Khansele ya Balaodi ya Thulaganyo ya Ditšhelete e tshwanetse go nna le maloko a a latelang:

(a) Mokaedikakaretso;
(b) Mokaedikakaretso wa Lefapha la Kgwebisano le Madirelo;
(c) Mokaedikakaretso wa Lefapha la Boitkanelo;
(d) Motlhankedimogolo wa Khuduthamaga;
(e) Khomišenara;
(f) Motlhankedimogolo wa Khuduthamaga le Bolaodi jwa Botlhodi jwa Sekoloto;
(g) Mokwadisi wa Dikema tsa Kalafi;
(h) Mokaedi wa Senthara ya Botlhodi jwa Ditšhelete;
(i) Khomišenara wa Khomišene ya Bosetsʰaba ya Badirisi;
(j) Khomišenara wa Khomišene ya Kgaisano;
(k) Motlatsammusisi yo o rweleng maikarabelo a merero ya tlhomamo ya 30 ditšhelete; le
(l) tlhogo, ka nokgwa o e thalositsweng, ya lephata lengwe le lengwe la puso kgotsa nokgatlhlo mongwe o Tona a ka o tlhomamisang.

Dikopano

80. (1) Dikopano tsa Khansele ya Balaodi ya Thulaganyo ya Ditšhelete di tshwanetse go tshwarwa bonnye gabedi mo ngwageng, kgotsa kgapetsakagapetsa jaaka go tlhomamisitswe fe Mokaedikakaretso.
(2) Mokaedikakaretso, kgotsa mongwe yo o tlhophilweng ke Mokaedikakaretso, o okamela dikopano tsa Khansele ya Balaodi ya Thulaganyo ya Ditšhelete.

(3) Mokaedikakaretso o tshwanetse go tshwara kopano ka kopo ya leloko la Khansele ya Balaodi ya Thulaganyo ya Ditšhelete.

(4) Leloko la Khansele ya Balaodi ya Thulaganyo ya Ditšhelete le ka, ka tumalano le Mokaedikakaretso, tlhopho motlhankedi yo mogolo wo setheo sa leloko go dira jaaka morefoanisi wa leloko.

(5) Dikopano tsa Khansele ya Balaodi ya Thulaganyo ya Ditšhelete di tshwanetse go tshwarwa go tsa maelana le ditšamaniso tse di tlhomamisitsweng ke yona.

Dithopho tse didirang

81. (1) Khansele ya Balaodi ya Thulaganyo ya Ditšhelete e tshwanetse go tlhoma dithopho tsa tiro tse di kwa thoko kgotsa dikomitiitlaleletso mabapi le merero e e latelang:

(a) Kgtelelelo le bosenyi jwa ditšhelete;
(b) tlhomamo ya ditšhelete le tharabololo;
(c) pholisi le molao;
(d) peo ya maemo;
(e) dipolo tsa lephata la ditšhelete;
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(f) financial inclusion;
(g) transformation of the financial sector; and
(h) any other matter that the Director-General may determine after consulting the
other members of the Financial System Council of Regulators.

(2) The Financial System Council of Regulators must determine the membership,
terms of reference and procedure of a working group or subcommittee.

Support for Financial System Council of Regulators

82. (1) The Financial Sector Conduct Authority must provide administrative support
and other resources for the Financial System Council of Regulators and its working
groups and subcommittees.

(2) The Financial Sector Conduct Authority must ensure that minutes of each meeting
of the Financial System Council of Regulators, and of each meeting of a working group
or subcommittee, are kept in a manner determined by the Financial Sector Conduct
Authority.

Part 3

Financial Sector Inter-Ministerial Council

83. (1) The Financial Sector Inter-Ministerial Council is hereby established.

(2) The objective of the Inter-Ministerial Council is to facilitate co-operation and
collaboration between Cabinet members responsible for administering legislation
relevant to the regulation and supervision of the financial sector by providing a forum
for discussion and consideration of matters of common interest.

(3) The members of the Inter-Ministerial Council are—
(a) the Minister;
(b) the Cabinet members responsible for consumer protection and consumer
credit matters;
(c) the Cabinet member responsible for health; and
(d) the Cabinet member responsible for economic development.

Meetings

84. (1) Meetings of the Inter-Ministerial Council take place at times and places
determined by the Minister.

(2) The Minister, or another Cabinet member nominated by the Minister, chairs the
meetings of the Inter-Ministerial Council.

(3) The Minister must convene a meeting at the request of a member of the
Inter-Ministerial Council.

(4) A member of the Inter-Ministerial Council may nominate a Deputy Minister to act
as alternate for the member at a particular meeting of the Inter-Ministerial Council.

(5) The Minister may invite any Cabinet member who is not a member of the
Inter-Ministerial Council to attend a meeting of the Inter-Ministerial Council.

(6) Meetings of the Inter-Ministerial Council are conducted in accordance with
procedures determined by it.

Protection for financial customers in terms of financial sector laws, National Credit
Act and Consumer Protection Act

85. (1) The Cabinet members responsible for consumer protection and consumer
credit matters may request the Inter-Ministerial Council to consider whether or not a
provision in a financial sector law, or in a proposed financial sector law, Regulation or
regulatory instrument, provides or would provide for a standard of protection for
financial customers that is equivalent to, or higher than, the protection provided for them
in terms of the National Credit Act or the Consumer Protection Act.

(2) The Inter-Ministerial Council—
(a) must comply with the request; and
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(f) tsenyeletso ya ditšhelete; le
(g) phetolo ya lephata la ditšhelete; le
(h) morero mongwe le mongwe o o ka thlomamiswang ke Mokaedikakaretso morago ga go rerisana le maloko a mangwe a Khansele ya Balaodi ba Thulaganyo ya Ditšhelete.

(2) Khansele ya Balaodi ba Thulaganyo ya Ditšhelete e tshwanetse go thlomamisa botokololo, mabaka a kaelo le tsamaiso ya setlhophsa sa tiro kgotsa komitiitlaleletso.

Tshegetso go Khansele ya Balaodi ba Thulaganyo ya Ditšhelete

82. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go tlamela ka tshegetso ya tsamaiso le ditlamelwa tse dingwe go Khansele ya Balaodi ba Thulaganyo ya Ditšhelete le ditlhophsa tsa yona tsa tiro le dikomitiitlaleletso.
(2) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go netefatsa gore metsoyo bo kopano ngwe le ngwe ya Khansele ya Balaodi ba Thulaganyo ya Ditšhelete, le ya kopano ngwe le ngwe ya setlhophsa sa tiro kgotsa komitiitlaleletso, e tsholwa ka mokgwa o o thlomamisitsweng ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

Karolo 3

Khansele ya Ditona ya Lephata la Ditšhelete

83. (1) Khansele ya Ditona ya Lephata la Ditšhelete e a tlhongwa.
(2) Maikaelelo a Khansele ya Ditona ya Lephata la Ditšhelete ke go nolofatsa tirisanomogo le kopano magareng ga maloko a Kabinete a a tsamaisang molao o o maleba go taolo le tlhokomelo ya lephata la ditšhelete ka go tlamela ka foramo ya dipuisano le tshekatsheko ya merero ya kgatlhegelo e e tshwanang.
(3) Maloko a Khansele ya Ditona ya Lefapha la Ditšhelete ke—
(a) Tona;
(b) maloko a Kabinete a a rwalang maikarabelo a tshireletso ya badirisi le merero ya sekoloto le badirisi;
(c) leloko la Kabinete le le rwalang maikarabelo a boitsekanelo; le
(d) leloko la Kabinete le le rwalang maikarabelo a tlhabololo ya ikonomi.

Dikopano

84. (1) Dikopano tsa Khansele ya Ditona ya Lefapha la Ditšhelete di diragala ka dinako le kwa mafelong a a thlomamisitsweng ke Tona.
(2) Tona, kgotsa leloko le lengwe le Kabinete le le le tlhophilweng ke Tona, le okamela dikopanotsa Khansele ya Ditona.
(3) Tona o tshwanetse go bitsa kopano ka kopo ya leloko la Khansele ya Ditona.
(4) Leloko la Khansele ya Ditona le ka tlhopho Motlatsamoporesidente go dira jaka morefosa sa leloko kwa kopanong e e rileng ya Khansele ya Ditona.
(5) Tona o ka laletsa leloko lengwe le lengwe la Kabinete leo e seng leloko la Khansele ya Ditona go tla kopanong ya Khansele ya Ditona.
(6) Dikopano tsa Khansele ya Ditona di tshwarwa go tsamaelana le ditsamaiso tse di thlomamisitsweng ke yona.

Tshireletso ya barekedi ba ditšhelete go ya ka melao ya lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto le Molao wa Tshireletso ya Badirisi

85. (1) Maloko a Kabinete a a rwalang maikarabelo a merero ya tshireletso ya badirisi le sekoloto sa badirisi a ka kopa Khansele ya Ditona go sekaseka fa ka gongwe kabelo e e maleba no molaong wa lephata la ditšhelete, kgotsa no molaong o o tshireletseng wa lephata la ditšhelete, Molawana kgotsa sediriso sa taolo, se tlamela kgotsa se tla tlamela ka maemo a tshireletso go barekedi ba ditšhelete a a lekanang, kgotsa a a fetang, tshireletso e ba e tlametsweng go ya ka Molao wa Bosetšhaba wa Sekoloto kgotsa Molao wa Tshireletso ya Badirisi.
(2) Khansele ya Ditona—
(a) e tshwanetse go ikamanya le kopo; le
Independent evaluation of effectiveness of co-operation and collaboration

86. (1) (a) The Inter-Ministerial Council must, as soon as practicable following the expiration of the six month period described in section 77(1), commission an independent evaluation of the establishment of co-operative and collaborative mechanisms between the financial sector regulators, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes and the Competition Commission.

(b) The Inter-Ministerial Council must, every two years after the initial independent evaluation referred to in paragraph (a), commission an independent evaluation of the effectiveness of co-operative and collaborative mechanisms between the financial sector regulators, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes and the Competition Commission.

(2) An evaluation in terms of this section must at least contain an analysis and evaluation of the memoranda of understanding required in terms of section 77, the outcome of any and all consultations in terms of section 78, and compliance with those sections.

(3) The Inter-Ministerial Council may on its own initiative, or at the request of a financial sector regulator, at any time commission an independent evaluation of the effectiveness of co-operation and collaboration between the financial sector regulators, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes and the Competition Commission.

(4) When a financial sector regulator makes a request for an evaluation, the Inter-Ministerial Council must consider the request and the concerns raised in the request regarding the effectiveness of co-operation and collaboration, and, if the Council rejects the request, provide the financial sector regulator that made the request with the reasons for rejecting the request.

(5) Any evaluation commissioned by the Inter-Ministerial Council in terms of this section must be tabled in Parliament immediately following the Council’s consideration of the evaluation, and must be accompanied by a report from the Council on the evaluation’s contents.

CHAPTER 6

ADMINISTRATIVE ACTIONS

Part 1

Administrative action committees

Establishment and membership

87. (1) A financial sector regulator may establish an administrative action committee to consider and make recommendations to the financial sector regulator on matters that are referred to it by that financial sector regulator.

(2) The members of an administrative action committee—

(a) must include—

(i) a retired judge; or
(ii) an advocate or attorney with at least 10 years relevant legal experience; and

(b) may include persons who are not members of the Prudential Committee or the Executive Committee or staff members of the financial sector regulator.

(3) A person referred to in subsection (2)(a) must be appointed as chairperson of an administrative action committee.

(4) A disqualified person may not be appointed to, or remain a member of, an administrative action committee.
(b) e ka, fa e tsaya gore kabelo e e maleba ga e tlanele maemo ao a tshirelets o go badirisi ba ditšhelete, dira dikatlanegiso go tšhbolola kabelo e e maleba, kgotsa go tsaya dikgato tse dingwe tsa semolao tse di matšhwanedi, go netefatsa gore bonnye tshirelets o le kane.

Tekanyets o e e ikemetseng ya nonofo ya tirisanommogo le kopano

86. (1) (a) Khansele ya Ditona e tshwanetse, ka bonako jo bo kgonegang go latela go ya bokhutleng ga paka ya dikgwedi tse thataro e e tlhalositsweng mo karolong 77(1), go dira tshekatsheko e e ikemetseng ya tlhomo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete, Banka ya Resefe, Senthara ya Botlho di jwa Ditšhelete, Khansele ya Dikema tsa Kalali le Khošišene ya Kgaisano.

(b) Khansele ya Ditona e tshwanetse, mo dingwageng dingwe le dingwe tse pedi morago ga tshekatsheko ya nthla e e ikemetseng e e kailweng mo temaneng (a), go dira tshekatsheko e e ikemetseng ya nonofo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete, Banka ya Resefe, Senthara ya Botlho di jwa Ditšhelete, Khansele ya Dikema tsa Kalali le Khošišene ya Kgaisano.

(2) Tshekatsheko go ya ka karolo eno e tshwanetse go ma le bonnye kanoko le tshekatsheko ya memorantamo wa tumalano o o tlhokegeng go ya ka karolo 77, ditlamorago ts a ditheisira dingwe e tshwane tse go ya ka karolo 78, le boikamanyo le dikarolo tse.

(3) Khansele ya Ditona ka bopitalo ike jwa yona, kgotsa ka kopo ya molaodi wa lephata la ditšhelete, ka nako ngwe e le ngwe e ka dira tshekatsheko e e ikemetseng ya nonofo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete, Banka ya Resefe, Senthara ya Botlho di jwa Ditšhelete, Khansele ya Dikema tsa Kalali le Khošišene ya Kgaisano.

(4) Fa balaodi jwa lefapha la ditšhelete bo dira kopo ya tshekatsheko, Khansele ya Ditona e tshwanetse go tsaya tsa kopo le matšhwenyego a a tlhalosišweng mo kopong mabapi le nonofo ya tirisanommogo le kgolagane, e bile, fa Khansele e gana kopo, go tmamelola balaodi jwa lephata la ditšhelete jo bo dirileng kopo ka mabaka a go gana kopo.

(5) Tshekatsheko ngwe le ngwe e e dirilweng ke Khansele ya Ditona go ya ka karolo eno e tshwanetse go tlhagisiwa kwa Palamenteng ka bonako go latela tshekatsheko ya kanoko, e bile e tshwanetse go patwa ke pegelo go tswa kwa Khašelegeng ya tshekatsheko ya diteng.

KGAOLO 6

DITIRO TSA TSAMAIISO

Karolo 1

Dikomiti tsa tiro ya tsamaiso

Go tlhongwa le botokololo

87. (1) Molaodi wa lephata la ditšeles e o ka tlhama komiti ya tiro ya tsamaiso go sekaseka le go dira dikatlanegiso go molaodi wa lephata la ditšhelete ka ga ditiro tsamaiso tse di rōmetsweng go ena ke molaodi wa lephata la ditšhelete.

(2) Maloko a komiti ya tiro ya tsamaiso—

(a) a tshwanetse go akaretse-

(i) moatlhodi yo o rotseng tiro; kgotsa

(ii) mmuheelsi kgotsa ramolao a le esy yo o nang le maiemogelo a mola a a
maleba a dingwaga tse 10; le

(b) a ka akaretse batho ba e seng maloko a Komiti ya Thlokometo kgotsa Komiti
Khuduthamagga kgotsa maloko a badirammogo a balaodi jwa lephata la
ditšhelete.

(3) Motho yo o kailweng mo karolotlaneletsong (2)(a) o tshwanetse go thapiwa jaka
modulasetlo wa komiti ya tiro ya tsamaiso.

(4) Motho yo o iledeitsweng a ka se tshwipwe go, kgotsa go nna leloko la, komiti ya tiro
ya tsamaiso.
Terms of membership

88. (1) A person appointed as a member of a financial sector regulator’s administrative action committee who is not a member of the Prudential Committee, the Executive Committee or a staff member of a financial sector regulator holds office for a period not exceeding five years, and on the terms, including terms regarding remuneration, determined by the financial sector regulator.

(2) A member of an administrative action committee whose term expires may be reappointed.

(3) The financial sector regulator that established an administrative action committee may, subject to due process, remove a member of the administrative action committee from office if the member—
(a) is unable to perform the functions of the office effectively;
(b) has failed in a material way to discharge any of the responsibilities of the office; or
(c) has acted in a way that is inconsistent with continuing to hold the office.

(4) Without limiting subsection (3)(b), a member must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the administrative action committee without the leave of the administrative action committee.

Meetings

89. (1) A meeting of an administrative action committee—
(a) is convened by the chairperson of the committee; and
(b) is chaired by the chairperson or, in the chairperson’s absence, by another member designated by the chairperson or the remaining members.

(2) An administrative action committee determines its procedures, subject to any directions of the financial sector regulator that established the administrative action committee.

(3) The financial sector regulator must ensure that written minutes of each meeting of its administrative action committee are kept in a manner determined by the financial sector regulator.

Application of Part to Ombud Council

90. This Part applies, with the necessary changes required by the context, in relation to the Ombud Council.

Part 2

Administrative justice

Applicability of Promotion of Administrative Justice Act to administrative action by financial sector regulators

91. The Promotion of Administrative Justice Act applies to any administrative action taken by a financial sector regulator in terms of this Act or a specific financial sector law.

Procedures for specific administrative action in terms of Act

92. (1) A financial sector regulator may, by notice in the Register, determine procedures for administrative action to be taken by it in terms of a financial sector law, which procedures must—
(a) be aimed at promoting a fair and consistent approach to administrative action taken by the financial sector regulator in terms of the financial sector laws; and
(b) be consistent with—
(i) the principles of the Promotion of Administrative Justice Act; and
(ii) any applicable requirements of a financial sector law.

(2) If it is reasonable and justifiable in the circumstances, procedures for administrative action may depart from specific requirements of the Promotion of Administrative Justice Act, in accordance with sections 3(4), 4(4) and 5(4) of that Act.
Dipeelo tsa botokololo

88. (1) Motho yo o thapilweng jaaka leloko la komiti ya tiro ya tsamaiso ya balaodi jwa lephata la ditšhelete yo e seng leloko la Komiti ya Tlhokomelo, Komiti Khuduthamaga kgotsa leloko la badirimmogo ba balaodi jwa lephata la ditšhelete o thapiwa sebaka se se sa feteng dingwaga tse tlhano, le ka dipeelo, go akaretsa le dipeelo tse di amanang le tuelo, tse di thhomamisitsweng ke balaodi jwa lephata la ditšhelete. 

(2) Leloko la komiti ya tiro ya tsamaiso yo paka ya gagwe e yang bokhutlong o ka thapiwa gape.

(3) Molaodi jwa lephata la ditšhelete yo o tlhomileng komiti ya tiro ya tsamaiso o ka, go tsamaelana le kgato e e maleba, tlosa leloko la komiti ya tiro ya tsamaiso mo ofising fa leloko le—

(a) sa kgone go dira tiro e le e thapetsweng ka nonofo;
(b) paletswe ka gothi go diragatsa ngwe ya maikarabelo a tiroi; kgotsa
c) le dirile ka mokgwa o o sa tsamaelaneng le ditlhokego tsa go tswelela go dira.

(4) Ntle le go lekanyaetsa karotlalelele (3)(b), leloko go tshwanetseng gore le paleswse ka gothi go diragatsa maikarabelo a ofisi fa le ka se me teng mo dikopanong tse pedi tse di latelanang tsa komiti ya tiro ya tsamaiso ntle le khunulogo ya komiti ya tiro ya tsamaiso.

Dikopano

89. (1) Kopano ya komiti ya tiro ya tsamaiso—

(a) e kokoangwa ke modulasetilo wa komiti; le
(b) e okamelwa ke modulasetilo kgotsa, fa modulasetilo a se teng, ke leloko le lengwe le le thapilweng ke modulasetilo kgotsa maloko a a setseng.

(2) Komiti ya tiro ya tsamaiso e e tsepameng go ya ka Molao ya lephata la ditšhelete zo e e kokoangwa ke modulasetilo la komiti.

(3) Molaodi wa lephata la ditšhelete o tshwanetseng gore maikarabelo le phakalanele ya komiti ya tiro ya tsamaiso e e maleba, go tsamaelana la ditšhelete gore maikarabelo a ofisi fa le ka se me teng mo dikopanong tse pedi tse di latelanang tsa komiti ya tiro ya tsamaiso ntle le khunulogo ya komiti ya tiro ya tsamaiso.

Tiriso ya Karolo go Khansele ya Ombud

90. Karolo eno e diragatswa, ka diphetogo tse di tlhokegang go ya ka bakoa, mabapi le Khansele ya Ombud.

Karolo 2

Bosiamisi jwa tsamaiso

Tirego ya Promotion of Administrative Justice Act go tiro ya tsamaiso ka balaodi ba lephata la ditšhelete

91. Promotion of Administrative Justice Act e diragatswa mo tirong ngwe le ngwe ya tsamaiso e e dirilweng ke molaodi wa lephata la ditšhelete go ya ka Molao ono kgotsa molao o o tsepameng wa lephata la ditšhelete.

Ditsamaiso mabapi le tiro ya tsamaiso e e tsepameng go ya ka Molao

92. (1) Bolaodi jwa lephata la ditšhelete bo ka, ka kitisiso mo Rejisetareng, thhomamisa ditsamaiso tsa tiro ya tsamaiso e e dirilweng ke jona go ya ka molao wa lephata la ditšhelete, o o tshwanetseng—

(a) go ikaelela go tsweletsa pele kgato e e lolameng le go tlhomama mo tirong ya tsamaiso e e dirilweng ke balaodi jwa lephata la ditšhelete go ya ka molao ya lephata la ditšhelete; le
(b) go tlhomama mabapi le—

(i) meono ya Promotion of Administrative Justice Act; le
(ii) ditlhokego dingwe le dingwe tse di maleba tsa molao wa lephata la ditšhelete.

(2) Fa go utlwalega e bile go na le lebaka mo maemong, ditsamaiso mabapi le tiro ya tsamaiso di ka tswa mo ditlhokegong tse di tsepameng tsa Promotion of Administrative Justice Act, go tsamaelana la karolo 3(4), 4(4) le 5(4) ya Molao oo.
(3) Different procedures may be determined for different types of administrative actions and different circumstances.

Processes for determining or amending administrative action procedures

93. (1) Before a financial sector regulator determines or amends an administrative action procedure in terms of section 92, the financial sector regulator must—

(a) publish on its website—

(i) a draft of the proposed procedure or amendment; and

(ii) a notice calling for written public comment within a period stated in the notice, which must be at least 30 days from the date of publication of the notice;

(b) submit a draft of the proposed procedure or amendment to the Director-General and the other financial sector regulator; and

(c) consider any comments received.

(2) If a financial sector regulator intends to make an administrative action procedure or amendment that is materially different in form from the draft procedure or amendment that was previously published in terms of subsection (1), the regulator must, before making the procedure or amendment, repeat the process referred to in subsection (1).

Review of administrative action procedures

94. A financial sector regulator must review its administrative action procedures at least once every three years.

Revocation of decisions

95. (1) A financial sector regulator may, by notice to a person in relation to whom the regulator made a decision in terms of a financial sector law (or, if more than one such person, all of them), revoke the decision if—

(a) the decision was made as a result of fraud or illegality;

(b) the information on which the decision was made was inaccurate or incomplete and the financial sector regulator would not have made the decision if it had had accurate and complete information; or

(c) the decision is, for any reason, invalid.

(2) A revocation of a decision in terms of subsection (1) has effect from the date on which the revoked decision was made.

(3) A financial sector regulator may not take action in terms of subsection (1)—

(a) if the action would adversely affect the existing or accrued rights of any person (except the person in relation to whom the regulator made the decision); or

(b) if—

(i) the financial sector regulator has been notified that an application to the Tribunal or a court in relation to the decision will be made; or

(ii) proceedings have commenced in the Tribunal or a court in relation to the decision.

(4) Before a financial sector regulator takes action in terms of subsection (1), it must—

(a) notify its intention to do so to the person in relation to whom the regulator made a decision; and

(b) give the person a reasonable period, of at least 14 days, to make submissions to the regulator.

(5) In determining whether to take action in terms of subsection (1), the financial sector regulator must take into account all the submissions received during the period referred to in subsection (4)(b).

Interpretation

96. In this Part “financial sector regulator” includes the Ombud Council.
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(3) Ditsamaiso tse di farologaneng di ka tlhomamisetswa ditiro tse di farologaneng tsa tsamaiso.

Dikgato tsa go tlhomamisa kgotsa go tlhabolola ditsamaiso tsa tiro ya tsamaiso

93. (1) Pele molaodi wa lephata la ditshelete a tlhomamisa kgotsa tlhabolola tsamaiso ya tiro ya tsamaiso go ya ka karolo 92, bolaodi jwa lephata la ditshelete bo tshwanetse go—

(a) phasalatsa mo webesaeteng ya jona—
   (i) thalo ya tsamaiso kgotsa tlhabololo e e tshitsitsweng; le
   (ii) kitsiso e e laletsang tshwaelo e e kwetsweng ya sethaba mo pakeng e e neetsweng mo kitsisong, eo e tshwetsekgots a le 30 go simolola ka letsatsi la phasalatso ya kitsisong;
(b) gorosa thalo ya tsamaiso kgotsa tlhabololo e e tshitsitsweng go Mokaediaka- karete lo molaodi yo mongwe jwa lephata la ditshelete; le
   (c) sekaseka ditshwaelo dingwe le dingwe tse di amogetsweng.

(2) Fabolaodi jwa lephata la ditshelete bo ikaelela go tsha tsa tsamaiso kgotsa tlhabololo ka mokwag a o farologaneng go tswa go tsamaiso e e thadilweng kgotsa tlhabololo e e phasaladitsweng go ya ka karolotlaleletsong (1), molaodi o tshwanetse, pele a dira tsamaiso kgotsa tlhabololo, go boeletsa dikgato tse di kaileweng mo karolotlaleletsong (1).

Thadiso ya ditsamaiso tsa kgota ya tsamaiso

94. Bolaodi ba lephata la ditshelete bo tshwanetse go thadisa ditsamaiso tsa jona tsa tiro bonnye gangwe mo dingwageng dingwe le dingwe tse tharo.

Kgogelomorago ya ditshwetso

95. (1) Bolaodi jwa lephata la ditshelete bo ka, ka kitsiso go motho wa kamano yo bolaodi bo dirileng tshwetso ka ena go ya ka molao wa lephata la ditshelete (kgotsa, fa batho bao ba feta bongwe, botlhe), gogela morago tshwetso fa—
   (a) tshwetso e dirilweng ka nthla ya tsetsa kgotsa e seng ka molao;
   (b) tshedimosetso e tshwetso e dirilweng ka yona e e ne sa nepagala kgotsa e sa felela e ile bolaodi jwa lephata la ditshelete bo ne bo ka se dire tshwetsa bo ne bo na le tshedimosetso e e nepagetseng e ile feletse; kgotsa 30 go simolola ka lebaka lengwe, sa amogetse.
   (c) tshwetso e, ka lebaka lengwe, sa amogetse.

(2) Kgogelomorago ya tshwetso go ya ka karolotlaleletsong (1) e tsena mo tirisong go simolola ka lelha le tshwetso e e gogetsweng morago ka lona.

(3) Molaodi wa lephata la ditshelete o ka se seye kgato go ya ka karolotlaleletson (1)—
   (a) fa kgato e ka ama bobo ditshwanelo tse di leng teng kgotsa tse di bonweng tsa motho mongwe le mongwe (ntle le motho yo molaodi a dirileng tshwetso mabapi le ena); kgotsa
   (b) fa—
      (i) bolaodi jwa lephata la ditshelete bo itsisitswe gore kop go Lekgotla kgotsa kgotlatshekelo mabapi le tshwetso e tla dirwa; kgotsa
      (ii) ditsamaiso di simolotse kwa Lekgotleng kgotsa kgotlatshekelong mabapi le tshwetso.

(4) Pele bolaodi jwa lephata la ditshelete bo tsaya kgato go ya ka karolotlaleletson (1), bo tshwanetse go—
   (a) itsise ka ga maikaelelo a jona a go dira jalo go motho yo tshwetso e dirilweng mabapi le ena; le
   (b) naya motho sebaka se se lekaneng, sa bonnye matsatsi a le 14, go dira dilihagiso kwa bolaoding.

(5) Mo go tlhomamiseng gore kgato e tsewe go ya ka karolotlaleletson (1), bolaodi jwa lephata la ditshelete bo tshwanetse go tsaya tsia dilihagiso tsothi tse di amogetsweng ka nako e e kaileweng mo karolotlaleletsong (4)/(b).

Tlhaloso

96. Mo Karolong eno “molaodi wa lephata la ditshelete” o akaretsa Khansele ya Ombud.
CHAPTER 7
REGULATORY INSTRUMENTS

Part 1

Regulatory instruments

Interpretation

97. In this Part, “maker”, in relation to a regulatory instrument, means the person that proposes to make the regulatory instrument.

Process for making regulatory instruments

98. (1) A regulatory instrument must not be made unless the maker—
(a) has published—
(i) a draft of the regulatory instrument;
(ii) a statement explaining the need for and the intended operation of the regulatory instrument;
(iii) a statement of the expected impact of the regulatory instrument; and
(iv) a notice inviting submissions in relation to the regulatory instrument and stating where, how and by when submissions are to be made; and
(b) has, once submissions referred to in paragraph (a)(iv) have been received and considered, submitted the regulatory instrument to Parliament in terms of section 103(1).

(2) The period allowed for making submissions referred to in subsection (1)(a)(iv) must be at least six weeks.

(3) If the maker is a financial sector regulator, the maker must, when complying with subsection (1), provide a copy of the documents referred to in that paragraph to—
(a) the other financial sector regulator, the Reserve Bank, the National Credit Regulator, the Council for Medical Schemes and the Director-General; and
(b) if the regulatory instrument would impose requirements on providers of securities services, the market infrastructure that has the function of licensing those providers in terms of a financial sector law.

(4) If the maker is the Ombud Council, the maker must, when complying with subsection (1), provide a copy of the documents referred to in that subsection to the financial sector regulators, the Council for Medical Schemes, the National Credit Regulator and the Director-General.

Substantially different regulatory instrument

99. If a maker of a regulatory instrument intends, whether or not as a result of a consultation process, to make a regulatory instrument in a materially different form from the draft regulatory instrument published in terms of section 98, the maker must, before making the regulatory instrument, repeat the process referred to in section 98.

Urgent regulatory instruments

100. (1) If the maker of a regulatory instrument determines that compliance with section 98 or 99 is likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed regulatory instrument, the maker must before making the instrument—
(a) publish—
(i) a draft of the regulatory instrument and a statement explaining the need for and the intended operation of the regulatory instrument;
(ii) a notice inviting submissions in relation to the regulatory instrument and stating where, how and by when submissions are to be made; and
(iii) a statement of the reasons why the delay involved in complying with sections 98 and 99 is considered likely to lead to prejudice to financial

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KGAOLO 7

DIDIRISWA TSA BOLAODI

Karolo 1

Didiriswa tsaka bolaodi

Tlhaloso

97. Mo Karolong eno “modiri”, mabapi le sediriswa sa bolaodi, o kaya motho yo o tshtsinyang go dira sediriswa sa bolaodi.

Dikgato tsaka go dira didiriswa tsaka bolaodi

98. (1) Sediriswa sa bolaodi ga se a tshwanela go dirwa ntle le fa modiri—
(a) a phasaladitse—
(i) thalo ya sediriswa sa bolaodi;
(ii) polelo e e tlhalosang tlhokoego ya le tiro e e ikaeletsweng ya sediriswa sa bolaodi;
(iii) polelo ya kutfwalo e e solofetsweng ya sediriswa sa bolaodi; le
(iv) kitsiso e e lelaetsang dithlhagiso mabapi le didiriswa tsaka bolaodi le tlhaloso ya gore dithlhagiso di ka dirwa ka, jang le gore leng; le
(b) a, fa dithlhagiso tse di kailweng mo temaneng (a)(iv) di sena go amogelwa le go sekasekwa, rometse sediriswa sa bolaodi kwa Palamenteng go ya ka karolo 103(1).

(2) Paka e e dumeletsweng ya go dira ditlhagiso e e kailweng mo karolotlaleletsong (1)(a)(iv) e tshwanetse go mma bonnye dibke tse thataro.

(3) Fa modiri e le molaodi wa lephata la ditšhelete, modiri o tshwanetse go, fa a ikamanya le karolotlaleletseng (1)(a), neclana ka kgatiso ya dikwalo tse di kailweng mo temaneng eo go—
(a) molaodi yo mongwe wa lephata la ditšhelete, Banka ya Resefe, Bolaodi jwa Bosetšhaba jwa Sekoloto, Khansele ya Dikema tsakala ka Mokaedikakaretso; le
(b) fa sediriswa sa bolaodi se ka gobelela ditlhokoego mo batlameding ba ditirelo tsa ditboto, ditlhulaganyetsa tsa popegotheo ya mmaraka tse di nang le tiro.

(4) Fa modiri e le Khansele ya Ombud, modiri o tshwanetse, fa a ikamanya le karolotlaleletseng (1)(a), lamela kgatiso ya dikwalo tse di kailweng mo karolotlaleletsong eo go bolaodi ba lephata la ditšhelete, Bolaodi jwa Bosetšhaba jwa Sekoloto le Mokaedikakaretso.

Didiriswa tsaka bolaodi tsapharologano e kgolo

99. Fa modiri wa sediriswa sa bolaodi a ikaelela, e le ka ntlha ya kgato ya therisano kgotsa nnya, go dira sediriswa sa bolaodi ka mokgwa o o farologaneng thata go tswa mo sedirisong sa bolaodi se se thadilweng se se phasaladitsweng go ya ka karolo 98, modiri o tshwanetse, pele a dira sediriswa sa bolaodi, go boeletsa kgato ya therisano e e kailweng mo karolong 98.

Didiriswa tsaka bolaodi tsapotlako

100. (1) Fa modiri wa sediriswa sa bolaodi a tilhomamisa gore go ikamanya le karolo 98 kgotsa 99 go na le bokgoni jwa go isa kwa kgobelelong ya barekedi ba ditšhelete kgotsa go ka ama segolo thulaganyo ya ditšhelete, kgotsa go fenya matlhomo a sediriswa sa bolaodi se se tshtsinyang, modiri o tshwanetse, pele a dira sediriswa sa bolaodi, go boeletsa kgato ya therisano e e kailweng mo karolong 98.

(a) phasalatsa—
(i) thalo ya sediriswa sa bolaodi le polelo e e tlhalosang tlhokoego ya le tiriso e e ikaeletsweng ya sediriswa sa boaodi;
(ii) kitsiso e e lelaetsang dithlhagiso mabapi le sediriswa sa bolaodi le tlhaloso ya gore dithlhagiso di ka dirwa ka, jang le gore leng; le
(iii) polelo ya mabaka a a tlhalosang gore goreng go mme le tiego mo go ikamanyeng le dikarolo 98 le 99 e seetlelewa gore e ka isa kwa
customers or harm to the financial system, or defeat the object of the
proposed regulatory instrument; and
(b) submit the regulatory instrument to Parliament in terms of section 103(2).
(2) The period allowed for making submissions in terms of subsection (1)(a)(ii) must be at least seven days.
(3) A maker must, after making an instrument pursuant to subsection (1), as soon as possible, but not later than within 30 days of making the instrument—
(a) submit to Parliament a report of the consultation process, which report must include a general account of the issues raised in the submissions and a response to the issues raised in the submissions.
(b) if the maker is a financial sector regulator, provide a copy of the documents referred to in paragraph (a) to—
(i) the other financial sector regulator, the Reserve Bank, the National Credit Regulator, the Council for Medical Schemes and the Director-General; and
(ii) if the regulatory instrument would impose requirements on providers of securities services, the market infrastructure that has the function of licensing those providers in terms of a financial sector law.
(c) if the maker is the Ombud Council, provide a copy of the documents referred to in that subsection to the financial sector regulators, the National Credit Regulator and the Director-General.

Part does not limit other consultation

101. This Part does not prevent a maker of a regulatory instrument from engaging in consultations in addition to those required in terms of this Part.

Making, publication and commencement of regulatory instruments

102. (1) In deciding whether to make a regulatory instrument, the maker must take into account all submissions received by the expiry of the period referred to in section 98(2) or 100(2) and any deliberations of Parliament.
(2) A regulatory instrument must be published in the Register after it is made.
(3) A regulatory instrument comes into effect—
(a) on the date the instrument is published in the Register; or
(b) if the instrument provides that it comes into effect on a later date, on the later date.

Submission of regulatory instruments to Parliament

103. (1) Before making a regulatory instrument in terms of section 98 or 99, the maker of the regulatory instrument must submit the regulatory instrument to Parliament, for a period of at least 30 days while Parliament is in session, together with—
(a) the documents mentioned in section 98(1)(a); and
(b) a report on the consultation process referred to in section 104.
(2) Before making a regulatory instrument in terms of section 100, the maker of the regulatory instrument must submit to Parliament, whether in session or not, the documents mentioned in section 100(1)(a) for a period of at least seven days (which period may run concurrently with the seven days referred to in section 100(2)).

Reports on consultation processes

104. (1) With each regulatory instrument, the maker must publish a consultation report.
(2) A consultation report must include—
(a) a general account of the issues raised in the submissions made during the consultation; and
(b) a response to the issues raised in the submissions.
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kgobelelong ya barekedi ba ditšhelete kgotsa e ka ama segolo thulaganyo ya ditšhelete, kgotsa ya feny a mailhomo a sediriswa sa bolaodi se se tshitsintsweng; le
(b) romela sediriswa sa bolaodi kwa Palamenteng go ya ka karolo 103(2).
(2) Nako e e letlelelwang go dira dithagisog go ya ka karolotlaneletso (1)(a)(ii) e tshwanetse go nna bonnye matsatsi a le supa.
(3) Modiri o tshwanetse, morago ga go dira sedirisir se se tsamaelanang le karolotlaneletso (1), ka bonako jo kgonganangala, fela e seng morago ga mo matsatsing a le 30 a go dira sedirisir—
(a) go romelela Palamente pegelo ya kgato ya therisano, eo e tshwanetseng go akaretsa maikarabelo ka kakaretsa a morero o o tlhagisitsweng mo dithagisog le tsibogelo go merero e e tlhagisitsweng mo dithagisog;
(b) fa modiri e le bolaodi jwa lephata la ditšhelete, go tlamela ka kgatiso ya makwalo a a kailweng mo temaneng (a) kwa—
(ii) bolading jo bongwe jwa ditšhelete, Banka ya Rešefe, Bolaodi jwa Bosetšhaba jwa Sekoloto, Khansele ya Dikema tsa Kalafi le Mokaediakakaretsa; le
(c) fa modiri e le Khansele ya Ombud, go tlamela ka kgatiso ya makwalo a a kailweng mo karolotlaneletso e go go bolaodi ba lephata la ditšhelete, Molaodi wa Bosetšhaba wa Sekoloto le Mokaediakakaretsa.

Karolo ga e lekanyetse dithirisano tse dinngwe

101. Karolo eno ga e thibele modiri wa sediriswa sa boaodi mo go rerisaneng le mo godimo ga tseo di tlhokeke go ya ka Karolo eno.

Go dira, phasalatso le tshimologo ya didirisirwa tsa bolaodi

102. (1) Mo go swetseng ka ga go dira sedirisirwa sa bolaodi, modiri o tshwanetse go ela tlhoko dithagisog tsothe tse di amogetsweng ka nako ya go ya bokhutlong gap aka e e kailweng mo karolotlaneletsong 98(2) kgotsa 100(2) le dipuisano dingwe le dingwe tsa Palamente.
(2) Sedirisirwa sa bolaodi se tshwanetse go phasalatswa mo Rejisetareng fa se sena go dirwa.
(3) Sedirisirwa sa bolaodi se tseña mo tirisong—
(a) ka lethla le sedirisirwa si phasaladitsweng mo Rejisetareng ka lona, kgotsa
(b) fa sedirisirwa se tlamela gore se tseŋwga mo tirisong mo letlheng le le kwa moragonyana, ka lethla le le kwa moragonyana.

Thomelo ya didirisirwa tsa bolaodi kwa Palamenteng

103. (1) Pele go dirwa sedirisirwa sa bolaodi go ya ka karolo 98 kgotsa 99, modiri wa sedirisirwa sa bolaodi o tshwanetse go romela sedirisirwa sa bolaodi kwa Palamenteng, mo matsatsing a le 30 fa Palamente e kokoane, mmogo le—
(a) makwalo a a kailweng mo karolong 98(1)(a); le
(b) pegelo ka ga kgato ya therisano e e kailweng mo karolong 104.
(2) Pele go dirwa sedirisirwa sa bolaodi go ya ka karolo 100, modiri wa sedirisirwa sa bolaodi o tshwanetse go romela Palamente, e kokoane kgotsa e sa kokoana, makwalo a a kailweng mo karolong 100(1)(a) mo matsatsing a le supa (paka e e tsamaelanang mmogo le matsatsi a le supa a a kailweng mo karolong 100(2)).

Dipegelo ka ga kgato tsa therisano

104. (1) Ka sedirisirwa sengwe le sengwe sa bolaodi, modiri o tshwanetse go phasalatsa pegelo ya kgato ya dithirisano.
(2) Pegelo ya dithirisano e tshwanetse go akaretsa—
(a) karabelo ka kakaretsa ya merero e e tlhagisitsweng mo dithagisong tse di dirilweng ka nako ya dithirisano; le
(b) tsibogelo go merero e e tlhagisitsweng mo dithagisog.
(3) If the maker did not comply with section 98 or 99 for the reason stated in section 100, the consultation report must be published 30 days after the instrument was made and the report must include a statement of the reasons why the delay involved in complying, or complying fully, with sections 98 and 99 was considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the regulatory instrument.

Part 2

Standards

Prudential standards

105. (1) The Prudential Authority may make prudential standards for, or in respect of—

(a) financial institutions that provide financial products or securities services;
(b) financial institutions that are market infrastructures; and
(c) key persons of such financial institutions.

(2) A prudential standard must be aimed at one or more of the following:

(a) Ensuring the safety and soundness of those financial institutions;
(b) reducing the risk that those financial institutions and key persons engage in conduct that amounts to, or contributes to, financial crime; and
(c) assisting in maintaining financial stability.

(3) Without limiting subsection (1), a prudential standard may be made on any of the following matters:

(a) Financial soundness requirements, including requirements in relation to capital adequacy, minimum liquidity and minimum asset quality;
(b) matters on which a regulatory instrument may be made by the Prudential Authority in terms of a specific financial sector law;
(c) matters that may in terms of any other provision of this Act be regulated by prudential standards, including matters as contemplated in section 30; and
(d) any other matter that is appropriate and necessary for achieving any of the aims set out in subsection (2).

Conduct standards

106. (1) The Financial Sector Conduct Authority may make conduct standards for or in respect of—

(a) financial institutions;
(b) representatives of financial institutions;
(c) key persons of financial institutions; and
(d) contractors.

(2) A conduct standard must be aimed at one or more of the following:

(a) Ensuring the efficiency and integrity of financial markets;
(b) ensuring that financial institutions and representatives treat financial customers fairly;
(c) ensuring that financial education programs, or other activities promoting financial literacy are appropriate;
(d) reducing the risk that financial institutions, representatives, key persons and contractors engage in conduct that is or contributes to financial crime; and
(e) assisting in maintaining financial stability.

(3) Without limiting subsections (1) and (2), a conduct standard may be made on any of the following matters:

(a) Efficiency and integrity requirements for financial markets;
(b) measures to combat abusive practices;
(3) Fa modiri a sa ikamany le karolo 98 kgotsa 99 ka mabaka a a thalositsweng mo karolong 100, pegelo ya ditherisano e tshwanetse go phasalatswa mo matsating a la 30 morago ga go dirwa ga sediriswa e bile pegelo e tshwanetse go akaretso polelo ya mabaka a gore goreng go diega mo go ikamanyeng, kgotsa go ikamanyeng ka botlalo, le dikarolo 98 le 99 go tseetswe gore go ka isa kwa kgobelelong ya morekedi wa ditshelete kgotsa go ama bose thulaganyo ya ditshelete, kgotsa go fenya maithlomo a sediriswa sa bolaodi.

**Karolo 2**

**Maemo**

105. (1) Bothati jwa Tlhokomelo bo ka dira maemo a tlhokomelo mabapi le, kgotsa malebana le—
   
   (a) ditheo tsa ditšhelete ts di tšamela le ka dikuro tsa ditšhelete kgotsa ditširelo tsa ditšiho; 
   (b) ditheo tsa ditšhelete tse e leng ditšihalaganyetsa tsa popegotheo ya mmaraka; le
   (c) batho ba botlhokwa ba ditheo tse tsa ditšhelete. 

   (2) Maemo a tlhokomelo e tshwanetse go nna le maikaielelo a e le ngwwe kgotsa go feta ya tse di latelang:
   
   (a) Go netefatsa poloko le tolamo ya ditheo tse tsa ditšhelete; 
   (b) fokotsa kotsi ya gore ditheo tse tsa ditšhelete, le batho ba ba botlhokwa ba itshotse ka mokgwa o o ka tlisang, kgotsa o o bakang, bosenyi jwa ditšhelete; le
   (c) go thuso go tšhegetsa tlhomamo ya ditšhelete.  

   (3) Ntle le go lekanyetsa karolotlaleletsong (1), maemo a tlhokomelo a ka dirwa mo go ngwwe le ngwwe ya merero e e latelang:
   
   (a) Ditlhokoego tsa ditšhelete tse di nepagetsweng, go akaretso ditlhokoego mabapi le tekano ya khapecile, maemotlase a thekiso le theko ya ditšiho le maemotlase a boleng jwa ditšiho;
   (b) merero e mo go yona go ka dirwang sediriso sa boloaedi ke Bothati jwa Tlhokomelo go ya ka molao wa ditšhelete o o tsepamisitsweng;
   (c) merero e go ya ka kabelo ngwwe le ngwwe ya Molao ono e ka laolweng ke maemo a tlhokomelo, go akaretso le merero e e kailweng mo karolong 30; le
   (d) meroro mongwe le mongwe o o maleba le botlhokwa go fitlhela le ngwwe le ngwwe ya maikaielelo a a thlagisitsweng mo karolotlaleletsong (2).

**Maemo a boitshwaro**

106. (1) Bothati jwa Boitshwara jwa Lephata la Ditshelete bo ka dira maemo a boitslwara go, kgotsa mabapi le—

   (a) ditheo tsa ditšhelete; 
   (b) dikemedi tsa ditheo tsa ditšhelete; 
   (c) batho ba ba botlhokwa ba ditheo tsa ditšhelete; le
   (d) bakonteraka.

   (2) Maemo a boitslwara a tshwanetse go nna le maikaielelo a e le ngwwe kgotsa go feta ya tse di latelang:
   
   (a) Go netefatsa nonofo le tšamela ya ditšhelete; 
   (b) go netefatsa gore ditheo tsa ditšhelete le baemedi ba tšhola barekedi ba ditšhelete ka tolamo; 
   (c) go netefatsa gore maneaneo a thuto ya tsa ditšhelete, kgotsa ditiro tse ditšhelete a boleng ka tšiho ya tsa ditšhelete di nepagetsweng; 
   (d) go fokotsa kotsi ya gore ditheo tsa ditšhelete, dikemedi, batho ba ba botlhokwa le bakonteraka ba tsaya karolo mo boitslwaraong jwa kgotsa jo bongwa le seabo mo bosenyi jwa ditšhelete; le
   (e) go thuso mo go tšhegetseng tlhomamo ya ditšhelete. 

   (3) Ntle le go lekanyetsa dikarolotlaleletsong (1) le (2), maemo a boitslwara a ka dirwa mo go ngwwe le ngwwe ya merero e e latelang:
   
   (a) Ditlhokoego tsa nonofo le tšamela ya ditšhelete; 
   (b) mekgwa ya go lwantsha ditiragatsa tse di botlhaswa;
requirements for the fair treatment of financial customers, including in
relation to—
(i) the design and suitability of financial products and financial services;
(ii) the promotion, marketing and distribution of, and advice in relation to,
    those products and services;
(iii) the resolution of complaints and disputes concerning those products and
    services, including redress;
(iv) the disclosure of information to financial customers; and
(v) principles, guiding processes and procedures for the refusal, withdrawal
    or closure of a financial product or a financial service by a financial
    institution in respect of one or more financial customers, taking into
    consideration relevant international standards and practices, and subject
    to the requirements of any other financial sector law or the Financial
    Intelligence Centre Act, including—
    (aa) disclosures to be made to the financial customer; and
    (bb) reporting of any refusal, withdrawal or closure to a financial sector
        regulator;
(d) the design, suitability, implementation, monitoring and evaluation of financial
    education programs, or other initiatives promoting financial literacy;
(e) matters on which a regulatory instrument may be made by the Financial
    Sector Conduct Authority in terms of a specific financial sector law;
(f) matters that may in terms of any other provision of this Act be regulated by
    conduct standards; and
(g) any other matter that is appropriate and necessary for achieving any of the
    aims set out in subsection (2).

(4) A conduct standard may declare specific conduct in connection with a financial
product or a financial service to be unfair business conduct if the conduct—
(a) is or is likely to be materially inconsistent with the fair treatment of financial
    customers;
(b) is deceiving, misleading or is likely to deceive or mislead financial customers;
(c) is unfairly prejudicing or is likely to unfairly prejudice financial customers or
    a category of financial customers; or
(d) impedes in any other way the achievement of any of the objectives of a
    financial sector law.

(5) (a) In relation to a credit provider regulated in terms of the National Credit Act, a
conduct standard may only be made in relation to a financial service provided in relation
to a credit agreement and matters provided for in section 108.

(b) A conduct standard referred to in paragraph (a) may only be made after
consultation with the National Credit Regulator.

Joint standards

107. The Prudential Authority and the Financial Sector Conduct Authority may make
joint standards on any matter in respect of which either of them have the power to make
a standard.

Additional matters for making standards

108. (1) To achieve the respective objectives of the financial sector regulators as set
out in sections 33 and 57, the standards referred to in sections 105, 106 or 107 may be
made on any of the following additional matters:
(a) fit and proper person requirements, including in relation to—
    (i) personal character qualities of honesty and integrity;
    (ii) competence, including experience, qualifications and knowledge; and
(c) ditlhokego tsu go tshola barekedi ba ditšhelete ka tolamo, go akaretsa le mabapi le—
(i) go tlhango le go tshwanela ga dikuno tsu ditšhelete le ditirelo tsu ditšhelete;
(ii) tseweletso pele, papatso le phatlalatso ya, le kgakololo mabapi le, dikuno tseo le ditirelo;
(iii) tharabololo ya dingongorego le dituhlulo mabapi le dikuno tseo le ditirelo, go akaretsa le go busetsa mo maemong;
(iv) tshenolo ya tshedimosetso go barekedi ba ditšhelete; le
(v) mecono e e kaclang dikgado le ditimaiso mabapi le go ganwa, go gogelwa morago kgotsa go tswalwa ga tlhagiso ya ditšhelete kgotsa tirelo ya ditšhelete ka setheo sa ditšhelete mabapi le morekedi a le es kgotsa go feta wa ditšhelete, go e tswa tlhoko maemo a a maleba a bodi ditshhaba ditshaba le ditiragatso, le go latela ditlhoko tsego tsa molao bo mongwe le mongwe wa lephata la ditšhelete kgotsa Financial Intelligence Centre Act, go akaretsa le—
(aa) ditshenolo tse di tshwanetseng go dirwa kwa morekeding wa ditšhelete; le
(bb) pegelo ya kgano nngwe le nngwe, kgogelomorago kgotsa tswalo go molaodi wa lephata la ditšhelete;
(d) tlhamo, tshwanelo, tsenyotirisong, tlhokomelo le tekanyetsa ya mananeo a thuto ya tsu ditšhelete, kgotsa mananeo a mangwe a a tseweletsang kitso ya tsu ditšhelete;
(e) merero e mo go yona sediriswa sa bonaola se ka dirwang ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka mola o o tsepmang wa lephata la ditšhelete;
(f) merero e go ya ka kabelo nngwe le nngwe ya Molao ono e ka laolweng ka maemo a boitshwaro; le
(g) morero mongwe le mongwe o o maleba le bothhokwa mo go fithleleleng nngwe le nngwe ya maikaelelo a a thalositsweng mo karolotlaleletsong (2).

(4) Maemo a boitshwaro a ka thomamisa boitshwaro jo bo tsepmang mabapi le kuno ya ditšhelete kgotsa tirelo ya ditšhelete go nna boitshwaro jwa kgwebo jo bo sa lolamang fa boitshwaro joo—
(a) bo kgotsa bo ka tlhoka tlhomamo ya botlhokwa ka go tshola barekedi ba ditšhelete ka tolamo;
(b) bo tsietsa kgotsa bo faposu kgotsa bo ka tsietsa kgotsa bo ka faposu barekedi ba ditšhelete;
(c) bo gobelela e seng ka tolamo kgotsa bo ka gobelela e seng ka tolamo barekedi ba ditšhelete kgotsa setlhophoa sa badiri sa ditšhelete; kgotsa
(d) bo kgoreletsa ka mokgwa ofe fithlelelo ya nngwe ya maikaelelo a molaodi wa lephata la ditšhelete.

(5) (a) Mabapi le motlamedi wa sekoloto yo o laolweng ke Molao wa Bosetšhaba wa Sekoloto, maemo a boitshwaro a ka dirwa fela mabapi le tirelo ya ditšhelete e e tlametsweng mabapi le tumalano ya sekoloto le merero e e tlametsweng mo karolong 108.
(b) Maemo a boitshwaro a a kailweng mo temaneng (a) a ka dirwa fela morago ga therisano le Molaodi wa Bosetšhaba wa Sekoloto.

Maemo a a kopantsweng

107. Bothati jwa Tlhokomelo le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka dira maemo a a kopantsweng mo morerong mongwe le mongwe mabapi le gore mongwe le mongwe wa bona o na le thata ya go ka dira maemo.

Mereto ya tlaleletso ya go dira maemo

108. (1) Go fithlelela maemo a a kailweng a bolaola jwa lephata la ditšhelete jaaka a tlhagisitswe mo dikarolong 33 le 57, maemo a a kailweng mo dikarolong 105, 106 kgotsa 107 a ka dirwa mo go nngwe le nngwe ya ditlhla tse di latelang tsu tlaleletso:
(a) Ditlhoko tsa motho yo o itekanetseng a le matshwanedi, go akaretsa mabapi le—
(i) boleng jwa semelo sa motho jwa boikanye go le tshiamo;
(ii) bokgoni, go akaretsa le mai temogelo, borugeti le kitso; le

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(iii) financial standing;
(b) governance, including in relation to—
(i) the composition, membership and operation of governing bodies and of
substructures of governing bodies; and
(ii) the roles and responsibilities of governing bodies and their substructures;
(c) the appointment, duties, responsibilities, remuneration, reward, incentive
schemes and, subject to applicable labour legislation, the suspension and
dismissal of, members of governing bodies and of their substructures;
(d) the appointment, duties, responsibilities, remuneration, reward, incentive
schemes and, subject to applicable labour legislation, the suspension and
dismissal of, key persons;
(e) the operation of, and operational requirements for, financial institutions;
(f) financial management, including—
(i) accounting, actuarial and auditing requirements;
(ii) asset, debt, transaction, acquisition and disposal management; and
(iii) financial statements, updates on financial position, and public reporting
and disclosures;
(g) risk management and internal control requirements;
(h) the control functions of financial institutions, including the outsourcing of
control functions;
(i) record-keeping and data management by financial institutions and representa-
tives;
(j) reporting by financial institutions and representatives to a financial sector
regulator;
(k) outsourcing by financial institutions;
(l) insurance arrangements, including reinsurance, of financial institutions;
(m) the amalgamation, merger, acquisition, disposal and dissolution of financial
institutions;
(n) recovery, resolution and business continuity of financial institutions;
(o) requirements for identifying and managing conflicts of interest;
(p) requirements for the safekeeping of assets, including requirements pertaining
to the approval and supervision of nominees and custodians.

(2) A standard may—
(a) provide for a financial sector regulator or the Reserve Bank to make
determinations, in accordance with procedures defined in a standard, for the
purposes of the standard; and
(b) impose requirements for approval by a financial sector regulator in respect of
specified matters.

(3) A standard made by a financial sector regulator may amend or revoke another
standard made by the financial sector regulator.

Standards requiring concurrence of Reserve Bank

109. (1) The Financial Sector Conduct Authority may not make a standard that
imposes requirements on providers of payment services without the concurrence of the
Reserve Bank.

(2) A financial sector regulator may not make a standard aimed at assisting in
maintaining financial stability without the concurrence of the Reserve Bank.

General

110. (1) Different standards may be made for, or in respect of—
(a) different categories of financial institutions, representatives, contractors or
key persons; or
(b) different circumstances.

(2) A standard may be made applicable to existing actions, activities, transactions,
policies and appointments.

(3) A standard must be published on the maker’s website.
(iii) kemo ya dišhelete;
(b) puso, go akaretse mabapi le—
(i) popego, botokololo le tsamaiso ya mokgatlho o o busang le wa dithophatlaleletso tsa mokgatlho e e busang; le
(ii) ditiro le maikarabelo a mokgatlho e e busang le dithophatlaleletso tsa yona;
(c) go thaipiwa, ditiro, maikarabelo, tuelo, tebogo, dikema tsa thotloeto, le go ya ka melawana ya tiro, go sekgwagwa le go belestswa ga maloko a mokgatlho ya puso le dithophatlaleletso tsa yona;
(d) go thaipiwa, ditiro, maikarabelo, tuelo, tebogo, dikema tsa thotloeto, le go ya ka melawana ya tiro, go sekgwagwa le go belestswa ga batho ba ba bohlhokwa;
(e) tiro ya, le dithlohego tsa tiro tsa, ditheo tsa dišhelete;
(f) taolo ya dišhelete, go akaretse le—
(i) dithlohego tsa palotlotlo, bogakolodi le boruni;
(ii) taolo ya ditlho, sekololo, tirisano, kgobokanyo le tatli; le
(iii) dikanego tsa dišhelete, dipeonakong tsa maemo a dišhelete, le pegelo go sešhaha le dithenölo;
(g) taolo ya dikotsi le dithlohego tsa taolo ya ka fa gare;
(h) ditiro tsa taolo tsa ditheo tsa dišhelete, go akaretse le go batla tirole ya konteraka ya ditiro tsa taolo go tswa kwa nile;
(i) tsholo ya direkoto le taolo ya tshedimo setso ke ditheo tsa dišhelete le dikemedi;
(j) pegelo ka ditheo tsa dišhelete le dikemedi go bolaodi jwa lephata la dišhelete;
(k) dithulaganyo tsa go bona tirole ya konteraka go tswa kwa nile ke ditheo tsa dišhelete;
(l) dithulaganyo tsa inšoreñse, go akaretse le go inšorwa gape, ga ditheo tsa dišhelete;
(m) kopano, tlhakano, tirisano, tatli le phatlala tsa ya ditheo tsa dišhelete;
(n) namolo ya kgwebo le tswelelo ya ditheo tsa dišhelete;
(o) dithlohego tsa go supa le go laola thulano ya dikhatlhego; le
(p) dithlohego tsa go boloka ditlho, go tshireletsego, go akaretse le dithlohego mabapi le thebolo le thokomelo ya ba ba kgethišweng le badisi.
(2) Maemo a ka—
(a) tlamela mabapi le bolaodi jwa lephata la dišhelete kgotsa Banka ya Resefe go dira dithlohego tse di ditsa dišhelete, baemedi, beng ba ba botlhokwa, bakonteraka kgotsa batho ba ba botlhokwa; kgotsa
(b) mabaka a a farologaneng.
(3) Maemo a a dirilweng ke bolaodi jwa lephata la dišhelete a ka tlhabolola kgotsa a gogela morago maemo a mangwe a a dirilweng ke bolaodi jwa lephata la dišhelete.

Maemo a a tlhokang tumelelo ya Banka ya Resefe

109. (1) Bothathi jwa Boitshwaro jwa Lephata la Dišhelete bo ka se dire maemo a a gobelelang dithlohego mo batame ding ba ditirelo tsa tuelo nile le tumalano ya Banka ya Resefe.
(2) Molaodi wa lephata la dišhelete o ka se dire maemo a a ikaelelang go thusa go tshegetsa thomano ya dišhelete nile le tumalano ya Banka ya Resefe.

Kakaretso

110. (1) Maemo a a farologaneng a ka direlw, kgotsa mabapi le—
(a) dithlopha tse di farologaneng tsa ditheo tsa dišhelete, baemedi, beng ba ba bothlokwa, bakonteraka kgotsa batho ba ba bothlokwa; kgotsa
(b) mabaka a a farologaneng.
(2) Maemo a ka dirwa go tsamaelana le dikgato, ditiro, dirisano, dipholisi le dišhapo.
(3) Maemo a tshwanetse go phusalatswa mo webesæteng ya modiri.
CHAPTER 8

LICENSING

Part 1

Licensing requirements

111. (1) A person may not provide, as a business or part of a business, a financial product, financial service or market infrastructure except—
(a) in accordance with a licence in terms of a specific financial sector law, the National Credit Act or the National Payment System Act; or
(b) if no specific financial sector law provides for such a licence, in accordance with a licence in terms of this Act.
(2) A person may not provide, as a business or part of a business, a financial product designated in terms of section 2, or a financial service designated in terms of section 3, except in accordance with a licence in terms of this Chapter.
(3) Subsections (1) and (2) only apply to a contractor if a responsible authority specifically, in a standard, requires that contractor to be licensed.
(4) A person may not describe or hold itself out as being licensed in terms of a financial sector law, including being licensed to provide particular financial products, financial services or market infrastructure, unless that person is so licensed.
(5) A person may not permit another person to identify the first person as licensed in terms of a financial sector law, including licensed in terms of a financial sector law to provide particular financial products, financial services or market infrastructure, unless the first person is so licensed.
(6) For the purposes of subsections (4) and (5), a person whose licence has been suspended or revoked is not licensed.
(7) Except to the extent expressly provided by this Act, this Act does not affect the provisions of the specific financial sector laws with respect to licensing in relation to financial products, financial services and market infrastructures.

Part 2

Licences required in terms of section 111(1)(b) or (2) or section 162

Interpretation

112. In this Part—
“application” means an application for a licence required in terms of section 111(1)(b) or (2) or section 162;
“licence” means a licence required in terms of section 111(1)(b) or (2) or section 162;
“licensee” means a person licensed in terms of section 111(1)(b) or (2) or section 162.

Power to grant licences

113. (1) The responsible authority may, on application, grant a licence.
(2) The application must—
(a) be in writing and in a form approved or accepted by the responsible authority; and
(b) include or be accompanied by the information and documents—
(i) required in the form; or
(ii) required by the responsible authority.
KGAOLO 8

KABO YA LAESENSE

Karolo 1

Ditlhokego tsa kabo ya laesense

Thokoego ya laesense mabapi le batlamedi ba dikuno tsa ditšhelete, ditirelo tsa ditšhelete, le ditlhulaganyetso tsa popegotheo ya mmarak'a

111. (1) Motho o ka se tlamele, jaaka kgwebo kgotsa karolo ya kgwebo, kuno ya tšhelete, tirelo ya tšhelete kgotsa thulaganyetso ya popegotheo ya mmarak'a ntle le—

(a) go isamaelana le laesense go ya ka molao o o tsepameng wa lephata la ditšhelete kgotsa Molao wa Bosetšhaba wa Sekoloto kgotsa National Payment System Act; kgotsa

(b) fá go se molao o o tsepameng wa lephata la ditšhelete o o tlamelang ka laesense eo, go isamaelana le laesense go ya ka Molao ono.

(2) Motho o ka se tlamele, jaaka kgwebo kgotsa karolo ya kgwebo, kuno ya ditšhelete e e thapiliweng go ya ka karolo 2, kgotsa kuno ya ditšhelete e e thomilweng go ya ka karolo 3, ntle le go isamaelana le laesense go ya ka Kgaolo eno.

(3) Dikarolotlaleletso (1) le (2) di diriswa fela go mokonteraka fa bothati jo bo rwalang maikarabelo ka tsepamo, mo maemong, bo tlhoka gore mokonteraka a abelwe laesense.

(4) Motho o ka se tšhalose kgotsa ga tsewa gore o abetswe laesense go ya ka molao wa lephata la ditšhelete, go akaretsa le go abelwa laesense go tlamelang ka dikuno tse di rileng tsa ditšhelete, ditirelo tsa ditšhelete kgotsa thulaganyetso ya popegotheo ya mmarak'a, fa fela motho yoo a abetswe laesense jalo.

(5) Motho o ka se setle motho yo mongwe go supra motho wa nthla jaaka yo o abetsweng laesense go ya ka molao wa lephata la ditšhelete, go akaretsa le go abelwa laesense go ya ka molao wa lephata la ditšhelete go tlamelang ka dikuno tse di rileng tsa ditšhelete, ditirelo tsa ditšhelete kgotsa thulaganyetso ya popegotheo ya mmarak'a, ntle le fa motho wa nthla a abetswe laesense jalo.

(6) Mabapi le matlhomoa a dikarolotlaleletso (4) le (5), motho yo laesense ya gague e sekegiwlweng kgotsa phimotsweng ga a abelwe laesense.

(7) Ntle le ka moo go tlametsweng kgotsa tshobelo kgotsa a Molao ono, Molao ono ga o ame dikabelo tsa melao e e tsepameng ya lephata la ditšhelete mabapi le kabo ya laesense e e amanang le dikuno tsa ditšhelete le ditirelo tsa ditšhelete le thulaganyetso ya popegotheo ya mmarak'a.

Karolo 2

Laesense e e tlhokegag go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162

Tšhaloso

112. Mo Karolong eno—

“kopo” e kaya kopo ya laesense e e tlhokegag go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162;

“laesense” e kaya laesense e e tlhokegag go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162;

“moabelwalaesense” o kaya motho yo o abetsweng laesense go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162.

Thatha ya go aba dilaesense

113. (1) Bothati jo bo rwalang maikarabelo bo ka, ka kopo, aba laesense.

(2) Kopo e tshwanelo—

(a) go kwalwa le go nna mo foromong e e rebotsweng kgotsa amogetsweng ke bothati jo bo rwalang maikarabelo; le

(b) go akaretsa kgotsa go romelwa le tshedimose tse dikvalo—

(i) tse di tlhokwang mo foromong; kgotsa

(ii) tse di tlhokwang ke bothati jo bo rwalang maikarabelo.
Request for further information or documents by responsible authority

114. (1) The responsible authority may, by notice in writing, require an applicant for a licence to—
(a) give the responsible authority additional information or documents specified by the responsible authority; and
(b) verify any information given by the applicant in connection with the application in a manner specified by the responsible authority.
(2) The responsible authority need not deal further with the application until the applicant has complied with the notice.

Relevant matters for application for licence

115. The matters to be taken into account in relation to an application for a licence include—
(a) the objective of the responsible authority as set out in section 33 or 57;
(b) the financial and other resources of and available to the applicant;
(c) fit and proper person requirements applicable to the applicant and to any key person or significant owner of the applicant;
(d) the governance and risk management arrangements of the applicant; and
(e) whether the applicant made a statement that is false or misleading, including by omission, in or in relation to the application.

Determination of applications

116. (1) The responsible authority to which an application for a licence has been made must determine the application by—
(a) granting the application and issuing a licence to the applicant; or
(b) refusing the application and notifying the applicant accordingly.
(2) The responsible authority may not grant a licence to an applicant unless satisfied that—
(a) the applicant has or has available to it sufficient resources and capacity to ensure that it will comply with the requirements of financial sector laws in relation to the licence; and
(b) issuing the licence to the applicant will not be contrary to the interests of financial customers, the financial sector or the public interest.
(3) (a) The responsible authority must determine an application as contemplated in subsection (1) and notify the applicant within three months after the application is made.
(b) The responsible authority may, by notice to the applicant, extend the period of three months in paragraph (a) for one or more further periods, but the total period may not be more than nine months.
(c) In working out when the period mentioned in paragraph (a) or (b) expires, any period between the responsible authority giving the applicant a notice in terms of section 114 and the requirements in the notice being satisfied is not to be counted.

Reporting obligations of licensee

117. (1) A licensee must promptly report any of the following to the responsible authority that issued the licence:
(a) The fact that the licensee has contravened or is contravening, in a material way—
(i) a financial sector law;
(ii) a regulator’s directive or a directive in terms of section 202;
(iii) an enforceable undertaking;
(iv) an order of a court made in terms of a financial sector law; or
(v) a decision of the Tribunal;
Kopo ya tshedimose tso ngwe kgotsa dikwalo ka bothati jo bo rweleng maikarabelo

114. (1) Bothati jo bo rwanal maikarabelo bo ka, ka kitsiso e a kwetsweng, kopa modirakopo ya laesense go—
(a) neela bothati jo bo rwanal maikarabelo tshedimose tso ngwe kgotsa dikwalo tse di tsepamisitsweng ke bothati jo bo rwanal maikarabelo; le
(b) netefatsa tshedimose tso ngwe le ngwe e e Neilweng ke modirakopo mabapi le kopo ka mokgwa o o tsepamisitsweng ke bothati jo bo rwanal maikarabelo.
(2) Bothati jo bo rwanal maikarabelo bo ka nna jwa se sekegele kopo tsebe go 10 fillhela modirakopo a ikamanya le kitsiso.

Merero e a maleba ya go dira

115. Dintlha tse di tshwanetseng go tsewa tsa mabapi le kopo ya kabelo ya laesense di akaretsetsa—
(a) maikaelo a bothati jo bo rwanal maikarabelo jaaka go tlhagisitswe mo karolong 33 kgotsa 57;
(b) ditlamelelo tsa ditelilele le tse dingwe tsa, le tse di leng teng go, modirakopo;
(c) ditlhoko kego tsa bata ba ba itekaneatsang e bile ba le matshwamede tse di diragatswang go modirakopo le go motho mongwe le mongwe yo o bothokwa kgotsa mong yo o bothokwa wa modirakopo;
(d) ditlulanganyo tsa puso le taolo ya dikotsi tsa modirakopo; le
(e) gore a modirakopo o dirile polel e a fosagetseng kgotsa e e timetsang, go akaretseta le ka tlogelo, kgotsa mabapi le kopo.

Tlhomamiso ya dikopo

116. (1) Bothati jo bo maleba mabapi le kopo ya laesense bo tshwanetse go tlhomamisa kopo ka go—
(a) sekegela kopo le go rebola laesense go modirakopo; kgotsa
(b) sa amogele kopo le go itsise modirakopo ka tshwanelo.
(2) Bothati jo bo rwanal maikarabelo bo ka se ahele modirakopo laesense ntle le fa bo kgotsofetseng gore—
(a) modirakopo o na le ditlamelelo tse di lekaneng le bokongi go netefatsa gore o tla ikamanya le ditlhoko kego tsa melao ya lephata la ditsehlelo mabapi le laesense; le
(b) go rebola le modirakopo laesense go ka se nne kgatlhanong le dikgatlheng tsa barekedi ba ditelilele kgotsa lephata la ditsehlelo kgotsa dikgatlheng tsa setšhaba.
(3) (a) Bothati jo bo rwanal maikarabelo bo tshwanetse go go tlhomamisa kopo jaaka go thalositswe mo karololaleletseng (1) le go itsise modirakopo mo dikgweding tse tharo morago ga fa kopo e sena go dirwa.
(b) Bothati jo bo rwanal maikarabelo bo ka, ka kitsiso go modirakopo, oketsa paka ya dikgwedi tse tharo mo temaneng (a) go paka ele ngwe kgotsa go feta, fela paka yotlhe e se fete dikgwedi tse robongwe.
(c) Mo go batleng go itse gore paka e a kailweng mo temaneng (a) kgotsa (b) e ya bokhutlong leng, paka ngwe le ngwe magareng ga nako e bothati jo bo rwanal maikarabelo bo nayang modirakopo kitisiso go ya ka karolo 114 le nako e ditlhoko kego tse di mo kitisong di kgotsofatsweng ka yona ga e balellewe.

Go bega Ditlamego tsa moabelwalaesaense

117. (1) Moabelwalaesaense o tshwanetse go begela bothati jo bo rwanal maikarabelo jo bo robotse tla laesense ka potlako ngwe le ngwe ya tse di latelang:
(a) Nhla ya gore laesense e tlotsa kgotsa e tlola, ka mokgwa o o fetang tekano—
(i) molao wa lephata la ditsehlete;
(ii) taelo ya molaodi kgotsa taelo go ya ka karolo 202;
(iii) tulamane e a gatelelwang;
(iv) taelo ya kgotlatsehelo e a diri lweng go ya ka molao wa lephata la ditsehlete; kgotsa
(v) tshwetse ya Lekgotla;
It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

Act No. 9 of 2017: Financial Sector Regulation Act, 2017

Mo go tsebiswa gore Mo-Presidente o dumetse molao o latelago, wona o tla gatiswa e le tsebisoso ya kakaretso:

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(b) the fact that the licensee has become aware that information given in connection with the application for the licence was false or misleading.

(2) Subsection (1) also applies in relation to events and circumstances that occur while a licence is suspended.

(3) Information that is reported in terms of this section is not admissible in evidence in any criminal proceedings, except in criminal proceedings for perjury.

Licences not transferable

118. A licence is not transferable from the licensee to another person.

Variation of licences

119. (1) The responsible authority that issued a licence may, by notice to the licensee, vary the licence if to do so will assist in achieving the objective of the responsible authority as set out in section 33 or 57.

(2) A variation of a licence may include—
   (a) removing or varying a condition of the licence, or adding a condition; and
   (b) changing the categories of financial products, financial services or financial customers to which the licence relates.

(3) A variation of a licence takes effect on a date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

Suspension of licences

120. (1) The responsible authority that issued a licence may, by notice to the licensee, suspend the licence, for the period specified in the notice, if—
   (a) the licensee applies for suspension of the licence;
   (b) a condition of the licence has been contravened or not been complied with in a material way;
   (c) the licensee has contravened in a material way—
      (i) a financial sector law;
      (ii) a prudential standard, a conduct standard or a joint standard;
      (iii) a regulator’s directive or a directive in terms of section 202;
      (iv) an enforceable undertaking;
      (v) an order of a court made in terms of a financial sector law; or
      (vi) a decision of the Tribunal;
   (d) the licensee has in a foreign country contravened in a material way a law of that country that corresponds to a financial sector law;
   (e) information provided in or in relation to an application in relation to the licence was false or misleading (including by omission) in a material way;
   (f) the suspension is necessary to prevent—
      (i) a serious contravention of a financial sector law; or
      (ii) financial customers of the licensee suffering material prejudice; or
   (g) fees in respect of the licence, a levy or an administrative penalty payable by the licensee, including any interest, are unpaid and have been unpaid for at least 30 days.

(2) The responsible authority may refuse to suspend a licence in terms of subsection (1)(a) if the suspension—
   (a) would not be in the best interests of financial customers; or
   (b) would frustrate the objects of a financial sector law applicable to the licence.

(3) The responsible authority that suspended a licence may at any time revoke the suspension.
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118. Laesenye ga e fetisisiwe go tswa go moabelwalesense go ya go motho yo mongwe.

119. (1) Bothati jo bo rwalang maikarabelo jo bo rebotseng laensenye bo ka, ka kitsiso go moabelwalesense, farologanya laensenye fa go dira jalo go tla thusa ka phitlhelelo ya maikaelelo a bothati jo bo rwalang maikarabelo jaaka go tlhagisitswe mo karolong 33 kgotsa 57.

(2) Pharologanyo ya laesenye e ka akaretsa go—

(a) tlosa kgotsa farologanya lebaka la laesenye, kgotsa go tsenywa lebaka; le
(b) fetola ditlhopha tsa dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tseo laesenye e amanang le tsona.

(3) Pharologanyo ya laesenye e tsena mo tirisong ka letlha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa letlha le le kwa morago le tsepamisitswe mo kitsisong, letlha le le kwa morago.

Tshekego ya dilaesenye

120. (1) Bothati jo bo rwalang maikarabelo jo bo rebotseng laensenye bo ka, ka kitsiso go moabelwalesense, sekega laesenye fa, sebaka se se tsepamisitsweng mo kitsisong, fa—

(a) moabelwalesense a dira kopo ya tshekego ya laesenye;
(b) lebaka la laesenye le tlotswa kgotsa go sa ikamanangwa le lona ka tlotlo yothle;
(c) moabelwalesense o dirile tlolo e kgolo ya —
(i) molao wa lephata la ditšhelete;
(ii) maemo a thlokomelo, maemo a boitshwalo, maemo a a kopanetsweng kgotsa taolo ya Khansele ya Bolaodi jwa Ombud;
(iii) taelo ya molaoi kgotsa taolo go ya ka karolo 202;
(iv) tumalano e e gatelelwang;
(v) taelo ya kgotlatshhekelo e e dirilweng go ya ka molao wa lephata la ditšhelete; kgotsa
(vi) tšhwetso ya Lekgotla;
(d) moabelwalesense a tlotsa molao thata kwa nageng ya bodišhaba o o tsamaelang le molao wa lephata la ditšhelete;
(e) tshedimosetso e e tlametsweng ka kgotsa mabapi le kopo e e amanang le laesenye e fosagetseng kgotsa e timetsa (go akaretsa le ka tlogelo) thata;
(f) tshekego e bothokwà go thibela—
(i) tlolotlomola o e masisi ya molao wa lephata la ditšhelete; kgotsa
(ii) barekedi ba ditšhelete ba moabelwalesense ba le ka fa tlase ga kgobelelo; kgotsa
(g) dituelo mabapi le laesenye, lekgethwana kgotsa kothlha ya tsamaiso e e duelwàng e ke moabelwalesense, e akaretsa le morokotsa mongwe le mongwe, ga di a duelwa e bile di ntse di sa duelwa bonnye matsatsi a le 30.

(2) Bothati jo bo rwalang maikarabelo bo ka gana go sekega laesenye go ya ka karolotlaleletso (1)(a) fa tshekego—

(a) e ka senne mo kgatlhegong ya barekedi ba ditšhelete; kgotsa
(b) e tla dira gore maikaelelo a molao wa lephata la ditšhelete a a diragatswang mo laeseneng a tseilege.

(3) Bothati jo bo rwalang maikarabelo jo bo sekegileng laesenye bo ka nako ngwele ngwe phimola tshekego eo.
(4) The suspension of a licence takes effect on the date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

(5) The suspension of a licence does not affect an obligation of the licensee that it has in terms of a financial sector law.

Revocation of licences

121. (1) The responsible authority that issued a licence may, by notice to the licensee, revoke the licence—

(a) if the licensee applies for revocation of the licence;

(b) on any of the bases on which it may suspend the licence, as set out in section 120(1)(b) to (g); or

(c) if the licensee has ceased to conduct the licensed business.

(2) The responsible authority may refuse to revoke a licence in terms of subsection (1)(a) if the revocation—

(a) would not be in the best interests of financial customers; or

(b) would frustrate the objects of a financial sector law applicable to the licence.

(3) Revocation of a licence takes effect on the date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

Continuation of licensed activity despite suspension or revocation of licence

122. (1) The responsible authority that suspended or revoked a licence may, by notice to the licensee, on conditions specified in the licence, allow the licensee to carry out the licensed activity to the extent, and for the period, specified in the notice to facilitate the orderly suspension or termination of the activity.

(2) Conditions in terms of subsection (1) must be aimed at—

(a) ensuring that financial customers of the licensee are treated fairly; or

(b) the orderly suspension or termination of the licensed activity.

(3) Carrying out the licensed activity in accordance with the requirements of a notice in terms of subsection (1) is not a contravention of section 111 or 162.

Procedure for varying, suspending and revoking licences

123. (1) (a) Before the responsible authority varies, suspends or revokes a licence, it must—

(i) give the licensee notice of the proposed action and a statement of the reasons for it; and

(ii) invite the licensee to make submissions on the matter, and give it a reasonable period to do so.

(b) The period referred to in paragraph (a)(ii) must be at least one month.

(c) The responsible authority need not comply with paragraph (a) if the licensee has applied for the proposed action to be taken.

(2) In deciding whether to vary, suspend or revoke a licence, the responsible authority must take into account all submissions made within the period specified in the notice in terms of subsection (1)(a)(ii).

(3) If the delay involved in complying, or complying fully, with subsection (1)(a) in respect of a proposed action is likely to prejudice financial customers, prejudicially affect financial stability or defeat the object of the action, the responsible authority may take the action without having complied, or complied fully, with that subsection.

(4) (a) If the responsible authority takes action without having complied, or complied fully, with subsection (1)(a) for the reason set out in subsection (3), the responsible authority must give the licensee a written statement of the reasons why that subsection was not complied with.

(b) The licensee may make submissions to the responsible authority within one month after being provided with the statement.
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(4) Go sekgweng ga laesense go tseengwa mo tirisong ka letlha la kitsiso go ya ka karolotlaletse (1) kgotsa, fa letlha le le kwa morago le tsepamisitswe, letlha le le kwa morago.

(5) Go sekgweng ga laesense ga go ame ka gope tlamego e moabelwalaesense a nang le yona go ya ka molao wa lephata la ditšelete.

Phediso ya dilaesense

121. (1) Bothati jo bo rwalang maikarabelo jo bo rebotseng laesense, ka kitsiso go moabelwalaesense, bo ka phimola laesense—
   (a) fa moabelwalaesense a dirile kopro ka phimolo ya laesense;
   (b) mo mabakeng mangwe le mangwe ao bo ka emisang laesense, jaaka go tšhalositšwe mo karolong 120(1)(b) go fitlha go (g); kgotsa
   (c) fa moabelwalaesense a khutlisitse go dira kgwebo e e abetsweng laesense.

(2) Bothati jo bo rwalang maikarabelo bo ka gana go phimola laesense go ya ka karolotlaletse (1)(a) fa phimolo—
   (a) e ka se nne mo kgatlhegong ya barekedi ba ditšelete; kgotsa
   (b) e tla dira gore maikaelelo a molao wa lephata la ditšelete a a diragatswang mo laesenseng a tselege.

(3) Phimolo ya laesense e tsengwa mo tirisong ka letlha la kitsiso go ya ka karolotlaletse (1) kgotsa, fa letlha le le kwa morago le tsepamisitswe mo kitsisong, letlha le le kwa morago.

Go tswana pele ga tiro e e abetsweng laesense go sa kgathalasege tshekego kgotsa phediso ya laesense

122. (1) Bothati jo bo rwalang maikarabelo jo bo sekgileng kgotsa phimotseng laesense bo ka, ka kitsiso go moabelwalaesense, go ya ka mabaka a a tsepamisitsweng mo laesenseng, dumelela moabelwalaesense go tswelela ka ditiro tse di abetsweng laesense go fitlha, le ka paka e e tsepamisitsweng mo kitsisong, go noloftsa kemosi e e rulaganeng kgotsa khutliso ya tiro.

(2) Mabaka go ya ka karolotlaletse (1) a tshwanetse go lebiswa mo go—
   (a) netefatseng gore barekedi ba ditšelete ba moabelwalaesense ba tshwarwa ka tolamo; kgotsa
   (b) kemosi e e rulaganeng kgotsa khutliso ya tiro e e abetsweng laesense.

(3) Go dira tiro e e abetsweng laesense go tšamaelana le ditlhoko ke tsiseng kgotsa go ya ka karolotlaletse (1) ga se tlolo ya karolo 111 kgotsa 162.

Tsamaiso Mapapi le go farologanya, go sekega le go fedisa dilaesense

123. (1) (a) Pele bothati jo bo rwalang maikarabelo bo farologanya, sekega kgotsa phimola laesense, bo tšwanetse go—
   (i) naya moabelwalaesense kitiso ya kgato e e tshitsintsweng le polelo ya mabaka a yona; le
   (ii) laleta moabelwalaesense go dira ditlhagiso ka ga ntlha eno, le go mo naya nako e e lekaneng go dira jalo.
   (b) Paka e e kaikweng mo temaneng (a)(ii) e tshwanetse go nna bonnye kgwedi e le esi.
   (c) Bothati jo bo rwalang maikarabelo ga bo tlhokoe kgama ya le temana (a) fa moabelwalaesense a dirile kopro ya kgato e e tshitsintsweng gore e tsewe.

(2) Mo go swetseng ka go farologanya, sekega kgotsa phimola laesense, bothati jo bo rwalang maikarabelo bo tšwanetse go tsaya tsa tšitlhagiso tšo tše le dirilweng mo pakeng e e tsepamisitsweng mo kitiso ngog ya ka karolotlaletse (1)(a)(ii).

(3) Fa tšego e e tšamaelangan le go ikamanya, kgotsa go ikamanya ka gothle, le karolotlaletse (1)(a) mabapi le kgato e e tshitsintsweng e na le bokgomi jwa go gobelela barekedi ba ditšelete, ya ama thlomamo ya ditšelete ka kgobelela kgotsa ya fenya maikaelelo a kgato, bothati jo bo rwalang maikarabelo bo ka tsaya kgato ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaletse eo.

(4) (a) Fa bothati jo bo rwalang maikarabelo bo tsaya kgato ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaletse (1)(a) go ya ka mabaka a a kaikweng mo karolotlaletseong (3), moabelwalaesense o tšwanetse go abelo polelo e e kwetsweng ya mabaka a gore goreng go sa ikamangngwa le karolotlaletse eo.

(b) Moabelwalaesense o ka dira ditlhagiso go bothati jo bo rwalang maikarabelo mo kgwedeng e e esi morago ga go abelwa polelo.
(c) The responsible authority must consider the submissions, and notify the licensee, as soon as practicable, whether the responsible authority proposes to amend or revoke the variation, suspension or revocation.

Applications for licences

124. (1) The responsible authority may, in writing, determine procedures and requirements for applications.

(2) Requirements determined in terms of subsection (1) may include requirements with respect to—
   (a) the institutional form of an applicant;
   (b) an applicant’s business activities;
   (c) an applicant’s financial capacity;
   (d) fit and proper person requirements; and
   (e) an applicant’s operational, management, governance and risk management arrangements.

(3) An application to the responsible authority for the purposes of this Part must be made in accordance with the relevant procedures in terms of subsection (1).

(4) The responsible authority must publish requirements determined in terms of subsection (1).

Part 3

Provisions relating to all licences under financial sector laws

Application

125. This Part applies in relation to licences in terms of all financial sector laws.

Concurrence of financial sector regulators on licensing matters

126. (1) The responsible authority may not take any of the actions specified in subsection (2) unless—
   (a) the other financial sector regulator has concurred; and
   (b) if the action relates to or affects a systemically important financial institution, the Reserve Bank has also concurred.

(2) The actions are—
   (a) issuing a licence;
   (b) varying, suspending or revoking a licence, however these are described in the relevant financial sector law; and
   (c) granting an exemption in terms of section 281.

Compulsory disclosure of licences

127. (1) A licensed financial institution must comply with the applicable requirements of a prudential standard, a conduct standard and a joint standard in relation to the identification of relevant licences under financial sector laws in business documentation, including advertisements and other promotional material.

(2) A licensed financial institution must make its licence or a copy of its licence available at no cost to any person on request.

Publication

128. (1) Each licence must be published by the responsible authority that issues it.

(2) Each variation, suspension and revocation of a licence must be published by the responsible authority that takes the action.
(c) Bothati jo bo rwalang maikarabelo bo tshwanetse go sekaseka ditlhagiso, le go itise moabelwalaesense, ka bonako jo bo kgonagalang, fa bothati jo bo rwalang maikarabelo bo tsitsinya go tlhabolola kgotsa phimola pharologanyo, tshekego kgotsa phimolo.

Go dira kopo ya dilaeense

124. (1) Bothati jo bo rwalang maikarabelo bo ka, ka go kwalwa, tlhomamisa ditsamaiso le ditlhokoego tsa dikopo.

(2) Ditlhokoego tse di tlhomamisitsweng go ya ka karolotlaleletso (1) di ka akaretsa ditlhokoego mabapi le—
   (a) foromo ya setheo ya modirakopo;
   (b) ditiro tsu kgwebo tsa modirakopo;
   (c) maemo a ditšelele a modirakopo;
   (d) ditlhokoego tsa motho yo o itekanetse le e bile a siame; le
   (e) ditšulaganyo tsa modirakopo tsa boso le tshekego dikopo.

(3) Kopo go bothati jo bo rwalang maikarabelo mabapi le matlhomo a Karolo eno e tshwanetse go dirwa go tsamaelana le ditsamaiso tse di maleba go ya ka karolotlaleletso (1).

(4) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa ditlhokoego tse di tlhomamisitsweng go ya ka karolotlaleletso (1).

Karolo 3

Dikabelo tse di amanang le dilaeense tsothle tse di ka fa tlase ga melao ya lephata la ditšelele

Tiragatso

125. Karolo eno e diriswa mababi le dilaeense go ya ka melao yotlhe ya lephata la ditšelele.

Tumalano ya balaodi ba lephata la ditšelele ka ga meroro ya kabo ya laesense

126. (1) Bothati jo bo rwalang maikarabelo bo ka se tseye epe ya dikgato tse di tsepamisitsweng mo karolotlaleletsong (2) ntle le fa—
   (a) bothati jo bongwe jwa ditšelele bo dumetse; le
   (b) kgato le amana le kgotsa e ama setheo sa ditšelele se se botlhokwa mo thuлагanyo, Banka ya Resefe le yona e dumetse.

(2) Dikgato tseo ke—
   (a) go aba laesense;
   (b) go farologanyo, emisa kgotsa fedisa laesense (mme fela di tlhalositswe mo molaong o o maleba wa lephata la ditšelele); le
   (c) go neelana ka kgololo go ya ka karolo 281.

Tshenolo ya pateletso ya dilaeense

127. (1) Setheo sa ditšelele se se abetsweng laesense se tshwanetse go ikamanya le ditlhokoego tse di diriswang tsa maemo a thlokomelo, maemo a boitshwaro le maemo a a kopanetsweng mabapi le tshupo ya dilaeense tse di maleba ka fa tlase ga melao ya lephata la ditšelele mo makwalong a kgwebo, go akaretsa le dipapatso le materiale o mongwe wa tswelele.

(2) Setheo se se abetsweng laesense sa ditšelele se tshwanetse go dira gore laesense ya sona kgotsa kgatso ya laesense ya sona e fitšelele ntle le tuelelo epe go mongwe le mongwe ka kopo .

Phasalatso

128. (1) Laesense nngwe le ngwe e tshwanetse go phasalatswa ke bothati jo bo rwalang maikarabelo jo bo e rebotseng.

(2) Pharologanyo, tshekego kgotsa phimolo nngwe le ngwe ya laesense e tshwanetse go phasalatswa ke bothati jo bo rwalang maikarabelo jo bo tsayang kgato.
CHAPTER 9

INFORMATION GATHERING, SUPERVISORY ON-SITE INSPECTIONS AND INVESTIGATIONS

Part 1

Application and interpretation

129. (1) This Chapter applies to information gathering, supervisory on-site inspections and investigations by the Prudential Authority or the Financial Sector Conduct Authority.

(2) The Council for Medical Schemes may exercise powers in terms of this Chapter in respect of powers and functions set out in the Medical Schemes Act, and powers and functions granted to it in this Act.

(3) In relation to the exercise of the powers in terms of this Chapter by the Council for Medical Schemes in respect of a medical scheme, a reference in this Chapter to—

(a) a financial sector regulator or the responsible authority must be read as including a reference to the Council for Medical Schemes;

(b) the head of a financial sector regulator must be read as including a reference to the Registrar of Medical Schemes appointed in terms of section 18 of the Medical Schemes Act;

(c) a financial sector law must be read as including a reference to regulatory instruments and to the Medical Schemes Act; and

(d) a licensed financial institution must be read as including a reference to a medical scheme registered in terms of the Medical Schemes Act or an administrator of a medical scheme approved in terms of the Medical Schemes Act.

Legal professional privilege

130. (1) (a) A person does not have to answer a question asked, or comply with a requirement to produce a document or information, in terms of this Chapter to the extent that the person is entitled to claim legal professional privilege in relation to the answer, contents of the document or the information.

(b) If the person contemplated in paragraph (a) is a legal practitioner, the person is entitled or required to claim that privilege on behalf of a client of the person.

(2) Subsection (1) does not limit any right of a person.

Part 2

Information gathering

131. (1) (a) The responsible authority for a financial sector law may, by written notice to any person, request the person to provide specified information or a specified document in the possession of, or under the control of, the person that is relevant to assisting the responsible authority to perform its functions in terms of a financial sector law.

(b) A supervised entity that has been given a notice in terms of paragraph (a) must comply with the requirements in the notice.

(2) (a) The responsible authority for a financial sector law may, by written notice to a supervised entity, require the supervised entity to provide specified information or a specified document in the possession of, or under the control of, the entity that is relevant to the responsible authority’s assessment of compliance by a supervised entity with, or risk of contraventions by a supervised entity of—

(i) a financial sector law;
KGAOLO 9

KGObOKANYO YA TSHEDIMOSETSO, DITLHATLHObO TSA
BOTLHOKOMEDl TSA KWA TlRONG LE DIPATLISISO

Karolo 1

TiragetsO le tlhalOso ya Kgaolo

129. (1) Kgaolo eno e diriswa mo kgobokanyong ya tshedimosetso, ditlhatlhobo tsa botlhokomedi tsa kwa tirong le dipatlisiso ke Bothati jwa Tlhokomelo kgotsa Bothati jwa Botshwaro jwa Lephata la Ditšhelete.
(2) Khansele ya Dikema tsa Kalafí e ka diragatsa dithata go ya ka Kgaolo eno mabapi le dithata le diitro tse di ilhagisitsweng mo Medical Schemes Act, le dithata le diitro tse e di abetsweng mo Molaong ono.
(3) Mabapi le tiragatsa ya dithata go ya ka Kgaolo eno ka Khansele ya Dikema tsa Kalafi mabapi le sekema sa kalafi, tshupetso ya kgoba eno kgoba—
   (a) molao diwalephataladitsheletekgotsaBothati jwamolaobophatjwa Bothati jwamolaobophato nko kgoba le tshwanetsegobuiswajaakaboakaretsatshupetsogo Khansele ya Dikematsa Kalafi;
   (b) tlhogo ya molao wa lephata la ditšhelete e tshwanetse go tseelwa gore e akaretsa tshupetso go Mokwadisi wa Sekema sa Kalafi yo o thapilweng go latela karolo 18 ya Medical Schemes Act;
   (c) molao wa lephata la ditšhelete o tshwanetse go tseelwa gore o akaretsa tshupetso go didirisiwa tsana tla tla go Medical Schemes Act; le
   (d) setheo sa ditšhelete se se abetsweng laesense se tshwanetse go buiswa jaaka se akaretsa tshupetso go sekema sa kalafi se se kwadisitsweng go ya ka Medical Schemes Act kgotsa motsamaisi sa sekema sa kalafi se se rebotsweng go ya ka Medical Schemes Act.

Kgobokanyo ya tshedimosetso

Tshwanelo ya badiredi ba Semolao

130. (1) (a) Mothogaatshwanelagoarabapotso eeboditsweng, kgotsa go ikamanya le tlhagisegogotsa tshedimosetso, go ya ka Kgaolo eno go ya ka moo motho a tshwanetsweng ke go tlelema tshwanetso ya bo lithutelo jwa molao mabapi le karabo, diteng tsa lokwalo kgotsa tshedimosetso.
   (b) Fa motho yo o kailweng mo temaneng (a) e le modirakamolao, motho o na le tshwanetsweng go ya ka molao wa lephata la ditšhelete.
(2) Karolotlaleletso (1) ga e lekanyetse tshwanetso epe ya motho.

Karolo 2

Kgobokanyo ya tshedimosetso

131. (1) (a) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka, ka kitisi e e kwetsweng go mongwe le mongwe, kopa motho go tmalela ka tshedimosetso kgotsa lokwalo le le tsepamisitsweng le le tshotsweng ke, kgotsa le le ka fa tlaalo ga taolo ya, motho yo o lemg maleba mo go thuseg bothati jo bo rwalang maikarabelo go dira diitro tsa jona go ya ka molao wa lephata la ditšhelete.
   (b) Setheo se se tlhokometsweng se se neilweng kitisi go ya ka temana (a) se tshwanetse go ikamanya le ditlhokekgo tse di mo kitisisong.
(2) (a) Botsho jwa bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete bo ka, ka kitisi e e kwetsweng setheo se se tlhokometsweng, kopa setheo se se tlhokometsweng go tmalela ka tshedimosetso e e tsepamisitsweng kgotsa lokwalo le le tsepamisitsweng leo se le tshotsweng la, kgotsa le le ka fa tlaalo ga taolo ya sona ya, setheo se se maleba go tekanyetso ya bothati jo bo rwalang maikarabelo ya go ikamanya ka setheo se se tlhokometsweng ka, kgotsa kotisi ya ditlolo ka setheo se se tlhokometsweng sa—
   (i) molao wa lephata la ditšhelete;
(ii) a regulator’s directive issued by the responsible authority; or
(iii) an enforceable undertaking accepted by the responsible authority.

(b) The responsible authority may require the information or document to be verified as specified in the notice, including by an auditor approved by the responsible authority.

(c) A supervised entity that has been given a notice in terms of paragraph (a) or (b) must comply with the requirements in the notice.

(3) The responsible authority for a financial sector law may, for the purpose of gathering information relevant to its functions, engage in the activity commonly called “mystery shopping” in respect of financial products or financial services, and similar activities.

Part 3

Supervisory on-site inspections

Powers to conduct supervisory on-site inspections

132. (1) A financial sector regulator may conduct a supervisory on-site inspection at the business premises of a supervised entity with prior notification to the supervised entity and, if the business premises of a supervised entity is a private residence, with the prior agreement of—

(a) the person apparently in control of the business reasonably believed to be conducted at the private residence; and

(b) the occupant of the private residence or the part of the private residence to be inspected.

(2) The purpose for which a financial sector regulator may conduct a supervisory on-site inspection of a supervised entity is to—

(a) check compliance by the entity with a financial sector law for which the financial sector regulator is the responsible authority, a regulator’s directive issued by the financial sector regulator or an enforceable undertaking accepted by the financial sector regulator;

(b) determine the extent of the risk posed by the entity of contraventions of a financial sector law for which the financial sector regulator is the responsible authority; and

(c) assist the financial sector regulator in supervising the relevant financial institution.

(3) (a) A financial sector regulator may determine the time and place of a supervisory on-site inspection, provided that the supervisory on-site inspection must be done at a reasonable time within ordinary business hours.

(b) A financial sector regulator must conduct a supervisory on-site inspection with strict regard to—

(i) an affected person’s right to—

(aa) dignity;

(bb) freedom and security;

(cc) privacy; and

(dd) other constitutional rights; and

(ii) decency and good order as the circumstances require, in particular by—

(aa) conducting the supervisory on-site inspection discreetly and with due decorum;

(bb) causing as little disturbance as possible; and

(cc) concluding the supervisory on-site inspection as soon as possible.

(4) (a) An official of a financial sector regulator, when conducting a supervisory on-site inspection, may do any of the following:

(i) Request any person who has a specified business document that is relevant to the inspection in his, her or its possession or under his, her or its control to produce that document and examine, make extracts from and copy any business document on the premises;

(ii) question any person on the premises to find out information relevant to the inspection;

(iii) give the supervised entity a written directive to produce to the financial sector regulator, at a time and place and in a manner specified in the directive, a
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(ii) taelo ya molaodi wa lephata la ditšhelete e e rebotsweng ke bothathi jwa lephata la ditšhelete; kgotsa
(iii) tumalano e e gatelelwang e e amogetsweng ke bothathi jo bo maleba.
(b) Bothathi jo bo rwalang maikaravelo bo ka kopa tshekisong tshekisong, go akaretsa le ka moruni yo o rebotsweng ke bothathi jo bo rwalang maikaravelo.
(c) Setheo se se thlokometsweng se se neetsweng kiseng go ya ka temana (a) kgotsa
(b) se thswanaets le ikamanya le ditlhokego tse di mo kiseng.
(3) Bothathi jo bo rwalang maikaravelo jwa lephata la ditšhelete bo ka, mabapi le maţlhomo a go kgbokanya tshekiseng e e malebana le ditiro ts a jona, tsay a karolo mo tirong e e itsegeng ka “theko e e makatsang” mabapi le dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete, le ditiro tse di tswanang.

Karolo 3

Ditlhatlhobo tsa bothokomedi tsa tirong

Dithata tsa go dira ditlhatlhobo tsa bothokomedi tsa tirong

132. (1) Bolaodi jwa lephata la ditšhelete bo ka dira ditlhatlhobo tsa bothokomedi kwa tirong kwa mafelong a kgwebo a setheo se se thlokometsweng ka kiseng e e dirivilweng pele kwa setheong se se thlokometsweng e e bile, fa mafelo a kgwebo a setheo se se thlokometsweng e le a poraefete, ka tumalano ya pele le—
   (a) motho yo go tsewang gore o mo taolong ya kgwebo e e mabaka go dumelweng gore e dirwa kwa lefelo la poraefete; le
   (b) badirisi ba lefelo le lo poraefete kotsa karolo ya lefelo la poraefete le le tla thloatlhalo.
(2) Maitlhomo a bolaodi jwa lephata la ditšhelete a go ka dira tlhatlhobo ya bothokomedi kwa tirong ya setheo se se thlokometsweng ke go—
   (a) tlhola go ikamanya ga setheo le moloa wa lephata la ditšhelete o molaodi wa lephata la ditšhelete a rwalang maikaravelo a ona kgotsa tumalano e e gatelelwang e e amogetsweng ke molaodi wa lephata la ditšhelete;
   (b) thlhomamisa ka moo kotsi e e e lisitsweng se setheo ka ditlolo tsa moloa wa lephata la ditšhelete o molaodi wa lephata la ditšhelete a rwalang maikaravelo a ona; le
   (c) thusa molaodi wa lephata la ditšhelete mo go thlokomeleng setheo sa ditšhelete se se maleba.
(3) (a) Molaodi wa lephata la ditšhelete o ka thlhomamisa nako le lefelo la tlhatlhobo ya bothokomedi kwa tirong, fa fela tlhatlhobo ya bothokomedi kwa tirong e dirwa ka nako e e maleba e e welang ka fa tlase ga nako e e tlaelegieng ya tirong.
(b) Molaodi wa lephata la ditšhelete o thswanaets le dira tlhatlhobo ya bothokomedi kwa tirong ka keletlhoko e e kogo go—
   (i) tshwanelo ya motho yo o amegang ya—
      (aa) seritl; le
      (bb) kgoelegego le shireletsego;
      (cc) sephiri; le
      (dd) ditshwanelo tse dingwe ts a semola motho; le
   (ii) tlhloego le tolamo jaaka maemo a tlhoka, segolosegolo ka go—
      (aa) dira tlhatlhobo ya bothokomedi kwa tirong ka bofitha le ka manontlhotlhoo;
      (bb) dira gore ge se nne le kgoelete se a kgolo; le
      (cc) konosetsa tlhatlhobo ya bothokomedi kwa tirong ka bonako jo bo kgonegang.
(4) (a) Mothatlhakeng wa bolaodi jwa lephata la ditšhelete, fa a dira tlhatlhobo ya bothokomedi kwa tirong, o ka dira ngwele le ngwele ya tse di latelang:
   (i) Kopa motho mongwe le mongwe yo o tshotseng kgotsa yo o neng a tshotseng lokwalao la kgwebo le le tsepamisitsweng le le leng malebana le tlhatlhoko go tlhagisa lokwalao leo le go le sekakse, go dira ditiswa le go dira khopi go tswa mo lokwalong lengwe le lengwe le kgwebo mo lefelo; le
      (bb) dira gore ge se nne le kgoelete se a kgolo; le
      (cc) konosetsa tlhatlhobo ya bothokomedi kwa tirong ka bofitha le le lengwe le kgwebo mo lefelo;
   (ii) botsa motho mongwe le mongwe le lefelo go batla tshekiseng e e malebana le tlhatlhobo;
   (iii) nay setheo se se thlokometsweng kgotsa motho yo o mo lefelo taelo e e kwetsweng ya go tlhagisa go bolaodi jwa lephata la ditšhelete, ka nako, kwa

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specified business document that is relevant to the inspection and is in the possession or under the control of the supervised entity;
(iv) when a business document is produced as required by a directive in terms of subparagraph (iii), examine, make extracts from and copy the document;
(v) if, as a result of the inspection, the official or the financial sector regulator suspects on reasonable grounds that a contravention of a financial sector law has occurred or is likely to occur—
   (aa) give a written directive to the supervised entity or the person apparently in control of the premises to ensure that no person removes from the premises, or conceals, destroys or otherwise interferes with, any business document;
   or
   (bb) take possession of, and remove from the premises, a business document for the purpose of preventing another person from removing, concealing, destroying or otherwise interfering with the document.
(b) A directive in terms of paragraph (a)(iii) or (v)(aa) is effective if given to a person apparently in control of the premises.
(c) The financial sector regulator must ensure that the person apparently in control of the premises is given a written receipt for the business documents taken as mentioned in paragraph (a)(v)(bb).
(d) The financial sector regulator must ensure that any business document removed as contemplated in paragraph (a)(v)(bb) is returned to the supervised entity when retention of the business document is no longer necessary to achieve the object of a financial sector law.
(e) The supervised entity from whose premises a document was removed as contemplated in paragraph (a)(v)(bb), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document.

Interference with supervisory on-site inspections

133. A person may not intentionally or negligently interfere with or hinder the conduct of a supervisory on-site inspection.

Part 4
Investigations

Investigators

134. (1) A financial sector regulator may, in writing, appoint a person as an investigator and may appoint any person to assist the investigator in carrying out an investigation.
(2) A person appointed as an investigator must —
   (a) not be a disqualified person;
   (b) not have any conflict of interest in respect of the subject matter of the investigation; and
   (c) have appropriate skills and expertise.
(3) The financial sector regulator must issue an investigator appointed in terms of subsection (1) with a certificate of appointment, which must be in the possession of the investigator when an investigator exercises any power or performs any duty in terms of this Act, and such investigator must produce the certificate of appointment at the request of any person in respect of whom such power is being exercised.

Powers to conduct investigations

135. (1) A financial sector regulator may instruct an investigator appointed by it to conduct an investigation in terms of this Part in respect of any person, if the financial sector regulator—
   (a) reasonably suspects that a person may have contravened, may be contravening or may be about to contravene, a financial sector law for which the financial sector regulator is the responsible authority; or
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Go Itshunyatshunya mo ditlhaltshobeng tsa bothokomedi tsa tirong

133. Motho o ka se tshwenyane le kgotsa kgoreleste go dirwa ga tlhatlhobo ya kwa tirong ya bothokomedi ka maikemisetso kgotsa bothhaswa.

Karolo 4

Dipatlisiso

134. (1) Molaodi wa lephata la ditšhelete o ka, ka go kwala, thapoa moojeja mmatlisisi le go ka thapoa moojej a mongwe le mongwe go thusa mmatlisisi go go direng patlisiso.

(2) Motho yo o tha毗lwend jaanka mohlathlhabi o tshwanetse—

(a) gore a bo a se mooj o o ileditsweng;

(b) gore a bo a sena kgotlhang yaa dikgatlhego mbapi le morer o o o batlisisweng; e ble

c) go nna le bokgoni jo bo maleba le boiteanape.

(3) Molaodi wa lephata la ditšhelete o tshwanetse go abela mmatlisisi yo o tha毗lwend go ya a karolotlaletse 1 setifiike sa go thapiwa, se o tshwanetseng go tholwa ke mmatlisisi fa mmatlisisi a diragatsa thata ngwe le ngwe kgotsa a dira tiro ngwe go ya ka Molao ono, e ble mmatlisisi yoo o tshwanetse go thagisat setifiike sa go thapiwa ka kop ka mooj angwe le mongwe le mongwe mbapi le yoo thata e diragatswang mo go ena.

Dithata tsa go dira dipatlisiso

135. (1) Molaodi wa lephata la ditšhelete o ka laela mmatlisisi yo o a mo thapileng go dira patlisiso go ya a Karolo eno mbapi le mooj angwe le mongwe, fa molaodi wa lephata la ditšhelete —

(a) ka lebaka, a belaela mooje oka tsaw a tloete, kgotsa o tiola kgotsa o ka tsaw a le gafuli le go tiola, molao wa lephata la ditšhelete o molaodi wa lephata la ditšhelete a rwalang maikarabelo a ona; kgotsa
Financial Sector Regulation Act, 2017

Act No. 9 of 2017

Powers of investigators to question and require production of documents or other items

136. (1) (a) An investigator may, for the purposes of conducting an investigation, do any of the following:

(i) By written notice, require any person who the investigator reasonably believes may be able to provide information relevant to the investigation to appear before the investigator, at a time and place specified in the notice, to be questioned by an investigator;

(ii) by written notice, require any person who the investigator reasonably believes may be able to produce a document or item relevant to the investigation, to—
   (aa) produce the document or item to an investigator, at a time and place specified in the notice; or
   (bb) produce the document or item to an investigator, at a time and place specified in the notice, to be questioned by an investigator about the document or item;

(iii) question a person who is complying with a notice in terms of subparagraph (i) or (ii)(bb);

(iv) require a person being questioned as mentioned in subparagraph (i) or (ii)(bb) to make an oath or affirmation, and administer such an oath or affirmation;

(v) examine, copy or make extracts from any document or item produced to an investigator as required in terms of this paragraph;

(vi) take possession of, and retain, any document or item produced to an investigator as required in terms of this paragraph; and

(vii) give a directive to a person present while the investigator is exercising powers in terms of this section, to facilitate the exercise of such powers.

(b) An investigator who takes a document or item in terms of paragraph (a)(vi) must give the person producing it a written receipt.

(c) Subject to paragraph (d), the investigator must ensure that a document or item taken in terms of paragraph (a)(vi) is returned to the person who produced it when—

(i) retention of the document or item is no longer necessary to achieve the object of the investigation; or

(ii) all proceedings arising out of the investigation have been finally disposed of.

(d) A document or item need not be returned to the person who produced it if—

(i) the document or item has been handed over to a designated authority; or

(ii) it is not in the best interest of the public or any member or members of the public for the document or item to be returned.

(e) A person otherwise entitled to possession of a document or item taken in terms of paragraph (a)(vi), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document, or inspect the item.

(2) A person being questioned in terms of this section is entitled to have a legal practitioner present at the questioning to assist the person.
(b) a dumela ka mabaka gore patlisiso e tlhokoega go fitlhlelela maikaelelo a a kailweng mo karolong 253(3)(e) go ikamanya le kopoy ya bothali jo bo kopang go ya ka tulumalo ya sebedi kgotsa bonsti kgotsa memorantumo wa tulumalo o o tlhalositsweng mo karolong ee.

(2) Bolaodi jo bo rwalang maikarabelo bo ka batlisisa morero mongwe o o amarang le molato kgotsa tlolomolao e e kailweng mo dikarolong 78, 80 le 81 tsa Financial Markets Act, go akaretsa le go gweba ga go geng mo molaong ga motho yo o nang le tshedimosetso e e bofitilha go ya ka Insider Trading Act, 1998 (Mola 135 wa 1998), le melato e e kailweng mo Kgaolong VIII ya Securities Services Act, 2004 (Mola 36 wa 2004), e e dirilweng pele ga go phimolwa ga Melao ee.

Dithata tsababatlisisi tsabotsolotsa le go kopa ga thlagiswa ga makwalo kgotsa dilo dingwe

136. (1) (a) Mmatlisisi o ka, ka maiithomo a go dira patlisisio, dira ngwele ringwe ya tse di latelang:
   (i) ka kitsiso e e kwetsweng, kopa motho mongwe le mongwe yo mmatlisisi a dumelang ntle le pelaelo gore o ka kgona go tlamelanga ka tshedimosetso e e maleba go patlisiso go tshagisa fa pele ga mmatlisisi, ka nako le kwa lefelong le le le tsepamisitsweng mo kitsisong, go botsolotswe ka mmatlisisi;
   (ii) ka kitsiso e e kwetsweng, kopa motho mongwe le mongwe yo mmatlisisi a dumelang ntle le pelaelo gore o ka kgona go tshagisa lokwalo kgotsa sengwe se se maleba go patlisiso, go—
      (aa) tshagisa lokwalo kgotsa ntlha go mmatlisisi, ka nako le kwa lefelong le le le tsepamisitsweng mo kitsisong; kgotsa
      (bb) tshagisa lokwalo kgotsa sello go mmatlisisi, ka nako le kwa lefelong le le le tsepamisitsweng mo kitsisong, go botsolotswe ka mmatlisisi ka ga lokwalo kgotsa sengwe;
   (iii) botsa motho yo o ikamanyang le kitsiso go ya ka temanatlaleletso (i) kgotsa (ii)(bb);
   (iv) kopa motho yo o botswang dipotso jaaka go kailwe mo temanatlaleletsong (i) kgotsa (ii)(bb) go dira maikano kgotsa tlhomamiso, le go tsamaisa maikano ao kgotsa tlhomamiso eo;
   (v) tlhathloba, gatisa kgotsa dira ditswa go tswa mo lokwalo lengwe le lengwe kgotsa selong se se tlhagisitsweng go mmatlisisi jaaka go tlhokoega go ya ka temana eno (a);
   (vi) go itseela, le go tlosa mo lefelong, lokwalo lengwe le lengwe kgotsa sello se se tlhagisitsweng go mmatlisisi jaaka go tlhokoega go ya ka temana eno (a); le
   (vii) neela taelo go motho yo o leng teng fa mmatlisisi a diragatsa dithata go ya ka karolo eno, go nolofatsa tiragatso ya dithata tseo.
(b) Mmatlisisi o tyasang lokwalo kgotsa sello go ya ka temana (a)(vi) o tshwanetse go naya motho yo o le tshagisang rasiti e e kwetsweng.
(c) Go latela temana (d), mmatlisiso o tshwanetse go netefatsa gore lokwalo kgotsa sengwe se se tserweng go ya ka temana (a)(vi) se busetswa kwa mothong yo o se tlhagisitseng fa—
   (i) pusetso ya lokwalo kgotsa sengwe e sa tlohole e tshokoega go fitlhlelela maiithomo a patlisiso; kgotsa
   (ii) ditswa tsetseng se tlhageletseng go tswa mo patlisiseng di latlhiwe kwa bokhutlong.
(d) Lokwalo kgotsa sengwe se tshwanetse go busetswa kwa mothong yo o se tlhagisitseng fa—
   (i) lokwalo kgotsa sengwe se gorositseng kwa bothathing jo bo tlhophilweng; kgotsa
   (ii) ka mogopolo wa Khomiisenara, go se mo kgathlegong ya setshaba kgotsa leloko lengwe le lengwe kgotsa maloko a setshaba gore dikwalo kgota dingwe di buswe.
(e) Motho yo ka gongwe a tshwanetsweng go nna mong wa lokwalo kgotsa sengwe se se tserweng go ya ka temana (a)(vi), kgotsa moemedi yo o leleletseng, o ka, ka nako ya diura tsa tiro e e tlwaelegileng le ka fa tlase ga tlhokomelo ya boloadi jwa lephata la ditšhelete, tlhathloba, gatisa le go dira ditswa go tswa mo lokwalo, kgotsa go tlhathloba sela.

(2) Motho yo o botswang go ya ka karolo eno o tshwanetse ke go emelwa ke moitseeanape wa semolao yo o leng teng kwa botsolotseng go mo thusa.
Powers of investigators to enter and search premises

137. (1) An investigator may, for the purposes of conducting an investigation, do any of the following:

(a) Enter any premises—

(i) with the prior consent of—

(aa) in the case of a private residence, the person apparently in control of the business reasonably believed to be conducted at the private residence, and the occupant of the private residence or the part of the private residence to be entered; or

(bb) in the case of any other premises, the person apparently in control of the premises,

after informing that person that—

(AA) granting consent will enable the investigator to enter the premises and for the investigator to subsequently search the premises as referred to in paragraph (b) or (c), and to do anything contemplated in subsection (6); and

(BB) he or she is under no obligation to admit the investigator in the absence of a warrant; or

(ii) without prior consent and without prior notice to any person—

(aa) if the entry is authorised by a warrant; or

(bb) with the prior authority of the head of a financial sector regulator or a senior staff member of the financial sector regulator delegated to perform the function, if the head of a financial sector regulator or senior staff member on reasonable grounds believes that—

(AA) a warrant will be issued under section 138(1) if applied for;

(BB) the delay in obtaining the warrant is likely to defeat the purpose for which entry of the premises is sought; and

(CC) it is necessary to enter the premises to conduct the investigation and search the premises as referred to in paragraph (b) or (c), and to do anything contemplated in subsection (6);

(b) if the investigation is one referred to in section 135(1)(a), search the premises for evidence of a contravention of a financial sector law; or

(c) if the investigation is one referred to in section 135(1)(b), search the premises pursuant to the request, subject to section 251.

(2) The authority of an investigator in terms of subsection (1)(a) to enter a premises also provides authority for the investigator to subsequently search the premises as referred to in subsection (1)(b) or (c), and to do anything contemplated in subsection (6).

(3) An investigator exercising powers in terms of this section must do so with strict regard to—

(a) an affected person’s right to—

(i) dignity;

(ii) freedom and security;

(iii) privacy; and

(iv) other constitutional rights; and

(b) decency and good order as the circumstances require, in particular by—

(i) entering and searching only such areas or objects as are reasonably required for the purposes of the investigation;

(ii) conducting the search discreetly and with due decorum;

(iii) causing as little disturbance as possible; and

(iv) concluding the search as soon as possible.

(4) An entry or search of premises in terms of this Part must be done, at a reasonable time within ordinary business hours,—

(a) unless the warrant authorising it expressly authorises entry at night; or

(b) in the case of a search contemplated in subsection (1)(a)(ii)(bb), if the investigator on reasonable grounds believes that the purpose for which the entry and search is sought, is likely to be defeated by a delay, as close to ordinary business hours as the circumstances reasonably permit.
Dithata tsa babatlisisi tsa go tsena le go batla mo mafelong

137. (1) Mmatlisisi o ka, ka maitlhomo a go dira patlisiso, dira nngwe ya tse di latelang:

(a) Go tsena mo lefelong lengwe le lengwe—

(i) ka tumelelo ya pele ya—

(aa) mabapi le tulo ya poraefete, motho yo omang mo mafelong ya poraefete kgotsa karolo ya tula ya poraefete e go tla tsewang mo go yona; kgotsa

(bb) mo lebakeng la ditulo dingwe le dingwe, motho yo o ka tswang a le mo taolong ya ditulo,

morago ga go itsise motho yoo gore—

( AA ) go abelana ka tumelelo go tla kgontsha mmatlisisi go tsena mo tulong le gore mmatlisisi a phuruphutse ditulo jaaka go kailwe mo temanatlaleteloong ( b ) kgotsa ( c ), le go dira sengwe le sengwe se se thalositsweng mo karolotlaleletsong ( 6 ); le

(BB) ga a patelesego go amogela mmatlisisi fa thebolo e seyo; kgotsa

(ii) ntle le tumelelo eo le ntle le tumelelo ya pele go motho mongwe le mongwe—

(aa) fa go tsena go letlelese tsa thebolo; kgotsa

(bb) ka taolo ya pele ya tlhogo ya bolaodi jwa lephata la ditšhelete kgotsa

modirimmogo yo mogolo wa bolaodi jwa lephata la ditšhelete yo o romilweng go dira tiro, fa tlhogo ya bolaodi jwa lephata la ditšhelete kgotsa modirimmogo yo mogolo a dumela ka mabaka a a utlwang gore—

( AA ) thebolo e tla rebolwa fa fa tlaše ka garolo 138(1) fa e diretswe kopo;

(BB) tiego mo go fitlheleléng thebolo e ka ama maitlhomo a kopo e e dirilweng mabapi le go tsena mo ditulong; le

(CC) go bothokwa go tsena mo ditulong go dira dipatlisiso le diphuruphutsa jaaka go kailwe mo temaneng ( b ) kgotsa ( c ), le go dira sengwe le sengwe se se thalositsweng mo karolotlaleletsong ( 6 );

(b) fa patlisiso e le e e kailweng mo karolong 135(1)(a), go phuruphutsa lefelgo go batla sengwe le sengwe se se ka thusang ka bosupi jwa tlolo ya mafelo wa lephata la ditšhelete; kgotsa

(c) fa patlisiso e le e kailweng mo karolong 135(1)(b), go phuruphutsa lefelgo go latela kopo, go latela karolo 251.

(2) Taolo ya mmatlisisi go ya ka karolotlaleletsos ( 1 )(a) go tsena mo lefelong e lamela gape ka taolo ya mmatlisisi ya go phuruphutsa mo mafelon ga jaaka go thalositsweng mo karolotlaleletsong ( 1 )(b) kgotsa ( c ), le go dira sengwe le sengwe se se kailweng go ya ka karolo eno o tshwanetse go dira seno ka keletlhoko e kgo—

(a) tshwanelo ya moamegi ya—

(i) seriti;

(ii) kgololosego le tshireletsego;

(iii) basephiri jwa bowena; le

(iv) ditshwanelo tse dingwe tsa semolaotse; le

(b) tshiamo le tolamo jaaka maemo a letla, segolosegolo ka—

(i) go tsena le go phuruphutsa felo mo mafelon ao le maikaelelo ao jaaka go thokega ka mabaka mabapi le maithlomo a patlisiso;

(ii) go phuruphutsa ka tidimalo le ka nepagalo e e maleba;

(iii) go dira gore go se mne le kgoreletsego e kgo; le

(iv) go konosetsa patlisiso ka bonako jo bo kgonegang.

(4) Tsena kgotsa phuruphutsa mo lefelong go ya ka Karolo eno e tshwanetse go dirwa ka nako e e maleba mo dinakong tse di tlwaeleng tsa tiro—

(a) ntle le fa thebolo e e nayang teta a leletlela gore go tsewne bosigo; kgotsa

(b) mo lebakeng la phuruphutsa e e thalositsweng mo karolotlaleletsong ( 1 )(a) kgotsa ( bb ), fa mmatlisisi ka mabaka a a utlwang a dumela gore maithlomo a tseno kgotsa phuruphutsa e e diretsweng, a ka angwa ke tiego, mo nakong e e gaufi le dinako tse di tlwalelegile tsa tiro jaaka maemo a letla go ya ka mabaka.
(5) An investigator may be accompanied and assisted during the entry and search of any premises for an investigation by a police officer or a person appointed in terms of section 134.

(6) (a) While on the premises in terms of this section, an investigator, for the purpose of conducting the investigation, has the right of access to any part of the premises and to any document or item on the premises, and may do any of the following:
   (i) Open or cause to be opened any strongroom, safe, cabinet or other container in which the investigator reasonably suspects there is a document or item that may afford evidence of the contravention concerned or be relevant to the request;
   (ii) examine, make extracts from and copy any document on the premises;
   (iii) question any person on the premises to find out information relevant to the investigation;
   (iv) require a person on the premises to produce to the investigator any document or item that is relevant to the investigation and is in the possession or under the control of the person;
   (v) require a person on the premises to operate any computer or similar system on or available through the premises to—
      (aa) search any information in or available through that system; and
      (bb) produce a record of that information in any media that the investigator reasonably requires;
   (vi) if it is not practicable or appropriate to make a requirement in terms of subparagraph (v), operate any computer or similar system on or available through the premises for a purpose set out in that subparagraph; and
   (vii) take possession of, and take from the premises, a document or item that may afford evidence of the contravention concerned or be relevant to the request.

(b) An investigator must give the person apparently in charge of the premises a written receipt for documents or items taken as mentioned in paragraph (a)(vii).

(c) Subject to paragraph (d), the investigator must ensure that any document or item taken by the investigator as mentioned in paragraph (a)(vii) is returned to the person when—
   (i) retention of the document or item is no longer necessary to achieve the object of the investigation; or
   (ii) all proceedings arising out the investigation have been finally disposed of.

(d) A document or item need not be returned to the person who produced it if —
   (i) the document or item has been handed over to a designated authority; or
   (ii) it is not in the best interest of the public or any member or members of the public for the documents or items to be returned.

(e) A person from whose premises a document or item was taken as mentioned in paragraph (a)(vii), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document or item.

(7) An investigator, and any person assisting an investigator as mentioned in subsection (5), may use reasonable force to exercise any power in terms of this section.

Warrants

138. (1) (a) A judge or magistrate who has jurisdiction may issue a warrant for the purposes of this Part on application by an investigator.

(b) The judge or magistrate may issue a warrant in terms of this section—
   (i) on written application by the investigator setting out under oath or affirmation why it is necessary to enter and investigate the premises; and
   (ii) if it appears to the magistrate or judge from the information under oath or affirmation that—
      (aa) in the case of an investigation under section 135(1)(a), that—
         (AA) there are reasonable grounds for suspecting that a contravention of a financial sector law has occurred, may be occurring or may be about to occur;
(5) Mmatlisisi o ka patwa le go thuswa ka nako ya tseno le patlo ya lefelo lengwe le lengwe go ya go dira patlisiso ke motlhankedwa wasepodisi kgotsa motho yo thapilweng go ya ka karolo 134.

(6) (a) Fa a le kwa lefelong go ya ka karolo eno mmatlisisi, ka matlhomo a go dira patlisiso, o na le tlhswanele ya go isena mo karolong ngwwe le ngwwe ya lefelo le go lokwalo lengwe le lengwe kgotsa sengwe le sengwe e bile o ka dira ngwwe le ngwwe ya tse di latelang:

(i) Bula kgotsa a dira gore go bulwe kamore ya polokelo, polokelo, kobotlo kgotsa setshelo sengwe se mmatlisisi a ka belaclang ka mabaka a a utlwalang gore se na le lokwalo kgotsa sengwe se se ka nnang bopaki jwa tlolo e e amegang;
(ii) tlhatlhoba, dira ditswana le go gatisa lokwalo lengwe le lengwe mo lefelong;
(iii) botsa motho mongwe le mongwe mo lefelong go batlisisa tshedimosetso e e malebana le patlisiso;
(iv) kopa motho mo lefelong go tlagisetsa mmatlisisi lokwalo lengwe le lengwe kgotsa sengwe se se malebana le patlisiso e bile se tsbotswe kgotsa se le mo tla se ga taolo ya motho;
(v) kopa motho yo o mo lefelong go dirisa khomputara ngwwe le ngwwe kgotsa thulaganyo e e tshwana e e tshwana le e e leng teng mo lefelong go—

(aa) batla tshedimosetso ngwwe le ngwwe e eleng teng ka tiriso ya thulaganyo e e le;

(bb) tlhagisetsa reketo ya tshedimosetso e e mo tlhokwang ke mmatlisisi;

(vi) fa go sa kgonege kgotsa go le matshwanele go dira tlhokego go ya ka temanatlaletso (v), dirsha khomputara ngwwe le ngwwe kgotsa thulaganyo e e tshwana e e ka ga kgotsa e e leng teng mo lefelong ka matlhomo a ka kailweng mo temanatlaletse e e le;

(vii) itseela, le go go tsaywa go tswa mo lefelong, lokwalo kgotsa sengwe se se ka nnang bopaki jwa tlolo e e amegang kgotsa se se ka nnang maleba mo kongapong.

(b) Mmatlisisi o tshwanetse go naya motho yo ka ponalo a rwalang maikarabelo a lefelo rasi e e kwetsweng ya lokwalo lengwe le lengwe kgotsa sengwe se se tserweng ke mmatlisisi jaaka go kailweng mo temaneng (a)(vii).

(c) Go latela temana (d), mmatlisisi o tshwanetse go netefatsa gore lokwalo lengwe le lengwe kgotsa sengwe se se tserweng ke mmatlisisi jaaka go kailweng mo temaneng (a)(vii) se busetswa kwa mothong fa—

(i) go tsbolwa ga lokwalo kgotsa sengwe go sa thole go tlhokego go fitalhelela matlhomo a patlisiso: kgotsa

(ii) ditshamaitsa tosile tse di tlhagisetseng go tswa mo patlisisingo di latlhilwe kwa bokhuulong.

(d) Lokwalo kgotsa sengwe se tshwanetse go busetswa kwa mothong yo o se tlagisetseng fa—

(i) lokwalo kgotsa sengwe se sena go newa bothari jo bo tlhomilweng; kgotsa

(ii) go se mo kgatlhegoeng ya setšhaha kgotsa leloko kgotsa maloko a setšhaha gore dikwalo kgotsa dinngwe di buswe.

(e) Motho yo lokwalo kgotsa sengwe se tserweng kwa lefelong la gawwe jaaka go kailweng mo temaneng (a)(vii), kgotsa kemedi ya gawwe e e dumeletseng, o ka, ka dinako tsari tse di tlaelegileng tsa tiro le ka fa tlae ga tlhokomelo ya molaodi wa lephata di ditšhelete, tlhatlhoba, gatisa le go dira ditswana go tswa mo lokwalo lokwalo kgotsa sengwe.

(7) Mmatlisisi, le motho mongwe le mongwe yo o thusang mmatlisisi jaaka go tlhalositswe mo karolofatleletseng (5), o ka dirisa kgatelelo go diragatsa thata ngwwe le ngwwe go ya ka karolo eno.

Dithebolelo

138. (1) (a) Moathlodi kgotsa magiseterata yo o nang le taolo o ka rebola thebolo mabapi le matlhomo a Karolo eno mo kopong ya mmatlisisi.

(b) Moathlodi kgotsa magiseterata o ka rebola thebolo go ya ka karolo eno—

(i) le mabaka a a utlwaling a go belela gore mola o lephata la ditšhelete o tlotswa, o ka tswa o tlolewa kgotsa o ka tlolewa;
(BB) entry and investigation of the premises are likely to yield information pertaining to the contravention; and

(CC) entry and investigation of those premises is reasonably necessary for the purposes of the investigation;

(bb) in the case of an investigation under section 135(1)(b), that there are reasonable grounds to believe that the investigation is necessary to comply with a request referred to in that section.

(2) A warrant issued in terms of this section must be signed by the judge or magistrate issuing it.

(3) An investigator who enters premises under the authority of a warrant must—

(a) if there is apparently no one in charge of the premises when the warrant is executed, fix a copy of the warrant on a prominent and accessible place on the premises; and

(b) on reasonable demand by any person on the premises, produce the warrant or a copy of the warrant.

Interference with investigations

139. (1) A person may not intentionally or negligently interfere with or hinder the conduct of an investigation.

(2) Subject to section 140, a person who is given a notice or directive in terms of this Part must comply with the requirements in the notice or directive, as the case may be.

(3) Subject to section 140, a person who is asked a question in terms of this Part must answer the question fully and truthfully, to the best of the person’s knowledge.

(4) A person may not, except with a lawful excuse, refuse or fail to comply with any reasonable request by an investigator in connection with the conduct of an investigation.

(5) A person may not give an investigator any information that is false or misleading, including by omission, and is relevant to an investigation, if the person knew that the information was false or misleading, including by omission.

Part 5

Protections

140. (1) (a) A person who is questioned, or required to produce a document or information, during a supervisory on-site inspection contemplated in section 132, or by an investigator in terms of Part 4 of this Chapter, whether in response to a notice contemplated in section 136, or when an investigator is exercising the powers contemplated in section 137(6)(a)(iii) to (v), may object to answering the question or to producing the document or the information on the grounds that the answer, the contents of the document or the information may tend to incriminate the person.

(b) On such an objection, the official of the financial sector regulator conducting the supervisory on-site inspection or the investigator may require the question to be answered or the document or information to be produced, in which case the person must answer the question or produce the document.

(c) An incriminating answer given, and an incriminating document or information produced, as required in terms of paragraph (b), is not admissible in evidence against the person in any criminal proceedings, except in criminal proceedings for perjury or in which that person is tried for a contravention of section 273 based on the false or misleading nature of the answer.

(2) An official of the financial sector regulator conducting a supervisory on-site inspection or an investigator must inform the person of the right to object in terms of this section at the commencement of the supervisory on-site inspection or the investigation.
Molao wa Taolo ya Lephata la Ditselele, 2017

GOVERNMENT GAZETTE, 22 AUGUST 2017 No. 41060

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(BB) tse no le patlisiso mo mafelong e ka tisla tshedimo setso e e mabapi le tlolo;

(CC) tse no le patlisiso mo mafelson ao e tlhokea ka mabaka mabapi le maatlhomo a patlisiso;

(bb) mo lebakeng la patlisiso e e ka fa tlae ga karolo 135(1)(b), go na le mabaka a a utlwalang go dumela gore patlisiso e a tlhoka go ikamanya le kopo e e ka.ilweng mo karolong eo.

(2) Thebolo e e rebotseng go ya ka karolo eno e tshwanetse go saenwa ke moolzhodi kgotsa magiseretata yo o e rebolang.

(3) Mmatlisisi yo o tsenang kwa lefelong ka fa tlae ga tumelelo ya thebolo o tshwanetse—

(a) fa ka ponalo go se ope yo o rwalang maikarabelo a lefelo fa thebolo e diragatswa, go baya kgatiso ya thebolo mo lefelong le le bonalong e bile le fihlelega; le

(b) ka topo e e utlwalang ya moto mongwe le mongwe mo lefelong, go thagisa thebolo kgotsa kgatiso ya thebolo.

Go tshunyatshunya no dipatlisisong

139, (1) Motho o ka se tshunyene ka maikaelelo kgotsa boatla mo kgotsa o ka se tshibe go darwa ga patlisiso.

(2) Go ya ka karolo 140, motho yo o neetsweng kitsiso kgotsa tlae go ya ka Karolo eno o tshwanetse go ikamanya le ditlhokego tse di mo kitsising kgotsa taelong, jaaka go le maleba.

(3) Go ya ka karolo 140, motho yo o boditsweng potso go ya ka Karolo eno o tshwanetse go araba potso ka bolotlo le ka bonnete, go ya ka kiso ya gawwe.

(4) Motho o ka se, ntle le lebaka la semolao, gane kgotsa palelwe ke go ikamanya le kopo e e utlwalang ya mmatlisisi mabapi le go dirwa ga patlisiso.

(5) Motho o ka se neyeye mmatlisisi tshedimo setso e e fosagetseng kgotsa e e timetsang, go akaretse le ka tlolego, e bile e le maleba mo patlisison, fa motho a ne a itse gore tshedimo setso e e fosagetseng kgotsa e e timetsa, go akaretse le ka tlolego.

Karlo 5

Ditshireletsos

140. (1) (a) Motho yo o botsolotswang kgotsa yo o tlhokegang go thagisa lokwalo kgotsa tshedimo setso, ka nako ya tlhatlhobo ya bothokomedi kwa tirong e e tlhaloistsweng mo karolong 132, kgotsa ka mmatlisisiigo ya ka Karolo 4 ya Kgolo eno, e ka tswe e le ka tsibogelo ya kitsiso e e tlhaloistsweng mo karolong 136, kgotsa fa mmatlisisi a diragatsa ditshata tse di tlhaloistsweng mo karolong 137(6)(a)(iii) go fitlha go (v), o ka ema kgatlhanong le go araba dipotso kgotsa go thagisa lokwalo kgotsa tshedimo setso ka mabaka a gore karabo, ditengo tsa lokwalo kgotsa tshedimo setso e e tlhagisitsweng, le legota motho molato.

(b) Mo kemokatlahanong eo, mothankedwa bo laolaedi jwa lephata la ditshelote yo o dirang tlhatlhobo ya bothokomedi kwa lefelson kgotsa mmatlisisi o ka kopa gore potso e arabwwe kgotsa lokwalo kgotsa tshedimo setso e e tlhagisite, e mo lebakeng le motho a tshwanetse nggo araba potso kgotsa go thagisa lokwalo.

(c) Karabo e e bofelelang e e neilweng, le lokwalo le le bofelelang kgotsa tshedimo setso e e tlhagisitsweng, jaaka go tlhokega go ya ka temana (b), ga e amogoese e e mopakeng kgatlhanong le motho mo tsamainsong ngwe le ngwe ya boseny, ntle le fa mo tsamainsong ya boseny mabapi le maikano a maaka kgotsa e mo go yona motho a sekisetswang go tiola karolo 273 go ikaegilewe mo mofuteng wa karabo e e fosagetseng kgotsa e e timetsang.

(2) Mothankedwa bo laolaedi jwa lephata la ditshelote yo o dirang tlhatlhobo ya bothokomedi kwa tirong kgotsa mmatlisisi o tshwanetseng go itsise motho ka tshwanelo ya e ma kgatlhanong go ya ka karolo eno kwa tshimologong ya tlhatlhobo ya bothokomedi kwa lefelson kgotsa patlisiso.
CHAPTER 10
ENFORCEMENT

Part 1

Guidance notices and interpretation rulings

Guidance notices

141. (1) The responsible authority for a financial sector law may publish guidance notices on the application of the financial sector law.

(2) Guidance notices are for information, and are not binding.

Interpretation rulings

142. (1) The responsible authority for a financial sector law may publish a statement (an “interpretation ruling”) regarding the interpretation or application of a specified provision of that law, in circumstances specified in the statement.

(2) The purpose of an interpretation ruling is to promote clarity, consistency and certainty in the interpretation and application of financial sector laws.

(3) The responsible authority must interpret and apply the provision of the financial sector law to which the interpretation ruling relates in accordance with the interpretation ruling.

(4) An interpretation ruling ceases to be effective if—

(a) a provision of the financial sector law that was the subject of the interpretation ruling is repealed or amended in a manner that materially affects the interpretation ruling, in which case the interpretation ruling will cease to be effective from the date that the repeal or amendment is effective; or

(b) a court overturns or modifies an interpretation of the financial sector law on which the interpretation ruling is based, in which case the interpretation ruling will cease to be effective from the date of judgment unless—

(i) the decision is under appeal;

(ii) the decision is fact-specific and the general interpretation upon which the interpretation ruling was based is unaffected; or

(iii) the reference to the interpretation upon which the interpretation ruling was based did not form a part of the reasoning on which the judgment of the court was based.

(5) The responsible authority that issues an interpretation ruling may amend or revoke the interpretation ruling if it is necessary to do so because of a judicial decision or a change in the law.

(6) An interpretation ruling ceases to be effective upon the occurrence of any of the circumstances described in subsection (4), whether or not the responsible authority publishes a notice of withdrawal or modification of the interpretation ruling.

(7) Before the responsible authority issues an interpretation ruling, it must publish—

(a) a draft of the proposed interpretation ruling; and

(b) a notice calling for written public comments within a period specified in the notice, which period must be at least one month from the date of publication of the notice.

(8) The responsible authority is not obliged to comply with subsection (7) in relation to an amendment to, or a revocation of, an interpretation ruling.

(9) The responsible authority that issues an interpretation ruling must publish it.
Dikitsiso tsa kaelo

141. (1) Bothati jo bo rwalang maikarabelo mo molaong wa lephata la ditšhelete bo ka phasalatsa dikitsiso tsa kaelo mo tirisong ya molaow lephata la ditšhelete.  
(2) Dikitsiso tsa kaelo ke tsadīsotse, e bile ga di tlame.

Ditshweto tsa tlhaloso

142. (1) Bothati jo bo rwalang maikarabelo mo molaong wa lephata la ditšhelete bo ka phasalatsa polelo ("tshweto ya tlhaloso") mabapi le tlhaloso kgotsa tiriso kabelo e e tspamatisitsweng ya molaow oo, mo mabakeng a a tspamatisitsweng mo polelong.  
(2) Maillhomo a tlhaloso ya tshweto ya tlhaloso ke go ntsētsa pele tlhalosetso, tsepano le tlhomamota mo go tshwetlose kgotsa ya lephata la ditšhelete.  
(3) Bothati jo bo rwalang maikarabelo bo tshwanetse go tshaloso le go dirisa kabelo ya molaow lephata la ditšhelete e e amanang le tshweto ya tlhaloso go tsamaelan le tshweto ya tlhaloso.  
(4) Tlhaloso e e tlamang e khutla go diriswa fa—  
(a) kabelo ya molaow lephata la ditšhelete e e neng e le yona morero wa tshweto ya tlhaloso e phimolwa kgotsa e tlhabololwa ka mokgwa o o amang segolo tshweto ya tlhaloso, fa go le jalo tshweto ya tlhaloso e tlhutlisa go dira go tloja ka lelha la go tsemngwa tirisong ga phimolwa kgotsa tlhabololo; kgotsa  
(b) kgotlatshekelo e phimola kgotsa fetola tlhaloso ya molaow lephata la ditšhelete o tshweto ya tlhaloso e theilweng mo go ona, fa go le jalo tshweto ya tlhaloso e tlhutlisa go dira go tloja ka lelha la go tsemngwa tirisong ga phimolwa kgotsa tlhabololo; kgotsa  
(i) tshweto e e le ka fa tlase ga boikuelo;  
(ii) tshweto e e tspamatisitswe mo ntlheng e bile tlhaloso ya kakaretso e o tshweto ya tlhaloso e theilweng mo go yona ga e a amega; kgotsa  
(iii) tshupetse go tshaloso e tshweto ya tlhaloso e neng e theilwe mo go yona e ne e se karolo ya neo ya mabaka e o katholo ya kgotlatshekelo e neng e theilwe mo go yona.  
(5) Bothati jo bo rwalang maikarabelo jo bo rebolang tshweto yatlhaloso bo ka tlhabololo kgotsa phimola tshweto ya tlhaloso fa go thokhega gore go dirwe jalo ka ntlha ya phetogo mo molaang kgotsa tshweto ya boatlhodi.  
(6) Tlhaloso e e tlamang e khutla go diriswa fa go diragala mngwe ya mabaka a a tlhalositsweng mo karolotlaleletsong (4), fa bothati jo bo rwalang maikarabelo bo phasaladitse kgotsa bo sa phasalatse kitisoo ya kgogelomorogo kgotsa phetola ya tlhaloso e e tlamang.  
(7) Pele bothati jo bo rwalang maikarabelo bo rebola tshweto ya tlhaloso, bo tshwanetse go phasalatse—  
(a) thalo ya tshweto ya tlhaloso e e tsithitsi tsweng; le  
(b) kitisoo e e laletsang ditshwaelo tsa setshaba tse di kwetseng mo pakeng e e tspamatisitsweng mo kitisong, paka eo e tshwanetse go nna bonnye kgwedi e le esi go tloja ka lelha la phasalatse ya kitisoo.  
(8) Bothati jo bo rwalang maikarabelo ga bo patelese go ikamanya le karolotlaleletsong (7) mabapi le tlhabololo go, kgotsa phimola ya, tshweto ya tlhaloso.  
(9) Bothati jo bo rwalang maikarabelo jo bo rebolang tshweto ya tlhaloso bo tshwanetse go e phasalatse.
Directives by Prudential Authority

143. (1) The Prudential Authority may issue to either of the following persons:

(a) A financial institution that provides a financial product or securities services, or that is a market infrastructure; and
(b) a key person of a financial institution,

a written directive requiring the person to take action specified in the directive if—

(i) the financial institution is conducting its business in an improper or financially unsound way and, as a result, there is a risk that the financial institution may not be able to comply with its obligations; or
(ii) the financial institution or key person of a financial institution—

(aa) has contravened or is likely to contravene a financial sector law for which the Prudential Authority is the responsible authority;
(bb) has not complied with an enforceable undertaking accepted by the Prudential Authority;
(cc) is involved or is likely to be involved in financial crime; or
(dd) is causing or contributing to instability in the financial system, or is likely to do so.

(2) The Prudential Authority may issue to a holding company of a financial conglomerate a written directive requiring the holding company to take action specified in the directive, if the holding company or another company in the financial conglomerate concerned—

(a) is conducting its business in an improper or financially unsound way and, as a result, there is a risk that an eligible financial institution in the conglomerate will not be able to comply with its obligations under a financial sector law or in relation to a financial product or financial service that it provides or offers to provide;
(b) has not complied with an enforceable undertaking accepted by the Prudential Authority;
(c) has contravened or is likely to contravene a financial sector law;
(d) is involved or is likely to be involved in financial crime; or
(e) is causing or contributing to instability in the financial system, or is likely to do so.

(3) A directive in terms of subsection (1) or (2) must be aimed at achieving the objective of the Prudential Authority set out in section 33 and—

(a) reducing any risks referred to in subsection (1)(b)(i) or (2)(a);
(b) ensuring that the financial institution or the directed person complies with the enforceable undertaking that was accepted by the Prudential Authority;
(c) stopping the financial institution or company from contravening applicable financial sector laws, or reducing the risk of such contraventions;
(d) stopping the financial institution or company from being involved in financial crime, and reducing the risk that it may be so involved;
(e) reducing the risk that a systemic event may occur; or
(f) remedying the effects of a contravention of a financial sector law or the person’s involvement in financial crime.

(4) The Prudential Authority may not issue a directive to a financial institution on the basis set out in subsection (1)(b)(ii)(dd) unless it has been directed in terms of section 18 to do so or with the concurrence of the Reserve Bank.

(5) Action that may be specified in a directive in terms of subsection (1) includes the following:

(a) The financial institution ceasing offering or providing a specific financial product;
**Karolo 2**

*Ditaelo tsa balaodi ba lepaha la ditsheleetse*

**Ditaelo ka Bothati jwa Tlhokomelo**

143. (1) Bothati jwa Tlhokomelo bo ka rebola go mongwe wa batho ba ba latelang:

(a) Setheo sa ditshelethe se se tlamelang ka kuno ya ditshelethe kgotsa ditirelo tsa ditloto, kgotsa ba e leng thulaganyetso ya popegotheo; le

(b) mootho yo o bohlhokwa wa setheo sa ditshelethe, taelo e e kwetsweng e e thokang mootho go tsaya kgato e e tsepamisitsweng mo taelong fa—

(i) setheo sa ditshelethe se dira tiro ya sona ma mokgwao o o sa siamang kgotsa wa tsamaiso ya ditshelethe e e sokameng le, ka nthla ya se, go na le kotsi ya gore setheo sa ditshelethe se ka se kgone go ikamanya le ditalamego tsa sona; kgotsa

(ii) setheo sa ditshelethe kgotsa mootho wa bohlhokwa wa setheo sa ditshelethe—

(aa) a tlotse kgotsa a ka tiola molao wa lepaha la ditshelethe o Bothati jwa Tlhokomelo bo tsayang maikarabelo a ona; 15

(bb) a sa ikamanyang le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(cc) yo o amanang kgotsa o o ka amanang le bosenyi jwa ditshelethe; kgotsa

(dd) o dira kgotsa o na le seabe mo go sa tsepamang ga thulaganyo ya ditshelethe, kgotsa go sa dira jalo. 20

(2) Bothati jwa Tlhokomelo bo ka rebolela kgwebo e e okameng tse dingwe taelo e e kwetsweng e e lopang kgwebo e e okameng tse dingwe go tsaya kgato e e tsepamisitsweng mo taelong fa kgwebo e e okameng tse dingwe kgotsa setlamo se sengwe mo dikgwebong tsa ditshelethe tse di tlhakaneng—

(a) se dira tiro ya sona ka mokgwao o o sa siamang kgotsa wa tsamaiso ya ditshelethe e e sokameng le, ka nthla ya se, go na le kotsi ya gore setheo sa ditshelethe se se mo ditheong tse di tlhakaneng se ka se kgone go ikamanya le ditalamego tsa jona;

(b) se sa ikamanyang le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(c) se tlotse kgotsa se ka tiola molao wa lepaha la ditshelethe;

(d) se amega kgotsa se ka amega mo bosenyi jwa ditshelethe; kgotsa

(e) se tlisa kgotsa se na le seabe mo go sa tsepamang ga thulaganyo ya ditshelethe, kgotsa se ka dira jalo.

(3) Taelo go ya ka karolotlaleletso (1) kgotsa (2) e tshwanetse go lebisiwa mo go fitlheleleng maikaelelo a Bothati jwa Tlhokomelo a a tlhagisitsweng mo karolong 33 le—

(a) go fokotsa dikotsi dingwe le dingwe tse di kailweng mo karolotlaleletsong (1)(b)(i) kgotsa (2)(a);

(b) go netefatseng gore setheo sa ditshelethe kgotsa mootho yo o laetsweng o ikamanya le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(c) go tibela setheo tsa ditshelethe kgotsa setheo se se tiola melao e e dirisweng; ya lepaha la ditshelethe, kgotsa go fokotsa kotsi ya ditlolo tse;

(d) go tibela setheo sa ditshelethe kgotsa setlamo mo go amegeng mo bosenyi jwa ditshelethe, le go fokotsa kotsi ya gore se ka amega jalo;

(e) go fokotsa kotsi ya gore tiragalo e e rulagantsweng e ka diragala; kgotsa

(f) go namola ditlamarago tsa tiolo ya molao wa ditshelethe kgotsa botsayakarolo jwa mootho mo bosenyi jwa ditshelethe.

(4) Bothati jwa Tlhokomelo bo ka se rebole taelo go setheo sa ditshelethe go ya ka mabaka a a tlhalosisitsweng mo karolotlaleletsong (1)(b)(ii)(dd) ntle le fa bo laetsweng jalo go ya ka karolo 18 kgotsa go ya ka tumalano ya Banka ya Resefe.

(5) Tiro e e ka tsepamiswang mo taelong go ya ka karolotlaleletso (1) e akaretsa tse di latelang:

(a) Setheo sa ditshelethe se se khutlisang go neelana kgotsa go tlamela ka kuno e e tsepamang ya ditshelethe;
(b) the financial institution modifying a specific financial product or the terms on which it is provided;

(c) removing a person from a specified position or function in or in relation to the financial institution;

(d) the financial institution not paying a dividend or a specified bonus or performance payment;

(e) the financial institution not entering into a specific transaction or undertaking a specific obligation, contingent or otherwise;

(f) the financial institution remedying the effects of a contravention of a financial sector law.

(6) In addition to its powers to issue regulator’s directives, if a person is engaging, or is proposing to engage, in conduct that contravenes a financial sector law for which the Prudential Authority is the responsible authority, the Prudential Authority may issue a written directive to the person requiring the person to cease engaging, or not to engage, in the conduct.

Directives by Financial Sector Conduct Authority

144. (1) The Financial Sector Conduct Authority may issue to a financial institution a written directive requiring the financial institution to take action specified in the directive if—

(a) the financial institution is conducting its business in a way that poses a material risk to the efficiency and integrity of financial markets;

(b) the financial institution’s treatment of its financial customers is such that the institution will not be able to comply with its obligations in relation to the fair treatment of financial customers;

(c) the financial institution is providing financial education in a manner that is not in accordance with relevant conduct standards;

(d) the financial institution or a key person, representative or contractor of the financial institution—

(i) has contravened or is likely to contravene a financial sector law for which the Financial Sector Conduct Authority is the responsible authority;

(ii) has not complied with an enforceable undertaking accepted by the Financial Sector Conduct Authority;

(iii) is involved or is likely to be involved in financial crime; or

(iv) is causing or contributing to instability in the financial system, or is likely to do so.

(2) The Financial Sector Conduct Authority may issue to a key person, a representative or a contractor of a financial institution (in this section, a “directed person”) a written directive requiring the directed person to take action specified in the directive if the financial institution or the directed person—

(a) has contravened or is likely to contravene a financial sector law for which the Financial Sector Conduct Authority is the responsible authority;

(b) has not complied with an enforceable undertaking accepted by the Financial Sector Conduct Authority;

(c) is involved or is likely to be involved in financial crime; or

(d) is causing or contributing to instability in the financial system, or is likely to do so.

(3) A directive in terms of subsection (1) or (2) must be aimed at achieving the objective of the Financial Sector Conduct Authority set out in section 57 and—

(a) stopping the financial institution or the directed person from contravening applicable financial sector laws, or reducing the risk of such contraventions;

(b) ensuring that the financial institution or the directed person complies with the enforceable undertaking that was accepted by the Financial Sector Conduct Authority;

(c) stopping the financial institution or the directed person from being involved in financial crime, and reducing the risk that it may be so involved;
(b) setheo sa ditsšelete se se fetolang kuno e e tsepmang ya ditsšelete kgotsa dipeelo tseo e tlametsweng ka tsona;
(c) go nsha motho mo maemong a a tsepmisitsweng kgotsa tiro mo kgotsa mabapi le setheo sa ditsšelete;
(d) setheo sa ditsšelete se se sa dueleng karolelo kgotsa bonase e e tsepmisitsweng kgotsa tuelo ya tiro;
(e) setheo sa ditsšelete se se sa tsene ng mo tirisanong e e tsepmang kgotsa se se sa direng tumalano ya tlameng e e tsepmang, ya tshoganyetso kgotsa ka mokgw a mongwe;
(f) setheo sa ditsšelete se se namalong ditlamorago ts a tlolo ya molao wa lephata la ditsšelete.

(6) Mo godimo ga dithata tsa jona tsa go rebola ditaelo tsa molaoedi, fa motho a dira, kgotsa a tshitsinya go dira, tlolo ya maitsholo jwa molao wa lephata la ditsšelete o Bothati jwa Tlhokomelo e leng bothati jo bo rwalang maikarabelo a ona, Bothati ba Tlhokomelo bo ka rebolela motho taelo e e kwetsweng e e lopang motho go emisa go dira kgotsa go se direng, maitsholo ao.

Ditaelo ka Bothati jwa Boitshwaro jwa Lephata la Ditsšelete

144. (1) Bothati jwa Boitshwaro jwa Lephata la Ditsšelete bo ka rebolela setheo sa ditsšelete taelo e e kwetsweng e e lopang gore setheo sa ditsšelete se tseye kgato e e tsepmisitsweng mo taelong fa—
(a) setheo sa ditsšelete se dira ditiro tsa sona ka mokgw a o o bayang bokgoni le tshi a o ya mebaraka ya ditsšelete mo kotsi;
(b) tsholo ya setheo sa ditsšelete ya barekedi ba ditsšelete ba sona e ka mokgw a o e leng gore setheo se ka se kgone go ikamanya le ditlamego tsa sona mabapi le tsholo e e lolameng ya barekedi ba ditsšelete;
(c) setheo sa ditsšelete se palelwa ka go tlamela ka mance a o a maleba a thuto ya ts a ditsšelete le ditiro tse dingwe go tseletsha ketsi ya ts a ditsšelete;
(d) setheo sa ditsšelete kgotsa motho yo o bothokwa, kemedi kgotsa mokonteraka wa setheo sa ditsšelete—
(i) se tlotse kgotsa se ka tlolo molao wa lephata la ditsšelete o Bothati jwa Bitshwaro jwa Lephata la Ditsšelete e leng bothati jo bo rwalang maikarabelo a ona;
(ii) se ka ikamanyang le tumalono e e gatelelweng e e amogetsweng ke Bothati jwa Boitshwaro jwa Lephata la Ditsšelete;
(iii) se amegang kgotsa se ka amega mo bosenyeng jwa ditsšelete; kgotsa
(iv) se tligang kgotsa se nang le seabe mo go sa tsepmang go thulaganyo ya ditsšelete, kgotsa se ka dira jalo.

(2) Bothati jwa Boitshwaro jwa Lephata la Ditsšelete bo ka rebolela motho yo o bothokwa, kemedi kgotsa mokonteraka wa setheo sa ditsšelete (mo karolong eno, “motho yo o laelwang”) taelo e e kwetsweng e e lopang motho yo o laelwang go tsaya kgato e e tsepmisitsweng mo taelong fa seetho sa ditsšelete kgotsa motsho yo o laelwang—
(a) se tlotse kgotsa se ka tlolo molao wa lephata la ditsšelete o Bothati jwa Boitshwaro jwa Lephata la Ditsšelete e leng bothati jo bo rwalang maikarabelo a ona;
(b) ga se a ikamanyang le tumalono e e gatelelweng e e amogetsweng ke Bothati jwa Boitshwaro jwa Lephata la Ditsšelete;
(c) se amegang kgotsa se ka amega mo bosenyeng jwa ditsšelete; kgotsa
(d) se dira kgotsa se dira kgotsa se na le seabe mo go sa tlhomamang mo thulaganyo ya ditsšelete, kgotsa se ka dira jalo.

(3) Taelo go ya ka karolotlaleletso (1) kgotsa (2) e tshwanetse go lebiswa mo go fihlelebing maithhomo a Bothati jwa Boitshwaro jwa Lephata la Ditsšelete a a tlhagisitsweng mo karolong 57 le—
(a) go thhabela setheo sa ditsšelete kgotsa motho yo o laelwang mo go tloeleng melao e e diragatsweng ya lephata la ditsšelete, kgotsa fo fokotsa kotsi ya dito tseo;
(b) go netefatsa gore setheo sa ditsšelete kgotsa motho yo o laelwang o ikamanya le tumalano e e gatelelweng e e amogetsweng ke Bothati jwa Boitshwaro jwa Ditsšelete;
(c) go thhabela setheo sa ditsšelete kgotsa motho yo o laelwang mo go amegeng mo bosenyeng jwa ditsšelete, le go fokotsa kotsi ya go amega ya gona;
(d) reducing the risk that a systemic event may occur; or
(e) remedying the effects of a contravention of a financial sector law or the person’s involvement in financial crime.

(4) The Financial Sector Conduct Authority may not issue a directive on the basis set out in subsection (1)(d)(iv) unless it has been directed in terms of section 18 to do so or with the concurrence of the Reserve Bank.

(5) Action that may be specified in a directive in terms of subsection (1) includes the following:

(a) The financial institution ceasing offering or providing a specific financial product or financial service;
(b) the financial institution modifying a specific financial product or financial service or the terms on which it is provided;
(c) removing a person from a specified position or function in or in relation to the financial institution;
(d) the financial institution not paying a specified bonus or performance payment; and
(e) the financial institution remediying the effects of a contravention of a financial sector law.

(6) The Financial Sector Conduct Authority may not issue a directive in terms of subsection (5)(a) or (b) to a systemically important financial institution without the concurrence of the Prudential Authority.

(7) Action that may be specified in a directive in terms of subsection (2) must be aimed at achieving the objective of the Financial Sector Conduct Authority and ensuring that the key person, representative or contractor performs its function in compliance with the applicable financial sector laws.

(8) In addition to its powers to issue regulator’s directives, if a person is engaging, or is proposing to engage, in conduct that contravenes a financial sector law for which the Financial Sector Conduct Authority is the responsible authority, the Financial Sector Conduct Authority may issue a written directive to the person requiring the person to cease engaging, or not to engage, in the conduct.

Removal of person from position

145. A financial sector regulator may not issue a directive in terms of this Part that requires the removal of a person from a specified position or function in or in relation to the financial institution unless the person—

(a) has contravened a financial sector law;
(b) has been involved in financial crime;
(c) is responsible for, or in any way participated in, or failed to take steps open to him or her aimed at preventing—
   (i) a contravention of a financial sector law by the financial institution; or
   (ii) the financial institution being involved in financial crime; or
(d) no longer complies with applicable fit and proper person requirements.

Consultation requirements

146. (1) Before issuing a regulator’s directive in terms of this Part, the financial sector regulator must—

(a) give the financial institution or person to whom it is proposed to issue the directive a draft of the proposed directive and a statement of the reasons why it is proposed to issue it, including a statement of the relevant facts and circumstances; and
(b) invite the financial institution or person to make submissions on the matter, and give it a specified period, which must be reasonable, to do so.

(2) If the directive requires removing a person from a specified position or function in or in relation to the financial institution, the financial sector regulator must also—

(a) give the person a draft of the proposed directive and a statement of the reasons why it is proposed to issue it, including a statement of the relevant facts and circumstances; and
(b) invite the person to make submissions on the matter within the period specified in terms of subsection (1)(b).
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(d) go fokotsa kotsi ya go diragala ga tiragala e e rulagantsweng; kgotsa
(e) go namola ditlamorago tsa tlolo ya molao wa lephata la ditshelete kgotsa
kamego ya moto mo bosenyng jwa ditshelete.

(4) Bothati jwa Boitshwaro jwa Lephata la Ditshelete bo ka se rebole taelo go ya ka
mabaka a a tlahlositswiseng mo karolotlaleletsong (1)(d)(iv) ntle le fa go laetswe gore go
dirwe jalo go ya ka karolo 18 kgotsa ka tumalano ya Banka ya Resefc.

(5) Tiro e e ka tsepamiswangmo taelong go ya ka karolotlaleletso (1) e akaretsa tse di
latelang:
(a) Setheo sa ditshelete se se khutlisang go neelana kgotsa go tlamelwa ka kuno e
e tsepameng ya dišheletse kgotsa tirelo ya ditshelete;
(b) setheo sa ditshelete se se fetolang kuno e e tsepameng ya dišheletse kgotsa
tirelo ya ditsheletalse kgotsa dipelo tse e tlametsweng ka tsona;
(c) go nthsa motho mo maemong a a tsepameng kgotsa tirong mo kgotsa mabapi
le setheo sa ditshelete;
(d) setheo sa ditshelete se se sa dueleng bonase e e tsepamisitswiseng kgotsa tuelo
ya tiro; le
(e) setlama sa ditshelete se se namolang ditlamorago tsa tlolo ya molao wa
lephata la ditshelete.

(6) Bothati jwa Boitshwaro jwa Lephata la Ditshelete bo ka se rebole taelo go ya ka
karolotlaleletso (5)(a) kgotsa (b) go setheo sa thulaganyo ya bothokwa ntle le tumalano
ya Bothati Jwa Thlokomeloto.

(7) Tiro e e ka tsepamiswang mo taelong go ya ka karolotlaleletso (2) e tshwanetse go
lebiswa mo go fitlhelelelang maikaelo a Bothati jwa Boitshwaro jwa Lephata la
Ditshelete le go netefatsa gore motho yo o bothokwa, moemedi kgotsa mokonteraka o
dira tiro ya gagwe go tsa'melana le melao e ediragatsweng ya lephata la ditshelete.

(8) Mo go itlatseng dithata tsa jona tsa go rebula kita tsa molaodi, fa motho a dira,
kgotsa a tshirtinga go dira, boitshwaro jo bo tlolang molao wa lephata la ditshelete jo
Bothati jwa Boitshwaro jwa Lephata la Ditshelete e leng bothati jo bo rwalang
maikarabelo, Bothati jwa Boitshwaro jwa Lephata la Ditshelete bo ka rebolela motho taelo e e
kwetsweng e e laelang motho go emisa go dira, kgotsa go se dire, boitshwaro.

Go ntshiwa ga batho mo maemong

145. Bolaodi jwa lephata la ditshelete bo ka se rebole taelo go ya ka Karolo eno e e
lo pang go tloiswa ga motho mo maemong a a tsepamisitswiseng kgotsa tiro mo kgotsa
mabapi le setheo sa ditshelete ntle le fa motho—
(a) a tlotse molao wa lephata la ditshelete;
(b) a amegile mo bosenyng jwa ditshelete;
(c) a rwalang maikarabelo a, kgotsa ka mokgwaa mongwe a tsere karolo mo, kgotsa
a palsetse ke, go tsaya dikgato tse di le teng tse di ikakeletseng go thibela—
(i) tlolo ya molao wa lephata la ditshelete ka setheo sa ditshelete; kgotsa
(ii) setheo sa ditshelete se amega mo bosenyng jwa ditsheletse; kgotsa
(d) a sa tlhole a ikamanya le ditlhokego tsa go itekanelela tiro le tsiamo.

Ditlhokego tsa ditherisano

146. (1) Pele go reboluwa taelo ya bolaodi go ya ka Karolo eno, molaodi wa lephata la
ditshelete o tshwanetsetse go—
(a) naya setheo sa ditshelete kgotsa motho yo a itshipinyang go mo naya taelo
thalo ya taelo e e tshiňitswiseng le polelo ya mabaka a gore goreng e le nthla
e e tshiňitswiseng, go akaretsa le polelo ya dintla tse di maleba le mabaka; le
(b) laletsa setheo sa ditsheletse kgotsa motho go dira ditlhagiso ka ga morero, le go
se naya nako e e tsepamisitswiseng, e e amogelesegang, go dira jalo.

(2) Fa taelo e laela gore motho a tloiswa mo maemong a a tsepamisitswiseng kgotsa mo
tirong ya kgotsa e e mabapi le setheo sa ditshelete, molaodi wa lephata la ditshelete o
tshwanetse gape go—
(a) naya motho thalo ya taelo e e tshiňitswiseng le polelo ya mabaka a gore
goreng go tshiňitswiseng gore e reboluwe, le go akaretsa le polelo ya dintla tse
di maleba le mabaka; le
(b) laletsa motho go dira ditlhagiso ka ga morero mo pakeng e e tsepamisitswiseng
go ya ka karolotlaleletso (1)(b).
(3) In deciding whether to issue the directive, the financial sector regulator must take into account all submissions received by the end of the period referred to in subsection (1)(b) or (2)(b).

(4) If the delay involved in complying, or complying fully, with subsections (1) and (2) in respect of a proposed directive is likely to lead to prejudice to financial customers, prejudicially affect financial stability or defeat the object of the directive, the financial sector regulator may issue the directive without having complied, or complied fully, with those subsections.

(5) (a) If a financial sector regulator issues a directive without having complied, or complied fully, with subsections (1) and (2), the person to whom it was issued, and, where subsection (2) applies, the person referred to in that subsection must be given a written statement of the reasons why those subsections were not complied with.

(b) A person to whom the statement was given may make submissions to the financial sector regulator within one month after being provided with the statement.

(c) The financial sector regulator must consider the submissions, and notify the person, as soon as practicable, whether the financial sector regulator proposes to revoke the directive.

Period for compliance

147. A regulator’s directive must specify a reasonable period for compliance, where applicable.

Revoking directives

148. A financial sector regulator may at any time revoke a regulator’s directive it has issued by written notice to the person to whom it was issued.

Compliance with directives

149. (1) A financial institution, key person, representative or contractor to which a regulator’s directive in terms of this Part has been issued must comply with the directive.

(2) The High Court may, on application by a party to a contract with a financial institution, other than the financial institution, make an order relating to the effect of a directive in terms of this Part on the contract.

(3) (a) Without limiting what the order may do, the order may require the financial institution to—

(i) perform its obligations under the contract; or

(ii) compensate the applicant, as specified in the order.

(b) An order in terms of paragraph (a) may not require a person to take action that would contravene the directive of a financial sector regulator.

Application and interpretation

150. This Part applies in addition to any power in a specific financial sector law that relates to the issuing of directives by a financial sector regulator.

Part 3

Enforceable undertakings

151. (1) A person may give a written undertaking to the responsible authority concerning that person’s future conduct in relation to a matter regulated by a financial sector law, and that undertaking, upon its acceptance by the responsible authority, becomes enforceable by the responsible authority as contemplated in this Act.

(2) A written undertaking referred to in subsection (1) may include an undertaking to provide specified redress to financial customers.
(3) Mo go swetseng ka ga go rebola kgotsa go se rebole taelo, molaodi wa lephata la dithšelete o tshwanetse go tsaya tsia ditlhagisiso tshothe tse di amogetswe ng ka bokhutlo jwa paka e e kailweng mo karolotlaleletsong (1)(b) kgotsa (2)(b).

(4) Fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletsos (1) le (2) mabapi le taelo e e tshitsitsiweng e ka isa kwa kgobelelong ya barekedi ba dithšeletse, ya ama tlhomoamo ya dithšelete setlhogo kgotsa ya fenya maikaelelo a taelo, molaodi wa lephata la dithšelete o ka rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletsetso tseo.

(5) (a) Fa molaodi wa lephata la dithšelete a rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletsos (1) le (2), motho yo a e reboletswe, le mo karolotlaleletsos (2) e dirisitsweng, motho yo o kailweng mo karolotlaleletsong eo o tshwanetse go newa polelo e e kwetsweng ya mabaka a gore goreeng go sa ikamanngwa le dikarolotlaleletsos tseo.
(b) Motho yo o neilweng polelo o ka dira ditlhagisiso go molaodi wa lephata la dithšelete mo kgweding e le esime morago ga go tlamelwa ka polelo.
(c) Molaodi wa lephata la dithšelete o tshwanetse go sekakela ditlhagisiso, le go itsise motho, ka bonako jo bo kgonegang, fa e le gore molaodi wa lephata la dithšelete o tshitsinya go goela morago taelo.

Paka ya go ikamanya

147. Taelo ya molaodi e tshwanetse go tsepamisa paka e e amogelelsegang ya go ikamanya, fa go kgonega.

Kgogelomorago ya ditaelo

148. Molaodi wa lephata la dithšelete o ka, ka nako ngwle le ngwwe, phimola taelo e a e rebotseng ka kitsiso e e kwetsweng go motho yo o neng a e reboletswe.

Boikomanyo le ditaelo

149. (1) Setheo sa dithšelete, motho yo o botlhokwa, moemedi kgotsa mokenteraka yo o reboletswe taelo go ya ka Karolo eno o tshwanetse go ikamanya la taelo.
(2) Kgotlatshokoletskolo o ka, ka kopopo ya moamegi mo konteraka le se theo sa dithšelete, ntle le se theo sa dithšelete, dira taelo e e amanang le ditlamorago tsa taelo go ya ka Karolo eno mo konterakaeng.
(3) (a) Go sa lekanyetswe se taelo e ka se dirang, taelo e ka lopa setheo sa dithšelete go—
(i) dira ditlamego tsa sona ka fa tlase ga konteraka; kgotsa
(ii) duela modirakopo, jaaka go tsepamisitswe mo taelong.
(b) Taelo go ya temana (a) e ka se lope motho go tsaya kgato e e tla tlolang taelo ya molaodi wa lephata la dithšelete.

Tiragatso le tlhaloso

150. Karolo eno e dirisa mosi go godimo ga thata ngwwe le ngwwe mo molaong o o tsepameng wa lephata la dithšelete o o amanang le thebolo ya ditaelo ka molaodi wa lephata la dithšelete.

Karolo 3

Ditumalano tse di gatelelwang

Ditumalano tse di gatelelwang

151. (1) Motho o ka necelana ka tumalano e e kwetsweng go bothati jo bo ralwang maikarabelo mabapi le boithsharo jwa nako e e tlaang jwa motho mabapi le nthla e e laolweng ke mola wa lephata la dithšelete, le tumalano eo, fa e amogelwa ka bothati jo bo maleba, e nna sediriso sa mola o se se gatelelweng ke bothati jo bo ralwang maikarabelo jaaka go kailweng mo Molaong ono.
(2) Tumalano e e kwetsweng e e kailweng mo karolotlaleletsong (1) e e kaaketsa tumalano go tlamela ka pusetso e e tsepamisitsweng ya maemo kwa tlaelang go barekedi ba diithšelete.
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(3) The person who gave an enforceable undertaking may, with the consent of the responsible authority, vary or withdraw the undertaking at any time, except if the undertaking is already a subject of enforcement.

(4) If a financial institution licensed under a specific financial sector law that gave an enforceable undertaking breaches a term of the undertaking, the responsible authority may suspend or withdraw the licence.

(5) The responsible authority must publish each enforceable undertaking that it accepts, and each variation or withdrawal of an enforceable undertaking.

(6) If the Tribunal is satisfied, on application by the responsible authority, that a person has contravened an enforceable undertaking, the Tribunal may make any one or more of the following orders:

(a) An order directing the person to comply with the undertaking;
(b) if the undertaking relates to a past contravention of the financial sector law, an order directing the person to perform a specified act, or refrain from performing a specified act, for one or both of the following purposes:
   (i) to remedy the effects of the contravention;
   (ii) to ensure that the person does not contravene the undertaking again;
(c) any other incidental or relevant order.

(7) The responsible authority may file with the registrar of a competent court a certified copy of an order in terms of subsection (6), if—

(a) the order has not been complied with; and
(b) either—
   (i) no proceedings in a court in relation to the making of the order have been commenced by the end of the period for lodging such appeals; or
   (ii) if such proceedings have been commenced, they have been finally disposed of.

(8) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

Part 4

Court orders

Compliance with financial sector laws

152. (1) The responsible authority for a financial sector law may commence proceedings against a person in the High Court for an order to ensure compliance with the financial sector law.

(2) The High Court may make an order in terms of subsection (1)—

(a) if it appears to the High Court that the person is engaging, or proposes to engage, in conduct contravening a financial sector law;
(b) if the person has previously engaged in such conduct;
(c) if there is a danger of substantial or irreparable damage, prejudice or harm if the person engages in conduct contravening a financial sector law; or
(d) even if another remedy is available.

(3) The High Court may not require the responsible authority to give any undertaking as to damages in connection with the application for an order in terms of this section.

(4) The responsible authority must publish each court order, other than interlocutory orders, that it obtains in terms of this section.

Part 5

Debarment

153. (1) The responsible authority for a financial sector law may make a debarment order in respect of a natural person if the person has—

(a) contravened a financial sector law in a material way;
(3) Motho yo o neetseng tumalano e e gatelelwang o ka, ka tumelelo ya bothati jo bo rwalang maikarabelo, farologantsha kgotsa gogela morago tumalano ka nako ngwwe le ngwwe, ntle le fa tumalano e setse e le nilha e e gatelelwang.

(4) Fa setheo sa ditšelelele se abetswe laesene ka fa tlase ga molao o o tsepameng wa lephata la ditšelelele o o neetseng tumalano e e gatelelwang se tlola peelo ya tumalano, bothati jo bo rwalang maikarabelo bo ka emisa kgotsa gogela morago laesense.

(5) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa tumalano ngwwe le ngwwe e e gatelelwang bo e bo amogelang, le pharologantsha ngwwe le ngwwe kgotsa kgogelomorago ya tumalano e e gatelelwang.

(6) Fa Lekgotla le kgotsofetse, mo tirisong ka bothati jo bo rwalang maikarabelo, gore motho o tlole tumalano e e gatelelwang e lephata la ditšelele.

(7) Bothati jo bo rwalang maikarabelo bo ka faela le mokwadisi wa kgotlatshhekelo e e nang le bokgoni kgatiso e e kanetsweng ya taelo go ya ka karolotlaleletso (6), fa—

(a) go sa ikamanngwa le taelo; le

(b) ka gongwe—

(i) go se ditsamaiso tse di dirilweng kwa kgotlatshhekelong tsakoi kgotla kgalinong Le tiragatso ya taelo mo bokhutlong jwa paka e e neilweng mabapi le go dira bokuelo joo; kgotsa

(ii) fa bokuelo joo bo setse bo dirilwe, kwa bokhutlong bokuelo bo diragaditswe.

(8) Taelo, mo go faelweng, e na le poelo mo kalholong ya selegae, e bile e ka gatelelwja jaaka e kete e neilwe semolao kwa kgotlatshhekelong eo.

Karo 4

Ditaelo tsagotlatshhekelo

Go ikamanyo le molao ya lephata la ditšelele

152. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšelele bo ka simolola ditsamaiso kgultanong le motho kwa Kgotlatshhekelo gogela mabapi le taelo ya go netefatsa ikamanyo le molao wa lephata la ditšelele.

(2) Kgotlatshhekelo gogela e ka dira taelo go ya ka karolotlaleletso (1)—

(a) fa Kgotlatshhekelo e lemoga gore motho o dira, kgotsa o tshitsinya go dira, boitshwaro jo bo tloleng molao wa lephata la ditšelele;

(b) fa motho a kile a dira bokhutlong jwa paka e e neilweng mabapi le go dira boitshwaro joo; kgotsa

(c) fa go na le koitsi kgotsa tshenyego e kgolo kgotsa e e sa baakanayeng, kgobelelo kgotsa e ka tlhola koitso fa motho a dira boitshwaro jwa tlolo ya molao wa lephata la ditšelele; kgotsa

(d) le fa namolo e ngwwe e le teng.

(3) Kgotlatshhekelo gogela e ka se tlhoko bothati jo bo rwalang maikarabelo go dira tumalano ka ga ditshenyegelo tse di mabapi le kopo ya taelo go ya ka karolo eno.

(4) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa taelo ngwwe le ngwwe ya kgotlatshhekelo, ntle le ditaelo tsagautsa, tseo bo di fithelelela go ya ka karolo eno.

Karo 5

Kganelo

153. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšelele bo ka dira taelo ya kganelo mabapi le motho ka esi fa motho ka esi a—

(a) tlole molao wa lephata la ditšelele ka tselelelo e kgolo;
(b) contravened in a material way an enforceable undertaking that was accepted by the responsible authority in terms of section 151(1);
(c) attempted, or conspired with, aided, abetted, induced, incited or procured another person to contravene a financial sector law in a material way; or
(d) contravened in a material way a law of a foreign country that corresponds to a financial sector law.

(2) A debarment order prohibits the natural person, for the period specified in the debarment order, from—
(a) providing, or being involved in the provision of, specified financial products or financial services, generally or in circumstances specified in the order;
(b) acting as a key person of a financial institution; or
(c) providing specified services to a financial institution, whether under outsourcing arrangements or otherwise.

(3) A debarment order in respect of a natural person takes effect from—
(a) the date on which it is served on the person; or
(b) if the order specifies a later date, the later date.

(4) (a) A natural person who is subject to a debarment order may not engage in conduct that, directly or indirectly, contravenes the debarment order.
(b) Without limiting paragraph (a), a natural person who is subject to a debarment order contravenes that paragraph if the natural person enters into an arrangement with another person to engage in the conduct that directly or indirectly contravenes a debarment order on behalf of, or in accordance with the directions, instructions or wishes of, the natural person who is subject to the debarment order.

(5) A licensed financial institution that becomes aware that a debarment order has been made in respect of a natural person employed or engaged by the financial institution must take all reasonable steps to ensure that the debarment order is given effect to.

(6) The responsible authority that made a debarment order may, by order and on application by the debarred natural person—
(a) reduce the period of the debarment order; or
(b) revoke the debarment order.

(7) The responsible authority must publish each debarment order, and each order under subsection (6), that it makes.

Consultation requirements

154. (1) Before making a debarment order in respect of a natural person, the responsible authority must—
(a) give a draft of the debarment order to the person and to the other financial sector regulator, along with reasons for and other relevant information about the proposed debarment; and
(b) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(2) The period contemplated in terms of subsection (1)(b) must be at least one month.

(3) In deciding whether or not to make a debarment order in respect of a natural person, the responsible authority must take into account at least—
(a) any submission made by, or on behalf of, the person; and
(b) any advice from the other financial sector regulator.

Where person cannot be located

155. If a responsible authority after taking all reasonable steps, including through electronic means, cannot locate a person to be given a document or information under section 154 or a debarment order, delivering the document or information to the person’s last known e-mail or physical business or residential address will be sufficient.
(b) tlotse ka tsenelelo e kgolo tumalano e e gatelelweng e e neng e amogetswe ke bothati jo bo rwalang maikarabelo go ya ka karolo 151(1);

(c) lekile, logile maano a bosenyi le, thusitse, roloeditse, potlakisitse, tlohitlheletsitse kgotsa fitlheletse motho yo mongwe go tlola molao wa lephata la ditšhelete ka tsenelelo e kgolo; kgotsa

(d) tlotse ka tsenelelo e kgolo molao wa naga e sele o o tsamelaanang le molao wa lephata la ditšhelete.

(2) Taelo ya kganelo e tibela motho ka esi, mo nakong e e tsepamisitsiweng, jaaka go tsepamisitsiwse mo taelong ya kganelo, mo go—

(a) tlameleng, kgotsa mo go tsheyeng karolo mo kabelong ya, dikuno tse di tsepamisitsiweng tsa ditšhelete kgotsa ditirelo tsa ditšhelete, ka kakaretso kgotsa mo mabakeng a a tsepamisitsiweng mo taelong;

(b) direng jaaka motho wa bothokwa wa setheo sa ditšhelete; kgotsa

(c) tlameleng ditirelo tse di tsepamisitsiweng go setheo sa ditšhelete, ka gongwe ka fa tlase ga ditfulaganyo tsa go bona tirelo go tswa kwa ntle kgotsa ka mokgwa mongwe.

(3) Taelo ya kganelo mabapi le motho ka esi e simolola go dira—

(a) ka lethla leo e neetsweng motho ka esi; kgotsa

(b) fa taelo e tsepamisa lethla la morago, lethla la morago.

(4) (a) Motho ka esi yo o neetsweng taelo ya kganelo o ka a se amege mo boitshwarong jo bo, ka tlhalaloko kgotsa e seng ka tlhalaloko, tlolanang taelo ya kganelo.

(b) Go sa lekanetysetswa temana (a), motho ka esi o tlola temana ho fa motho ka esi a dira tumalang le motho yo mongwe ya ga amega mo boitshwarong jo ka tlhalaloko kgotsa e seng ka tlhalaloko bo tlolanang taelo ya kganelo, mo boemong jwa, kgotsa go tsamelaena le dintlha, ditaeo kgotsa diketelelo tsa, motho ka esi.

(5) Setheo sa ditšhelete se se abetsweng laesense se se lemogang gore taelo ya kganelo en ditšhelete ka kganelo e e tshitsintsweng; le

(a) fokotsa paka ya taelo ya kganelo; kgotsa

(b) gogela morago taelo ya kganelo.

(6) Bothati jo bo rwalang maikarabelo jo bo dirileleng taelo ya kganelo bo ka, ka taelo le ka tiriso ka motho ka esi—

(a) fokotsa paka ya taelo ya kganelo; kgotsa

(b) gogela morago taelo ya kganelo.

(7) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa taelo ngwe le ngwe ya kganelo, le taelo ngwe le ngwe ya fa tlase ga karolo (6), e bo e dirang.

Ditlhokego tsa therisano

154. (1) Pelego dirwa taelo ya kganelo mabapi le motho ka esi, bothati jo bo rwalang maikarabelo bo tshwanetse go—

(a) naya motho ka esi thalo ya taelo ya kganelo le go molaodi yo mongwe wa lephata la ditšhelete, mmogolo e le mabaka a le tshedimosetso e ngwe e e maleba ka ga, kganelo e e tsitsintsweng; le

(b) laletsa motho ka esi go dira ditlhagiso ka ga ntlha eo, le go mo naya nako e e lekaneng go dira jalo.

(2) Nako e e kailweng go ya ka karolotlaleletso (1)(b) e tshwanetse go mna bonnye kgwedi e le esi.

(3) Mo go swetseng ka ga go dira kgotsa go se dire taelo ya kganelo mabapi le motho ka esi, bothati jo bo rwalang maikarabelo bo tshwanetse go tsya tsia bonnye—

(a) tlhagiso ngwe le ngwe e e dirilweng ke, kgotsa mo boemong jwa, motho ka esi; le

(b) kgakololo ngwe le ngwe go tswa kwa molaoding yo mongwe wa lephata la ditšhelete.

Fa motho a sa kgone go fitlhelelwa

155. Fa bothati jo bo rwalang maikarabelo morago ga go tsya dikgato tse di maleba, go akarete le ka mokgwa wa seeleketoroni, bo sa kgone go fitlhelela motho gore a newe lokwalo kgotsa tshedimosetso ka fa tlase ga karolo 154 kgotsa taelo ya kganelo, thomelo ya lokwalo kgotsa tshedimosetso kwa atereseng ya motho e e itsegeng ya bofelo ya imele kgotsa ya kgwebo kgotsa ya bodulo e tla lekana.
Part 6

Leniency agreements

156. (1) The responsible authority for a financial sector law may, in exchange for a person’s co-operation in an investigation or in proceedings in relation to conduct that contravenes or may contravene that law, enter into a leniency agreement with the person, which may provide that the responsible authority undertakes not to impose an administrative penalty on the person in respect of the conduct.

(2) A leniency agreement with a person may provide that the agreement also applies to—

(a) specified persons in the service of, or acting on behalf of, the person; or

(b) specified partners and associates of the person.

(3) The responsible authority may not enter into a leniency agreement with a person unless it is satisfied that it is appropriate to do so, having regard, among other matters, to—

(a) the nature and effect of the contravention concerned;

(b) the nature and extent of the person’s involvement in the contravention; and

(c) the extent of the person’s co-operation.

(4) The responsible authority that enters into a leniency agreement must publish it, unless the responsible authority determines that the publication may—

(a) create an unjustifiable risk to the safety of a person; or

(b) prejudice an investigation into a contravention of a law.

(5) The responsible authority that enters into a leniency agreement may, by notice to the person with whom it entered into the agreement, terminate the agreement—

(a) if the person agrees;

(b) if the person gave the responsible authority false or misleading information in relation to entering into the agreement;

(c) if the person has failed to comply with the agreement; or

(d) in circumstances specified in the agreement.

CHAPTER 11

SIGNIFICANT OWNERS

Part 1

Significant owners

157. (1) Subject to subsections (3) and (4), a person is a significant owner of a financial institution if the person, directly or indirectly, alone or together with a related or inter-related person, has the ability to control or influence materially the business or strategy of the financial institution.

(2) Without limiting subsection (1), a person has the ability referred to in that subsection if—

(a) the person, directly or indirectly, alone or together with a related or inter-related person, has the power to appoint 15% of the members of the governing body of the financial institution;

(b) the consent of the person, alone or together with a related or inter-related person, is required for the appointment of 15% of the members of a governing body of the financial institution; or

(c) the person, directly or indirectly, alone or together with a related or inter-related person, holds a qualifying stake in the financial institution.
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Karolo 6

Ditumalano tsa kutlwelobotlhoko

156. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšihele bo ka, go kananyong ya tirisanommogoa ya motho mo patsisong kgotsa mo ditšamaisong tse di amanang le boitshwaro jo bo tlolang kgotsa jo bo ka tlolang molao oo, bo tsena mo tumalanong ya kutlwelobotlhoko le motho, e e ka tlamelang ka gore bothati jo bo rwalang maikarabelo bo ikana go se pateletse kothlao ya tsamaiso mo mothong mabapi le boitshwaro.

(2) Tumalano ya kutlwelobotlhoko le motho e ka tlamelà ka gore tumalano e diragatswa gape go—

(a) batho ba ba tsepamisitsweng mo tirelong ya, kgotsa go direng mo boemong jwa, motho; kgotsa
(b) badirisani ba ba tsepamisitsweng le batala bana ba motho.

(3) Bothati jo bo rwalang maikarabelo bo ka se tsene mo tumalanong ya kutlwelobotlhoko le motho ntle le fa bo kgotsotsetse gore go matshwanedi go dira jalo, ka go elà thhoko, magareng ga merero e mengwe—

(a) tlhologo le ditalomoro tsa tlolo e e kaiwang;
(b) tlhologo le bogolo jwa botsayakarolo jwa motho mo tlolong; le
(c) bogolo jwa tirisanommogoa ya motho.

(4) Bothati jo bo rwalang maikarabelo jo bo tsenang mo tumalanong bo tlhomamisa gore phasalatse e ka—

(a) tlhola kotsi e e sa siamang mo tshireletsegong ya motho; kgotsa
(b) gobelela patsisong go tlolo ya molao.

(5) Bothati jo bo rwalang maikarabelo jo bo tsenang mo tumalanong ya kutlwelobotlhoko bo ka, ka kitisiso go motho yo bo dirileng tumalanong nne, khutlisa tumalan—

(a) fa motho a dumela;
(b) fa motho a neetse bothati jo bo rwalang maikarabelo tshedimosetse e e fosaqetseng kgotsa e e timetsang mabapi le go tsena mo tumalanong;
(c) fa motho a paletswe ke go ikamanya le tumalano; kgotsa
(d) mo mabakeng a a tsepamisitsweng mo tumalanong.

KGAOLO II

BENG BA BA BOTLHOKWA

Karolo 1

Beng ba ba botlhokwa

157. (1) Go latela dikarolotlaleletso (3) le (4), motho ke mong yo o botlhokwa wa setheosa ditšihele fà motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka nosi kgotsa mmogo le motho yo a amanang kgotsa ka kamano ya segareng le motho, a na le bokgoni jwa go laola le go tlhotlheletsa segolo kgwebo kgotsa leano la setheo sa ditšihele.

(2) Ntle le go lekanyetsa karolotlaleletso (1), motho o na le bokgoni jo bo kaivweng mo karolotlaleletso eoa fà—

(a) motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka nosi kgotsa mmogo le motho yo a amanang kgotsa ka kamano ya segareng le motho, a na le thata ya go thapa 15% ya maloko a mokgatlho o o busang wa setheo sa ditšihele;
(b) tumelelo ya motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa ka kamano ya segareng le motho, e a tlhukega mo go thihipweng ga 15% ya maloko a mokgatlho o o busang wa setheo sa ditšihele; kgotsa
(c) motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka nosi kgotsa mmogo le motho yo o amanang kgotsa ka kamano ya segareng le motho, o fithelela ditlhokego tsa go nna karolo ya setheo sa ditšihele.
(3) The Minister, the Reserve Bank and a financial sector regulator are not, in those capacities, significant owners of a financial institution.

(4) (a) A financial sector regulator may, with the concurrence of the other financial sector regulator and on application, declare a person not to be a significant owner of—
   (i) an eligible financial institution;
   (ii) the manager of a collective investment scheme; or
   (iii) a financial institution prescribed in terms of Regulations made for the purposes of this paragraph.

(b) A financial sector regulator may not make a declaration or give its concurrence to a declaration in terms of paragraph (a), unless the financial sector regulator is satisfied that—
   (i) the declaration will not prejudice the achievement of the financial sector regulator’s objective as set out in either section 33 or 57; and
   (ii) it is not necessary to apply the requirements of this Chapter to the person.

(c) A financial sector regulator may, with the concurrence of the other financial sector regulator, revoke a declaration that it made in terms of paragraph (a).

(d) Before a financial sector regulator revokes a declaration that was made in terms of paragraph (a), the financial sector regulator must—
   (i) give the person who has been declared not to be a significant owner a notice of the proposed action and a statement of the reasons for it; and
   (ii) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(e) The period referred to in paragraph (d)(ii) must be at least one month.

(f) In deciding whether to revoke a declaration, the financial sector regulators must take into account all submissions made within the period specified in the notice in terms of paragraph (d).

(g) If the delay involved in complying, or complying fully, with paragraph (d) in respect of a proposed revocation is likely to prejudice financial customers, prejudicially affect financial stability or defeat the object of the revocation, the financial sector regulators may revoke the declaration without having complied, or complied fully, with that paragraph.

(h) If the financial sector regulators revoke a declaration in terms of paragraph (a) without having complied, or complied fully, with paragraph (d) for the reason set out in paragraph (g), they must give the person a written statement of the reasons why paragraph (d) was not complied with.

(i) The person may make submissions to the financial sector regulator within one month after being provided with the statement.

(j) The financial sector regulators must consider the submissions, and notify the person, as soon as practicable, whether they propose to make another declaration in terms of paragraph (a) in relation to the person and the financial institution.

(k) A declaration, and a revocation of a declaration, in terms of this subsection must be published.

**Approvals and notifications relating to significant owners**

158. (1) For the purposes of this section, a financial institution refers only to—
   (a) an eligible financial institution;
   (b) a manager of a collective investment scheme; and
   (c) a financial institution prescribed in Regulations made for the purposes of this section.

(2) A person may not effect any arrangement that will result in the person, alone or together with a related or inter-related person, becoming a significant owner of a financial institution, without the prior written approval of the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed.

(3) A significant owner of a financial institution—
   (a) which has been designated as a systemically important financial institution, may not, without having obtained the prior written approval of the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed, effect any arrangement that will result in the person,
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(3) Tona, Banka ya Resefe le boloaedi jwa lephata la ditšhelete ga se, mo maemong ao, beng ba ba botlhokwa ba setheo sa ditšhelete.

(4) (a) Molaoedi wa lephata la ditšhelete o ka, ka tumalano le boloaedi jo bongwe jwa lephata la ditšhelete le ka kopo, swetsa gore motho ga se mong yo o botlhokwa wa—

(i) setheo sa ditšhelete se se matshwanedi;

(ii) molaedi sekema sa peeletsommmogo; kgotsa

(iii) setheo sa ditšhelete se se neetsweng go ya ka Melawana e e dirilweng mabapi le maiitlhomo a temana eno.

(b) Molaoedi wa lephata la ditšhelete o ka se dire thlomamiso kgotsa go se dumelele thlomamiso go ya ka temana (a), ntle le fa molaoedi wa lephata la ditšhelete a kgotsotsete gore—

(i) thlomamiso e ka se gobelele phitšhelelo ya maikaelelo a molaoedi wa lephata la ditšhelete jaaka go tlhagisitswe mo karolong 33 kgotsa 57, le

(ii) ga go tlhokege go dirisa tlhokheko ga Kgaolo eno mo mothong.

(c) Molaoedi wa lephata la ditšhelete o ka, ka tumalano le boloaedi jo bongwe jwa lephata la ditšhelete, gogela morago thlomamiso e a e dirileng go ya ka temana (a).

(d) Pele ga molaoedi wa lephata la ditšhelete a gogela morago thlomamiso mabapi le motho e e dirilweng go ya ka temana (a), molaoedi wa lephata la ditšhelete o tšwanetse go—

(i) naya motho yo o tlhomasitsweng go se nne mong yo o botlhokwa kitsa yo kgato e e tšitsitsweng le polelo ya mabaka a yona; le

(ii) laletsa motho go dira tlhagisitswe ka ga morero, le go nayo motho nako e e lekaneng go dira jalo.

(e) Paka e e kalweng mo temaneng (d)(ii) e tšwanetse go mma bonnye kgwedi e le esi.

(f) Mo go swetseng ka ga go gogela morago thlomamiso, balaodi ba lephata la ditšhelete ba tšwanetse go tsaya tsia tlhagisitswe tsothle tse di dirilweng mo pakeng e e tsepmamisitsweng mo kitsisong go ya ka temana (d)(ii).

(g) Fa tiego e e amangang le go ikamanya, kgotsa go ikamanya ka botlalo, le temana (d) mabapi le kgogelomorago e e tsitsitsiweng e lebega e e lela ka kgobelela barekedi ba ditšhelete, e e laamang ka kgobelelo tsepmo ya ditšhelete kgotsa ya fenya maikaelelo a kgogelomorago, balaodi ba lephata la ditšhelete b aka gogela morago thlomamiso ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le temana e o.

(h) Fa balaodi ba lephata la ditšhelete ba gogela morago thlomamiso go ya ka temana (a) ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le temana (d) ka lebaka le e tlhagisitswiswe (a), ba tšwanetse go nayo motho polelo e e kwetsweng ya mabaka a gore gore go se ikamanyangga le temana (d).

(i) Motho o ka dire tlhagisitswe kwa molaeding wa lephata la ditšhelete mo kgwededing e le esi morago go ga newa polelo.

(j) Balaodi ba lephata la ditšhelete ba tšwanetse go sekakẹsa tlhagisitswe, le go itisiso batho, ka bonako jo bo kgonegeng, gore a e tšitsitswe ya gora tlhagisitswe e ngwe go ya ka temana (a) mabapi le motho le setheo sa ditšhelete.

(k) Thlomamiso, le kgogelomorago ya thlomamiso, go ya ka karolotlaletlelo eno di tšwanetse go phasalatswa.

Dithebolo le dikitsiso tse di amanang le beng ba ba botlhokwa

158. (1) Mabapi le maiitlhomo a karolo eno, setheo sa ditšhelete se kaya fela—

(a) setheo sa ditšhelete se se matshwanedi;

(b) molaoedi wa sekema sa tsadisommomo; le

(c) setheo sa ditšhelete se se neetsweng mo Melawaneng e e dirilweng mabapi le maiitlhomo a karolo eno.

(2) Motho o ka se lere ditlamorago mo thulaganyong tse di ka dirang gore, motho, ka nosi kgota moso le motho yo a amanang kgota ka karolong ya seakeng, e nne mong yo o botlhokwa wa setheo sa ditšhelete, ntle le thebolo e e kwetsweng ya pele ya bothati jo bo rwalang maikaerealolo mabapi le moelo wa lephata la ditšhelete o go ya ka ona setheo sa ditšhelete se tlhokhekgagang go abelwa laesense.

(3) Mong yo o botlhokwa wa setheo sa ditšhelete—

(a) se se sa tlhongwang jaaka setheo sa thulaganyetsa ya botlhokwa, se ka se, ntle le go fitšhelela thebolo e e kwetsweng ya pele ya bothati jo bo rwalang maikaerealolo mabapi le moelo wa lephata la ditšhelete o ka ona ditheo sa ditšhelete di tšwanetsego abelwa dilaesense, diragase thulaganyo epe e ka mma le ditlamorago tsa, motho, ka nosi kgota moso le motho yo o
alone or together with a related or inter-related person, ceasing to be a
significant owner of the financial institution; and

(b) which has not been designated as a systemically important financial
institution, may not, without prior notification to the responsible authority for
the financial sector law in terms of which the financial institution is required
to be licensed, effect any arrangement that will result in the person, alone or
together with a related or inter-related person, ceasing to be a significant
owner of the financial institution.

(4) A person may not effect any arrangement that will result in the person, alone or
together with a related or inter-related person, increasing or decreasing the extent of the
ability of the person, alone or together with a related or inter-related person, to control
or influence materially the business or strategy of the financial institution—
(a) without having obtained the prior written approval of the responsible
authority for the financial sector law in terms of which the financial institution
is required to be licensed, if the responsible authority on granting of an
approval referred to in subsection (2), required its prior written approval of
any such increase or decrease; or

(b) without the prior notification to the responsible authority for the financial
sector law in terms of which the financial institution is required to be licensed,
if the responsible authority on granting of an approval referred to in
subsection (2), did not require its prior written approval of any such increase
or decrease.

(5) An arrangement referred to in subsection (2), (3) or (4) need not involve the
acquisition of, or disposition of, shares or other interests or property.

(6) If a person enters into an arrangement in contravention of subsection (2), (3) or
(4), the arrangement, in so far as it has an effect mentioned in the relevant subsection, is
void.

(7) An approval in terms of subsection (2), (3) or (4) may not be given unless the
responsible authority is satisfied that—
(a) the person becoming a significant owner, or the arrangement, or any increase
or decrease in the extent of the ability of the significant owner to control or
influence the business or strategy of the financial institution will not
prejudicially affect or is not likely to affect the prudent management and the
financial soundness of the financial institution; and

(b) the person meets and is reasonably likely to continue to meet applicable fit and
proper person requirements.

(8) The Financial Sector Conduct Authority may not give approval in terms of
subsection (2) or (4) in respect of an eligible financial institution that is a market
infrastructure without the concurrence of the Prudential Authority and the Reserve
Bank.

(9) A prudential standard, a conduct standard or a joint standard may prescribe
procedures in respect of applications for approvals and notifications in terms of this
section.

(10) This section does not affect any other requirement in terms of a financial sector
law to obtain approval or consent in respect of an acquisition or disposal.

Standards in respect of, and regulator’s directives to, significant owners

159. (1) In addition to the powers in Part 2 of Chapter 7 to make standards,—

(a) a financial sector regulator must make standards, that must be complied with
by significant owners of financial institutions, with respect to fit and proper
person requirements, including in relation to—

(i) personal character qualities of honesty and integrity;
(ii) competence, including experience, qualifications and knowledge; and
(iii) financial standing; and

(b) the financial sector regulators must make joint standards specifying what
constitutes, “an increase or a decrease in the extent of the ability of the person,
alone or together with a related or inter-related person, to control or influence
amanang kgotsa motho wa kaman ya segareng, a emisang go nna mong yo o bothlokwa wa setheo sa ditshelete; le

(b) se se sa llhongwang jaaka setheo sa thulaganyetso ya bothlokwa, se ka se, ntle le go itsise pele bothathi jo bo rwalang maikarabelo mabapi le molao wa lephata la ditshelete o ka ona ditheo tsa dithelete di tshwanetseng go abelwa dilaaesense, diragatse thulaganyo epe e ka nnaang le ditlamorago tsa, motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kaman ya segareng, a emisang go nna mong yo o bothlokwa wa setheo sa ditshelete.

(4) Motho o ka se diragatse thulaganyo epe e ka nnaang le ditlamorago tse mo go tsona motho, ka nosi ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kaman ya segareng, a fokotsang kgotsa godisang bogolo jwa bokgoni jwa motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kaman ya segareng, jwa go go laola kgotsa go tlholhleletsatsa maatla kgwebo kgotsa leano la setheo sa ditshelete—

(a) ntle le go fithilelela thebolo e e kwetsweng ya pele ya bothathi jo bo rwalang maikarabelo mabapi le molao wa lephata la ditshelete o go ya ka ona setheo sa ditshelete se thlokabg go abelwa laesense, fa bothathi jo bo rwalang maikarabelo fa o abelana ka thebolo e e kailweng mo karolotlaleletsong (2), bo thloka thebolo e e kwetsweng ya pele ya koketso kgotsa phokotso ngwwe le ngwwe eo; kgotsa

(b) ntle le thebolo e e kwetsweng ya pele ya bothathi jo bo rwalang maikarabelo mabapi le molao wa lephata la ditshelete o go ya ka ona setheo sa ditshelete se thlokabg go abelwa laesense, fa bothathi jo bo rwalang maikarabelo fa o abelana ka thebolo e e kailweng mo karolotlaleletsong (2), ga bo thlhe thebolo e e kwetsweng ya pele ya koketso kgotsa phokotso ngwwe le ngwwe eo.

(5) Thulaganyo e e kailweng mo dikarolotlaleletsong (2), (3) kgotsa (4) ga di tlhoke go akaretsa phithilelelo ya, kgotsa thulaganyo ya dišere kgotsa merokotso e mungwe kgotsa theo

(6) Fa motho a dira thulaganyo e e tloang dikarolotlaleletsong (2), (3) kgotsa (4), thulaganyo, jaaka go thalositswe gore e na le ditlamorago mo dikarolotlaleletsong tse di maleba, ga e dire.

(7) Thebolo go ya ka dikarolotlaleletso (2), (3) kgotsa (4) e ka se dirwe ntle le fa bothathi jo bo rwalang maikarabelo bo netefaditse gore—

(a) motho yo o nang mong yo o bothlokwa, kgotsa thulaganyo, kgotsa koketsego kgotsa phokotsego mo bogolong jwa bokgoni jwa mong yo o bothlokwa jwa go laola kgotsa go tliholhleletsatsa kgwebo kgotsa leano la setheo sa ditshelete o ka se ame ka kgbelelo kgotsa o ka ama taolo ya bothlokwa le tlhomo mo ditshelete ya setheo; le

(b) motho o fithilelele e bile o ka tswelela go fithilelela ditlhokego tse di maleba tsa motho yo o itekanetseng ka nepagalo.

(8) Bothathi jwa Bothisha jwa LePhata la Ditshelete bo ka se rebole go ya ka karolotlaleletsong (2) kgotsa (4) mabapi le sethele se sa ditshelete se se mashelese se e le pakatla gatla ya, "kgotsa kgotsa phokotsego mo bogolong jwa bokgoni jwa mong yo o ditlamorago tloang dikarolotlaleletsong tse di maleba".

(9) Maemo a tlhokomelo, maemo boithisho kgotsa maemo a kopanelo a ka nelana ditlamorago mabapi le dikopo mabapi le ditaelo tsa bolaodi go beng ba ba botlhokwa 159.

(10) Karolo eno ga e ame thlheko epe go ya ka molao wa lephata la ditshelete ya go fithilelela thebolo kgotsa tumelelo mabapi le phithilelelo kgotsa thulaganyo.

Maemo mabapi le, le ditaelo tsa balaodi go bent ba ba bothlokwa

159. (1) Mo tlaleletsong ya dithata mo Karolong 2 ya Kgaolo 7 tsa go dira maemo—

(a) molao di lephata la ditshelete o tshwanetseng go dira maemo, ao bent ba ba bothlokwa ba ba ditheo tsa dithelela ba tshwanetseng go ikamanya le ona, mabapi le ditlhokego tsa baltho ba ba itekanetseng ka nepagalo, go akaretsa le mabapi le—

(i) dinoono tsa botho jwa motho tsa boikanye le tshiamo;

(ii) bokgoni, go akaretsa le nonofo, boithutelo le kitso; le

(iii) kemo ya tsa dithelete; le

(b) balaodi ba lephata la ditshelete ba tshwanetse go dira maemo a a kopatsweng a a tsepamisang popego ya, "koketsego kgotsa phokotsego mo bogolong jwa bokgoni jwa motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa wa
materially the business or strategy of the financial institution”, as referred to in section 157(1) and section 158(4).

(2) (a) A financial sector regulator may issue to a significant owner of a financial institution a written directive requiring the significant owner to take action specified in the directive if the institution has contravened or is likely to contravene a financial sector law for which the financial sector regulator is the responsible authority.

(b) A directive in terms of paragraph (a) must be aimed at stopping the institution from contravening the financial sector law, or reducing the risk of such a contravention.

(3) In addition to subsection (2), a financial sector regulator may issue a directive to a significant owner of a financial institution, and to the financial institution, requiring them—

(a) to prepare and submit to the financial sector regulator a plan that is satisfactory to the financial sector regulator, under which the significant owner will, within a period that is acceptable to the financial sector regulator, cease to be a significant owner of the financial institution; and

(b) on the financial sector regulator’s approval of the plan, to implement the plan.

CHAPTER 12

FINANCIAL CONGLOMERATES

Designation of financial conglomerates

160. (1) The Prudential Authority may designate members of a group of companies as a financial conglomerate.

(2) A financial conglomerate designated in terms of subsection (1) must include both an eligible financial institution and a holding company of the eligible financial institution, but need not include all the members of the group of companies.

(3) Without detracting from section 3(3) and (4) of the Promotion of Administrative Justice Act, and despite section 3(5) of that Act, before designating members of a group of companies as a financial conglomerate in terms of subsection (1), the Prudential Authority must—

(a) give the holding company of the eligible financial institution notice of the proposed designation and a statement of the purpose of and the reasons why the designation is proposed; and

(b) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(4) The Prudential Authority must consult the Financial Sector Conduct Authority in connection with any designation in terms of subsection (1).

(5) A designation in terms of subsection (1) must be for the purpose of facilitating the prudential supervision of the eligible financial institution.

(6) In deciding whether to designate members of a group of companies as a financial conglomerate in terms of subsection (1), the Prudential Authority must take into account all relevant considerations, including at least the following:

(a) the risk to effective prudential supervision of the eligible financial institution from the structure of the group of companies;

(b) submissions made by or for the holding company; and

(c) any other matters that may be prescribed by Regulation.

(7) The Prudential Authority may designate members of a group of companies as a financial conglomerate in terms of subsection (1) without having complied, or complied fully, with subsection (3) if it is reasonable and justifiable in the circumstances as contemplated in section 3(4)(a) and (b) of the Promotion of Administrative Justice Act and the delay involved in complying, or complying fully, with that subsection in respect of a proposed action is likely to lead to material prejudice to financial customers, prejudicially affect financial stability or defeat the object of the designation.
kamano ya segareng, go laola kgotsa go tlhotleletseng segolo kgwebo kgotsa leano la setheo sa ditšheletse”, jaaka go kailwe mo karolong 157(1) le mo karolong 158(4).

(2) (a) Molao wa lephata la ditšhelete o ka rebolola mong yo o botlhokwa wa setheo sa ditšheletse taelo e e kwetsweng e e laelang mong yo o botlhokwa go tsanya kgato e e tsepanatisweng mo taelong fa setebo se tlotse kgotsa se ka tlola molao wa lephata la ditšheletse o molao wa lephata la ditšhelete le leng bothi jo bo rwa a la maikarabelo.

(b) Taelo go ya ka temana (a) e tshwanetse go lebiswa kwa go thibela ine ng setheo sa ditšhelele mo go tloeng molao wa lephata la ditšhelete, kgotsa go fokotsa kotsi ya tlolo eo.

(3) Mo go tlatseng karolotlalelele (2), molao wa lephata la ditšhelete o ka rebola taelo go mong yo o botlhokwa wa setheo sa ditšhelete, le kwa setheong sa ditšhelete, a kopa gore di—

(a) baakanye le go rumelela molao wa lephata la ditšhelete leano le le kgotsofatsang molao wa lephata la ditšhelete, leo ka fa tslave ga lona mong yo o botlhokwa a tla, mo nakong e e amogelesengag go ya ka molao wa lephata la ditšhelete, khutlisa go nna mong yo o botlhokwa wa setheo sa ditšhelete; le

(b) ka thebolo ya molao ya leano, go tseny a leano mo tirison.

KGAOLO 12

DITHEO TSA DI KOPANTSWENG TSA DITŠHELETE

Go thapiwa ga ditheo sa ditšhelete tse di

166. (1) Bothathi jwa Tlhokomelo bo ka supa maloko a setlhophsa sa ditlamo jaaka setheo se se kopantsweng sa ditšhelete.

(2) Setheo se se kopantsweng sa ditšhelete se se supilweng go ya ka karolotlalelele (1) se tshwanetse go akaretsa ka bobedi setheo se se matshwanedi sa ditšhelete le setlamo se se laelang sa setheo se se matshwanedi sa ditšhelete, mme ga ga tshoko go akaretsa maloko otlhe a setlhophsa sa ditlamo.

(3) Ntle le go lapoga mo karolong 3(3) le (4) ya Molao wa Tswelelelela Tshiamo ya Tsamaiso, le ntle le karolo 3(5) ya Molao, pele go supiwa maloko a setlhophsa sa ditlamo jaaka setheo se se kopantsweng sa ditšhelete go ya karolotlalelele (1), Bothathi jwa Tlhokomelo bo tshwanetse go—

(a) naya setlamo se se okameng tse dingwe sa setheo se se matshwanedi sa ditšhelete kitsiso ya ts hup e e e tshitsintsweng le polelo ya matlhomo a le mabaka a gore goreng tshup e e tshitsintsw; le

(b) laletsa setlamo se se okameng tse dingwe go dira ditlhagiso ka ga morero, le go nelela ka nako e e lekaneng go dira jalo.

(4) Bothathi jwa Tlhokomelo bo tshwanetse go risana le Bolaodi jwa Boitshwaro jwa Le phata la Ditšhelete mabapi le tshup e ngwe le ngwe go ya ka karolotlalelele (1).

(5) Tshup e go ya ka karolotlalelele (1) e tshwanetse go nna ya matlhomo a go nolofatsa thokomelo e e manontlhotlo ya setheo se se matshwanedi sa ditšhelete.

(6) Mo go swetseng ka ga go supa maloko a setlhophsa sa ditlamo jaaka ditheo tse di kopantsweng tsa ditšhelete go ya ka karolotlalelele (1), Bothathi jwa Tlhokomelo bo tshwanetse go ela tshoko ditlhokatsheko e silo, go akaretsa le bonny tse di laelang:—

(a) Kotsi ya thalihlobelo e e nonofileng ya setheo se se matshwanedi sa ditšhelete go tswa mo Popegong ya setlhophsa sa ditlamo;

(b) ditlhagiso tse di dirilweng ke kgotsa mabapi le setlamo se se okameng tse dingwe; le

(c) merero mengwe le mengwe e e ka neelweng ke Molawana.

(7) Bothathi jwa Tlhokomelo bo ka supa maloko a setlhophsa sa ditlamo jaaka setheo se se kopantsweng sa ditšhelete go ya ka karolotlalelele (1) ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlalelele (3) fa go utlwagala kgotsa ka mabaka mo maemong jaaka go tlhaloisiwse mo karolong 3(4)/ (a) le (b) ya Molao wa Tswelelelela Tshiamo ya Tsamaiso le tiego e e e nnileng teng mo go ikamanyeng, kgotsa mo go ikamanyeng ka botlalo, le karolotlalelele ecomabapi le kgato e e e tshitsintsweng e e le re kgobelelo e e e tseleleseng mo barekeding ba ditšhelete, ya ama ka kgobelelo tsepamo ya ditšhelete kgotsa maithlomo a tshup e.
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

(8) (a) If the Prudential Authority designates members of a group of companies as a financial conglomerate in terms of subsection (1) without having complied, or complied fully, with subsection (3), the holding company of the designated financial conglomerate must be given a written statement of the reasons why that subsection was not complied with.

(b) The holding company may make submissions to the Prudential Authority within one month after being provided with the statement.

(c) The Prudential Authority must have regard to the submissions, and notify the holding company, as soon as practicable, whether the Prudential Authority proposes to amend or revoke the designation.

(9) The Prudential Authority must continually reassess designations made, or any decision not to make a designation, in terms of subsection (1), and consider making a designation or reconsider the terms of any designation made if the Prudential Authority becomes aware of a change in the risk profile of the members of a group of companies or a designated financial conglomerate.

(10) (a) Without detracting from section 3(3) and (4) of the Promotion of Administrative Justice Act, and despite section 3(5) of that Act, the Prudential Authority may amend or revoke a designation in terms of subsection (1) by notice to—

(i) the holding company of a financial conglomerate; and

(ii) any companies that are not currently designated as part of a financial conglomerate, but which it is proposed to include as part of a currently designated financial conglomerate.

(b) A notice referred to in paragraph (a) must—

(i) include a statement of the purpose of and the reasons why the amendment to or revocation of the designation is proposed; and

(ii) invite the entities referred to in paragraph (a) to make submissions on the matter, and give a reasonable period to do so.

(11) The Prudential Authority must publish each designation made in terms of this section, and each amendment and revocation of a designation.

Notification by eligible financial institution

161. (1) An eligible financial institution must, within 30 days of becoming part of a group of companies, notify the Prudential Authority of that event.

(2) A notification in terms of subsection (1) must be in the form determined by the Prudential Authority, completed in accordance with the instructions on the form, and be accompanied by any information that the Prudential Authority may determine.

(3) If an eligible financial institution contravenes subsection (1), the holding company of the financial institution commits the same contravention.

Licensing requirements for holding companies of financial conglomerates

162. (1) (a) The Prudential Authority may, by notice to a holding company of a financial conglomerate, require the holding company to be licensed in terms of this Act.

(b) A notice referred to in paragraph (a) must—

(i) include a statement of the purpose of and the reasons why the requirement for the holding company to be licensed is proposed; and

(ii) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(2) Subsection (1) does not apply to a holding company that is licensed in terms of a financial sector law.

(3) A requirement in terms of subsection (1) must be for the purpose of enabling the Prudential Authority to exercise its powers with respect to the financial conglomerate, to enhance the safety and soundness of the eligible financial institution.

(4) A holding company given a notice in terms of subsection (1) must comply with the requirements of the notice.
Molao wa Taolo ya Lephata la Ditshelete, 2017

GOVERNMENT GAZETTE, 22 AUGUST 2017

No. 41060 173

(8) (a) Fa Bothati jwa Tlhokomelo bo supa maloko a setlhophsa da ditlamo jaaka setheo se se kopantsweng go ya ka karolotlaleteso (1) ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleteso (3), setlamo se se okameng sa setheo se se kopantsweng sa diitšhelete se se supilweng se tshwanetse go abelwa polelo e e kwetsweng ya mabaka a gore goreng go sa ikamangngwa le karolotlaleteso eo.

(b) Setlamo se se okameng tse dingwe se ka direla Bothati jwa Tlhokomelo ditlhagiso mo kgwedeng e le esi morago ga go abelwa polelo.

(c) Bothati jwa Tlhokomelo bo tshwanetse gotsaya ditlhagiso tsia, le go itsise setlamo se se okameng tse dingwe, ka bonako jo bo kgonegang, gore a Bothati jwa Tlhokomelo bo tshitsinya go tlhobola kgotsa go gogela morago tshupo.

(9) Bothati jwa Tlhokomelo bo tshwanetse go sekasekagape nako le nako ditshuppo tse di dirilweng, kgotsa tshwetswe nngwe le nngwe ya go se dire tshupo, go ya ka karolotlaleteso (1), le go akanya ka go dira tshupo kgotsa go sekasekagape dipeelo tsa tshupo e e dirilweng fa Bothati jwa Tlhokomelo bo lemoga ka phetogo mo poroafoeleng ya kotsi ditokololo tsa setlhophsa da ditlamo kgotsa go tshite tse di kopantsweng tsa diitšhelete tse di supilweng.

(10) (a) Ntle le go fapoga mo karolong 3(3) le (4) ya Molao wa Tšweletso ya Tšhaismo ya Tsamaiso, le ntle le karolo 3(5) ya Molao, Bothati jwa Tlhokomelo bo ka tlhabolola kgotsa gogela morago tshupo go ya ka karolotlaleteso (1) ka kitsiso go—

(i) setlamo se se okameng sa setheo se se kopantsweng sa diitšhelete; le

(ii) ditlamo dingwe le dingwe tse ga jaana di sa supiwaŋ jaaka karolo ya setheo se se kopantsweng sa diitšhelete, mme tse go tshitsintsweng gore di ka akaretswa jaaka karolo ya setheo se se kopantsweng sa diitšhelete se ga jaana.

(b) Kitsiso e e kalweng mo temaneng (a) e tshwanetse go—

(i) akaretse polelo ya matlhomo a mabaka a goreng tlhabololo kgotsa kgogelomorago e tshitsintswes; le

(ii) laletsa ditheo tse di kalweng mo temaneng (a) go dira ditlhagiso ka ga morero, le go neelana ka nako e lekane go dira jalo.

(11) Bothati jwa Tlhokomelo bo tshwanetse go phasalatsa tshupo nngwe le nngwe e e dirilweng fa Bothati jwa karolo eno, le tlhabololo kgwego le nngwe kgogelomorago ya tshupo.

Kitsiso ka setheo sa ditshelete se se matshwanedi

161. (1) Setheo se se matshwanedi sa diitšhelete se tshwanetse, mo matsatsing a le 30 a go mma karolo ya setlhophsa da ditlamo, go itsise Bothati jwa Tlhokomelo ka ga tiragalo eo.

(2) Kitsiso go ya ka karolotlaleteso (1) e tshwanetse go mma mo foromong e e tshhamasitsweng ke Bothati jwa Tlhokomelo, e tladitswe go tsamaelana le ditaelo tse di mo foromong, le go romelwa le tshedimose tshwetswe le nngwe e e ka tshhamasitsweng ke Bothati jwa Tlhokomelo.

(3) Fa setheo se se matshwanedi sa diitšhelete se tšla ko karolotlaletseo (1), setlamo se se omang tse dingwe se setheo se diitšhelete se dira tšla e e tshwaneng le eo.

Tlhokego ya kabo ya laesense go dikwebo tse di okameng tse dingwe tsa ditheo tse diitšhelete tse dikopaneng

162. (1) (a) Bothati jwa Tlhokomelo bo ka, ka kitsiso go setlamo se se laolang sa setheo se se kopantsweng sa diitšhelete, lopa gore setlamo se se laolang se abelwe laesense go ya ka Molao ono.

(b) Kitsiso e e kalweng mo temaneng (a) e tshwanetse go—

(i) akaretse polelo ya matlhomo a mabaka a goreng tlhokego gore setlamo se se omang se abelwe laesense a tshitsintswes; le

(ii) laletsa setlamo se se omang go dira ditlhagiso ka ga morero, le go neelana ka nako e lekaneng go dira jalo.

(2) Karolotlaletseo (1) ga e diriswe mo setlamoeng se se laolang se se abetsweng laesense go ya ka Molao wa Lephata la Ditshelete.

(3) Tlhokego go ya ka karolotlaletseo (1) e tshwanetse go mma ya matlhomo a go dira gore Bothati jwa Tlhokomelo bo diragatse dithatha tsa jona mabapi le setheo se se kopantsweng sa diitšhelete, go oketsa poloko go le itsamela la setheo se se matshwanedi sa diitšhelete.

(4) Setlamo se se laolang se se neilweng kitsiso go ya ka karolotlaletseo (1) se tshwanetse go ikamanya le ditlhagiso tsa kitsiso.

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(5) (a) If—
(i) the Prudential Authority gives a holding company a notice in terms of subsection (1); or
(ii) a holding company is licensed in terms of a financial sector law, each other member of the group of companies in the financial conglomerate, including the eligible financial institution, must, on demand by the holding company, provide any information to the holding company that is needed to enable the holding company to comply with its obligations in terms of this Act or a specific financial sector law.

(b) To give effect to paragraph (a), a holding company of a financial conglomerate must impose binding corporate rules on, or enter into a binding agreement with, members of the conglomerate, that includes terms regarding the processing of information, including personal information, within the financial conglomerate.

Non-operating holding companies of financial conglomerates

163. (1) (a) The Prudential Authority may, by notice to a holding company of a financial conglomerate, require that the holding company be a non-operating company. (b) A notice referred to in paragraph (a) must—
(i) include a statement of the purpose of and the reasons why the requirement for the holding company to be a non-operating company is proposed; and
(ii) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(2) A requirement in terms of subsection (1) must be for the purpose of managing more effectively risks to the safety and soundness of the eligible financial institution arising from the other members of the financial conglomerate.

(3) In deciding whether to impose a requirement that a holding company be a non-operating company in terms of subsection (1), the Prudential Authority must take into account all relevant considerations, including at least the following:
(a) The risks to the safety and soundness of the eligible financial institution arising from the other members of the financial conglomerate;
(b) submissions made by or for the holding company; and
(c) any other matters that may be prescribed by Regulation.

(4) A holding company that is given a notice in terms of subsection (1) must comply with the requirements of the notice.

Standards for financial conglomerates

164. (1) The power of the Prudential Authority to make prudential standards extends to making prudential standards that must be complied with by holding companies of financial conglomerates.

(2) In addition to the matters referred to in sections 105 and 108, a prudential standard contemplated in subsection (1) may include requirements with respect to—
(a) financial or other exposures of companies within financial conglomerates;
(b) the governance and management arrangements for holding companies of financial conglomerates;
(c) reporting of information about companies within financial conglomerates that are not financial institutions; and
(d) reducing or managing risks to the safety and soundness of an eligible financial institution arising from the other members of the financial conglomerate.

(3) The power of the Financial Sector Conduct Authority to make conduct standards extends to making such standards to be complied with by holding companies of financial conglomerates.
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(5) (a) Fa—

(i) Botthi jwa Tlhokomelo bo ka, ka kitsiso go setlamo se se laolang kitsiso go ya ka karololaleletso (1); kgotsa

(ii) setlamo se se laolang se abetswe laesense go ya ka molao wa lephata la ditšhelete,

leloko lengwe le lengwe la sethopho sa ditlamo mo setheoeg se se kopantsweng sa ditšhelete, (go akaretseta le setheo sa ditšhelete se se matshwanedi) le tshwanetse, ka pateletso ka setlamo se se laolang, go tlamelalatsetla lemala sethopho sa se laolang ka tshedimosetseng ngwe le ngwe e e tlohekgang go kgontsha setlamo se se laolang go ikamanya le le ditlamego tsa sone go ya ka Molao ono kgotsa molao o o tsepmang wa lephata la ditšhelete.

(b) Go tsenywa mo tirisong temana (a), setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete se tshwanetse go pateletsa melawana e e tlamang ya ditlamego ka ga, kgotsa go dira tumalano e e tlamang le, maloko a setheo se se kopantsweng sa ditšhelete, e e akaretseta dipelo mbapite le tiragatso ya tshedimosetseng, go akaretsetsa tshedimosetseng ya bowena, mo setheoeg sa ditšhelete se se kopantsweng.

Dikgwebo tse di okameng tse dingwe tse di sa direng tsa ditheo tsa ditšhelete tse di kopaneng

163. (1) (a) Botthi jwa Tlhokomelo bo ka, ka kitsiso go setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete, lopa setheo se se laolang go nna setheo se se sa direng.

(b) Kitsiso e e kailweng mo temaneng (a) e tshwanetse go—

(i) akaretseta polelo ya matlhomohlolo a le mbaka a goreng go diriwe tshitsinyo ya gore setlamo se se laolang se nne setheo se se sa direng; le

(ii) laleta setlamo se se laolang gore se dire ditlhiago ka ga morero oo, le go tlamelalaka nako e e lekaneng go dira jalo.

(2) Tlhokego ya ka karololaleletso (1) e tshwanetse go nna ya matlhomohlolo a go laola dikotsi go poloko le itekanelo ya setheo se se matshwanedi sa ditšhelete go tswe go maloko a mangwe a setheo se se kopantsweng sa ditšhelete, ka noono.

(3) Mo go swetseng ka go pateletse kgotsa go se pateletse tlhokyo ka ga goreng se se okameng se nne setheo se se sa direng go ya ka karololaleletso (1), Botthi jwa Tlhokomelo bo tshwanetse go ela tlhoko ditshokatsheko tsothi tse di maleba, go akaretsetse le bonnye tse di latelang:

(a) dikotsi go pabaleso e le tshiamalh theo tsa ditheo tsa ditšhelete tse di matshwanedi tse di tsweng mo ditokololong tse dingwe tsa ditheo tse di kopantsweng tsa ditšhelete;

(b) ditlhiago tse di diriwe tsa kgotsa tse di diretsweng setheo se se okameng; le

(c) merero mengwe le mengwe e e ka neelwang ka Molawana.

(4) Setheo se se laolang sa ditšhelete se se Neilweng kitsiso go ya ka karololaleletso (1) se tshwanetse go ikamanya le ditlhekoego tsa kitsiso.

Maemo a ditheo tse di kopaneng tsa ditšhelete

164. (1) Thata ya Botthi jwa Tlhokomelo ya go dira maemo a a manonlholothlho e atolosetswa mo go direng maemo a tlhokomelo a go tshwanetseng go ikamangwale le ona ke ditlamo tse di laolang tsa ditheo tse di kopantsweng tsa ditšhelete.

(2) Mo go tlaleletseng dinitlha tse di kailweng mo karolong 105, maemo a tlhokomelo a a kailweng mo karololaleletsetong (1) a ka akaretsetsa ditlhekoego mbapite le—

(a) ditšhelete kgotsa dipelo mo pontshang tse dingwe tsa ditlamo tse di mo teng ga ditheo tse di kopantsweng tsa ditšhelete;

(b) ditlhalaganyo tsa puso le taolo tsa ditlamo tse di laolang kgotsa ditheo tse di kopantsweng tsa ditšhelete;

(c) go bega tshedimosetseng ka ga ditlamo tse di mo teng ga ditheo tse di kopantsweng tsa ditšhelete tse tse e seng ditheo tsa ditšhelete; le

(d) go fokotsa kgotsa go laola dikotsi go poloko le itekanelo ya setheo se se matshwanedi sa ditšhelete go tswe go malokong a mangwe a setheo se se kopantsweng sa ditšhelete.

(3) Thata ya Botthi jwa Boitshwaro jwa Leplhata la Ditšhelete ya go dira maemo a boitshwaro e atolosetswa mo go direng maemo a gore go ikamangwale le ona ke ditlamo tse di laolang tsa ditheo tse di kopantsweng tsa ditšhelete.
Directives to holding companies

165. (1) The power of the Prudential Authority to issue a directive in terms of section 143 extends to issuing a directive to the holding company of a financial conglomerate imposing requirements on the holding company to manage and otherwise mitigate risks to the prudent management or financial soundness of an eligible financial institution in the conglomerate arising from other members of the conglomerate.

(2) (a) Requirements that a directive contemplated in subsection (1) may impose, include requirements with respect to restructuring the financial conglomerate in accordance with a plan submitted to the Prudential Authority by the holding company, and approved by the Prudential Authority within a period agreed by the Prudential Authority.

(b) The Prudential Authority may only issue a directive imposing requirements with respect to restructuring the financial conglomerate if the Authority is objectively satisfied that another type of directive will not achieve the result sought to be attained by requiring restructuring of the financial conglomerate.

(c) In deciding whether to issue a directive imposing requirements with respect to restructuring the financial conglomerate, the Prudential Authority must take into account all relevant considerations, including at least the following:

(i) The extent to which the existing structure of the financial conglomerate is hindering or is likely to hinder the effective supervision of the financial conglomerate concerned;

(ii) whether the restructuring of the financial conglomerate is reasonably necessary and appropriate to remedy impediments to the effective supervision of the financial conglomerate; and

(iii) submissions made by or for the holding company.

(3) The power of the Financial Sector Conduct Authority to issue a directive in terms of section 144 extends to issuing a directive to the holding company of a financial conglomerate requiring the holding company to ensure that a financial institution in the conglomerate complies with a financial sector law for which the Financial Sector Conduct Authority is the responsible authority.

Approval and prior notification of acquisitions and disposals

166. (1) (a) A holding company of a financial conglomerate may not acquire or dispose of a material asset as defined in prudential standards made for this section, without the approval of the Prudential Authority.

(b) A prudential standard made under this subsection must clearly identify what constitutes a material asset.

(2) The Prudential Authority may not give an approval in terms of subsection (1), unless the Authority is satisfied that the acquisition or disposal will not prejudicially affect—

(a) the prudent management and the financial soundness of an eligible financial institution within the financial conglomerate;

(b) the ability of the Prudential Authority to determine —

(i) how the different types of business of the financial conglomerate are conducted;

(ii) the risks of the financial conglomerate and each person that is part of that financial conglomerate; or

(iii) the manner in which the governance framework is organised and conducted for the financial conglomerate.

(3) (a) If the Prudential Authority contemplates refusing to grant approval of an acquisition or disposal referred to in subsection (1), prior to taking a decision, the Prudential Authority must notify the holding company of the proposed refusal to grant approval.

(b) A notice referred to in paragraph (a) must—

(i) include a statement of the reasons for the refusal to grant approval; and
Ditaelo go ditlamo tse di laolang

165. (1) Thata ya Bothati jwa Tlhokomelo ya go ntsha taelo eo go setlamo se se laolang sa setheo se se kopantsweng sa ditšhelele se se diragatsang ditlhokoego mo setheoeng se se laolang go laola le ka mokgwa mongwe go fokotsa dikotsi go bolaodi jwa tlhokomelo kgotsa thomamo ya ditšhelele ya setheo se se matshwani sa ditšhelele mo setheoeng se se kopantsweng go tswa mo malokong a mangwe a setheo se se kopantsweng.

(2) (a) Ditlhokoego tsa gore taelo e kailweng mo karolotlaleletsong (1) e ka patelesta go ya ka karolotlaleletsos (1) e ka akaretse ditlhokoego mabapi le go baakanya sešwa setheo se se kopantsweng go tsamaelana le leano le le neetsweng Bothati jwa Tlhokomelo ke setlamo se se okameng, le go rebolwa ke Bothati jwa Tlhokomelo mo pakeng e go dumalanweng ka yona ke Bothati jwa Tlhokomelo, le go rebolwa ke Bothati jwa Tlhokomelo.

(b) Bothati jwa Tlhokomelo bo ka rebola fela taelo e e pateletsang ditlhokoego mabapi le go rulagangwngwa sešwa gape ga ditheo tse di kopantsweng tsa ditšhelele fa Bothati bo kgotsolafatiswe ka maikaelelo ke gore mfutu o mongwe wa taelo o ka se firihelele ditlamaragagose tlheghelele ka gola di rulagangwngwa ka ga tšhoaka gore setheo se se kopantsweng sa ditšhelele se ganelwe.

(c) Mo go swetseng gore go rebolweng kgotsa se se rebolwe taelo e e pateletsang ditlhokoego mabapi le go rulagangwngwa sešwa ga setheo se se kopantsweng sa ditšhelele, Bothati jwa Tlhokomelo bo tšwanetse go elaa thlhoko ditshenatešešo tšothe tse di maleba, go akaretse le bonnye tse di lateolang:

(i) Bogolo jo popego ya gajaana ya setheo sa ditšhelele e kgoreletsang kgotsa e ka kgoreletsang kgotsa e ka kgoletšang kgoletšang losa>e e nontšifeng ya setheo se se kopantsweng sa ditšhelele se ka se fitlhelele kgotsa phimole dithoto tse di bontša jaaka go tlhalositswe mo maemong a tšhokomelo a a diretsweng karolo eno, ntle le thebolo ya Bothati jwa Tlhokomelo.

(ii) Maemo abotlhokwaa diretsweng e ka se amegang;

(iii) ditlhagiso tse di dirilweng kgotsa gbotsa mabapi le setlamo se se okameng.

(3) Thata ya Bothati jwa Boitšhwaro jwa Lepaha la Ditšhelese ya go neelana ka taelo go ya ka karolo 144 e atosetswa mo go reboleng taelo go setlamo se se laolang sa setheo se se kopantsweng sa ditšhelele e e e lopang setlamo se se laolang go netefatsa gore setheo sa ditšhelele mo setheoeng se se kopantsweng se ikamany se maola wa lepaha la ditšhelele o Bothati jwa Boitšhwaro jwa Lepaha la Ditšhelese e leng bolaodi jo bo rwalang maiakarabelo a ona.

Thebolo le kitsiso ya pele ya diphilthelele le dilatlhwa

166. (1) (a) Setlamo se se laolang sa setheo se se kopantsweng sa ditšhelele se ka se firihelele kgotsa phimole ditlohe tse di bothokwaka jaaka go tlhalositswe mo maemong a tšhokomelo a a diretsweng karolo eno, ntle le thebolo ya Bothati jwa Tlhokomelo e go tlhagisa ka botlalotse di tlhamang thoto e e botlhokwa.

(b) Maemo abotlhokwa a a dirilweng ka fa tšla goro karolotlaleletso e tšhwanetse go tšhagisa ka botlalotse di tlhamang thoto e e botlhokwa.

(2) Bothati jwa Tlhokomelo bo ka se neelana ke thebolo go ya ka karolotlaleletso (1), ntle le fa Bothati bo kgotsotse gore phitshhelelo kgotsa phimole e ka se ame ka kgobelelo—

(a) bolaodi jwa thokomelo le itekanelo ya ditšhelele ya setheo se se matshwani sa ditšhelele mo teng ga setheo se se kopantsweng sa ditšhelele;

(b) bokgoni jwa Bothati jwa Tlhokomelo jwa go tlhoma—

(i) ka moo mfutu e e farologaneng ya dikwebo e tšamaishwang ka teng;

(ii) dikotsi tša setheo se se kopantsweng sa ditšhelele le mofito mongwe le mongwe yo e leng karolo ya setheo se se kopantsweng seo sa ditšhelele;

(iii) mokgwa o letlhomeso la puselo rulaganweng se go tšamaishwang ka teng mabapi le setheo se se kopantsweng sa ditšhelele.

(3) (a) Fa Bothati jwa Tlhokomelo bo akanya go se letle thebolo ya phitshhelelo kgotsa phimole e e kailweng mo karolotlaleletsong (1), pele ga ga tsaya tšhetswe, Bothati jwa Tlhokomelo bo tšwanetse go itise setlamo se se okameng go ga go se letle tšhetswe tšhetsweng ga thebolo.

(b) Kitisiso e e kailweng mo tšemang (a) e tšwanetse go—

(i) akaretse polelo ya mabaka a gore goreng thebolo e e letle; le
(ii) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(4) In deciding whether to grant or refuse a request for approval in terms of subsection (1), the Prudential Authority must take into account all relevant considerations, including at least the following:

(a) Whether the acquisition or disposal will not prejudicially affect the matters referred to in subsection (2); and

(b) submissions made in relation to the application for approval, including any submissions made in response to a request for submissions referred to in subsection (3).

(5) An acquisition or disposal in contravention of subsection (1) is void.

CHAPTER 13

ADMINISTRATIVE PENALTIES

Administrative penalties

167. (1) The responsible authority for a financial sector law may, by order served on a person, impose on the person an appropriate administrative penalty, that must be paid to the financial sector regulator, if the person—

(a) has contravened a financial sector law; or

(b) has contravened an enforceable undertaking accepted by the responsible authority.

(2) In determining an appropriate administrative penalty for particular conduct—

(a) the matters that the responsible authority must have regard to include the following:

(i) The need to deter such conduct;

(ii) the degree to which the person has co-operated with a financial sector regulator in relation to the contravention; and

(iii) any submissions by, or on behalf of, the person that is relevant to the matter, including mitigating factors referred to in those submissions; and

(b) without limiting paragraph (a), the matters that the responsible authority may have regard to include the following:

(i) The nature, duration, seriousness and extent of the contravention;

(ii) any loss or damage suffered by any person as a result of the conduct;

(iii) the extent of any financial or commercial benefit to the person, or a juristic person related to the person, arising from the conduct;

(iv) whether the person has previously contravened a financial sector law;

(v) the effect of the conduct on the financial system and financial stability;

(vi) the effect of the proposed penalty on financial stability;

(vii) the extent to which the conduct was deliberate or reckless.

(3) An administrative penalty may include an amount to reimburse the responsible authority for reasonable costs incurred by the responsible authority in connection with the contravention.

(4) The responsible authority may not impose an administrative penalty on a person if a prosecution of the person for an offence arising out of the same set of facts has been commenced.

(5) An administrative penalty order is not a previous conviction as contemplated in Chapter 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(6) The responsible authority that makes an administrative penalty order must publish the order.
(ii) laletsa setlamo se se okameng go dira ditlhagiso ka ga morero, le go neelana ka nako e e lekaneng ya go dira jalo.

(4) Mo go swetseng ka go lela kgotsa kgotsa go se lele kopo ya thebolo go ya ka karolotlaleletso (1). Bothathi jwa Tlhokomelo bo tshawanse go ela tlhoko ditshhekatsheko tsothle, go akareta bonnye tse di latelang:
   (a) Gore a phithhelelo kgotsa phimolo e ka se ame ka kgobelelo merero e e kailweng mo karolotlaleletsong (2); le
   (b) ditlhagiso tse di dirilweng mabapi le kopo ya thebolo, go akaretsa le ditlhagiso dingwe le dingwe tse di dirilweng ka tsebogelo kopo ya ditlhagiso e e kailweng mo karolotlaleletsong (3).

(5) Phithhelelo kgotsa phimolo e e tlolang karolotlaleletso (1) ga e na diltlamarogo tsa semolao.

KGAOLO 13

DIKOTLHAO TSA TSAMAISO

Dikotlhao tsa tsamaiso

167. (1) Bothathi jo bo rwalang maikarabelo a molao wa lephata la ditshelete bo ka, ka taelo e e neetsweng motho, diragatsa mo mothong kothlao ya tsamaiso e e maleba, eo e tshwanetseng go duela go molaodi wa lephata la ditshelete mo pakeng e e tsepmatisweng mo taelong, fa motho—
   (a) a tlotse molao wa lephata la ditshelete; kgotsa
   (b) a tlotse tumalane e e gatelelwang e e amogetsweng ke bothathi jo bo rwalang maikarabelo.

(2) Mo go tlhomamiseng kothlao e e maleba ya tsamaiso ya boitshwaro jo bo rileng—
   (a) merero e bothathi jo bo rwalang maikarabelo bo tshawanetseng go e ela tlhoko e akaretsa tse di latelang:
      (i) Tlhokego ya ga ithbela boitshwaro joo;
      (ii) ka moo motho a dirisaneng mmogo le molaodi wa lephata la ditshelete ka gona mabapi le tlolo; le
      (iii) ditlhagiso dingwe le dingwe ka, kgotsa mo boemong jwa, motho yo o maleba go morero, go akaretsa le mabaka a phokotsa a a kailweng mo ditlhagisong tseo; le
   (b) ntle le go lekanyetsa temana (a), merero e bothathi jo bo rwalang maikarabelo bo tshawanetseng go e ela tlhoko e akaretsa tse di latelang:
      (i) Tlhago, nako, bomasisi le bogolo jwa tlolo;
      (ii) tatlhegelo kgotsa tshenyegelo ngwwe le ngwwe e motho mongwwe le mongwwe a e itemogetseng ka ntlha ya boitshwaro;
      (iii) bogolo jwa kunomolemo ya ditshelete kgotsa kgwebo mo mothong, kgotsa se theo se se amanang le motho, go tswa mo boitshwaring;
      (iv) ka gongwe motho o kile a tlola molao wa lephata la ditshelete mo malobeng;
      (v) ditlamarogo ma boitshwaro mo thulaganyong ya ditshelete le thlomamong ya ditshelete;
      (vi) ditlamarogo tsa kothlao e e tshitsimangtsweng mo thlomamong ya ditshelete;
      (vii) bogolo ma boitshwaro bo neng bo le jwa ka bomo kgotsa jwa bothhasw.

(3) Taelo ya kothlao ya tsamaiso e e akaretsa taelo ya go busetsa bothathi jo bo rwalang maikarabelo madi a ditshenyegelo tse di utlwagaling tse di bonweng ke bothathi jo bo rwalang maikarabelo mabapi le go batlisisa tlolo.

(4) Bothathi jo bo rwalang maikarabelo bo ka se diedise motho kothlao ya tsamaiso fa katholo ya motho mabapi le moloto o o tswang mo seteng e e tshwanang ya dintlha e setse e simolotswe.

(5) Taelo ya kothlao ya tsamaiso ga se ponomolato ya pele jaka go kailwe mo Kgaolong 27 ya Criminal Procedure Act, 1977 (Molao 51 wa 1977).

(6) Bothathi jo bo rwalang maikarabelo jo bo dirang taelo ya kothlao ya tsamaiso bo tshawansetse go phasalatsa taelo.
Payment

168. An amount payable in terms of an administrative penalty order is due and payable as set out in Regulations made for this Chapter.

Interest

169. Interest, at the rate prescribed for the time being in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), is payable in respect of the unpaid portion of the amount payable as an administrative penalty until it is fully paid.

Enforcement

170. (1) The responsible authority that makes an administrative penalty order may file with the registrar of a competent court a certified copy of the order if—

(a) the amount payable in terms of the order has not been paid as required by the order; and

(b) either—

(i) no application for reconsideration of the order in terms of a financial sector law, or for judicial review in terms of the Promotion of Administrative Justice Act of the Tribunal’s decision, has been lodged by the end of the period for making such applications; or

(ii) if such an application has been made, proceedings on the application have been finally disposed of.

(2) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

Application of amounts paid as administrative penalties

171. All amounts recovered by a responsible authority as administrative penalties must be applied—

(a) first, to reimburse the responsible authority for its costs and expenses reasonably and properly incurred in connection with the relevant contravention, making the order and enforcing it; and

(b) then, the balance after applying the amount in accordance with paragraph (a) must be paid into the National Revenue Fund.

Administrative penalty taken into account in sentencing

172. When determining the sentence to impose on a person convicted of an offence in terms of a financial sector law, a court must take into account any administrative penalty order made in respect of the same set of facts.

Remission of administrative penalties

173. The responsible authority that imposed an administrative penalty on a person may, on application by the person, by order, remit all or some of the administrative penalty, and all or some of the interest payable in terms of section 169.

Prohibition of indemnity for administrative penalties

174. (1) Except in circumstances prescribed by a joint standard, a person may not undertake to indemnify or compensate another person, directly or indirectly, wholly or partly, in respect of a payment made or liability incurred by the other person in connection with an administrative penalty order imposed on the other person.

(2) An undertaking in terms of subsection (1) is void.
Tuelo

168. Madi a a duelwang go ya ka taelo ya kotlhao ya tsamaiso a a tshwanetseng go duelwa le go duediswa jaaka go thalositswe mo Melawaneng e e diretsweng Kgaolo eno.

Morokotso

169. Morokotso, ka kelo e e neetsweng nakwana go ya ka Prescribed Rate of Interest Act, 1975 (Molao 55 wa 1975), o duelwa mabapi le karolo e e sa duelwang ya tloothwa e e duelwang jaaka kotlhao ya tsamaiso go fithela o duetswe ka botlalo.

Kgatelelo

170. (1) Bothi jabo bo rwalang maikarabelo jabo bo dirang taelo ya kotlhao ya tsamaiso bo ka faela kgaitsio e e kanetsweng ya taelo le mokwadisi wa kgotlatshhekelo e e nang le bokgony fad—

(a) madi a a duelwang go ya ka taelo a sa duelwa jaaka go tlhokega go ya ka taelo; le

(b) gongwe—

(i) go se kopo ya tshekatsheko morago mabapi le mola wa lephata la ditšhelete kgatlhanong le go dirwa ga taelo e e dirilweng ka nako ya bokhutlo jwa paka ya go dira dikopo tseo; kgotsa

(ii) fa kopo co e e dirilwe, tshekatsheko morago e fedisitswe kwa bofelon.

(2) Taelo, fa e faelwa, e na le ditlamorago tsa kathlolo ya selegae, e bile e ka gatelela jaaka e e keteg ye neilwe semola mo kgotlatshhekelong eo.

Tiriso ya madi a a duetsweng jaaka dikothlao tsa tsamaiso

171. Madi otlhe a a bonweng be bothi jabo bo rwalang maikarabelo jaaka dikothlao tsa tsamaiso a tshwanetseng go diriswa—

(a) pele, go busetsa bothi jabo bo rwalang maikarabelo madi a jona a dituelo le ditšenheyegelo tseo bo di iponetseng ka mabaka le tshiamo mo go batlisiseng tlolo e e maleba, go dira taelo le go e gatelela; le

(b) mme morago, tshalelo nngwe le nngwe morago ga tiriso ya madi go tsaamaelana le temana (a) e tshwanetseng go duelwa mo Letloleng la Lotseno la Bosetshaba.

Kotlhao ya tsamaiso e e tsersweng mo katlholong

172. Fa go tlhomamiswa katlholo e e ka newang motho yo o bonweng molato go ya ka mola wa lephata la ditšhelete, kgotlatshhekelo e e tsamaiso go ela tlhoko taelo ya kotlhao nngwe le nngwe ya tsamaiso e e dirilweng mabapi le sete e e tshwanang ya dinitha.

Tebalelo melato ya dikothlao tsa tsamaiso

173. Bothi jabo bo rwalang maikarabelo jabo bo duelisan motho ko kotlhao ya tsamaiso bo ka, mo kopong ka motho, ka taelo, phimola dikothlao tsothe kgotsetse nthweng kgotse dikothlao tsa tsamaiso, le morokotso otlhe kgotse nngwe ya morokotso o o duelwang go ya ka karolo 169.

Thibelo ya polekego mabapi dikothlao tsa tsamaiso

174. (1) Ntle le mo mabang a a neetsweng ke maemo a a kopantsweng, motho o ka se dulumane go go tswey le maikarabelo kgotse go duela motho yo mongwe, ka tlhamalalo kgotse e seng ka tlhamalalo, ka botlalo kgotse e seng ka botlalo, mabapi le taelo e e dirilweng kgotse molato o o iponetsweng ke motho mo mongwe mabapi le taelo ya kotlhao ya tsamaiso e e pateleditsweng motho yo mongwe.

(2) Tumalano go ya ka karolotlaleletso (1) ga e na ditlamorago dipe.
CHAPTER 14

OMBUDS

Part 1

Ombud Council

175. (1) The Ombud Council is hereby established.
(2) The Ombud Council is a juristic person.
(3) The Ombud Council is a national public entity for the purposes of the Public Finance Management Act, and notwithstanding section 49(2) of the Public Finance Management Act, the Chairperson of the Ombud Council is the accounting authority of the Ombud Council for the purposes of that Act.

Objective

176. The objective of the Ombud Council is to assist in ensuring that financial customers have access to, and are able to use, affordable, effective, independent and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products, financial services, and services provided by market infrastructures.

Functions of Ombud Council

177. (1) In order to achieve its objective, the Ombud Council must—
(a) recognise, in accordance with this Chapter, industry ombud schemes;
(b) promote co-operation between, and co-ordination of, the activities of ombuds;
(c) strive to protect the independence and impartiality of ombuds;
(d) promote public awareness of ombuds and ombud schemes and the services they provide;
(e) take steps to facilitate access by financial customers to appropriate ombuds;
(f) publicise ombud schemes, including publicising the kinds of complaints that different ombud schemes deal with;
(g) resolve, in accordance with this Act, overlaps of the jurisdictional coverage of different ombud schemes;
(h) monitor the performance of ombud schemes, including the extent to which they comply with the requirements of this Chapter and specific financial sector laws; and
(i) support financial inclusion.
(2) The Ombud Council must also perform any other function conferred on it in terms of any other provision of this Act or other applicable legislation.
(3) The Ombud Council may do anything else reasonably necessary to achieve its objective.
(4) The Ombud Council must perform its functions without fear, favour or prejudice.

Overall governance objective

178. The Ombud Council must—
(a) manage its affairs in an efficient and effective way; and
(b) establish and implement appropriate and effective governance systems and processes.

Board of Ombud Council

179. (1) A Board for the Ombud Council is hereby established.
(2) The Board consists of—
(a) the Chief Ombud;
Khansele ya Ombud

175. (1) Khansele ya Ombud e a tlhongwa.
(2) Khansele ya Ombud ke setheo se se mo molaong.
(3) Khansele ya Ombud ke setheo sa setšhaba sa bosedšhaba mabapi le maitlhomo a Public Finance Management Act le, go sa nyatswe karolo 49(2) ya Public Finance Management Act, Modulasetilo wa Khansele ya Ombud ke molaodi yo o rwalang maikarabelo wa Khansele ya Ombud mabapi le maitlhomo a Molao ono.

Maithlomo

176. Maikaelelo a Khansele ya Ombud ke go thusa mo go netefatseng gore badirisi ba ditšhelete ba kgona go fithlelela, le go kgona go dirisa, dikgato tse dingwe ts'harabololo ya dithulano tse di tuelo tlase, nonofileng, ikemetseng le lolameng mo dingongorengong tse di ka ga ditheo tsa ditšhelete mabapi le dikuno tsa ditšhelete, ditirelo tsa ditšhelete, le ditirelo tse di tlamelwang ke dithulaganyetso tsa popego ya mmaraka.

Ditiro tsa Khansele ya Ombud

177. (1) Gore e fithlelele maikaelelo a yona, Khansele ya Ombud e tshwanetse go—
   (a) amogela, go tsamaisana le Karolo eno, dikema tsa ombud tsa bodirelo; 20
   (b) tsweletsa pele tirisanonmomo magareng, le thulaganyo ya diito tsa ombuds; 15
   (c) leka go sireletseng go ikemela le go sa tsyeng lethakore ga ombuds; 10
   (d) tsweletsa pele temosyo ya setšhaba ka ga ombuds le dikema tsa ombud le ditirelo tse ba di tlamelang; 5
   (e) tsaya dikgato go nolofatsa phitšhelelo ya barekedi ditšhelete go ombuds tse di maleba; 30
   (f) itsise setšhaba ka ga sekema sa ombud, go akaretso go bega ka mefuta ya dingongoreng tse diombud tse di farologaneng di samaganeng le tsoma; 35
   (g) rarabolola, go samaelana le Molao ono, ditšhelepano ts’phitšhelelo ya lefelatoalo la dikema tse di farologaneng tsa ombud; 40
   (h) tlhomelotsa tiro ya dikema tsa ombud, go akaretso le bologolo jo di ikamanyang le ditlhokego tsa Kgaolo eno ka jona le melao e e tsepameng ya lephata la ditšhelete; le 45
   (i) tsweletsa pele tsenyeletso ya ditšhelete.

(2) Khansele ya Ombud e tshwanetse gape go diro tiro nngwe le nngwe e e e roletswana go ya ka kabelo nngwe le nngwe ya Molao ono kgotsa molawana mongwe le mongwe o o maleba.

(3) Khansele ya Ombud e ka dira sengwe le sengwe gape se se tlhokegang ka mabaka go fithlelela maikaelelo a yona.

(4) Khansele ya Ombud e tshwanetse go diro tiro ya yona ntle le letshogo,

Maithlomo ka kakaretsos puso

178. Khansele ya Ombud e tshwanetseng go—
   (a) laolo merero ya yona ka bokgomi le; le 40
   (b) tlhoma le go diragatsa ditsamaiso tso puso le dikgato tse di maleba e bile di na le bokgomi.

Boto ya Khansele ya Ombud

179. (1) Boto ya Khansele ya Ombud e a tlhongwa.
(2) Boto e bopilwe ka—
   (a) Ombud yo Mogolo; 50
(b) the Commissioner; and
(c) at least four, but not more than six, other members.

(3) The Commissioner does not have a vote on a question being considered by the Board.

Appointment of Board members

180. (1) The members of the Board are appointed by the Minister.
(2) (a) The Minister must appoint a member as Chairperson and another member as Deputy Chairperson.
(b) The Commissioner and the Chief Ombud may not be appointed as Chairperson or Deputy Chairperson.

(3) The Deputy Chairperson acts as Chairperson when the Chairperson is absent from office or is otherwise unable to perform his or her functions.

(4) A person may not be appointed to, or hold office as, a member of the Board if the person is—
(a) an ombud;
(b) a member of the governing body or staff of an ombud scheme;
(c) a member of the staff of the Ombud Council;
(d) a disqualified person;
(e) not ordinarily resident in the Republic; or
(f) engaged in—
   (i) the business of a financial institution; or
   (ii) the provision of financial products or financial services to financial customers.

Terms of office of Board members

181. (1) A person appointed as a member of the Board—
(a) holds office for a term of no longer than five years, as the Minister may determine;
(b) is, at the expiry of that term of office, eligible for re-appointment for one further term; and
(c) must vacate office before the expiry of a term of office if that person—
   (i) resigns by giving at least three months written notice to the Minister, or a shorter period that the Minister may accept; or
   (ii) is removed from office.

(2) The Minister must, at least three months before the end of a person’s first term of office, inform the person whether or not the Minister intends to re-appoint the person as a member of the Board.

Service conditions of Board members

182. A member of the Board holds office on the terms and conditions, including terms and conditions relating to remuneration, that are determined by the Minister.

Removal of Board members

183. (1) The Minister must, subject to due process, remove a member of the Board from office if the member becomes a disqualified person.
(2) The Minister may remove a member of the Board from office if an independent inquiry established by the Minister has found that the member—
(a) is unable to perform the duties of office for health or other reasons;
(b) has failed in a material way to discharge any of the responsibilities of office; or
(c) has acted in a way that is inconsistent with continuing to hold the office.

(3) Without limiting subsection (2)(b), a member of the Board must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the Board without the leave of the Board.
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(b) Khomišenara; le
(c) bonnye maloko a mangwe a le mane, mme e seng go feta thataro.
(3) Khomišenara ga a na boutu mo potsong e e sekasekwang ke Boto.

Go thapiwa ga maloko a Boto

180. (1) Maloko a Boto a athapiwa ke Tona. 5
(2) (a) Tona o tshwanetse go thapa leloko jaaka Modulasetilo le leloko le lengwe jaaka Motlatsamodulasetilo.
(b) Khomišenara le Ombud yo Mogolo baka se thapiwe jaaka Modulasetilo kgotsa Motlatsamodulasetilo.
(3) Motlatsamodulasetilo o tshwara marapo jaaka Modulasetilo fa Modulasetilo a seyo kwa tirong kgotsa ka gongwe a sa kgone go dira tiro ya gagwe.
(4) Motho o ka se thapiwe go nna, kgotsa gos thswana maemo a, Modulasetilo, Motlatsamodulasetilo kgotsa leloko la Boto fa motho yoo—
(a) e le ombud;
(b) e le leloko la mokgatlhlo o o busang kgotsa badirimmogo mo sekemeng sa ombud;
(c) e le leloko la badirimmogo ba Khansele ya Ombud;
(d) a ileditsew;
(e) e se ka twaelo moagi mo Rephaboliking; kgotsa
(f) a samagane le—
(i) kgwebo ya setheo sa ditšhelete; kgotsa
(ii) kabelo ya dikuno tsita ditšhelete kgotsa ditirelo tsita ditšhelete go barekedi ba ditšhelete.

Para ya ofisi ya maloko a Boto

181. (1) Motho yo o thapilweng jaaka leloko la Boto—
(a) o nna mo tirong sebaka sa paka e e feteng dingwaga tse tlhano, jaaka Tona a ka tlhomamisa;
(b) o, ka go fitlha bokhutlong ga paka ya tiro, na le tshwanelo ya go ka thapiwa gape sebaka sa paka e le nngwe; le
(c) o tshwanetse go tswa mo ofising pele ga paka ya tiro e ya bokhutlong fa motho yoo—
(i) a rola tiro ka go naya Tona kitsiso e e kwetsweng ya bonnye dikgwegdi tse tharo, kgotsa nako e khutshwane e Tona a ka e amogelang; kgotsa
(ii) a ntsitsiwe mo ofising.
(2) Tona o tshwanetse, bonnye dikgwegdi di le tharo pele ga bokhutlo jwa paka ya motho ya nthla ya ofisi, go itsise motho fa e le gore Tona o ikaela go thapa motho yoo gape jaaka leloko la Boto.

Mabaka a tirelo ya maloko a Boto

182. Lelo ko Boto le thapiwa ka dipeelo le mabaka, go akaretse le dipeelo le mabaka tse di amanang le mogolo, tse di tlhomamisitsweng ke Tona. 40

Go tloswa ga maloko a Boto

183. (1) Tona o tshwanetse, go ya ka dikgato tse di maleba, go tlosa leloko la Boto mo ofising fa leloko le nna motho yo o ileditsweng.
(2) Tona o ka tlosa leloko la Boto mo ofising fa patlisiso e e ikemetseng e e tlhomilweng ke Tona e fihleletse gore leloko—
(a) ga le kgone go dira ditiro tsa ofisi ka nthla ya mabaka a boitekanelo kgotsa a mangwe;
(b) le paleswe ka gotlhe go diragatsa epe ya maikarabelo a ofisi; kgotsa
(c) le dirile ka mokgwa o o sa tsamaelaneng le ditlhokego tsa go tswelela go nna mo tirong.
(3) Ntle le go lekanyetsa karolotlaleletso (2)(b), leloko la Boto le tshwanetse go tseelwa gore go paleswe ka mokgwa o o bonagalang go diragatsa maikarabelo a ofisi fa a sa mme teng mo dikopanong tse pedi tse di latelanang tsa Boto ntle le khunologo ya Boto.

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(4) If an independent inquiry has been established in terms of subsection (2), the Minister may suspend the member of the Board from office pending a decision on that person’s removal from office.

(5) If a member of the Board is removed from office in terms of subsection (2), the Minister must submit the report and findings of the independent inquiry to the National Assembly.

Role of Board

184. The Board must—

(a) generally oversee the management and administration of the Ombud Council in order to ensure that it is efficient and effective;

(b) appoint members of committees of the Ombud Council required or permitted by a law, and give directions regarding the conduct of the work of any committee;

(c) make determinations of fees in terms of a financial sector law;

(d) keep the Minister informed of—
   (i) compliance by ombud schemes with the financial sector laws in so far as they relate to ombud schemes;
   (ii) trends in the nature of complaints and issues raised in complaints that ombud schemes are dealing with, and how those types of issues and complaints are being dealt with; and
   (iii) the conduct of financial institutions that is giving rise to complaints to ombud schemes;

(e) keep the financial sector regulators informed of the conduct of financial institutions that is giving rise to complaints to ombud schemes; and

(f) address any other matter assigned in terms of a financial sector law to the Board.

Meetings of Board

185. (1) (a) The Board must meet on a quarterly basis or as often as necessary for the performance of its functions.

(b) An audio or audio-visual conference among a majority of the members of the Board, which enables each participating member to hear and be heard by each of the other participating members, must be regarded to be a meeting of the Board, and each participating member must be regarded as being present at such a meeting.

(2) Meetings of the Board are to be at times and, except where subsection (1)(b) applies, at places determined by the Chairperson.

(3) A quorum for a meeting of the Board is a majority of its members.

(4) (a) The Chairperson chairs the meetings of the Board at which the Chairperson is present.

(b) If the Chairperson is not present at a meeting, the Deputy Chairperson chairs the meeting.

(5) The person chairing a meeting of the Board may invite or allow any other person to attend a meeting of the Board, but a person who is invited has no right to vote at the meeting.

(6) The members may regulate proceedings at Board meetings as they consider appropriate.

(7) The Chairperson must ensure that minutes of each meeting of the Board are kept in a manner determined by the Chairperson.

Decisions of Board

186. (1) (a) A proposal before a meeting of the Board becomes a decision of the Board if a majority of the members who are present or regarded as being present, and who may vote, vote for the proposal.

(b) In the event of an equality of votes on a proposal, the person chairing the meeting has a casting vote in addition to a deliberative vote.

(2) The Board may, in accordance with procedures determined by the Board, make a decision on a proposal outside a meeting of the Board.
(4) Fa patlisiso e e ikemetseng e tlhomilwe go ya ka karolotlaleletso (2), Tona o ka erina lelolo la Boto go tla tirong go sa letlilwe tshwetsa ka go loswa ga motho yoo mo ofising.
(5) Fa lelolo la Boto le tloisitswe mo tirong go ya ka karolotlaleletso (2), Tona o tshwanetsa go romela pegelo le diphilthelelo tsa patlisiso e e ikemetseng go Kokano Bosetiˈhaba.

Botsayakarolo jwa Boto

184. Boto e tshwanetsa—
(a) ka kakaretso, go tlhokomela taolo le tsamaiso ya Khansele ya Bolaodi ya Ombud go netefatsa gore e na le bokgoni e bile e nonofile; 10
(b) gothapa maloko a komiti ya Khansele ya Bolaodi ya Ombud a a tlhokegang kgotsa letleletsweng ke molao, le go naya dikaelo mbapi le boitshwara jwa tiro ya komiti e ngwe le e ngwe;
(c) go dia ditlhomamisimo tsa dituelo go ya ka molao wa lephata la ditšeletse;
(d) go baya Tona mo leeding ka ga—
   (i) ikamanyo ya dikema tsa ombud le melao ya lephata la ditšeletse go ya ka moo di amanang le dikema tsa ombud; 15
   (ii) dingongorego tse dikema tsa ombud di samaganeng le tsonga, le ka moo di sekasekwang ka teng; le
   (iii) boitshwara jwa ditheo tsa ditšeletse tse di dirang gore go nne le dingongorego tse dintsie go dikema tsa ombud;
(e) go baya balaodi ba lephata la ditšeletse mo leeding ka ga boitshwara jwa ditheo tsa ditšeletse tse di dirang gore go nne le dingongorego tse dintsie tsa dikema tsa ditšeletse; le
(f) go sekaseka morero mongwe le mongwe o o neilweng Boto go ya ka molao wa lephata la ditšeletse.

Dikopano tsa Boto

185. (1) (a) Boto e tshwanetsa go kopana kotare ngwe le ngwe kgotsa kgapetsa kgapetsa jaaka go tlhokega go dira ditiro tsa yona. 10
   (b) Khonferensereng ya kutlo kgotsa kutlopono magareneg ga bontsi jwa maloko a Boto, e e kgontshang lelolo lengwe le lengwe le le tsayang karolo go utlwa le go utlwisa ke lelolo lengwe le lengwe la maloko a mangwe a a tsayang karolo, e tshwanetsa go tsewa jaaka kopano ya Boto, e bile lelolo lengwe le lengwe le le tsayang karolo le tshwanetsa go tselwa gore le teng kwa kopanong eo.
(2) Dikopano tsa Boto di tshwanetsa go tshwarwa ka nako le, ntle le moo karolotlaleletso (1)(b) e diriswang, kwa mafelong a a tlhomamisitsweng ke Modulasetilo.
(3) Khoram o kopano ya Boto ke bontsi jwa maloko a yona.
(4) (a) Modulasetilo o okamela dikopano tsa Boto tse Modulasetilo a leng teng mgo go tsona.
   (b) Fa Modulasetilo a se teng kwa kopanong, Motlatsamodulasetilo o okamela kopano.
(5) Motho yo o okametseng kopano ya Boto o ka laletsa kgotsa letla motho mongwe le mongwe go tla kopanong ya Boto, fela motho yo o laleditsweng ga a na tshawelo ya go buta kwa kopanong. 40
(6) Maloko a ka laola ditsamaiso kwa kopanong ya Boto jaaka ba bona go tshwanetsa.
(7) Modulasetilo o tshwanetsa go netefatsa gore metsotsa ya kopano ngwe le ngwe e tsholwa ka mokgwa o o tlhomamisitsweng ke Modulasetilo.

Ditshwetso tsa Boto

186. (1) (a) Tshihtsinyo e e fa pele ga kopano ya Boto e nna tshwetsa ya Boto fa bontsi jwa maloko a a leng teng kgotsa a a tsewang gore a teng, le ba ba ka boutang, ba boutela tshihtsinyo. 50
   (b) Mo lebukeng la tekatekano ya diboutu mo tshihtsinyong, motho yo o okameng kopano o ka dira boutu ya makgaolakgang mo godimo ga boutu ya tlaelo.
(2) Boto e ka, go tsamaelana le ditsamaiso tse di tlhomamisitsweng ke Boto, tsaya tshwetsa mo tshihtsinyong kwa ntle ga kopano ya Boto.
(3) A decision of the Board is not invalid merely because—
(a) there was a vacancy in the office of a member when the decision was taken; or
(b) a person who was not a member participated in the decision, but did not vote.

Governance and other committees of Ombud Council

187. (1) The Board must establish—
(a) a committee to review, monitor and advise the Board on the remuneration policy of the Ombud Council; and
(b) a committee to review, monitor and advise the Board on the risks faced by the Ombud Council and plans for managing those risks.

(2) (a) The Board may establish one or more other committees for the Ombud Council, with membership and functions as determined by the Board.
(b) A committee may include persons who are not members of the Board.
(3) A disqualified person may not be, or remain, a member of a committee.
(4) A member of a committee holds office for the period, and on the terms and conditions, including, in the case of a person who is not in the service of an organ of state, terms regarding remuneration, determined by the Board.
(5) (a) A committee established in terms of subsection (1) or section 51(1)(a)(ii) of the Public Finance Management Act must be chaired by a person who is not the Chairperson, the Deputy Chairperson or a staff member of the Ombud Council.
(b) The majority of the members of that committee may not be staff members of the Ombud Council.
(6) A committee determines its procedure, subject to any directions that may be issued by the Board.

(7) The Chief Ombud must ensure that minutes of each meeting of a committee are kept in a manner determined by the Board.

Chief Ombud

188. (1) The Minister must appoint a Chief Ombud, and the person appointed as such must agree with the Minister, in writing, on—
(a) the performance measures that must be used to assess the person’s performance; and
(b) the level of performance to be achieved against those measures.

(2) Subject to this Act, the Chief Ombud holds office on the terms and conditions, including terms and conditions relating to remuneration, pension, leave and other benefits, that are determined by the Board and specified in an employment contract between the Chief Ombud and the Ombud Council.

(3) The Chief Ombud—
(a) is responsible for the day-to-day management and administration of the Ombud Council; and
(b) must perform the functions of the Ombud Council, except those mentioned in section 184(b) and (c), including exercising the powers and carrying out the duties associated with those functions.

(4) (a) The Chief Ombud must convene meetings of the ombuds on a regular basis, but at least four times a year, to discuss the effective operation of the ombuds system.
(b) The Chief Ombud, or, in the absence of the Chief Ombud, a person appointed by the Chief Ombud, chairs meetings of the ombuds;
(c) If three ombuds request the Chief Ombud in writing to convene a meeting of the Ombud Council, a meeting of the ombuds must be convened.

(5) When acting in terms of subsection (3), the Chief Ombud must implement the policies and strategies adopted by the Board.

Duties of Board members

189. (1) A member of the Board must—
(a) act honestly in all matters relating to the Ombud Council; and
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(3) Tshwetso ya Boto ga e tlhoke go amogelesega fela ka ntlha ya gore—

(a) go ne go na le phatlatiro kwa ofising ya leloko fa go ne go tsewa tshwetso; kgotsa
(b) motho yo e neng e se leloko o tsere karolo mo tshwetsong.

Puso le dikomiti tse dingwe tsa le Khansele ya Ombud

187. (1) Boto e tshwanetse go tlhoma—

(a) komiti go gakolola Boto ka pholisi ya mogolo ya Khansele ya Ombud; le
(b) komiti go sekaseka, tlhokomela le go gakolola Boto ka ga dikotsi tse Khansele ya Ombud e lebaganeng le tsosa le maano a go laola dikotsi tseo.

(2) (a) Boto e ka tlhoma komiti kgotsa tse dingwe tse dintsi mabapi le Khansele ya Ombud, ka botokololo le ditiro jaaka di thlomamisitswe ke Boto.
(b) Komiti e ka akaretsa batho bao e seng maloko a Boto.

(3) Motho yo o lieditsweng o ka se nne, kgotsa o ka se tswelele go nna, leloko la komiti.

(4) Lebakeng la motho yo o seng mo tirelong ya lekala la puso, dipelo maloko le mogolo, di thlomamiswa ke Boto.

(5) (a) Komiti e e tlhomilweng go ya ka karolotlaleletso (1) kgotsa karolo 51(1)(a)(ii) ya Public Finance Management Act e tshwanetse go okamelwa ke motho yo e seng Modulasetilo kgotsa leloko la badirimmogo ya Khansele ya Ombud.
(b) Bontsi jwa maloko a komiti eo bo ka se nne maloko a badirimmogo ba Khansele ya Ombud.

(6) Komiti e thlomamisa tsa tsmasi ya yona, go ya ka dikaelo tse di ka rebolwang ke Boto.

(7) Ombud yo Mogolo o tshwanetse go netefatsa gore metsotsotse ya kopano nngwe le nngwe e tsholwa go ya ka mokgwa o o tlhomamisitsweng ke Boto.

Ombud yo mogolo

188. (1) Tona o tshwanetse go thapa Ombud yo Mogolo e bile motho yo o thapilweng jalo o tshwanetse go dumela, ka go kwala, ka ga—

(a) ditekanyetsotiro tse di tshwanetsetseng go diriswa go lekanyetsa tiro ya motho yo o umakilweng; le
(b) boemojwatirojobotshwanetsenggofitlhelelwakgatlhanongleditekanyetsotse.

(2) Go tsamaelana le Molao ono, Ombud yo Mogolo o dira go ya ka dipeelo le mabaka, go akaretsa le dipeelo le mabaka tse di amanang le mogolo, phensene, khunologo le dikunomolemo tse dingwe, tse di tlhomamisitsweng ke Boto le go tsepamiswa mo konterakeng ya tiro magareng ga Ombud yo Mogolo le Khansele ya Ombud.

(3) Ombud yo Mogolo wa Khansele ya Ombud—

(a) o rvala maikarabelo a balaodi le tsamaiso tsa letsatsi le letsatsi tsa Khansele ya Bolaodi ya Ombud; le
(b) o tshwanetse go dira ditiro tsa Khansele ya Ombud, ntle le tse di kailweng mo karolong 184(h) le (c), go akaretsa le go diragatsa dithata le go dira ditiro tse di amanang le ditiro tseo.

(4) (a) Ombud yo mogolo o tshwanetse go bitsa kopano le go okamela dikopano tsa ombuds kgapetsakgapetsa, mme fela bonnye makgetlo a le mane ka ngwaga, go sekaseka tsamaiso e e nonofileng ya dithulaganyo tsa ombuds.
(b) Ombud yo Mogolo, kgotsa, fà Ombud yo Mogolo a se teng, motho yo o thapilweng ke Ombud yo Mogolo, o okamela dikopano tsa ombuds.
(c) Fa boombuds ba bararo ba kwalela Ombud yo Mogolo go mo kopa go bitsa kopano ya Khansele ya Ombud, kopano ya boombuds e tshwanetse go tharvarwa.

(5) Fa a dira go ya ka karolotlaleletso (3), Ombud yo Mogolo o tshwanetse go tsena dipholisi le maano tse di amogetsweng ke Boto mo tirsong.

Ditiro tsamaiso a Boto

189. (1) Lebako la Boto le tshwanetse go—

(a) dira ka boikanyego mo mererong yotlhe e e amanang le Khansele ya Ombud; le

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(b) perform his or her functions as a member—
   (i) in good faith;
   (ii) for a proper purpose; and
   (iii) with the degree of care and diligence that a reasonable person in the
        member’s position would exercise.

(2) A person who is or was a member of the Board may not use that position, or any
information obtained as a member of the Board, to—
   (a) improperly benefit himself, herself or another person;
   (b) impede the Ombud Council’s ability to perform its functions; or
   (c) cause improper detriment to another person.

(3) For the purposes of this section, “benefit” and “detriment” are not limited to
financial benefit or detriment.

### Delegations

190. (1) The Chief Ombud may, in writing—
   (a) delegate any of his or her powers or duties in terms of a financial sector law,
       except the power to delegate contained in this subsection, to a staff member
       of the Ombud Council; and
   (b) at any time, amend or revoke a delegation made in terms of paragraph (a),
       subject to any rights that may have accrued.

(2) A delegation in terms of subsection (1) may be to a specific person or to a person
holding a specific position.

(3) A delegation in terms this section—
   (a) is subject to the limitations and conditions specified in the delegation; and
   (b) does not divest the Chief Ombud of responsibility in respect of the delegated
       power or duty.

(4) Anything done by a delegate in terms of the delegation must be regarded as having
been done by the Ombud Council.

### Staff and resources

191. (1) The Ombud Council may, in accordance with applicable law—
   (a) engage persons as employees;
   (b) enter into secondment arrangements;
   (c) engage persons on contract otherwise than as employees;
   (d) enter into contracts;
   (e) acquire and dispose of property;
   (f) insure itself against any loss, damage, risk or liability that it may suffer or
       incur; and
   (g) do anything else necessary for the performance of its functions.

(2) The Ombud Council may not enter into a secondment arrangement in respect of a
person, or engage persons as employees or on contract, unless the person and the Ombud
Council have agreed in writing, on—
   (a) the performance measures that must be used to assess that person’s
       performance; and
   (b) the level of performance to be achieved against those measures.

### Duties of staff members

192. (1) A person who is or was a staff member of the Ombud Council may not use
that position or any information obtained as a staff member to—
   (a) improperly benefit himself, herself or another person;
   (b) impede the Ombud Council’s ability to perform its functions; or
   (c) cause improper detriment to another person.

(2) For the purposes of this section, “benefit” and “detriment” are not limited to
financial benefit or detriment.
(b) dira ditiro tsa gagwe jaaka leloko—
   (i) ka maikaelelo a a nepagetseng;
   (ii) ka maithlhomo a nnete; le
   (iii) ka maemo a tlhokomelo le kelotlhoko ao motho yo o siameng yo o mo maemong a leloko a ka a dirgatsang.
(2) Motho yo e leng kgotsa yo e neng e le leloko la Boto o ka se dirise maemo ao,
   kgotsa tsbedimosetso ngwe le ngwe e e fitlheletseng jaaka leloko la Boto, go—
   (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tsela e e sa siamang;
   (b) kgoreletsa Khansele ya Ombud go dira tiro ya yona; kgotsa
   (c) thatafaletsa motho yo mongwe.
(3) Mabapi le maithlhomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

Ditholelo

190. (1) Ombud yo Mogolo o ka, ka go kwala—
   (a) rolela ngwe le ngwe ya dithata kgotsa ditiro go ya ka molao wa lephata la ditšhelete, ntle le thata ya go rolela e e fitlhelwang mo karolotlaletlesong eno,
       go leloko la badirimioso lo Khansele ya Ombud; le
   (b) ka nako ngwe le ngwe, tlhabolola kgotsa phimola holelo e e dirilweng go ya ka temana (a), go tsaamela le ditshwanelo tse di fitlheletseng.
(2) Tholelo go ya ka karolotlaletseto (1) e ka direlw motho yo o rileng kgotsa motho yo o tshwereng maemo a a rileng.
(3) Tholelo go ya ka kgaolo eno—
   (a) e go ya diketanyetso le mabaka tse di tsepamisitseng mo tholeleng; le
   (b) ga e amoge Ombud yo Mogolo maikarabelo mabapi le thata kgotsa tiro e e roleleng.
(4) Sengwe le sengwe se se dirilweng ke boemedi mabapi le tholelo se tshwanetse go tsewa jaaka se dirilwe ke Khansele ya Ombud.

Badiri le ditlamelwana

191. (1) Khansele ya Ombud e ka, go tsaamela le molao o o diriswang—
   (a) dirisana le batho jaaka badiri; kgotsa
   (b) dira thulaganyo ya tshutiso ya nakwana ya modiri;
   (c) buisana le batho ka ga konteraka go na le jaaka e e badiri;
   (d) dira dikonteraka;
   (e) phitlhelelo le phetiso ya thoto;
   (f) mšora kgatlhanong le tatlhego, tshenyegelo, kotsi kgotsa molato tse e ka di itemogelang kgotsa ya nna ka fa thlae ga tsone; le
   (g) dira sengwe le sengwe se se tlhokegang gore e kgone go dira tiro ya yona.
(2) Khansele ya Ombud e ka e xe se dire thulaganyo ya tshutiso ya nakwana ya modiri
   mabapi le motho, kgotsa ya dirisana le batho jaaka badiri kgotsa mo konterakeng, ntle le fa motho le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ba dumalane ka go kwala mabapi le—
   (a) ditekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiro ya motho; le
   (b) boemo jwa tiro jo bo tshwanetseng go fitlhelela kgatlhanong le ditekanyetso tseo.

Ditiro tsa maloko a badiri

192. (1) Motho yo e leng kgotsa yo e neng e le leloko la badirimioso lo Khansele ya Ombud o ka se dirise maemo ao kgotsa tsbedimosetso ngwe le ngwe e a e boneng jaaka leloko la badirimioso go—
   (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tsela e e sa siamang;
   (b) kgoreletsa Khansele ya Ombud go dira ditiro tsa ya yona; kgotsa
   (c) thatafaletsa motho yo mongwe.
(2) Mabapi le maithlhomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.
Disclosure of interests

193. (1) A member of the Board must disclose, at a meeting of the Board, or in writing to each of the other members, any interest in a matter that is being or will be considered by him or her, whether or not at a meeting of the Board, being an interest that—

(a) the member has; or

(b) a person who is a related party to the member has.

(2) A disclosure in terms of subsection (1) must be given as soon as practicable after the member concerned becomes aware of the interest.

(3) A member referred to in subsection (1) may not perform a function in relation to the matter concerned unless—

(a) the member has disclosed the interest in accordance with subsection (1); and

(b) the other members of the Board have decided that the interest cannot be seen as affecting the member’s proper execution of his or her functions in relation to the matter.

(4) A member of a committee of the Ombud Council established in terms of section 51(1)(a)(ii) of the Public Finance Management Act or section 187(1) of this Act must disclose, at a meeting of the committee, or in writing to each of the other members of that committee, any interest in a matter that is being or is intended to be considered by that committee, being an interest that—

(a) the member has; or

(b) a person who is a related party to the member has.

(5) A disclosure in terms of subsection (4) must be given as soon as practicable after the member concerned becomes aware of the interest.

(6) A person referred to in subsection (1) or (4) may not participate in the consideration of, or decision on, that matter by the Board or the committee, as the case may be, unless—

(a) the person has disclosed the interest in accordance with subsection (1) or (4); and

(b) the other members of the Board or that committee have decided that the interest cannot be seen as affecting the member’s proper execution of his or her functions in relation to the matter.

(7) (a) Each member of the Ombud Council’s staff and each other person involved in the performance of the functions or the exercise of the powers of the Ombud Council must make timely, proper and adequate disclosure of their interests, including the interests of a related party, that could reasonably be seen as interests that may affect the proper execution of their functions of office or a delegated power.

(b) The Chief Ombud must ensure that paragraph (a) is complied with.

(8) For the purposes of this section, it does not matter—

(a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or

(b) when the interest was acquired.

(9) For the purposes of this section, a person does not have to disclose—

(a) the fact that that person, or a person who is a related party to that person, is—

(i) an official or employee of the Ombud Council; or

(ii) a financial customer of a financial institution; or

(b) an interest that is not material.

(10) The Chief Ombud must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.

Part 2

Recognition of industry ombud schemes

Recognition of industry ombud schemes

194. (1) The Ombud Council may, on application by an industry ombud scheme, recognise the industry ombud scheme for the purposes of this Act.

(2) An application in terms of subsection (1) must—

(a) be in writing, in a form approved or accepted by the Ombud Council; and

(b) include or be accompanied by—

(i) a copy of the governing rules of the industry ombud scheme;
Tshenolo ya dikgatlhegelo

193. (1) Leloko la Boto le tshwanetse go senola, kwa kopanong ya Boto, kgotsa ka go kwaleza mongwe le mongwe wa maloko a mangwe, kgatlhegelo nngwe le nngwe mo morerong o o kgota o o tla sekasekwang ke ena, e ka nna kgota e se kwa kopanong ya Boto, e le kgatlhego e—
   (a) leloko le nang le yona; kgotsa
   (b) motho yo o amanang le leloko a nang le yona.
(2) Tshenolo go ya ka karolotlaletso (1) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhego eo.
(3) Leloko le le kailweng mo karolotlaletsong (1) le ka se dire tiro e e babapi le morero o o amegang ntle le fa—
   (a) leloko le senotse kgatlhegelo go tsamaealana le karolotlaletso (1); le
   (b) maloko a mangwe a Boto a sweditse gore kgatlhegelo e ka se tseelwe gore e ama go dira ka manontlholthlo a leloko babapi le morero.
(4) Leloko la komiti ya Khansele ya Ombud e e tlhomilweng go ya ka karolo 51(1)(a)(ii) ya Public Finance Management Act kgotsa karolo 187(1) ya Molao ono le tshwanetse go senola, kwa kopanong ya komiti, kgotsa ka go kwaleza mongwe le mongwe wa maloko a komiti eo, kgatlhegelo nngwe le nngwe mo morerong o o sekasekwang kgotsa o komiti e e ikaelang go o sekaseka, e le kgatlhego e—
   (a) leloko le nang le yona; kgotsa
   (b) motho yo o amanang le leloko a nang le yona.
(5) Tshenolo go ya ka karolotlaletso (4) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhegelo.
(6) Mabapi le maitlhomo a karolo eno, go kgathalesege—
   (a) gore kgatlhegelo e tlhamalala, ga e a tlhamalala, ke ya tshelete kgotsa ga se ya tshelete; kgotsa
   (b) gore kgatlhegelo e fitlheletswe leng.
(9) Mabapi le maitlhomo a karolo eno, motho o ka nna a se senole—
   (a) nthla ya gore motho yoo, kgotsa motho yo o amanang le ena, ke—
      (i) mothankedi kgotsa modiri wa Khansele ya Ombud; kgotsa
      (ii) modirisi wa ditshelile wa setheo sa ditshelete; kgotsa
   (b) kgatlhegelo e e seng ya bothlokwa.

Karolo 2

Kamogelo ya dikema tsa ombud wa madirelo

194. (1) Khansele ya Ombud e ka, ka kopo ka sekema sa bodirelo sa ombud, amogela sekema sa bodirelo sa ombud babapi le maitlhomo a Molao ono.
(2) Kopo go ya ka karolotlaletso (1) e tshwanetse—
   (a) go kwalwa, ka mokgwao o o rebotsweng kgotsa amogetsweng ke Khansele ya Bolaodi ya Ombud; le
   (b) go akaretsa le kgotsa go romelwa le—
      (i) kgatiso ya melawana ya go busa ya sekema sa ombud sa bodirelo;
(ii) a list of financial institutions that shall be members of the industry ombud scheme should it be recognised; and
(iii) any other information required in the form.

Requirement for further information or documents by Ombud Council

195. (1) The Ombud Council may, by notice in writing, require an applicant for recognition—
(a) to give the Ombud Council additional information or documents specified by the Ombud Council; and
(b) to verify any information given by the applicant in connection with the application in a manner specified by the Ombud Council.
(2) The Ombud Council need not deal further with the application until the applicant has complied with the notice contemplated in subsection (1).

Determination of applications

196. (1) The Ombud Council must determine an application for recognition in terms of section 194 by—
(a) granting the application and notifying the applicant accordingly; or
(b) refusing the application and notifying the applicant accordingly.
(2) The Ombud Council may grant an application for recognition subject to conditions specified by the Ombud Council.
(3) The Ombud Council must not recognise an industry ombud scheme unless satisfied that—
(a) a significant number of relevant financial institutions shall be members of the industry ombud scheme, should it be recognised;
(b) the governing rules of the industry ombud scheme—
(i) identify the financial products or financial services to which the industry ombud scheme relates, or in the case of a market infrastructure, the services that it provides;
(ii) require the members of the industry ombud scheme to inform financial customers about the scheme and how to contact and complain to the scheme, at the frequency agreed by the scheme for its members;
(iii) make adequate and appropriate provision for making complaints;
(iv) are legally binding on the members of the industry ombud scheme, and enforceable by the governing body of the industry ombud scheme;
(v) require each member of the industry ombud scheme to comply with, and give effect to, any determination of the ombud made in terms of the industry ombud scheme;
(vi) make adequate provision for monitoring and oversight of the operation of the industry ombud scheme, including in respect of the terms and conditions of the engagement of the ombud, including remuneration and other benefits, and any action to terminate that engagement;
(vii) require the ombud to apply, where appropriate, principles of equity when dealing with a complaint; and
(viii) otherwise comply with applicable Ombud Council rules;
(c) the ombud scheme has or has available to it sufficient resources and capacity to ensure that it is able to comply with the requirements of financial sector laws in relation to ombud schemes and any conditions that may be specified in terms of subsection (2); and
(d) recognising the industry ombud scheme will not be contrary to the interests of financial customers, the financial sector or the public interest.
(4) (a) The Ombud Council must determine an application as contemplated in subsection (1) within three months after it is made.
(b) In working out when the period mentioned in paragraph (a) expires, any period between the Ombud Council giving the applicant a notice in terms of section 195 and the requirements in the notice being satisfied is not to be counted.
Molao wa Taolo ya Lephata la Ditsheltele, 2017

Ditlhokego tsa tshedimosetso ya tlaleletso kgotsa dikwalo ka Khansele ya Ombud

195. (1) Khansele ya Ombud e ka, ka kitsiso e e kwetsweng, lopa modirakopo ya kamogelo—
   (a) go naya Khansele ya Ombud tshedimosetso ya tlaleletso kgotsa dikwalo tse di tsepamisitsweng ke Khansele ya Ombud; le
   (b) go netefatsa tshedimosetso e e neetsweng ke modirakopo mabapi le kopo ka mokgwa o o tsepamisitsweng ke Khansele ya Ombud.

(2) Khansele ya Ombud ga e tlhoke go tswelelela go dira ka kopo go fitlhela modirakopo a ikamantse le kitsiso, e e tlhalositsweng mo karolotlaleletsong (1).

Tlhomamiso ya ditšiso

196. (1) Khansele ya Ombud e tshwanetse go tlhomamisa kopo ya kamogelo go ya ka karolo 194 ka go—
   (a) amogela kopo le go itsise modirakopo ka nepagalo; kgotsa
   (b) gana kopo le go itsise modirakopo ka nepagalo.

(2) Khansele ya Ombud e ka amogela kopo ya go amogelwa go latela mabaka a a neetsweng ke Khansele ya Ombud.

(3) Khansele ya Ombud ga e a tshwanela go amogela sekema sa ombud sa bodirelo ntle le fa e kgotsofetse gore—
   (a) palo e e bonalang ya ditšhelele e tla ma maloko a sekema sa ombud sa bodirelo, fa e ka amogelwa;
   (b) melawana ya go bu ya sekema sa ombud sa bodirelo—
      (i) e supa dikumo tsa ditšhelele kgotsa ditirlo tsa ditšhelele tse di amanang le sekema sa ombud sa bodirelo kgotsa mo lebakeng la ditlhalaganyetrosa tsa popegotheo ya mamara, ditirlo tse di e tlamelang;
      (ii) se lopa maloko a sekema sa bodirelo jwa ombud go itsise barekedi ba ditšhelele ka ga sekema le ka moo b aka ikolgolaganyang le go nngongoregela kwa sekemang, ka seelo se se dumetsweng le sekema mabapi le maloko a sona;
   (iii) e dira kabelo e e lekaneng e bile e le maleba ya go dira dingongorego;
   (iv) e tšeleng semolao maloko a sekema sa ombud sa bodirelo; le go gatelela ke mokgatlho o o busang wa sekema sa ombud sa bodirelo;
   (v) e tlhoka lelolo lengwe le lengwe la sekema sa ombud sa bodirelo go ikamany a le, le go diragatsa, tlhomamiso nngwe le nngwe yambodi le e e dirilweng go ya ka sekema sa ombud sa bodirelo;
   (vi) e dira kabelo e e lekaneng ya go tlhokomelwe le go elwa thoho go tiro ya sekema sa ombud sa bodirelo, dipelo le mabaka, go akaretse le mogolo le dikunomolemo tse dingwe, tsa go dira ga ombud, le tiro ngwe le nngwe go khutlisa tiro e o;
   (vii) e lopa amogela go dirisa, fa go leng maleba, meono ya tekatekano fa e sekaseka nngongorego; le
   (viii) e ikamany a mokgwengongwe le melawana e e maleba ya Khansele ya Ombud;
   (c) sekema se na le kgotsa ga se na ditlalelo tse di lekaneng le bokgoni jwa go netefatsa gore se ikamany a ditlhalaganyteg ombuds le sekema sa ombud sa bodirelo; le
   (d) e amogela sekema sa ombud sa bodirelo se ka se nne kgatlhanong le dikgathilego tsa barekedi ba ditšhelele kgotsa lephata la ditšhelele kgotsa kgatlhelo ya setšhaba.

(4) (a) Khansele ya Ombud e tshwanetse go tlhomamisa kopo jaaka go tlhalositsweng mo karolotlaleletsong (1) mo dikgweding tse tharo morago ga fa e sena go dirwa.
   (b) Mo go batleng go itse gore paka e e kailweng mo temaneng (a) e fela leng, paka nngwe le nngwe magareng ga go naya modirakopo kitiiso go ya ka karolo 195 ka Khansele ya Ombud le go kgotsofatwa ga ditlhokego ga e balelwe.
Varying conditions

197. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, remove or vary a condition of recognition, or add a condition.
   (2) A variation takes effect on the date of the notice in terms of subsection (1) or, if the notice specifies a later date, the later date.

Suspension of recognition

198. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, suspend the recognition of the scheme if—
   (a) the industry ombud scheme applies for suspension;
   (b) a condition of recognition has been contravened or not been complied with in a material way;
   (c) the industry ombud scheme, an ombud for the industry ombud scheme, or a significant number of the financial institutions that are members of the industry ombud scheme, have contravened in a material way the governing rules of the industry ombud scheme, a provision of a financial sector law relating to ombuds or Ombud Council rules;
   (d) information provided in, or in relation to, an application to the Ombud Council in relation to the industry ombud scheme was false or misleading, including by omission, in a material way;
   (e) the industry ombud scheme is not complying with a requirement of this Act;
   (f) the suspension is necessary to prevent—
      (i) a serious contravention of a financial sector law; or
      (ii) financial customers of the members of the industry ombud scheme from suffering material prejudice; or
   (g) a fee, a levy or an administrative penalty payable by the industry ombud scheme, including any interest, is unpaid and has been unpaid for at least 30 days after it is due.

   (2) The Ombud Council may at any time revoke the suspension.
   (3) A suspension takes effect on the date of the notice in terms of subsection (1), or a later date specified in the notice.
   (4) A suspension does not affect an obligation of the industry ombud scheme that it has in terms of a financial sector law, including an obligation to report a matter to the Ombud Council.

Revocation of recognition

199. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, revoke the recognition of an industry ombud scheme—
   (a) if the industry ombud scheme applies for revocation;
   (b) on any of the bases on which it may suspend recognition, as set out in section 198(1)(b) to (g); or
   (c) if the scheme has ceased to function.

   (2) Revocation of recognition takes effect on the date of the notice in terms of subsection (1), or, if the notice specifies a later date, the later date.

Procedure for varying, suspending and revoking recognition

200. (1) (a) Before the Ombud Council varies a condition of, or suspends or revokes, the recognition of a recognised industry ombud scheme, it must—
   (i) give the industry ombud scheme notice of the proposed action and a statement of the reasons for it; and
   (ii) invite the industry ombud scheme to make submissions on the matter, and give it a reasonable period to do so.

   (b) The period referred to in paragraph (a)(ii) must be at least one month.

   (2) The Ombud Council need not comply with subsection (1) if the industry ombud scheme has applied for the proposed action to be taken.
Mabaka a a forologanang

197. (1) Khansele ya Bolaodi ya Ombud e ka, ka kitsiso go sekema se se amogotsweng sa ombud, tosa kgotsa fetola lebaka la kamogelo, kgotsa tlatse lebaka.
(2) Phetolo e tsengwa mo tirisong ka lethla la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa kitsiso e tsapimisa letlha le lengwe la moragonyana, letlha la moragonyana.

Kemiso ya kamogelo

198. (1) Khansele ya Ombud e ka, ka kitsiso go sekema sa ombud se se amogotsweng sa bodirelo, sekega go amogelwa ga sekema sa ombud sa bodirelo fa—
(a) sekema sa ombud sa bodirelo se dira kopo ya kemiso;
(b) lebaka la kamogelo le tlotswe kgotsa le sa obamelwa ka mokgw a o o tseleletseng;
(c) sekema sa ombud sa bodirelo, ombuds wa sekema sa ombud sa bodirelo kgotsa palo e e bonalang ya ditheo tsi ditšeletse tse e leng maloko a sekema sa ombud sa bodirelo a tlotsa kgotsa e kgo lo melawana ya go busa ya sekema sa ombud sa bodirelo kgotsa kabelo ya molao wa lephata la ditšeletse, kgotsa melawana ya Khansele ya Ombud, e e amanang le ombuds;
(d) tshedimosetso e e tlametsweng mo, kgotsa mabapi le, kopo mabapi le Khansele ya Ombud mabapi le sekema sa ombud sa bodirelo e ne e fosagetswe kgotsa e tsete tsa letluleng, go akaretse la ka tlo glo, ka tselelelo e kgo lo;
(e) sekema sa ombud sa bodirelo se sa ikamanye le tlhokego ya Molao ono;
(f) tshako e bothologwa go thibela—
(i) tlolo e e masisi ya molao wa lephata la ditšeletse; kgotsa
(ii) barekedi ba ditšeletse ba baabelwadilaesenso gore ba se gobe lelew ka tsenelelo e kgo lo; kgotsa
(g) tuelo, lekgethswana kgotsa kotlhao ya tsamaiso e e duelwang ke sekema sa ombud sa bodirelo, go akaretse le morokotso, ga e a duelwa e bile e ntse e sa duelwa bonnye matsatsi a le 30 morago ga fa e tshwanetse go duelwa.

(2) Khansele ya Ombud e ka phimola kemiso ka nako nngwe le nngwe.
(3) Tšekegoetsenngwamotirisongkaletlhalakitsisogoyakakarolotlaleletso (1), kgotsa letlha le le kwa moragonyana le le tsapamisitsweng mo kitsisong.
(4) Tšekego e a me tla me ya sekema sa ombud sa bodirelo e se nang le yona go ya ka molao wa lephata la ditšeletse; go akaretse le tla me ya go be gela Khansele ya Ombud morero.

Kgogelomorago ya kamogelo

199. (1) Khansele ya Bolaodi ya Ombud e ka, ka kitsiso go sekema sa ombud se se amogotsweng sa bodirelo, phimola kamogelo ya sekema sa ombud sa bodirelo—
(a) fa sekema sa ombud sa bodirelo se dira kopo ya phimolo;
(b) mo go nngwe le nngwe ya mabaka ao e ka emisang kamogelo, jaaka go thalosi tse mo karolong 198(1)(b) go fitlha go (g); kgotsa
(c) fa sekema se khutlisitse go dira.

(2) Phimolo ya kamogelo e tsengwa mo tirisong ka lethla la kitsiso go ya ka karolotlaleletso (1), kgotsa, fa kitsiso e tsapamisa letlha la moragonyana, letlha la moragonyana.

Tsamaiso ya phorologantsho, tšekego le kgogelomorago ya kamogelo

200. (1) (a) Pele Khansele ya Ombud e fetola lebaka la, kgotsa e sekega kgotsa e phimola, kamogelo ya sekema sa ombud sa bodirelo, e tshwanetse—
(i) go naya sekema sa ombud sa bodirelo kitsiso ya tiro e e tshitsintsweng le polelo ya mabaka a yona; le
(ii) go laletsa sekema sa ombud sa bodirelo go dira ditlhagiso ka ga morero, le go se naya nako e e lekaneng go dira jalo.
(b) Nako e e kailweng mo temaneng (a)(ii) e tshwanetse go nna bonnye kgwedi e le esi.

(2) Khansele ya Ombud e tlhoka go ikamanye le karolotlaleletso (1) fa sekema sa ombud sa bodirelo se dirile kopo ya gore tiro e dirwe.
(3) In deciding whether to vary a condition of, or suspend or revoke, recognition, the Ombud Council must have regard to all submissions made within the period specified in the notice in terms of subsection (1)(a)(ii).

(4) The Ombud Council may take the action without having complied, or complied fully, with subsection (1) if the delay involved in complying, or complying fully, with that subsection in respect of a proposed action is likely to lead to material prejudice to financial customers or defeat the object of the action.

(5) (a) If the Ombud Council takes action without having complied, or complied fully, with subsection (1) for the reason set out in subsection (4), the industry ombud scheme must be given a written statement of the reasons why that subsection was not complied with.

(b) The industry ombud scheme may make submissions to the Ombud Council within one month after being provided with the statement.

(c) The Ombud Council must have regard to the submissions, and notify the industry ombud scheme, as soon as practicable, whether the Ombud Council proposes to amend or revoke the variation, suspension or revocation.

Part 3

Powers of Ombud Council

Ombud Council rules

201. (1) The Ombud Council may make rules for, or in respect of, ombuds and ombud schemes, aimed at ensuring that financial customers have access to, and are able to use affordable and effective, independent and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products, financial services, and services provided by market infrastructures.

(2) Ombud Council rules in terms of subsection (1) may be made on any of the following matters:

(a) Governing rules of ombud schemes;

(b) governance of ombud schemes, including in relation to—

(i) the composition, membership and operation of governing bodies and of substructures of ombud schemes; and

(ii) the roles and responsibilities of governing bodies and their substructures;

(c) the qualifications and experience of ombuds, including fit and proper person requirements for ombuds and for members of governing bodies of industry ombud schemes;

(d) the definition and type of complaints to be dealt with by specified ombud schemes;

(e) dispute resolution processes;

(f) any matters on which a regulatory instrument may be issued by the Ombud Council in terms of a specific financial sector law in so far as it relates to ombud schemes and ombuds;

(g) matters that may in terms of any other provision of this Act be regulated by rules of the Ombud Council; and

(h) any other matter that is appropriate and necessary for achieving the aim set out in subsection (1).

(3) An Ombud Council rule must not be inconsistent with relevant financial sector laws.

(4) An Ombud Council rule must not interfere with the independence of an ombud or the investigation or determination of a specific complaint.

(5) The Ombud Council must, in developing Ombud Council rules—

(a) seek to provide for a consistent approach and consistent requirements for all ombud schemes, promote the efficiency and cost-effectiveness of ombud schemes, and promote co-ordination and co-operation between ombud schemes; and

(b) take into account differences in the nature and complexity of complaints heard by different ombud schemes.
(3) Mo go swetseng ka go fetola lebaka la, kgotsa emisa kgotsa phimola, kamogelo, Khanele ya Ombud e tshwanetse go ela tlhoko ditlhagiso tsotlhe tse di dirilweng mo nakong e e tsepa misitsweng mo kitsisong go ya karolotlalelelele tse (1)(a)(ii).

(4) Khanele ya Ombud e ka dira tiro ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlalelelele tse (1) fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlalelele tse mabapi le tiro e e tshitsi tsweng e e tlisa ditlamaragoro tsa kgobelelo e e tse neLetse go barekedi ba ditshetele, ya ama ka kgobelelo tlhomamo ya ditshetele kgotsa ya fenya maika elelo a tiro.

(5) (a) Fa Khanele ya Ombud e e ka dira ditlhagiso go Khanele ya Ombud mo kgweding e le esite morago ga go tlema lela ka pol olo.

(b) Sekema sa ombud sa bodirelo se ka dira ditlhagiso go Khanele ya Ombud mo kgweding e le esite morago ga go tlema lela ka pol olo.

(c) Khanele ya Ombud e tshwanetse go ela tlhoko ditlhagiso, le go itsise sekema sa ombud sa bodirelo, ka bonako jo bo kgonagalong, le fa ka gongwe Khanele ya Ombud e tshitsintse go tsho holola kgotsa phimola phetolo, sekega kgotsa phimola.

**Karolo 3**

*Dithata tsa Khanele ya Ombud*

**Melao ya Khanele ya Ombud**

201. (1) Khanele ya Ombud e ka dira melawana go, kgotsa mabapi le, ombuds le dikema tsa ombuds, tse di ika lela ng fo netefatsa gotre barisisa di ditshetele ba fitlhelela, gape ba kgona go, dirisa kgato e e ngwe ya tharabololo ya thulano e e duelegang, nonofle, ike metseng le go lolama go dingongorego tse di ka ga ditheo ba ditshetele mabapi le dikumo tsa ditshetele le ditirelo tsa ditshetele le ditirelo tse di tla melwange ka thulaganyetso ya popegotheo ya mmara ka.

(2) Melawana ya ombuds mabapi le karolotlalelelele tse (1) e ka dirwa mabapi le ngwe le ngwe ya merero e e latelang:

(a) Melawana ya go busa ya dikema tsa ombud;

(b) puso ya dikema tsa ombud, go akaretse la mabapi le—

(i) sebopelo, botokololo le tiro ya mekgatalho e e busang le ya mekgathtlolelele tse ya dikema tsa ombud; le

(ii) ditiro le maikarabelo a mekgatlhlo e e busang le mekgathtlolelele tse ya yona;

(c) borutegi le maitemogelo a ombuds;

(d) tlhaloso le mofuta wa dingongorego tse di tshwanetse tse di sekema sa ombuds se se tsepa misitsweng;

(e) dikgato tsa go raborolola dikgotlhang;

(f) merero mengwe le mengwe e sediriso ba boloedi se sa diriswang mo go yona e ka rebolwa la Khanele ya Ombud ya o go ya molao o o tsepmag wa lephata la ditshetele go ya jaaka e amana le dikema tsa ombud le ombuds;

(g) merero e go ya ka kabelo ngwe le ngwe ya Mola o o ka laolwaw ka melawana ya Khanele ya Ombud, le

(h) morero mongwe le mongwe o o maleba e bile o tlhokega go fitlhelela maika elelo a a tlhalositsweng mo karolotlalelele tse (1).

(3) Molawana wa Khanele ya Ombud o tshwanetse go tsamela la melao e e maleba ya lephata la ditshetele.

(4) Molawana wa Khanele ya Ombud ga o a tshwanela go kgore setsa le go ikemela ga ombud kgotsa patlisiso kgotsa tshomamiso yoa ngongorego e e tsepmag.

(5) Khanele ya Ombud e tshwanetse, mo go tlhlaboleng melawana ya Khanele ya Ombud—

(a) go batla go tlame la mabapi le mokgw o o o tsho lameng wa ditlhoko kese di tlo lameng go dikema tso tle tsa ombud, go tseleta bokoni e le poloko ya ditshen yelelo ya dikema tsa ombud, le go tswelela kopano ya tirisanommomo magareng ga dikema tsa ombud; le

(b) go tsa ya tsa diparollogan o o tlo lelegong le tharaa onong ya dingongorego tse di rediitsweng ke dikema tsa ombud tse di farollogan. 
(6) Different Ombud Council rules may be made for, or in respect of—
   (a) different categories of ombuds and ombud schemes; and
   (b) different circumstances.

(7) (a) The Ombud Council may, on application from an ombud scheme, exempt that
   ombud scheme from an Ombud Council rule for a specified period of time, provided that
   the Ombud Council is satisfied that the intended outcome of the rule will still be met.
   (b) Any such exemption may be subject to conditions set by the Ombud Council.

(8) An Ombud Council rule may amend or revoke another Ombud Council rule.

Directives of Ombud Council

202. (1) The Ombud Council may issue to a person who is an ombud, or to an ombud
scheme, a written directive requiring the person to take action specified in the directive
if the person has contravened or is likely to contravene a financial sector law in so far as
it relates to ombud schemes.

(2) A directive issued in terms of subsection (1) must be aimed at achieving the
objective of the Ombud Council set out in section 176 and stopping the ombud or ombud
scheme from contravening applicable financial sector laws in so far as they relate to
ombud schemes, or reducing the risk of such contraventions.

(3) The Ombud Council may not issue a directive that requires a specified person to
be removed from a position or function in relation to an ombud scheme unless the person—
   (a) has contravened a provision of a financial sector law or an Ombud Council
       rule;
   (b) has become a disqualified person; or
   (c) no longer complies with applicable fit and proper person requirements.

(4) Before issuing a directive in terms of this section, the Ombud Council must—
   (a) give the person to whom it is proposed to issue the directive a draft of the
       proposed directive and a statement of the reasons why the Ombud Council
       proposes issuing it, including a statement of the relevant facts and
       circumstances; and
   (b) invite the person to make submissions on the matter, and give the person a
       specified period, which must be reasonable, to do so.

(5) If the directive requires a person to be removed from the person’s position or
function in relation to an ombud scheme, the Ombud Council must also—
   (a) give the person a draft of the proposed directive and a statement of the reasons
       why the Ombud Council proposes issuing it, including a statement of the
       relevant facts and circumstances; and
   (b) invite the person to make submissions on the matter within the period
       specified in terms of subsection (4)(b).

(6) In deciding whether to issue the directive, the Ombud Council must take into
account all submissions received by the end of the period referred to in subsection
(4)(b).

(7) If the delay involved in complying, or complying fully, with subsections (4) and
(5) in respect of a proposed directive is likely to lead to prejudice to financial customers
or defeat the object of the directive, the Ombud Council may issue the directive without
having complied, or complied fully, with those subsections.

(8) (a) If the Ombud Council issues a directive without having complied, or complied
fully, with subsection (4) or (5), the person to whom it was issued, and, where subsection
(5) applies, the person referred to in that subsection, must be given a written statement
of the reasons why those subsections were not complied with.
   (b) A person to whom the statement was given in terms of paragraph (a) may make
       submissions to the Ombud Council within one month after being given the statement.
   (c) The Ombud Council must consider the submissions, and notify the person, as soon
       as practicable, whether the Ombud Council proposes to revoke the directive.

(9) A directive in terms of this section must specify a reasonable period for compliance.
(6) Melawana e e farologaneng ya Khansele ya Ombud e ka direlwa, kgotsa mabapi le—
(a) dithlopho tsa di farologaneng tsa dikema tsa ombuds le ombud; le
(b) mabaka a a farologaneng.
(7) (a) Khansele ya Ombud e ka, ka kopo go tswa kwa sekemeng sa ombud, golola sekema seo sa ombud go tswa mo molawaneng wa Khansele ya Ombud sebaka sa nako e e tsepamisitsweng, fa fela Khansele ya Ombud e kgotsofetes gore tlamaragoe e e ikaeletseng ya molawana e santse e tla fihlelelwa.
(b) Kgololo nngwe le nngwe eo e ka dirwa go ya ka mabaka a a beilweng ke Khansele ya Ombud.
(8) Molawana wa Khansele ya Ombud o ka tshabologo kgotsa phimola molawana o mongwe wa Khansele ya Ombud.

Ditaelo tsa Khansele ya Ombud

202. (1) Khansele ya Ombud e ka rebolela motho yo e leng ombud, kgotsa go sekema sa ombud, taelo e e kwetsweng e e lopang motho go tsaya kgato e e tsepamisitsweng mo taelong fa motho a tlo tse kgotsa go na le kgonego ya go tlola molao wa lephata la ditšhelele jaaka o amana le dikema tsa ombud.
(2) Taelo e e rebotsweng go ya ka karolotlaleletso (1) e tshwanetse go nna ya go fihlelela maikaelelo a Khansele ya Ombud a a tlahalositsweng mo karo long 176 le go thibela ombud sekema sa ombud mo go tla long molao ya lephata la ditšhelele e dirisweng jaaka e amana le dikema tsa ombud, kgotsa go fokotsa dikotsi tsa ditlolo tse o.
(3) Khanslele ya Ombud e ka se rebole taelo e e tlo hogang motho yo o tsepamisitsweng go tloswa mo maemong kgotsa mo tirong mabapi le sekema sa ombud ntle le fa motho—
(a) a tlo tse kabelo ya molao wa lephata la ditšhelele kgotsa molawana wa Khansele ya Ombud; le
(b) e le motho yo o ileditsweng; kgotsa
(c) a sa tlohole a ikamanya le nngwe le nngwe ya ditlho kego motho yo oi matshwanele e bile a nepagetse.
(4) Pele ga thebolo ya taelo go ya ka karolo eno, Khansele ya Ombud e tshwanetse go—
(a) naya motho yo e mo tshitsintsweng go mo rebolela taelo thalo ya taelo le polelo ya mabaka a gore gorenKhanye ya Ombud e tshitsinya go e rebola, go akaretsa le polelo ya dintlha tse di maleba le mabaka; le
(b) laletsa batho gore ba dire ditlhagago ka ga morero, go le e naya nako e e tsepamisitsweng, e e tshwanetseng go nna le e lekaneng, go dira jalo.
(5) Fa taelo e tloha gore motho a tloswe mo maemong a motho mabapi le sekema sa ombud, Khansele ya Ombud e tshwanetse go—
(a) naya motho thalo ya taelo e e tshitsintsweng le polelo ya mabaka a gore goren Khanye ya Ombud e tshitsinya go e rebola, go akaretsa le polelo ya dintlha tse di maleba le mabaka; le
(b) laletsa motho go dira ditlhagago ka ga morero mo nakeng e e tsepamisitsweng go ya ka karolotlaleletso (4)/(b).
(6) Mo go swetsweng ka go rebola kgotsa go se rebole taelo, Khansele ya Ombud e tshwanetse go tsa ya tshitsintsweng tsothi tse di amogetseng kwa bokhulung jwa nako e e kwetsweng mo karolotlaleletso (4)/(b).
(7) Fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso (4) le (5) mabapi le taelo e e tshitsintsweng e e tla sisa kgobelelo mo barekeding ba ditšhelele kgotsa ya fenya maikaelelo a taelo, Khansele ya Ombud e ka rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso tseo.
(8) (a) Fa Khanye ya Ombud e rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso (4) le (5), motho yo o e reboletseng, le, mo karolotlaleletso (5) e dirisweng, motho yo o kwetsweng mo karolotlaleletso e o o tshwanetse go newa polelo e e kwetsweng ya mabaka a gore goren dikarolotlaleletso tseo di sa obamelwa.
(b) Motho yo o neetsweng polelo go latela temana (a) o ka dira ditlhagiso go Khanye ya Ombud mo kgwedng e le esimorago ga go tla melwa ka polelo.
(c) Khanye ya Ombud e tshwanetse go tsa ya tshitsintsweng, le go itise motho, ka bonako go bo kgona galan, fa e e le gore Khanye ya Ombud e tshitsinya go phimola taelo.
(9) Taelo go ya ka karolo eno e tshwanetse go tototatsa nako e e lekaneng ya go ikamanya.
(10) The Ombud Council may at any time revoke a directive in terms of this section by written notice to the person to whom it was issued.

(11) A person to whom a directive in terms of this section has been issued must comply with the directive.

Enforceable undertakings

203. (1) An ombud scheme may give the Ombud Council, and the Ombud Council may accept, a written undertaking concerning the ombud scheme’s future conduct in relation to a financial sector law in so far as it relates to ombud schemes.

(2) Section 151 applies, with necessary changes required by the context, in relation to an undertaking contemplated in subsection (1), as if the references in that section to “responsible authority” were references to the Ombud Council.

Compliance with financial sector laws

204. (1) The Ombud Council may commence proceedings against an ombud scheme in the High Court for an order to ensure compliance with the financial sector law in so far as it relates to ombud schemes.

(2) Section 152 applies, with necessary changes required by the context, in relation to the proceeding, as if the references in that section “responsible authority” were references to the Ombud Council.

Debarment

205. (1) The Ombud Council may make a debarment order in respect of a natural person if the person has—

(a) contravened a financial sector law in so far as it relates to ombud schemes, or an Ombud Council rule;

(b) attempted, or conspired with, aided, abetted, induced, incited or procured another person to contravene a financial sector law in so far as it relates to ombud schemes.

(2) A debarment order prohibits the person, for a specified period, as specified in the order, from performing a specified role in relation to an ombud scheme.

(3) Before making a debarment order in respect of a person, the Ombud Council must—

(a) give a draft of the order to the person and to the financial sector regulators, along with reasons for and other relevant information about, the proposed debarment; and

(b) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(4) The period in terms of subsection (3)(b) must be at least one month.

(5) In deciding whether or not to make a debarment order in respect of a person, the Ombud Council must take into account at least—

(a) any submission made by, or made for, the person; and

(b) any advice from a financial sector regulator.

(6) A debarment order takes effect from—

(a) the date on which it is served on the person; or

(b) if the order specifies a later date, the later date.

(7) A copy of a debarment order in respect of a person must also be given to each ombud scheme.

(8) (a) A person who is subject to a debarment order may not engage in conduct that directly, or indirectly, contravenes the order.

(b) Without limiting paragraph (a), a person contravenes that paragraph if the person enters into an arrangement with another person to engage in the conduct for or on behalf of, or in accordance with the directions, instructions or wishes of, the person.

(9) An ombud scheme that becomes aware that a debarment order has been made in respect of a person employed or engaged by the ombud scheme must take all reasonable steps to ensure that the order is given effect to.
(10) Khansele ya Ombud ka nako nngwe le nngwe e ka phimola taelo go ya ka karolo eno ka kitisiso e e kwetsweng go motho yo o e reboletseng.

(11) Motho yo o reboletseng taelo go ya ka karolo eno o tshwanetse go ikamanya le taelo.

**Ditumalano tse di gatelelwang**

**203.** (1) Motho o ka naya Khansele ya Ombud, le Khansele ya Ombud e ka amogela, tumalano e e kwetsweng e e mabapi le boitshwara jwa nako e e tlang mabapi le molao wa lephata la ditšhelele jaaka ga e amana le dikema tsu ombud.

(2) Karolo 151 e a diriswa, ka diphetogo tse di tlhokekanga go ya ka maemo, mabapi le tumalano e e tlhalositsweng mo karolotlaleletsong (1), jaaka e e kete dikaele mo karolong eo go “bothatjio bobwaling maikarabelo” e ne e le dikaele go Khansele ya Ombud.

**Boikamanyo le melao ya lephata la ditšhelele**

**204.** (1) Khansele ya Ombud e ka simolola ditšaamiso kgatlhanong le sekema sa ombud kwa Kgotlatshelengkgo la mabapi le tlaletlo go netefatsa go ikamanya le molao wa lephata la ditšhelele jaaka go o amana le dikema tsa ombud.

(2) Karolo 152 e diriswa, le diphetogo tse di bothokwa go ya ka maemo, mabapi le tsamaiso, jaaka e e kete ditšupeto mo karolong eo go “bothatjio bobwaling maikarabelo” e ne e le dikaele go Khansele ya Ombud.

**Kganelo**

**205.** (1) Khansele ya Ombud e ka dira taelo ya kganelo mabapi le motho ka esi fa motho ka esi a——

(a) tlotsa molao wa lephata la ditšhelele kgotsha boemo jaaka ga bo amana le dikema tsa ombud, kgotsha molawana ka Khansele ya Ombud;

(b) lekile, kgotsha logile maano a boseny le, thusitsi, rotloeditsi, potlakitsi, tlholtheleditsi kgotsha fitšheletse motho yo mongwe go tlola lewana wa lephata la ditšhelele jaaka go o amana le dikema tsa ombud.

(2) Taelo ya kganelo e ibibela motho ka esi, mo nakong e e tsepmamitsweng, jaaka go tlhalositsewse mo tlaeleng, mo go direng tiro e e rieng e e amanang le sekema sa ombud.

(3) Pele go dirwa taelo ya kganelo mabapi le motho ka esi, Khansele ya Ombud e tshwanetse——

(a) naya motho ka esi le bolaodi jwa lephata la ditšhelele thalo ya taelo, mmogo le mabapi a le tshedimosetsi e nngwe e e maleba ka ga, kganelo e e tlholtheleditsi motho yo mongwe go tlola lewana wa lephata la ditšhelele jaaka go o amana le dikema tsa ombud.

(b) laletsa motho go dira ditšagišo ka ga morero, le go naya motho nako e le lekaneng go dira jalo.

(4) Nako go ya ka karolotlaleletso (3)(b) e tshwanetse go mma bonnye kgwedi e le esi.

(5) Mo go swetseng ka go dira kgotsha go se dire kganelo mabapi le motho, Khansele ya Ombud e tshwanetse go ela tlhoko bonnye——

(a) tlholagiso nngwe le nngwe e e dirilweng ke, kgotsa e e diretsweng, motho; le

(b) kgalakolo nngwe le nngwe go tswa go molaodi wa lephata la ditšhelele.

(6) Taelo ya kganelo e simolola go dira——

(a) ka letšha le e neetsweng motho ka esi ka lona; kgotsa

(b) fa taelo e tsepamisa lelitha le le kwamoragonyana, lelitha le le kwamoragonyana.

(7) Kgatiso ya taelo ya kganelo mabapi le motho ka esi e tshwanetse go newa sekema sengwe le sengwe sa ombud.

(8) (a) Motho ka esi yo o lebanweng ke taelo ya kganelo o ka se dire boitshwara jwa bo tlolaeng taelo ka tlhamalolok, kgotsa e seng ka tlhamalalo.

(b) Ntle le tekanyetso ya temana (a), motho ka esi o tlola temana eo fa motho ka esi a tse na motho yo mongwe go dira boitshwara jwa, kgotsa le kgotsa kgotsa go tshanelela le dikaelo, ditaelo kgotsa dikxeletso tsa, motho ka esi.

(9) Setho sa ditšhelele se se abetsweng laesense se se lemongang gore taelo ya kganelo e dirilweng mabapi le motho ka esi yo o thapilweng kgotsa yo o dirisanang le sethelo sa ditšhelele se tshwanetse go tsaya dikgato tsothle tse di maleba go netefatsa gore taelo a e diragatswa.
Administrative penalties

206. (1) Chapter 13 applies in relation to the Ombud Council as if references in that Chapter—

(a) to a financial sector law were references to a financial sector law in so far as it relates to ombud schemes; and

(b) to a financial sector regulator were references to the Ombud Council.

(2) Despite subsection (1), the Ombud Council may impose an administrative penalty only on an ombud scheme, a member of the governing body of an ombud scheme, or an ombud.

Requests for information

207. (1) (a) The Ombud Council may, by written notice, require an ombud scheme or an ombud to provide specified information or a specified document in the possession or under the control of the person to whom the notice is given, being information or a document which is relevant to the Ombud Council’s assessment of compliance by an ombud scheme or an ombud with—

(i) a financial sector law in so far as it relates to ombuds;

(ii) an Ombud Council rule;

(iii) a directive issued by the Ombud Council in terms of section 202; or

(iv) an enforceable undertaking accepted by the Ombud Council.

(b) The Ombud Council may require the information or document to be verified as specified in the notice, including by an auditor approved by the Ombud Council.

(2) A person that has been given a notice in terms of subsection (1) must comply with the requirements in the notice.

Supervisory on-site inspections and investigations

208. (1) Part 3 of Chapter 9 applies in relation to the Ombud Council as if—

(a) references in that Chapter to a financial sector law were references to a financial sector law in so far as it relates to ombud schemes;

(b) references to a financial sector regulator were references to the Ombud Council; and

(c) references to a supervised entity were references to an ombud scheme or an ombud.

(2) Despite section 132(2), the purpose of a supervisory on-site inspection of an ombud scheme or an ombud in terms of this section is to check compliance by the ombud scheme or ombud with a financial sector law in so far as it relates to ombuds.

(3) Part 4 of Chapter 9 applies in relation to the Ombud Council as if—

(a) references in that Chapter to a financial sector law were references to a financial sector law in so far as it relates to ombud schemes;

(b) section 135(1)(b) were omitted; and

(c) references to a financial sector regulator were references to the Ombud Council.

(4) Section 140 applies in relation to the Ombud Council exercising powers in terms of this section as it applies in relation to the financial sector regulators.

Part 4

General provisions

Access to ombud schemes

209. (1) The Ombud Council must, as soon as practicable after this Part comes into effect, establish and operate one or more centres to facilitate financial customers’ access to appropriate ombuds.

(2) A centre may incorporate a call centre.

(3) The purpose of a centre is to provide a place, and staff and facilities, to assist financial customers to formulate complaints and to identify for them the ombud appropriate to deal with their complaints.
Dikotlhao tsa tsamaiso

206. (1) Kgaolo 13 e diriswa mabapi le Khansele ya Ombud jaaka e kete dikaelo mo Kgaolong co—
   (a) go molao wa lephata la ditšhelete e ne e le dikaelo go molao wa lephata la ditšhelete jaaka ga di amana le dikema tsa ombud; le
   (b) go molaodi wa lephata la ditšhelete e ne e le dikaelo go Khansele ya Ombud.
(2) Go sa nyatswe karotlotaletso (1), Khansele ya Ombud e ka pateletsa kotlhao ya tsamaiso mo sekemeng sa ombud, leloko la mokgatlhlo o o busang wa sekema sa ombud kgotsa ombud.

Dikopo tsa tshedimosetso

207. (1) (a) Khansele ya Ombud, ka kitsiso e e kwetsweng, e ka lopa sekema sa ombud kgotsa ombud go tlameka ka tshedimosetso e e tsepamisitsweng kgotsa lokwalo le le tsepamisitsweng le le mo taolong ya motho yo o neilweng kitsiso, e ka nna tshedimosetso kgotsa lokwalo le le malebana le tshekatsheko ya boikamanyo ya Khansele ya Ombud ka sekema sa ombud kgotsa ombud le—
   (i) molao wa lephata la ditšhelete jaaka ga o amana le ombuds;
   (ii) molawana wa Khansele ya Ombud;
   (iii) taelo e e rebotsweng ke Khansele ya Ombud go ya ya karolo 202; kgotsa
tumalano e e gatelelwang e e amogetsweng ke Khansele ya Ombud.
   (b) Khansele ya Ombud e ka kopa tshedimosetso kgotsa lokwalo go netefatswa jaaka
go kai'we mo kitsisong, go akaretsa le ke moruni yo o rebotsweng ke Khansele ya Ombud.
(2) Motho yo o neilweng kitsiso go ya ka karotlotaletso (1) o tshwanetse go ikamanya le ditlhokego tse di mo kitsisong.

Ditlhatlhobo tsa bothokomedi tsa kwa tirong le dipatlisiso

208. (1) Karolo 3 ya Kgaolo 9 e diriswa mabapi le Khansele ya Ombud jaaka e kete—
   (a) dikaelo mo Kgaolong co go molao wa lephata la ditšhelete e ne e le dikaelo go molao wa lephata la ditšhelete jaaka fa di amana le dikema tsa ombuds;
   (b) dikaelo go molaodi wa lephata la ditšhelete e ne e le dikaelo go Khansele ya Ombud; le
c) dikaelo go setheo se se tlhokometsweng e ne e le dikaelo go sekema sa ombud kgotsa, ombud.
(2) Go sa nyatswe karolo 132(2), maithlhomoa ditlhatlhobo tsa bothokomedi tsa kwa tirong le sekema sa ombud kgotsa ombud go ya ya karolo eno ke go tlhatlhoba gore sekema sa ombud kgotsa, ombud, se ikamanya le molao wa lephata la ditšhelete jaaka ga o amana le ombuds.
(3) Karolo 4 ya Kgaolo 9 e diriswa mabapi le Khansele ya Ombud jaaka e kete—
   (a) dikaelo mo Kgaolong co go molao wa lephata la ditšhelete e ne e le dikaelo go molao wa lephata la ditšhelete jaaka fa di amana le dikema tsa ombud;
   (b) karolo 135(1)(b) e ne e tlogetswe; le
c) dikaelo go molaodi wa lephata la ditšhelete e ne e le dikaelo go Khansele ya Ombud.
(4) Karolo 140 e diriswa mabapi le Khansele ya Ombud e e diragatsang dittha go ya ya karolo eno jaaka ga e diriswa mabapi le balaodi ba lephata la ditšhelete.

Karolo 4

Dikabelo ka kakaretsa

Phitlhelelo go dikema tsa ombud

209. (1) Khansele ya Ombud e tshwanetse, ka bonako jo bo kgonagalang morago ga go tsetswa tiriisong ga Karolo eno, tlhoma le go dirisa senthara e le esi kgotsa go feta go nolofatsa phitlhelelo go ombuds e e maleba ya barekedi ba ditšhelete.
(2) Senthara e ka tsenyeletsa senthara ya go letsa.
(3) Maithlhomoa a senthara ke go tlamele ka lefelo, badiri le didiriso, go thusa barekedi ba ditšhelete go tlhama dingongorego le go di supela ombud yo o maleba go samaganag le dingongorego tsa bona.
Restrictions on financial institutions in relation to ombud schemes

210. (1) A financial institution may not describe any internal procedure it has for dealing with or resolving complaints made to it by financial customers as an ombud scheme, or a person that deals with or resolves such complaints as an ombud.

(2) A financial institution must disclose to its financial customers applicable ombud schemes, and how to contact and submit complaints to those schemes, in accordance with Ombud Council rules that may be issued in this regard.

(3) (a) A financial institution may not require or invite a financial customer to make a complaint to an—

(i) ombud, unless the person so charged with this function is part of a recognised industry ombud scheme or a statutory ombud scheme; or

(ii) ombud scheme, unless the ombud scheme concerned is a recognised industry ombud scheme or a statutory ombud scheme.

(b) A requirement or invitation contrary to paragraph (a) is void.

(4) An ombud scheme may not describe or hold itself out as being a recognised industry ombud scheme in terms of this Part unless it is so recognised.

(5) An ombud scheme may not permit another person to identify it as a recognised industry ombud scheme in terms of this Part, unless it is so recognised.

(6) For the purposes of subsections (3), (4) and (5), an ombud scheme whose recognition has been suspended or revoked is not recognised.

Applicable ombud schemes

211. (1) If there is no recognised industry ombud scheme or statutory ombud scheme that makes provision for the resolution of complaints about financial products or financial services of a particular kind, the Ombud Council may, after consulting relevant ombud schemes, designate an ombud scheme, or two or more ombud schemes, to deal with and resolve complaints about products or services of that kind.

(b) If the Ombud Council designates two or more ombud schemes in terms of paragraph (a), it must also determine the elements of the complaint to be dealt with and resolved by each of the designated schemes.

(c) The Ombud Council may so designate an ombud scheme on its own initiative or on application by the scheme or a financial institution that provides or proposes to provide financial products or financial services of that kind.

(2) If the Ombud Council designates an ombud scheme in terms of subsection (1) to deal with and resolve complaints about financial products or financial services of a particular kind—

(a) each ombud for the designated ombud scheme—

(i) has the power and the duty, despite anything in any Act or the governing rules of the ombud scheme, to deal with and resolve complaints about the products or services, in accordance with the designation; and

(ii) must deal with and resolve those complaints in the same way as it deals with and resolves other complaints to which the ombud scheme relates; and

(b) the governing rules of the ombud scheme must be read as including an obligation on the financial institution to comply with the determination of the ombud on those complaints.

(3) If a financial institution provides financial products and financial services and there is a recognised industry ombud scheme that provides for the resolution of complaints about financial products or financial services of that kind, the financial institution must be a member of that industry ombud scheme.
Dithibelo mo ditheong tsa ditšhelete mabapi le dikema tsa ombud

210. (1) Setheo sa ditšhelete se ka se neclane ka tsamaiso epe ya ka fa gare e e nang le yona mabapi le go samagana le kgotsa go rabolola dingongorego tse di dirilweng go sona ke barekedi ba ditšhelete jaaka sekema sa ombud, kgotsa motho yo o samaganang le kgotsa yo o rabololang dingongorego tseo jaaka ombud.

(2) Setheo sa ditšhelete se tšwanetsete go senolela barekedi ba sona ba ditšhelete dikema tsa ombud tse di diriswang, le ka moo go ka ikgolagangwang le go romela dingongorego go dikema tseo, go tsamaelana le melawana ya khansele ya ombud e e ka rebolwang mabapi le seno.

(3) (a) Setheo sa ditšhelete se ka se lope kgotsa laletse morekedi wa ditšhelete go ngongoregela go—

(i) ombud, ntle le fa motho yo o neetsweng maikarabelo a tiro eno e le karolo ya sekema sa ombud sa bodirelo se se amogetsweng kgotsa sekema sa ombud sa semolao; kgotsa sekema sa ombud, ntle le fa sekema sa ombud se se amegang e le sekema sa ombud sa bodirelo se se amogetsweng kgotsa sekema sa ombud sa semolao.

(b) Tlhokoego kgotsa talotso e e farologaneng le temana (a) ga e amogelesege.

(4) Sekema sa ombud se ka se tšhalose kgotsa go se itsele gore ke sekema sa ombud sa bodirelo se se amogetsweng go ya ka Karolo eno ntle le fa se amogeetswe jalo.

(5) Sekema sa ombud se ka se lele motho yo mongwe go se supa jaaka sekema sa ombud sa bodirelo se se amogetsweng go ya ka Karolo eno, ntle le fa se amogetswes jalo.

(6) Mabapi le matihlomo a dikarolotlaneletso (3), (4) le (5), sekema sa ombud se kamogelo ya sona e sekegilweng kgotsa e phimotsweng ga se amogelesa.

Dikema tsa ombud tse di diriswang

211. (1) (a) Fa go sena sekema sa ombud sa bodirelo kgotsa sekema sa ombud sa semolao se se amogetsweng se se dirang kabelo mabapi le tharabololo ya dingongorego ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta o o rileng, Khansele ya Ombud e ka, morogo ga go rerisana le dikema tsa ombud tse di maleba, thapa sekema sa ombud, kgotsa dikema sa ombud tse pedi kgotsa go feta, go samagana le le go rabolola dingongorego ka ga dikuno kgotsa ditirelo tsa mofuta oo.

(b) Fa Khansele ya Ombud e thapa dikema tsa ombud tse di diriswang, go samagana le go rarabolola dingongorego ka ga dikuno kgotsa ditirelo tsa mofuta oo—

(i) o na le thata le tiro, ntle le sengwe le sengwe se se mo Molaang kgotsa melawana ya go busa ya sekema sa ombud, ya go samagana le go rabolola dingongorego tse di ka ga dikuno kgotsa ditirelo, go tsamaelana le thap; le

(ii) o tšwanetse go samagana le go rabolola dingongorego tseo ka mokgwa o o tšwanang le wa fa a samagana le go rabolola dingongorego tse dingwe tse sekema sa ombud di amanang le tsona; le

(c) Khansele ya Ombud e ka thapa sekema sa ombud ka maiteko a boyona kgotsa ka kopo ya sekema kgotsa setheo sa ditšhelete se se tlamelang kgotsa tšhitšinyang go tlameka dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta oo.

(2) Fa Khansele ya Ombud e thapa dikema tsa ombud go ya ka karolotlaneletso (1) go sekaseka le go rabolola dingongorego tse di ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta oo—

(a) ombud mongwe le mongwe wa sekema sa ombud se se supilweng—

(i) o na le thata le tiro, ntle le sengwe le sengwe se se mo Molaang kgotsa melawana ya go busa ya sekema sa ombud, ya go samagana le go rabolola dingongorego tse di ka ga dikuno kgotsa ditirelo, go tsamaelana le thap; le

(ii) o tšwanetse go samagana le go rabolola dingongorego tseo ka mokgwa o o tšwanang le wa fa a samagana le go rabolola dingongorego tse dingwe tse sekema sa ombud di amanang le tsona; le

(b) melawana ya go busa ya sekema sa ombud e tšwanetse go tsewa jaaka e kete e akaretsa tlamego mo setheoeng sa ditšhelete go ikamanya le tlhomamisa ya ombud mo dingongorego tseo.

(3) Fa setheo sa ditšhelete se tlamelang ka dikuno tsa ditšhelete le ditirelo tsa ditšhelete e bile go na le sekema sa ombud sa bodirelo se se amogetsweng se se tlamelang mabapi le tharabololo ya dingongorego tse di ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta oo, setheo sa ditšhelete se tšwanetse go nna leloko la sekema se ombud sa bodirelo.
Overlaps between ombud schemes

212. (1) An industry ombud scheme may not deal with a complaint to which a statutory ombud scheme applies, but must refer the complaint to the appropriate statutory ombud scheme unless the statutory ombud scheme has declined to deal with the complaint.

(2) An ombud scheme may not deal with a complaint that has been dealt with by another ombud scheme unless—
   (a) the complaint is referred to it by the other ombud scheme; or
   (b) the Ombud Council has designated both schemes in terms of section 211(1) to deal with and resolve complaints of the relevant kind and each scheme is dealing with the elements of the complaint in accordance with the applicable determination in terms of section 211(1)(b).

Collaboration between ombuds and ombud schemes

213. The ombud schemes, and the ombuds, must cooperate and collaborate with each other regarding complaints about financial institutions in relation to financial products and financial services, including by developing processes and procedures to jointly hear and determine complaints, on their own initiative or as may be required by Ombud Council rules.

Governing rules of recognised industry ombud scheme

214. (1) Before the Ombud Council can recognise an industry ombud scheme in terms of section 194, the Ombud Council must—
   (a) publish—
       (i) a draft of the governing rules or amendments to the governing rules;
       (ii) a statement explaining the need for and the intended operation of the governing rules or the amendment to the governing rules;
       (iii) a statement of the expected impact of the governing rules or the amendment to the governing rules; and
       (iv) a notice inviting submissions in relation to the rules or amendment to the governing rules and stating where, how and by when submissions are to be made; and
   (b) submit the draft governing rules to the Financial Sector Conduct Authority.

(2) The period allowed for making submissions on the governing rules or amendments to the governing rules in terms of subsection (1) must be at least 30 days.

(3) (a) The governing rules of a recognised industry ombud scheme must be approved by and may not be amended without the approval of the Ombud Council.

   (b) Governing rules or amendments to governing rules that are adopted by a recognised industry ombud scheme without the approval by the Ombud Council are void.

(4) The Ombud Council must not approve governing rules or an amendment to governing rules unless it is satisfied that to do so assists in achieving the object of this Act as set out in section 7.

Obligation to comply with governing rules of recognised industry ombud schemes

215. (1) A financial institution that is a member of a recognised industry ombud scheme must comply with the governing rules of the scheme.

   (2) Without limiting any other right that a financial customer of a financial institution that is a member of a recognised industry ombud scheme may have, the financial customer may enforce the obligation in subsection (1) in relation to a financial product or a financial service as if the obligation were a provision of the contract in terms of which the financial product or financial service was provided to the financial customer.
Ditšelelepano magareng ga le direma tsa ombud

212. (1) Ombud wa sekema sa ombud sa bodirelo o ka se samagane le ngongorego eo sekema sa ombud sa molao se diriswang, mme o tshwanetse go romela ngongorego go sekema sa ombud sa molao se se maleba ntle le fa sekema sa ombud sa molao se ganne go samagana le ngongorego.

(2) Sekema sa ombud se ka se samagane le ngongorego e e setseng e rabarolotswe ke sekema sa ombud se sengwe ntle le fa—

(a) ngongorego e rometswe kwa go sona ke sekema sa ombud se sengwe; kgotsa
(b) Khansele ya Ombud e thapile dikema ka bobedi go ya ka karolo 211(1) go sekaseka le go rabarolola dingongorego tsatsofuta o o maleba e biele sekema sengwe le sengwe se sekaseka le dipopi tsa ngongorego go tsamelaena le tlhomamiso e e diriswang go ya ka karolo 211(1)(b).

Tirisanommogo magareng ga ombuds le dikema tsa ombuds

213. Dikema tsa ombud, le ombuds, ba tshwanetse go dirisana mmogo le go kopana mabapi le dingongorego tse di ka ga ditheo tsa ditšehelele mabapi le dikumo tsa ditšehelele le ditirelo tsa ditšehelele, go akaretse le ka go tlhabolole dikgado le ditsamaaiso tsa go reetsa le go tlhomamisa dingongorego ka kopano, ka maiteko a tsona kgotsa jaaka go tla be go tlhokega go ya ka melwana ya Khansele ya Ombud.

Melawana e e laolang ya sekema se se amogelesegang sa bodirelo jwa ombud sa bodirelo se se amogetsweng

214. (1) Pele Khansele ya Ombud e ka amogela sekema sa ombud sa bodirelo go ya ka karolo 194, Khansele ya Ombud e tshwanetse go—

(a) phasalatsa—

(i) thalo ya melawana ya go busa kgotsa ditlhabololo tsa melawana ya go busa;
(ii) polelo e e tlahosang tlhoko e le tsamaaiso e e ikaletsengweng ya melawana ya go busa kgotsa ditlhabololo ya melawana e e busang;
(iii) polelo ya kutlwalo e e sololetsweng ya melawana ya go busa kgotsa ditlhabololo ya melawana ya go busa; le
(iv) kitsiso e ka yona go laletsengweng ditlaheiso mabapi le melawana kgotsa ditlhabololo ya melawana ya go busa e e bile e bolela gore ditlaheiso di ka dirwa ka, jang le gore leng; le

(b) romela thalo ya melawana ya go busa kwa Bothathing jwa Boitshwara jwa Lephata la Ditšehele.

(2) Nako e e dumeletsweng ya go dira ditlaheiso ka ga melawana ya go busa kgotsa ditlhabololo go melawana ya go busa go ya ka karolotlaletsetsa (1) e tshwanetse go nna bonnye malatsi a le 30.

(3) (a) Melawana ya go busa ya sekema sa ombud sa bodirelo se se amogetsweng e tshwanetse go rebola ke e e bile e ka se tlhabolole ntle le thebolo ya Khansele ya Ombud.

(b) Melawana ya go busa kgotsa ditlhabololo go melawana e e busang e e amogetsweng ke sekema sa ombud sa bodirelo se se amogetsweng ntle le thebolo ya Khansele ya Ombud ga e amogelesegae.

(4) Khansele ya Ombud ga e a tshwanela go rebola melawana ya go busa kgotsa ditlhabololo go melwana ya gobusa ntle le fa e kgotsofetse gore go dira jalo go thusa go fihlelela maikaelelo a Molao ono a a tlahositsengweng mo karolong 7.

Tlamego ya go ikamanya le melawana e laolang ya dikema tse di a mogele se gang tsa bodirelo jwa Ombud

215. (1) Setho sa ditšehelele se e leng leloko la sekema sa ombud sa bodirelo se se amogetsweng se tshwanetse go ikamanya le melawana ya go busa ya sekema.

(2) Ntle le go lekanetsa tshwanelo ngwe le ngwe e morekedi wa setheo sa ditšehelele se se abetsweng laensee o e leng leloko la sekema sa ombud sa bodirelo se se amogetsweng a ka nnang le yona, morekedi wa ditšehelele o ka gatelela tlamego e e mo karolotlaletsetsong (1) mabapi le kuno ya ditšehelele kgotsa tirelo ya ditšehelele jaaka e kete tlamego e e le kabelo ya konteraka e go ya ka yona kuno ya ditšehelele kgotsa tirelo ya ditšehelele e neng e tlametswe go morekedi wa ditšehelele.
Suspension of time barring terms

216. Receipt of a complaint by a financial sector regulator, the Ombud Council or an ombud suspends any applicable time barring terms, whether in terms of an agreement or any law, or the running of prescription in terms of the Prescription Act, 1969 (Act No. 68 of 1969), for the period from the receipt of the complaint until the complaint has either been withdrawn or finally determined.

Reporting

217. (1) An ombud scheme must—
(a) within six months after the end of each financial year, submit to the Ombud Council, in the form and with the content required by the Ombud Council, a report on the operation of the ombud scheme during the financial year, including in relation to—
(i) compliance with the financial sector laws in so far as they relate to ombud schemes;
(ii) the complaints that the ombud scheme is dealing with, and how they are being dealt with; and
(iii) the conduct of financial institutions that is giving rise to complaints; and
(b) comply with any request by the Ombud Council at any time for information about the operation of the ombud scheme, trends in and implications of the conduct of financial institutions observed by the ombud scheme, and any other relevant information.

(2) Each of the following must, on request by the Financial Sector Conduct Authority, and may at any time, provide information and reports to the Financial Sector Conduct Authority about the operation of ombud schemes and trends in and implications of the conduct of financial institutions observed by it:
(a) The Ombud Council;
(b) a statutory ombud scheme;
(c) a recognised industry ombud scheme.

(3) If, in dealing with a complaint, an ombud becomes aware that there has or may have been—
(a) a contravention of a financial sector law in a material way by a financial institution; or
(b) an activity or action by a financial institution that has an effect on financial customers other than the complainant,

the ombud must report the details of the matter, including the identity of the financial institution concerned, to the Financial Sector Conduct Authority.

(4) (a) The Ombud Council must provide the Minister of Finance and the National Treasury with information, returns, documents, explanations and motivations that may be prescribed by Regulation for this section or information that the Minister of Finance or the National Treasury may request.
(b) Paragraph (a) does not require or permit the provision of information about persons identifiable from the information.

CHAPTER 15
FINANCIAL SERVICES TRIBUNAL

Part 1

Interpretation

Definitions

218. For the purposes of this Chapter—
“decision” means each of the following:
(a) A decision by a financial sector regulator or the Ombud Council in terms of a financial sector law in relation to a specific person;
Tshekego ya dipeelo tse di beilweng tsa nako

216. Kamogelo ya ngongorego ka molaodi wa lephata la ditšhelete, Khansele ya Ombud kgotsa ombud se sekega dipeelo tšibeloy a nako, e ka nna go ya ka tumalano kgotsa molao mongwe le mongwe, kgotsa go diragatswa ga taelo go ya ka *Prescription Act*, 1969 (Molao 68 wa 1969), mo nakong ya go simolola ka kamogelo ya ngongorego go fitlhela ngongorego e gogelwa morago, kgotsa e tlhomamiswa kwa bokhutlong.

Go bega

217. (1) Sekema sa Ombud se tshwanetse—

(a) mo dikgweding tse thataro morago ga go ya bokhutlong ga ngwaga ngwe le
ngwe ya ditšhelete, romela go Khansele ya Ombud, mo foromong le ka
diteng tse di thokwang ke Khansele ya Ombud, pegelo ka ga tiro ya sekema
sa ombud sa lephata la ditšhelete ka nako ya ngwaga wa ditšhelete, go
akaretsa mabapi le—

(i) ikamanyo le melao ya lephata la ditšhelete jaaka ga e amana le dikema
tsa ombud;

(ii) dingongorego tse sekema sa ombud se samaganeng le tsona, le ka moo di
raborololwang ka teng; le

(iii) boitshwaro jwa ditheo tsa ditšhelete jo bo tlisang dingongorego tse
dintsi; le

(b) go ikamanyea le copa ya Khansele ya Ombud ka nako ngwe le ngwe ma
bapì tse le tshedimosetso e e ka ga tsamaiso ya sekema sa ombud, tse di diriswang
sešweng le bokao jwa maithsho a ditheo tsa ditšhelete a e elwang tlhoko ka
sekema sa ombud le tshedimosetso ngwe le ngwe e e maleba.

(2) Nngwe le ngwe ya tse di latelang e tshwanetse, ka kopo ya Bothati jwa
Boitshwaro jwa Lephata la Ditšhelete, gape le ka nako ngwe le ngwe, tlamela ka
tshedimosetso le dipegelo ka ga tiro ya dikema tsa ombud le tseo di diriswang mo
sešweng le bokao jwa maithsho a ditheo tsa ditšhelete tse bo di elang tlhoko:

(a) Khansele ya Ombud;

(b) sekema sa ombud sa semolao;

(c) sekema sa ombud sa bodirelo se se amogetsweng.

(3) Fa, ka go samagana le ngongorego, ombud a lemoga gore go na le kgotsa go ka
nnal e—

(a) tlolo ya molao wa lephata la ditšhelete ka tšenelelo e kgo e setheo sa
ditšhelete; kgotsa

(b) tirwana kgotsa tiro ka setheo sa ditšhelete e e nang le tlamorago mo
barekeding ba ditšhelete bao e seng bangongoregi,
ombud o tshwanetse go itsise Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ka ga
morero oo, go akaretsa le tshupo ya setheo sa ditšhelete se se amegang.

(4) (a) Khansele ya Ombud e Ombud e tshwanetse go tlamela Tona ya Matlole le Matlotlo a
Botšhaba ka tshedimosetso, dipolo, dikwalo, ditšhaloso le ditšhegetso tse di ka
neelwang ka Molawana mabapi le karolo eno kgotsa tshedimosetso e e ka lopiwang ke
Tona ya Matlole le Matlotlo a Botšhaba.

(b) Temana (a) ga e tlhoko kgotsa ga e setheo ka ga batho ba ba ka supiwang go tswana mo tshedimoseetsong.

KGAOLO 15

LEKGOTLA LA DITIRELO TSA DITŠHELETE

Karolo 1

Tlhaloso

Ditšhaloso

218. Mabapi le maihlhomo a Kgalo eno—

“tšhetsetse” e kaya ngwe le ngwe ya tse di latelang:

(a) tšhetse e e tserweng ke molaodi wa lephata la ditšhelete kgotsa Khansele ya
Ombud go ya ka molao wa lephata la ditšhelete mabapi le motho yo o rileng;
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(b) a decision by an authorised financial services provider, as defined in section 1 of the Financial Advisory and Intermediary Services Act, in terms of section 14 of that Act in relation to a specific person;
(c) a decision in relation to a specific person by a market infrastructure, being a decision in terms of rules of the market infrastructure contemplated by the Financial Markets Act, or a decision contemplated in section 105 of the Financial Markets Act;
(d) a decision of a statutory ombud in terms of a financial sector law in relation to a specific complaint by a person;
(e) a decision of a kind prescribed by Regulation for the purposes of this paragraph, and includes—
(f) an omission to take such a decision within the period prescribed or specified in a financial sector law, rules, or other requirements pertaining to the decision-maker;
(g) an omission to take such a decision within a reasonable period, if the applicable financial sector law, or rules of, or other requirements pertaining to, the decision-maker require the decision to be taken but without prescribing or specifying a period;
(h) an action taken as a result of such a decision; and
(i) an omission to take action as a result of such a decision within the prescribed or a reasonable period, if the applicable financial sector law requires the action to be taken but does not prescribe a period,
but does not include—
(j) a decision of a financial sector regulator that the financial sector regulator is directed to take in terms of section 18(2) or 30(1);
(k) a decision to conduct a supervisory on-site inspection or an investigation;
(l) an assessment of a levy issued to a specific person; or
(m) a decision prescribed by Regulations made for this paragraph;

“decision-maker” means—
(a) in relation to a decision by a financial sector regulator, the financial sector regulator;
(b) in relation to a decision by the Ombud Council, the Ombud Council;
(c) in relation to a decision referred to in paragraph (b) of the definition of “decision” in this section, the authorised financial services provider;
(d) in relation to a decision referred to in paragraph (c) of the definition of “decision” in this section, the market infrastructure;
(e) in relation to a decision by a statutory ombud, the statutory ombud; and
(f) in relation to a decision referred to in paragraph (e) of the definition of “decision” in this section, the person identified in the Regulations as the decision-maker.

Part 2

Financial Services Tribunal

Establishment and function of Financial Services Tribunal

219. (1) The Financial Services Tribunal is hereby established to reconsider, in terms of this Chapter, decisions as defined in section 218 and to perform the other functions conferred on it by this Act and specific financial sector laws.
(2) The Tribunal—
(a) is independent;
(b) must be impartial and exercise its powers without fear, favour or prejudice;
(c) is a tribunal of record; and
(d) must perform its function in accordance with this Act and the specific financial sector laws.
(b) tshwetso ka motlamedi wa ditirelo tsa ditšhelete tse di amogetsweng, jaaka go tlhalositswe mo karolog 1 ya Financial Advisory and Intermediary Services Act, go ya ka karolo 14 ya Molao oo mabapi le motho yo o rileng;

(c) tshwetso e e mabapi le motho yo o rileng ka thulaganyetso ya popegotheo ya mmaraka, eo e leng tshwetso go ya ka melawana ya thulaganyetso ya popegotheo ya mmaraka e e tlhalositsweng ke Financial Markets Act, kgotsa tshwetso e e tlhalositsweng mo karolog 105 ya Financial Markets Act;

(d) tshwetso ya ombud wa semolao go ya ka molao wa lephata la ditšhelete mabapi le ngongorego e e rileng ka motho;

(e) tshwetso ya mofuta o o rileng e e neetsweng ke Molawana mabapi le mailihomo a temana eno, ebile e akaretse—

(f) tlogelo go tsaya tshwetso eo mo nakong e e beilweng kgotsa tsepamisitsweng mo molaong wa lephata la ditšhelete, melawana, kgotsa ditlhokoge tse dinge tse di amanang le motho yo o tsereng tshwetso;

(g) tlogelo ya go tsaya tshwetso eo mo nakong e e lekaneng, fa molao wa lephata la ditšhelete o o maleba, kgotsa melawana, kgotsa ditlhokoge tse dinge tse di amanang le motho yo o tsereng tshwetso di tlhoka gore go tsewe tshwetso fela ntle le go baya kgotsa go tsepamisa nako;

(h) kgato e e tserweng ka nthla ya tshwetso eo; le

(i) tlogelo ya go tsaya tshwetso ka nthla ya tshwetso eo mo nakong e e beilweng kgotsa e e lekaneng, fa molao wa lephata la ditšhelete o o amogetsweng o tlhoka gore kgato e e tsewe mme o sa neelane ka nako, mme ga o akaretse—

(j) tshwetso e e molewa di lephata la ditšhelete a ka tseoa mo kgaolo eno, ditshwetso jaaka di tlhalositswe mo karolog 218 le go dira ditiro tse dinge tse di amanang le Molao ono le Melawana mo Molao ono le melawana ta ditšhelete, molaodi wa lephata la ditšhelete;

(k) tshwetso ya go diragatsa ke Mpho tsa Molao ono le Molao ono le Melawana mo Mpho tsa Molao ono le Melawana;

(l) tshwetso e e motlaleng ya tshwetso ya tshwetso mo temaneng ya tshwetso ya tshwetso ya tshwetso ya tshwetso.

Karolo 2

Lekgotla la Ditirelo tsa Ditšhelete

Go tlhongwa le tiro ya Lekgotla la Ditirelo tsa Ditšhelete

219. (1) Lekgotla la Ditirelo tsa Ditšhelete le a tlhongwa go sekasekagape, go ya ka Kgalo eno, ditshwetso jaaka di tlhalositswe mo karolog 218 le go dira ditiro tse dinge tse le bo di abetsweng ke Molao ono le melao ya lephata la ditšhelete e e rileng.

(2) Lekgotla—

(a) le ikemetse;

(b) le tshwanetse go se tseye letlhakore le go diragatsa ditshwetso tsa lona ntle le letshogo, kgethlokoloo kgotsa kgoebelo;

(c) le lekgotla la rekoto; le

(d) le tshwanetse go dira ditiro tsa lona go tsemaelana le Molao ono le melao e e tsepameng ya lephata la ditšhelete.
Members of Tribunal

220. (1) The Tribunal consists of as many members, appointed by the Minister, as the Minister may determine.
(2) The Tribunal members must include—
   (a) at least two persons who are retired judges, or are persons with suitable expertise and experience in law; and
   (b) at least two other persons with experience or expert knowledge of financial products, financial services, financial instruments, market infrastructures or the financial system.
(3) A person may not be appointed to, or hold office as, a Tribunal member if the person—
   (a) is a disqualified person; or
   (b) is not a citizen of the Republic or is not ordinarily resident in the Republic.
(4) The Minister must appoint a Tribunal member referred to in subsection (2)(a) as the Chairperson, and may appoint another Tribunal member as Deputy Chairperson.
(5) The Chairperson—
   (a) must preside at meetings of the Tribunal; and
   (b) is responsible for managing the work of the Tribunal effectively.
(6) The Deputy Chairperson performs the functions of the Chairperson on delegation by the Chairperson, or in the absence of the Chairperson, or if for any reason the office of the Chairperson is vacant.

Term of office and termination of membership

221. (1) A Tribunal member holds office for—
   (a) three years from the date of the member’s appointment; or
   (b) if a shorter period is specified in the appointment of the Tribunal member, that shorter period.
(2) A Tribunal member may be re-appointed at the expiry of a term.
(3) A person may resign as a Tribunal member by giving at least three months written notice to the Minister, or a shorter period of notice that the Minister may accept.
(4) The Minister must terminate a person’s appointment as a Tribunal member if the member becomes a disqualified person.
(5) The Minister may terminate a person’s appointment as a Tribunal member if—
   (a) the member is unable to perform the functions of office for health or other reasons; or
   (b) an independent inquiry established by the Minister has found that the member—
      (i) has failed in a material way to discharge any of the responsibilities of office; or
      (ii) has acted in a way that is inconsistent with continuing to hold the office.
(6) If an independent inquiry has been established in terms of subsection (5)(b) in relation to a member, the Minister may suspend the member from office pending a decision on the removal of the member.
(7) A Tribunal member holds office on terms and conditions, including as to remuneration, not inconsistent with this Act, determined by the Minister.

Staff and resources

222. (1) The Chairperson may, in accordance with applicable law—
   (a) for the work of the Tribunal—
      (i) appoint persons as employees;
      (ii) enter into secondment arrangements; or
      (iii) engage persons on contract otherwise than as employees;
   (b) enter into contracts;
   (c) acquire and dispose of property;
   (d) insure the Tribunal against any loss, damage, risk or liability that it may suffer or incur; and
Maloko a Lekgotla

220. (1) Lekgotla le na na le maloko a le mantsi, a a thapilweng ke Tona, jaaka Tona a ka tlhomamisa.

(2) Maloko a Lekgotla a shwanestse go akaretsa—
(a) bonnye batho ba le babedi bao e leng baatlhodi ba ba botseng tiro, kgotsa ke batho ba nang le kitso e kgolo e e maleba le maitemegolemo mo molaong; le
(b) bonnye batho ba bangwe ba babedi bao ba nang le maitemegolemo kgotsa kitso e e kwa godimo ya dikuno tsa ditšheletse, ditirelo tsa ditšheletse, didiriso tsa ditšheletse, ditulaganyetso tsa popegotho ya mmaraka kgotsa ditulaganyo tsa ditšhelele.

(3) Motho o ka se thapelwe go, kgotsa go di ra jaaka, leloko la Lekgotla fa motho—
(a) a ileditse; kgotsa
(b) e se moagi wa Rephaboliki kgotsa e se moagi ka tlwae mo Rephaboliking.

(4) Tona o tshwanetse go thapa leloko la Lekgotla le le kailweng mo karolotlaletsetsong (2)(a) jaaka Modulasetilo, e bile o ka thapa leloko le lengwe la Lekgotla jaaka Molatsamodulasetilo.

(5) Modulasetilo—
(a) o tshwanetse go okamela kwa dikopanong tsa Lekgotla; le
(b) o rwala maikarabelo a go laola tiro ya Lekgotla ka nonofo.

(6) Molatsamodulasetilo o dira ditiro tsa Modulasetilo ka thololo ya Modulasetilo, kgotsa fa Modulasetilo a seyo, kgotsa fa ka lebaka lengwe go na le phatlatiyo ya modulasetilo.

Paka ya tiro le khutliso ya boloko

221. (1) Leloko la Lekgotla le dira—
(a) sebaka sa dingwaga tse tharo go simolola ka lethla la go thapiwa ga leloko; kgotsa
(b) fá paka e e khutshwane e tsepmisitswe mo go thapiweng ga leloko la Lekgotla, paka eo e e khutshwane.

(2) Leloko la Lekgotla le ka thapiwa gape kwa bokhutlong jwa paka.

(3) Motho o ka rola tiro jaaka leloko la Lekgotla ka go romela Tona kitsiso ya bonnye dikgwedi di le tharo, kgotsa nako e e khutshwane ya kitsiso e Tona o ka e amogelang.

(4) Tona o tshwanetse go khutlisa go thapiwa ga motho jaaka leloko Lekgotla fa motho a ileditse.

(5) Tona o ka khutlisa go thapiwa ga motho jaaka leloko la Lekgotla fa—
(a) leloko le sa kgone go dira ditiro tse le di thapetsweng ka ntlha ya mabaka a boitekanelo kgotsa mabaka a mangwe; kgotsa
(b) fá patlisiiso e e ikemetseng e e tholoniweng ke Tona e fitlheletse gore leloko—
(i) le paletswe ka gotilhe go diragatsa ngwe le ngwe ya maikarabelo a lona a tiro; kgotsa
(ii) le dirile ka mokgwera o o sa tsamelaaneng le ditlhohego tse go tsewelela pele go dira.

(6) Fá patlisiiso e e ikemetseng e e tholoniweng go ya ka karolotlaletsetso (5)(b) mabapile leloko, Tona o ka emisa leloko mo tirong go sa letilwe tshwetso ka ga go tloswa ga leloko.

(7) Leloko la Lekgotla le dira go ya ka dipelo le mabaka, go akaretsa le ka ga go duelwa, go go tsamelaanang le Molao ono, tse di tholomamisitsweng ke Tona.

Badiri le ditlamelo

222. (1) Modulasetilo o ka, go tsamela lela molao o o maleba—
(a) mabapi le tiro ya Lekgotla—
(i) thapa batho jaaka badiri;
(ii) dira ditulaganyo tsa go tlatsa go thapiwa ga motho; kgotsa
(iii) dirisana le batho ka konteraka ka pharologano le bona jaaka badiri;
(b) dirigoko tsempisetsa;
(c) fitlheletse le go latlha photo;
(d) inšora Lekgotla kgatlanong le tathegelo ngwe le ngwe; tshenyegelo, kotsi kgotsa molato eo le ka le ka iphitlhelang le lebagane nao; le
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(e) do anything else necessary for the performance of the Tribunal’s functions.

(2) The Chairperson may not enter into a secondment arrangement in respect of a person, or engage persons as employees or on contract, unless the person and the Chairperson have agreed in writing—
(a) the performance measures that must be used to assess that person’s performance; and
(b) the level of performance that must be achieved against those measures.

Duties of staff members

223. (1) A person who is or was a staff member under section 222 may not use that position or any information obtained as a staff member to—
(a) improperly benefit himself or herself or another person;
(b) impede the Tribunal’s ability to perform its functions; or
(c) cause improper detriment to another person.

(2) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

Panels of Tribunal

224. (1) The Chairperson must constitute a panel of the Tribunal for each application for reconsideration of a decision.

(2) The panel constituted to consider an application for the reconsideration of a decision is the decision-making body of the Tribunal, and the panel exercises any of the powers of the Tribunal relating to the reconsideration of the decision.

(3) The decision of the panel is the decision of the Tribunal as referred to in sections 234, 235 and 236 in respect of an application for the reconsideration of a decision.

(4) A panel consists of—
(a) a person to preside over the panel, who must be a person referred to in section 220(2)(a) or 225(2)(a)(i); and
(b) two or more persons who are Tribunal members or persons on the panel list.

(5) If, for any reason, a panel member is unable to complete proceedings for a reconsideration of a decision, the Chairperson may—
(a) replace that member with a person referred to in subsection (4);
(b) direct that the proceedings continue before the remaining panel members; or
(c) constitute a new panel and direct the new panel to either continue the proceedings, or start new proceedings.

Panel list

225. (1) The Minister must establish and maintain a list of persons who are willing to serve as members of panels of the Tribunal.

(2) The persons included in the panel list must—
(a) have relevant experience in or expert knowledge—
(i) of law; or
(ii) of financial products, financial services, financial instruments, market infrastructures or the financial system; and
(b) be a fit and proper person to be included in the panel list.

(3) A person may not be included in the panel list if the person is a disqualified person.

(4) The Minister may, every five years, publicly invite persons to apply for inclusion in the panel list.

(5) The Chairperson must ensure that the persons included in the panel list have an equal opportunity to be appointed to serve on a panel of the Tribunal.
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(e) dira sengwe le sengwe se se tlhokegang mabapi le tiragatso ya ditiro tsa Lekgotla.

(2) Modulasetilo o ka se dire thulaganyo ya go tlatsa ga thapiwa ga motho, kgotsa go dirisa motho jaaka modiri kgotsa modiri wa konteraka, ntle le fa fela motho le Modulasetilo ba dumalane ka go kwlala ka ga—

(a) ditekanyetsa tsa tiro tse di tshwanetseng go diriswa go lekanyetsa tiragatso ya motho; le

(b) boemo jwa tiro jo bo tshwanetseng go filhelelwla kgatlhanong le ditekanyetso tseo.

Ditiro tsa badiri

223. (1) Motho yo e leng kgotsa yo e neng e le leloko la badiri rimmo ka fa tlase ga karolo 222 o ka se dirise maemo ao kgota tshedimo tse ngwe le ngwe e a e filheletse tsa jaaka leloko la badiri go—

(a) una moloemo e seng ka tshwanelo kgotsa go dira gore motho yo mongwe a une moloemo;

(b) kgoreleta bokgoni jwa Lekgotla jwa go dira ditiro tsa jona; kgotsa
tsa kgotsa kgotsa mabapi le tiragatso ya motho yo mongwe.

(2) Mabapi le mailhomo a karolo eno. “kunomolemo” le “thatafaletso” ga di a lelokyetsa ga kunomolemo kgotsa thatafaletso ya dii shelete.

Dipanele tsa Lekgotla

224. (1) Modulasetilo o tshwanetse go tlhama panele ya Lekgotla mabapi le kopo ngwe le ngwe ya tshekatshekogeape ya tshwetso.

(2) Panele e thlometswe go sekaseka kopo mabapi le mokgatlhoo o o dirang ditshwetso wa Lekgotla, e bile panele e diragatsa ngwe le ngwe ya dithaa tsa Lekgotla tse di amanang le tshekatshekogeape ya tshwetso.

225. (1) Tona o tshwanetse go tlhoma le go tlamela lenane la batho ba ba ikemiseditseng go dira jaaka maloko a dipanele tsa Lekgotla.

(2) Batho ba ba akareitsweng mo lenaneng la panele ba tshwanetse—

(a) go nna le maitemogelo mo kgotsa kitso ya boitseanape—

(i) ya molao; kgotsa

(ii) ya dikuno tsa dithelete,ditirelo tsa dithelete, didiriso tsa dithelete,

dithulaganyetsa tsa popegotheo ya mmara kgotsa dithulaganyo tsa

dithelete; le

(b) go nna motho yo o itekanetseng e bile a le matshwani go ka akaretswa mo

lenaneng la panele.

(3) Motho o ka se akaretswse mo lenaneng la panele fa e le motho yo o ileitsweng.

(4) Tona o ka, dingwaga dingwe le dingwe tse tlhano, laletsa mo phatlalatseng batho
go dira kopo ya go akaretswa mo lenaneng la panele.

(5) Modulasetilo o tshwanetse go netefatsa gore batho ba ba akareitsweng mo

lenaneng la panele ba newa tshono e e lekanang ya go thepiwa go dira mo paneleng ya

Lekgotla.
(6) The Minister—
(a) must remove a person from the panel list—
(i) if the person so requests; or
(ii) if the person becomes a disqualified person; and
(b) may, on recommendation of the Chairperson, remove a person from the panel—
(i) if the person is unable to act as a panel member for health or other reasons;
(ii) if the person has failed in a material way to discharge any of the responsibilities of a panel member; or
(iii) if the person has acted in a way that is inconsistent with acting as a panel member.

Disclosure of interests

226. (1) (a) If before or during proceedings in which a panel member is participating, it becomes apparent that the panel member or a person who is a related party to the panel member has an interest in the decision that the panel has been constituted to reconsider, the panel member must—
(i) immediately and fully disclose this interest to the other members of the panel; and
(ii) withdraw from any further involvement in the hearing.
(b) A disclosure in terms of paragraph (a) by the Chairperson must, in addition, be made to the Minister.
(c) A disclosure in terms of paragraph (a) by another panel member must, in addition, be made to the Chairperson.

(2) For the purposes of this section, it does not matter—
(a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or
(b) when the interest was acquired.

(3) In this section, “interest” does not include an interest that is not material.
(4) The Chairperson must maintain a register of all disclosures made in terms of this section, and must maintain a system for the annual disclosure of interests by members of the Tribunal.

Tribunal rules

227. (1) The Chairperson may make rules, not inconsistent with this Act, in respect of the procedure to be followed in connection with proceedings on applications for reconsideration of decisions in terms of this Chapter, and the conduct of those proceedings, and may at any time amend or revoke those rules.
(2) Tribunal rules, and amendments and revocations of Tribunal rules, must be published.

Part 3

Right to reasons for decisions

Right to be informed

228. An obligation in a financial sector law to notify a person of a decision taken in relation to that person must be read as including an obligation to notify the person of that person’s right—
(a) to request reasons for the decision in terms of section 229; and
(b) to have the decision reconsidered in terms of Part 4.

Right to reasons for decisions

229. (1) A person who has not already been given the reasons for the decision may, within 30 days after the person was notified of the decision, request a statement of the reasons for the decision from the decision-maker.
(2) The decision-maker must, within one month after receiving a request in terms of subsection (1), give the person a statement of the reasons for the decision, which must include a statement of the material facts on which the decision was based.
Molao wa Taolo ya Lephata la Ditshlele, 2017

GOVERNMENT GAZETTE, 22 AUGUST 2017 No. 41060

(6) Tona—

(a) o tshwanetse go tlosa mo tsha mo lenaneng la panele—

(i) fa motho a kopa jalo; kgotsa

(ii) fa motho a nna motho yo o ile ditse weng; le

(b) o ka, ka tsitsinyo ya Modulasetilo, tlosa motho mo lenaneng la panele fa motho—

(i) a sa kgone go dira jaaka leloko la panele ka nthla ya mabaka a boitekanelo kgotsa a mangwe;

(ii) a paletswe ka gotlhe go diragatsa ngwe le ngwe ya maikarabelo a leloko la panele; kgotsa

(iii) a dirile ka mokgwa o o sa tsamaelaneng le go dira jaaka leloko la panele.

Tshenolo ya dikgatlhego

226. (1) (a) Fa pele kgotsa ka nako ya ditsamaiso se mo go tsiona leloko la panele le tsayang karolo, go lehega e kete leloko la panele, kgotsa motho yo o amang le leloko la panele, a na le kgatlhhego mo tshwetsong e panele e e tlhametsweng go e sekaseka gape, leloko la panele le tshwanetse go—

(i) senolela maloko a mangwe a panele kgatlhhego eo ka bonako le ka botlalo; le

(ii) ikogela morago mo go nneng karolo ya theetsos.

(b) Tshenolo go ya ka temana (a) ka Modulasetilo e tshwanetse, ka tlaleletso, go dirwa go Tona.

(c) Tshenolo go ya ka temana (a) ka leloko le lengwe la panele e tshwanetse, ka tlaleletso, go dirwa go Modulasetilo.

(2) Mabapi le matlhomo a karolo eno, ga go kgathalese—

(a) gore kgatlhegelo e tlhamelese, ga e a tlhamalala, ke ya tšhelete kgotsa ga se ya tšhelete; kgotsa

(b) gore kgatlhegelo e fti tšheletse leng.

(3) Mo karolong eno “kgatlhegelo” ga e akaretse kgatlhegelo e e seng ya boleng.

(4) Modulasetilo o tshwanetse go tshola rejistara ya ditshenolo tsotlhe tse di dirilweng go ya ka karolo eno, le go tshola thulaganyo ya ditshenolo tsa kgatlhegelo ka maloko a Lekgotla ngwaga le ngwaga.

Melawan ya Lekgotla

227. (1) Modulasetilo o ka dira melawan, e e tsamaelanang le Molao ono, mabapi le tsamaiso e e tshwenetseng go latelewa mabapi le ditsamaiso tsa dikopo tsa tshekatshekogape ya tshwetsos ya ka Kgalo eno, le maitsholo a ditsamaiso tseo, e bile e e tlhabolola kgotsa phimola melao eo nako ngwe le ngwe.

(2) Melawan ya Lekgotla, le ditshololo le diphimolo tsa Melawan ya Lekgotla, di tshwenetse go phasalatswa.

Karolo 3

Tshwanelo ya mabaka a ditshwetsos

228. Tlamego mo molaong wa lepaha la ditšhelete ya go itsise motho ka ga tshwetsos e e tserweng mabapi le motho yoo e tshwenetse go tseelwa gore e akaretse tlamengo ya go itsise motho ka ga tshwanelo ya motho yoo—

(a) ya go lopa mabaka a tshwetsos ga ya ka karolo 229; le

(b) ya go dira kopo ya gore tshwetsos e sekasekwe gape go ya ka Karolo 4.

Tshwanelo ya mabaka a ditshwetso

229. (1) Motho yo o iseng a newe mabaka a tshwetsos o ka, mo matsatsing a le 30 morago ga fa motho a sena go itsiisiwe ka ga tshwetsos, lopa polelo ya mabaka mabapi le tshwetsos go tswa gomotho yo o dirileng tshwetsos.

(2) Motho yo o dirileng tshwetsos o tshwenetse, mo kgweding e le esi morago ga go amogela kopo e e kailweng mo karolotlaletsetong (1), naya motho polelo ya mabaka a tshwetsos, e e tshwenetseng go akaretse polelo ya ditlha tsa bothokwa tse tshwetsos e ikaegileg ka tsiona.
Part 4

Reconsideration of decisions

Applications for reconsideration of decisions

230. (1) (a) A person aggrieved by a decision may apply to the Tribunal for a reconsideration of the decision by the Tribunal in accordance with this Part.

(b) A reconsideration of a decision in terms of this Part constitutes an internal remedy as contemplated in section 7(2) of the Promotion of Administrative Justice Act.

(2) The application must be made—

(a) if the applicant requested reasons in terms of section 229, within 30 days after the statement of reasons was given to the person; or

(b) in all other cases, within 60 days after the applicant was notified of the decision, or such longer period as may on good cause be allowed.

(3) An application in terms of subsection (1) must be made in accordance with the Tribunal rules.

Decision of Tribunal not suspended

231. Neither an application for a reconsideration of a decision, nor the proceedings on the application, suspends the decision of the decision-maker unless the Tribunal so orders.

Proceedings for reconsideration of decisions

232. (1) In proceedings for reconsideration of a decision—

(a) the procedure is, subject to the financial sector laws and the Tribunal rules, determined by the Chairperson;

(b) the proceedings are to be conducted with as little formality and technicality, and as expeditiously, as the requirements of the financial sector laws and a proper consideration of the matter permit; and

(c) any party may be represented by a legal representative.

(2) The person chairing a panel may give directions to facilitate the conduct of proceedings for reconsideration of a decision before the panel.

(3) A panel must conduct any hearing it holds in public, but the person presiding over the panel may direct that a person be excluded from a hearing on any ground on which it would be proper to exclude a person from civil proceedings before the High Court.

(4) In proceedings for reconsideration of a decision, the panel is not bound by the rules of evidence, but may, subject to this section, inform itself on any relevant matter in any appropriate way.

(5) The person presiding over a panel—

(a) may, on good cause shown, by order, direct a specified person to appear before the panel at a time and place specified in the order to give evidence, to be questioned or to produce any document; and

(b) must administer an oath to or accept an affirmation from any person called to give evidence.

(6) A person giving evidence or information, or producing documents, has the protections and liabilities of a witness giving evidence in proceedings before the High Court.

Decisions of panels

233. If the panel constituted for an application for reconsideration of a decision is divided in opinion as to an order to be made, the opinion of the majority of the panel members prevails, but if they are equally divided in opinion, the opinion of the member presiding over the panel prevails.
**Karoło 4**

**Tshekatsheko poelelo ya ditshwetso**

**Dikopo mabapi le tshekatshekopoetoletso ya ditshwetso**

230. (1) (a) Motho yo o ngongoregelang tshwetso o ka dira kopa kwa Lekgotleng mabapi le tshekatshekogape ya tshwetso ke Lekgotla go tsamaelana le Karolo eno.
(b) Tshekatshekogape ya tshwetso go ya ka Karolo eno e tshwanetswe ke namolo ya ka fa gare jaaka go tlhalositswe mo karolong 7(2) ya *Promotion of Administrative Justice Act*.

(2) Kopo e tshwanetse go dirwa—
   (a) fa modirakopo a kopile mabaka go ya ka karolo 229, mo malatsing a le 30 morago ga fa polelo ya mabaka e sena go newa motho; kgotsa
   (b) mo mabakeng otlh e a mangwe, mo malatsing a le 60 morago ga fa modirakopo a sena go itisisiwe ka tshwetso. kgotsa nako eo e telele e e ka letlwang ka mowa o montle.

(3) Kopo go ya ka karolotlaleletso (1) e tshwanetse go dirwa go tsamaelana le Melawanya ya Lekgotla.

**Tshwetso ya Lekgotla e sa sekegwang**

231. Kopo ya tshekatshekogape ya tshwetso, kgotsa ditsama iso mo kopong, ga di sekege tshwetso ya motho yo o dirileng tshwetso ntle le fa Lekgotla le laela jalo.

**Ditsamaiso tsa tshekatshekopoetoletso ya ditshwetso**

232. (1) Mo ditsamaisong mabapi le tshekatshekogape ya tshwetso—
   (a) tsamaiso e, go larlela melao ya lephata la ditshèletle le Melawanya ya Lekgotla, tlhomamiswa ke Modudletilo;
   (b) ditsamaisoa ditshwanetse go dirwa e seng ka tseielelo e kgo le ka nolofatso, mme ka bonako, jaaka go tlhokega go ya ka melao ya lephata la ditshèletle le kelothoko e kgo; le
   (c) moamegi mongwe le mongwe o ka emelelwa moemedi wa semolao.

(2) Motho yo o okameng panele o ka neelana ka dikaelo go nolofatsa tsamiso ya ditsamaiso tsa tshekatshekogape ya tshwanelo e e fa pele ga panele.

(3) Panele e tshwanetse go tshwara theetsong ngwe e e nang le yona mo phatlalatseng, mme motho yo o okameng panele o ka laela gore motho a se akaretswe mo tsamaisong ka nthla ya lebaka lengwe le lengwe le o ka lona go tla nang matshwanedi go se akaretswe motho mo ditsamaisong tse di fa pele ga Kgotsatshelokgolo.

(4) Mo ditsamaisong mabapi le tshekatshekogape ya tshwetso, panele ga e pateletswe ke melawanya ya bopaki, mme e ka, go latela karolo eno, ikitsise ka ga merero mengwe le mengwe e e maleba ka mokgwa o o siameng.

(5) Motho yo o okameng panele—
   (a) o ka, ka lebaka le le utlwalang, ka taelo, laela motho yo o tsepamisitsweng go tlhagela go polela Panele ka nako le kwa lefelong le le tsepamisitsweng mo taelong go neelana ka bopaki, go botsolotsa kgotsa go tlhagiso lokwalo lengwe le lengwe; le
   (b) o tshwanetse go tsamaisa kano ya kgotsa go amogela neteletse go tsawa mo mothong mongwe le mongwe yo o biditsweng go neelana ka bopaki.

(6) Motho yo o neelanang ka bopaki kgotsa tsedimose, kgotsa yo o tlhagiso dikwalo, mabapi le ditsamaisong tse di ka ga tshekatshekogape ya tshwetso o na le ditshireletso le melato ya paki e e neelanang ka bopaki mo ditsamaisong tse di fa pele ga Kgotsatshelokgolo.

**Ditshwetso tsa panele**

233. Fa panele e e thomihlweng malebana le kopo ya tshekatshekogape ya tshwetso e sa dumalane ka gore taelo e dirwe, kakanyo ya bontsi jwa maloko a panele e a diragatswa, mme fa ba lekana ka pharologano ya dikakanyo, kakanyo ya leloko le le okamang panele e a diragatswa.
Tribunal orders

234. (1) In proceedings on an application for reconsideration of a decision the Tribunal may, by order—
   (a) set the decision aside and remit the matter to the decision-maker for further consideration;
   (b) in the case of a decision of any of the following kinds, also make an order setting aside the decision and substituting the decision of the Tribunal:
      (i) a decision in terms of Chapter 13;
      (ii) a decision referred to in paragraph (b) or (c) of the definition of “decision” in section 218; and
      (iii) a decision of a kind prescribed by Regulation for the purposes of this section; or
   (c) dismiss the application.

(2) The Tribunal may, in exceptional circumstances, make an order that a party to proceedings on an application for reconsideration of a decision pay some or all of the costs reasonably and properly incurred by the other party in connection with the proceedings.

(3) Subsections (1) and (2) are subject to any provision of a financial sector law that excludes, restricts or qualifies the orders that the Tribunal may make in proceedings for reconsideration of a decision.

(4) The Tribunal may, by order, summarily dismiss an application for reconsideration of a decision if the application is frivolous, vexatious or trivial.

(5) This section does not affect any other right that a person may have.

Judicial review of Tribunal orders

235. Any party to proceedings on an application for reconsideration of a decision who is dissatisfied with an order of the Tribunal may institute proceedings for a judicial review of the order in terms of the Promotion of Administrative Justice Act or any applicable law.

Enforcement of Tribunal orders

236. (1) A party to proceedings on an application for reconsideration of a decision may file with the registrar of a competent court a certified copy of an order made in terms of section 234 if—
   (a) no proceedings in relation to the making of the order have been commenced in a court by the end of the period for commencing such proceedings; or
   (b) if such proceedings have been commenced, the proceedings have been finally disposed of.

(2) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

CHAPTER 16

FEES, LEVIES AND FINANCES

Part 1

Fees and Levies

Fees and levies

237. (1) (a) Fees may be charged by a financial sector body in accordance with this Part to fund the performance of specific functions under this Act and the relevant financial sector laws.
   (b) Levies may be imposed by a financial sector body in accordance with this Part, read with legislation that empowers the imposition of levies, to fund the operations of the financial sector body.
Ditaelo tsa Lekgotla

234. (1) Mo ditsamaisong tsatse kopo e e mabapi le tshekatshekogape ya tshwetso, Lekgotla le ka, ka taelo—
(a) beela tshwetso kwa thoko le go romela morero kwa motthing yo o tsayang tshwetso gore o sekasekwe go ya pele;
(b) mabapi le tshwetso ya mfutu e e latelang, dira gape taelo e e beelang kwa thoko tshwetso le go emisetsa tshwetso ya Lekgotla:
(i) Tshwetso go ya ka Kgaolo 13;
(ii) tshwetso e e kailweng mo temaneng (b) kgotsa (c) ya tlhaloso ya “tshwetso” mo karolong 218; le
(iii) tshwetso ya mofuta o o rileng e e neetsweng ke melawana mabapi, le maitlhomo a karo lo eno; kgotsa
(c) se amogele kopo.
(2) Lekgotla le ka, mo mabakeng a a kgethegileng, dira taelo ya gore moamegi mo ditsamaisong tsatse kopo mabapi le tshekatshekogape ya tshwetso duelela bontlhabongwe jwa ditshenyelego kgotsa ditshenyelego tsothle tse di bonweng ka mabaka le ka tshiiamo ke moamegi yo mongwe mabapi le ditsamaiso.
(3) Ditkarolotlalelelo (1) le (2) di go ya ka kabelo ngwe le ngwe ya molao wa lephata la ditshelo e e sa akaretse ng, thibeling kgotsa tlhaloeng ditaelo tse di ka dirwang ke Lekgotla mo ditsamaisong mabapi le tshekatshekogape ya tshwetso.
(4) Lekgotla le ka, ka taelo, kgapela kwa thoko ka tsho tse khosobanyo kopo mabapi le tshekatshekogape ya tshwetso fa kopo e le ya lefela, thumulano kgotsa e e seng bothlokwa.
(5) Karolo ena ga e ame tshwanelo ngwe le ngwe e motho a ka tswang a na le yona.

Tshekatsheko ya katlholo ya ditaelo tsatse Lekgotla

235. Moamegi mongwe le mongwe mo kopong mabapi le tshekatshekogape ya tshwetso yo o sa kgotsofatswang ke taelo ya Lekgotla o ka dira ditsamaiso mabapi le thadiso ya boathlodi ya taelo go ya ka Promotion of Administrative Justice Act kgotsa molao mongwe le mongwe o o maleba.

Kgatelo ya ditaelo tsatse Lekgotla

236. (1) Moamegi mongwe le mongwe mo ditsamaisong mabapi le kopo ya tshekatsheko ya tshwetso o ka faela go mokwadisi kgatise e e kanetsweng ya taelo e e dirilweng go ya ka karolo 234 fa—
(a) ditsamaiso mabapi le go dirwa ga taelo di ise di somololwe kwa kgotlatshekelo kwa bokhutlong jwa paka ya tshimololo ya ditsamaiso tseo; kgotsa
(b) ditsamaiso tseo di simolotse, ditshesimaiso kwa bokhutlong di a dirwa.
(2) Taelo, fa e factswe, e na le tla mabagotso ya katlholo ya selegae, e bile e ka gatelewa jaaka e kete e dirilwe semolao ke kgotlatshekelo eo.

KGAOLO 16

MATLOTLO, MAKGETHWANA, LE DITŠHELETE

Karolo 1

Dituediso le Makgethwana

237. (1) (a) Mokgatlho wa lephata la dišhelete o ka duedisa tuelo go tsamela le Karolo eno go duelela tiragatso ya ditiro tsei di rileng ka fa šase ga Molao ono le melao ya lephata la dišhelete e e maleba.
(b) Makgethwana a ka duediswa ke mokgatlho wa lephata la dišhelete go tsamela le Karolo eno, ka puisomogolo le molawana o o layang maatla a go duedisa lekgethwana, go duelela ditiro tsatse mokgatlho wa lephata la dišhelete.

This gazette is also available free online at www.gpwonline.co.za
(2) A financial sector body must publish fees that have been determined and levies that have been imposed in the Register and on its website.

(3) Fees and levies are payable to the financial sector body at the time specified by the financial sector body, or at a time agreed to by the financial sector body.

(4) Different fees may be determined and different levies may be imposed for different types or categories of persons or supervised entities.

Fees and levies to be debts

238. (1) A fee or levy payable to a financial sector body in terms of section 237 is a debt due to the financial sector body.

(2) A financial sector body may recover the amount of a debt due in terms of this section by way of a judicial process in a competent court.

Budget, fees and levies proposals

239. (1) For each financial year, each financial sector body must prepare and adopt—

(a) a budget in accordance with section 248 that includes an estimate of its expenditure;

(b) a proposal for the fees that will be charged and levies that will be imposed by the financial sector body; and

(c) projected estimates of its expenditure for next 2 financial years.

(2) A proposal for levies may include a proposal for one or more special levies, and in that case, the estimate of expenditure must include an estimate for the special expenditure in relation to a special levy proposal.

(3) An estimate of expenditure for a financial year may include provision for one or more reserves, but the total accumulated reserves included in the estimate of expenditure may not exceed 15% of the total estimated expenditure, excluding the reserves.

(4) The financial sector body must take into account submissions made in respect of the budget as well as the fees and levies proposals, which it receives in terms of section 240.

(5) The financial sector body must submit the finalised budget, together with the fees and levies proposals, to the Minister.

(6) The Minister must be allowed a period of at least 30 days to consider the proposals and provide comments, if any.

(7) In respect of the fees and levies proposals for the first financial year following the commencement of this section, the Minister must approve the proposals for all the financial sector bodies.

(8) In respect of the Tribunal, the Minister must approve the fees and levies proposals for any financial year following the commencement of this section.

(9) (a) In respect of financial sector bodies other than the Tribunal, for any financial year other than when subsection (7) applies, the Minister must approve the fees or levies proposals, if the fees or levies proposals are based on an estimate of expenditure in excess of the amount calculated as—

\[
\text{previous year basis} \times 1.025 \times \left( \frac{\text{current index}}{\text{previous index}} \right).
\]

(b) For the purposes of paragraph (a)—

“current index” means the value of the index at the date the amount is to be indexed, or if the value is not available, the latest available value for the purposes of the preparation of fees and levies proposals for the current financial year;

“index” means the Consumer Price Index, as published by Statistics South Africa;

“previous index” means the value of the index that was used for the value of the “current index” in the fees and levies proposals prepared for the previous financial year; and
(2) Mokgatlho wa lephata la ditšelete o tshwanetse go phasalatsa dituelo tse di tlhomamisitsweng le makgthwana a a dueiswanga mo Rejisetareng le mo webesaeteng ya ona.
(3) Ditueto le makgthwana di duelwa kwa mokgatlhong wa lephata la ditšelete kgotsa ka nako e e dumetsweng ke mokgatlho wa lephata la ditšelete.
(4) Ditueto tse di farologaneng di ka tlhomamiswa le makgthwana a ka dueiswanga mabapi le mefuta e e farologaneng kgotsa ditlhopha tsa batho kgotsa ditheo tse di tlhokometsweng.

Dituediso le makgthwana tse di nnang molato

238. (1) Tuelokgotsa lekgethwana tse di duelwang mokgatlho wa lephata la ditšelete go ya ka karolo 237 ke molato o o duelwang go mokgatlho wa lephata la ditšelete.
(2) Mokgatlho wa lephata la ditšelete o ka fithilela madi a molato a a tshwanetseg go duelwa go ya ka karolo eno go ya ka mokgwa wa tsamaiso ya molao kwa kgotlatshekelong e e nang le bokgoni.

Ditshitsinyo tsa tekanyetsokabo, dituediso le makgthwana

239. (1) Mabapi le ngwaga mongwe le mongwe wa ditšelete, mokgatlho mongwe le mongwe wa lephata la ditšelete o tshwanetse go baakanya le go amogela—
(a) tekanyetsokabo go tsamaelana le karolo 248 e e akaretse tshenyetso ya ditshenyegelo tsa ona;
(b) tshitsinyo mabapi le ditueto tse di tla dueiswanga le makgthwana a tla pateletsang ke mokgatlho wa lephata la ditšelete; le
(c) tekanyetso e e bonelewang pele ya ditshenyegelo tsa ona no mingwageng tse pedi tsei di tlang tsa ditšelete.

(2) Tshitsinyo mabapi le makgthwana e ka akaretse tshitsinyo mabapi le lekgthwana le le kgethigileng le e esi kgotsa go feta, e bile mo lebakeng lelo, tekanyetso ya ditshenyegelo e tshwanetse go akaretse tshenyetso ya tshenyegelo e e kgethigileng mabapi le tshitsinyo ya lekgthwana le le kgethigileng.

(3) Tekanyetso ya tshenyegelo mabapi le ngwaga wa ditšelete e ka akaretse kabelo ya matlolepeloithoko e le esi kgotsa go feta, mme palogotlhe ya matlolepeloithoko a a bonweng a a akaretse tshenyegelo ya tshenyetso tsa ditšenyelelo tsa ka se feta 15% ya tshenyegelo yotlhe e e lekanyeditsweng, go sa akaretse matlolepeloithoko.
(4) Mokgatlho wa lephata la ditšelete o tshwanetse go tsya ya ditlihagiso tse di dirilweng mabapi le tekanyetsokabo gapo le ditshitsinyo tsa ditueto le makgthwana, ao a a amogelang go ya ka karolo 240.

(5) Mokgatlho wa lephata la ditšelete o tshwanetse go romela tekanyetsokabo ya ona e e feleditsweng, mmogo le ditshitsinyo tsa ditueto le makgthwana, kwa go Tona.
(6) Tona o tshwanetse go dumelelwa paka ya bonnye malatsi a le 30 go sekaseka ditshitsinyo le go tlamelka ka ditshwaelo, fa di le teng.
(7) Mabapi le ditshitsinyo tsa ditueto le makgthwana tsa ngwaga wa ntša ya ditšelete go lelae tshimolo ya karolo eno, Tona o tshwanetse go rebola ditshitsinyo tsa mokgatlho yolhe ya ditheo tsa ditšelete.
(8) Mabapi le Lekgotla, Tona o tshwanetse go rebola ditshitsinyo tsa ditueto le makgthwana a ngwaga mongwe le mongwe wa ditšelete go lelae tshimololo ya karolo eno.

(9) (a) Mabapi le mokgatlho ya lephata la ditšelete e mengwe ntle Lelegotla, mabapi le ngwaga mongwe le mongwe wa ditšelete ntle fa karolo (7) e diriswa, Tona o tshwanetse go rebola ditshitsinyo tsa ditueto kgotse makgthwana di ikaegile ka tekanyetso ya ditshenyegelo tsa tleleletseng go tshothlwa e e badiweng jaaka—
motheo ya ngwagatloola × 1.025 × (tshupanekelelo ya gajaana + tshupanekelelo e e fetileng).
(b) Mabapi le matlhomo a temana (a)—
“tshupanekelelo ya gajaana” e kaya boleng jwa tshupanekelelo ka lethla le tshothlwa e e elwang tlhok, kgotsa fa boleng bo seyo, boleng jwa gajaana jo bo leng teng mabapi le matlhomo a go baakanya ditshitsinyo tsa ditueto le makgthwana tsa ngwaga wa gajaana wa ditšelete;
“tshupanekelelo” e kaya Tshupane ya Tshothlwa ya Badirisi, jaaka e phasaladitswe le Statistics South Africa; le
“previous year basis”, for a financial year, means the estimate of operating expenditure adopted in terms of this section for the financial year before the year for which the calculation is being done.

Consultation requirements

240. (1) Part 1 of Chapter 7, with the exception of section 100, applies with the necessary changes, to the adoption of the budget, the estimates of expenditure as well as the fees and levies proposals as provided for in section 239.

(2) The documents that must be published under section 98 include—

(a) the budget, estimates of expenditure and the fees and levies proposals provided for in section 239 for the relevant financial year; and

(b) an explanation by the financial sector body of the budget, estimates of expenditure and fees and levies proposals, and of the variation of the budget, estimates of expenditure and the fees and levies proposals against the budget, estimates of expenditure and the fees and levies proposals adopted for the previous financial year.

Determinations of information required for assessment of levy

241. (1) A financial sector body may, in writing, require a supervised entity to provide it with information relevant to any assessment of the supervised entity’s liability for any levy as specified in the requirement.

(2) A requirement in terms of subsection (1) may be published in the Register or provided to the supervised entity from whom information is required, and must specify the manner in which, and the date by when, the information must be provided.

(3) If—

(a) the supervised entity fails or refuses to comply with the requirement issued in terms of subsection (1); or

(b) the information provided by the supervised entity is incomplete, incorrect or misleading,

the supervised entity, and each director or member of the governing body of the supervised entity, are liable to an administrative penalty under Chapter 13.

Assessments of levy

242. (1) A financial sector body must issue to each supervised entity that is liable to pay a levy for the financial year, an assessment of a levy payable by the supervised entity.

(2) The assessment notice issued to a supervised entity must state the date on which the levy is due and must be paid, which period must not be less than 30 days from the date of receipt of the notice of assessment by the supervised entity.

Payment of fee or levy by instalments

243. (1) A person who has been charged a fee, or a supervised entity who has been charged a levy, may offer to pay the fee or levy by specified instalments, and if an offer is made, the financial sector body must—

(a) accept the offer;

(b) accept a modified offer; or

(c) reject the offer,

and must notify the person who made the offer accordingly.
“tshupanekelo e e fetileng” e kaya boleng jwa tshupane jo bo dirisitsweng mabapi le boleng jwa “tshupanekelo ya ga jaana” mo ditshitsinyong tsatdituelo le makgethswana tse di baakanyeditsweng ngwagatlola wa ditšhelete; le “motheo wa ngwagatlola”, mabapi le ngwaga wa ditšhelete, o kaya tekanyetsyo ya ditšhenyegelo tsa tiro tse di amogetsweng go ya ka karolo eno mabapi le ngwaga wa ditšhelete pele ga ngwaga o palelo e dirwang ka ona.

Ditlhokego tsa therisano

240. (1) Karolo 1 ya Kgolo 7, ntle le karolo 100, e diriswa le diphetogo tse di thhokeng, mo kamogelong ya tekanyetsokabo, ditekanyetso tsadišhenyegelo gape le ditšhitsinyo tsa dituelo le makgethswana jaaka di tlametswa mo karolong 239.

(2) Ditkalo tse di tshwanetseng go phasalatwa ka fa tlase ga karolo 98 di akaretsa—
(a) tekanyetsokabo, tekanyetso ya ditšhenyegelo le ditšhitsinyo tsa dituelo le makgethswana tsedi tlametsweng mo karolong 239 mabapi le ngwaga wa ditšhelete o o maleba; le
(b) tlhalošo ka mokgatlho wa lephata la ditšhelete ya tekanyetsokabo, tekanyetso ya ditšhenyegelo le ditšhitsinyo tsa dituelo le makgethswana, le ya phapana yadi tekanyetsokabo, tekanyetso ya ditšhenyegelo le ditšhitsinyo tsa dituelo le makgethswana kgathangon le tekanyetsokabo, tekanyetso ya ditšhenyegelo le ditšhitsinyo tsa dituelo le makgethswana tse di amogetsweng mabapi le ngwagatlola wa ditšhelete.

Ditlhomamiso tsatshedimosetso e e lhokegang mabapi le tshekatsheko ya lekgethswana

241. (1) Mokgatlho wa lephata la ditšhelete o ka, ka go kwala, lopa setheo se se tlhokometsweng go o tlamel la ditshedimoseto e e malebana le tekanyetseng ngwe le ngwe ya go rwala maika rabelo ga setheo se se tlhokometsweng mabapi le lekgethswana lengwe le lengwe jaaka go tsapamishi tse mo ditlhokegong.

(2) Thhokego ya ga karo lobatlaleletso (1) e ka phasalatwa mo Rejisetareng kgotya ya tlamelwa go setheo se se tlhokometsweng se tshedimosetso e tlhokwag ya go sona, e bile e tshwane tse tsepatama mokgwa o ka ona, tshedimoseto e tshwane tse go tshwane le tlhokwag ya go sona.

(3) Fa—
(a) setheo se se tlhokometsweng se palelwa kgotsa se gana go ikamanyen le ditlhokego tse di phasaladitsweg go ya ka karolo lobatlaleletso (1); kgotsa
(b) tshedimosetso e e tlametsweng ke setheo se se tlhokometsweng sa felela, e fosagetsa kgotsa e time tsa tshwanetseng.

Setheo se se tlhokometsweng, le mokaedi mongwe le mongwe kgotsa leloko la mokgatlho o o busang wa setheo se se tlhokometsweng, ba tshwane tse lekholo ya tsamaiso ka fa tlase ga Kgolo 13.

Tshekatsheko ya lekgethswana

242. (1) Mokgatlho wa lephata la ditšhelete o tshwanetseng go rebolela setheo sengwe le sengwe se se tlhokometsweng se se tshwanetseng go duela lekgethswana la ngwaga wa ditšhelete tekanyetso ya lekgethswana e e duelwanga ke setheo se se tlhokometsweng.

(2) Kitisiso ya tekanyetso e e rebolelsweng setheo se se tlhokometsweng e tshwanetseng go thagisa letlha le lekgethswana le tshwanetseng go duelwa ka lona, leo paka ya lona e sa tshwanetseg go nna malatsi a le kwa tla ga a le 30 go tloga ka lethla la kemogelo ya kisiso ya tekanyetso ka setheo se se tlhokometsweng.

Tuelelo ya tuediso kgotse lekgethswana ka dikarolotuelo

243. (1) Motho yo o diedisweng tuelo, kgotse setheo se se tlhokometsweng se se diedisweng lekgethswana, o ka ipo go duela tuelo kgotse lekgethswana ka dikarolotuelo tse di tsepatamisisweng, e bile fa neelo e diriilwe, setheo sa lephata la ditšhelete se tshwanetseng go—
(a) amogela neelo;
(b) amogela neelo e e fetotsweng; kgotse
(c) go se amogele neelo, ebile se tshwane tse go itise motho yo o dirileng neelo, ka tshwanelo.
(2) A person who wishes to make an offer to pay a fee or levy by instalments must make an offer—
   (a) immediately after being notified of the fee or levy charged, if the fee or levy must be paid within 14 days after the date on which notification is received; or
   (b) at least 14 days before the date on which the fee or levy must be paid, if paragraph (a) does not apply.

(3) The financial sector body must notify the person who made an offer in terms of subsection (1) of its decision—
   (a) immediately after receipt of the offer, in respect of an offer referred to in subsection (2)(a); or
   (b) within seven days after the receipt of the offer, in respect of an offer referred to in subsection (2)(b).

Interest on late or non-payment of fees and levies

244. (1) If a fee or levy is not paid, or not paid in full, within the period specified for payment, and an offer to pay the fee or levy by instalments has not been accepted as referred to in section 243(1)(a) or (b), the person liable to pay the fee or levy in question must pay interest at the rate referred to in subsection (2), on the amount of the fee or levy that remains unpaid 30 days after the due date.

(2) Interest due and payable on an outstanding fee or levy amount must be calculated based on the interest rate prescribed for the time being in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

(3) Interest charged is a debt due to the financial sector body, and may be recovered by a judicial process in a competent court.

Exemption from fee

245. (1) A financial sector body may, on application by a person who is liable to pay a fee, exempt the person from the payment of a fee, or a part of a fee, to the extent and subject to conditions determined by the financial sector body.

(2) An application referred to in subsection (1) must include the particulars determined by the financial sector body.

(3) A financial sector body may only grant an exemption from the payment of a fee, or a part of a fee, for sound reasons.

Management of fees and levies

246. (1) Fees determined in accordance with section 237(1)(a), and interest accrued on fees in terms of section 244 must be collected by the financial sector body and paid into a bank account designated for that purpose, which is in the name and control of the financial sector body.

(2) Levies imposed in accordance with section 237(1)(b), and interest accrued on levies in term of section 244 must be collected by the Financial Sector Conduct Authority and paid into a bank account designated for that purpose, which is in the name and control of the Financial Sector Conduct Authority.

(3) Each financial sector body’s allocation of the levies collected contemplated in subsection (2) must be transferred to the financial sector body’s designated account in accordance with a payment schedule agreed between the financial sector body and the Financial Sector Conduct Authority.

(4) The designated bank accounts referred to in subsections (1) to (3) must be approved by the National Treasury.
(2) Motho yo o batlang go dira thulaganyo ya go duela tuelelo kgotsa lekgethwana ka dikarolotuleo o tshwanetse go rulaganya—
(a) ka bonako morago ga go itsisiwe ka ga tuelelo kgotsa lekgethwana le le tshwanetseng go duela, fa tuelelo kgotsa lekgethwana le tshwanetse go duela mo matsatsing a le 14 morago ga letilha le kitsiso e amogetsweng ka lona; kgotsa
(b) bonnye matsatsi a le 14 pele ga letilha le tuelelo kgotsa lekgethwana le tshwanetseng go duela ka lona, fa temana (a) e sa diragatswe.
(3) Mokgatlho wa lephata la ditšelele o tshwanetse go itsise motho yo o dirileng neelo go ya ka karolotlaletso (1) ka ga tshwetso ya ona—
(a) ka bonako morago ga go amogela neelo, mabapi le neelo e e kailweng mo karolotlaletsetsong (2)(a); kgotsa
(b) mo malatsing a le supa morago ga go amogela neelo, mabapi le neelo e e kailweng mo karolotlaletsetsong (2)(b).

Morokotso mo tuelelong e e thari kgotsa e e sa dirwang le makgethswana

244. (1) Fa tuelelo kgotsa lekgethwana le sa duela, kgotsa le sa duela ka botlalo, mo nakong e e tsempamisisweng mabapi le tuelelo, mme neelo ya go duelela tuela kgotsa lekgetho ka dikarolotuleo e sa amogela jaaka go kailwle mo karolong 243(1)(a) kgotsa (b), motho yo o tshwanetseng go duela tuela kgotsa lekgethwana le le umakwango tshwanetse go duela morokotso ka kelo e e kailweng mo karolotlaletsetsong (2), mo tlothlhwing ya tuelelo kgotsa lekgethwana le le sa duelwang malatsi a le 30 morago ga letilha la bofelo.

(2) Morokotso o o tshwanetseng go duelwelga le go duelwa mo tlothlhwing ya tuelelo kgotsa lekgethwana e e tshwanetseng go duelwa o tshwanetse go bulwa go tswa mo kelong ya morokotso e e neetsweng nakwana go ya ka Prescribed Rate of Interest Act, 1975 (Molao 55 wa 1975).

(3) Morokotso o o dueliswang se sekololo se se tshwanetseng go duelwa kwa mokgathlhong wa lephata la ditšelele, e bile o ka busetswa ka ditšisaiso tsa boatlhodi kwa kgotlatshelokeng e e nang le bokgoni.

Kgololo mo go dueleng

245. (1) Mokgatlho wa lephata la ditšelele o ka, ka kopo ka motho yo o tshwanetseng go duelwa tuela, golola motho mo go dueleng tuela, kgotsa karolo ya tuela, ka bogolo le go ya ka mabaka a a tlhomasisisweng ke mokgatlho wa lephata la ditšelele.

(2) Kopo e e kailweng mo karolotlaletsetsong (1) e tshwanetse go akaretsa dintlha tse di tlhomasisisweng ke mokgatlho wa lephata la ditšelele.

(3) Mokgatlho wa lephata la ditšelele o ka neelana fela ka kgololo mo go dueleng tuela, kgotsa karolo ya tuela, ka mabaka a a utlwagalang.

Taolo ya dituediso le makgethswana

246. (1) Dituelelo tse di tlhomasisisweng go tsamaelana le karolo 237(1)(a), le morokotso o o bonweng go tswana mo dituelelong go ya ka karolo 244 di tshwanetse go kgobokangw ga mokgatlho wa lephata la ditšelele le go duelwa mo akhaontong ya banka e e thohetsweng maletlhomoo ao, eo e leng mo leineng le mo taoleng ya mokgatlho wa lephata la ditšelele.

(2) Makgethswana a a diediswang go tsamaelana le karolo 237(1)(b), le morokotso o o bonweng mo makgethwaneng go ya ka karolo 244 a tshwanetse go kgobokangw ga Bothathi jwa Boitshwabo jwa Lephata la Ditšelele le go duelwa mo akhaontong e e thohetsweng maletlhomoo ao, e e mo leineng le mo taoleng ya Bothathi jwa Boitshwabo jwa Lephata la Ditšelele.

(3) Kabo ya makgethswana a a kgobokantsweng go latela karolotlaletsetsong (2) a mokgatlho mongwe le mongwe wa lephata la ditšelele e tshwanetse go setsetswa kwa akhaontong e e thohetsweng mokgatlho wa lephata la ditšelele go tsamaelana le thulaganyo ya tuela e go dumafanweng ka yona magareng ga mokgatlho wa lephata la ditšelele le Bothathi jwa Boitshwabo jwa Lephata la Ditšelele.

(4) Diakaontho tsa banka tse di kailweng mo dikarolotlaletsetsong (1) go filha go (3) di tshwanetse go rebolwa ke Matloilo a Bostenhaha.
Part 2

Finances

Finances of financial sector bodies

247. (1) The money of each financial sector body consists of—
(a) amounts received by the financial sector body as fees and levies;
(b) funds accruing to the financial sector body from any other source; and
(c) interest on amounts standing to the credit of the financial sector body in an account.

(2) The money of a financial sector body may be applied only as follows:
(a) to the general administrative and operating costs of the financial sector body;
(b) to exercise the powers, perform the functions, and fulfil the duties of the financial sector body in terms of the financial sector laws; and
(c) to repay amounts paid to it in error.

Part 3

Budgeting, accounting, auditing and financial reporting

248. (1) The accounting authority of the Financial Sector Conduct Authority, the Ombud Council, the Office of the Pension Funds Adjudicator, and the Office for the Ombud for Financial Services Providers is the accounting authority for the designated bank account referred to in section 246(1), and has the duties referred to in Part 2 of Chapter 6 of the Public Finance Management Act.

(2) The accounting authority of the Financial Sector Conduct Authority is the accounting authority for the designated bank account referred to in section 246(2), and has the duties referred to in Part 2 of Chapter 6 of the Public Finance Management Act.

(3) In respect of the Prudential Authority, the Chief Executive Officer is responsible for accounting for the designated bank account referred to in section 246(1).

(4) (a) The Financial Sector Conduct Authority, the Ombud Council, the Office of the Pension Funds Adjudicator, and the Office of the Ombud for Financial Services Providers must—
(i) prepare an annual budget in accordance with section 53 of the Public Finance Management Act and section 239 of this Act;
(ii) prepare an annual report and financial statements in accordance with section 55 of the Public Finance Management Act;
(iii) submit information as required in terms of section 54 of the Public Finance Management Act; and
(iv) comply with Treasury Regulations, circulars, guidelines and practice notes in terms of the Public Finance Management Act.

(b) The Tribunal, although it is not a public entity in terms of the Public Finance Management Act, must also comply with the requirements in paragraph (a).

(5) (a) The Prudential Authority must prepare an annual budget and estimates of expenditure for the financial year in accordance with section 239, and an annual report and financial accounts in accordance with section 55.

(b) The Chief Executive Officer is responsible for ensuring that the expenditure of the Prudential Authority is in accordance with its approved budget.

(6) The Prudential Authority, the Tribunal, the Ombud Council, the Office of the Pension Funds Adjudicator, and the Office of the Ombud for Financial Services Providers must provide the Financial Sector Conduct Authority with its levies that will
Matlotlo a mekgatlho ya lephata la dišhelete

247. (1) Madi a mokgatlho mongwe le mongwe wa lephata la dišhelete a na le—
   (a) madi a a amogetsweng ke mokgatlho wa lephata la dišhelete jaaka dituelelo le makgethwana;
   (b) matlole a a bonwang ke mokgatlho wa lephata la dišhelete go tswa kwa motsweding mongwe le mongwe; le
   (c) morokotso mo dithothlweng tse di leng mo dikoloto tsa mokgatlho wa lephata la dišhelete mo akhaontong.  

(2) Madi a mokgatlho wa lephata la dišhelete a ka diriswa fela jaana:
   (a) Mo tsamaisong kaka kakarelo tsa ditsheletego le mokgatlho wa lephata la dišheletego;
   (b) go diragatsa dithata, go dira ditiro, le go diragatsa ditiro tsa mokgatlho wa lephata la dišhelete go ya ka melao ya lephata la dišhelete; le
   (c) go duela madi a o a duetsweng ka phoso.

Kgaolo 3

Go dira tekanyetsokabo, tshupo ya matlotlo, boruni le pegelo ya ts a dišhelete

Go dira tekanyetsokabo, tshupo ya matlotlo, boruni le pegelo ya ts a dišhelete

248. (1) Bothati jo bo rwalang maikarabelo Bothati jwa Boitshwaro jwa Lephata la Dišhelete, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phešene, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Dišhelete ke bothati jo bo rwalang maikarabelo mabapi le akhaonto ya banka e e thlomilweng e e kailweng mo karolong 246(1), e bile bo dira ditiro tse di kailweng mo Karolong 2 ya Kgaolo 6 ya Public Finance Management Act.

(2) Bothati jo bo rwalang maikarabelo a Bothati jwa Boitshwaro jwa Lephata la Dišheleteke bothati jo bo rwalang maikarabelo mabapi le akhaonto e e thlomilweng ya banka e e kailweng mo karolong 246(2), e bile bo dira ditiro tse di kailweng mo Karolong 2 ya Kgaolo 6 ya Public Finance Management Act.

(3) Mabapi le Bothati jwa Tlhokomelo, Molthakedimogolo wo Khuduthamaga o rwla maikarabelo mabapi le go arabela mabapi le akhaonto ya banka e e kailweng mo karolong 246(1).

(4) (a) Bothati jwa Boitshwaro jwa Lephata la Dišhelete, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phešene, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Dišhelete ba tshwanetse go—
   (i) baakanya tekanyetsokabo ya ngwaga go tsamaelana le karolo 53 ya Public Finance Management Act le karolo 239 ya Molao ono;
   (ii) baakanya pegelo ya ngwaga le ngwaga le dikarabelo tsa dišhelete go tsamaelana le karolo 55 ya Public Finance Management Act;
   (iii) romela tshedimosetso jaaka e tlhokwa go ya ka karolo 54 ya Public Finance Management Act; le
   (iv) ikamanya le Melawana ya Matlotlo, makwalotiko, dikaelo le dintlha tsa tiragats go ya ka Public Finance Management Act.
   (b) Lekgotla, le fa e se theoa sa setšhaba go ya ka Public Finance Management Act, le tshwanetse go ikamanya le dithokuego tse di mo temaneng (a).

(5) (a) Bothati jwa Tlhokomelo bo tshwanetse go baakanya tekanyetsokabo ya ngwaga le ditekanyetso tsa tshenyegelo ya ngwaga wa dišhelete go tsamaelana le karolo 239, le pegelo ya ngwaga le dikarabelo tsa dišhelete go tsamaelana le karolo 55.  
   (b) Molthakedimogolo wo Khuduthamaga o rwla maikarabelo a go netefatsa gore tshenyegelo ya Bothati jwa Tlhokomelo e go ya ka tekanyetsokabo ya jona e e rebotsweng.

(6) Bothati jwa Tlhokomelo, Lekgotla, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phešene, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Dišhelete ba tshwanetse go tlamela Bothati jwa Boitshwaro jwa Lephata la Dišhelete ka makgethwana a ona a a tla dudiswang mabapi le tiro ya mokgatlho wa lephata la.
be imposed for the operation of the financial sector body two months prior to the start of a financial year in respect of which the levies will be imposed.

(7) In addition to the matters which must be included in the annual report and financial statements of the Financial Sector Conduct Authority referred to in section 55 of the Public Finance Management Act, the annual report must set out and contain a statement showing—

(a) the total number of supervised entities who paid levies imposed in accordance with section 237(1)(b);

(b) the total funds distributed from the designated bank account referred to in section 246(2) to the designated bank account of each financial sector body referred to in section 246(1); and

(c) any other matter determined by the Minister.

(8) In addition to the matters which must be included in the annual reports and financial statements or financial accounts of a financial sector body referred to in subsections (4) and (5), the annual report of a financial sector body must contain a statement showing—

(a) the total number of persons who paid fees determined by that financial sector body in the financial year;

(b) the total number of supervised entities who paid levies imposed by that financial sector body in that financial year;

(c) the total fees collected by the financial sector body;

(d) the total levies collected on behalf of and received by the financial sector body; and

(e) any other matter determined by the Minister.

(9) A financial sector body must publish its annual budget on their website, and must publish its determined fees and imposed levies in the Register and on its website.

Part 4
Application of Chapter to Tribunal

Application of Chapter to Tribunal

249. The Chairperson of the Tribunal is responsible to ensure that the functions and duties of the Tribunal in terms of this Chapter are performed.

CHAPTER 17
MISCELLANEOUS

Part 1

Information sharing and reporting

Designated authority

250. In this Part, “designated authority” means—

(a) the Reserve Bank;

(b) a financial sector regulator;

(c) the National Credit Regulator;

(d) the Council for Medical Schemes;

(e) a market infrastructure, but only in relation to its regulatory or supervisory functions in terms of a financial sector law;

(f) an organ of state responsible for the regulation, supervision or enforcement of any law;

(g) a body similar to an organ of state referred to in paragraph (f) that is designated in terms of the laws of a foreign country as being responsible for the regulation, supervision or enforcement of legislation;
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ditšhelete dikgwedi di le pedi pele ga tshimololo ya ngwaga wa ditšhelete ao bo tla a duediswang.
(7) Mo godimo ga meroe e e tshwanetseng go akaretswa mo pegelong ya ngwaga le dikanengong tsa ditšhelete tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhele tse di kailweng mo karolong 55 ya Public Finance Management Act, pegelo ya ngwaga e tshwanetseng go tlhagisa le go nna le kanego e e bontshang—
(a) palogotlhe ya ditheo tse di tlhokometsweng tse di duetseng makgethswana a a duedisitsweng go tsaamaelana le karolo 237(1)(b);
(b) palogotlhe ya matlole a a phatlaladitsweng go tswa mo akahtshong tsa ditshele tsa Bokonata jwa Botsang le tlhomilweng mo karolong 246(2) go ya akahtshong tsa ditshele tsa Bokonata jwa Botsang le tlhomilweng.
(c) morero mongwe le mongwe o o tlhomamisitsweng ke Tona.
(8) Mo godimo ga meroe e e tshwanetseng go akaretswa mo dipegelong tsa ngwaga le dikanengong tsa ditšhelete kgotsa mo dikarabelong tsa ditšhelete tsa mokgatlho wa lephata la ditšhelete tse di kailweng mo dikarolotlaleletseng (4) le (5), pegelo ya ngwaga ya mokgatlho ya lephetla la ditšhelete e tshwanetseng go nna le kanego e e bontshang—
(a) palogotlhe ya batho ba ba duetseng dituelo le tse di thomamisitsweng ke mokgatlho oo wa lephetla la ditšhelete mo ngwageng wa ditšhelete;
(b) palogotlhe ya ditheo tse di tlhokometsweng tse di duetseng makgethswana a a duedisitsweng ke mokgatlho oo wa lephetla la ditšhelete mo ngwageng oo wa ditšhelete;
(c) palogotlhe ya dituelo le tse di kgobokantsweng ke mokgatlho wa lephetla la ditšhelete;
(d) palogotlhe ya makgethswana a a kgobokantsweng mo boemang jwa le go amoguetla ke mokgatlho wa lephetla la ditšhelete; le
(e) morero mongwe le mongwe o o tlhomamisitsweng ke Tona.
(9) Mokgatlho ya lephetla la ditšhelete o tshwanetseng go phasalatsa tsekanyetsokabo ya ona ya ngwaga mo webesaeteng ya ona, e bile o tshwanetseng go phasalatsa dituelo le tse di thomamisitsweng tsa ona le makgethswana a a duediswang mo Rejisetareng le mo webesaeteng ya ona.

Karo 4

Tiragatso ya Kgaolo mo Lekgotleng

249. Modulasetileo wa Lekgotla o rwala maikarabelo a go netefatsa gore ditiro tsa Lekgotla go ya ka Kgaolo eno di a dirwa.

KGAOLO 17

TSELE LE TSELE

Karo 1

Karogano ya tshedimo se tse le go bega

Bothati jo bo thapilweng

250. Mo Karolong eno, “bothati jo bo thapilweng” bo kaya—
(a) Banka ya Resepe;
(b) Bolaodi jwa lephetla la ditšhelete;
(c) Bolaodi jwa Botshhaba jwa Sekololetso;
(d) Khafore ya Dikema tsa Kalafi;
(e) thulaganyetso ya popegotho ya mmaraka, nne fela mabapi le ditiro tsa yona tsa bolaodi le bothholomedi go ya ka mloao wa lephetla la ditšhelete;
(f) setheo sa puso se se rwalaho maikarabelo a talolo, tlhokomelo kgotsa kgatelelo ya mloao mongwe le mongwe;
(g) Mokgatlho o o tshwanang le setheo sa puso se se kailweng mo temaneng (f) o o thapilweng go ya ka mloao ya dinaga disele jaaka o rwala maikarabelo a talolo, tlhokomelo kgotsa kgatelelo ya peomolao;
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

251. (1) (a) A financial sector regulator or the Reserve Bank has an obligation and a duty to—
(i) achieve its objective as set out in this Act;
(ii) achieve the objects of financial sector laws;
(iii) perform its functions, including its supervisory functions, in terms of financial sector laws and the Financial Intelligence Centre Act.

(b) A financial sector regulator or the Reserve Bank must collect and use information, including personal information as defined in the Protection of Personal Information Act, to the extent that the financial sector regulator or the Reserve Bank determines is necessary to properly perform the obligations and duties referred to in paragraph (a).

(c) A financial sector regulator or the Reserve Bank may only share or disclose information in order to fulfil its obligations and duties in terms of this subsection and subsection (2), and the disclosure or sharing of information for any other purposes constitutes the sharing or disclosure of information for a purpose that is not authorised, as referred to in section 272.

(2) (a) A financial sector regulator or the Reserve Bank must disclose information referred to in subsection (1)(b) if the financial sector regulator or the Reserve Bank determines it is necessary to comply with its obligations—
(i) to perform functions in terms of, or as enabled by, the financial sector laws or the Financial Intelligence Centre Act;
(ii) relating to legal proceedings or other proceedings;
(iii) to warn financial customers against conducting business with a financial institution or other person conducting activities in contravention of the financial sector laws or the Financial Intelligence Centre Act;
(iv) to inform financial customers of actions taken against a financial institution in terms of the financial sector laws or the Financial Intelligence Centre Act;
(v) to alert financial customers to activities carried out by a financial institution that a financial sector regulator or the Reserve Bank believes to constitute a risk to financial customers;
(vi) to protect the public interest;
(vii) to deter, prevent, detect, report and remedy fraud or other criminal activity in relation to financial products or financial services; or
(viii) relating to anti-money laundering and combating the financing of terrorism.

(b) Information obtained in terms of the Financial Intelligence Centre Act, other than in terms of sections 45 and 45B of that Act, may only be utilised or disclosed in accordance with sections 29, 40 and 41 of that Act.

(3) A financial sector regulator or the Reserve Bank, in pursuing the obligations and duties referred to in subsections (1)(a) and (2)(a), may—
(a) liaise with any designated authority on matters of common interest;
(b) participate in the proceedings of any designated authority;
(c) advise or receive advice from any designated authority;
(d) prior to taking regulatory action which a financial sector regulator or the Reserve Bank considers material against a financial institution, inform any designated authority that the financial sector regulator or the Reserve Bank, as the case may be, of the pending regulatory action or, where this is not possible, inform the designated authority as soon as possible after taking the regulatory action; and
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(h) Khansele ya Ombud;
(i) Ombud; kgotsa
(j) Mokgailho wa taolo ya tsamaiso ya tuelo e e amogetsweng go ya ka National Payment System Act.

Karogano ya tshedimosetso

251. (1) (a) Molao wa lephata la dišišeleke kgotsa Banka ya Resef o na le tlamego le tiro ya go—
   (i) fitlhelela maikaelelo a yona jaaka go tlhagitswe mo Molaong ono;
   (ii) fitlhelela maikaeleloa melao ya lephata la dišišele;
   (iii) dira ditiro tsa gagwe, go akaretsa ditiro tsa gagwe ts'a botlhokomedi, go ya ka melao ya lephata la dišišele le Financial Intelligence Centre Act.

(b) Molao wa lephata la dišišelele kgotsa Banka ya Resef o tshwanetese go kgobokanya loe go dirisa tshedimosetso, go akaretsa le tshedimosetso ya bowena jaaka e tlhalotlitswe e e Protection of Personal Information Act, go fitlhelela molao wa lephata la dišišelele kgotsa Banka ya Resef a thlobamisa gore go botlhokwa go dira ka nepagalo ditlamego le ditiro tse ka kile wokgatlhego ya ka kile wokgatlhego ya ka National Payment System Act.

(c) Molao wa lephata la dišišelele kgotsa Banka ya Resef o ka aragana kgotsa a senola tshedimosetso gore a diragatse ditlamego le ditiro tsa gagwe go ya ka karolotlaletselo eno le karolotlaletselo (2), e sale ditshenolo kgotsa karogano ya tshedimosetso mabapi le maithlhomo mangwe le mangwe di na le karogano kgotsa tshenolo ya tshedimosetso mabapi le maithlhomo a a sa dunelelwang, jaaka go kile wokgatlhego mo karo log 272.

(2) (a) Molao wa lephata la dišišelele kgotsa Banka ya Resef o tshwanetese go senola tshedimosetso e e ka kile wokgatlhego ya ka ditsamaiso tsa molao wa lephata la dišišelele kgotsa Banka ya Resef e e le kile wokgatlhego ya ka ditsamaiso tsa amolao ya lephata la dišišelele kgotsa Financial Intelligence Centre Act;
   (i) go dira ditiro tsa gagwe go ya ka, kgotsa jaaka a kgontshitswe ke, melao ya lephata la dišišelele kgotsa Financial Intelligence Centre Act;
   (ii) tse di amang mabapi le molasina tsa molao kgotsa ditsamaiso tse dingwe;
   (iii) go tšisosa barekedi ba dišišelele kgatlhanong le go dira kgwebo le setheo sa dišišelele kgotsa motho yo mongwe yo o dirang ditiro tse ka kgatlhanong le melao ya lephata la dišišelele kgotsa Financial Intelligence Centre Act;
   (iv) go itsise barekedi ba dišišelele ka gak gakgato tse di tserwend kgatlhanong le setheo sa dišišelele go ya ka melao ya lephata la dišišelele kgotsa Financial Intelligence Centre Act;
   (v) go lemose barekedi ba dišišelele ka ga ditiro tse di dirilweng ke setheo sa dišišelele se molao wa dišišelele kgotsa Banka ya Resef a dumelang gore di ka lere kotsi mo barekeding ba dišišelele;
   (vi) go sireletsa gakagale tse di tserwend kgatlhanong le setheo sa dišišelele kgotsa Financial Intelligence Centre Act;
   (vii) go se gakagale tse di tserwend kgatlhanong le setheo sa dišišelele kgotsa Financial Intelligence Centre Act;

(b) Tshedimosetso e e bonweng go ya ka Financial Intelligence Centre Act, ntle le go ya ka dikarolo 45 le 45B tsa Molao oo, e ka dirisa fela kgotsa senolwa go tshamalana le dikarolo 29, 40 le 41 tsa Molao oo.

(3) Molao wa lephata la dišišelele kgotsa Banka ya Resef, mo go fitlheleleneng maithlhomo a a ka kile wokgatlhego e e le dikarolo (1)(a) le (2)(a), e ka—
   (a) ikologanganya le bothari bongwe le bongwe go bo thalipiweng mabapi le merero ya kgatlhego e e tshwanang;
   (b) tša ya ka dikarolo tse ditsamaisong tsa bothari bongwe le bongwe go bo thalipiweng;
   (c) gakolola kgotsa amogela kgakololile go tsowa go bothari bongwe le bongwe go bo thalipiweng;
   (d) pele ga go dišišelele kgotsa Banka ya Resef o bo kile wokgatlhego e e le dikarolo, go itsise bothari bongwe le bongwe go bo thalipiweng mabapi le merero ya kgatlhego e e tshwanang, go itatsetse bothari bongwe le bongwe go bo thalipiweng;
negotiate and enter into bilateral or multilateral co-operation agreements, including memoranda of understanding, with designated authorities, including designated authorities in whose countries a subsidiary or holding company of a financial institution is incorporated or a branch is situated, to, among other matters—

(i) co-ordinate and harmonise the reporting and other obligations of financial institutions;

(ii) provide mechanisms for the exchange of information, including provisions requiring or permitting a financial sector regulator, the Reserve Bank or a designated authority—

(aa) to be informed of adverse assessments in respect of financial institutions; or

(bb) to provide or receive information regarding significant problems that are being experienced within a financial institution;

(iii) provide procedures for the co-ordination of supervisory activities to facilitate the monitoring of financial institutions, including on an on-going basis; and

(iv) assist any designated authority in regulating and enforcing any laws that the designated authority is responsible for supervising and enforcing, that are similar to a financial sector law or which have an impact on the regulation of the financial sector and financial institutions.

(4) (a) Information may only be disclosed by a financial sector regulator or the Reserve Bank to a designated authority if, before disclosing the information, the financial sector regulator or the Reserve Bank is satisfied that the designated authority that receives the information has proper and effective safeguards in place to protect the information, which safeguards are similar to those provided for in this section.

(b) A financial sector regulator or the Reserve Bank may only consent to information that is provided to a designated authority being made available to third parties if it is satisfied that the third parties have proper safeguards in place to protect the information received, which safeguards are similar to those provided for in this section.

(c) A financial sector regulator or the Reserve Bank may only request information from a designated authority in connection with the performance of obligations and duties in terms of the laws referred to in subsections (1) and (2).

(d) Information provided on request to a designated authority in terms of this section—

(i) must only be used by the designated authority for the purpose for which it was requested;

(ii) may not be disclosed to a third party without the consent of the designated authority that provided the information; and

(iii) must retain its integrity and confidentiality, and the designated authority that receives the information must take appropriate, reasonable technical and organisational measures to prevent loss of, damage to, or unauthorised destruction of the information, and unlawful access to or processing of the information.

(e) If, despite paragraph (d), a designated authority is compelled by law to disclose information provided by another designated authority to a third party, the first designated authority must—

(i) inform that designated authority of the event and the circumstances in which the information shall be made available; and

(ii) use all reasonable means to oppose the compulsion to disclose, and otherwise to protect the information.

(5) When sharing or disclosing information in terms of subsection (3) or (4), a financial sector regulator or the Reserve Bank must comply with the requirements in those subsections, and a contravention of those requirements constitutes the sharing or disclosure of information in a manner that is not authorised, as referred to in section 272.

(6) (a) A financial sector regulator or the Reserve Bank must have in place written processes and procedures that—

(i) clearly specify which officials and employees in the financial sector regulator or the Reserve Bank are authorised to share or disclose information in terms of this section; and
rerisana le go tsena mo ditumalanong tsa sebedi kgotsa bontsi, go akaretsa le memorantamo wa tulumano, le bothati jo bo thapilweng, go akaretsa bothati jo bo thapilweng joo mo dinageng tsa jona kgwebo e e okangweng kgotsa e e okameng tse dingwe ya setheo sa ditšelete e kopantsweng kgotsa lekala le thomilweng, go, magareng ga tse dingwe—

(i) golaganya le go kopanya go bega le ditlamego tse dingwe tsa ditšelete;

(ii) tlamelka mekgwga ya thefosano ya tshedimosetso, go akaretsa le kabelo e e tlhokang kgotsa letlang molaodi wa lephata la ditšelete, Banka ya Resefe kgotsa bolaoedi jo bo thapilweng—

(aa) go sedimosetswa ka tekanyetso e e kgatlhanang mabapi le ditheo tsa ditšelete; kgotsa

(bb) go tlamelka mekgwga amogela tshedimosetso e e mabapi le mathata a a bothlokwa a a itemogelweng mo setheong sa ditšelete;

(iii) tlamelka ka ditsamaise tsa go golaganya ditiro tsa tlhokomelo go noloafatsa tlhokomelo ya ditheo tsa ditšelete, go akaretsa ka nako le nako; le

(iv) thusa bothati bongwe le bongwe jo bo thapilweng mo go laoleng le go gateleleng melao mengwe le mengwe ya gore bothati jo bo thapilweng bo rwala maikanabelo a go tlhokomela le go gatelela, e e tshwane le molao wa lephata la ditšelete kgotsa e e nang le seabe mo go laoleng lephata la ditšelete le ditheo tsa ditšelete.

(4) (a) Tshedimosetso e ka senolwa fela ke molaodi wa lephata la ditšelete kgotsa Banka ya Resefe go bothati jo bo thapilweng fa, pele tshedimosetso e senolwa, molaodi wa lephata la ditšelete kgotsa Banka ya Resefe e kgotsofetse gore bothati jo bo thapilweng jo bo amogelang tshedimosetso bo na le mekgwga e e maleba e e nonofileng ya go sireletsa tshedimosetso, mekgwga eo e e tshwane le e e tlamesweng mo karolong eno.

(b) Molaodi wa lephata la ditšelete kgotsa Banka ya Resefe o ka dumelela fela gore tshedimosetso e e tlamesweng bothati jo bo thapilweng e abelwe mekgatlho ya boraro fa fela a kgotsofetse gore mekgatlho ya boraro e na le mekgwga ya go sireletsa tshedimosetso e e amogetsweng, mekgwga e e tshwane le e e tlamesweng mo karolong eno.

(c) Molaodi wa lephata la ditšelete kgotsa Banka ya Resefe o ka kopa fela tshedimosetso mo bothating jo bo thapilweng mabapi le tiro ya ditiro le go diragatswa ga ditlata go ya ka melao e e kailweng mo dikarolotlaleletsong (1) le (2).

(d) Tshedimosetso e e tlamesweng go ya ka kopo go bothati jo bo thapilweng go ya ka karolo eno—

(i) e tshwanets tse go diriswa fela ke bothati jo bo thapilweng mabapi le maithlhomo ao e e kopetsweng;

(ii) e ka se senolelwe mokgatlho wa boraro ntle le tumelela ya bothati jo bo thapilweng jo bo tlamesweng ka tshedimosetso; le

(iii) e tshwanets go busetsa tshiamo le boitseho jwa jona, e e bilet bothati jo bo thapilweng jo bo amogelang tshedimosetso bo tshwanets go tsaya dikgato tse di maleba, ka mabuka a a utwagalang a a rulaganeng go tšibela tafhlegelo ya, tšenhlegelo go kgotsa tšhenyo e e e sa dumelelwang ya tshedimosetso, le

(e) Fa, ntle le temana (d), bothati jo bo thapilweng bo pateletswa ke molao go senola tshedimosetso e e tlamesweng ke bothati jo bo thapilweng go mokgatlho wa boraro, bothati jo bo thapilweng jwa nthla bo tshwanets—

(i) go itise gore bothati jo bo thapilweng tse diragalo le mabaka a o tshedimosetso e e tla dirweng gore e e nne teng ka ona; le

(ii) dirisa mekgwga yotlhe e e maleba go ganetsa kgapeletsa ya go senola, le go sireletsa tshedimosetso.

(5) Fa go aragana kgotsa senolwa tshedimosetso go ya ka karolotlaleletsong (3) kgotsa

(a) Molaodi wa lephata la ditšelete kgotsa Banka ya Resefe e tshwanets go ikamany a le ditlheko e tse di mo dikarolotlaleletsong tse tse, e e bilet lo tse ditlheko e tse e na le ditlamares a tsa karogana kgotsa tshenolo ya tshedimosetso ka mekgwga o o sa dumelelwang, jaaka go kailwe mo karolong 272.

(b) Molaodi wa lephata la ditšelete kgotsa Banka ya Resefe o tshwanets go tshola dikgato tse di kwetsweng le ditlamego tse di—
(ii) provide for the sharing or disclosure of information in a manner that is consistent with the requirements of this section and the Protection of Personal Information Act.

(b) The processes and procedures referred to in paragraph (a) must grant authority to share or disclose information only to officials and employees who have an appropriate degree of seniority in the institution.

(c) Only an official or employee of a financial sector regulator or the Reserve Bank who is authorised by the policy and procedures of the financial sector regulator or the Reserve Bank may share or disclose information on behalf of the financial sector regulator or the Reserve Bank.

(7) For the purposes of this section, “information” does not include aggregate statistical data or information that does not disclose the identity of a person.

**Reporting by auditors to financial sector regulators**

252. (1) (a) An auditor of a licensed financial institution, or of a holding company of a financial conglomerate must, without delay, submit a detailed written report to the Prudential Authority, the governing body of the financial institution and, in the case of a financial conglomerate, the holding company of the financial institution, about any matter relating to the business of the financial institution or a company within the conglomerate, being a matter—

(i) which the auditor becomes aware of in the course of performing functions and duties as auditor; and

(ii) that the auditor considers—

(a) is causing or is likely to cause the financial institution to be financially unsound;

(bb) is contravening or may contravene a financial sector law; or

(cc) may result in an audit not being completed or may result in a qualified or adverse opinion on accounts.

(b) An auditor must also submit any report or other document or particulars about the matter contemplated in section 45(1)(a) and (3)(c) of the Auditing Profession Act, 2005 (Act No. 26 of 2005), to the Prudential Authority.

(2) An auditor of a licensed financial institution or of a holding company of a financial conglomerate who resigns or whose appointment is terminated must submit to the Prudential Authority—

(a) a written statement on the reasons for the resignation or the reasons that the auditor believes are the reasons for the termination; and

(b) any report contemplated in section 45(1)(a) and (3)(c) of the Auditing Profession Act, 2005 (Act No. 26 of 2005), that the auditor would, but for the resignation or termination, have had reason to submit.

(3) (a) The furnishing, in good faith, by an auditor of a report or information under subsection (1) or (2) is not a contravention of a law, a breach of a contract or a breach of a code of professional conduct.

(b) A failure, in good faith, by an auditor to comply with this section does not confer upon any person a right of action against the auditor.

**Reporting to financial sector regulators**

253. (1) A person may report to a financial sector regulator—

(a) financial difficulties or suspected financial difficulties in a financial institution;

(b) a contravention or suspected contravention of a financial sector law in relation to a financial institution; or

(c) the involvement or the suspected involvement of a financial institution in financial crime.

(2) Unless the report was made in bad faith, a person who makes a report in terms of subsection (1) is not—

(a) criminally liable for making the report; or

(b) liable to pay compensation or damages to any person in relation to a loss caused by the report.
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(ii) tlamelang mabapi le karogano kgotsa tshenolo ya tshedimosetso ka mokgwana o o tlhomameng go ya ka ditlhokego tsa karolo eno le Protection of Personal Information Act.

(b) Dikgato le ditsamaiso tse di kailweng mo temaneng (a) di tshwanetse go neelana ka tumelelo ya go arogana kgotsa senoa tshedimosetso fela kwa bathankeding le badiring ba ba nang le bogolo jwa maemo a a releng a a nepagetseng mo setheong.

(c) Ke fela motlhankedi kgotsa modiri wa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe yo o dumeletseng ke pholisi le ditsamaiso tsa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe a ka aroganang kgotsa senoleng tshedimosetso mo boemong jwa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe.

(7) Mabapi le mailthhomo a karolo eno, “tshedimosetso” ga e akaretse dintlha tsa dipalopalo kgotsa tshedimosetso e e sa senoleng boitshuho jwa motho.

Pegelo ka baruni go balaodi ba lephata la ditšhelete

252. (1) (a) Moruni wa setheo sa ditšhelete se se abetsweng laesense, kgotsa wa kgwebo e e okameng tse dingwye ya ditheo tse di kopantsweng tsa ditšhelete o tshwanetse, ntle le tsenyoa ya nako, go romela pegelo ya dinilna ka botlalo e e kwetsweng go Bothati jwa Tlhokomelo, mokgatlho o o busang wa setheo sa ditšhelete le, mo lebakeng la ditheo tse di kopantsweng tsa setheo sa ditšhelete, kgwebo e e okameng tse dingwye ya setheo sa ditšhelete, ka ga morero mongwe le mongwe o o amanang le kgwebo ya setheo sa ditšhelete kgotsa setlamo se se mo gare ga ditheo tse di kopantsweng, e le morero—

(i) o e leng gore moruni o lemoga ka ona mo go direng ditiro jaaka monayaboleng kgotsa moruni; le

(ii) moruni o tsa ya gore—

(aa) o dira kgotsa o ka dira gore setheo sa ditšhelete se se tlhoname mo ditšheleteng;

(bb) o tlola kgotsa o ka tlola molao wa lephata la ditšhelete; kgotsa

(cc) o o ka nnang le ditlamorago tsa tlhatlhoko e e sa konosetseng kgotsa o ka tlisa ditlamorago tsa ntlhakemo e e nonofileng kgotsa e e kgatlhanong mo diaхаaontong.

(b) Moruni o tshwanetse go romela pegelo nwle le nwle kgotsa lokwalo le lengwe kgotsa dinilna ka ga morero o o thalositsweng mo karolong 45(1)(a) le (3)(c) ya Auditing Profession Act, 2005 (Molao 26 wa 2005), go Bothati jwa Tlhokomelo.

(2) Moruni wa setheo sa ditšhelete se se abetsweng laesense kgotsa wa ditheo tse di kopantsweng tsa ditšhelete yo o rolang tiro kgotsa yo o thapiwa ga gagate go khutliswang o tshwanetse go romela go Bothati jwa Tlhokomelo—

(a) polelo e e kwetsweng ya mabako a go rola tiro kgotsa mabako a moruni a dumelang gore ke ona mabako a khutliso; le

(b) pegelo nwle le nwle e e thalositsweng mo karolong 45(1)(a) le (3)(c) ya Auditing Profession Act, 2005 (Molao 26 wa 2005), ya gore moruni o tla, mme mabapi le go rola kgotsa go khutliswa tiro, mme le mabako a go romela.

(3) (a) Thomelo, ka mowa o montle, ka moruni ya pegelo kgotsa tshedimosetso e e ka fa tlae ga dikarolutlalelesto (1) kgotsa (2) ga se tlolo ya molao, tlolo ya tulumano kgotsa tlolo ya khoula ya boitshwero jwa seporofesenaе.

(b) Go palelwa, ka mowa o montle, ga moruni go ikamanya le karolo eno ga go neye motho ope tshwanelo ya ga di ka kgatlhanong le moruni.

Pegelo go balaodi ba lephata la ditšhelete

253. (1) Motho o ka begela balaodi ba lephata la ditšhelete—

(a) mathata a ditšhelete kgotsa mathata a ditšhelete a a belaelope mo setheong sa ditšhelete;

(b) tlolo kgotsa tlolo e e belaelope ya molao wa lephata la ditšhelete mabapi le setheo sa ditšhelete; kgotsa

(c) botsayakarolo kgotsa botsayakarolo jo bo belaelope jwa setheo sa ditšhelete mo bosenyeng jwa ditšhelete.

(2) Ntle le fa pegelo e dirilwe ka mowa o o maswe, motho yo o dirang pegelo go ya ka karolutlalelesto (1) ya gaa—

(a) bonwe molato wa bosenyi mabapi le go dira pegelo; kgotsa

(b) rwale maikarabolo a go duela pusetso kgotsa ditshenyelego go motho mongwe le mongwe mabapi le tatlhelego e e tlohidlweng ke kgotsa.
Prohibition of victimisation

254. A person may not subject another person to any prejudice in employment, or penalise another person in any way, on the ground that the other person—
(a) made a report in terms of section 252; or
(b) made a report in terms of section 253, even if the report was not required by law.

Protected disclosures

255. Sections 252 and 253 apply in addition to, and do not limit, any other law that provides protection for persons who properly report contraventions of the law.

Part 2

Financial Sector Information Register

Establishment and operation of Financial Sector Information Register

256. The National Treasury must establish and maintain the Financial Sector Information Register in accordance with this Part.

Purpose of Register

257. The purpose of the Register is to provide reliable access to accurate, authoritative and up to date information relating to financial sector laws, Regulations, regulatory instruments and their implementation.

Content of Register

258. (1) The Register is a database of the documents listed in Schedule 3.
(2) The Register may include other documents that are relevant to the regulation and supervision of the financial sector and the Director-General determines which other documents may be included in the Register.

Keeping of Register

259. (1) The Register must be kept in an electronic form.
(2) The Register must be kept in a way that facilitates access and searching of the Register by members of the public.

Requirements for registered documents

260. The Director-General may make a written determination—
(a) specifying requirements for documents that must be, or may be, included in the Register, including requiring persons lodging a document for registration to provide information about the document, to ensure that the Register is useful for persons accessing the Register; and
(b) specifying procedures for transmitting documents to the National Treasury for registration.

Status of Register and judicial notice

261. (1) The Register is, for all purposes, taken to be a complete and accurate record of all financial sector laws and all regulatory instruments that are included in the Register.
(2) A compilation of a law or a regulatory instrument that is included in the Register is, unless the contrary is established, taken to be a complete and accurate record of that law or regulatory instrument as amended and in force at the date specified in the compilation.
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Thibelo ya tirisobotlhaswa

254. Motho o ka se gobelele motho yo mongwe mo tirong, kgotsa o ka se atlhole motho yo mongwe ka mokgwangwe le mongwe, ka lebaka la gore motho yo mongwe o—
   (a) dirile pegelo go ya ka karolo 252; kgotsa
   (b) dirile pegelo go ya ka karolo 253, le fa pegelo e ne e sa tlhokwe ke molao.

Ditshenolo tse di sireleditsweng

255. Dikarolo 252 le 253 di diriswa mo godimo ga, e bile ga di lekanyetse, molao mongwe le mongwe o o tlamelang ka tshireletso mo bathong ba ba begang ka nepagalo ditlolomolao.

Karolo 2

Rejisetara ya Tshedimosetso ya Lephata la Ditšhelete

Go tlhongwa le tiro ya Rejisetara ya Tshedimosetso ya Lephata la Ditšhelete

256. Matlole a Bosethaba a tšwanetse go tlhoma le go tšhegetsa Rejisetara ya Tshedimosetso ya Lephata la Ditšhelete go tsamaelana le Karolo eno.

Maitlhomo a Rejisetara

257. Maitlhomo a Rejisetara ke go tlamela ka phthilelelo e e tšepagalang go tshedimosetso e e nepagetseng, e e maatla e bile e le mo nakong e e amanang le melelo ya lephata la ditšhelete, Melawana, didiriso tsa bolaodi le go tšengwa mo tirisong ga tsona.

Diteng tsa Rejisetara

258. (1) Rejisetara ke deithabeisi ya dikwalo tse di neetsweng mo sějuleng 3.
   (2) Rejisetara e ka akaretsa dikwalo tse dingwe tse di maleba go taolo le tlhokomelo ya lephata la ditšhelete le Mokaedikakaretso o tlhomamisa gore ke dikwalo dife tse dingwe tse di ka akaretswang mo Rejisetareng.

Go tšolwa Rejisetera

259. (1) Rejisetara e, mabapi le maitlhomo otlhe, tšelwa gore ke rekoto e e tšaditswengbile e tšwanetseng go, kgotša tse di ka, akaretswang mo Rejisetareng, go akaretsa le go kopa motho yo o kwadisang lokwalo gore a tlamela ka tshedimosetso ya lokwalo, go netefatsa gore Rejisetara e mosola mo bathong ba ba fithilelelang Rejisetara; le
   (b) e e tšepamisang ditsamaelo tsa go fetisetsa dikwalo go Matlole a Bosethaba gore di kwadiswe.

Ditlhokego tsa makwalo kwadisitsweng

260. Mokaedikakaretso o ka dira tlhomamiso e e kwetsweng—
   (a) e e tšepamisang ditlhokego tsa dikwalo tse di tšwanetseng go, kgotša tse di ka, akaretswang mo Rejisetareng, go akaretsa le go kopa motho yo o kwadisang lokwalo gore a tlamela ka tshedimosetso ya lokwalo, go netefatsa gore Rejisetara e mosola mo bathong ba ba fithilelelang Rejisetara; le
   (b) e e tšepamisang ditsamaelo tsa go fetisetsa dikwalo go Matlole a Bosethaba gore di kwadiswe.

Boemo jwa Rejisetara le kitsiso ya boatlhodi

261. (1) Rejisetara e, mabapi le maitlhomo otlhe, tšelwa gore ke rekoto e e tšaditsweng e bile e nepagetseng ya melao yotlhe ya lephata la ditšhelete le didiriso tšotši le tsa bolaodi tse di akaretsisweng mo Rejisetareng.
   (2) Tlhamo ya molao kgotsa sediriso sa bolaodi se se akaretsisweng mo Rejisetareng e, ntle le fa go lemogwa kganetsano, tšelwa gore ke rekoto e e feletseng e bile e e nepagetseng ya molao oo kgotsa sediriso sa bolaodi jaaka e tšabolotswe le go diriswa ka lelha le le tšepamisitsweng mo tšamong.
(3) (a) In any proceedings, proof is not required about the provisions and coming into effect, in whole or in part, of a law or regulatory instrument as it appears in the Register.
(b) A court or tribunal may inform itself about those matters in any way it deems fit.
(4) It is presumed, unless the contrary is established—
(a) that a document that purports to be an extract from the Register is what it purports to be; and
(b) that a regulatory instrument, a copy of which is produced from the Register, was registered on the day and at the time stated in the copy.

Extracts from Register regarding licence status

262. An extract from the Register, in the form determined by, and authenticated as determined by, the Director-General, that shows that, at a specified date, after this Part comes into effect—
(a) a person was or was not licensed under a financial sector law;
(b) a specified licence was or was not subject to specified conditions;
(c) a specified licence was, at a specified time, suspended, cancelled or revoked; or
(d) a specified financial institution was at a specified time a systemically important financial institution,
is admissible as evidence of the facts and matters stated in it and, unless the contrary is established, is conclusive.

Rectification of Register

263. (1) The Director-General may arrange for the Register to be corrected to rectify errors.
(2) If the Register is corrected, the Director-General must annotate relevant records in the Register to explain the nature of the rectification and specify the date and time the rectification was made and the reason for the rectification.

Delegations by Director-General

264. (1) The Director-General may, in writing, delegate any power or duty of the Director-General in relation to the Register, except the power of delegation, to a staff member of the National Treasury or any other suitable person, and the Director-General may, at any time, amend or revoke a delegation.
(2) A delegation may be to a specified person or to the person holding a specified position.
(3) A delegation is subject to the limitations and conditions specified in the delegation.
(4) A delegation does not divest the Director-General of responsibility in respect of the delegated power or duty.
(5) Anything done by a delegate in accordance with the delegation is taken to be done by the Director-General.

Part 3

Offences and penalties

Duties of members and staff of certain bodies

265. A person who contravenes sections 46(1) or (2), 52, 69(1) or (2) or 74 commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.
(3) (a) Mo ditsamaisong dingwe le dingwe, bosupi ga bo tlhokege ka ga dikabelo le go tseenngwa mo tirisong go diragatsa, ka gothle kgotsa ka karolo, ga molao kgotsa sediriso sa balaodi jaka se tlhagelela mo Rejisetareng.

(b) Kgolatshhekelo kgotsa lekgotla le ka ikitsise ka ga merero eo le ka mokgwa o le boneng go le matslwantedi.

(4) Go bonagala e kete, ntle le fa go ka nna le kganetso—

(a) lokwalo le le ikayang e le sentshwa Rejisetareng ke seko le ikayang go nna sona; le

(b) sediriso sa balaodi seo kgatiso ya sona e tlhagisitsweng go tswa mo Rejisetareng se kwadisitswe ka letsatsi le nako e e kailweng mo kgatisong.

Dintshwa Rejisetareng mabapi le maemo a laesense

262. Sentshwa Rejisetareng, ka sebopeg o se tlohamamisitsweng ke, Mokaedikakaretso, se se bonishang gore, ka letlha le le rileng, morago ga go tseenngwa tirisong ga Karolo eno—

(a) motho o abetswe kgotsa o ne a sa abelwa laesense ka fa tlase ga molao wa lephata la ditšhelelē;

(b) laesense e e tsepmamisitsweng e kgotsa e ne e se go ya ka mabaka a a tsepmamisitsweng;

(c) laesense e e tsepmamisitsweng e ne e, ka nako e e rileng, sekegiliwe, phimotswe kgotsa gogetsewe morago; kgotsa

(d) setheo sa ditšhelele se se tsepmamisitsweng se ne ka nako e e rileng e le setheo sa ditšhelele sa thulaganyo ya botlhokwa, se amogelesega jaka bosupi jwa dintlhla le merero e e kailweng mo go sona e e bile ntle le fa go na le kganetso, se a konotelela.

Paakanyo ya Rejisetara

263. (1) Mokaedikakaretso o ka rulaganya gore Rejisetara e siamisiwe go baakanya diphosoh.

(2) Fa Rejisetara e siamisitswe, Mokaedikakaretso o tshwanetse go tshenya tshwaelo ya direkoto tse di maleba mo Rejisetareng go tshelaganyo ya kgotsa go tshweneng mo go tshwaletse lo tshiamiso le go tholelo.

Ditholelo ka Mokaedikakaretso

264. (1) Mokaedikakaretso o ka, ka go kwala, rolela thata nngwe le nngwe kgotsa tiro ya Mokaedikakaretso mabapi le Rejisetara, ntle le thata ya go romela, go leloko la badirimmogo ba Matlole a Bosetšhaba kgotsa motho mongwe le mongwe yo o maleba, e bile Mokaedikakaretso o ka, ka nako nngwe le nngwe, tshabola kgotsa gogela morago tholelo.

(2) Tholelo e ka nna go motho yo o rileng kgotsa go motho yo o tshweneng maemo a a rileng.

(3) Tholelo e go ya ka ditekanyetso le mabaka a a tshalonisitsweng mo tholeleng.

(4) Tholelo ga e amoge Mokaedikakaretso maikarabelo mabapi le thata e e rileng kgotsa tiro.

(5) Sengwe le sengwe se se dirilweng ke morolela go tsamaelana le tholelo se tseelwa gore se dirilwe ke Mokaedikakaretso.

Karolo 3

Melato le dikotlhao

Ditiro tsa maloko le badiri ba mekgatloho e e rileng

265. Motho yo tloang dikarolo 46(1) kgotsa (2), 52, 69(1) kgotsa (2) kgotsa 74 o tlhano molao e bile fa a bonwe molato o tshwanetse ke kotllhao ya tuediso e e sa fetseng R5 000 000 kgotsa go tswelelwa kwa kgolelengeng sebaka se sa fetseng dingwaga tse tlhano, kgotsa go duediswa le go tshwarwa goo ka bobedi.
Licensing

266. (1) A person who contravenes section 111(1), (2), (3), (4) or (5) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(2) A licensee who contravenes section 117 is liable to an administrative penalty not exceeding R5 000 for each day during which the offence continues.

(3) A licensee who contravenes section 127 is liable to an administrative penalty not exceeding R50 000.

Requests for information, supervisory on-site inspections and investigations

267. (1) A supervised entity that contravenes section 131(1)(b) commits an offence and is liable on conviction to a fine not exceeding R1 000 for each day during which the offence continues.

(2) A supervised entity that or person who contravenes section 132(4)(a)(iii) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(3) If—
(a) a financial sector regulator gives a supervised entity a directive in terms of section 132(4)(a)(iii); and
(b) without reasonable excuse, a business document to which the directive relates is removed from the premises, or concealed, destroyed or otherwise interfered with, contrary to the directive,
the supervised entity or person on whom the directive was served commits an offence and is liable on conviction to a fine not exceeding R2 500 000.

(4) A person who contravenes section 133 commits an offence and is liable on conviction to a fine not exceeding R1 000 000 or imprisonment for a period not exceeding 12 months, or to both a fine and such imprisonment.

(5) A person who contravenes section 139 commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or imprisonment for a period not exceeding two years, or to both a fine and such imprisonment.

Enforcement

268 (1) A person that contravenes section 149(1) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(2) A person who contravenes section 153(4)(a) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(3) If—
(a) a person who is subject to a debarment order contravenes section 153(4)(a) by entering into an arrangement referred to in section 153(4)(b); and
(b) the other party to the arrangement knew or should reasonably have known that entering into the arrangement contravened that section,
the other party to the arrangement also commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(4) A person who contravenes section 153(5) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
Kabo ya dilaesense

266. (1) Motho yo o tlolang karolo 111(1), (2), (3), (4) kgotsa (5) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R15 000 000 kgotsa go tsuwalwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.
(2) Moabelwalaesense yo o tlolang karolo 117 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000.
(3) Moabelwalaesense yo o tlolang karolo 127 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 00 000.

Dikopo tsa tshedimosetso, tlhatlhobo ya bothokomedi kwa tirong le dipatlisiso

267. (1) Setheo se se tlhokometsweng se se tlolang karolo 131(1)(b) se tlola molao e bile fa sa bonwe molato se tshwanetswe se kothlao ya tuediso e e sa feteng R1 000 mabapi le letsatsi lengwe le lengwe le tlolomolao e tsuwaleng ka lona.
(2) Setheo se se tlhokometsweng se se kgotso motho yo o tlolang dikarolo 132(4)(ii)(i) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.
(3) Fa—
(a) bolaodi jwa lephata bo naya setheo se se tlhokometsweng taelo go ya ka karo 132(4)(a)(ii); le
(b) ntle le lebaka le le uwalang, lokwalo la kgobero le taelo e amanang nalo le tloswa mo lefelong, kgotso le fihlwi, kgotso le senngwa kgotsa ka mokgwa mongwe le kgoroletswe, ka pharologano go taelo,
setheo se se tlhokometsweng kgotso motho yo o nefrweng taelo o tlola molao e bile o tshwanetswe se go bonwa molato se kothlao ya tuediso e e sa feteng R2 500 000.
(4) Motho yo o tlolang karolo 133 o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R1 000 000 kgotso go tshwelela kwa kgolegelong sebaka se sa sa feteng dikgwedile tse 12, kgotso ka bobedi tuediso kgotso tsuwalole kwa kgolegelong.
(5) Motho yo o tlolang karolo 139 o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R5 000 000 kgotso go tshwelela kwa kgolegelong sebaka se sa sa feteng dingwaga tse pedi, kgotso ka bobedi tuediso kgotso tsuwalole kwa kgolegelong.

Kgatelelo

268. (1) Motho yo o tlolang karolo 149(1) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R15 000 000 kgotso go tsuwalwa kwa kgolegelong sebaka sa sa feteng dingwaga tse 10, kgotso go duediswa le go tshwarwa goo ka bobedi.
(2) Motho yo o tlolang karolotlaleletso 153(4)(a) o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R15 000 000 kgotso go tsuwalwa kwa kgulegelong sebaka se sa sa feteng dingwaga tse 10, kgotso go duediswa le go tshwarwa goo ka bobedi.
(3) Fa—
(a) moamegi yo mongwe mo mutlanang a ne a itse kgotso a ka tswa a ne a itse se telere go sesena mo mutlanang kwa tlolo ya karolo kr, moamegi yo mongwe mo mutlanang le ena o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R15 000 000 kgotso go tsuwalwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotso go duediswa le go tshwarwa goo ka bobedi.
(4) Motho yo o tlolang karolotlaleletso 153(5) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.
Administrative penalties

269. A person who contravenes section 174 by giving an undertaking commits an offence and is liable on conviction to a fine not exceeding twice the maximum amount that would have been payable under the undertaking.

Ombud schemes

270. (1) A person who contravenes section 189(1) or (2) or section 192 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
   (2) A person who contravenes section 202(11) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
   (3) A natural person who contravenes section 205(8) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
   (4) If—
      (a) a natural person who is subject to a debarment order in terms of section 205, contravenes section 205(8)(a) by entering into an arrangement referred to in section 205(8)(b); and
      (b) the other party to the arrangement knew or should reasonably have known that entering into the arrangement contravened that section;
   the other party to the arrangement also commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
   (5) A person who contravenes section 207(2) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.
   (6) A licensed financial institution that contravenes section 210 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
   (7) A financial institution that contravenes section 215(1) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
   (8) A person who contravenes section 217 commits an offence and is liable on conviction to a fine not exceeding R5 000 for each day during which the offence continues.

Proceedings in Tribunal

271. A person who contravenes a direction in terms of section 232(5)(a), or refuses, without reasonable excuse, to take an oath or make an affirmation when required to do so as contemplated in section 232(5)(b), commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

Miscellaneous

272. (1) (a) A financial sector regulator or the Reserve Bank commits an offence if information is disclosed or shared for a purpose that is not authorised in terms of section 251(1) or (2), or in a manner that is not authorised as referred to in section 251(5).
      (b) Both an official or employee who shares or discloses information, and the financial sector regulator or the Reserve Bank on whose behalf the information is shared or disclosed, commit an offence if an official or employee—
         (i) who is not authorised to share or disclose information shares or discloses information in contravention of section 251(6)(c);
         (ii) who is authorised to share or disclose information shares or discloses information for a purpose that is not authorised in terms of section 251(1) or (2), or in a manner that contravenes section 251(3) or (4).
      (2) (a) If a financial sector regulator or the Reserve Bank commits an offence referred to in subsection (1), it is liable on conviction to a fine not exceeding R5 000 000.
Dikotlhao tsa tswanaiso

269. Motho yo o tolang karolo 174 ka go dira kano o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng tlhotlhwana ya makisi imamo e e ka tswang e d elw a ka fa tlase ga kano.

Dikema tsa ombud

270. (1) Motho yo o tolang karolo 189(1) kgotsa (2) kgotsa karolo 192 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000. (2) Motho yo o tolang karolo 202(11) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000. (3) Motho ka esi yo o tolang karolo 205(8) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000. (4) Fa— 

(a) motho ka esi yo o lebanweng ke taelo ya kganelo go ya ka karolo 205 a tlola karolotlaleletso 205(8)(a) ka go dira thulaganyo e e kailweng mo karolong 205(8)(b); le; 

(b) moamegi yo mongwe mo tumananong a ne a itse kgotsa a ka tswa a ne a itse sentle gore go tsena mo tumananong ke tlolo ya karolo eo, mokgatlho o mongwe o o mo thulaganyong le ona o tlola molao e bile fa o bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000. (5) Motho yo o tolang karolotlaleletso 207(2) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R15 000 000 kgotsa go tsawelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshawwara go o ka bobedi. (6) Setheo sa ditsëhelete se se abetsweng laesensese se tlola karolotlaleletso 210 se tlola molao e bile fa se bonwe molato se tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000. (7) Setheo sa ditsëhelete se se tlola karolo 215(1) se tlola molao e bile fa se bonwe molato se tshwanetswe ke kothlao ya tuel o e e sa feteng R5 000 000. (8) Motho yo o tolang karolotlaleletso 217 o tlola molao e bile fa o bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000 mabapi le letsatsi lengwe le lengwe leo ka lona molato o tswelelang.

Ditsamaiso tsa Lekgotla

271. Motho yo o tolang ka elo go ya ka karolo 232(5)(a), kgotsa yo o ganang, ntle le lebaka le le utlwagaling, go tsaya kano kgotsa thlomamiso fa a kopiwa go dira jalo jaaka go tlhalo siswe mo karonlog 232(5)(b), o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000 kgotsa go tsawelwa kwa kgolegelong sebaka se se feteng dingwaga tse tlahano, kgotsa go duediswa le go tshawwara go o ka bobedi.

Tsele le tsele

272. (a) Bolaodi jwa lephata la ditsëhelete kgotsa Banka ya Resefe e tlola molao fa tshedi mosetso e senotswe kgotsa e aroganwe mabapi le ma tlhomo a a sa dumellelwang go ya ka karolo 251(1) kgotsa (2), kgotsa ka mokgwa o o sa dumellelwang jaaka go kailweng mo karonlog 251(5). (b) Ka bobedi mothankedikgotsa modiri yo o aroganang kgotsa yo o senolang tshedi mosetso, le bolaodi jwa lephata la ditsëhelete kgotsa Banka ya Resefe e boemong jwa yona tshedi mosetso e aroganweng kgotsa e senotsweng, ba tlola molao fa mothankedikgotsa modiri— 

(i) yo o sa dumellelwang go arogana kgotsa go senola tshedi mosetso a arogana kgotsa a senola tshedi mosetso ka tlolo ya karolo 251(6)(c); 

(ii) yo o dumellelweng go arogana kgotsa go senola a arogana kgotsa senola tshedi mosetso mabapi le ma tlhomo a a sa dumellelwang go ya ka karolo 251(1) kgotsa (2), kgotsa ka mokgwa o o tlolang karolo 251(3) kgotsa (4). (2) (a) Fa bolaodi jwa lephata la ditsëhelete kgotsa Banka ya Resefe bo tlola molao o o kailweng mo karolotlaleletsong (1), bo bonwe molato bo tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(b) An official or employee who commits an offence referred to in subsection (1)(b)
is liable on conviction to a fine not exceeding R5 000 000, or imprisonment for a period
not exceeding five years, or to both a fine and such imprisonment.
(3) An auditor who contravenes section 252 commits an offence and is liable on
conviction to a fine not exceeding R5 000 000.
(4) A person who contravenes section 254 commits an offence and is liable on
conviction to a fine not exceeding R5 000 000 or imprisonment for a period not
exceeding five years, or to both a fine and such imprisonment.
(5) A person who contravenes a condition imposed in terms of section 280 commits
an offence and is liable on conviction to a fine not exceeding R5 000 000.

False or misleading information

273. A person who provides to a financial sector regulator or the Reserve Bank,
information in connection with the operation of a financial sector law, that the person
knew or believed, or ought reasonably to have known or believed, to be false or
misleading, including by omission, commits an offence and is liable on conviction to a
fine not exceeding R10 000 000 or imprisonment for a period not exceeding 10 years, or
to both a fine and such imprisonment.

Accounts and records

274. A person who is required in terms of a financial sector law to keep accounts or
records commits an offence if—
(a) the accounts or records do not correctly record and explain the matters,
transactions, acts or operations to which they relate; and
(b) the person—
(i) knew that, or was reckless whether, the accounts or records correctly
recorded and explained the matters, transactions, acts or operations to
which they relate;
(ii) intended to deceive or mislead a financial sector regulator or an
investigator; or
(iii) intended to hinder or obstruct a financial sector regulator, or an
investigator in performing his or her duties in terms of a financial sector
law,
and is liable on conviction to a fine not exceeding R10 000 000, or imprisonment for a
period not exceeding 10 years, or to both a fine and such imprisonment.

False assertion of connection with financial sector regulator

275. A person who, without the consent of the financial sector regulator, applies to a
company, body, business or undertaking a name or description that reasonably signifies
or implies some connection between the company, body, business or undertaking and a
financial sector regulator commits an offence and is liable on conviction to a fine not
exceeding R5 000 000.

Liability in relation to juristic persons

276. (1) If—
(a) a financial institution commits an offence in terms of a financial sector law;
and
(b) a member of the governing body of the financial institution failed to take all
reasonably practicable steps to prevent the commission of the offence,
the member of the governing body commits the like offence, and is liable on conviction
to a penalty not exceeding the penalty that may be imposed on the financial institution
for the offence.
(2) If—
(a) a key person of a financial institution engages in conduct that amounts to a
contravention of a financial sector law; and
(b) Mothankedi kgotsa modiri yo o tlolang molao o o kaiweng mo karo lotla lele tsong, kgotsa go tswalelwla kwa kgolegelon sebaka se sa feteng dingwaga tse tlhano, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(3) Moruni yo o tlolang karolo 252 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlho ya tuelo e e sa feteng R5 000 000.

(4) Motho yo o tlolang karolo 254 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlho ya tuelo e e sa feteng R5 000 000, kgotsa go tswalelwla kwa kgolegelong sebaka se sa feteng dingwaga tse tlhano, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(5) Motho yo o tlolang peelo e e neetsweng go ya ka karolo 280 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlho ya tuelo e e sa feteng R5 000 000.

**Tshedimosetso e e fosagetseng kgotsa e e timetsang**

273. Motho yo o tlamelang molao di wa lephata la ditšhelete kgotsa Banka ya Resefe, ka tshedimosetso mabapi le tiro ya molao wa lephata la ditšhelete, e motho a itseng kgotsa a dumelang, kgotsa e aka mabaka a neng a itse kgotsa a dumela, gore e fosagetseng kgotsa e e timetsa, go akaretse le ka tlogelo, o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlho ya tuelo e e sa feteng R10 000 000, kgotsa go tswalelwla kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

**Diakhaonto le direkoto**

274. Motho yo o tlohekgang go ya ka molao wa lephata la ditšhelete go tshola diakhaonto le direkoto o tlola molao fa—

(a) diakhaonto kgotsa direkoto di sa rekote le go tlhaloseng dintlha, ditsumaiso, ditiro kgotsa dikgato tse o di amang le tsong, e bile

(b) motho—

(i) a ne a itse, kgotsa a ne a sa kgathalele gore, diakhaonto kgotsa direkoto di gatlasisitse le go tlhalosa dintlha, ditsumaiso, ditiro kgotsa dikgato tse di o amang le tsong;

(ii) a ne a ikatelese go tsietsa kgotsa go faposa bolaodi jwa lephata la ditšhelete kgotsa mmatlisisi, kgotsa

(iii) a ne a ikatelese go kgoreletseng kgotsa go thibela bolaodi jwa lephata la ditšhelete, kgotsa mmatlisisi mo go direng ditiro tsa gagwe go ya ka molao wa lephata la ditšhelete, ebile o tshwanetswe ke kotlho ya tuelo e e sa feteng R10 000 000, kgotsa go tswalelwla kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

**Tlnagiso e e fosagetseng ya kamano le bolaodi jwa lephata la ditšhelete**

275. Motho yo, ntle le tumelelo ya molao di wa lephata la ditšhelete, o dirisang go setlamo, mokgathlo, kgwebo kgotsa kano leina kgotsa tlhalosa e e kayang kgotsa bontshang kamano e e rieng magareng ga setlamo, mokgathlo, kgwebo kgotsa kano le molao di wa lephata la ditšhelete o tlola molao e bile fa a bonwe molato o tshwanetswe ke katholo ya tuediso e e sa feteng R5 000 000.

**Melato mo kamanong le ditheo**

276. (1) Fa—

(a) setheo sa ditšhelete se dira molato go ya ka molao wa lephata la ditšhelete; le

(b) leloko lengwe le lengwe la mokgathlo o o busang wa setheo sa ditšhelete le le pateletswe ke go tsa ya dikgato tsothle tse di maleba tse di kgonekgane go thibela tiegro ya molato, leloko la mokgathlo o busang le tlola molato oo, e bile fa le bonwe molato le tshwanetswe ke kotlho ya e e sa feteng kotlho ya e e ka pateletswang setheo sa ditšhelete mabapi le tlolomolao.

(2) Fa—

(a) motho yo o batlhekwa wa setheo sa ditšhelete a dira boitshwaro jo bo lereng tiolo ya molao wa lephata la ditšhelete; le
(b) the financial institution failed to take all reasonably practicable steps to prevent the conduct, the financial institution must be taken also to have engaged in the conduct.

**Part 4**

**General matters**

**Complaints**

277. A financial sector regulator must, if asked, assist a person to make a complaint to the appropriate ombud about the actions or practices in terms of a financial sector law, of a person in connection with providing financial products or financial services.

**Compensation for contraventions of financial sector laws**

278. A person, including a financial sector regulator, who suffers loss because of a contravention of a financial sector law by another person, may recover the amount of the loss by action in a court of competent jurisdiction against—

(a) the other person; and

(b) any person who was knowingly involved in the contravention.

**Extension of period for compliance**

279. (1) A financial sector regulator may, for a valid reason, extend any period for compliance with, or a period prescribed by, a provision of a financial sector law, other than a provision that the financial sector regulator must comply with.

(2) A financial sector regulator may grant an extension in terms of subsection (1) more than once, and may do so either before or after the time for compliance has passed or the period prescribed has ended.

**Conditions of licences**

280. (1) A licence may be given subject to conditions specified in the licence or in the notice of the grant or issue of the licence given to the licensee.

(2) A suspension, cancellation or revocation of a licence in terms of a financial sector law may be subject to conditions specified in the notice of the suspension, cancellation or revocation given to the licensee.

(3) Contravention of a condition in terms of subsection (2) does not affect the suspension, cancellation or revocation of the licence.

(4) In this section, a reference to a licence must be read as including a reference to a consent, agreement, approval or permission of any kind in terms of a financial sector law.

**Exemptions**

281. (1) The responsible authority for a financial sector law may, in writing and with the concurrence of the other financial sector regulator, exempt any person or class of persons from a specified provision of the financial sector law, unless it considers that granting the exemption—

(a) will be contrary to the public interest; or

(b) may prejudice the achievement of the objects of a financial sector law.

(2) Subsection (1) applies to the granting of exemptions if a financial sector law does not provide a power to grant exemptions.

(3) If a financial sector law provides a power to grant exemptions, the responsible authority must—

(a) grant the exemption in terms of the relevant provisions of the financial sector law; and
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(b) setheo sa diitshelete se palelwa ke go tsaya dikgato tsothle tse di maleba go thibela boitshwaro joo,
setheo sa diitshelete se tshwanetse go tsewa gore le sona se dirile tlolo ya molao.

Karolo 4

Merero ya kakaretso

Dingongorego

277. Molaodi wa lephata la diitshelete o tshwanetse, fa a kopilwe, go thusa motho go dira ngongorego go ombud yo o maleba ka ga ditiro kgotsa ditiragatsa go ya ka molao wa lephata la diitshelete, tsa motho mabapi le go tlameloa ka dikuno tsa diitshelete kgotsa ditirelo tsa diitshelete.

Tuelo ya ditlolo melao tsa lephata la diitshelete

278. Motho, go akaretsa le molaodi wa lephata la diitshelete, yo o itemogelang tatlhegelo ka nthla ya tlolo ya molao wa lephata la diitshelete ka motho yo mongwe o ka busetsa madi a tatlhegelo ka tiro kwa kgotlatshekelope ka kathlolo e e noofileng kgatlhanong le—
(a) motho yo mongwe; le
(b) motho mongwe le mongwe yo o neng a amega ka go itse mo tlolong.

Katoloso ya paka ya go ikamanyo

279. (1) Molaodi wa lephata la diitshelete o ka, ka lebaka le le utlwalang, katolosa paka ngwe le ngwe ya go ikamanyea le, kgotsa paka e e neetsweng ke, kabelo ya molao wa lephata la diitshelete, ntle le kabelo e molaodi wa lephata la diitshelete a tshwanetseg go ikamanyea le yona.
(2) Molaodi wa lephata la diitshelete o ka dumelela katoloso go ya ka karolotlaleletso (1) go feta gangwe, go ka dira jalo pele ga kgotsa morago ga nako ya ikamanyo e sena go feta kgotsa paka e e neetsweng e sena go fela.

Mabaka a dilaesense

280. (1) Lasenseng e ka abelwa go ya ka mabaka a a tsepassitsweng mo lasenseng kgotsa mo kitisong ya kabelo kgotsa thebolo ya lasense e e neetsweng moabelwalaesense.
(2) Tshekego, phimolo kgotsa phediso ya lasenseng go ya ka molao wa lephata la diitshelete e ka nna go ya ka mabaka a a tsepassitsweng mo kitisong ya tshekego, phimolo kgotsa phediso e e neilweng moabelwalaesense.
(3) Tiolo ya lebaka go ya ka karolotlaleletso (2) ga e ame kemiso, phimolo kgotsa phediso ya lasenseng.
(4) Mo karolong eno, kaelo go laesense e tshwanetseg go tseelwa gore e akaretsa kaelo go tumelelo, tumalano, thebolo kgotsa tsetlelelo ya mofuta mongwe le mongwe go ya ka molao wa lephata la diitshelete.

Dikgololo

281. (1) Bothati jo rwalang maikarabelo a molao wa lephata la diitshelete bo ka, ka go kwa la ke ka tumalano ya molaodi yo mongwe wa lephata la diitshelete, golola motho mongwe le mongwe kgotsa maeemo a batho mo kabelong e e tsepassitsweng ya molao wa lephata la diitshelete ntle le le fa bo tseela gore go abelana ka kgololo—
(a) go tla nna kgatlhanong le dikgatlhego tsa setšabà; kgotsa
(b) go ka gobelela phitlhelelo ya maikaelelo a molao wa lephata la diitshelete.
(2) Karolotlaleletso (1) e diriswa mo go abeleng dikgololo fa molao wa lephata la diitshelete o sa tlanele kagtha ya ga neelana ka dikgololo.
(3) Fa molao wa lephata la diitshelete o tlamele ka thata ya ga neelana ka dikgololo, bothati jo bo rwalang maikarabelo bo tshwanetse—
(a) go neelana ka kgololo go ya ka dikabelo tse di maleba tsa molao wa lephata la diitshelete; le
(b) when deciding whether to grant an exemption, comply with the requirements of subsection (1) in addition to any requirements specified in the financial sector law.

(4) The responsible authority must publish each exemption.

Requirements for notification and concurrence

282. (1) If this Act provides that a financial sector regulator must notify the other financial sector regulator of a particular matter, the notification is not required if the other regulator has agreed, in a section 77 memorandum of understanding or otherwise, that—

(a) failure to provide the notice does not prejudice the achievement of its objective; and

(b) the notification is unnecessary.

(2) If this Act provides that a financial sector regulator may not take a particular action without the concurrence of the other financial sector regulator, the concurrence is not required if the other regulator has agreed, in a section 77 memorandum of understanding or otherwise, that—

(a) action of the relevant kind does not prejudice the achievement of its objective; and

(b) its concurrence is unnecessary.

(3) If this Act provides that a financial sector regulator may not take a particular action without the concurrence of the Reserve Bank, the concurrence is not required if the Reserve Bank has agreed, in a memorandum of understanding or otherwise, that the concurrence is unnecessary.

Arrangements for engagements with stakeholders

283. Each of the financial sector regulators and the Ombud Council must establish and give effect to arrangements to facilitate consultation and the exchange of information with financial institutions, financial customers, and prospective financial customers on matters of mutual interest.

Records and entries in books of account admissible in evidence

284. In any proceedings in terms of, or in relation to, a financial sector law, the records and books of account of a financial institution, and of a person who is engaged by a financial institution to perform a control function, are admissible as evidence of the matters, transactions and accounts recorded therein.

Immunities

285. The State, the Minister, the Reserve Bank, the Governor and Deputy Governors, a financial sector regulator, a member of the Executive Committee, the Prudential Committee, a member of a subcommittee of the Prudential Authority or the Financial Sector Conduct Authority, a member of the Tribunal, the Ombud Council, a member of the Ombud Board, an employee of the State, a board member or officer of the Reserve Bank, a staff member of a financial sector regulator, a staff member of the Reserve Bank, a person appointed by a financial sector regulator or the Reserve Bank to exercise a power or perform a function or duty in terms of a financial sector law is not liable for, or in respect of, any loss or damage suffered or incurred by any person arising from a decision taken or action performed in good faith in the exercise of a function, power or duty in terms of a financial sector law.

Notices to licensees

286. (1) A notice in terms of, or relating to, a financial sector law to a person who is or was licensed in terms of a financial sector law must be served on, or given to—

(a) the person; or

(b) if the person cannot be found after reasonable inquiry, some other person apparently involved in the management or control of a place where the person carries or carried on the licensed activities.
(b) fa bo swetsa ka go neelana ka kgojolo, go ikamanye le dithlokego tsa karololaleletsyo (1) mo godimo ga dithlokego dingwe le dingwe tse di tsepamitsiwe nongwe mo molaong wa lephata la ditšhelete.

(4) Bothati jo bo rwalang maikarabelo bo tshwanetse go phalatatsa kgojolo nngwe le nngwe.

Dithlokego tsa kitsiso le tsumalano

282. (1) Fa Molao ono o tlamela gore molaodi wa lephata la ditšhelete o tshwanetse go itsise molaodi yo mongwe wa lephata la ditšhelete ka ga mororo o o riše, kitsiso ga e tloheke fa molaodi yo mongwe a dumetse, mo karolong 77 ya memorantamo wa tsumalano kgotsa ka gongwe, gore—


(a) go palelwa ke go tlamela ka kitsiso ga go gobelele phitlhelelo ya maikaelelo a ona; le

(b) kitsiso ga e tlhokagale.

(2) Fa Molao ono o tlamela gore molaodi wa lephata la ditšhelete o ke sa dire tiro epe ntle le tsumalano ya molaodi yo mongwe wa lephata la ditšhelete, tsumalano ga e tloheke fa molaodi yo mongwe a dumetse, mo karolong 77 ya memorantamo wa tsumalano kgotsa ka gongwe, gore—


(a) tiro ya mofuta o o maleba ga e gobelele phitlhelelo ya maikaelelo a bona; le

(b) tsumalano ya bona ga e tlhokagale.

(3) Fa Molao ono o tlamela ka gore molaodi wa lephata la ditšhelete o ke sa dire tiro epe ntle le tsumalano ya Banka ya Resefeh, tsumalano ga e tlhokagale fa Banka ya Resefeh e dumetse, mo memorantamong wa tsumalano kgotsa ka gongwe, gore tsumalano ga e tlhokagale.

Dithulaganyo mabapi le ditherisano le batsayakarolo

283. Mongwe le mongwe wa balaodi ba lephata la ditšhelete le Khansele ya Ombud o tshwanetse go tlhoma le go tsenya mo tirisong dithulaganyo tsagololose ditherisano le, le thefosa ya tshedimosetse le, batsayakarolo ba kgatlhego e e tshwanang.

Direkoto le dikwadiso mo dibukeng tsa go rwala maikarabelo a a amogelweng khaoonto tse di amogelesegeng jaaka bosupi

284. Mo ditsamaisong dingwe le dingwe go ya ka, kgotsa mabapi le, molaow a lephata la ditšhelete, direkoto le dibuka tsa ahaoneto tsa setheo sa ditšhelete, le tsa motho yo o dirisweng ka setheo sa ditšhelete go dira tiro ya go laola, di amogelesegeng jaaka bosupi jwa dintlha, ditiro le diakhaonto tse di rekotliwine ka fa gare.

Dikgololo

285. Puso, Tona, Banka ya Resefeh, Mmasisi le Batlatsamamusisi, molaodi wa lephata la ditšhelete, leloko la Komiti Khuduthamaga, Komiti ya Thlhekocomelo, leloko la Komiti ya Bolaodi jwa Thlhekocomelo, Bolaodi jwa Botishwaro jwa Lephatla la Ditšhelete, leloko la Lekgotla, Khansele ya Ombud, leloko la Boto ya Ombud, modiredi wa Puso, Banka ya Resefeh, leloko la boto kgotsa mothlankedipwa Banka ya Resefeh, leloko la badirimmingo ba Banka ya Resefeh, ga ba rwa maikarabelo a, kgotsa mabapi le, tatlhegelo nngwe le nngwe kgotsa kgbalo e e bonweng kgotsa itemogetsweng ke motho mongwe le mongwe ka nthla ya tshwetsao e e tserweng kgotsa tiro e e dirilweng ka mowa o mointle mo go diragatseng tiro kgotsa thata go ya ka molaow a lephata la ditšhelete.

Kitsiso go baabelwadilaesense

286. (1) Kitsiso go ya ka, kgotsa e e amangang le, molaow a lephata la ditšhelete go motho yo o kgotsa yo o neng a abetswe lesense go ya ka molaow a lephata la ditšhelete e tshwanetse go neelwa go, kgotsa go newa—


(a) motho; kgotsa

(b) fa motho a sa kgone go fitlhlelwa morago ga patlisiko e e tseleleseiko, motho mongwe yo o kileng a omeg a tseleleseiko kgotsa taolong ya lefelo leo motho a dirang kgotsa a dirileng ditiro tsa lesense.
(2) For the purposes of a financial sector law, service in terms of subsection (1)(b) is effective service.

Publication requirements in financial sector laws

287. (1) A requirement in terms of a financial sector law to publish a document or information, including a requirement to publish it in the Gazette, must be read as a requirement also to publish the document or information in the Register.

(2) The document or information may also be published on the website of the person required to publish it, or in other effective ways.

(3) This section does not require publication of a draft of a document in the Register.

Part 5

Regulations and Guidelines

288. (1) The Minister may make Regulations to facilitate the implementation of this Act, including Regulations—

(a) that must or may be prescribed in terms of this Act;

(b) to provide for other procedural or administrative matters that are necessary to implement the provisions of this Act.

(2) A requirement in terms of a financial sector law or the Interpretation Act (Act No. 33 of 1957), to publish Regulations in the Gazette must be read as a requirement to publish the Regulations also in the Register.

(3) (a) The Minister may issue guidelines for the disclosure of material interests contemplated in sections 49, 72, 193 and 226 to provide guidance to persons who are required to disclose material interests in terms of those sections.

(b) Guidelines issued in terms of paragraph (a) do not divest persons who are required to disclose a material interest in terms of sections 49, 72, 193 and 226 from their duty to properly apply their minds and disclose all material interests.

(4) The Minister may not make a Regulation unless the Minister—

(a) has published—

(i) a draft of the Regulation;

(ii) a statement explaining the need for and the intended operation of the Regulation;

(iii) a statement of the expected impact of the Regulation;

(iv) a notice inviting submissions in relation to the Regulation and stating where, how and by when submissions are to be made; and

(b) has, once submissions referred to in paragraph (a)(iv) have been received and considered, submitted to Parliament, while it is in session,—

(i) the documents mentioned in paragraph (a)(i) to (iv); and

(ii) a report of the consultation process, which report must include—

(aa) a general account of the issues raised in the submissions; and

(bb) a response to the issues raised in the submissions.

(5) (a) The period allowed for making submissions referred to in subsection (4)(a) must be at least six weeks.

(b) The period allowed for Parliamentary scrutiny referred to in subsection (4)(b) must be at least 30 days while Parliament is in session.

(6) If a Minister intends, whether or not as a result of a consultation process, to make a Regulation in a materially different form from the draft Regulation published in terms of subsection (4), the Minister must, before making the Regulation, repeat the process referred to in subsection (4).

(7) If complying with subsection (4) or (6), in the opinion of the Minister, is likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed Regulation, the Minister must, before making the Regulation—

(a) publish—

(i) a draft of the Regulation and a statement explaining the need for and the intended operation of the Regulation;
(2) Mabapi le mailihomo a molao wa lephata la dišhelete, tirelo go ya ka karolotlaleletso (1)/(b) ke tirelo e e nonofileng.

Ditlhokego tsaholasatso mo melaong ya lephata la dišhelete

287. (1) Thohogo go ya ka molao wa lephata la dišhelete ya go phasalatsa lokwalo kgotsa tshedimosetso, go akaretsa le thohogo ya go e phasalatsa mo Lokwalodiganneng la Puso, go tshwanetse go tseelwa jaaka lhohogo ya go phasalatsa lokwalo kgotsa tshedimosetso mo Rejisetareng.

(2) Lokwalo kgotsa tshedimosetso e ka phasalatswa mo webesaeteng ya mutsho yo o thohang go e phasalatsa, kgotsa ka mekgwa mengwe e e nonofileng.

(3) Karolo ena ga e thohake phasalatsa ya thalo ya lokwalo mo Rejisetareng.

Karolo 5

Melawana le dikaelo

288. (1) Tona o ka dira Melawana go nolofatsa go tseengwa go tirising ga Molao ono, go akaretsa le Melawana—

(a) e e tshwanetseg kgotsa e e ka neelwang go ya ka Molao ono;

(b) go tlamela mabapi le merero e mengwe ya tsamaiso le taolo e e botlhokwa go tseunya mo tirising dikabelo tsa Molao ono.

(2) Thohoko go ya ka molao wa lephata la dišhelete kgotsa Interpretation Act (Molao 33 wa 1957), ya go phasalatsa Melawana mo Lokwalodiganneng la Puso e tshwanetse go tseelwa jaaka lhohoko ya go phasalatsa Melawana mo Rejisetareng.

(3) (a) Tona o ka rebola dikaelo tsa go senola dikgatlhegelo tse di botlhokwa tse di tshlahotsestweng mo dikarolong 49,72, 193 le 226, go tlamela ka kaelo go batho ba bokwlpweng go senola dikgatlhegelo tsa bokwlpweng go ya ka dikarolo tse.

(b) Dikaelo tse di rebotseng go ya ka temana (a) ga di amoge batho ba ba kopilweng go senola kgathegelo e e botlhokwa go ya ka dikarolo 49, 72, 193 le 226 ditiro tsa bona tsa go dirisa menagano ya bona ka nepagalo le go senola dikgatlhegelo tsothle tse di ka mang bokwlpweng.

(4) Tona o ka se dire Melawana ntle le fa Tona—

(a) a phasaladitswe—

(i) melawana le e thadilweng;

(ii) polelo e e tshlahoang tlhohogo ya le tiro e e ikaeletsweng ya Melawana;

(iii) polelo ya kutlwalo e e solofetsweng ya Melawana;

(iv) kitiiso e e laletsang dithahisgo mabapi le Melawana le go itsise gore dithahisgo di ka dirwa ke, jang le leng; le

(b) a, morago ga fa dithahisgo tse di kailweng mo temaneng (a)/(i) di sena go amogelwa le go sekaseka, romelele Palamente, fa e kokoane—

(i) dikwalo tse di kailweng mo temaneng (a)/(i) go fitlha go (iv); le

(ii) pegelo ya dikgato tsa dithersano, e e tla akaretsang—

(aa) maikarabelo ka kakaretso a dinta tse di thlahotsestweng mo dithahisgo; le

(bb) tsibogelo go dintlha tse di thlahotsestweng mo dithahisgo.

(5) (a) Paka e e dumeletsengweng ya go dira dithahisgo tse di kailweng mo temaneng (4)/(a) e tshwanetse go nna bonnye dibele tse thataro.

(b) Paka e e letleletsengweng mabapi le tshkatsetheko e e kailweng mo karolotlaleletsong (4)/(b) e tshwanetse go nna bonnye matsatsi a le 30 fa Palamente e kokoane.

(6) Fa Tona a ikaela, ka nthla ya kgotsa eseng ka nthla ya ditlamorago tsa kgato ya dithersano, go dira Melawana ka mokgwa wa pharologano e kgo lwa thalo ya melawana e e phasaladitsweng go ya ka karolotlaleleletso (4), Tona o tshwanetse, pele a dira Melawana, go bolelela tsamaiso e e kailweng mo karolotlaleletsong (4).

(7) Fa go ikamanangwa le karolotlaleleletso (4) kgotsa (6), go ya ka mogopologo wa Tona, go ka lere kgobelelo mo barekeding ba dišhelete kgotsa kotsi mo thulaganyong ya dišhelete, kgotsa go fenya maikaelelo a Molawana o o tshitsitsengweng, Tona o tshwanetse, pele a dira Molawana—

(a) go phasalatsa—

(i) Molawana o o thadilweng le polelo e e tshlahoang tlhohogo ya le tiro e e ikaeletsweng ya Melawana;

This gazette is also available free online at www.gpwonline.co.za
It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

Act No. 9 of 2017: Financial Sector Regulation Act, 2017

THE PRESIDENCY

No. 853 22 August 2017

MO-PRESIDENTE

No. 853 22 August 2017

Mo go tsebiswa gore Mo-Presidente o dumetse molao o latelago, wona o tla gatiswa e le tsebisso ya kakaretso:—

Nmr 9 ya 2017: Molao wa Taolo ya Lephata la Ditshelete , 2017
(ii) a notice inviting submissions in relation to the Regulation and stating where, how and by when submissions are to be made; and

(iii) a statement of the reasons why the delay involved in complying with subsections (4) and (6) is considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed Regulation; and

(b) submit to Parliament the documents mentioned in paragraph (a).

(8) (a) The period allowed for making submissions referred to in subsection (7)(a)(ii) must be at least seven days.

(b) The period allowed for submission to Parliament referred to in subsection (7)(b) must be at least seven days, whether Parliament is in session or not.

(c) The period referred to in paragraph (b) may run concurrently with the period referred to in paragraph (a).

(9) The Minister must, after making a Regulation pursuant to subsections (7) and (8), within 30 days of making the Regulation, submit to Parliament a report of the consultation process referred to in subsections (13) to (15).

(10) This section does not prevent the Minister from engaging in consultations in addition to those required in terms of this section.

(11) In deciding whether to make a Regulation, the Minister must take into account all submissions received by the expiry of the period referred to in subsection (5)(a) or (8)(a) and any deliberations of Parliament.

(12) A Regulation comes into effect—

(a) on the date that it is published in the Register; or

(b) if the Regulation provides that it comes into effect on a later date, on the later date.

(13) With each Regulation, the Minister must publish a consultation report.

(14) A consultation report must include—

(a) a general account of the issues raised in the submissions made during the consultation; and

(b) a response to the issues raised in the submissions.

(15) If the Minister did not comply with subsection (4) or (6) for the reason stated in subsection (7), the consultation report must be published 30 days after the instrument was made and the report must include a statement of the reasons why the delay involved in complying, or complying fully, with subsection (4) or (6) was considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the Regulation.

Part 6

Amendments, repeals, transitional and saving provisions

Interpretation

289. In this Part—

“Appeal Board” means the Appeal Board established by section 26A of the Financial Services Board Act;

“Directorate of Market Abuse” means the Directorate of Market Abuse established by section 12 of the Insider Trading Act, 1998 (Act No. 135 of 1998) and continued in terms of the Securities Services Act, 2004 (Act No. 36 of 2004) and then the Financial Markets Act;

“Enforcement Committee” means the Enforcement Committee established in terms of section 10A of the Financial Services Board Act or section 97 of the Securities Services Act, 2004 (Act No. 36 of 2004);

“Financial Services Board” means the Financial Services Board as defined in the Financial Services Board Act; and

(ii) kitsiso e e laletsang dilthagiso mabapi le Molawana e bile e tlahagisa gore dilthagiso di ka dirwa kaе, jang le gore leng; le
(iii) polelo ya mabaka a gore goreng tiego yago ikamanyeng le dikarolotlaletsetso (4) le (6) e tselwa gore eka tlisa kgobelelo mo barekeding ba ditšhelete kgotsa kotsi mo thulaganyong ya ditšhelete, kgotsa ya fenya maikaelelo a Molawana o o tshitsintsweng; le
(b) go romelela Palamente dikwalo tse di kailweng mo temaneng (a).
(8) (a) Nako e e letleletsengw ya go dira dilthweng tse di kailweng mo karolotlaletsetsong (7)(a)(ii) e tshwanetse go nna bonnye malatsi e le supra.
(b) Nako e e letleletsengw ya go romela dilthagiso kwa Palamenteng jaaka go kailwe mo karolotlaletsetsong (7)(b) e tshwanetse go nna bonnye malatsi a le supra, Palamente e ka tswa e kokoane kgotsa e sa kokoana.
(c) Nako e e kailweng mo temaneng (b) e ka tsamaya ka nako e le ngwele e nako e e kailweng mo temaneng (a).
(9) Tona o tshwanetse, morago ga go dira Molawana o o tsamaelanang le dikarolotlaletsetso (7) le (8), mo malatsising a le 30 a go dira Molawana, go romelela Palamente pegelo ya kgato ya ditherisano e e kailweng mo dikarolotlaletsetsong (13) go fitlha go (15).
(10) Karolo eno ga e thibele Tona mo go direng ditherisano mo godimo ga tse di thlohekgang go ga ka karolo eno.
(11) Mo go swetseng ka ga go dira Molawana, Tona o tshwanetse go tsaya tsaia dilthagiso tsothle tse di amogetsweng ka letlhla bofelo la nako e e kailweng mo karolotlaletsetsong (5)(a) kgotsa (8)(a) le dipuisano tsa Palamete.
(12) Molawana o tsengwga mo tirisong—
(a) ka lethla e le phasaladitsweng mo Rejisetareng ka lona; kgotsa
(b) fa Molawana o tlamela gore o tla tsengwga mo tirisong ka lethla le le kwa moragonyana, ka lethla le le kwa moragonyana.
(13) Mabapi le Molawana mongwe le mongwe, Tona o tshwanetse go phasalatsa pegelo ya ditherisano.
(14) Pegelo ya ditherisano e tshwanetse go akaretsa—
(a) boikarabelo ka kakaretso jwa dintlha tse di tlahagisitsweng mo dilthagisong tse di dirilweng ka nako ya ditherisano; le
(b) tsibogelo go dintlha tse di tlahagisitsweng mo dilthagisong.
(15) Fa Tona a sa ikamanywa le karolotlaletseto (4) kgotsa (6) mabapi le mabaka a a boletsweng mo karolotlaletsetsong (7), pegelo ya ditherisano e tshwanetse go phasalatswa mo malatsising a le 30 morago ga go dirwa ga sediriso e bile pegelo e tshwanetse go akaretsa polelo ya mabaka a gore goreng tiego e e mnileng teng mo go ikamanyeng, kgotsa mo go ikamanyeng ka botlalo, le karolotlaletsetso (4) kgotsa (6) e tseetswe gore e bakile kgobelelo mo barekeding ba ditšhelete kgotsa kotsi mo thulaganyong ya ditšhelete, kgotsa e fentse maikaelelo a Molawana.

Karolo 6

Dilthabololo, diphediso, dikabelo ts'a kgabaganyo le tshomarelo

Tlhaloso

289. Mo Karolong eno—
“Boto ya Boikuelo” e kaya Boto ya Boikuelo e e tlhomilweng ke karolo 26A ya Financial Services Board Act;
“Komiti ya Kgatelelo” e kaya Komiti ya Kgatelelo e e tlhomilweng go ya ka karolo 10A ya Financial Services Board Act go ke karolo 97 ya Securities Services Act, 2004 (Molao 36 wa 2004);
“Boto ya Ditirelo ts’a Ditšhelete” e kaya Boto ya Ditirelo ts’a Ditšhelete jaaka e tlahalositswe mo Financial Services Board Act; tse
Amendments and repeals

290. The Acts listed in Schedule 4 are amended or repealed as set out in that Schedule.

Transitional provision in relation to medical schemes

291. (1) The functions of the Prudential Authority in relation to medical schemes and the associated powers and duties of the Prudential Authority are, to the extent determined by, and subject to any conditions determined by, the Minister, to be exercised by the Council for Medical Schemes instead of the Prudential Authority, but with the concurrence of the Prudential Authority.

(2) The functions of the Financial Sector Conduct Authority in relation to medical schemes and the associated powers and duties of the Financial Sector Conduct Authority are, to the extent determined by, and subject to any conditions determined by, the Minister, to be exercised by the Council for Medical Schemes instead of the Financial Sector Conduct Authority, but with the concurrence of the Financial Sector Conduct Authority.

(3) A determination in terms of subsection (1) or (2) must be published.

(4) The concurrence of a financial sector regulator in terms of subsection (1) or (2) to the exercise of a particular power or the performance of a particular function or duty is not required if the financial sector regulator has agreed in writing that—

(a) the exercise of the power or the performance of the function or duty does not prejudice the achievement of its objective; and

(b) its concurrence is unnecessary.

Transitional prudential powers of Financial Sector Conduct Authority

292. (1) This section applies for the period of three years from the date on which this section comes into effect but the Minister may, by notice in the Gazette, determine a shorter or longer period.

(2) The power of the Prudential Authority to make prudential standards, to be complied with by the following financial institutions, with respect to the safety and soundness of those financial institutions and otherwise to achieve the objectives of the Prudential Authority, is to be exercised by the Financial Sector Conduct Authority:

(a) Collective investment schemes as defined in section 1(1) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

(b) pension funds as defined in section 1(1) of the Pension Funds Act;

(c) friendly societies as defined in section 1(1) of the Friendly Societies Act.

(3) A prudential standard in terms of subsection (2) may only impose requirements that may be imposed under the specific financial sector law relevant to the financial institution concerned.

(4) The Financial Sector Conduct Authority may exercise its other powers in terms of financial sector laws with respect to the financial institutions referred to in subsection (2) to achieve the objective of the Prudential Authority.

(5) Subsection (3) does not affect the powers of the Financial Sector Conduct Authority in respect of a financial institution.

Transfer of assets and liabilities of Financial Services Board

293. (1) At the date on which this section comes into effect, the assets and liabilities of the Financial Services Board cease to be assets and liabilities of the Board and become assets and liabilities of the Financial Sector Conduct Authority without any conveyance, transfer or assignment.

(2) A person or authority who, in terms of a law or of a trust instrument or in any other way is required to keep or maintain a database in relation to assets or liabilities must, and may without any application or otherwise, record in the database the transfer of the asset or liability in terms of subsection (1).
Ditlhabololo le diphediso

290. Melao e e neetsweng mo Šeçuleng e 4 e a tlhabololwa kgotsa phimolwa jaaka go thalasitswe mo Šeçuleng e 4.

Kabelo ya kgabaganyo mabapi le dikema ts'a kalafo

291. (1) Ditiro tsa Bothati jwa Thlokomo elo mabapi le dikema tsa kalafi le dithata tse di di patileng le ditiro tsa Bothati jwa Thlokomo elo, ka bogolo jo bo tlhomamisitsweng ke, le go ya ka mabaka mangwe le mangwe a a tlhomamisitsweng ke, Tona, di tshwanetse go diragatswa ke Khansele ya Dikema tsa Kalafi e seng Bothati jwa Thlokomo elo, mme fela ka tumalano le Bothati jwa Thlokomo elo.
(2) Ditiro tsa Bothati jwa Boitsha wo jwa Lepha ta la Ditšhe lete mabapi le dikema tsa kalafi le maatla le ditiro tse di di patileng tsa Bothati jwa Boitsha wo jwa Lepha ta la Ditšhele te, ka bogolo jo bo tlhomamisitsweng ke, le go ya ka mabaka mangwe le mangwe a a tlhomamisitsweng ke, Tona, di tshwanetse go diragatswa ke Khansele ya Dikema tsa Kalafi e seng Bothati jwa Boitsha wo jwa Lepha ta la Ditšhele te, mme fela ka tumalano le Bothati jwa Boitsha wo jwa Lepha ta la Ditšhele te.
(3) Tlhomamiso go ya ka karolotlaletsetso (1) kgotsa (2) e tshwanetse go phasalatswa.
(4) Tumalano ya bolaodi ja lepha ta la ditšhele te go ya ka karolotlaletsetso (1) kgotsa (2) ya tiragatso ya thata e e ri leng kgotsa go dirwa ga tiro e e ri leng ga go tlho ke ge fa bolaodi jwa lepha ta la ditšhele te bo dumetse ka go kwala gore—
(a) tiragatso ya thata kgotsa go dirwa ga tiro ga go gobelele phitlhe lelo ya maikae elo a jona; le
(b) tumalano ya jona ga e tlho ke ge.

Dithata tsa kgaba ganyo ts'a tlhokomo elo ya Bothati jwa Boitsha wo jwa Lepha ta la Ditšhele te

292. (1) Karolo eno e diriswa mo pakeng ya dingwaga tse tharo go simolola ka letla la go tsengwga mo tirisong ka karolo eno mme Tona o ka, ka kitsiso mo Lokwalodikaganyeng la Puso, thlomamisa paka e pako e khutshwane kgotsa e telele.
(2) Thata ya Bothati jwa Thlokomo elo ya go dira maemo a tlhokomo elo, eo ditheo tsa ditšhele te tse di latelang di tshwanetse go ikamanya le yona, mabapi le thireletseg o le thlomamo ya ditheo tse o ts'a ditšhele te le go thitlhe lela maikae elo a Bothati jwa Thlokomo elo, e tshwanetse go diragatsa ke Bothati jwa Boitsha wo jwa Lepha ta la Ditšhele te:
(a) Dikema tsa peeletsom mg o jaaka di tlhalositswe mo karolong 1(1) ya Collective Investment Schemes Control Act, 2002 (Molao 45 wa 2002);
(b) matlolle a peni she jaaka a tlhalositswe mo karolong 1(1) ya Pension Funds Act;
(c) mekgatlho ya botsalano jaaka e tlhalositswe mo karolong 1(1) ya Friendly Societies Act.
(3) Maemo a tlhokomo elo ya ga ka karolotlaletsetso (2) a ka patele tsa fela ditlho ke gego tse di ka patele tswang ka fa tlase ga molao wa lepha ta la ditšhele te o o ri leng o o maleba go setheo sa ditšhele te se se amegang.
(4) Bothati jwa Boitsha wo jwa Lepha ta la Ditšhele te bo ka diragatsa dithata tsa jona tse dingwwe go ya ka melao ya lepha ta la ditšhele te mabapi le ditheo tsa ditšhele te tse di kalwaeng mo karolotlaletsetso (2) go thitlhe lela maikae elo a Bothati jwa Thlokomo elo.
(5) Karolotlaletsetso (3) ga e ame dithata tsa Bothati jwa Boitsha wo jwa Lepha ta la Ditšhele te mabapi le setheo sa ditšhele te.

Tshutiso ya dithoto le melato ya Boto ya Ditirelo tsa Ditšhele te

293. (1) Ka letla lea karolo eno e tsengwng mo tirisong ka lona, dithoto le melato ya Boto ya Ditirelo tsa Ditšhele te di khutla go mma dithoto le melato ya Boto mme di mma dithoto le melato ya Bothati jwa Boitsha wo jwa Lepha ta la Ditšhele te ntle le thebolelo, tshutiso kgotsa kabo.
(2) Motho kgotsa bothati jo, go ya ka molao kgotsa sediriso sa terasetse kgotsa ka mokgwa ofe bo tlhokang go tshola kgotsa tsegetsa deithabei se mabapi le dithoto kgotsa melato bo tshwanetse, e bile bo ka ntle le tiriso kgotsa ka mokgwa mongwe, rekota mo deithabei se tshutiso ya dithoto kgotsa melato go ya ka karolotlaletsetso (1).
(3) A transfer of an asset in terms of subsection (1) does not give rise to any liability to duty or tax.

(4) (a) The Minister or a person authorised by the Minister for the purposes of this section may certify in writing that a specified asset or liability of the Financial Services Board became an asset or liability of the Financial Sector Conduct Authority on the date on which this section came into effect.

(b) A certificate in terms of paragraph (a) is conclusive proof that a specified asset or liability of the Financial Services Board is an asset or liability of the Financial Sector Conduct Authority.

Transfer of staff of Financial Services Board

294. (1) (a) At the date on which this section comes into effect, the staff of the Financial Services Board must be transferred to the Financial Sector Conduct Authority and the South African Reserve Bank, respectively, in accordance with section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995).

(b) Any reference in section 197 of the Labour Relations Act, 1995, to—

(i) the “old employer” must be read as a reference to the Financial Services Board; and

(ii) the “new employer” must be read as a reference to the Financial Sector Conduct Authority or the South African Reserve Bank, as the case may be, in respect of the staff to be transferred to either of these entities.

(c) The agreements referred to in section 197 of the Labour Relations Act, 1995, must address the transfer of the staff of the Financial Services Board to the pension fund of the South African Reserve Bank, where applicable.

(2) The Financial Sector Conduct Authority, at the date on which this section comes into effect, becomes liable for the liability of the Financial Services Board to subsidise the cost of the contributions payable to a medical scheme registered under the Medical Schemes Act by—

(a) a person who was employed by the Financial Services Board as at 1 January 1998 and remained continuously so employed until he or she retired from the Financial Services Board; or

(b) a person who was the spouse or dependant of a person contemplated in paragraph (a) at the time of the person’s retirement from the Financial Services Board, or the person’s death while employed by the Financial Services Board.

(3) If the benefit payable to a member in terms of the rules of the Financial Services Board Pension Fund on retirement would have been subject to special tax treatment, the benefit payable to that employee on his or her retirement by the pension fund of the Financial Sector Conduct Authority and the South African Reserve Bank, if applicable, must be subject to the same tax treatment.

(4) At the date on which this section comes into effect, the pension fund of the Financial Services Board becomes the pension fund of the Financial Sector Conduct Authority.

Annual reports

295. (1) The Prudential Authority must prepare each annual report of a financial sector regulator required by a financial sector law for which it is the responsible authority, for the reporting period during which this section comes into effect.

(2) The Financial Sector Conduct Authority must prepare each annual report of the Financial Services Board or another financial sector regulator required by a financial sector law for which it is the responsible authority, for the reporting period during which this section comes into effect.

(3) A report in terms of subsection (1) or (2) may be published as part of the first annual report of the Prudential Authority or the Financial Sector Conduct Authority, as the case may be.
(3) Tshutiso ya photo go ya ka karolotlaletsotse (1) ga e bake koketsego go molato mongwe le mongwe go tiro kgotsa lekgetho.

(4) (a) Tona kgotsa motho yo o leleletsweng ke Tona mabapi le maithlomo a karolo eno o ka kanela ka go kwala gore photo e e tsepamisitsweng kgotsa molato ya Boto ya Ditirelo tsa Ditšhelete e nnile photo kgotsa molato wa Bothati jwa Boitshwara jwa Lephata la Ditšhelete ka lethla leo karolo eno e tsentsweng mo tirisong ka lona.

(b) Setifikeiti go ya ka temana (a) ke bospui jo bo konotelelang jwa gore photo kgotsa molato o o e tsepamisitsweng wa Boto ya Ditirelo tsa Ditšhelete ke photo kgotsa molato wa Bothati jwa Boitshwara jwa Lephata la Ditšhelete.

**Tshutiso ya badiri ba Boto ya Ditirelo tsa Ditšhelete**


(b) Kaelo ngwwe le ngwwe mo karolong 197 ya *Labour Relations Act*, 1995, go—

(i) “mothapi wa kgale” e tshwanetse go tsewa jaaka kaelo go Boto ya Ditirelo tsa Ditšhelete; le

(ii) “mothapi yo moiwa” e tshwanetse go tsewa jaaka kaelo go Bothati jwa Boitshwara jwa Lephata la Ditšhelete kgotsa Banka ya Resefe, go ya ka mbaka, mabapi le badiri ba ba tla suthsetswang go ngwwe ya ditheo tseno.

(c) Ditumalano tse di kailweng mo karolong 197 ya *Labour Relations Act*, 1995, di tshwanetse go sekaseka tshutiso ya badiri ba Boto ya Ditirelo tsa Ditšhelete go matlole a phenene a Banka ya Resefe ya Aforikaborwa, mo go tlhokegang.

(2) Bothati jwa Boitshwara jwa Lephata la Ditšhelete, ka letlha leo karolo eno e tseangweng mo tirisong ka lona, bo rwala maikarabelo, mabapi le maikarabelo a Boto ya Ditirelo tsa Ditšhelete a go etleetsa tshenyegelo ya dikabelo tse di duelwang go sekema sa kalafi se se kwadisitsweng ka fa tlase ga *Medical Schemes Act* ke—

(a) motho yo o neng a thapilwe ke Boto ya Ditirelo tsa Ditšhelete go simolola ka 1 Ferikgong 1997 a be a tswelela go thapiwa jalo go fitlhela a rola tiro mo Botong ya Ditirelo tsa Ditšhelete; kgotsa

(b) motho yo o neng e le mogatsa kgotsa moikaego wa motho yo o tlhalositsweng mo temaneng (a) ka nako ya go rola tiro mo Botong ya Ditirelo tsa Ditšhelete, kgotsa go tlhokafala ga motho fa a ne e le modiri wa Boto ya Ditirelo tsa Ditšhelete.

(3) Fa dikunomolemo tse di duelwang leloko go ya ka melawana ya Letlolo la Pensene la Boto ya Ditirelo tsa Ditšhelete ka nako ya go rola tiro di ne di tla nna go ya ka tsholo ya lekgetho le le kgethegieng, dikunomolemo tse di duelwang modiri yoo ka nako ya go rola tiro ga gagekwe ke Bothati jwa Boitshwara jwa Lephata la Ditšhelete le Banka ya Resefe ya Aforikaborwa, fa go kgonega, di tshwanetse go dirwa go ya ka tsholo ya lekgetho etshwanang le eo.

(4) Ka letlha le karolo eno e tseangweng mo tirisong ka lona, letlolo la pensene la Boto ya Ditirelo tsa Ditšhelete e nna letlolo la pensene la Bothati jwa Boitshwara jwa Lephata la Ditšhelete.

**Dipegelo tsa ngwaga**

295. (1) Bothati jwa Thlhomelobela go tshwanetse go baakanya pegelo ngwwe le ngwwe ya ngwaga ya boloadi jwa lephata la Ditšhelete e e tlhokweng ke molao wa lephata la Ditšhelete o e leng boloadi jo bo rwalang maikarabelo a yona mabapi le paka ya go bega e mo go yona letlha le karolo eno e tshwanetse go tsennga mo tirisong ka lona.

(2) Bothati jwa Boitshwara jwa Lephata la Ditšhelete bo tshwanetse go baakanya pegelo ngwwe le ngwwe ya ngwaga ya Boto ya Ditirelo tsa Ditšhelete kgotsa boloadi bongwe jwa lephata la Ditšhelete e e tlhokweng ke molao wa lephata la Ditšhelete o e leng ona bothati jo bo rwalang maikarabelo mabapi le paka ya go bega e o mo go yona karolo eno e tseangweng mo tirisong ka yona.

(3) Pegelo go ya ka karolotlaletsotse (1) kgotsa (2) e ka phasalotswa jaaka karolo ya pegelo ya nthla ya ngwaga ya Bothati jwa Thlhomelobela kgotsa Bothati jwa Boitshwara jwa Lephata la Ditšhelete, go ya ka mbaka.
Inspections and investigations

296. (1) An inspection or investigation in terms of the Banks Act, the Reserve Bank Act, the Mutual Banks Act, 1993 (Act No. 124 of 1993), the Co-operative Banks Act, 2007 (Act No. 40 of 2007), the Short-term Insurance Act or the Long-term Insurance Act that is pending and not concluded immediately before the date on which this section comes into effect may be continued and concluded by the Prudential Authority in terms of the relevant provisions of this Act, or by the Financial Sector Conduct Authority in relation to an inspection or investigation in terms of the Short-term Insurance Act or the Long-term Insurance Act.

(2) An inspection or investigation in terms of a financial sector law or legislation referred to in the definition of "Financial Services Board legislation" in section 1 of the Financial Services Board Act, other than those referred to in subsection (1), that is pending but not concluded immediately before the date on which this Chapter comes into effect may be continued and concluded by the Financial Sector Conduct Authority in terms of the relevant provisions of this Act.

Co-operation agreements with foreign agencies

297. An arrangement in terms of a financial sector law between a registrar, supervisor or other financial sector regulator and a foreign government agency that is in force on the date on which this section comes into effect continues in effect as with the substitution of the relevant financial sector regulator for the registrar, supervisor or the other financial sector regulator, but may be amended or terminated in accordance with the terms of the arrangement.

Enforcement Committee and Appeal Board

298. (1) (a) Despite the repeals effected in the terms of this Part—
(i) the Enforcement Committee is to continue to deal with any matter that it was dealing with immediately before the date on which this Part comes into effect; and
(ii) a panel of the Appeal Board is to continue to deal with any matter that it was dealing with immediately before that date.

(b) The Enforcement Committee and the panels referred to in paragraph (a)(ii) continue in existence for the purposes of paragraph (a) only.

(2) The Financial Sector Conduct Authority must provide administrative and other support to the Enforcement Committee and the panels.

(3) For the purposes of this section, proceedings are instituted if—
(a) in the case of the Enforcement Committee established in terms of section 97 of the Securities Services Act, 2004 (Act No. 36 of 2004), the pleadings envisaged in section 102(1) of that Act have been referred to the Enforcement Committee;

(b) in the case of the Enforcement Committee established in terms of section 10A of the Financial Services Board Act, the pleadings envisaged in section 6B(1) of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001) have been delivered in terms of section 6B(2)(a) of that Act.

Right of appeal of Financial Services Board decisions

299. Despite the repeals effected in terms of section 290, section 26 of the Financial Services Board Act continues in effect in respect of decisions made before the date those repeals come into effect, but the appeal contemplated by that section is made to the Tribunal.

Pending proceedings

300. (1) Despite the repeal of section 9 of the Banks Act in terms of Schedule 4, an application for a review made in terms of that section but not finally determined before the date on which this section comes into effect may be continued before the board of review, which is to exercise the powers of the Tribunal in relation to the application.
Ditlhatlhobo le dipatlisiso


(2) Tlhatlhobo kgotsa patlisiso go ya ka molawana o o kailweng mo thal o so ng ya “molawana wa Boto ya Ditirelo tsa Ditšeletse "mo karolong 1 ya Financial Services Board Act, ntle le eo e kailweng mo karolotlaletsetong (1), e e leti lweng mme e e sa kono setswa ka bonako pele ga letlha la go tse ngwag mo tiringag ga Kgaolo eno e ka tseweletswa le go knosetswaa ke Bothati jwa Boitshwaro jwa Lephata la Ditšeletse go ya ka dikabelo tse di maleba tsa Molao ono.

Ditumalano tsa tirisanommogo le diejensi tsa kwa ntle

297. Thulaganyo mabapi le Molao wa lephata la ditšeletse magareng ga mokwadisisi, mothlhokomedi kgotsa molao di yo mongwe wa lephata la ditšeletse le ejensi ya puso ya bodišhaba e e diriswag ka letlha leo karolo eno e tse ngwag mo tirisong ga lona e tsewelela go diriswa jaaka le ka kemisetsa ya molao di wa lephata la ditšeletse yo o maleba mabapi le mokwadisisi, mothlhokomedi kgotsa molao di yo mongwe wa lephata la ditšeletse, mme e ka tlhabololiwa kgotsa khutliswa go tsamaelana le dipeelo tsa thulaganyo eo.

Komiti ya Kgatelelo le Boto ya Boikuelo

298. (1) (a) Go sa nyatswe phediso e e dirilweng go ya ka Karolo eno—

(i) Komiti ya Kgatelelo e tla tswelela go samagana le morero mongwe le mongwe o e neng e samagane le ona ka bonako pele ga letlha la go tse ngwag tirisong ga Karolo eno; le

(ii) panele ya Boto ya Boikuelo e tla tswelela go samagana le morero mongwe le mongwe o e neng e samagane le ona ka bonako pele ga letlha leo.

(b) Komiti ya Kgatelelo le dipanelo tse di kailweng mo temaneng (a) (ii) di tswelela go nna teng mabapi le ma ithlomo a temana (a) fela.

(2) Bothati jwa Boitshwaro jwa Lephata la Ditšeletse bo tshwanetse go tlame la Komiti ya Kgatelelo le dipanelo tse dingwe ka tshegetso ya tsama le e nngwe.

(3) Mabapi le ma ithlomo a karolo eno, ditumaisa di a diragatswa fa—

(a) mo lebakeng la Komiti ya Kgatelelo e e thlomilweng go ya ka karolo 97 ya Securities Services Act, 2004 (Molao 36 wa 2004), boikuelo jo bo bonetsweng pele mo karolong 102(1) ya Molao oo bo rometswe kwa Komiting ya Kgatelelo;

(b) mo lebakeng la Komiti ya Kgatelelo e e thlomilweng go ya ka karolo 10A ya Financial Services Board Act, boikuelo jo bo bonetsweng pele mo karolong 6B(1) ya Financial Institutions (Protection of Funds) Act, 2001 (Molao 28 wa 2001) bo diragaditswe go ya ka karolo 6B(2)(a) ya Molao oo.

Tshwanelo ya boikuelo jwa ditshwetso tsa Boto ya Ditirelo tsa Ditšeletse

299. Go sa nyatswe dipimolo tse di dirisitsweng go ya ka karolo 290, karolo 26 ya Financial Services Board Act e e sa leti lweng le ditshwetso tse di dirilweng pele ga letlha leo boikuelo bo tse ngwag mo tirisong ka lona, mme boikuelo jo bo thal o so ngwag mo karolong eo bo dirwa go Lekgotla.

Ditsamaisa tse di letetsweng

300. (1) Go sa nyatswe phimolo ya karolo 9 ya Banks Act go ya ka Šejule 4, kopo ya tshekatsheko e e dirilweng go ya ka karolo eo mme e ise e ilethomamise ka konotelelo pele ga letlha leo karolo eno e tse ngwag mo tirisong ka lona e ka tseweletswa fa pele ga boto ya tshekatsheko, eo e tshwanetseng go diragatsa dithata tsa Lekgotla mabapi le kopo.
(2) The Prudential Authority must be substituted as a party in any pending proceedings, whether in a court, tribunal or before an arbitrator or any other person or body, that have been commenced but not finally determined immediately before the date on which this section comes into effect, for the Reserve Bank or a registrar in terms of the Banks Act, the Mutual Banks Act, 1993 (Act No. 124 of 1993), the Co-operative Banks Act, 2007 (Act No. 40 of 2007), the Short-term Insurance Act or the Long-term Insurance Act.

(3) The Financial Sector Conduct Authority must be substituted as a party in any pending proceedings, whether in a court, tribunal or before an arbitrator or any other person or body, that have been commenced but not finally determined immediately before the date on which this section comes into effect, for the Financial Services Board, the Directorate of Market Abuse, where applicable, or a registrar in terms of a financial sector law other than the Banks Act.

Savings of approvals, consents, registrations and other acts

301. (1) A licence, authorisation, approval, registration, consent or similar permission given in terms of a financial sector law and in force immediately before the date on which this section comes into effect remains in force for the purposes of the financial sector law, but may be amended or revoked by the responsible authority for the financial sector law, in accordance with the provisions of that financial sector law.

(2) Rules made in terms of section 26 of the Financial Advisory and Intermediary Services Act and in force immediately before the date on which this section come into effect have effect as Ombud Council rules, and may be amended or revoked by Ombud Council rules in accordance with this Act.

(3) A regulatory instrument or Regulation made or issued in terms of a financial sector law and in force immediately before the date on which this section comes into effect remains in force for the purposes of the financial sector law but may be amended or revoked by a regulatory instrument made by the responsible authority for the financial sector law in accordance with the relevant financial sector law.

(4) Consultations undertaken before the date on which Part 1 of Chapter 7 comes into effect in relation to a regulatory instrument proposed to be made under a specific financial sector law or a proposed financial sector law after that Part came into effect are taken to meet the requirements of this Act for consultation to the extent that they—

(a) meet the requirements of the specific financial sector law for consultation prior to the amendment of that law in accordance with Schedule 4; or

(b) substantially meet the requirements of this Act for consultation on the proposed regulatory instrument.

(5) Regulations made in terms of section 5 of the Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993), and in force on the date on which this section comes into effect continue in force, but may be amended or repealed by Regulations made in terms of section 5 by the Prudential Authority.

(6) An ombud scheme that, immediately before the repeal of the Financial Services Ombuds Schemes Act, 2004 (Act No. 37 of 2004), came into effect, was recognised in terms of that Act must be taken to be a recognised industry ombud scheme as if it had been recognised under this Act.

(7) Subsection (6) ceases to have effect at the end of 12 months after Chapter 14 takes effect, but the Ombud Council may, on application and for good reason, extend the application of that subsection in a particular case for a further period of not more than 6 months.
(2) Bothathi jwa Tlhokomelo bo tshwanetse go emisetswa jaaka mokgatlhlo mo ditsamaisong dice le dingwe tse di letetsweng, kwa kgotlatshekelong, lekgotteng kgotsa fa pele ga motsereganyi kgotsa motho mongwe le mongwe yo mongwe kgotsa mokgatlhlo, tse di neng di simolotswe mme di ise di tlhomamiswe ka konotelelo ka bonako pele ga lethla le ka lona karolo eno e tsenngwang mo tirisong, mabapi le Banka ya Resefe kgotsa mokwadisi go ya ka Banks Act, the Mutual Banks Act, 1993 (Molao 124 wa 1993), Co-operative Banks Act, 2007 (Molao 40 wa 2007), Short Term Insurance Act kgotsa Long Term Insurance Act.

(3) Bothathi jwa Boitshwaro jwa Lephata la Ditshelete bo tshwanetse go emisetswa jaaka mokgatlhlo mo ditsamaisong dice le dingwe tse di letetsweng, kwa kgotlatshekelong, lekgotteng kgotsa fa pele ga motsereganyi kgotsa motho mongwe le mongwe yo mongwe kgotsa mokgatlhlo, tse di neng di simolotswe mme di ise di tlhomamiswe ka konotelelo ka bonako pele ga lethla le ka lona karolo eno e tsenngwang mo tirisong, mabapi le Boto ya Ditirelo tsu Ditšhelete, Bokaedi jwa Tirisobothaswasa ya Mmara ka kgotsa mokwadisi go ya ka molao wa lephata la ditšhelete ntle le Banks Act.

Ditshomarelo tsu dithebolo, ditumelelo, dikwadiso le ditiro tse dingwe

301. (1) Laesense, tetla, thebolo, kwadiso, tulumalo kgotsa tumelelo e e tshwanang e e nei lweng go ya ka molao wa lephata la ditšhelete le go diragatswa ka bonako pele ga lethla le ka lona karolo eno e tsenngwang mo tirisong e sala go nna mo tirisong mabapi le maitlhomo a molao wa lephata la ditšhelete mme e ka tlhabololwa kgotsa phimolwa ke bokhutlong jwa bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete, go tsamaelana le dikabelo tsu molao oo wa lephata la ditšhelete.

(2) Melawana e e dirilweng go ya ka karolo 26 ya Financial Advisory and Intermediary Services Act le go tsenngwa mo tirisong ka bonako pele ga lethla le ka lona karolo eno e tsenngwang mo tirisong ka lona e na le ditlamorogo jaaka melawana ya Khansle ya Ombud, e bile e ka tlhabololwa kgotsa phimolwa ke Khansle ya Ombud go tsamaelana le Molao ono.

(3) Sediriso sa bolaodi se se dirilweng kgotsa rebotsweng go ya ka molao wa lephata la ditšhelete le go diriswa ka bonako pele ga lethla le ka lona karolo eno e tsenngwang mo tirisong ka lona se sala go nna mo tirisong mabapi le maitlhomo a molao wa lephata la ditšhelete mme se ka tlhabololwa kgotsa phimolwa ke bokhutlong jwa bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete go tsamaelana le molao wa lephata la ditšhelete o o maleba.

(4) Ditherisano tse di dirilweng pele ga lethla le Karolo 1 ya Kgaolo 7 e tsenngwang mo tirisong ka lona mabapi le sedirisa se bolaodi sa bokhutlong jwa se tsitsintsweng go dirwa ka fa tla se molao wa lephata la ditšhelete o o tsamapitsweng kgotsa molao loa lephata la ditšhelete o o tsitshintseng morago ga fa Karolo eo e e tsenngwa mo tirisong di tswana gore di tsamaelana le ditlhokego tsu Molao ono mabapi le therisano ya bogolo jwa gore di—

(a) tsamaelana le ditlhokego tsu Molao wa lephata la ditšhelete o o tsamapitsweng kgotsa le therisano sa bolaodi se leseletsa la Sejule 4; kgotsa

(b) tsamaelana segolo le ditlhokego tsu Molao ono mabapi le therisano sa sedirismo sa bolaodi se se tsitsintsweng.

(5) Melawana e e dirilweng go ya ka karolo 5 ya Financial Supervision of the Road Accident Fund Act, 1993 (Molao 8 wa 1993), le go nna mo tirisong ka lethla le ka lona karolo eno e tsenngwang mo tirisong ka lona e tswelela go diriswa, mme e ka tlhabololwa kgotsa phimolwa ke Melawana e e dirilweng go ya ka karolo 5 ke Botlhotla jwa Tlhokomelo.

(6) Sekema sa ombud se, ka bonako pele ga go tsenngwa mo tirisong ga phimolwa ya Financial Services Ombuds Schemes Act, 2004 (Molao 37 wa 2004), se amogetsweng go ya ka Molao oo se tshwanetse go tswana jaaka sekema se se amogetsweng sa bodirelo sa ombud jaaka e kete se amogetswe ka fa tla se Molao ono.

(7) Karolotlateleetsa (6) e khotluta go diriswa ka bokhutlong jwa dikgwedi tse 12 morago go ga tsenngwa tirisong ga Kgaolo 14, mme Khansle ya Ombud e ka, ka kopo le ka lebaka le le utlwalang, atoloetsa tiriso ya karolotlateleetsa eo mo morerong o o rileng mo nakong e ngwe gape e e se feteng dikgwedi tse 6.
Levy

302. (1) Despite the repeal of the Financial Services Board Act in terms of Schedule 4, a levy imposed in terms of section 15A of the Financial Services Board Act continues in force subject to this Act, until a date fixed by the Minister by notice published in the Register.

(2) A levy referred to in subsection (1) is, from the date on which this section takes effect, taken to be a levy for the purposes of this Act.

Chief Actuary

303. A reference in any Act or subordinate legislation to the Chief Actuary is, after the date on which this section comes into effect, to be read as a reference to the Prudential Authority.

Additional transitional arrangements

304. (1) In order to facilitate the coming into effect, appropriate implementation and operation of this Act, the Minister may make Regulations providing for transitional arrangements regarding the exercise of powers, the performance of functions and duties, and other matters that may be necessary in relation to—

(a) the establishment of the financial sector regulators and other bodies in terms of this Act;
(b) the coming into operation of different provisions of this Act; and
(c) the repeal or amendment of different provisions of a law repealed or amended by this Act.

(2) Without limiting subsection (1), Regulations in terms of this section may provide for—

(a) the Reserve Bank to exercise specified powers and to perform specified functions and duties of the Prudential Authority, should it be necessary for powers and functions of the Prudential Authority in terms of this Act to be exercised for a period prior to the Prudential Authority being formally established; and
(b) the Financial Services Board to exercise specified powers and perform specified functions and duties of the Financial Sector Conduct Authority, should it be necessary for the powers and functions of the Financial Sector Conduct Authority in terms of this Act to be exercised prior to the Financial Sector Conduct Authority being formally established.

Part 7

Short title and commencement

305. (1) This Act is called the Financial Sector Regulation Act, 2017, and comes into effect on a date determined by the Minister by notice in the Gazette.

(2) Different dates may be determined by the Minister in respect of the coming into effect of—

(a) different provisions of this Act;
(b) different provisions of this Act in respect of different categories of financial institutions; and
(c) the repeal or amendment of different provisions of a law repealed or amended by this Act.
Lekgethwanakgo Molao wa Taolo ya Lephata la Ditshelete, 2017 Nmr 9 ya 2017

302. (1) Go sa nyatswe go phimolwaga ga Financial Services Board Act go ya ka Séjule 4, lekgethwanakgo Molao wa Taolo ya Lephata la Ditshelete, 2017, le tsewelela go diriswa go ya ka Molao ono, go filitheka ka letlha le le beilweng ke Tona ka kitsiso e e phasaladitsweng mo Rejisetareng. 5

(2) Lekgethwanakgo Molao wa Taolo ya Lephata la Ditsheletele le kaši lelwa go karolo 15A ya Financial Services Board Act go ya ka Molao ono e e tseelwa gore ke lekgethwanakgo Molao ono, go maši šiswala le ka Molao ono.

Mogakolodimogolo

303. Kaelo mo Molaong mangwe le mangwe kgotsa molaotlaleletso go 10 Mogakolodimogolo e, morago ga letlha leo karolo eno e tseengwanga mo tirisong ka lona, tsewa jaaka kaelo go Bothathi jwa Tlhokomelo.

Dithulaganyetso tsakgabaganyo tsa tlaletso

304. (1) Gore go nolofatswe go tseengwanga mo tirisong, tsenyotirisong e e maleba le tiri ya Molao ono, Tona o ka dira Melawana e e tlamelang mabapi le dithulaganyetso tsa kgabaganyo mabapi le tiragatso ya dithata, go dirwa ga ditiro, le merero e mengwe e e ka tswang e le botlhokwa mabapi le—

(a) go tshongwa ga balaodi ba lephata la ditshelete le mekgatlhgo e mengwe go ya ka Molao ono;

(b) go tseengwanga mo tirisong ga dikabelo tse di farologaneng tsa Molao ono le;

(c) phimolo le tshabololo ya dikabelo tse di farologaneng tsa molao tse di phimotsweng kgotsa tshabolotsweng ke Molao ono.

(2) Ntle le go lekanyetsa karololaleletso (1), Melawana go ya ka karolo eno e ka tlamela mabapi le—

(a) Banka ya Resefe gore e diragatse dithata tse di tsepatwamisitsweng le go dira ditiro tse di tsepatwamisitsweng tsa Bothathi jwa Tlhokomelo, fa go ka thokega gore dithata le ditiro tsa Bothathi jwa Tlhokomelo go ya ka Molao ono di diragatswe mabapi le nako ya pele ga go tshongwa semmuso ga Bothathi jwa Tlhokomelo; le

(b) Boto ya Ditirelo tsa Ditshelete go diragatsa dithata tse di tsepatwamisitsweng le go dira ditiro tse di tsepatwamisitsweng tsa Bothathi jwa Boitshwara jwa Lephata la Ditshelete, fa go ka thokega gore dithata le ditiro tsa Bothathi jwa Boitshwara jwa Lephata la Ditshelete go ya ka Molao ono di diragatswe pele ga go tshongwa semmuso ga Bothathi jwa Boitshwara jwa Lephata la Ditshelete.

Karolo 7

Setlhogo se se khutshwane le tshimologo

Setlhogo se se khutshwane le tshimologo

305. (1) Molao ono o bidwa Molao wa Taolo ya Lephata la Ditshelete, 2017, e bile o tseengwanga mo tirisong ka letlha le le thomamisitsweng ke Tona ka kitsiso mo Lokwalodikgang la Puso.

(2) Matšiša a a farologaneng a ka thomamiswa ke Tona mabapi le go tseengwanga tirisong ga—

(a) dikabelo tse di farologaneng tsa Molao ono;

(b) dikabelo tse di farologaneng tsa Molao ono mabapi le ditlhopa tse di farologaneng tsa ditheo tsa Ditshelete; le

(c) phimolo kgotsa tshabololo ya dikabelo tse di farologaneng tsa molao o o phimotsweng kgotsa tshabolotsweng ke Molao ono.
SCHEDULE 1

FINANCIAL SECTOR LAWS

(Section 1(1))

Pension Funds Act, 1956 (Act No. 24 of 1956)
Friendly Societies Act, 1956 (Act No. 25 of 1956)
Banks Act, 1990 (Act No. 94 of 1990)
Financial Services Board Act, 1990 (Act No. 97 of 1990)
Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993)
Mutual Banks Act, 1993 (Act No. 124 of 1993)
Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001)
Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002)
Co-operative Banks Act, 2007 (Act No. 40 of 2007)
Financial Markets Act, 2012 (Act No. 19 of 2012)
Credit Rating Services Act, 2012 (Act No. 24 of 2012)
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SEJULE 1

MELAO YA LEPHATA LA DITŠHELETE

(Karolo 1(1))

Pension Funds Act, 1956 (Molao 24 wa 1956)
Friendly Societies Act, 1956 (Molao 25 wa 1956)
Banks Act, 1990 (Molao 94 wa 1990)
Financial Services Board Act, 1990 (Molao 97 wa 1990)
Financial Supervision of the Road Accident Fund Act, 1993 (Molao 8 wa 1993)
Mutual Banks Act, 1993 (Molao 124 wa 1993)
Financial Institutions (Protection of Funds) Act, 2001 (Molao 28 wa 2001)
Financial Advisory and Intermediary Services Act, 2002 (Molao 37 wa 2002)
Collective Investment Schemes Control Act, 2002 (Molao 45 wa 2002)
Co-operative Banks Act, 2007 (Molao 40 wa 2007)
Financial Markets Act, 2012 (Molao 19 wa 2012)
Credit Rating Services Act, 2012 (Molao 24 wa 2012)
### SCHEDULE 2

**RESPONSIBLE AUTHORITIES**

(Section 5)

<table>
<thead>
<tr>
<th>Financial sector law</th>
<th>Responsible authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pension Funds Act, 1956 (Act No. 24 of 1956)</td>
<td>Financial Sector Conduct Authority</td>
</tr>
<tr>
<td>Friendly Societies Act, 1956 (Act No. 25 of 1956)</td>
<td>Financial Sector Conduct Authority</td>
</tr>
<tr>
<td>Banks Act, 1990 (Act No. 94 of 1990)</td>
<td>Prudential Authority</td>
</tr>
<tr>
<td>Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993)</td>
<td>Prudential Authority</td>
</tr>
<tr>
<td>Mutual Banks Act, 1993 (Act No. 124 of 1993)</td>
<td>Prudential Authority</td>
</tr>
<tr>
<td>Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002)</td>
<td>Financial Sector Conduct Authority</td>
</tr>
<tr>
<td>Co-operative Banks Act, 2007 (Act No. 40 of 2007)</td>
<td>Prudential Authority</td>
</tr>
<tr>
<td>Credit Rating Services Act, 2012 (Act No. 24 of 2012)</td>
<td>Financial Sector Conduct Authority</td>
</tr>
</tbody>
</table>
| The Long-term Insurance Act, 1998 (Act No. 52 of 1998) and the Short-term Insurance Act, 1998 (Act No. 53 of 1998), so far as they relate to matters within the objectives of—  
  (a) the Prudential Authority  
  (b) the Financial Sector Conduct Authority | Prudential Authority  
  Financial Sector Conduct Authority |
| A regulatory instrument made by the Prudential Authority                                | Prudential Authority                          |
| A regulatory instrument made by the Financial Sector Conduct Authority                 | Financial Sector Conduct Authority            |
| A joint standard, so far as it relates to matters within the objectives of—           | Prudential Authority                          |
|  
  (a) the Prudential Authority  
  (b) the Financial Sector Conduct Authority | Prudential Authority  
  Financial Sector Conduct Authority |
Molao wa Taolo ya Lephata la Ditshelete, 2017

Nmr 9 ya 2017

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ŞEJULE 2

BOTHATI JO BO RWALANG MAIKARABELO

(Karolo 5)

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<th>Molao wa lephata la ditšhelete</th>
<th>Bothati jo bo rwalang maikarabelo</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pension Funds Act</strong>, 1956 (Molao 24 wa 1956)</td>
<td>Bothati jwa Boitshwara jwa Lephata la Ditšhelete</td>
</tr>
<tr>
<td><strong>Friendly Societies Act</strong>, 1956 (Molao 25 wa 1956)</td>
<td>Bothati jwa Boitshwara jwa Lephata la Ditšhelete</td>
</tr>
<tr>
<td><strong>Banks Act</strong>, 1990 (Molao 94 wa 1990)</td>
<td>Bothati jwa Tlhokomelo</td>
</tr>
<tr>
<td><strong>Financial Supervision of the Road Accident Fund Act</strong>, 1993 (Molao 8 wa 1993)</td>
<td>Bothati jwa Tlhokomelo</td>
</tr>
<tr>
<td><strong>Mutual Banks Act</strong>, 1993 (Molao 124 wa 1993)</td>
<td>Bothati jwa Tlhokomelo</td>
</tr>
<tr>
<td><strong>Financial Advisory and Intermediary Services Act</strong>, 2002 (Molao 37 wa 2002)</td>
<td>Bothati jwa Boitshwara jwa Lephata la Ditšhelete</td>
</tr>
<tr>
<td><strong>Collective Investment Schemes Control Act</strong>, 2002 (Molao 45 wa 2002)</td>
<td>Bothati jwa Boitshwara jwa Lephata la Ditšhelete</td>
</tr>
<tr>
<td><strong>Co-operative Banks Act</strong>, 2007 (Molao 40 wa 2007)</td>
<td>Bothati jwa Tlhokomelo</td>
</tr>
<tr>
<td><strong>Financial Markets Act</strong>, 2012 (Molao 19 wa 2012)</td>
<td>Bothati jwa Boitshwara jwa Lephata la Ditšhelete</td>
</tr>
<tr>
<td><strong>Credit Rating Services Act</strong>, 2012 (Molao 24 wa 2012)</td>
<td>Bothati jwa Boitshwara jwa Lephata la Ditšhelete</td>
</tr>
<tr>
<td><strong>Long-term Insurance Act</strong>, 1998 (Molao 52 wa 1998) le <strong>Short-term Insurance Act</strong>, 1998 (Molao 53 wa 1998), jaaka ga a amana le merero e e mo maikaelelong a— (a) Bothati jwa Tlhokomelo (b) Bothati jwa Boitshwara jwa Lephata la Ditšhelete</td>
<td>Bothati jwa Tlhokomelo Bothati jwa Boitshwara jwa Lephata la Ditšhelete</td>
</tr>
</tbody>
</table>

Sediriswa sa bolaodi se se dirilweng ke Bothati jwa Tlhokomelo

Sediriswa sa bolaodi se se dirilweng ke Bothati jwa Boitshwara jwa Lephata la Ditšhelete

Maemo a a kopanetsweng, jaaka ga a amana le merero e e mo maikaelelong a— (a) Bothati jwa Tlhokomelo (b) Bothati jwa Boitshwara jwa Lephata la Ditšhelete

Bothati jwa Tlhokomelo Bothati jwa Boitshwara jwa Lephata la Ditšhelete
SCHEDULE 3

DOCUMENTS TO BE PUBLISHED IN THE REGISTER

(Section 258)

1. This Act
2. Financial sector laws
3. Regulations made in terms of financial sector laws
4. Regulatory instruments made in terms of financial sector laws
5. Administrative action procedures
6. Guidance notes and interpretation rulings issued under Part 1 of Chapter 10
7. Enforceable undertakings
8. Orders of a court under section 152 or 204, other than interlocutory orders
9. Debarment orders
10. Licences (including their terms and the conditions to which they are subject)
11. Notice of variations, suspensions and revocations of licences (including any applicable conditions)
12. Notices in terms of section 122
13. The Panel list
14. Tribunal rules
15. Decisions of the Tribunal
16. Governing rules of recognised industry ombud schemes
17. The terms of recognition of industry ombud schemes and the conditions of recognition
18. Notice of variations, suspensions and revocations of recognition of industry ombud schemes (including any applicable conditions)
19. Determinations of fees in terms of section 237(1)(a)
20. Exemptions under section 281 (including any applicable conditions)
21. Documents that a financial sector law provides are to be published in the Register
22. Amendments to and revocations of documents referred to in items 1 to 21
Molao wa Taolo ya Lebhele, 2017

**SEJULE 3**

DIKWALO TSE DI PHASALATSWANG MO REJISETARENG

(Karolo 258)

1. Molao ono
2. Melao ya lephata la ditšhelete
3. Melawana e e dirilweng go ya ka melao ya lephata la ditšhelete
4. Didiriswa tsa boloadi tse di dirilweng go ya ka melao ya lephata la ditšhelete
5. Dikgato tsa tiro ya tsamaiso
6. Dikitsiso tsa kaelo le ditshwetsa tsa tlhalos tse di tlamang tse di rebotseng ka fa tlase ga Karolo 1 ya Kgaolo 10
7. Ditumalano tse di gatelelwang
8. Ditaelo tsa kgotlatshekelo tse di ka fa tlase ga karolo 152 kgotsa 204, ntle le ditaelo tsa puisano
9. Ditaelo tsa kganelo
10. Dilaesense (go akaretse le dipeelo le mabaka tseo di leng ka fa tlase ga tsona)
11. Kitsiso ya diphetolo, dikemiso le diphimolo tsa dilaesense (go akaretse le mabaka mangwe le mangwe a a diriswang)
12. Dikitsiso go ya ka karolo 122
13. Lenane la Panele
14. Melawana ya Lekgotla
15. Ditshwetsa tsa Lekgotla
16. Melawana y a puso ya dikema tsa bodirelo tsa ombud tse di amogetseng
17. Dipeelo tsa kamogelo ya dikema tsa bodirelo tsa ombud le mabaka a kamogelo
18. Kitsiso ya dipharologano, dikemiso le diphimolo tsa kamogelo ya dikema tsa bodirelo tsa ombud (go akaretse le mabaka mangwe le mangwe a a diriswang)
19. Ditlhomamiso tsa dituediso go ya ka karolo 237(1)(a)
20. Dikgololo ka fa tlase ga karolo 281 (go akaretse le mabaka mangwe le mangwe a a diriswang)
21. Dikwalo tse di tlamelweng ke molao wa lephata la ditšhelete di tshwanetse go phasalatswa mo Rejiisetareng
22. Ditlhapololo le diphimolo tsa dikwalo tse di kailweng mo dintlheng 1 go Fitlha go 21
### SCHEDULE 4

**AMENDMENTS AND REPEALS**

(Section 290)

<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
</tr>
</thead>
</table>
| Act No. 24 of 1936 | Insolvency Act, 1936 | 1. The addition in section 35A(1) in the definition of “market infrastructure” of the following paragraphs:

‘‘(d) a central counterparty as defined in section 1 of that Act and licensed under section 49 of that Act; or
(e) a licensed external central counterparty as defined in section 1 of that Act.”.’’ |

2. The amendment of section 83—

(a) by the substitution for subsection (2) of the following subsection:

“(2) If such property consists of **[a marketable security]** securities as defined in section 1(1) of the Financial Markets Act, 2012 (Act No. 19 of 2012), or a bill of exchange or a financial instrument or a foreign financial instrument as defined in section 1(1) of the Financial Sector Regulation Act, 2017, the creditor may, after giving the notice mentioned in subsection (1) and before the second meeting of creditors, realise the property in the manner and on the conditions mentioned in subsection (8).”;

(b) by the substitution for subsection (3) of the following subsection:

“(3) If such property does not consist of **[a marketable security]** securities or a bill of exchange, the trustee may, within seven days as from the receipt of the notice mentioned in subsection (1) or within seven days as from the date which the certificate of appointment issued by the Master in terms of subsection (1) of section eighteen or subsection (2) of section fifty six reached him, whichever be the later, take over the property from the creditor at a value agreed upon between the trustee and the creditor or at the full amount of the creditor’s claim, and if the trustee does not so take over the property the creditor may, after the expiration of the said period but before the said meeting, realise the property in the manner and on the conditions mentioned in subsection (8).”;

and
### ŠEJULE 4

**DITLHABOLOLO LE DIPHIPMOLO**

(Karolo 290)

<table>
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| Wet No. 24 van 1936         | Insolvensiewet, 1936      | 1. Die omskrywing van “markinfrastruktuur” word by artikel 35A(1) gevoeg en verder gewysig deur paragrawe (d) en (e) by te voeg:
   “ ‘markinfrastruktuur’ —
   (a) ’n beurs soos omskryf in artikel 1 en gelisensie kragtens artikel 9 van die ‘Financial Markets Act’, 2012; en
   (b) ’n sentralesekuriteitebewaarplek soos omskryf in artikel 1 en kragtens artikel 29 van daardie Wet gelisensieer; of
   (c) ’n verrekeningshuis soos omskryf in artikel 1 van daardie Wet en kragtens artikel 49 van die ‘Financial Markets Act, 2012’, gelisensieer;
   (d) ’n sentrale teenparty soos in artikel 1 van daardie Wet as ’n ‘central counter party’ omskryf en kragtens artikel 49 van daardie Wet gelisensieer; of
   (e) ’n gelisensieerde eksterne sentrale teenparty soos in artikel 1 van daardie Wet omskryf as ’n ‘external central counter party’.

2. Artikel 83 word gewysig—
   (a) deur subartikel (2) deur die volgende subartikel te vervang:
      “(2) As daardie goed bestaan uit effekte soos omskryf in artikel 1(1) van die ‘Financial Markets Act’, 2012 (Wet No. 19 van 2012), ’n wissel [of], ’n finansiële instrument of ’n buitelandse finansiële instrument soos omskryf in artikel 1(1) van die [Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989)] ‘Financial Sector Regulation Act’, 2017, dan kan die skuldeiser, nadat hy kennis gegee het soos bepaal in subartikel (1) en voor die tweede byeenkoms van skuldeisers, die goed te gelde maak op die wyse en voorwaardes bepaal in subartikel (8).’’;
   (b) deur in subartikel (8) paragraaf (a) deur die volgende paragraaf te vervang:
      “(a) as dit bestaan[—
      (b)] uit goed van ’n soort wat gewoonlik deur ’n
### Act No. 9 of 2017

#### Financial Sector Regulation Act, 2017

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<tr>
<td>(c)</td>
<td></td>
<td>by the substitution in subsection (8) for paragraph (a) of the following paragraph:</td>
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<td>“((a) if it is [—</td>
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<td>(i) any property of a class ordinarily sold through [a stockbroker as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985)] an authorised user or an external authorised user, on an exchange or an external exchange, each defined in section 1(1) of the Financial Markets Act, 2012 (Act No. 19 of 2012) or, where applicable, a person prescribed by the Minister of Finance as a regulated person in terms of section 5 of that Act, the creditor may, subject to the provisions of [the said] that Act and [(where applicable)] the] standards and rules [referred to in section 12 thereof, forthwith] in terms of that Act, immediately sell it through [a stockbroker] an authorised user, external authorised user or such regulated person, or if the creditor is [a stockbroker] an authorised user, external authorised user or regulated person, also to another [stockbroker] authorised user, external authorised user or regulated person; [or</td>
</tr>
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<td></td>
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<td>(ii) a financial instrument referred to in subsection (2) the creditor may, subject to the provisions of the Financial Markets Control Act, 1989, and rules referred to in sections 17 thereof, forthwith sell it through a financial instrument trader as defined in section 1 of the said Act, or, if the creditor is a financial instrument trader or financial instrument principal as defined in section 1 of</td>
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<td>[effektemakelaar soos omskryf in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985)] gemagtigde gebruiker of ’n eksterne gemagtigde gebruiker, op ’n beurs of ’n eksterne beurs, elk omskryf in artikel 1(1) van die ‘Financial Markets Act’, 2012 (Wet No. 19 van 2012) omskryf, of, waar van toepassing, iemand deur die Minister van Finansies voorgeskryf as ’n gereguleerde persoon ingevolge artikel 5 van daardie Wet, verkoop word, kan die skuldeiser dit, behoudens die bepalings van [genoemde] daardie Wet en [(waar van toepassing) die] toepaslike standaarde en reëls [bedoel in artikel 12 daarvan, onverwyld] ingevolge daardie Wet, onmiddellik verkoop deur ’n [effektemakelaar] ’n gemagtigde gebruiker, eksterne gemagtigde gebruiker of sodanige gereguleerde persoon, of, indien die skuldeiser ’n [effektemakelaar] ’n gemagtigde gebruiker, eksterne gemagtigde gebruiker of gereguleerde persoon is, ook aan ’n ander [effektemakelaar] gemagtigde gebruiker, eksterne gemagtigde gebruiker of gereguleerde persoon; of (ii) ’n finansiële instrument bedoel in subartikel (2), kan die skuldeiser dit, behoudens die bepalings van die Wet op Beheer van Finansiële Markte, 1989, en reëls bedoel in artikel 17 daarvan, onverwyld verkoop deur ’n finansiële instrument-handelaar soos omskryf in artikel 1 van genoemde Wet, of, indien die skuldeiser ’n</td>
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| Act No. 24 of 1956 | Pension Funds Act, 1956 | 1. The amendment of section 1—  
(a) by the insertion in subsection (1) after the definition of “audit-exempt fund” of the following definition:  
“Authority” means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;
(b) by the insertion in subsection (1) after the definition of “complaint” of the following definition:  
“conduct standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(c) by the insertion in subsection (1) after the definition of “fair value” of the following definition:  
“Financial Sector Regulation Act” means the Financial Sector Regulation Act, 2017;”;
(d) by the deletion in subsection (1) of the definitions of “Financial Services Board” and “prescribed”;  
(e) by the insertion in subsection (1) after the definition of “investment reserve account” of the following definition:  
“joint standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(f) by the insertion in subsection (1) after the definition of “provident preservation fund” of the following definition:  
“prudential standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(g) by the insertion in subsection (1) after the definition of “publish” of the following definition:  
“Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
(h) by the deletion in subsection (1) of the definition of “registrar”; |
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| Wet No. 24 van 1956       | Wet op Pensioenfondse, 1956 | 1. Artikel 1 word gewysig—
|                           |                        | (a) deur in subartikel (1) na die omskrywing van “eggenoot” die volgende omskrywing in te voeg: “‘Financial Sector Regulation Act’ beteken die ‘Financial Sector Regulation Act’, 2016;”;
|                           |                        | (b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gebeurlikheidsreserwerekening” in te voeg: “‘gedragstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘conduct standard’ toegeskryf word;”;
|                           |                        | (c) deur in subartikel (1) die volgende omskrywing na die omskrywing van “geregistreerde kantoor” in te voeg: “‘gesamentlike standaard’ dit wat ingevolge artikel 1(1) aan die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf word;”;
|                           |                        | (d) deur in subartikel (1) na die omskrywing van “ontslag weens personeelinkorting” die volgende omskrywing in te voeg: “‘Owerheid’ die Gedragsowerheid op die Finansiële Sektor ingestel ingevolge artikel 56 van die ‘Financial Sector Regulation Act’;”;
|                           |                        | (e) deur in subartikel (1) die omskrywing van “Raad op Finansiële Dienste” te skrap;
|                           |                        | (f) deur in subartikel (1) die volgende omskrywing na die omskrywing van “raadslid” in te voeg: “‘Register’ die Register van Finansiële Sektorinligting bedoel in artikel 256 van die ‘Financial Sector Regulation Act’;”;
|                           |                        | (g) deur in subartikel (1) die omskrywing van “registrator” te skrap;
|                           |                        | (h) deur in subartikel (1) na die omskrywing van “surplustoedelingsdatum” die volgende omskrywing in te voeg: “‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;”;

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 |  | (i) by the insertion in subsection (1) after the definition of “this Act” of the following definition: “Tribunal” means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;” and
 |  | (j) by the addition of the following subsection:
 |  | “(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.”

2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the registrar or the Financial Services Board must be read as a reference to the Authority.

(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.

(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.

(4) Unless expressly 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—

(a) a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.
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<td>(i)</td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van “voorsorgbewaringsfonds” in te voeg: ‘‘voorsorgstandaard’’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf word;’’;</td>
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<td>(j)</td>
<td>deur in subartikel (1) die omskrywing van “voorgeskryf” te skrap; en</td>
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<td>(k)</td>
<td>deur die volgende subartikel by te voeg: ‘‘(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis wat ingevolge die ‘Financial Sector Regulation Act’ daaraan toegeskryf is.’’.</td>
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<tr>
<td>2.</td>
<td>Die volgende artikels word na artikel 1 ingevoeg: ‘‘Verhouding tussen Wet en ‘Financial Sector Regulation Act’’</td>
</tr>
<tr>
<td>1A. (1)</td>
<td>’n Verwysing in hierdie Wet na die Raad op Finansiële Dienste, moet as ’n verwysing na die Owerheid gelees word.</td>
</tr>
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<td></td>
<td>(2) Buiten soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.</td>
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<td></td>
<td>(3) ’n Verwysing in hierdie Wet na die Owerheid wat besluit oor ’n aangeleentheid en dit by kennisgewing in die Staatskoerant publiseer, moet gelees word as ’n verwysing na die Owerheid wat die aangeleentheid bepaal of publiseer by kennisgewing in die Register.</td>
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<td>(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid by regulasie voorgeskryf word, moet ’n verwysing in hierdie Wet na die voorskrif van ’n aangeleentheid gelees word as—</td>
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<td>(a) ’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard, ’n gedragstandaard of ’n gesamentlike standaard voorgeskryf word; of</td>
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<td>(b) ’n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.</td>
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<td>(5) (a)</td>
<td>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.</td>
</tr>
<tr>
<td>(b)</td>
<td>The Authority may also publish the information or document on its web site.</td>
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<tr>
<td>(6)</td>
<td>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 237 and Chapter 16 of the Financial Sector Regulation Act.</td>
</tr>
<tr>
<td>(7)</td>
<td>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.</td>
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### Regulatory instruments

1B. 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."

3. The repeal of section 2(5).

4. The repeal of section 3.

5. The amendment of section 18—
   (a) by the substitution for subsection (1) of the following subsection:

   "’(1) [The registrar may prescribe criteria for financial soundness, and when] If any return under this Act indicates that a registered fund is not in a sound financial condition as determined in accordance with prudential standards, 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
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<td>(5) (a) 'n Verwysing in hierdie Wet na die Owerheid wat inligting of 'n dokument op 'n webwerf publiseer, moet gelees word as 'n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.</td>
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<tr>
<td>(b) Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer.</td>
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<tr>
<td>(6) 'n Verwysing in hierdie Wet na vagsgestelde of voorgeskrewe gelde moet gelees word as 'n verwysing na die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act' vagsgestel.</td>
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<td>(7) 'n Verwysing in hierdie Wet na 'n appel teen 'n besluit van die Owerheid moet gelees word as 'n verwysing na 'n hooroorweging van die besluit deur die Tribunaal ingevolge die 'Financial Sector Regulation Act'.</td>
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### Reguleringsinstrumente

1B. By die toepassing van die omskrywing van 'reguleringsinstrument' ('regulatory instrument') in artikel 1(1) van die 'Financial Sector Regulation Act', is enige aangeleentheid deur die Owerheid voorgeskryf ten opsigte waarvan kennisgewing in die Staatsteketrant spesifiek deur hierdie Wet vereis word, 'n reguleringsinstrument.''

3. Artikel 2(5) word herroep.

4. Artikel 3 word herroep.

5. Artikel 18 word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

```
“(1) [Die registrar kan maatstawwe voorskryf vir finansiële gesondheid, en wanneer]
Indien 'n opgawe ingevolge hierdie Wet aantoen dat 'n geregistreerde 
fonds nie in 'n gesonde finansiële 
toestand, soos ooreenkomstig 
voorsorghoofstandaarde bepaal, is nie, 
kun die [registrar] Owerheid, 
houdens die bepaling van artikel 
29, gelas dat die 
fonds van plan is om te tref om die 
fonds binne sodanige tijdpers in 'n 
finansiële gesonde toestand te bring, 
en onderworpe aan sodanige 
voorwaardes, soos deur die [registrar] Owerheid bepaal.”;
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<td>(b) by the substitution in subsection (5) for paragraph (a) of the following paragraph: &quot;(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] if it is 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.&quot;.</td>
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6. The amendment of section 19—
(a) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:
“A registered fund may, if its rules so permit and subject to [the regulations] prudential standards, 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—”;

(b) by the deletion of subsection (7).

7. The repeal of section 25.

8. The substitution in section 26 for subsection (1) of the following subsection:
“(1) [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)—
(a) declare that a specific practice or method of conducting business is unacceptable, irregular or undesirable and that such fund, administrator or person must refrain from conducting such practice or method of conducting business; or
(b) Without limiting what a directive of a financial sector regulator may include, the Authority may, through a directive, direct that the rules of [the] a fund, including rules relating to the appointment, powers,
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<td>(b) deur in subartikel (5) paragraaf (a) deur die volgende paragraaf te vervang:</td>
<td>(a) Die [registrateur] Owerheid kan te eniger tyd, [nadat 'n inspeksie of ondersoek uitgevoer is kragtens artikel 25, of vir enige ander rede wat die registrateur] indien dit nodig [ag] is in die belang van die lede van 'n fonds, opdrag gee dat 'n onderzoek ingevolge artikel 16 uitgevoer word, of 'n oudit of beide 'n oudit en sodanige onderzoek uitgevoer word na die finansiële posisie van 'n fonds oor die algemeen of met verwysing na enige finansiële aspek van die fonds.&quot;.</td>
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<td>6. Artikel 19 word gewysig—</td>
<td>(a) deur in subartikel (5) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: &quot;'n Geregistreerde fonds kan, indien sy statute dit toelaat en behoudens [die regulasies] voorsorgstandaarde, by wyse van belegging van sy fondse 'n lening aan 'n lid toestaan of 'n waarborg verstrekt ten gunste van 'n ander persoon as die fondsen ten opsigte van 'n lening toegestaan of toegestaan te word deur so 'n ander persoon aan 'n lid ten einde die lid in staat te stel—&quot;; en</td>
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<td>7. Artikel 25 word herroep.</td>
<td>(b) deur subartikel (7) te skrap.</td>
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<td>8. Subartikel (1) in artikel 26 word deur die volgende subartikel vervang:</td>
<td>&quot;(1) [Die registrateur kan, nadat die belange van die lede van 'n fonds (of van dié verskeie kategorieë van lede indien daar meer as een sodanige kategorie is) in oënskou geeneem is—</td>
<td>(a) verklaar dat 'n bepaalde praktyk of metode van sake bedryf onaanvaarbaar, onreëlmatig of ongewens is en dat sodanige fonds, administrateur of persoon moet ophou om sodanige praktyk of metode van sake bedryf, te beoefen; of</td>
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<td>(b) Sonder om te beperk wat 'n lasgewing van 'n reguleerder van die finansiële sektor kan insluit, kan die Owerheid, deur 'n lasgewing, opdrag gee dat die statute van [die] 'n fonds, insluitend statute betreffende die aanspreek,</td>
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<td>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—</td>
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<td>(i) 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;</td>
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<td>(ii) has failed to act in accordance with the provisions of section 18; or</td>
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<td>(iii) is not being managed in accordance with this Act or the rules of the fund.”.</td>
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9. The insertion in Chapter VA before section 30A of the following section:

```
Ombud scheme

30AA. 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.”.
```

10. 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—”.
```

11. The substitution for section 30D of the following section:

```
Main object of Adjudicator

30D. (1) The main object of the Adjudicator shall be to dispose of complaints lodged in terms of section 30A(3) of this Act, and complaints for which the Adjudicator is designated in terms of section 211 of the Financial Sector Regulation Act [in a procedurally fair, economical and expeditious manner].

(2) In disposing of complaints in terms of subsection (1) the Adjudicator must—

(a) apply, where appropriate, principles of equity;
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|                           | bevoegdhede, vergoeding (indien enige) en verwydering van die raad, gewysig word indien [die uitslag van 'n inspeksie of besoek ter plaatse kragtens artikel 25 wysiging van die statute van die fonds verg of indien die registrateur van mening is dat] die fonds— [(i)](a) nie in 'n gesonde finansiële toestand is nie of nie voldoen aan die bepalings van hierdie Wet of die regulasies wat die finansiële gesondheid van die fonds raak nie; [(ii)](b) versuim het om ooreenkomstig die bepalings van artikel 18 op te tree; of [(iii)](c) nie bestuur word ooreenkomstig hierdie Wet of die statute van dieonds nie."
|                           | 9. Die volgende artikel word in Hoofstuk VA voor artikel 30A ingevloeg:  |
|                           | "Ombudskema" |
|                           | 30AA. Die ombudskema in verband met die klagtes ingevolge hierdie Hoofstuk gereguileer, word verklaar 'n statutêre ombudskema by die toepassing van die "Financial Sector Regulation Act", te wees." |
|                           | 10. In artikel 30C(1) word die woorde wat paragraaf (a) voorafgaan deur die volgende woorde vervang: "Die Minister stel, na oorleg met die Raad op Finansiële Dienste aan—". |
|                           | 11. Artikel 30D word deur die volgende artikel vervang:  |
|                           | "Hoofoogmerk van Beregter" |
|                           | 30D. (1) Die hoofoogmerk van die Beregter is om [op 'n prosedureel regverdige, ekonomies en spoedige wyse] oor klagtes, ingediend ingevolge artikel 30A(3) van hierdie Wet, en klagtes waarvoor die Beregter ingevolge artikel 211 van die 'Financial Sector Regulation Act' aangestel is, te beskik. (2) By beskikking oor klagtes ingevolge subartikel (1), moet die Beregter— (a) waar, gepas, gelykheidsbeginsels toepas; |
290  No. 41060  GOVERNMENT GAZETTE, 22 AUGUST 2017

Act No. 9 of 2017

Financial Sector Regulation Act, 2017

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<tr>
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<td></td>
<td>(b) have regard to the contractual arrangement or other legal relationship between the complainant and any financial institution; (c) have regard to the provisions of this Act; and (d) act in a procedurally fair, economical and expeditious manner.</td>
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<td>12.</td>
<td>The substitution in section 30Q for the words preceding paragraph (a) of the following words: “The Adjudicator may [with the concurrence of the Financial Services Board]—”.</td>
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<td>13.</td>
<td>The substitution in section 30R(1) for paragraph (a) of the following paragraph: “(a) funds [provided by the Financial Services Board] 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”.</td>
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<td>14.</td>
<td>The substitution in section 30S for the expression “Financial Services Board”, wherever occurring in the section, of the expression “Minister”.</td>
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<td>15.</td>
<td>The substitution in section 30T for subsection (1) of the following subsection: “(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 Adjudicator is the accounting authority of the Office of the Adjudicator.”.</td>
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<tr>
<td>16.</td>
<td>The repeal of sections 33, 33A and 34.</td>
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<td>17.</td>
<td>The deletion in section 36 of subsections (1)(b)A and (3).</td>
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<td>18.</td>
<td>The deletion in section 37 of subsections (2) to (5).</td>
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| 19.              | The amendment of the arrangement of sections— (a) by the insertion after item 1 of the following items: “1. Relationship between Act and Financial Sector Regulation Act 1B. Regulatory Instruments”; and (b) by the insertion before item 30A of the following item: “30AA. Ombud scheme”.

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<td>(b)</td>
<td>let op die kontraktele reëling of ander regsverhouding tussen die klaer en enige finansiële instelling;</td>
<td>(b) let op die kontraktele reëling of ander regsverhouding tussen die klaer en enige finansiële instelling;</td>
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<tr>
<td>(c)</td>
<td>op die bepalings van hierdie Wet let; en</td>
<td>(c) op die bepalings van hierdie Wet let; en</td>
</tr>
<tr>
<td>(d)</td>
<td>prosedereel regverdig, ekonomies en vinnig handel;</td>
<td>(d) prosedereel regverdig, ekonomies en vinnig handel;</td>
</tr>
</tbody>
</table>

12. Die woorde wat paragraaf (a) in artikel 30Q voorafgaan word deur die volgende woorde vervang: “Die Beregter kan [met die instemming van die Raad op Finansiële Dienste]—”.

13. Paragraaf (a) in artikel 30R(1) word deur die volgende paragraaf vervang: “(a) fondse [voorsien deur die Raad op Finansiële Dienste] wat ingevolge wetgewing aan die Beregter toeval op grond van ’n begroting voorgelê aan, en goedgekeur deur, die [Raad op Finansiële Dienste] Minister; en”.

14. Die uitdrukking “Raad op Finansiële Dienste” word in artikel 30S vervang deur die uitdrukking “Minister”.

15. Subartikel (1) van artikel 30T word deur die volgende subartikel vervang: “(1) [Ondanks die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is die raad van die Raad op Finansiële Dienste soos in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), omskryf[,] Die Beregter is die rekenpligtige gesag van die kantoor van die Beregter.”.

16. Artikels 33, 33A en 34 word herroep.

17. Subartikels (1)/(hA) en (3) van artikel 36 word geskrap.

18. Subartikels (2) tot (5) van artikel 37 word geskrap.

19. Die indeling van artikels word gewysig—
   (a) deur die volgende item na item 1 in te voeg:
   “1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’

1B. Reguleringsinstrumente”; en

(b) deur die volgende item na item 30A in te voeg:
   “30AA. Ombudskema”.

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Act No. 9 of 2017  
Financial Sector Regulation Act, 2017

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</table>
| Act No. 25 of 1956 | Friendly Societies Act, 1956 | 1. The amendment of section 1—  
(a) by the insertion in subsection (1) after the definition of “assets” of the following definition:  
“Authority’ means the Financial Sector Conduct Authority established by section 56 of the Financial Sector Regulation Act;”;  
(b) by the insertion in subsection (1) after the definition of “assets” of the following definition:  
“conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
(c) by the insertion in subsection (1) after the definition of “court” of the following definition:  
“Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;  
(d) by the insertion in subsection (1) after the definition of “Insurance Act” of the following definition:  
“joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
(e) by the deletion in subsection (1) of the definition of “prescribed”;  
(f) by the insertion in subsection (1) after the definition of “principal officer” of the following definition:  
“prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
(g) by the insertion in subsection (1) after the definition of “principal officer” of the following definition:  
“Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;  
(h) by the deletion in subsection (1) of the definition of “registrar”; and  
(i) by the addition of the following subsection:  
“(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.”. |
1. Artículo 1 word gewysig—
   (a) deur in subartikel (1) die volgende omskrywings na die omskrywing van "boekjaar" in te voeg:
   "'Financial Sector Regulation Act' die 'Financial Sector Regulation Act', 2017;
   'gedragstandaard' dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'conduct standard' toegeskryf word;"
   (b) deur in subartikel (1) na die omskrywing van "geregistreerde kantoor" die volgende omskrywing in te voeg:
   "'gesamentlike standaard' dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'joint standard' toegeskryf word;"
   (c) deur in subartikel (1) na die omskrywing van "onderlinge hulpvereniging" die volgende omskrywing in te voeg:
   "'Owerheid' die Owerheid op Gedrag in die Finansiële Sektor ingestel by artikel 56 van die 'Financial Sector Regulation Act';"
   (d) deur in subartikel (1) na die omskrywing van "persoon" die volgende omskrywing in te voeg:
   "'Register' die Inligtingsregister op die Finansiële Sektor bedoel in artikel 256 van die 'Financial Sector Regulation Act';"
   (e) deur in subartikel (1) die omskrywing van "registrateur" te skrap;
   (f) deur in subartikel (1) die omskrywing van "voorgeskryf" te skrap;
   (g) deur in subartikel (1) na die omskrywing van "voorgeskryf" die volgende omskrywing in te voeg:
   "'voorsorgstandaard' dit wat in artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf word;"
   (h) deur die volgende subartikel by te voeg:
   "'(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, dieselfde betekenis wat ingevolge die 'Financial Sector Regulation Act' daaraan toegeskryf is.'"
Act No. and year | Short Title | Extent of repeal or amendment
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2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

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.

(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—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(3) 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.

(b) The Authority may also publish the information or document on its web site.

(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 237 and Chapter 16 of the Financial Sector Regulation Act.

(5) The Authority must publish the following on the Register:

(a) the registration of a society in terms of this Act and each cancellation of a registration;

(b) any exemption or any withdrawal of an exemption referred to in sections 3(2) and (3), 25(1) or section 47(1)(b)(C); and

(c) the rules of each registered friendly society, and each amendment of those rules.

Regulatory instruments

1B. For the purposes of the definition of “regulatory instrument” in section 1(1) of the Financial Sector
2. Die volgende artikel word na artikel 1 ingevoeg:

"Verhouding tussen Wet en ‘Financial Sector Regulation Act,"

1A. (1) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdheede en pligte ingevolge hierdie Wet benewens die bevoegdheede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(2) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ‘n aangeleentheid by regulasie voorgeskryf word, moet ‘n verwysing in hierdie Wet dat ‘n aangeleentheid—

(a) voorgeskryf word, gelees word as ‘n verwysing daarna dat die aangeleentheid in ‘n voorsorgstandaard, ‘n gedraegstandaard of ‘n gesamentlike standaard voorgeskryf is; of

(b) bepaal word, gelees word as ‘n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.

(3) (a) ‘n Verwysing in hierdie Wet na die Owerheid wat inligting of ‘n dokument op ‘n webwerf publiseer, moet gelees word as ‘n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.

(b) Die Owerheid kan ook die inligting of dokument op sy webwerf publiseer.

(4) ‘n Verwysing in hierdie Wet na gelde wat by regulasie voorgeskryf is, moet gelees word as ‘n verwysing daarna dat die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’, vasgestel word.

(5) Die Owerheid moet die volgende in die Register publiseer:

(a) die registrasie van ‘n vereniging ingevolge hierdie Wet en elke kansellasiie van ‘n registrasie:

(b) enige vrystelling of enige intrekking van ‘n vrywarng bedoel in artikels 3(2) en (3), 25(1) of artikel 47(1)(bC); en

(c) die reëls van elke geregistreerde hulpvereniging, en elke wysiging van daardie reëls.

Reguleringsinstrumente

1B. By die toepassing van die onskrywing van ‘reguleringsinstrument’ (‘regulatory instrument’) in artikel 1(1)
<table>
<thead>
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<td>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.</td>
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<td>3. The substitution in section 3(1) for paragraph (a) of the following paragraph: “(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] Authority with such statistical information as may be requested by the [Minister] Authority:”</td>
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<td>4. The repeal of sections 4 and 32.</td>
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<td>5. The substitution in section 33 for subsection (1) of the following subsection: “(1) The [registrar] Authority 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] Authority 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: 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 payment of the costs of the application and of any opposition thereto, and has established prima facie the desirability of the order for which it wished to apply.”</td>
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<td>6. The repeal of sections 44 and 45.</td>
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<td>7. The deletion in section 47(1) of paragraphs (bA) and (bC).</td>
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<td>8. The deletion in section 48 of subsections (2), (3), (4) and (5).</td>
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### Molao wa Taolo ya Lephata la Ditshelete, 2017

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<td>van die ‘Financial Sector Regulation Act’, is enige aangeleenheid deur die Owerheid voorgeskryf, ten opsigte waarvan kennisgewing in die Staatskoerant spesifiek deur hierdie Wet vereis word, ’n reguleringsinstrument.’’.</td>
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<td>3. Paragraaf (a) in artikel 3(1) word deur die volgende paragraaf vervang: “(a) wat ingestel of voortgesit is ingevolge ’n kollektiewe ooreenkoms in ’n raad ingevolge die Wet op Arbeidsverhoudinge, 1995, gesluit of voortgesit. So ’n onderlinge hulpvereniging moet egter van tyd tot tyd die [registrateur] Owerheid van die statistiese inligting voorsien wat deur die [Minister] Owerheid versoek mag word;”’.</td>
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<td>4. Artikel 4 en 32 word herroep.</td>
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<td>5. Subartikel (1) van artikel 33 word deur die volgende subartikel vervang: “(1) [Met toestemming van die Minister kan die registrateur] Die Owerheid kan met betrekking tot ’n geregistreerde vereniging by die hof aansoek doen om ’n bevel ooreenkomstig paragraaf (c), (d) of (e) van subartikel (3), en ’n geregistreerde vereniging kan met betrekking tot homself by die hof aansoek doen om ’n bevel ooreenkomstig paragraaf (b), (d) of (e) van daardie sub-artikel, indien die [registrateur] Owerheid of die vereniging van oordeel is dat dit wenslik is, omdat die vereniging nie in ’n gesonde geldelike toestand is nie, of om ’n ander rede, dat so ’n bevel ten aansien van die vereniging uitgevaardig word: Met dien verstande dat ’n vereniging nie so ’n aansoek doen nie, dan alleen met verlof van die hof en dat die hof nie sodanige verlof verleen nie, tensy die vereniging sekerheid gestel het tot ’n bedrag deur die hof vasgestel ten opsigte van betaling van die koste van die aansoek en van enige opposisie daarteen, en prima facie bewys gelewer het van die wenslikheid van die bevel waarom hy aansoek wil doen.”’.</td>
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<td>6. Artikel 44 en 45 word herroep.</td>
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<td>7. Paragrawe (bA) en (bC) in artikel 47(1) word geskrap.</td>
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<td>8. Subartikels (2), (3), (4) en (5) in artikel 48 word geskrap.</td>
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### Act No. and year | Short Title | Extent of repeal or amendment
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9. | The substitution for the expression “registrar”, wherever it occurs, of the expression “Authority”. | 
10. | The amendment of the arrangement of sections by the insertion after item 1 of the following items: | 
| | “1A. Relationship between Act and Financial Sector Regulation Act” | 
| | “1B. Regulatory instruments” | 
| | | 

| Act No. 90 of 1989 | South African Reserve Bank Act, 1989 | 1. The amendment of section 3 by the addition of the following subsection, the existing section becoming subsection (1): | 
| | | “(2) In addition, the Bank is responsible for protecting and maintaining financial stability as envisaged in the Financial Sector Regulation Act, 2017.”. | 
| | | 2. The substitution in section 10(1) for paragraph (v) of the following paragraph: | 
| | | “(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), the Financial Sector Regulation Act, 2017 and other financial sector laws as defined in section 1(1) of the Financial Sector Regulation Act, 2017.”. | 
| | | 3. The substitution in section 11 for subsection (2) of the following subsection: | 
| | | “(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, 2017 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). | 
| | | (b) Section 130 of the Financial Sector Regulation Act, 2017 does not apply in respect of an inspection carried out in terms of subsection (1). “. | 
| | | 4. The substitution in section 12 for subsection (2) of the following subsection: | 
| | | “(2) The provisions of [sections 4, 5, 8 and 9 of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984),] Part 4 of Chapter 9 of the Financial Sector Regulation Act shall apply [mutatis mutandis] with the necessary |
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<td>10.</td>
<td>Die indeling van artikels word gewysig deur die volgende items na item 1 in te voeg:</td>
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<td>“1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’”</td>
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<td>“1B. Reguleringsinstrumente”.</td>
</tr>
<tr>
<td>Wet No. 90 van 1989</td>
<td>1.</td>
<td>Artikel 3 word gewysig deur die volgende subartikel by te voeg, sodat die bestaande artikel subartikel (1) word:</td>
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<td>“(2) Daarbenewens is die Bank verantwoordelik vir die beskerming en onderhoud van finansiële bestendigheid soos in die ‘Financial Sector Regulation Act’, 2017, beoog.”</td>
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<td>2.</td>
<td>Paragraaf (v) in artikel 10(1) word deur die volgende subparagraaf vervang:</td>
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<td>“(v) die werksaamhede verrig wat deur die Bankwet, 1990 (Wet No. 94 van 1990), [en] die Wet op Onderlinge Banke, 1993 (Wet No. 124 van 1993), die ‘Financial Sector Regulation Act’, 2017 en ander wette oor die finansiële sektor soos omskryf in artikel 1(1) van die ‘Financial Sector Regulation Act’, 2017, aan die Bank opgedra word.”</td>
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<td>3.</td>
<td>Subartikel (2) in artikel 11 word deur die volgende subartikel vervang:</td>
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<td>“(2) (a) Die bepalings van [die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet No. 38 van 1984),] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’, 2017 behalwe [artikels 2 en 7 daarvan] artikel 134, is [mutatis mutandis] van toepassing met die veranderinge deur die samehang vereis ten opsigte van ’n inspeksie wat ingevolge subartikel (1) uitgevoer word.</td>
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<td>(b) Artikel 130 van die ‘Financial Sector Regulation Act’, 2017, is nie ten opsigte van ’n inspeksie ingevolge subartikel (1) gedoen, van toepassing nie.”</td>
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<td>4.</td>
<td>Subartikel (2) van artikel 12 word deur die volgende subartikel vervang:</td>
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|                           |                                    | “(2) Die bepalings van [artikels 4, 5, 8 en 9 van die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet No. 38 van 1984),] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ is [mutatis mutandis] met die veranderinge deur die samehang
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<tr>
<th>Act No. and year</th>
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<th>Extent of repeal or amendment</th>
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</table>
| Act No. 94 of 1990 | Banks Act, 1990 | 1. The amendment of section 1—  
(a) by the insertion in subsection (1) after the definition of “allocated capital and reserve funds” of the following definition:  
“‘Authority’ means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;”;  
(b) by the deletion in subsection (1) of the definition of “board of review”;  
(c) by the insertion in subsection (1) after the definition of “company” of the following definition:  
“‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
(d) by the insertion in subsection (1) after the definition of “fellow subsidiary” of the following definition:  
“‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;  
(e) by the deletion in subsection (1) of the definition of “prescribed”;  
(f) by the insertion in subsection (1) after the definition of “person” of the following definition:  
“‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
(g) by the insertion in subsection (1) after the definition of “qualifying capital and reserve funds” of the following definition:  
“‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;  
(h) by the deletion in subsection (1) of the definition of “Registrar”;  
(i) by the insertion in subsection (1) after the definition of “tier 2 unimpaired reserve funds” of the following definition:  
“‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;” and  
(j) by the addition of the following subsection:  
“(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.”. |
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Bankwet No. 94 van 1990 | Bankwet, 1990 | vereis van toepassing ten opsigte van ‘n inspeksie wat ingevolge subartikel (1) uitgevoer word.”.

1. Artikel 1 word gewysig—
(a) deur in subartikel (1) na die omskrywing van “filiaal” die volgende omskrywing in te voeg:
   “‘Financial Sector Regulation Act’ die ‘Financial Sector Regulation Act’, 2017;”;
(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “finansiële state” in te voeg:
   “‘gedragstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan “conduct standard” toegeskryf word;”;
(c) deur in subartikel (1) die omskrywing van “hersieningsraad” te skrap;
(d) deur in subartikel (1) na die omskrywing van “openbare maatskappy” die volgende omskrywing in te voeg:
   “‘Owerheid’ die Voorsorgowerheid ingestel ingevolge artikel 32 van die ‘Financial Sector Regulation Act’;”;
(e) deur in subartikel (1) die volgende omskrywing na die omskrywing van “publiciek” in te voeg:
   “‘Register’ die Inligtingsregister vir die Finansiële Sektor in artikel 256 van die ‘Financial Sector Regulation Act’ bedoel;”;
(f) deur in subartikel (1) die omskrywing van “Registrateur” te skrap;
(g) deur in subartikel (1) na die omskrywing van “toegewysde kapitaal en reserwefondse” die volgende omskrywing in te voeg:
   “‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;”;
(h) deur in subartikel (1) die omskrywing van “voorgeskryf” te skrap;
(i) deur in subartikel (1) na die omskrywing van “voorgeskryf” die volgende omskrywing in te voeg:
   “‘voorsorgstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf is;” en
(j) deur die volgende subartikel by te voeg:
   “(3) Tensy die samehang anders aandui, het woorde en uitskrings wat nie in subartikel (1) omskryf is nie, die betekenis wat ingevolge die ‘Financial Sector Regulation Act’ daaraan toegeskryf is.”.
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

2. The insertion after section 1 of the following section:

“Relationship between Act and Financial Sector Regulation Act

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.

(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.

(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—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard or a conduct standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(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.

(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.

(c) Paragraph (b) does not limit the powers of the Minister in terms of this Act to prescribe regulations.

(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.
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<td>2. Die volgende artikel word na artikel 1 ingevoeg:</td>
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<td>&quot;Verhouding tussen Wet en Financial Sector Regulation Act&quot;</td>
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<td>1A. (1) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.</td>
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<td>(2) ‘n Verwysing in hierdie Wet na die Owerheid wat ‘n aangeleentheid by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word as ‘n verwysing na die Owerheid wat die aangeleentheid bepaal of publiseer by kennisgewing in die Register gepubliiseer;</td>
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<td>(3) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ‘n aangeleentheid by regulasie ingevolge artikel 90 voorgeskryf word, moet ‘n verwysing in hierdie Wet na ‘n aangeleentheid wat—</td>
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<td>(a) voorgeskryf word, gelees word as ‘n verwysing daarna dat die aangeleentheid in ‘n voorsorgstandaard of ‘n gedragstandaard voorgeskryf word, of</td>
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<td>(b) bepaal word, gelees word as ‘n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.</td>
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<td>(4) (a) Aangeleenthede ten opsigte waarvan regulasies ten aansien van banke wat ingevolge hierdie Wet gemaak kan word, kan ook in voorsorgstandaarde of gedragstandaarde voorgeskryf word wat ingevolge die ‘Financial Sector Regulation Act’ voorgeskryf is.</td>
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<td>(b) Regulasies ingevolge hierdie Wet voorgeskryf wat onmiddellik voor die inwerkingtreding van hierdie subartikel van krag is, is steeds van krag, maar die Minister kan regulasies herroep sodat voorsorg- of gedragstandaarde ingevolge die ‘Financial Sector Regulation Act’ oor die onderwerp van daardie regulasies, gemaak kan word.</td>
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<td>(c) Paragraaf (b) beperk nie die bevoegdhede van die Minister ingevolge hierdie Wet om regulasies voor te skryf nie.</td>
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<td>(5) ‘n Verwysing in hierdie Wet na ‘n inspeksie of ondersoek ingevolge artikel 6 van hierdie Wet, moet gelees word as</td>
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### Act No. and year | Short Title | Extent of repeal or amendment
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(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.  
(b) The Authority may also publish the information or document on its web site. |  
(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 237 and Chapter 16 of the Financial Sector Regulation Act. |  
(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. |  
(9) | (a) If any requirement in the Financial Sector Regulation Act is inconsistent with any provision of this Act, the requirement in the Financial Sector Regulation Act prevails.  
(b) If any requirement in a regulatory instrument made in terms of the Financial Sector Regulation Act is inconsistent with any provision of a regulatory instrument made in terms of this Act, the requirement in the regulatory instrument made in terms of the Financial Sector Regulation Act prevails. |  
3. | The repeal of section 3. |  
4. | The deletion in section 4 of subsections (1) and (2). |  
5. | The substitution in section 5 for subsection (2) of the following subsection:  
“(2) Any delegation under subsection (1) (a) shall not prevent the exercise of the relevant power by the [Registrar personally] Authority.”. |  
6. | The deletion in section 6 of subsections (1) and (2). |  
7. | The repeal of sections 8, 9 and 10. |  
8. | The amendment of section 23—  
(a) by the substitution for subsection (1) of the following subsection:  
“(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 conditions as the Registrar may deem fit, such registration if the institution has not con-
301 | Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo |
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(6) (a) ’n Verwysing na ’n inspeksie van die ’Financial Sector Regulation Act’, maar nie ’n verwysing na ’n inspeksie ingevolge artikel 83 of 84 van hierdie Wet nie. | ’n verwysing na ’n inspeksie van die ’Financial Sector Regulation Act’, maar nie ’n verwysing na ’n inspeksie ingevolge artikel 83 of 84 van hierdie Wet nie. |
(6) (b) ’n Verwysing in hierdie Wet na die Owerheid wat inligting of ’n dokument op ’n webwerf aankondig of publiseer, moet gelees word as ’n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer. | ’n Verwysing in hierdie Wet na die Owerheid wat die inligting of dokument in die Register publiseer. |
(7) ’n Verwysing in hierdie Wet na voorgeskrewe gelde moet gelees word as ’n verwysing na die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die ’Financial Sector Regulation Act’, bepaal. | ’n Verwysing in hierdie Wet na die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die ’Financial Sector Regulation Act’, bepaal. |
(8) ’n Verwysing in hierdie Wet na ’n hersiening van ’n besluit van die Owerheid moet gelees word as ’n verwysing na ’n heroorweging van die besluit deur die Tribunaal inwendig die ’Financial Sector Regulation Act’. | ’n Verwysing in hierdie Wet na die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die ’Financial Sector Regulation Act’, bepaal. |
(9) (a) Indien enige vereiste in die ’Financial Sector Regulation Act’ onbeheerbaar is met enige bepaling van hierdie Wet, geld die vereiste in die ’Financial Sector Regulation Act’. | Indien enige vereiste in die tersaaklike gelde ingevolge die ’Financial Sector Regulation Act’ onbeheerbaar is met enige bepaling van hierdie Wet, geld die vereiste in die tersaaklike gelde ingevolge die ’Financial Sector Regulation Act’. |
3. Artikel 3 word herroep. | Artikel 3 word herroep. |
4. Subartikels (1) en (2) in artikel 4 word geskrap. | Subartikels (1) en (2) in artikel 4 word geskrap. |
5. Subartikel (2) in artikel 5 word deur die volgende subartikel vervang: | Subartikel (2) in artikel 5 word deur die volgende subartikel vervang: |
“(2) ’n Delegering kragtens subartikel (1)(a) belet nie die uitoefening van die betrokke bevoegdheid deur die [Registrateur persoonlik] Owerheid nie.” | “(2) ’n Delegering kragtens subartikel (1)(a) belet nie die uitoefening van die betrokke bevoegdheid deur die [Registrateur persoonlik] Owerheid nie.” |
6. Subartikels (1) en (2) in artikel 6 word geskrap. | Subartikels (1) en (2) in artikel 6 word geskrap. |
7. Artikel 8, 9 en 10 word geskrap. | Artikel 8, 9 en 10 word geskrap.
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

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<td>ducted any business as a bank during the period of six months commencing on the date on which the institution was registered as a bank.”;</td>
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<td>(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</td>
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<td>(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.”.</td>
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<td>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)] notice published in the Register, determine circumstances and conditions in terms whereof an application contemplated in subsection (1) is not required.”.</td>
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|                  |             | 10. The amendment of section 69A— (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] or an investigator in terms of the Financial Sector Regulation Act: Provided that for the purposes of this section, those powers extend to the associates of the bank. [(a) any reference to an “institution” or a “financial institu-
### Nomoro ya Molao le ngwaga

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| 8. Artikel 23 word gewysig—  | *deur subartikel (1) deur die volgende subartikel te vervang:*
|  | “(1) Registrateur kan, behoudens die bepalings van artikel 24, in die geval van ’n bank wat as sodanig geregistreer is, [met die instemming van die President en na oorleg met die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien die instelling nie gedurende die tydperk van ses maande vanaf die datum waarop die instelling as ’n bank geregistreer is, enige sake as ’n bank gedoen het nie.;"
|  | *(b) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:*
|  | “Die Registrateur kan, behoudens die bepalings van artikel 24, in die geval van ’n bank wat as sodanig geregistreer is, [na oorleg met die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of, onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien—”; en
|  | *(c) deur subartikel (3) deur die volgende subartikel te vervang:*
|  | “(3) Die Registrateur kan, behoudens die bepalings van artikel 24, in die geval van ’n bank wat as sodanig geregistreer is, [na oorleg met die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek, indien die instelling opgehou het om die bedryf van ’n bank uit te oefen of nie langer in werking is nie.;"
| 9. Subartikel (1A) in artikel 52 word | *deur die volgende subartikel vervang:*
|  | “(1A) Ondanks subartikel (1) kan die Registrateur deur [middel van ’n omsendbrief in artikel 6(4) beoog] kennisgewing in die Register gepubliseer, omstandighede en voorwaardes bepaal ingevolge waarvan ’n aansoek in subartikel (1) beoog, nie vereis word nie.”.
| 10. Artikel 69A word gewysig—  | *deur subartikels (4) en (5) deur die volgende subartikel te vervang:*
|  | “(4) ’n Kommissaris aangestel kragtens subartikel (1) en enige
Act No. and year | Short Title | Extent of repeal or amendment
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| | | “in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998, shall be deemed to be a reference to a bank under curatorship or any of its associates; and

(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.

(b) by the substitution for subsections (4) and (5) with the following subsections: “(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] Part 4 of Chapter 9 of the Financial Sector Regulation Act: Provided that for the purposes of this section—

(a) any reference to [an “institution” or a “financial institution” in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998] Part 4 of Chapter 9 of the Financial Sector Regulation Act shall be deemed to be a reference to a bank under curatorship or any of its associates; and

(b) any reference to [“the registrar”] “a financial sector regulator” and “an [inspector] investigator” in [sections 4 and 5 of the Inspection of Financial Institutions Act, 1998] Part 4 of Chapter 9 of the Financial Sector Regulation Act shall be deemed to be a reference to the commissioner and any person appointed under subsection (2), respectively.

(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).] Part 4 of Chapter 9 of the Financial Sector Regulation Act applies, [subsection (1)(a) of that]
persoon of persone aangestel kragtens subartikel (2) het, vir die doeleindes van hul werksaanhede ingevolge hierdie artikel, bevoegdhede en pligte wat in alle opsigte ooreenstem met die bevoegdhede en pligte deur [artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998), aan ’n registrator of ’n inspekteur bedoel in die Wet op Inspeksie van Finansiële Instellings, 1998.] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ verleen of opgelê: Met dien verstande dat by die toepassing van hierdie artikel-
(a) ’n verwysing na [’n ‘instelling’ of ’n ‘finansiële instelling’ in artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998.] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ geag word ’n verwysing te wees na ’n bank onder kuratele of enige van sy geassosieerdes; en
(b) ’n verwysing na [die registrateur] ’n finansiële-sektorreguleerder (‘financial sector regulator’ en ’n [inspekteur] ondersoeker (‘investigator’) in [artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998.] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ geag word ’n verwysing te wees na, onderskeidelik, die kommissaris en enige persoon kragtens subartikel (2) aangestel.

(5) Wanneer ’n ondersoek kragtens hierdie artikel uitgevoer word en [artikel 4 van die Wet op Inspeksie van Finansiële Instellings, 1998.] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ van toepassing is, [word subartikel (1)(a) van daardie] artikel 136(1) van daardie Wet [geag gewysig te wees om soos volg te lui:
’(1) Wanneer ’n kommissaris ’n onderzoek van die besigheid, handel, transaksies, sake of bates en laste van ’n bank onder kuratele uitoefen, kan die kommissaris—
(a) ’n persoon wat ’n direkteur, dienaar, werknemer, vennoot, lid of aandeelhouer van die
Act No. and year | Short Title | Extent of repeal or amendment
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 |  | section 136(1) of that Act shall be deemed to have been amended as follows:

"(1) In carrying out an investigation into the business, trade, dealings, affairs or assets and liabilities of a bank under curatorship, a commissioner may—

(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 in camera and not be accessible to the public;"

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 in camera and not be accessible to the public;"

(c) by the repeal of subsection (5A).

11. The substitution in section 84 for subsection (5) of the following subsection:

"(5) For the purposes of the performance of the duties as set out in subsection (4), 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)] sections 136 to 138 of the Financial Sector Regulation Act, upon an [inspector] investigator contemplated in those sections, as if the repayment administrator were an [inspector] investigator and the person subject to the direction were a financial institution contemplated in those sections.”.

12. The deletion in section 90 of subsection (1)(e) and (g).
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<td>instelling is of voorheen was onder eed of bevestiging of andersins ondervra: Met dien verstande dat die persoon wat ondervra word, hetsy onder eed of nie, sy of haar regsverteenwoordiger by die ondervraging teenwoordig mag hê: Met dien verstande, voorts, dat by aanvoering van gegronde redes die kommissaris kan gelas dat die verrigtinge kragtens hierdie paragraaf in camera moet plaasvind en nie vir die publiek toeganklik is nie;[1] van toepassing met die veranderinge deur die samehang vereis ten opsigte van ’n inspeksie ingevolge subartikel (1) uitgeoer en die kommissaris kan by die aanvoer van goeie gronde gelas dat die verrigtinge kragtens hierdie paragraaf in camera gehou word en toeganklik vir die publiek is nie;[2] en (b) deur subartikel (5A) te herroep.</td>
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<td>11. Subartikel (5) in artikel 84 word deur die volgende subartikel vervang: “(5) Vir die doeleindes van die verrigting van die pligte soos in subartikel (4) uiteengesit, het die terugbetalingsadministrateur, met betrekking tot die persoon wat aan die tersaaklike lasgewing onderworpe is en met betrekking tot die sake van daardie persoon, die bevoegdhede wat by [artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998)] artikels 136 tot 138 van die ‘Financial Sector Regulation Act’, aan ’n [inspekteur] ondersonoeker beoog in daardie artikels verleen word, asof die terugbetalingsadministrateur ’n [inspekteur] ondersonoeker en die persoon wat aan die lasgewing onderworpe is ’n finansiële instelling was soos in daardie artikels beoog.”</td>
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<td>12. Subartikel (1)(e) en (g) in artikel 90 word geskrap.</td>
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<td>Act No. 9 of 2017</td>
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<td>The amendment of section 91—</td>
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<td>(a)</td>
<td>by the substitution in subsection (1) for paragraph (b) of the following paragraph:</td>
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<td>‘(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) or (2B), 70A, 72, 73, 75, 76, 77, 78(1) or (3), 79, 80, 84(1A) or 84(2),’’;</td>
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<td></td>
<td>(b) by the deletion in subsection (4) of paragraph (c); and</td>
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<td>(c) by the deletion of subsections (6), (6A) and (7).</td>
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<tr>
<td>14</td>
<td>The repeal of section 91A.</td>
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<tr>
<td>15</td>
<td>The substitution for the expression “Registrar”, wherever it occurs, of the expression “Authority”.</td>
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<td>16</td>
<td>The amendment of the arrangement of sections—</td>
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<td>(a)</td>
<td>by the insertion after item 1 of the following item:</td>
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<td></td>
<td>“1A. Relationship between Act and Financial Sector Regulation Act”; and</td>
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<td>(b) by the substitution for item 4 of the following item:</td>
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<td>“4. Authority”.</td>
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<tr>
<td>Act No. 8 of 1993</td>
<td>Financial Supervision of the Road Accident Fund Act, 1993</td>
<td>1. The amendment of section 1—</td>
</tr>
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<td>(a) by the insertion before the definition of “executive officer” of the following definition:</td>
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<td>“‘Authority’ means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act, 2017,”; and</td>
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<td>(b) by the deletion of the definitions of “executive officer” and “Financial Services Board”.</td>
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<tr>
<td>Act No. 124 of 1993</td>
<td>Mutual Banks Act, 1994</td>
<td>1. The amendment of section 1—</td>
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<td>(a) by the insertion in subsection (1) after the definition of “associate” of the following definition:</td>
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<td></td>
<td>“‘Authority’ means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act,”;</td>
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<td>(b) by the deletion in subsection (1) of the definition of “board of appeal”;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
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<tr>
<td>13. Artikel 91 word gewysig—</td>
<td>(a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:</td>
<td>''(b) ’n bepaling van artikel 7(3), (4) of (5), 34, 35, [37(1),] 38(1), 39, 41, 42(1), 52(1) of (4), 53, 55, 58, 59, 60(5)(a), 60(5)(b), 61(2), 65, 66, 67, 70(2), (2A) of (2B), 70A, 72, 73, 75, 76, 77, 78(1) of (3), 79, 80, 84(1A) of 84(2) oortree of versuim om daaraan te voldoen,'';</td>
</tr>
<tr>
<td>16. Die indeling van artikels word gewysig—</td>
<td>(a) deur die volgende item na item 1 in te voeg:</td>
<td>''1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’’; en</td>
</tr>
<tr>
<td></td>
<td>(b) deur paragraaf (c) in subartikel (4) te skrap; en</td>
<td></td>
</tr>
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<td></td>
<td>(c) deur subartikels (6), (6A) en (7) te skrap.</td>
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</tr>
<tr>
<td>Wet No. 97 van 1990</td>
<td>Wet op die Raad op Finansiële Dienste, 1990</td>
<td>Die hele Wet word herroep.</td>
</tr>
<tr>
<td>Wet No. 8 van 1993</td>
<td>Wet op Finansiële Toesighouding oor die Pad- ongelukfonds, 1993</td>
<td>Artikel 1 word gewysig— (a) deur die volgende omskrywing van “Owerheid” in te voeg:</td>
</tr>
<tr>
<td></td>
<td>(b) deur artikel 1 deur die volgende item te vervang:</td>
<td>''Owerheid’’ die Gedragsowerheid vir die Finansiële Sektor soos ingestel ingevolge artikel 32 van die “Financial Sector Regulation Act”, 2017’’; en</td>
</tr>
<tr>
<td></td>
<td>(b) deur die omskrywings van “Raad op Finansiële Dienste” en “uitvoerende beampte” te skrap.</td>
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</tr>
<tr>
<td>Wet No. 124 van 1993</td>
<td>Wet op Onderlinge Banke, 1993</td>
<td>1. Artikel 1 word gewysig— (a) deur in subartikel (1) se omskrywing van “appèlraad” te skrap;</td>
</tr>
<tr>
<td></td>
<td>(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “filiaal” in te voeg:</td>
<td>“Financial Sector Regulation Act” die ‘Financial Sector Regulation Act’, 2017’’;</td>
</tr>
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</table>
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(c) by the insertion in subsection (1) after the definition of “company” of the following definition:
```
‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;’’;
```

(d) by the insertion in subsection (1) after the definition of “executive officer” of the following definition:
```
‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;’’;
```

(e) by the deletion in subsection (1) of the definition of “prescribed”;

(f) by the insertion in subsection (1) after the definition of “person” of the following definition:
```
‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;’’;
```

(g) by the insertion in subsection (1) after the definition of “public” of the following definition:
```
‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;’’;
```

(h) by the deletion in subsection (1) of the definition of “Registrar”;

(i) by the insertion in subsection (1) after the definition of “subsidiary” of the following definition:
```
‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;’’; and
```

(j) by the addition of the following subsection:
```
“(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.”.
```

2. The insertion after section 1 of the following section:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the Registrar must be read as a reference to the Authority;

(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
(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van "finansiële state" in te voeg:
"'gedraagstandaard' dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'conduct standard' toegeskryf is;"

(d) deur in subartikel (1) die volgende omskrywing na die omskrywing van "opbetaalde aandeel" in te voeg:
"'Owerheid' die Voorsorgowerheid ingestel ingevolge artikel 32 van die 'Financial Sector Regulation Act';"

(e) deur in subartikel (1) die volgende omskrywing na die omskrywing van "raad" in te voeg:

"'Register' die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die 'Financial Sector Regulation Act';"

(f) deur in subartikel (1) die omskrywing van "Registrateur" te skrap;

(g) deur in subartikel (1) die volgende omskrywing na die omskrywing van "subskripsie-aandeel" in te voeg:
"'Tribunaal' die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die 'Financial Sector Regulation Act';"

(h) deur in subartikel (1) die omskrywing van "voorgeskryf" te skrap;

(i) deur in subartikel (1) die volgende omskrywing na die omskrywing van "voorgeskryf" in te voeg:
"'voorsorgstandaard' dit wat in artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf is;" en

(j) deur die volgende subartikel by te voeg:

"'(3) Tensy die samehang anders aandui, het woorde en uitdrukkings wat nie in subartikel (1) omskryf is nie, dieselfde betekenis as wat in die 'Financial Sector Regulation Act' daaraan toegeskryf is.""

2. Die volgende artikels word na artikel 1 ingevoeg:

"'Verhouding tussen Wet en 'Financial Sector Regulation Act'"

1A. (1) 'n Verwyssing in hierdie Wet na die Registrateur moet as 'n verwysing na die Owerheid gelees word.

(2) Buiten soos anders deur hierdie Wet of die 'Financial Sector Regulation Act' bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie
Act No. and year | Short Title | Extent of repeal or amendment
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 | | addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.
 | (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.
 | (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—
 | (a) prescribed must be read as a reference to the matter being prescribed in a prudential standard or a conduct standard; or
 | (b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.
 | (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.
 | (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.
 | (c) Paragraph (b) does not limit the powers of the Minister in terms of this Act to prescribe regulations.
 | (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.
 | (b) The Authority may also publish the information or document on its web site.
 | (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 237 and Chapter 16 of the Financial Sector Regulation Act.
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<th>Nomoro ya Molao le ngwaga</th>
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<tr>
<td></td>
<td>Wet benenswens die bevoegd hede en pligte wat die Owerheid ingevolge die 'Financial Sector Regulation Act' het.</td>
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<td>(3) ‘n Verwysing in hierdie Wet na die Owerheid wat ‘n aangeleenthed by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word dat dit ‘n verwysing insluit na die Owerheid wat die aangeleenthed bepaal of publiseer by kennisgewing in die Register gepubliseer.</td>
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<td>(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ‘n aangeleenthed by regulasie ingevolge artikel 91 voorgeskryf word, moet ‘n verwysing in hierdie Wet na ‘n aangeleenthed wat—</td>
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<td>(a) voorgeskryf word, gelees word as ‘n verwysing daarna dat die aangeleenthed in ‘n voorsorgstandaard of ‘n gedragstandaard voorgeskryf word; of</td>
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<td>(b) bepaal word, gelees word as ‘n verwysing daarna dat die Owerheid die aangeleenthed skriftelik bepaal en die bepaling in die Register registreer.</td>
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<td>(5) (a) Aangeleenthede ten opsigte waarvan regulasies ten aansien van banke ingevolge hierdie Wet gemaak kan word, kan ook in voorsorgstandaarde of gedragstandaarde voorgeskryf word.</td>
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<td>(b) Regulasies ingevolge hierdie Wet voorgeskryf wat van krag is onmiddellik voor die inwerkingtreding van hierdie subartikel, bly van krag, maar kan deur die Minister herroep word sodat voorsorgstandaarde of gedragstandaarde ingevolge die ‘Financial Sector Regulation Act’ gemaak kan word, ten opsigte van die onderwerp van daardie regulasies.</td>
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<td>(c) Paragraaf (b) beperk nie die Minister se bevoeghede ingevolge hierdie Wet om regulasies uit te vaardig nie.</td>
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<td>(6) (a) ‘n Verwysing in hierdie Wet dat die Owerheid inligting of ‘n dokument op ‘n webwerf aankondig of publiseer, moet gelees word as ‘n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.</td>
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<tr>
<td></td>
<td>(b) Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer.</td>
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<td>(7) ‘n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as ‘n verwysing na die tersaaklike gelde vastegetel ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’.</td>
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<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td>8</td>
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<td>(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.</td>
</tr>
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</table>
| 9               |             | (9) (a) If any requirement in the Financial Sector Regulation Act is inconsistent with any provision of this Act, the requirement in the Financial Sector Regulation Act prevails.  
(b) If any requirement in a regulatory instrument made in terms of the Financial Sector Regulation Act is inconsistent with any provision of a regulatory instrument made in terms of this Act, the requirement in the regulatory instrument made in terms of the Financial Sector Regulation Act prevails. |
<p>| 3               |             | The repeal of section 2. |
| 4               |             | The substitution in section 3 for subsection (2) of the following subsection: “(2) Any delegation under subsection (1) (a) shall not prevent the exercise of the relevant power by the [Registrar personally] Authority.”. |
| 5               |             | The deletion in section 4 of subsections (1) and (2). |
| 6               |             | The repeal of sections 6, 7 and 8. |
| 7               |             | (a) by the substitution for subsection (1) of the following subsection: “(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.”; |
|                 |             | (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 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>
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<th>Nomoro ya Molao le ngwaga</th>
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<td>(8) ’n Verwyxing in hierdie Wet na ’n appel teen ’n besluit van die Owerheid moet gelees word as ’n verwyxing na ’n heroorweging van die besluit deur die Tribunaal ingevolge die ’Financial Sector Regulation Act’.</td>
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<td>(9) (a) Indien enige vereiste in die ’Financial Sector Regulation Act’ strydig is met enige bepaling van hierdie Wet, geld die vereiste in die ’Financial Sector Regulation Act’.</td>
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<tr>
<td>(b) Indien enige vereiste in ’n reguleringsinstrument gemaak ingevolge die ’Financial Sector Regulation Act’ strydig is met enige bepaling van ’n reguleringsinstrument ingevolge hierdie Wet gemaak, geld die vereiste in die reguleringsinstrument ingevolge die ’Financial Sector Regulation Act’ gemaak.’’.</td>
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<td>3. Artikel 2 word herroep.</td>
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<td>4. Subartikel (2) in artikel 3 word deur die volgende subartikel vervang: “(2) ’n Delegering kragtens subartikel (1)(a) belet nie die uitoefening van die betrokke bevoegdheid deur die [Registrateur self] Owerheid nie.”.</td>
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<tr>
<td>5. Subartikels (1) en (2) in artikel 4 word geskrap.</td>
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<td>6. Artikels 6, 7 en 8 word herroep.</td>
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</table>
| 7. Artikel 21 word gewysig—(a) deur subartikel (1) deur die volgende subartikel te vervang: “(1) Die Registrateur kan, behoudens die bepalings van artikel 22, in die geval van ’n onderlinge bank wat as sodanig geregistreer is, [met die instemming van die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien die instelling nie gedurende die tydperk van ses maande vanaf die datum waarop die instelling as ’n onderlinge bank geregistreer is, enige sake as ’n onderlinge bank gedoen het nie.”; (b) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “Die Registrateur kan, behoudens die bepalings van artikel 22, in die geval van ’n onderlinge bank wat as sodanig geregistreer is, [met die
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| | | (c) by the substitution for subsection (3) of the following subsection:
| | | “(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.”.

8. The deletion in section 91 of subsection (1)(e) and (g).

9. The deletion in section 92 of subsections (6) and (7).

10. The amendment of the arrangement of sections by the insertion after item 1 of the following item:

    “1A. Relationship between Act and Financial Sector Regulation Act”.

| | | (a) by the insertion in subsection (1) after the definition of “auditor” of the following definition:
| | | “Authority" means—
| | | (a) in the case of sections 7, 9 to 17, 19 to 21, 23 to 35 and 37 to 43, the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act; and
| | | (b) in the case of section 8 and sections 44 to 65, the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act; and
| | | (c) 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;“;
| | | (b) by the deletion in subsection (1) of the definition of “Board”;
| | | (c) by the insertion in subsection (1) after the definition of “company” of the following definition:
| | | “conduct standard” has the same meaning ascribed to it in terms of section I(1) of the Financial Sector Regulation Act;“;
instemming van die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of, onderworpe aan die voorwaardes wat die Registrateur goevind, opskort indien—”; en
(c) deur subartikel (3) deur die volgende subartikel te vervang:
”(3) Die Registrateur kan, behoudens die bepaling van artikel 22, in die geval van ’n onderlinge bank wat as sodanig geregistrer is, [met die instemming van die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek indien die instelling opgehou het om die bedryf van ’n onderlinge bank uit te oefen of nie langer in werking is nie.”.

8. Subartikel (1)(e) en (g) in artikel 91 word geskrap.

9. Subartikels (6) en (7) in artikel 92 word geskrap.

10. Die indeling van artikels word gewysig deur die volgende item na item 1 in te voeg:

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1A. Verhouding tussen Wet en "Financial Sector Regulation Act".
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Wet No. 141 van 1993

Wet Op die Beleidsraad vir Finansiële Dienste en Regulering, 1993

Die hele Wet word herroep.

Wet No. 52 van 1998

Langtermynversekeringswet, 1998

1. Artikel 1 word gewysig—
(a) deur in subartikel (1) na die omskrywing van "filiaal" die volgende omskrywing in te voeg:
   "‘Financial Sector Regulation Act’ die "Financial Sector Regulation Act", 2017;”;
(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van "fondspolis" in te voeg:
   "‘gedragstandaard’ dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan ‘conduct standard’ toegeskryf is;”;
(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van "gekoppelde polis" in te voeg:
   "‘gesamentlike standaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf is;”.

Nomoro ya Molao le ngwaga | Setlhogo se se khotshwane | Bogolo jwa phimolo kgotsa tlahbololo
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1 |  | instemming van die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of, onderworpe aan die voorwaardes wat die Registrateur goevind, opskort indien—”; en
(c) deur subartikel (3) deur die volgende subartikel te vervang:
”(3) Die Registrateur kan, behoudens die bepaling van artikel 22, in die geval van ’n onderlinge bank wat as sodanig geregistrer is, [met die instemming van die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek indien die instelling opgehou het om die bedryf van ’n onderlinge bank uit te oefen of nie langer in werking is nie.”.

8. Subartikel (1)(e) en (g) in artikel 91 word geskrap.

9. Subartikels (6) en (7) in artikel 92 word geskrap.

10. Die indeling van artikels word gewysig deur die volgende item na item 1 in te voeg:

```
1A. Verhouding tussen Wet en "Financial Sector Regulation Act".
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Wet No. 141 van 1993

Wet Op die Beleidsraad vir Finansiële Dienste en Regulering, 1993

Die hele Wet word herroep.

Wet No. 52 van 1998

Langtermynversekeringswet, 1998

1. Artikel 1 word gewysig—
(a) deur in subartikel (1) na die omskrywing van “filiaal” die volgende omskrywing in te voeg:
   "‘Financial Sector Regulation Act’ die "Financial Sector Regulation Act", 2017;”;
(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “fondspolis” in te voeg:
   "‘gedragstandaard’ dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan ‘conduct standard’ toegeskryf is;”;
(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gekoppelde polis” in te voeg:
   "‘gesamentlike standaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf is;”.

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<td>(d)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “financial reporting standards” of the following definition: “‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”</td>
</tr>
<tr>
<td>(e)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “holding company” of the following definition: “‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”</td>
</tr>
<tr>
<td>(f)</td>
<td></td>
<td>by the deletion in subsection (1) of the definition of “prescribe”;</td>
</tr>
<tr>
<td>(g)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “premium” of the following definition: “‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”</td>
</tr>
<tr>
<td>(h)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “publish” of the following definition: “‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”</td>
</tr>
<tr>
<td>(i)</td>
<td></td>
<td>by the deletion in subsection (1) of the definition of “Registrar”;</td>
</tr>
<tr>
<td>(j)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “this Act” of the following definition: “‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;” and</td>
</tr>
<tr>
<td>(k)</td>
<td></td>
<td>by the addition of the following sub-section: “(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;”</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<tr>
<td><em>(d)</em></td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van “oaditeur” in te voeg: “‘Owerheid’”</td>
<td><em>(d)</em> deur in subartikel (1) die volgende omskrywing na die omskrywing van “oaditeur” in te voeg: “‘Owerheid’”</td>
</tr>
<tr>
<td><em>(a)</em></td>
<td>in die geval van artikels 7, 9 tot 17, 19 tot 21, 23 tot 35 en 37 tot 43, die Voorsorgowerheid ingestel ingevolge artikel 32 van die “Financial Sector Regulation Act”;</td>
<td><em>(a)</em> in die geval van artikels 7, 9 tot 17, 19 tot 21, 23 tot 35 en 37 tot 43, die Voorsorgowerheid ingestel ingevolge artikel 32 van die “Financial Sector Regulation Act”;</td>
</tr>
<tr>
<td><em>(b)</em></td>
<td>in die geval van artikel 8 en artikels 44 tot 65, die Gedragsowerheid vir die Finansiële Sektor ingestel ingevolge artikel 36 van die “Financial Sector Regulation Act”; en</td>
<td><em>(b)</em> in die geval van artikel 8 en artikels 44 tot 65, die Gedragsowerheid vir die Finansiële Sektor ingestel ingevolge artikel 36 van die “Financial Sector Regulation Act”; en</td>
</tr>
<tr>
<td><em>(c)</em></td>
<td>in die geval van artikels 3, 4, 18, 22 en 36, of die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, behoudens oorlegplegings- en koördineringsvereistes soos in die “Financial Sector Regulation Act”, uiteengesit;”</td>
<td><em>(c)</em> in die geval van artikels 3, 4, 18, 22 en 36, of die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, behoudens oorlegplegings- en koördineringsvereistes soos in die “Financial Sector Regulation Act”, uiteengesit;”</td>
</tr>
<tr>
<td><em>(e)</em></td>
<td>deur in subartikel (1) die omskrywing van “Raad” te skrap;</td>
<td><em>(e)</em> deur in subartikel (1) die omskrywing van “Raad” te skrap;</td>
</tr>
<tr>
<td><em>(f)</em></td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van “Raad” in te voeg: “‘Register’ die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die “Financial Sector Regulation Act”;”</td>
<td><em>(f)</em> deur in subartikel (1) die volgende omskrywing na die omskrywing van “Raad” in te voeg: “‘Register’ die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die “Financial Sector Regulation Act”;”</td>
</tr>
<tr>
<td><em>(g)</em></td>
<td>deur in subartikel (1) die omskrywing van “Registrateur” te skrap;</td>
<td><em>(g)</em> deur in subartikel (1) die omskrywing van “Registrateur” te skrap;</td>
</tr>
<tr>
<td><em>(h)</em></td>
<td>deur in subartikel (1) na die omskrywing van “statutêre aktuaris” die volgende omskrywing in te voeg: “‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die “Financial Sector Regulation Act”;”</td>
<td><em>(h)</em> deur in subartikel (1) na die omskrywing van “statutêre aktuaris” die volgende omskrywing in te voeg: “‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die “Financial Sector Regulation Act”;”</td>
</tr>
<tr>
<td><em>(i)</em></td>
<td>deur in subartikel (1) die omskrywing van “voorskryf” te skrap;</td>
<td><em>(i)</em> deur in subartikel (1) die omskrywing van “voorskryf” te skrap;</td>
</tr>
<tr>
<td><em>(j)</em></td>
<td>deur in subartikel (1) na die omskrywing van “voorskryf” die volgende omskrywing in te voeg: “‘voorsorgstandaard’ dit wat ingevolge die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf word;”</td>
<td><em>(j)</em> deur in subartikel (1) na die omskrywing van “voorskryf” die volgende omskrywing in te voeg: “‘voorsorgstandaard’ dit wat ingevolge die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf word;”</td>
</tr>
<tr>
<td><em>(k)</em></td>
<td>deur die volgende subartikel by te voeg: “(3) Tensy die samehang anders aandui, het woorde en uitdrukking word wat nie in subartikel (1) omskryf is nie, die betekenis in die ‘Financial Sector Regulation Act’ daaraan toegeskryf.”</td>
<td><em>(k)</em> deur die volgende subartikel by te voeg: “(3) Tensy die samehang anders aandui, het woorde en uitdrukking word wat nie in subartikel (1) omskryf is nie, die betekenis in die ‘Financial Sector Regulation Act’ daaraan toegeskryf.”</td>
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<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td></td>
<td></td>
<td>2. The insertion after section 1 of the following sections:</td>
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<tr>
<td></td>
<td></td>
<td>“Relationship between Act and Financial Sector Regulation Act</td>
</tr>
<tr>
<td></td>
<td></td>
<td>IA. (1) 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.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) 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.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(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.</td>
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<td></td>
<td></td>
<td>(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—</td>
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<td>(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or</td>
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<td></td>
<td>(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.</td>
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<td></td>
<td></td>
<td>(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.</td>
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<tr>
<td></td>
<td></td>
<td>(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.</td>
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<td></td>
<td></td>
<td>(6) 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.</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<tr>
<td>2. Die volgende artikels word na artikel 1 ingevoeg:</td>
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<tr>
<td>“Verhouding tussen Wet en ‘Financial Sector Regulation Act’”</td>
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<td></td>
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<tr>
<td>1A. (1) ’n Verwysing in hierdie Wet na die Registrateur (maar nie na die Registrateur van Mediese Skemas nie) of ’n verwysing na die Raad moet as ’n verwysing na die Owerheid gelees word.</td>
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<tr>
<td>(2) Behalwe waar anders in hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.</td>
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<tr>
<td>(3) ’n Verwysing in hierdie Wet na die Owerheid wat ’n aangeleentheid by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word dat dit ’n verwysing insluit na die Owerheid wat die aangeleentheid by kennisgewing in die Register gepubliseer, bepaal of publiseer het.</td>
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<tr>
<td>(4) Tensy uitdruklik anders in die Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid by regulasie voorgeskryf word, moet ’n verwysing in hierdie Wet dat ’n aangeleentheid—</td>
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<td>(a) voorgeskryf word, gelees word as ’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard of ’n gedragstandaard voorgeskryf word; of</td>
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<td>(b) bepaal word, gelees word as ’n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.</td>
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<td>(5) (a) ’n Verwysing in hierdie Wet na ’n ter plaatse besoek ingevolge ’n bepaling van hierdie Wet moet gelees word as ’n verwysing na ’n ter plaatse toesighoudende inspeksie of ’n ondersoek ingevolge die ‘Financial Sector Regulation Act’.</td>
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<tr>
<td>(b) ’n Verwysing na ’n inspeksie ingevolge ’n bepaling van hierdie Wet, moet gelees word as ’n verwysing na ’n heroorweging van die besluit van die Tribunaal ingevolge die ‘Financial Sector Regulation Act’.</td>
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<tr>
<td>(6) Die verwysings in artikels 3(3) en 22(3) na ’n appèl aan die appèlraad ingevolge artikel 26 van die Wet op die Raad op Finansiële Dienste moet gelees word as ’n verwysing na ’n heroorweging van die besluit deur die Tribunaal ingevolge die ‘Financial Sector Regulation Act’.</td>
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<tr>
<td>(7)</td>
<td></td>
<td>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 237 and Chapter 16 of the Financial Sector Regulation Act.</td>
</tr>
</tbody>
</table>

**Regulatory instruments**

1B. 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.”.

3. The substitution for section 2 of the following section:

“Exercise of powers and performance of duties by Authority

2. (1) 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.

(2) The Prudential Authority, in respect of sections 9 to 15, 26 and 37 to 43, must act with the concurrence of the Financial Sector Conduct Authority.

(3) The Prudential Authority or the Financial Sector Conduct Authority, as the case may be, in respect of sections 18 and 22, must act with the concurrence of the other Authority.”.

4. The deletion in section 4 of subsections (2), (4) and (8).

5. The repeal of section 5.

6. The amendment of section 9—

(a) by the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) unless the applicant demonstrates to the satisfaction of the Authority that—

(i) 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;
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<td>(7) 'n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as 'n verwysing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act'.</td>
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**Reguleringsinstrumente**

1B. By die toepassing van die omskrywing van 'reguleringsinstrument' ('regulatory instrument') in artikel 1(1) van die 'Financial Sector Regulation Act', is enige aangeleentheid deur die Owerheid voorgeskryf ten opsigte waarvan kennis in die Staatskoerant spesifiek deur hierdie Wet vereis word, 'n reguleringsinstrument.'

3. Artikel 2 word deur die volgende artikel vervang:

“Uitoefening van bevoegdheede en verrigting van pligte deur Owerheid

2. (1) Die Owerheid, by die vervulling van sy verantwoordelikheid om hierdie Wet in werking te stel, moet sy bevoegdheede uitoefen en sy pligte verrig ingevolge die Wet behoudens die 'Financial Sector Regulation Act'.

(2) Die Voorsorgowerheid, ten opsigte van artikels 9 tot 15, 26 en 37 tot 43, moet met die instemming van die Gedragsowerheid vir die Finansiële Sektor handel.

(3) Die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, na gelang van die geval, ten opsigte van artikels 18 en 22, moet met die instemming van die ander Owerheid optree.”

4. Subartikels (2), (4) en (8) in artikel 4 word geskrap.

5. Artikel 5 word herroep.

6. Artikel 9 word gewysig—
(a) deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang:

"(b) tensy die aanvorder tot bevrediging van die Owerheid demonstreer dat—
(i) die aanvorder voldoen aan, en gepaste stappe gedoen het om voort te gaan om te voldoen aan hierdie Wet se vereistes vir 'n beheer- en risiko-bestuurraamwerk en
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(ii) its directors and managing executives meet the fit and proper requirements; and

(iii) 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;’’; and

(b) by the addition in subsection (3) of the following paragraph:

‘‘(cA) if the registration will be contrary to the interests of prospective policyholders or the public interest.’’.

7. The amendment of section 10 by the insertion after paragraph (f) of the following paragraph:

‘‘(fA) 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’’.

8. The amendment of section 11 by the substitution for subsection (1) of the following subsection:

‘‘(1) The [Registrar] Authority may, 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—

(a) upon application of a long-term insurer and having regard, with the necessary changes required by the context, to section 9(3)(b);

(aA) when in the public interest or the interests of the policyholders or potential policyholders of the long-term insurer;

(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
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<td>vereistes vir finansiële gesondheid;</td>
<td>(ii) die aanweker se direkteure en uitvoerende bestuurders voldoen aan die vereistes vir geskiktheid en gepastheid; en (iii) enige persone wat daardie aanweker regstreeks of onregstreeks beheer of best bestin dié betekenis van artikel 25 van hierdie Wet, voldoen aan die vereistes vir geskiktheid en gepastheid;</td>
</tr>
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<td></td>
<td>(b) deur die volgende paragraaf in subartikel (3) by te voeg: &quot;(cA) en die registrasie daarvan onbestaanbaar sal wees met die belange van voornemende polishouers of die openbare belang.&quot;</td>
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| 7. Artikel 10 word gewysig deur die volgende paragraaf na paragraaf (f) in te voeg: "(fA) aangaande die besigheidsreëlings van die langtermynversekeraar, met inbegrip van, maar nie beperk nie tot, die uitbestedingsreëlings wat die langtermynversekeraar kan aangaan;"
| 8. Artikel 11 word gewysig deur subartikel (1) deur die volgende subartikel te vervang: "(1) Die [Registrateur] Owerheid kan, by kennisgewing aan die langtermynversekeraar, bykomende voorwaardes in artikel 10 beoog, behoudens waaraan die langtermynversekeraar geregistreer of geag word geregistreer te wees, wysig, skrap, vervang of ople— (a) by aanwekel van ‘n langtermynversekeraar en met inagneming, met die nodige veranderinge deur die samehang vereis, van artikel 9(3)(b); (aA) wanneer dit in die openbare belang van die belang van die polishouers of potensiële polishouers of die langtermynversekeraar is; (b) wanneer ooreenkomstig artikel 12(2) of (3) gehandel word of wanneer magtiging ooreenkomstig artikel 35(2)(aA) met betrekking tot ‘n langtermynversekeraar verleen word; of
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| (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 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].”.

9. The deletion in section 22 of subsection (3).

10. The amendment of section 26—

(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 within the meaning of section 2(2) of the Companies Act, over that long-term insurer.”;

(b) by the substitution, in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

“(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 long-term insurer concerned;
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| (c)                       | indien ‘n langtermynversekeraar opgehou het om sekere langtermynpolisse deur die [Registrateur] Owerheid bepaal, af te sluit in die mate wat nie langer sy voortgesette registrasie ten opsigte van daardie polisse regverdig nie, en die langtermynversekeraar minstens 30 dae toegelaat is om vertoe ten opsigte van die aangeleentheid te rig, by kennisgewing aan die langtermynversekeraar ‘n voorwaarde, behoudens waaraan die langtermynversekeraar geregistreer is of geag word geregistreer te wees, verander deur dit te wysig of te skrap, of ‘n nuwe voorwaarde in artikel 10 beoog, bepaal].”.

9. Subartikel (3) in artikel 22 word geskrap.

10. Artikel 26 word gewysig—

   (a) deur subartikel (1) deur die volgende subartikel te vervang:

   “(1) Behoudens hierdie artikel mag geen persoon, regstreeks of onregstreeks en sonder die vooraf goedkeuring van die [Registrateur] Owerheid, aandlee of enige ander finansiële belang in ‘n langtermynversekeraar of ‘n verwante party van daardie langtermynversekeraar verkry of hou wat tot gevolg het dat daardie persoon, regstreeks of onregstreeks, alleen of saam met ‘n verwante party, beheer binne die betekenis van artikel 2(2) van die Maatskappywet oor daardie langtermynversekeraar uitoefen nie.”;

   (b) deur in subartikel (2) paragrawe (a) en (b) deur die volgende paragrawe te vervang:

   “(a) voor die omskepping van aandele uitgereik met ‘n nominale waarde of pariwaarde ooreenkomstig die Maatskappywet, die totale nominale waarde van daardie aandele, opsigself of gesame met die totale nominale waarde van die aandele alredes deur daardie persoon of daardie persoon en verwante partye besit, [25] 15 persent of meer van die totale nominale waarde van al die uitgereikte aandele van die betrokke langtermynversekeraar sal bedra;
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<tr>
<td>(b)</td>
<td>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) per cent or more of all the shares in a specific class of shares issued by the long-term insurer concerned.;</td>
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<tr>
<td>(c)</td>
<td>by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “The approval referred to in subsection (1) or (2)—” ;</td>
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</tr>
<tr>
<td>(d)</td>
<td>by the insertion in subsection (3) after paragraph (a) of the following paragraph: “(a) shall not be given if the person does not meet the fit and proper requirements;” ;</td>
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<tr>
<td>(e)</td>
<td>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) per cent of—”; and</td>
<td></td>
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<td>(f)</td>
<td>by the deletion of subsections (5) and (6).</td>
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<td>11.</td>
<td>The deletion in section 62 of subsections (2)(f) and (4).</td>
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<td>12.</td>
<td>The substitution in section 66(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(3),] (4 ) or (5(\text{a})(i), 22(2) ) or (27(2));” .</td>
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<td>13.</td>
<td>The substitution in section 67(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, ] (22(1) ) or (2),) (27(1), 31(1), 35(1) ) or (2(\text{a}) ) or (36(2));” .</td>
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<td>14.</td>
<td>The repeal of section 68.</td>
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<td>(b) na die omskepping van aandele uitgereik met ‘n nominale waarde of pariwaarde ooreenkomstig die Maatskappywet, die totale getal van daardie aandele, opsigself of tesame met die totale getal van die aandele alreeds deur daardie persoon en verwante partye besit, [25] 15 persent of meer van al die aandele in ‘n bepaalde klas aandele uitgereik deur die betrokke langtermyn-versekeraar sal bedra.’’;</td>
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<td></td>
<td>(c) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “Die goedkeuring in subartikel (1) of (2) bedoel—’’;</td>
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<td></td>
<td>(d) deur die volgende paragraaf na paragraaf (a) in subartikel (3) in te voeg: “(aA) word nie gegee as die persoon nie aan die vereistes vir geskiktheid en gepasheid voldoen nie;’’;</td>
<td></td>
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<td></td>
<td>(e) deur in subartikel (4)(a) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang: “om sodanige aandeelhouer te verplig om, binne ‘n tydperk deur die Hof bepaal, daardie aandeelhouding te vermindere tot ‘n aandeelhouding van hoogstens [25] 15 persent van—’’; en</td>
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<td></td>
<td>(f) deur subartikels (5) en (6) te skrap.</td>
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<tr>
<td>11. Subartikels (2)/(f) en (4) in artikel 62 word geskrap.</td>
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<tr>
<td>12. Deur in artikel 66(1) paragraaf (a) deur die volgende paragraaf te vervang: “(a) ‘n bepaling van ‘n kennisgewing, lasgewing of versoek in artikel [4(3), (4) of (5)(a)(i), 22(2) of 27(2) bedoel oortree of versuim om daaraan te voldoen;’’.</td>
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<tr>
<td>13. Paragraaf (a) in artikel 67(1) word deur die volgende paragraaf vervang: “(a) ‘n bepaling van ‘n kennisgewing, lasgewing of versoek in artikel [4(2), (3) of (4)], 22(1) of (2), 27(1), 31(1), 35(1) of (2)(a) of 36(2) bedoel oortree of versuim om daaraan te voldoen;’’.</td>
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<td>Act No. and year</td>
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| Act No. 9 of 2017 | Financial Sector Regulation Act, 2017 | 15. The amendment of Schedule 1 —
   (a) by the substitution in Item 2(b) for sub-
   paragraph (i) of the following subpara-
   graph:
   "(i) an over-the-counter instrument, it is capable of being readily
   closed out and is entered into
   with a counterparty [for which
   the relevant criteria have
   been] that complies with crite-
   ria approved by the [Registrar]
   Authority and any [subject to
   such] conditions as [he or she]
   the Authority may determine;'';

   (b) by the substitution in Item 2(b) for sub-
   paragraph (iii) of the following sub-
   paragraph:
   "(iii) any other instrument, it is
   regularly traded on a licensed
   stock exchange in the Repub-
   lic, or on any other financial
   market in the Republic ap-
   proved by the [Registrar sub-
   ject to such conditions as he
   or she may determine] Au-
   thority, which approval may
   be subject to conditions deter-
   mined by the Authority.''.

16. The amendment of the arrangement
of sections —
(a) by the insertion after item 1 of the fol-
lowing items:
   "1A. Relationship between Act and
   Financial Sector Regulation
   Act

   1B. Regulatary instruments’’; and

(b) by the substitution for item 2 of the fol-
lowing item:
   "2. Exercise of powers and perfor-
   mance of duties by Authority’’.

(a) by the insertion in subsection (1) after
the definition of “approved reinsurance
policy” of the following definition:
   "‘Authority’ means —
   (a) 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 Sec-
   tor Regulation Act;

   (b) in the case of sections 8, 43 to
   55, the Financial Sector Conduct
   Authority established in terms of
   section 56 of the Financial Sec-
   tor Regulation Act; and
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<th>Nomoro ya Molao le ngwaga</th>
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<td>15. Bylae 1 word gewysig—</td>
<td>(a) deur in Item 2(b) subparagraaf (i) deur die volgende subparagraaf te vervang:</td>
<td>&quot;(i) ’n oor-die-toonbank instrument, dit in staat is om geredelik gerealiseer te word en dit afgesluit word met ’n teenparty [vir wie die betrokke keuringsmaatstawwe] wat voldoen aan maatstawwe goedgekeur [is] deur die [Registrateur behoudens die] Owerheid en enige voorwaardes wat [by of sy] die Owerheid bepaal;&quot; en</td>
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<td>(b) deur in Item 2(b) subparagraaf (iii) deur die volgende subparagraaf te vervang:</td>
<td>&quot;(iii) enige ander instrument, dit gereeld op ’n gelisensieerde aandelebeurs in die Republiek, of op enige ander finansiële mark in die Republiek deur die [Registrateur] Owerheid goedgekeur [behoudens die voorwaardes wat hy of sy bepaal], welke goedkeuring onderhewig kan wees aan voorwaardes deur die Owerheid bepaal, verhandel word.&quot;</td>
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<td>16. Wysiging van die indeling van artikels—</td>
<td>(a) deur die volgende items na item 1 in te voeg:</td>
<td>&quot;1A. Verhouding tussen Wet en 'Financial Sector Regulation Act'; en 1B. Reguleringsinstrumente&quot;; en</td>
<td></td>
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<td></td>
<td>(b) deur item 2 deur die volgende item te vervang:</td>
<td>&quot;2. Uitoefening van bevoegdhede en verrigting van pligte deur Owerheid&quot;.</td>
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Wet No. 53 van 1998  | Korttermyn-versekeringswet, 1998 | 1. Artikel 1 word gewysig— |  |
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<td></td>
<td>(a) deur in subartikel (1) die volgende omskrywing na die omskrywing van “filiaal” in te voeg:</td>
<td>&quot;‘Financial Sector Regulation Act’ die 'Financial Sector Regulation Act', 2017;&quot;;</td>
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<td></td>
<td>(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “garansiepolis” in te voeg:</td>
<td>&quot;‘gedragstandaard’ dit wat ingevolge die 'Financial Sector Regulation Act' aan 'conduct standard' toegeskryf is;&quot;;</td>
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| (c) 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;”;
| (b) by the deletion in subsection (1) of the definition of “Board”; |
| (c) by the insertion in subsection (1) after the definition of “company” of the following definition: “‘conduc standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| (d) by the insertion in subsection (1) after the definition of “financial reporting standards” of the following definition: “‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;
| (e) by the deletion in subsection (1) of the definition of “Financial Services Board Act”;
| (f) by the insertion in subsection (1) after the definition of “independent intermediary” of the following definition: “‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| (g) by the deletion in subsection (1) of the definition of “prescribe”;
| (h) 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 section 1(1) of the Financial Sector Regulation Act;”;
| (i) by the insertion in subsection (1) after the definition of “publish” of the following definition: “‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
<p>| (j) by the deletion in subsection (1) of the definition of “Registrar”; |</p>
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<td>(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gemengde polis” in te voeg: “‘gesamentlike standaard’ dit wat in artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf word;”;</td>
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<td>(d) deur in subartikel (1) die volgende omskrywing na die omskrywing van “ouditeur” in te voeg: “‘Owerheid’—</td>
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<td>(a) in die geval van artikels 7, 9 tot 17, 19 tot 20, 22 tot 34, 36 tot 42, 56 en 59 tot 62, die Voorsorgowerheid ingestel ingevolge artikel 32 van die ‘Financial Sector Regulation Act’;</td>
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<td>(b) in die geval van artikels 8, 43 tot 55, die Gedragsowerheid vir die Finansiële Sektor ingestel ingevolge artikel 56 van die ‘Financial Sector Regulation Act’; en</td>
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<td>(c) in die geval van artikels 3, 4, 18, 21, 35, 57, 58 en 63, of die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, behoudens vereistes vir oorleg en koördinering in die ‘Financial Sector Regulation Act’ uiteengesit;”;</td>
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<td>(e) deur in subartikel (1) die omskrywing van “Raad” te skrap;</td>
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<td>(f) deur in subartikel (1) na die omskrywing van “Raad” die volgende omskrywing in te voeg: “‘Register’ die Inligtingsregister vir die Finansiële Sektor in artikel 256 van die ‘Financial Sector Regulation Act’ bedoel;”;</td>
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<td>(g) deur in subartikel (1) die omskrywing van “Registrateur” te skrap;</td>
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<td>(h) deur in subartikel (1) na die omskrywing van “statutêre aktuaris” die volgende omskrywing in te voeg: “‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;”; en</td>
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<td>(i) deur in subartikel (1) die omskrywing van “voorskryf” te skrap;</td>
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<td>(j) deur in subartikel (1) na die omskrywing van “voorskryf” die volgende omskrywing in te voeg: “‘voorsorgstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf is;”;</td>
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<td>(a)</td>
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<td>(b)</td>
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1. Die volgende subartikels word by die volgende artikel byvoeg:

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(k) deur in subartikel (1) die omskrywing van “Wet op die Raad op Finansiële Dienste” te skrap; en
(l) deur die volgende subartikel by te voeg:

“(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis in die ‘Financial Sector Regulation Act’ daaraan toegeskryf.”.
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2. Die volgende artikels word na artikel 1 ingevoeg:

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“Verhouding tussen Wet en ‘Financial Sector Regulation Act’

1A. (1) ’n Verwysing in hierdie Wet na die Registrateur (maar nie na die Registrateur van Mediese Skemas nie) of ’n verwysing na die Raad, moet gelees word as ’n verwysing na die Owerheid.
(2) Behalwe waar anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdheede en pligte ingevolge hierdie Wet benewens die bevoegdheede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.
(3) ’n Verwysing in hierdie Wet na die Owerheid wat ’n aangeleentheid, by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word dat dit ’n verwysing insluit na die Owerheid wat die aangeleentheid, by kennisgewing in die Register gepubliseer, bepaal of publiseer.
(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid by regulasie voorgeskryf word, moet ’n verwysing in hierdie Wet na ’n aangeleentheid—
(a) wat voorgeskryf word, gelees word as ’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard, gedragstandaard of gesamentlike standaard voorgeskryf word; of
(b) wat bepaal word, gelees word as ’n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.
(5) ’n Verwysing in hierdie Wet na ’n ter plaatse besoek ingevolge die bepalings van hierdie Wet, moet gelees word as ’n verwysing na ’n toesigehoudende inspeksie ter plaatse of ’n onderzoek ingevolge die ‘Financial Sector Regulation Act’.
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(6) 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.

(7) 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.

(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 237 and Chapter 16 of the Financial Sector Regulation Act.

**Regulatory instruments**

1B. 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.

3. The substitution for section 2 of the following section:

"Exercise of powers and performance of duties by Authority"

2. (1) 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.

(2) The Prudential Authority, in respect of sections 9 to 15, 25 and 36 to 42, must act with the concurrence of the Financial Sector Conduct Authority.

(3) The Prudential Authority or the Financial Sector Conduct Authority, as the case may be, in respect of sections 18, 21 and 57, must act with the concurrence of the other Authority.

4. The deletion in section 4 of subsections (2), (4) and (8).

5. The repeal of section 5.
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(6) | ’n Verwysing na ’n inspeksie ingevolge ’n bepaling van hierdie Wet moet gelees word as ’n verwysing na ’n onderzoek ingevolge die ‘Financial Sector Regulation Act’. |  
(7) | Die verwysing in artikels 3(3) en 21(3) na ’n appel tot die appelraad ingestel by artikel 26 van die Wet op die Raad op Finansiële Dienste, moet gelees word as ’n verwysing na ’n heroorweging van die besluit deur die Tribunaal ingevolge die ‘Financial Sector Regulation Act’. |  
(8) | ’n Verwysing in hierdie Wet na bepaalde of voorgeskrewe geldé moet gelees word as ’n verwysing na die tersaaklike geldé bepaal ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’. |  

### Reguleringsinstrumente

**1B.** By die toepassing van die omskrywing van ‘reguleringsinstrument’ (‘regulatory instrument’) in artikel 1(1) van die ‘Financial Sector Regulation Act’, is enige aangeleentheid wat deur die Owerheid voorgeskryf is ten opsigte waarvan kennisgewing in die Staatskoerant spesifiek deur hierdie Wet vereis word, ’n reguleringsinstrument.’’.

3. Artikel 2 word deur die volgende artikel vervang:

**“Uitoefening van bevoegdhede en verrigting van pligte deur Owerheid**

2. (1) Die Owerheid, by die vervulling van sy verantwoordelijkheid om hierdie Wet in werking te stel, moet sy bevoegdhede uitoefen en sy pligte verrig ingevolge hierdie Wet behoudens die ‘Financial Sector Regulation Act’.

(2) Die Voorsorgowerheid, ten opsigte van artikels 9 tot 15, 25 en 36 tot 42, moet met die instemming van die Gedragsowerheid vir die Finansiële Sektor optree.

(3) Die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, na gelang van die geval, ten opsigte van artikels 18, 21 en 57 moet met die instemming van die ander Owerheid optree.’’.

4. Subartikels (2), (4) en (8) in artikel 4 word geskrap.

5. Artikel 5 word herroep.
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<td>6.</td>
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<td>The amendment of section 9—</td>
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<td>(a) by the substitution in subsection (3) for paragraph (b) of the following paragraph:</td>
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<td>“(b) unless the applicant demonstrates to the satisfaction of the Authority that—</td>
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<td>(i) 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;</td>
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<td>(ii) its directors and managing executives meet the fit and proper requirements; and</td>
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<td>(iii) any persons that directly or indirectly control or own that applicant within the meaning of section 25 meet the fit and proper requirements.”; and</td>
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<td>(b) by the addition in subsection (3) of the following paragraph:</td>
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<td>“(cA) if registration will be contrary to the interests of prospective policyholders or the public interest.”.</td>
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<td>7.</td>
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<td>The amendment of section 10 by the insertion after paragraph (f) of the following paragraph:</td>
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<td>“(fA) 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.”.</td>
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<td>8.</td>
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<td>The amendment of section 11 by the substitution for subsection (1) of the following subsection:</td>
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<td>“(1) The [Registrar] Authority 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—</td>
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<td>(a) upon application of a short-term insurer and having regard, with the necessary changes required by the context, to section 9(3)(b);</td>
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6. Artikel 9 word gewysig—

(a) deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) tensy die aansoeker tot bevrediging van die Owerheid demonstrer dat—

(i) die aansoeker voldoen aan, en gepaste stappe gedoen het om voort te gaan om te voldoen aan, hierdie Wet se vereistes vir ’n beheer- en risiko-bestuurraamwerk en finansiële gesondheid;

(ii) die aansoeker se direkteure en uitvoerende bestuurders voldoen aan die vereistes vir gepastheid en geskiktheid; en

(iii) enige persone wat daardie aansoeker regstreeks of onregstreeks beheer of besit binne die betekenis van artikel 25, aan die vereistes vir geskiktheid en gepastheid voldoen.”;

en

(b) deur die volgende paragraaf in subartikel (3) by te voeg:

“(cA) indien registrasie onbestaanbaar met die belange van voornemende polishouers of die openbare belang sal wees.”.

7. Artikel 10 word gewysig deur die volgende paragraaf na paragraaf (f) in te voeg:

“(fA) in verband met die besigheidsreëlings van die korttermynversekeraar, met inbegrip van, maar nie beperk nie tot, die uitbestedingsreëlings wat die korttermynversekeraar kan aangaan.”.

8. Artikel 11 word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die [Registrateur] Owerheid kan, by kennisgewing aan die korttermynversekeraar, voorwaardes in artikel 10 beoog, wysig, skrap, vervang of bykomende voorwaardes opleg, onderworpe waaraan die korttermynversekeraar geregistreer is of geag word geregistreer te wees—

(a) by aansoek van ’n korttermynversekeraar en met inagneming, met die nodige
Act No. and year | Short Title | Extent of repeal or amendment
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<td>(aA)</td>
<td>when in the public interest or the interests of the policyholders or potential policyholders of the short-term insurer;</td>
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<td>(b)</td>
<td>when acting in accordance with section 12(2) or (3), or when giving an authorisation in accordance with section 34(2)(a), in relation to a short-term insurer; or</td>
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<td>(c)</td>
<td>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].”</td>
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9. The deletion in section 21 of subsection (3).

10. The amendment of section 25—
(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 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 within the meaning of section 2(2) of the Companies Act over that short-term insurer.”;

(b) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

“(a) prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act,
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<td>veranderinge deur die samehang vereis, van artikel 9(3)(b);</td>
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<td></td>
<td></td>
<td><em>(aA)</em> wanneer dit in die openbare belang of die belange van die polisshouers of potensiële polisshouers van die korttermynversekeraar is;</td>
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<td></td>
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<td><em>(b)</em> wanneer ooreenkomstig artikel 12(2) of (3), gehandel word of wanneer magtiging ooreenkomstig artikel 34(2)(a) met betrekking tot 'n korttermynversekeraar verleen word, of</td>
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<td><em>(c)</em> indien 'n korttermynversekeraar opgehou het om sekere korttermynpolisse deur die [Registrateur] Owerheid bepaal, af te sluit in die mate wat nie langer sy voortgesette registrasie ten opsigte van daardie polisse regverdig nie, en die korttermynversekeraar minstens 30 dae toegelaat is om vertoë ten opsigte van die aangeleentheid te rig[, by kennisgewing aan die korttermynversekeraar 'n voorwaarde, behoudens waaraan die korttermynversekeraar geregistreer is of geag word geregistreer te wees, verander deur dit te wysig of te skrap, of 'n nuwe voorwaarde in artikel 10 beoog, bepaal].''</td>
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<td></td>
<td>9. Subartikel (3) in artikel 21 word geskrap.</td>
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<td>10. Artikel 25 word gewysig—</td>
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<td><em>(a)</em> deur subartikel (1) deur die volgende subartikel te vervang:</td>
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<td>&quot;(1) Behoudens hierdie artikel, mag geen persoon, regstreeks of onregstreeks, en sonder die vooraf goedkeuring van die [Registrateur] Owerheid, aandele of enige ander finansiële belang in 'n korttermynversekeraar of verwante party van daardie korttermynversekeraar verkry of hou wat tot gevolg het dat daardie persoon, regstreeks of onregstreeks, alleen of saam met 'n verwante party, beheer binne die betekenis van artikel 2(2) van die Maatskappywet oor daardie korttermynversekeraar uitoefen nie.&quot;;</td>
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<td></td>
<td><em>(b)</em> deur in subartikel (2) paragrawe <em>(a)</em> en <em>(b)</em> deur die volgende paragrawe te vervang:</td>
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|                             |                             | "*(a)* voor die omskakeling van aandele uitgereik met 'n nominale waarde of pariwaarde
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|                  |             | 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; (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 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.”; (c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “(3) The approval referred to in subsection (1) or (2) —”; (d) by the insertion in subsection (3) after paragraph (a) of the following paragraph: “(aA) shall not be given if the person does not meet the fit and proper requirements;” (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 (f) by the deletion of subsections (5) and (6). 11. The amendment of section 55 by the deletion of subsections (2)(f) and (4). 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);”.

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This gazette is also available free online at [www.gpwonline.co.za](http://www.gpwonline.co.za)
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| ooreenkomstig die Maatskappwyet, indien die totale nominale waarde van daardie aandele, opsigself of tesame met die totale nominale waarde van die aandele alreeds deur daardie persoon of daardie persoon en verwante partye besit, [25] 15 persent of meer van dié totale nominale waarde van al die uitgereikte aandele van dié betrakte korttermynversekeraar sal bedra; | (b) na dié omskakeling van aandele met ‘n nominale waarde of pariwaarde uitgereik ooreenkomstig die Maatskappwyet, die totale getal van daardie aandele, opsigself of tesame met die aandele wat daardie persoon of daardie persoon en verwante partye reeds besit, meer as [25] 15 persent of meer van al die aandele in ‘n bepaalde klas aandele deur dié betrakte korttermynversekeraar uitgereik, sal beloop.”; | (c) deur in subartikel (3) dié woorde wat paragraaf (a) voorafgaan deur dié volgende woorde te vervang: “(3) Die goedkeuring in subartikel (1) of (2) bedoel—”;

| (d) deur dié volgende paragraaf na paragraaf (a) in subartikel (3) in te voeg: “(aA) word nie gegee nie as die persoon nie aan die vereistes vir geskiktheid en gepastheid voldoen nie;” | (e) deur in subartikel (4)(a) dié woorde wat subparagraaf (i) voorafgaan deur dié volgende woorde te vervang: “(i) om so ’n aandeelhouer te verplig om, binne ’n tydperk deur die Hof bepaal, daardie aandeelhouding te verminder tot ’n aandeelhouding van hoogstens [25] 15 persent van—” | (f) deur subartikels (5) en (6) te skrap.

11. Artikel 55 word gewysig deur subartikels (2)(f) en (4) te skrap.

12. Artikel 65 word gewysig deur in subartikel (1) paragraaf (a) deur dié volgende paragraaf te vervang: “(a) ’n bepaling van ’n kennisgewing, lasgewing of versoek in artikel
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<td>13.</td>
<td>The repeal of section 66.</td>
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| 14.            | The amendment of Schedule 1 —  
  (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 that complies with criteria [for which the relevant criteria have been] approved by the [Registrar] Authority and any [subject to such] conditions as [he or she] the Authority may determine;”  
  (b) by the substitution in Item 2(b) for subparagraph (iii) of the following subparagraph:  
  “(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 [Registrar subject to such] conditions as [he or she] Authority, which approval may be subject to conditions determined by the Authority.”. |
| 15.            | The amendment of Schedule 3 by the substitution in Item 6(3) for paragraph (c) of the following paragraph:  
  “(c) subject to the conditions [he or she] that the Authority may determine.”. |
| 16.            | The amendment of the arrangement of sections —  
  (a) by the insertion after item 1 of the following items:  
  “1A. Relationship between Act and Financial Sector Regulation Act  
  1B. Regulatory instruments”; and  
  (b) by the substitution for item 2 of the following item:  
  “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 |</p>
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| [4(2), (3) of (4)], 21(1) of (2), 26(1), 34(2)(a) of 35(2) bedoel, oortree of versuim om daaraan te voldoen;”.
| 14. Bylae 1 word gewysig— (a) deur in Item 2(b) subparagraaf (i) deur die volgende subparagraaf te vervang: “(i) ’n oor-die-toonbank instrument, dit in staat is om geredelik gerealiseer te word en dit afgesluit word met ’n teenparty [vir wie die betrokke keuringsmaatstawwe] wat aan maatstawwe voldoen wat goedgekeur is deur die [Registrateur behoudens die] Owerheid en enige voorwaardes wat [hy of sy] die Owerheid bepaal;” en (b) deur in item 2(b) subparagraaf (iii) deur die volgende subparagraaf te vervang: “(iii) enige ander instrument, dit gereeld op ’n gelisensieerde aandelebeurs in die Republiek, of op enige ander finansiële mark in die Republiek deur die [Registrateur] Owerheid goedgekeur [behoudens], welke goedkeuring onderhewig is aan [die] voorwaardes wat [hy of sy] die Owerheid bepaal, verhandel word.”. |
| 15. Bylae 3 word gewysig deur in Item 6(3) paragraaf (c) deur die volgende paragraaf te vervang: “(c) behoudens die voorwaardes wat [hy of sy] die Owerheid bepaal.”. |
| 16. Die indeling van artikels word gewysig— (a) deur die volgende items na item 1 in te voeg: “1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’, 1B. Reguleringsinstrumente; en”. (b) deur item 2 deur die volgende item te vervang: “2. Uitoefening van bevoegdhede en verrigting van pligte deur Owerheid”. |

Wet No. 80 van 1998 | Wet op Inspeksie van Finansiële Instellings, 1998 | Die hele Wet word herroep.
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

Table

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| Act No. 28 of 2001 | Financial Institutions (Protection of Funds) Act, 2001 | 1. The amendment of section 1—  
(a) by the deletion of the definitions of “administrative sanction” and “applicant”;  
(b) by the insertion before the definition of “Companies Act” of the following definition:  
“Authority” means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;
(c) by the deletion of the definitions of “board”, “determination”, “directorate”, “enforcement committee” and “financial institution”;  
(d) by the insertion after the definition of “financial institution” of the following definition:  
“Financial Sector Regulation Act” means the Financial Sector Regulation Act, 2017;”;
(e) by the substitution for the definition of “institution” of the following definition:  
“institution”, for the purposes of sections 5[6, 9] and 10, means—  
(a) a [financial institution] supervised entity;  
(b) any person, partnership, company or trust in which, or in the business of which, a [financial institution] supervised entity or an unregistered person has or had a direct or indirect interest;  
(c) any person, partnership, company or trust which has or had a direct or indirect interest in a [financial institution] supervised entity or unregistered person, or in the business of a [financial institution] supervised entity or an unregistered person;  
(d) a participating employer in a pension fund organisation;  
(e) any person, partnership, company or trust that controls, manages or administers the affairs or part of the affairs of a [financial institution] supervised entity or an unregistered person; or  
(f) any unregistered person;”;
(f) by the substitution for the definition of “law” of the following definition:  
“law”, for the purposes of section 5A, means—  
(a) this Act;  
(b) the Pension Funds Act, 1956 (Act No. 24 of 1956);  
(c) the Friendly Societies Act, 1956 (Act No. 25 of 1956);  
(d) the Close Corporations Act, 1984 (Act No. 69 of 1984);
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| Wet No. 28 van 2001         | Wet op Finansiële Instellings (Beskerming van Fondse), 2001 | 1. Artikel 1 word gewysig—

(a) deur die omskrywings van “aansoeker”, “administratiewe sanksie” en “afdwingingskomitee” te skrap;

(b) deur die omskrywings van “direktoraat” en “finansiële instelling” te skrap;

(c) deur die volgende omskrywing na die omskrywing van “finansiële instelling” in te voeg:

“Financial Sector Regulation Act” die “Financial Sector Regulation Act”, 2017;

(d) deur die omskrywing van “instelling” deur die volgende omskrywing te vervang:

“instelling” by die toepassing van artikels 5[1, 6, 9] en 10—

(e) ‘n finansiële instelling entiteit onder toesig;

(f) enige persoon, vennootskap, maatskappy of trust waarin, of in die besigheid waarvan, ‘n finansiële instelling entiteit onder toesig of ‘n ongeregistreerde persoon ‘n regstreekse of onregstreekse belang het of gehad het;

(g) enige persoon, vennootskap, maatskappy of trust wat ‘n regstreekse of onregstreekse belang in ‘n finansiële instelling entiteit onder toesig of ongeregistreerde persoon, of in die besigheid van ‘n finansiële instelling entiteit onder toesig of ongeregistreerde persoon het of gehad het;

(h) ‘n deelnemende werkgewer in ‘n pensioenfondsorganisasie;

(i) enige persoon, vennootskap, maatskappy of trust wat die sake of deel van die sake van ‘n finansiële instelling entiteit onder toesig of ‘n ongeregistreerde persoon beheer, bestuur of administreer;

(j) enige ongeregistreerde persoon;”;

(k) deur die volgende omskrywing voor die omskrywing van “persoon” in te voeg:

“Owerheid” die Gedragsowerheid vir die Finansiële Sektor, ingestel ingevolge artikel 56 van die “Financial Sector Regulation Act”;  

(l) deur die omskrywing van “registrateur” deur die volgende omskrywing te vervang:

“registrateur”—

(a) [die registrateur soos omskryf in enige van die Wette vermeld in paragraaf (a) van die
### Act No. and year | Short Title | Extent of repeal or amendment
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(e) | the Trust Property Control Act, 1988 (Act No. 57 of 1988); | (e) by the substitution for the definition of “registrar” of the following definition: “registrar” means—
(f) | the Banks Act, 1990 (Act No. 94 of 1990); | (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;]
(g) | the Mutual Banks Act, 1993 (Act No. 124 of 1993); | (b) the executive officer defined in section 1 of the Financial Services Board Act, 1990; or
(h) | the Long-term Insurance Act, 1998 (Act No. 52 of 1998); | [(e)(b) [except for the purposes of sections 6A to 6I] the registrar of medical schemes referred to in section 1 of the Medical Schemes Act, 1998;”;
(i) | the Short-term Insurance Act, 1998 (Act No. 53 of 1998); | (h) by the deletion of the definition of “respondent”; and
(j) | the Medical Schemes Act, 1998 (Act No. 131 of 1998); | (i) by the addition in section 1 of the following subsection, the existing section becoming subsection (1):
(k) | the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001); | “(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.”
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<td>omskrywing van ‘finansiële instelling’ in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990; die uitvoerende beampte omskryf in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990</td>
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<td>(b) deur die omskrywing van “raad” en “respondent” en “vasstelling” te skrap; en</td>
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<td>(m) deur die omskrywing van “wet” deur die volgende omskrywing te vervang: “wet” by die toepassing van artikel 5A—</td>
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<td>(a) hierdie Wet;</td>
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<td>(b) die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);</td>
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<td>(c) die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956);</td>
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<td>(d) die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984);</td>
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<td>(e) die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988);</td>
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<td>(f) die Bankwet, 1990 (Wet No. 94 van 1990);</td>
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<td>(g) die Wet op Onderlinge Banke, 1993 (Wet No. 124 van 1993);</td>
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<td>(h) die Langertermynversekeringswet, 1998 (Wet No. 52 van 1998);</td>
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<td>(i) die Korttermynversekeringswet, 1998 (Wet No. 53 van 1998);</td>
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<td>(j) die Wet op Mediese Skemas, 1998 (Wet No. 131 van 1998);</td>
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<td>(k) die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001);</td>
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<td>(l) Wet op Finansiële Advies- en Tussengangersdienste, 2002 (Wet No. 37 van 2002);</td>
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<td>(m) Wet op Beheer van Kollektiewe Beleggingskemas, 2002 (Wet No. 45 van 2002);</td>
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<td>(n) die ‘Co-operative Banks Act’, 2007 (Wet No. 40 van 2007);</td>
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<td>(o) die Maatskappywet, 2008 (Wet No. 71 van 2008);</td>
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<td>(p) die ‘Financial Markets Act’, 2012 (Wet No. 19 van 2012); en</td>
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<td>(q) die ‘Credit Rating Services Act’, 2012 (Wet No. 24 van 2012);</td>
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<td>2.</td>
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<td>The repeal of section 4A.</td>
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<td>3.</td>
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<td>The amendment of section 5—</td>
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<td>(a)</td>
<td>by the substitution in subsection (5) for paragraph (e) of the following paragraph:</td>
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<td></td>
<td>(b)</td>
<td>“(e) the costs incurred by the registrar in respect of an inspection of the affairs of the institution [concerned] 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;” ; and</td>
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<td>(b) by the substitution for subsection (7) of the following subsection:</td>
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<td>“(7) The curator of an institution must furnish the registrar [of the institution concerned] with such reports or information concerning the affairs of that institution as the registrar may require.”.</td>
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<td>4.</td>
<td></td>
<td>The repeal of sections 6, 6A to 6I, 7, 9 and 9A.</td>
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| Act No. 38 of 2001 | Financial Intelligence Centre Act, 2001 | 1. The substitution in section 45E for subsections (2) and (3) of the following subsections: |
|---------------------|----------------------------------------|“(2) The members of the Financial Sector Tribunal established in terms of section 219 of the Financial Sector Regulation Act, 2017, and appointed in terms of section 220 of that Act, are the members of the appeal board. |
|                     |                                        | (3) Proceedings before the appeal board are to be conducted and determined in accordance with this Act.” |
|                     |                                        | 2. The deletion of section 45E(4) to (11) and (13). |
Molao wa Taolo ya Lephata la Ditselele, 2017

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<td>ook enige onderskeikte wetgewing, verordening of maatreël gemaak kragtens hierdie Wette;</td>
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<tr>
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<td>(a) deur die volgende subartikel by die artikel te voeg, sodat die bestaande artikel subartikel (1) word:</td>
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<td>“(2) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis wat in die ‘Financial Sector Regulation Act’ daaraan toegeskryf is.”.</td>
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2. Artikel 4A word herroep.

3. Artikel 5 word gewysig—
(a) deur paragraaf (e) in subartikel (5) deur die volgende paragraaf te vervang:
“(e) die koste opgeloop deur die registrateur met betrekking tot ’n inspeksie van die sake van die [betrokke] instelling gedaan ingevolge die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998), voor die herroeping daarvan, of ’n toesigshoudende ter plaatse inspeksie of onderzoek ingevolge die ‘Financial Sector Regulation Act’;” en
(b) deur subartikel (7) deur die volgende subartikel te vervang:
“(7) Die kurator van ’n instelling moet aan die betrokke registrateur die [verslae of] inligting verskaf betreffende die sake van die instelling wat die registrateur vereis.”.

4. Artikels 6, 6A tot 6I, 7, 9 en 9A word herroep.

<table>
<thead>
<tr>
<th>Wet No. 38 van 2001</th>
<th>Wet op Finansiële Intelligensie-sentrum, 2001</th>
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</thead>
<tbody>
<tr>
<td>1. Artikel 45E(2) en (3) word onderskeidelik deur die volgende subartikels vervang:</td>
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<tr>
<td>“(2) Die lede van die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’, 2017, en aangestel ingevolge artikel 220 van daardie Wet, is die lede van die appelraad.</td>
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<td>(3) Verrigtinge voor die appelraad moet ooreenkomsig hierdie Wet gehou en beslis word.”.</td>
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<td>2. Artikels 45E(4) tot (11) en (13) word geskrap.</td>
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<tr>
<td>Act No. and year</td>
<td>Short Title</td>
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</table>
| Act No. 37 of 2002 | Financial Advisory and Intermediary Services Act, 2002 | 1. The amendment of section 1—  
(a) by the insertion in subsection (1) after the definition of “advice” of the following definition:  
“‘alternative investment 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—  
(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  
(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);”;  
(b) by the insertion in subsection (1) after the definition of “authorised financial services provider” of the following definition:  
“Authority’ means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act’”;  
(c) by the deletion in subsection (1) of the definitions of “Board” and “board of appeal”;  
(d) by the insertion before the definition of “client” of the following definition:  
“‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act, 2017’”;  
(e) by the insertion after the definition of “financial product” of the following definition:  
“‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017’”;  
(f) by the deletion in subsection (1) of the definition of “Financial Services Board Act”;  
(g) by the insertion in subsection (1) in the definition of “financial product” after paragraph (g) of the following paragraph:  
“(gA) an investment, subscription, contribution, or commitment in an alternative investment fund;”; |
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khetshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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</table>
| Wet No. 37 van 2002       | Wet op Finansiële Advies- en Tussengangersdienste, 2002 | 1. Artikel 1 word gewysig—
   (a) deur in subartikel (1) die volgende omskrywing voor die omskrywing van "'alternatiewe beleggingsfonds' 'n kollektiewe beleggingsonderneming, met inbegrip van beleggings-kompartemente van 'n kollektiewe beleggingsonderneming, in enige regmatige vorm daargestel, ook ingevolge 'n kontrak, by wyse van 'n trust, of ingevolge 'n statuut, wat—
   (a) Kapitaal van een of meer belegger verkry om die deelname of belang in, intekening tot, bydrae tot of verbintenis tot 'n fonds of portefeuilje te vergemaklik met die oog daarop om dit ooreenkomstig 'n omskrywe beleggingsbeleid tot voordeel van die beleggers te belê; en
   (b) vereis nie goedkeuring as 'n kollektiewe beleggingskema ingevolge die Wet op Beheer van Kollektiewe Beleggings-skemas, 2002 (Wet No. 45 van 2002), nie;"
   (b) deur in subartikel (1) die omskrywings van "amptelike webwerf" en "appèlraad" te skrap;
   (c) deur in subartikel (1) die volgende omskrywing na die omskrywing van "dokument" in te voeg:
   "'Financial Sector Regulation Act' die 'Financial Sector Regulation Act', 2017;"
   (d) deur in subartikel (1) die volgende paragraaf na paragraaf (g) in die omskrywing van "finansiële produk" in te voeg:
   "'(gA) 'n belegging, intekening, bydrae, of verbintenis in 'n saamgepotte fonds;""
   (e) deur in subartikel (1) in die omskrywing van "finansiële produk" paragraaf (j) deur die volgende paragraaf te vervang:
   "'(j) enige finansiële produk uitgereik deur enige buitelandse produkverskaffer [en bemark in die Republiek] en wat na aard en karakter wesenslik soortgelyk is aan of ooreenstemmend is met 'n finansiële produk bedoel in paragrawe (a) tot en met (i)];";
### Act No. and year
Act No. 9 of 2017  

### Short Title
Financial Sector Regulation Act, 2017

### Extent of repeal or amendment

| (b) | by the substitution in subsection (1) in the definition of “financial product” for paragraph (j) of the following paragraph: |
| (j) | any financial product issued by any foreign product supplier [and marketed in the Republic] and which in nature and character is essentially similar or corresponding to a financial product referred to in paragraph (a) to (i), inclusive;”; |

| (i) | by the substitution in subsection (1) for the definition of “fit and proper requirements” of the following definition: |
| “fit and proper requirements” | means the requirements [published under] referred to in section 6A;” |

| (j) | by the substitution in subsection (1) for the definition of “intermediary service” of the following definition: |
| “intermediary service” | means, subject to subsection (3)(b), any act other than the furnishing of advice, performed by a person [for or on behalf of a client or product supplier]— |

#### (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 [with a product supplier]; or |

#### (b) with a view to— |

- (i) buying, selling or otherwise dealing in (whether on a discretionary or non-discretionary basis), managing, administering, keeping in safe custody, maintaining or servicing a financial product [purchased by a client from a product supplier or in which the client has invested]; |
- (ii) collecting or accounting for premiums or other moneys payable by the client [to a product supplier] in respect of a financial product; or |
- (iii) receiving, submitting [or], processing or settling the claims of a client [against a product supplier] in respect of a financial product;” |
Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo
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(f) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gedragskode” in te voeg: “‘gedragstandaard’ dit wat in artikel 1(1) van die ‘Financial Sector Regulation Act’, aan ‘conduct standard’ toegeskryf is;”;

(g) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gematigde verskaffer van finansiële dienste” die volgende omskrywing in te voeg: “‘gesamentlike standaard’ het die betekenis ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf;”;

(h) deur in subartikel (1) na die omskrywing van “ouditeur” die volgende omskrywing in te voeg: “‘Owerheid’ die Gedragsraad op die Finansiële Sektor ingestel in artikel 56 van die ‘Financial Sector Regulation Act’ bedoel;”;

(i) deur in subartikel (1) na die omskrywing van “Raad” te skrap;

(k) deur in subartikel (1) die volgende omskrywing na die omskrywing van “reël” in te voeg: “‘Register’ die Inligtingsregister op die Finansiële Sektor in artikel 256 van die ‘Financial Sector Regulation Act’ bedoel;”;

(l) deur in subartikel (1) die omskrywing van “registrateur” te skrap;

(m) deur in subartikel (1) na die omskrywing van “sleutelpersoon” die volgende omskrywing in te voeg: “‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel in artikel 219 van die ‘Financial Sector Regulation Act’ bedoel;”;

(n) deur in subartikel (1) die omskrywing van “tussengangersdiens” deur die volgende omskrywing te vervang: “‘tussengangersdiens’ behoudens subartikel (3)(b), enige ander handeling as die verskaffing van advies, verrig deur ‘n persoon [vir of namens ‘n kliënt of produkvoorsiener]—

(a) waarvan die gevolg is dat ‘n kliënt enige transaksie ten opsigte van ‘n finansiële produk [met ‘n produkvoorsiener] kan
<table>
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<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<td>(k)</td>
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<td>by the insertion in subsection (1) after the definition of “intermediary service” of the following definition: “‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”</td>
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<td>(l)</td>
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<td>by the deletion in subsection (1) of the definition of “official web site”;</td>
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<td>(m)</td>
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<td>by the insertion in subsection (1) after the definition of “Ombud” of the following definition: “‘Ombud Council’ means the council established in terms of section 175 of the Financial Sector Regulation Act;”;</td>
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<td>(n)</td>
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<td>by the insertion after the definition of “product supplier” of the following definition: “‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;</td>
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<td>(o)</td>
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<td>by the insertion in subsection (1) after the definition of “publish” of the following definition: “‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;</td>
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<td>(p)</td>
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<td>by the deletion in subsection (1) of the definition of “registrar”;</td>
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<td>(q)</td>
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<td>by the insertion in subsection (1) after definition of “this Act” of the following definition: “‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”;</td>
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<td>(r)</td>
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<td>by the deletion of subsection (3)(b)(ii); and</td>
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<td>(s)</td>
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<td>by the addition of the following subsection: “(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.”</td>
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<td>gepastheid’ die vereistes in</td>
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<td>artikel 6A [gepubliseer] bedoel;’’</td>
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<td>(p) deur in subartikel (1) na die</td>
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<td>omskrywing van “voorskrif” die</td>
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<td>“‘voorsorgstandaard’ dit wat</td>
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<td>ingevolge artikel 1(1) van die</td>
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<td>‘Financial Sector Regulation Act’,</td>
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<td>2016, aan ‘prudential standard’</td>
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<td>toegeskryf is;”’’;</td>
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<td>omskrywing van “Wet op die Raad</td>
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Act No. and year | Short Title | Extent of repeal or amendment
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2. The insertion after section 1 before Chapter 1 of the following sections:

"Relationship between Act and Financial Sector Regulation Act"

1A. (1) A reference in this Act to the Board or the registrar must be read as a reference to the Authority.

(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.

(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.

(4) Unless expressly otherwise provided in this Act, or this Act requires a matter to be prescribed, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(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.

(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.

(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.

(b) The Authority may also publish the information or document on its web site.
2. Die volgende artikel word na artikel 1 voor Hoofstuk 1 ingevoeg:

"Verhouding tussen Wet en ‘Financial Sector Regulation Act’

1A. (1) ’n Verwysing in hierdie Wet na die Raad of die registrateur moet as ’n verwysing na die Owerheid gelees word.

(2) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(3) ’n Verwysing in hierdie Wet na die Owerheid wat ’n aangeleentheid by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word dat dit ’n verwysing insluit na die Owerheid wat die aangeleentheid by kennisgewing in die Register gepubliseer, bepaal of publiseer.

(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid voorgeskryf word, moet ’n verwysing in hierdie Wet na ’n aangeleentheid wat—

(a) voorgeskryf word, gelees word as ’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard, ’n gedragstandaard of ’n gesamentlike standaard voorgeskryf word; of

(b) bepaal word, gelees word as ’n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.

(5) ’n Verwysing in hierdie Wet na ’n plaatse besoek ingevolge ’n bepaling van hierdie Wet, moet gelees word as ’n verwysing na ’n toesighoudende ter plaatse inspeksie ingevolge die ‘Financial Sector Regulation Act’.

(6) ’n Verwysing in hierdie Wet na ’n inspeksie ingevolge ’n bepaling van hierdie Wet moet gelees word as ’n verwysing na die onderzoeking van die ‘Financial Sector Regulation Act’.

(7) (a) ’n Verwysing in hierdie Wet na die Owerheid wat inligting of ’n dokument op ’n webwerf aankondig of publiseer, moet gelees word as ’n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.

(b) Die Owerheid kan ook die inligting of dokument op sy webwerf publiseer.
(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 237 and Chapter 16 of the Financial Sector Regulation Act.

(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.

Regulatory instruments

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.”.

3. The repeal of section 2.

4. The substitution in section 3(2)(b) for subparagraph (i) of the following subparagraph:
   “(i) the fee payable [in terms of this Act]; and”.

5. The deletion in section 4 of subsections (1), (5) and (6).

6. The substitution for section 6 of the following section:

“Delegations

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 conduct standard referred to in section 6A(2)(a), (b) and (c).

(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.

(3) A delegation is subject to the limitations and conditions specified in the delegation.
### Nomoro ya Molao le ngwaga  | Setlhogo se se khutshwane  | Bogolo jwa phimolo kgotsa tlhabololo
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(8) | 'n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as 'n verwysing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act'. |
(9) | 'n Verwysing in hierdie Wet na 'n appèl van 'n besluit van die Owerheid moet gelees word as 'n verwysing na 'n hersiening van die besluit van die Tribunaal ingevolge die 'Financial Sector Regulation Act'. |

### Reguleringsinstrumente

1B. By die toepassing van die omskrywing van 'reguleringsinstrument' ('regulatory instrument') in artikel 1 van die 'Financial Sector Regulation Act', is vereistes vir geskiktheid en gepastheid ingevolge artikel 6A bepaal, gedrags-kodes kragtens artikel 15 opgestel en maatstawwe en riglyne vir die goedkeuring van voldoeningsbeamptes kragtens artikel 17(2) bepaal, reguleringsinstrumente.

3. Artikel 2 word herroep.

4. Subparagraaf (i) in artikel 3(2)(b) word deur die volgende subparagraaf vervang:

   "(i) die gelde betaalbaar [ingevolge hierdie Wet]; en".

5. Subartikels (1), (5) en (6) word uit artikel 4 geskrap.

6. Artikels 6 word deur die volgende artikel vervang:

   "Delegerings

   6. (1) Die Owerheid kan 'n bevoegdheid of plig ten opsigte van enige aangeleentheid in verband met 'n gedragstandaard in artikel 6A(2)(a), (b) en (c) bedoel, kragtens hierdie Wet aan die Owerheid opgelê, aan enige persoon deleger.

   (2) Die Owerheid moet, waar die delegering is aan 'n persoon behalwe 'n personeellid van die Owerheid, tevrede wees dat die persoon die nodige finansies, bestuurskapasiteit, menschulpbronne en ervaring het vir die verrigting van die gedelegeerde bevoegdheid of plig.

   (3) 'n Delegering is onderhewig aan die beperkings en voorwaardes in die delegering vermeld."
### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

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<td>(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.</td>
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<td>(5) A delegation made under this section may be amended or revoked in writing at any time, but an amendment or revocation does not affect any rights or liabilities accrued because of the acts of the delegate.</td>
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<td>7. The amendment of section 6A—</td>
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<td>(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</td>
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<td>(b) by the insertion after paragraph (a) of the following paragraph: “(aA) may classify representatives into different categories; and”</td>
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|                  |             | 8. The amendment of section 8 by the substitution for subsections (1) and (1A) of the following subsections: “(1) An application for an authorisation referred to in section 7(1), including an application by an applicant not domiciled in the Republic, must be submitted to the [registrar] Authority in the form and manner determined by the [registrar] Authority by notice on the [official] Authority’s web site, and be accompanied by information to satisfy the [registrar] Authority 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— (a) personal character qualities of honesty and integrity; (b) competence; (bA) operational ability; and (c) financial soundness].
7. Artikel 6A word gewysig—
(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
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[Die registrateur, by die toepassing van hierdie Wet, by kennisgewing in die Staatskoerant—]
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Gedragstandaard kan oor enige van die volgende aangeleenthede gemaak word:"; en
(b) deur die volgende paragraaf na paragraaf (a) in te voeg:
```
(aA) kan verteenwoordigers in verschillende kategorieë klassifiseer; en
```
8. Artikel 8 word gewysig deur subartikels (1) en (1A) deur die volgende subartikels te vervang:
```
(1) 'n Aansoek om 'n magtiging bedoel in artikel 7(1), met inbegrip van 'n aansoek deur 'n aansoeker wat nie in die Republiek gedomisilieer is nie, moet aan die [registrateur] Owerheid voorgelê word in die vorm en op die wyse deur die [registrateur] Owerheid by kennisgewing op die amptelike webwerf bepaal, en vergesel gaan van die inligting om die [registrateur] Owerheid tevrede te stel dat die aansoeker voldoen aan die vereistes vir geskiktheid en gepastheid [vir verskaffers van finansiële dienste of kategorieë verskaffers, deur die registrateur by kennisgewing in die Staatskoerant bepaal, ten opsigte van—
(a) persoonlike karaktereisingskappe van eerlikheid en integriteit;
(b) bekwaamheid;
(bA) bedryfsvermoë; en
(c) finansiële gesondheid].
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 | | (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] Authority 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— 
(a) personal character qualities of honesty and integrity; 
(b) competence; and 
(c) operational ability], to the extent required in order for such key individual to fulfill the responsibilities imposed by this Act.”.

9. The amendment of section 9(1)—
(a) by the substitution for paragraphs (c) and (d) of the following paragraphs:

“(c) has failed to comply with any other provision of this Act or any requirement under the Financial Sector Regulation Act, including a conduct standard, a prudential standard or a joint standard; 

(d) [is liable for payment of] 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;”; and

(b) by the substitution for paragraph (f) of the following paragraph:

“(f) has failed to comply with a regulator’s [any] directive [issued under this Act]; or”. 
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| (1A) Indien die aansoeker ’n vennootskap, trust of regpersoon of oningelyfde liggaaam is, is die vereistes in paragrawe (a) en (b) van subartikel (1) nie op die applikant van toepassing nie, maar in so ’n geval moet die aansoek vergesel gaan van bykomende inligting om die registrateur Owerheid te oortuig dat elke persoon wat as ’n sleutelpersoon van die aansoeker optree, voldoen aan die vereistes vir geskiktheid en gepastheid vir sleutelpersone in die kategorie van verskaffers van finansiële dienste waarom aansoek gedoen word [, ten opsigte van—
(a) persoonlike karaktereienskappe van eerlikheid en integriteit;
(b) bekwaamheid;
(c) bedryfsvermoë;
tot die mate verets vir sodanige sleutel-individu om die verantwoordelikhede deur hierdie Wet opgelê, te vervul.”.

9. Artikel 9(1) word gewysig—
(a) deur paragrawe (c) en (d) deur die volgende paragrawe te vervang:
(“(c) versuim het om te voldoen aan enige ander bepaling van hierdie Wet of enige vereiste krags die ’Financial Sector Regulation Act’, met inbegrip van ’n gedragstandaard, ’n voorsorgstandaard of ’n gesamentlike standaard;
(d) [aanspreeklik is vir betaling van] versuim het om ’n heffing, kragtens artikel 15A van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), ’n boete kragtens artikel 41(2) en (3) of ’n administratiewe sanksie kragtens artikel 6D(2) van die Wet op Finansiële Instellings (Beskerming van Fondse), 2001 (Wet No. 28 van 2001), en versuim het om genoemde heffing, boete of administratiewe sanksie en’ administratiewe straf, of enige rente ten opsigte daarvan te betaal;”; en
(b) deur paragraaf (f) deur die volgende paragraaf te vervang:
“(f) versuim het om aan [enige] ’n reguleerder se lasgewing kragtens hierdie Wet uitgereik[,] te voldoen; of”.

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10. | The substitution in section 13 for subsection (3) of the following subsection: “(3) [The] An authorised financial services provider must—

(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[,] and

(b) 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).”

11. | The substitution for section 14 of the following section:

“Debarment of representatives

14. (1) (a) An authorised financial services provider must debar a person from rendering financial services who is or was, as the case may be—

(i) a representative of the financial services provider; or

(ii) a key individual of such representative,

if the financial services provider is satisfied on the basis of available facts and information that the person—

(iii) does not meet, or no longer complies with, the requirements referred to in section 13(2)(a); or

(iv) has contravened or failed to comply with any provision of this Act in a material manner;

(b) The reasons for a debarment in terms of paragraph (a) must have occurred and become known to the financial services provider while the person was a representative of the provider.

(2) (a) Before effecting a debarment in terms of subsection (1), the provider must ensure that the debarment process is lawful, reasonable and procedurally fair.

(b) If a provider is unable to locate a person in order to deliver a document or information under subsection (3), after taking all reasonable steps to do so, including dissemination through electronic means where possible, delivering the document or information to the person’s last known e-mail or physical business or residential address will be sufficient.
10. Subartikel (3) in artikel 13 word deur die volgende subartikel vervang:

“(3) [Die gemagtigde] ’n Gemagtigde verskaffer van finansiële dienste moet—
(a) ’n register van verteenwoordigers, en sleutelpersone van [sodanige] daardie verteenwoordigers byhou, wat gereeld bygewerk moet word en beskikbaar moet wees vir die [registrateur] Owerheid vir verwysings- of inspeksie-doeleindes[-]; en
(b) binne vyf dae nadat hy of sy deur die Owerheid ingelig is van die uitsluiting van ’n verteenwoordiger of sleutelindividu deur die Owerheid, die naam van daardie verteenwoordiger of sleutelindividu verwyder uit die register in paragraaf (a) bedoel.”.

11. Artikel 14 word deur die volgende artikel vervang:

“Uitsluiting van verteenwoordigers

14. (1) (a) ’n Gemagtigde verskaffer van finansiële dienste moet ’n persoon wat—
(i) ’n verteenwoordiger van die verskaffer van finansiële dienste; of
(ii) die sleutelindividu van sodanige verteenwoordiger, is of was, na gelang van die geval, uitsluit van die lewering van finansiële dienste indien die verskaffer van finansiële dienste op grond van beskikbare feite en inligting tevrede is dat die persoon—
(iii) nie voldoen aan die vereistes in artikel 13(2)(a) bedoel nie of dit nie meer nakom nie; of
(iv) enige bepaling van hierdie Wet op ’n wesenlike wyse oortree het of versoem het om daaraan te voldoen; en
(b) Die redes vir ’n uitsluiting ingevolge paragraaf (a) moes plaas-gevind het en tot die wete van die verskaffer van finansiële dienste gekom het terwyl die persoon ’n verteenwoordiger van die verskaffer was.

(2) (a) Voordat ’n uitsluiting ingevolge subartikel (1) uitgevoer word, moet die verskaffer versek met die uitsluitingsproses wettig, redelik en prosedureel bilik is.

(b) Indien ’n verskaffer iemand nie kan opspoor om ’n dokument of inligting kragtens subartikel (3) te lever nie, nadat alle redelike stappe gedoen is om
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(3) A financial services provider must—  
(a) before debarring a person—  
   (i) give adequate notice in writing to the person stating its intention to debar the person, the grounds and reasons for the debarment, and any terms attached to the debarment, including, in relation to unconcluded business, any measures stipulated for the protection of the interests of clients;  
   (ii) provide the person with a copy of the financial services provider’s written policy and procedure governing the debarment process; and  
   (iii) give the person a reasonable opportunity to make a submission in response;  
(b) consider any response provided in terms of paragraph (a)(iii), and then take a decision in terms of subsection (1); and  
(c) immediately notify the person in writing of—  
   (i) the financial services provider’s decision;  
   (ii) the persons’ rights in terms of Chapter 15 of the Financial Sector Regulation Act; and  
   (iii) any formal requirements in respect of proceedings for the reconsideration of the decision by the Tribunal.  

(4) Where the debarment has been effected as contemplated in subsection (1), the financial services provider must—  
(a) immediately withdraw any authority which may still exist for the person to act on behalf of the financial services provider;  
(b) where applicable, remove the name of the debarred person from the register referred to in section 13(3);  
(c) immediately take steps to ensure that the debarment does not prejudice the interest of clients of the debarred person, and that any unconcluded business of the debarred person is properly attended to;
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<td>dit te doen, met inbegrip van verspreiding deur elektroniese middele waar moonlik, sal levering van die dokument of inligting aan die persoon se laaste bekende e-posadres of fisiese sake- of woonadres voldoende wees.</td>
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<td>(3) ’n Verskaffer van finansiële dienste moet—</td>
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<td>(a) voordat ’n persoon uitgesluit word—</td>
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<td>(i) genoegsame skriftelike kennis aan die persoon gee waarin die verskaffer se voorneme om die persoon uit te sluit, die gronde en redes vir die uitsluiting en enige voorwaardes aan die uitsluiting geheg, uiteengesit word, met inbegrip van, in verband met onafgehandelde besigheid, enige maatreëls bepaal vir die beskerming van die belange van kliënte;</td>
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<td>(ii) die persoon voorsien van ’n afskrif van die verskaffer van finansiële dienste se skriftelike beleid en prosedure wat die uitsluitingsproses beheer; en</td>
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<td>(iii) die persoon ’n redelike geleentheid gun om met ’n vertoog te reageer;</td>
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<td>(b) enige reaksie ingevolge paragraaf (a)(iii) voorsien, oorweeg, en kan daarna ’n besluit ingevolge subartikel (1) neem; en</td>
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<td>(c) die persoon onmiddellik skriftelik in kennis stel van—</td>
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<td>(i) die verskaffer van finansiële dienste se besluit;</td>
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<td>(ii) die persone se regte ingevolge Hoofstuk 15 van die Financial Sector Regulation Act;</td>
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<td>(iii) enige ander formele vereistes ten opsigte van die verrigtinge vir die heroorwegings van die besluit deur die Tribunaal.</td>
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<td>(4) Waar die uitsluiting uitgeoër is soos in subartikel (1) boogg, moet die verskaffer van finansiële dienste—</td>
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<td>(a) enige magtiging wat nog bestaan vir die persoon om namens die verskaffer van finansiële dienste te handel, onmiddellik terugtrek;</td>
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<td>(b) waar van toepassing, die naam van die uitgesluite persoon verwys van die register in artikel 13(3) bedoel; onmiddellik stappe doen om te verseker dat die uitsluiting nie die belange van kliënte van die uitgeslote persoon benadeel nie, en dat enige onafgehandelde besigheid van die uitgeslote persoon behoorlik hanteer word;</td>
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</table>
12. The repeal of section 14A.

13. The amendment of section 20 by the substitution for subsection (3) of the following subsection:

“(3) The objective of the Ombud is to consider and dispose of complaints under this Act, and complaints for which the Adjudicator is designated in terms of section 211 of the Financial Sector Regulation Act, in a procedurally fair, informal, economical and expeditious
(d) in die vorm en op die wyse deur die Owerheid bepaal, die Owerheid binne vyf dae van die uitsluiting in kennis stel; en
(e) die Owerheid binne 15 dae vanaf die uitsluiting voorsien van die gronde en redes vir die uitsluiting in die formaat wat die Owerheid kan vereis.

(5) ’n Uitsluiting ingevolge subartikel (1) wat ten opsigte van ’n persoon wat nie meer ’n verteenwoordiger van ’n verskaffer van finansiële dienste is nie, moet nie langerwees nie as ses maande vanaf die datum waarop die persoon opgehou het om ’n verteenwoordiger van die verskaffer van finansiële dienste te wees.

(6) Vir die uitsluiting van ’n persoon soos in subartikel (1) beoog, moet die verskaffer van finansiële dienste inligting oor die gedrag van die persoon, deur die Owerheid, die Ombud of enige ander belanghebbende verskaf, in ag neem.

(7) Die Owerheid kan, vir die doeleindes van rekordhouding, enige inligting, met inbegrip van inligting bedoel in subartikel (4)(d) en (e), vereis om die registrateur in staat te stel om ’n sentrale register van alle persone wat ingevolge subartikel (1) uitgesluit is, te hou en voortdurend by te werk, en daardie register moet op die webwerf van die Owerheid, of by wyse van enige ander gepaste openbare media, gepubliseer word.

(8) ’n Uitsluiting ingevolge hierdie artikel uitgevoer, moet deur die Owerheid hanteer word soos in hierdie artikel beoog.

(9) ’n Persoon ingevolge subartikel (1) uitgesluit, mag nie finansiële dienste lewer of as ’n verteenwoordiger of sleutelindividu van ’n verteenwoordiger van enige verskaffer van finansiële dienste optree nie, tenys die persoon voldoen het aan die vereistes in artikel 13(1)(b)(ii) bedoel vir die heraanstelling van ’n uitgesluite persoon as ’n verteenwoordiger of sleutelindividu van ’n verteenwoordiger."


13. Artikel 20 word gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Die oogmerk van die Ombud is om klagtes kragtens hierdie Wet, en klagtes waarvoor die Bemiddelaar ingevolge artikel 211 van die ‘Financial Sector Regulation Act’ aangewys is, te
manner and by reference to what is equitable in all the circumstances, with due regard to—
(a) the contractual arrangement or other legal relationship between the complainant and any other party to the complaint; and
(b) the provisions of this Act and the Financial Sector Regulation Act.”.

14. The insertion after section 20 of the following section:

“Ombud scheme

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.”.

15. The substitution in section 21 for the expression “Board”, wherever it occurs in the section, of the expression “Minister”.

16. The amendment of section 22(1) by the substitution for paragraph (a) of the following paragraph:

“(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.”.

17. The amendment of section 23 by the substitution for subsection (1) of the following subsection:

“(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.”.


19. The repeal of section 32.

20. The deletion in section 35(1) of paragraphs (b), (c) and (d).
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<td>oorweeg en af te handel op ’n prosedureel bilike, informele, ekonomiese en gladde wyse en met verwysing na wat onder al die omstandighede regverdig is, met behoorlike inagneming van— (a) die kontraktuele reëling of ander regsvorhouding tussen die klaer en enige ander party by die klage; en (b) die bepalings van hierdie Wet en die ‘Financial Sector Regulation Act’.”</td>
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<td>14. Die volgende artikel word na artikel 20 ingevoeg: “Ombudskema 20A. Die skema oor klagtes deur hierdie Deel ingestel word verklaar ’n statutêre ombudskema by die toepassing van die ’Financial Sector Regulation Act’, te wees.”</td>
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<td>15. Die uitdrukking “Raad” word, waar dit ook al in artikel 21 voorkom, deur die uitdrukking “Minister” vervang.</td>
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<td>16. Artikel 22(1) word gewysig deur paragraaf (a) deur die volgende paragraaf te vervang: “(a) fondse [voorsien deur die Raad] wat ingevolge wetgewing aan die Ombud toeval op die grondslag van ’n begroting voorgelê deur die Ombud aan die [Raad] Minister en deur laasgenoemde goedgekeur; en”.”</td>
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<td>17. Artikel 23 word gewysig deur subartikel (1) deur die volgende subartikel te vervang: “(1) [Ondanks die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is die raad van die Raad op Finansiële Dienste soos in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), omskryf] Die Ombud is die rekenpligtige gesag van die Kantoor.”.”</td>
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<td>18. Artikel 26 word herroep.</td>
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<td>19. Artikel 32 word herroep.</td>
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<td>20. Paragrawe (b), (c) en (d) in artikel 35(1) word geskrap.</td>
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21. | The substitution for section 39 of the following section: | “Right to reconsideration of decision”

39. | 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.”.

22. | The repeal of sections 41 and 44.

23. | The amendment of section 45—

(a) | by the deletion in subsection (1) of paragraph (a)(ii); and

(b) | by the insertion after subsection (1) of the following subsections:

(1A) | The provisions of this Act do not apply to the—

(a) | performing of the activities referred to in paragraph (b)(ii) and (iii) of the definition of “intermediary service” by a product supplier—

(i) | who is authorised under a particular law to conduct business as a financial institution; and

(ii) | where the rendering of such service is regulated under such law; and

(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.

(1B) | The exemption referred to in—

(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

(b) | subsection (1A)(b) does not apply to an authorised agent as defined in section 1 of the Collective Investment Schemes Control Act, 2002.”.
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<tr>
<td>21.</td>
<td>Artikel 39 word deur die volgende artikel vervang:</td>
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<td>&quot;Reg op heroorweging van beslissing&quot;</td>
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<td>39. Iemand wat te na gekom voel deur ‘n beslissing van ‘n verskaffer van finansiële dienste om daardie persoon ingevolge artikel 14 uit te sluit, kan by die Tribunaal aansoek doen om die heroorweging van die beslissing.&quot;</td>
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<td>22. Artikels 41 en 44 word herroep.</td>
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<tr>
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<td>23. Artikel 45 word gewysig— (a) deur die volgende subartikels na subartikel (1) in te voeg: &quot;(1A) Die bepalings van hierdie Wet is nie van toepassing nie op die— (a) verrigting van die aktiwiteite in paragraaf (b)(ii) en (iii) van die omskrywing van ‘tussengangers-diens’ bedoel deur ‘n produkverskaffer— (i) wat kragtens ‘n bepaalde wet gemagtig is om besigheid as ‘n finansiële instelling te doen; en (ii) waar die lewering van so ‘n diens kragtens soudame wet gereguleer word, en (b) finansiële dienste leverer deur ‘n bestuurder soos omskryf in artikel 1 van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002, tot die mate wat die lewering van finansiële dienste kragtens daardie Wet gereguleer word. (1B) Die vrystelling bedoel in— (a) subartikel (1A)(a) is nie van toepassing nie op ‘n persoon aan wie die produkverskaffer die aktiwiteit, of enige deel van die aktiwiteit, in paragraaf (a) beoog, gedelegeer of uitbestee het en waar die persoon nie ‘n werknemer van die produkverskaffer is nie; en (b) subartikel (1A)(b) is nie van toepassing nie op ‘n gemagtigde agent soos omskryf in artikel 1 van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002.&quot;</td>
<td></td>
</tr>
<tr>
<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
</tr>
<tr>
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</tr>
</tbody>
</table>
| Act No. 9 of 2017 | Financial Sector Regulation Act, 2017 | 24. The amendment of the arrangement of sections—
  (a) by the insertion after item 1 of the following items:
    "1A. Relationship between Act and Financial Sector Regulation Act"
    "1B. Regulatory instruments"; and
  (b) by the substitution for item 6 of the following item:
    "6. Delegations";
  (c) by the insertion after item 20 of the following item:
    "20A. Ombud scheme"; and
  (d) by the substitution for item 39 of the following item:
    "39. Right to reconsideration of decision". |
| Act No. 45 of 2002 | Collective Investment Schemes Control Act, 2002 | 1. The amendment of section 1—
  (a) by the insertion after the definition of “authorised agent” of the following definition:
    "Authority" means the Financial Sector Conduct Authority established by section 56 of the Financial Sector Regulation Act;"
  (b) by the deletion of the definition of “Board”;
  (c) by the insertion after the definition of “company” of the following definition:
    "conduct standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;";
  (d) by the insertion after the definition of “exchange securities” of the following definition:
    "Financial Sector Regulation Act" means the Financial Sector Regulation Act, 2017;"
  (e) by the insertion after the definition of “investor” of the following definition:
    "joint standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;";
  (f) by the deletion of the definitions of “official web site” and “prescribed”;
  (g) by the insertion before the definition of “publish” of the following definition:
    "prudential standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; |
### Nomoro ya Molao le ngwaga

<table>
<thead>
<tr>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhbololo</th>
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<tbody>
<tr>
<td></td>
<td>24. Die indeling van artikels word gewysig—</td>
</tr>
<tr>
<td></td>
<td>(a) deur die volgende items na item 1 in te voeg:</td>
</tr>
<tr>
<td></td>
<td>&quot;1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’&quot;;</td>
</tr>
<tr>
<td></td>
<td>&quot;1B. Reguleringsinstrumente’’;</td>
</tr>
<tr>
<td></td>
<td>(b) deur item 6 deur die volgende item te vervang:</td>
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<tr>
<td></td>
<td>&quot;6. Delegerings’’;</td>
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<td>(c) deur die volgende item na item 20 in te voeg:</td>
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<tr>
<td></td>
<td>&quot;20A. Ombudskema’’; en</td>
</tr>
<tr>
<td></td>
<td>(d) deur item 39 deur die volgende item te vervang:</td>
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<td>&quot;39. Reg op heroorweging van beslissing’’.</td>
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</table>

### Wet No. 45 van 2002

<table>
<thead>
<tr>
<th>Wet op Beheer van Kollektiewe Beleggingskemas, 2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Artikel 1 word gewysig—</td>
</tr>
<tr>
<td>(a) deur die omskrywing van “amptelike webwerf” te skrap;</td>
</tr>
<tr>
<td>(b) deur die volgende omskrywings na die omskrywing van “deelnemende belang” in te voeg:</td>
</tr>
<tr>
<td>&quot;‘Financial Sector Regulation Act’” die ‘Financial Sector Regulation Act’, 2017;</td>
</tr>
<tr>
<td>‘gedragstandaard’ dit wat in artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘conduct standard’ toegeskryf is;</td>
</tr>
<tr>
<td>‘gesamentlike standaard’ het die betekenis ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan “joint standard” toegeskryf’’;</td>
</tr>
<tr>
<td>(c) deur die volgende omskrywing na die omskrywing van “ouditeur” in te voeg:</td>
</tr>
<tr>
<td>&quot;‘Owerheid’ die Gedragsowerheid op die Finansiële Sektor ingestel by artikel 56 van die ‘Financial Sector Regulation Act’’’;</td>
</tr>
<tr>
<td>(d) deur die omskrywing van “Raad” te skrap;</td>
</tr>
<tr>
<td>(e) deur die volgende omskrywing na die omskrywing van “reël” in te voeg:</td>
</tr>
<tr>
<td>&quot;‘Register’ die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die ‘Financial Sector Regulation Act’’’;</td>
</tr>
<tr>
<td>(f) deur die omskrywing van “registrateur” te skrap;</td>
</tr>
<tr>
<td>(g) deur die volgende omskrywing na die omskrywing van “hierdie Wet” in te voeg:</td>
</tr>
<tr>
<td>&quot;‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingevolge artikel 219 van die ‘Financial Sector Regulation Act’ ingestel’’.</td>
</tr>
</tbody>
</table>
### Extent of repeal or amendment

<table>
<thead>
<tr>
<th>Act No. and year</th>
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<th>Extent of repeal or amendment</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(b) by the insertion after the definition of “publish” of the following definition: “Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;</td>
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<tr>
<td></td>
<td></td>
<td>(i) by the deletion of the definition of “registrar”;</td>
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<td></td>
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<td>(j) by the insertion after the definition of “this Act” of the following definition: “Tribunal” means the Financial Sector Tribunal established in terms of section 219 of the Financial Sector Regulation Act; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(k) by the addition in section 1 of the following subsection, the existing section becoming subsection (1): “(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.”</td>
</tr>
</tbody>
</table>

2. The insertion after section 1 of the following sections:

```
"Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the registrar must be read as a reference to the Authority;
(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.
(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.
(4) Unless expressly provided otherwise in this Act, a reference in this Act to a matter being—
(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or
(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.
```
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhago se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td>(h)</td>
<td>deur die omskrywing van</td>
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<td></td>
<td>“voorsorgskryf”’ te skrap;</td>
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<tr>
<td>(i)</td>
<td>deur die volgende omskrywing voor die</td>
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<td></td>
<td>omskrywing van “wet” in te voeg:</td>
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<td>“voorsorgstandaard” dit wat</td>
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<td></td>
<td>ingevolge artikel 1(1) van die</td>
<td></td>
</tr>
<tr>
<td></td>
<td>‘Financial Sector Regulation Act’</td>
<td></td>
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<tr>
<td></td>
<td>aan ‘prudential standard’ toegeskryf</td>
<td></td>
</tr>
<tr>
<td>(i)</td>
<td>deur die volgende subartikel by artikel</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 te voeg, die bestaande artikel word</td>
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<tr>
<td></td>
<td>subartikel (1):</td>
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<td></td>
<td>“(2) Tensy die samehang anders</td>
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<td>aandui, die woorde en uitdrukkings</td>
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<tr>
<td></td>
<td>wat nie in subartikel (1) omskryf</td>
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<td></td>
<td>word nie, die betekenis wat</td>
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<td></td>
<td>ingevolge die ‘Financial Sector</td>
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<tr>
<td></td>
<td>Regulation Act’ daaraan toegeskryf</td>
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<td>is.”</td>
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</table>

2. Die volgende artikels word na artikel 1 ingevoeg:

“Verhouding tussen Wet en ‘Financial Sector Regulation Act’

1A. (1) ’n Verwysing in hierdie Wet na die registrateur moet gelees word as ’n verwysing na die Owerheid.

(2) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(3) ’n Verwysing in hierdie wet na die Owerheid wat ’n aangeleentheid by kennisgewing in die *Staatskoerant* publiseer, moet gelees word as dat dit ’n verwysing insluit na die Owerheid wat die aangeleentheid by kennisgewing in die Register bepaal of publiseer.

(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid voorgeskryf word, moet ’n verwysing in hierdie Wet na ’n aangeleentheid wat—

(a) voorgeskryf word, gelees word as ’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard, ’n gedragsstandaard of ’n gesamentlike standaard voorgeskryf word; of

(b) bepaal word, gelees word as ’n verwysing daarna dat die Owerheid die aangeleentheid skrifelik bepaal en die bepaling in die Register registreer.
It is hereby notified that the President has as-
sented to the following Act, which is hereby 
published for general information:—

Act No. 9 of 2017: Financial Sector Regula-
tion Act, 2017
(5) 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.

(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.

(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.

(b) The Authority may also publish the information or document on its web site.

(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 237 and Chapter 16 of the Financial Sector Regulation Act.

(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.

Regulatory instruments

1B. 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.

3. The repeal of sections 7 and 14.

4. The amendment of section 15—

(α) by the substitution in subsection (1) for the words preceding paragraph (α) of the following words:

"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—":

<table>
<thead>
<tr>
<th>Act No. and year</th>
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<tr>
<td></td>
<td></td>
<td>(5) 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.</td>
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<tr>
<td></td>
<td></td>
<td>(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.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(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.</td>
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<tr>
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<td></td>
<td>(b) The Authority may also publish the information or document on its web site.</td>
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<td></td>
<td></td>
<td>(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 237 and Chapter 16 of the Financial Sector Regulation Act.</td>
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<tr>
<td></td>
<td></td>
<td>(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.</td>
</tr>
<tr>
<td></td>
<td>Regulatory instruments</td>
<td>1B. For the purposes of the definition of &quot;regulatory instrument&quot; 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.</td>
</tr>
<tr>
<td></td>
<td>3. The repeal of sections 7 and 14.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. The amendment of section 15—(α) by the substitution in subsection (1) for the words preceding paragraph (α) of the following words: &quot;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—&quot;:</td>
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### Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimoło kgotsa tlhalolo
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(5) ’n Verwysing in hierdie Wet na ’n ter plaatsse besoek ingevolge ’n bepaling van hierdie Wet moet gelees word as ’n verwysing na ’n toesighoudende ter plaatsse inspeksie of ’n ondersoek ingevolge die ‘Financial Sector Regulation Act’.

(6) ’n Verwysing in hierdie Wet na ’n inspeksie ingevolge ’n bepaling van hierdie Wet, moet gelees word as ’n verwysing na ’n ondersoek ingevolge die ‘Financial Sector Regulation Act’.

(7) (a) ’n Verwysing in hierdie Wet na die Owerheid wat inligting of ’n dokument op ’n webwerf aankondig of publiseer, moet gelees word as ’n verwysing daarna dat die Owerheid die inligting of dokument in die Register publiseer.

(b) Die Owerheid kan ook die inligting of dokument op sy webwerf publiseer.

(8) ’n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as ’n verwysing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’.

(9) ’n Verwysing in hierdie Wet na ’n appèl teen ’n beslissing van die Owerheid moet gelees word as ’n verwysing na ’n heroorweging van die beslissing deur die Tribunaal ingevolge die ‘Financial Sector Regulation Act’.

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### Reguleringsinstrumente

1B. By die toepassing van die omksrywing van ‘reguleringsinstrument’ (‘regulatory instrument’) in artikel 1(1) van die ‘Financial Sector Regulation Act’, is enige aangeleentheid deur die Owerheid voorgeskryf ten opsigte waarvan kennisgewing in die Staatskoerant spesifiek deur hierdie Wet vereis word, ’n reguleringsinstrument.’’.

3. Artikels 7 en 14 word herroep.

4. Artikel 15 word gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

   “Indien [die registrateur, na ’n ter plaatsse besoek of inspeksie kragtens artikel 14, op redelike gronde van oordeel is dat] dit in die belange van beleggers in ’n kollektiewe beleggingskema of van lede van die publiek [dit vereis] is, kan die [registrateur] Owerheid—”'
### Extent of repeal or amendment

<table>
<thead>
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<td>(b) by the deletion in subsection (1) of the proviso to paragraph (f); and (c) by the substitution in subsection (1) for paragraph (j) of the following paragraph: “(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.”.</td>
</tr>
<tr>
<td>5.</td>
<td></td>
<td>5. The amendment of section 15A— (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: “(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 (b) by the substitution for subsection (3) of the following subsection: “(3) For the purposes of this 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 prudential standard, conduct standard or joint standard.”.</td>
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<td>6. The repeal of sections 15B, 18, 22, 23 and 24.</td>
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<tr>
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<td>7. The substitution in sections 63 and 66 for the expression “Minister”, wherever it occurs, of the expression “Authority”.</td>
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</tbody>
</table>
|                 |             | 8. The amendment of section 99(1) by the substitution for paragraph (b) of the following paragraph: “(b) the registrar Authority, granted on such conditions as [he or she] the Authority may impose in writing [may determine].”.

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### Molao wa Taolo ya Lephata la Ditshelete , 2017

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<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<tbody>
<tr>
<td>(b)</td>
<td>deur in subartikel (1) die voorbehoudsbepaling tot paragraaf (f) te skrap; en</td>
</tr>
<tr>
<td>(c)</td>
<td>deur in subartikel (1) paragraaf (j) deur die volgende paragraaf te vervang: “(j) indien ’n bestuurder versuim om aan ’n skriftelike versoek, instruksie of lasgewing deur die [registrateur] Owerheid kragtens hierdie Wet of die ‘Financial Sector Regulation Act’ te voldoen, alles wat ingevolge die versoek, instruksie of direkief van die [registrateur] Owerheid, van die bestuurder vereis is om te doen, of te laat doen.”.</td>
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</tbody>
</table>

5. Artikel 15A word gewysig—
(a) deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang:
“(c) indien dit in die belang van beleggers redelik nodig word, op daardie tydstip of te eniger tyd daarna, en ondanks enige stappe wat die [registrateur] Owerheid reeds ooreenkomstig paragraaf (a) of (b) of enige ander bepaling van hierdie Wet geneem het, ooreenkomstig artikel 15 handel);"; en
(b) deur subartikel (3) deur die volgende subartikel te vervang:
“(3) By die toepassing van hierdie artikel, beteken ‘vereiste vir finansiële gesondheid’ enige vereiste of beperking in artikels 85 tot 89, inklusief, artikels 91 tot 96, inklusief, en artikel 105 en sluit enige ander finansiële vereistes in wat kragtens hierdie Wet of deur ’n voorsorgstandaard, gedragstandaard of gesamentlike standaard opgelê is.”.

6. Artikel 15B, 18, 22, 23 en 24 word herroep.

7. In artikels 63 en 66 word die uitdrukking “Minister”, waar dit ook al voorkom, deur die uitdrukking “Owerheid” vervang.

8. Artikel 99(1) word gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:
“(b) die [registrateur] Owerheid, verleen op die voorwaardes wat [hy of sy] die Owerheid skriftelik [bepaal] opê.".
### Act No. and year
### Financial Sector Regulation Act, 2017

<table>
<thead>
<tr>
<th>Act No. and year</th>
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</thead>
<tbody>
<tr>
<td>Act No. 34 of 2005</td>
<td>National Credit Act, 2005</td>
<td>1. The substitution in section 1 for the definition of “ombud with jurisdiction” of the following definition— “ombud with jurisdiction”, in respect of any particular dispute arising out of a credit agreement in terms of which the credit provider is a “financial institution” as defined in the <a href="http://www.gov.za/index.php?lang=en&amp;menuitem=1350">Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004)</a> Financial Sector Regulation Act, 2017, means an “ombud”, or the “statutory ombud” “ombud scheme”, as those terms are respectively that term is defined in that Act, who that has jurisdiction in terms of that Act to deal with a complaint against that financial institution;”.</td>
</tr>
<tr>
<td>9.</td>
<td>The amendment of section 112— (a) by the deletion of subsection (3); and (b) by the substitution for subsection (4) of the following subsection: “(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 Authority, as the case may be.”.</td>
<td></td>
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<tr>
<td>10.</td>
<td>The amendment of section 114 by the deletion of subsections (3)(d), (5) and (6).</td>
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<tr>
<td>11.</td>
<td>The amendment of section 115 by the substitution for paragraph (c) of the following paragraph: “(c) fails to comply with any direction, requirement, notice, rule, regulatory instrument or regulation under any provision of this Act or the Financial Sector Regulation Act.”.</td>
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</tr>
<tr>
<td>12.</td>
<td>The amendment of the arrangement of sections by the insertion after item 1 of the following items: “1A. Relationship between Act and Financial Sector Regulation Act 1B. Regulatory instruments”.</td>
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</tr>
</tbody>
</table>
9. Artikel 112 word gewysig—
   (a) deur subartikel (3) te skrap; en
   (b) deur subartikel (4) deur die volgende subartikel te vervang:
   “(4) Enige delegasie kragtens subartikel (1)[,] of (2)(a) [of (3)(a)]
   verhinder nie die uitoefening van die betrokke bevoegdheid deur
die Minister, vereniging of
[registrateur] Owerheid, na gelang
die geval, nie.”.

10. Artikel 114 word gewysig deur
   subartikels (3)(d), (5) en (6) te skrap.

11. Artikel 115 word gewysig deur
   paragraaf (c) deur die volgende paragraaf
te vervang:
   “(c) versuim om te voldoen aan 'n
lasgewing, vereiste, kennisgewing, reël,
reguleringsinstrument of regulasie
kragtens enige bepaling van hierdie Wet
of die 'Financial Sector Regulation
Act'.”.

12. Die indeling van artikels word
gewysig deur die volgende item na item 1
in te voeg:
   “1A. Verhouding tussen Wet en
   ‘Financial Sector Regulation Act’
   1B. Reguleringsinstrumente”.

UMthetho 37 ka 2004
Umthetho weenqubo
zomsombululizikhalo kwinkonzo
zemali ka-2004

1. Ukuchithwa komthetho wonke.

UMthetho wama-34
wezi-2005
uMthetho
weziKweletu
kaZwelonke,
ka-2005

1. Ukufaka endaweni esigabeni soku-1
sencazelo “yesiphathimandla esibheka
izikhalo zamakhasimende esinamandla”
icazelo elandelayo—
“ ‘isiphathimandla esibheka izikhalo
zamakhasimende esinamandla’,
maqondana nanoma yimuphi umbango
ovuka ngenxa yesivumelwano
sesikweletu lapho umhlinziki
wesikweletu “kuyisikhungo sezimali”
jengalokho kuchazwe
Financial Services Ombud Schemes Act), 2004
(uMthetho No. 37 ka 2004)
wokuLawulwa koMkhakha weziMali,
2017, kusho
‘isiphathimandla esibheka izikhalo
zamakhasimende esinamandla’,
oma ‘isiphathimandla esibheka
izikhalo zamakhasimende
ngokomthetho’] “uhlelo lwe-ombud”,
njengoba [lawo magama echazwe
ngokwehlukana] leli gama lichaziwe
eMthethweni, esinamandla
ngokuhambisana nalowo Mthetho
okubhekana nesikhalo esibhekiswe
esikhungweni sezimali.”.
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<tr>
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<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<tr>
<td></td>
<td></td>
<td>2. The amendment of section 134—</td>
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<td></td>
<td></td>
<td>(a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs—</td>
</tr>
<tr>
<td></td>
<td></td>
<td>“(a) If the credit provider concerned is a financial institution as defined in the [Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004)] Financial Sector Regulation Act, 2017, the matter—</td>
</tr>
<tr>
<td></td>
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<td>(i) may be referred only to the ombud with jurisdiction to resolve a complaint or settle a matter involving that credit provider, as determined in accordance with [sections 13 and 14 of] that Act; and</td>
</tr>
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<td></td>
<td>(ii) must be procedurally resolved as if it were a complaint in terms of that Act; or</td>
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<td></td>
<td>(b) if the credit provider is not a financial institution, as defined in the [Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004)] Financial Sector Regulation Act, 2017, the matter may be referred to either—</td>
</tr>
<tr>
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<td>(i) a consumer court, for resolution in accordance with this Act and the provincial legislation establishing that consumer court; or</td>
</tr>
<tr>
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<td></td>
<td>(ii) an alternative dispute resolution agent, for resolution by conciliation, mediation or arbitration.”; and</td>
</tr>
<tr>
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<td></td>
<td>(b) by the substitution in subsection (4)(b) for subparagraph (i) of the following subparagraph—</td>
</tr>
</tbody>
</table>
|                 |             | “(i) to the ombud with jurisdiction, for resolution in accordance with this Act and in terms of the [Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004)] Financial Sector Regulation Act, 2017, if the credit provider concerned is a financial institution [and a participant in a recognised scheme] as defined in that Act; or”.
### Bogolo jwa phimolo kgotsa tlhabololo

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<tr>
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<td></td>
<td><strong>2. Ukuchibiyela isigaba se-134—</strong></td>
</tr>
</tbody>
</table>
|                            | *(a)* ngokufaka endaweni esigabeni soku-
|                            | *(1)* yeziqephu *(a)* kanye *(b)* izigaba |
|                            | eezilandelayo—**|
|                            | "*(a)* uma umhliziniki wesikeletu
|                            | othintekayo kuyisikhungo
|                            | sezimali njengalokho sichazwe
|                            | eMthethweni (*Financial Services Ombud Schemes Act*),
|                            | 2004 (uMthetho No. 37 ka
|                            | 2004) wokuLawulwa
|                            | koMkhakha weziMali, 2017,
|                            | udaba—**|
|                            | *(i)* lungadluliselwa kuhlela
|                            | esiphathimandleni esibheka
|                            | izikhalo zamakhasimende
|                            | esinamandla okuxazulu
|                            | isikhalo nomaxa
|                            | olubandakanya umhliziniki
|                            | wesikeletu, njengoba
|                            | kunqunyiwe
|                            | ngokuhambisana
|                            | [nezigaba 13 no 14
|                            | zalowo] nalowo Mthetho;
|                            | futhi—**|
|                            | *(ii)* kufanele luxazululwe kube
|                            | sengathi luyisikholo
|                            | ngokwalowo Mthetho;
|                            | nomaxa
|                            | *(b)* uma umhliziniki wesikeletu
|                            | kungesona isikhungo sezimali,
|                            | njengalokho sichazwe
|                            | eMthethweni (*Financial Services Ombud Schemes Act*),
|                            | 2004 (uMthetho No. 37 ka
|                            | 2004) wokuLawulwa
|                            | koMkhakha weziMali, 2017,
|                            | udaba lungadluliselwa—**|
|                            | *(i)* enkantolo
|                            | yamakhasimende, ukuze
|                            | luxazululwe ngokwalo
|                            | Mthetho kanye nomthetho
|                            | wesifundazwe osungule
|                            | leyo nkantolo
|                            | yamakhasimende; nomaxa
|                            | *(ii)* kw-ejenti esebenzisa
|                            | ezinye izindlela
|                            | zokuxazulu umbango,
|                            | ukuba ixazulule
|                            | ngokulamula."; futhi
|                            | *(b)* ngokufaka endaweni yesigatshana se-
|                            | *(4)*(b) indimana *(i)* indimana
|                            | esilandelayo—**|
|                            | "*(i)* esiphathimandleni esibheka
|                            | izikhalo zamakhasimende
|                            | esinamandla,
### Act No. and year  | Short Title                           | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                
---|---|---
Act No. 40 of 2007 | Co-operative Banks Act, 2007 | 1. The amendment of section 1 —  
   (a) by the deletion of the definition of “appeal board”;  
   (b) by the insertion after the definition of “Agency” of the following definition: “Authority” means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;”;  
   (c) by the insertion after the definition of “business plan” of the following definition: “conduct standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
   (d) by the substitution for the definition of “co-operative bank” of the following definition: “co-operative bank” means a co-operative or a co-operative financial institution registered as a co-operative bank in terms of this Act whose members—  
   (a) are employed by a common employer or who are employed within the same business district; or  
   (b) have common membership in an association or organisation, including a religious, social, co-operative, labour or educational group;  
   (c) reside within the same defined community or geographical area;”;  
   (e) by the substitution for the definition of “co-operative financial institution” of the following definition: “co-operative financial institution” means a co-operative that takes deposits and chooses to identify itself by use of the name Financial Co-operative, Financial Services Co-operative, Credit Union or Savings and Credit Co-operative;”;
<table>
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<tr>
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
</tr>
</thead>
</table>
| UMthetho 40 ka-2007      | UMthetho weeBhanki zeNtsebenzi swano ka-2007 | 1. Kwenziwa utshintsho kwicandelo 1—
(a) ngokuthi kucinywe inkcazelo yegama elithi “ibhodi yezibheno”;
(b) ngokuthi emva kwenkcazelo yegama elithi “iArhente” kufakelwe inkcazelo elandelayo:
  “‘iGunya’! iGunya Lobulumko elsekie kwiegama 32 leFinancial Sector Regulation Act’’;
(c) ngokuthi emva kwenkcazelo yegama elithi “isicwangciso soshishino” kufakelwe inkcazelo elandelayo:
  “elithi indlela yokuziphatha” linentsingiselo ekwanyene elimkwe yona kwicandelo 1(1) leFinancial Sector Regulation Act’’;
(d) ngokuthi endaweni yokuchazwa kwiegama elithi “ibhanki yentsebenziswano” kufakelwe ukuchazwa kwiegama eli ulandelayo:
  ‘ibhanki yentsebenziswano’ ngumfelandawonye okanye iziko lemali elingumfelandawonye elibhaliswe njengebhanki yentsebenziswano ngokwa Mthetho elimalungu alo—
  (a) aqeshwe ngumqeshi omnye okanye aqeshwe kwisikhetha esinye soshishino; okanye
  (b) Angamalungu kumbutho omnye, oquka owenkolo, owasentlalweni, owentsebenziswano, owomsebenzi okanye owemfundo;
  (c) Ahlala kummandla omnye’’;
(e) ngokuthi endaweni yokuchazwa kwiegama elithi “iziko lemali elingumfelandawonye” kufakelwe ukuchazwa kwiegama okulandelayo:
  ‘iziko lemali elingumfelandawonye’ ngumfelandawonye owamkela ukufakwa kwemali
  nokhetla ukwaziwa ngokusebenzisa igama elithi uMfelandawonye Wemali, uMfelandawonye Wecenkonzo Zemali, uMbutho Wokukweleta okanye uMfelandawonye Wokulondoloza okanye Wokukweleta’’; |
Act No. and year | Short Title | Extent of repeal or amendment
--- | --- | ---

(f) by the insertion after the definition of “executive officer” of the following definition:

‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;

(g) by the insertion after the definition of “Fund” of the following definition:

‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;

(h) by the deletion of the definition of “prescribed”;

(i) by the insertion after the definition of “proposed co-operative bank” of the following definition:

‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;

(j) by the insertion after the definition of “Public Finance Management Act” of the following definition:

‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;

(k) by the deletion of the definition of “supervisor”;

(l) by the insertion after the definition of “this Act” of the following definition:

‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act.”; and

(m) by the addition in section 1 of the following subsection, the existing section becoming subsection (1):

“(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.”.

2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

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.”
<table>
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<tr>
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<th>Setlhogo se se khetshwane</th>
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</thead>
<tbody>
<tr>
<td>(f) ngokuthi emva kwenkcazelo yegama elithi “igosa lesionsqeba” kufakelwe inkcazelo elandelayo:</td>
<td>&quot;Financial Sector Regulation Act&quot; yifinancial Sector Regulation Act ka- 2017;&quot;;</td>
</tr>
<tr>
<td>(g) ngokuthi emva kwenkcazelo yegama elithi “ingxowa-mali” kufakelwe inkcazelo elandelayo:</td>
<td>&quot;elithi umlinganiselo wendibani-selwano&quot; linentsingiselo ekwanye elithi yegama elandelayo: &quot;Financial Sector Regulation Act;&quot;;</td>
</tr>
<tr>
<td>(h) ngokuthi kucinywe inkcazelo yegama elithi “ukumisela”;</td>
<td>&quot;elithi umlinganiselo wobulumiko&quot; linentsingiselo ekwanye elithi yegama elandelayo: &quot;Financial Sector Regulation Act;&quot;;</td>
</tr>
<tr>
<td>(i) ngokuthi emva kwenkcazelo yegama elithi “ibhanki yentsebenziswa” kufakelwe inkcazelo elandelayo:</td>
<td>&quot;elithi umlinganiselo wobulumiko&quot; linentsingiselo ekwanye elithi yegama elandelayo: &quot;Financial Sector Regulation Act;&quot;;</td>
</tr>
<tr>
<td>(j) ngokuthi emva kwenkcazelo yegama elithi “uMthetho woLawulo lweMali yoLuntu” kufakelwe inkcazelo elandelayo:</td>
<td>&quot;elithi Register&quot; linentsingiselo ekwanye elithi yegama elandelayo: &quot;Financial Sector Regulation Act;&quot;;</td>
</tr>
<tr>
<td>(k) ngokuthi kucinywe inkcazelo yegama elithi “umphathi”;</td>
<td>&quot;elithi Register&quot; linentsingiselo ekwanye elithi yegama elandelayo: &quot;Financial Sector Regulation Act;&quot;;</td>
</tr>
<tr>
<td>(l) ngokuthi emva kwenkcazelo yegama elithi “uMthetho” kufakelwe inkcazelo elandelayo:</td>
<td>&quot;elithi Register&quot; linentsingiselo ekwanye elithi yegama elandelayo: &quot;Financial Sector Regulation Act;&quot;;</td>
</tr>
<tr>
<td>(m) nangokuthi kwicandelo 1 kongezwe icandelwana elilandelayo, lize incandelo elikhoyo libe licandelwana</td>
<td>&quot;elithi Register&quot; linentsingiselo ekwanye elithi yegama elandelayo: &quot;Financial Sector Regulation Act;&quot;;</td>
</tr>
</tbody>
</table>

2. Emva kwecandelo 1 kufakelwa icandelwana elilandelayo:

"Ubudlelane phakathi kwalo Mthetho neFinancial Sector Regulation Act"  

1A. (1) Ngaphandle kwaphila utsho okwakhuleyo lo Mthetho okanye iFinancial Sector Regulation Act,
<table>
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<th>Short Title</th>
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<tr>
<td></td>
<td></td>
<td>(2) 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.</td>
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<td>(3) 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—</td>
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<tr>
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<td></td>
<td>(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, conduct standard or joint standard; or</td>
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<td></td>
<td>(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.</td>
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<td></td>
<td>(4) 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, conduct standards or joint standards in terms of the Financial Sector Regulation Act,</td>
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<tr>
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<td></td>
<td>(5) A reference to rules made by the Authority in terms of section 46 must be read as a reference to prudential standards, conduct standards or joint standards.</td>
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<tr>
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<td>(6) (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.</td>
</tr>
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<td></td>
<td></td>
<td>(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 Chapter 9 of the Financial Sector Regulation Act.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(7) (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.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) The Authority or the Agency may also publish the information or document on its web site.</td>
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Molao wa Taolo ya Lephata la Ditselele, 2017

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<tbody>
<tr>
<td></td>
<td>amagunya nemisebenzi yeGunya ngokwalo Mthetho yongezelela kumagunya nemisebenzi elinawo ngokweFinancial Sector Regulation Act.</td>
<td></td>
</tr>
<tr>
<td>(2)</td>
<td>Xa kulo Mthetho kuthethwa ngeGunya okanye ngeArhente eyenza isigqibo okanye epapasha udaba ngesihlokomiso kwIGazethi makuthathwe oko njengokuquka neGunya okanye iArhente eyenza isigqibo okanye epapasha udaba ngesihlokomiso esipapashwe kwIRejista.</td>
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<tr>
<td></td>
<td>(3) Ngaphandle kokuba kutshiwo ngokacacileyo kulo Mthetho, okanye ngaphandle kokuba lo Mthetho ufuna ukuba udaba lulawulwe ngummiselo ngokwecandelo 86, okanye ngaphandle kokuba uvumela udaba lulawulwe yiArhente, kuquka ukulawulwa ngumgaqo ngokwecandelo 57, xa kulo Mthetho kuthethwa ngokulawulwa kodaba, makuthathwe—</td>
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<tr>
<td></td>
<td>(a) niengokuthetha ukulawulwa kodaba ngendlela yobulumko; okanye</td>
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<tr>
<td></td>
<td>(b) niengokuthetha ukulawulwa kodaba liGunya elenza isigqibo ngodaba ngokubhala lize lisibhale isigqibo kwIRejista.</td>
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<tr>
<td></td>
<td>(4) Nemicimbi ekunokuthi kwensiwe imimiselo ngayo ngeeblanki zentsebenziswano ngokwalo Mthetho kunokuthi kwensiwe imimiselo ngayo ngendlela yobulumko ngokweFinancial Sector Regulation Act.</td>
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<td></td>
<td>(5) Xa kuthethwa ngemigaqo eyenziwe liGunya ngokwecandelo 46 makuthathwe ngokuthi yimigaqo eyenziwe ngokwendlela yobulumko.</td>
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<td></td>
<td>(6) (a) Xa kuthethwa ngokuhlola okukwicandelo 47, makuthathwe ngokuthi kuthethwa ngokuhlola okungokweSahluko 9 seFinancial Sector Regulation Act.</td>
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<tr>
<td></td>
<td>(b) Xa kuthethwa ngophando olwenziwa yiArhente okanye nguMphathiswa ngokwecandelo 73 makungathathwe ngokuthi kuthethwa ngophando olungokweSahluko 9 seFinancial Sector Regulation Act.</td>
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<td></td>
<td>(7) (a) Xa kulo Mthetho kuthethwa ngeGunya okanye ngeArhente evakalisa okanye epapasha ingombolo okanye uxwebhu kwivebhasi yithi makuthathwe ngokuthi kuthethwa kubhekiselwa kwIRunyana okanye kwiArhente epapasha ingombolo okanye uxwebhu kwivebhasi yalo.</td>
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<tr>
<td></td>
<td>(b) Nalo iGunya okanye iArhente livumelekile ukuba iyipapashe ingombolo okanye uxwebhu kwivebhasi yalo.</td>
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</tbody>
</table>
(8) (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 237 and Chapter 16 of the Financial Sector Regulation Act.  

(b) The Agency, when determining a fee in terms of this Act, must comply with the requirements of section 237 and Chapter 16 of the Financial Sector Regulation Act.  

(9) 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.  

(10) (a) The Authority must publish the following in the Register—  

(i) each registration of a co-operative bank in terms of section 8 and each suspension and de-registration in terms of section 11;  

(ii) each conversion of registration in terms of section 28;  

(iii) each registration of a co-operative financial institution in terms of section 40C, and each suspension, lapsing and de-registration in terms of section 40D.  

(b) The Agency must publish the following in the Register—  

(i) each registration of a representative body in terms of section 33, and each cancellation or suspension of registration in terms of section 35; and  

(ii) each accreditation of a support organisation in terms of section 38, and each cancellation or suspension of accreditation in terms of section 40.  

Regulatory instruments  

1B. For the purposes of the definition of “regulatory instrument” in section 1(1) of the Financial Sector Regulation Act, the following are regulatory instruments:  

(a) existing rules made in terms of section 46 prior to the date on which this section comes into effect; and  

(b) prudential, conduct or joint standards made in terms of section 46 subsequent to the date on which this section comes into effect;”.
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<tr>
<td>(8) (a) Xa kulo Mthetho kuthethwa ngomrhumo ofunekayo, kodwa kube kungathethwa ngomrhumo ofunwa yaArhente, makuthathwe ngokuthi kuthethwa ngomrhumo ogqitywe ngokwecandelo 237 leFinancial Sector Regulation Act.</td>
<td></td>
</tr>
<tr>
<td>(b) Xa iArhente isenza isigqibo ngomrhumo ngokwalo Mthetho mayihlangabezane neemfuneko zecandelo 237 nezeSahluko 16 seFinancial Sector Regulation Act.</td>
<td></td>
</tr>
<tr>
<td>(9) Xa kulo Mthetho kuthethwa ngokubhena kwisigqibo setlunya makuthathwe ngokuthi kuthethwa ngokuqwalaselwa ngokutsha kwasonaBachopheli-matyala ngokweFinancial Sector Regulation Act.</td>
<td></td>
</tr>
<tr>
<td>(10) (a) IGunya malipapashe okulandelayo kwiRejista—</td>
<td></td>
</tr>
<tr>
<td>(i) ubhaliso ngalunye ngokwecandelo 8 nokunqunyanyi-swawagakunye nokurhoxiswa kokubhaliswa ngokwecandelo 11;</td>
<td></td>
</tr>
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<td>(ii) nesihlandlo ngasinye sokubhaliswa kweziko lemali elingumfelana-dawonye ngokwecandelo 40C, nesihlandlo ngasinye sokunqunyanyiswa, ukuphelelwa nokurhoxiswa kokubhaliswa ngokwecandelo 40D.</td>
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<td>(b) IArhente mayipapashe oku kulandelayo kwiRejista—</td>
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<td>(i) isihlandlo ngasinye sokubhaliswa ngokwecandelo 33, nesihlandlo ngasinye sokurhoxiswa okanye ukunqunyanyiswa kokubhaliswa ngokwecandelo 35;</td>
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<td>(ii) nesihlandlo ngasinye sokunqunywa ngokwecandelo 38, nesihlandlo ngasinye sokurhoxiswa okanye ukunqunyanyiswa kokubhaliswa ngokwecandelo 40.</td>
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**Izixhobo zokulawula**

1B. Ngenjongo yokuchaza elithi "izixhobo zokulawula" elikwicandelo 1(1) leFinancial Sector Regulation Act, oku kulandelayo kuizixhobo zokulawula:  
(a) imigqo ekhoyo ngoku eyenziwe ngokwecandelo 46 ngaphambi komhla wokuqalisa ukusebenza kwelcandelo;  
(b) nemigqo yoobulumkho, nezenzo ezenziwe ngokwecandelo 46 emva komhla eliqalise ngawo ukusebenza eli candelol’
### Act No. 9 of 2017

#### Financial Sector Regulation Act, 2017

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<td></td>
<td>3.</td>
<td>The amendment of section 2 by the substitution for paragraphs (b) and (c) of the following paragraphs: &quot;(b) promote the development of sustainable and responsible co-operative banks and co-operative financial institutions; and (c) establish an appropriate regulatory framework and regulatory institutions for co-operative banks and co-operative financial institutions that protect the interests of members of co-operative banks, co-operative financial institutions, and the public, by providing for— (i) the registration of deposit-taking financial services co-operatives as co-operative banks or co-operative financial institutions; (ii) the establishment of supervisors to ensure appropriate and effective regulation and supervision of co-operative banks and co-operative financial institutions, and to protect members and the public interest; and (iii) the establishment of a Development Agency for Co-operative Banks to develop and enhance the sustainability of co-operative banks and co-operative financial institutions.&quot;.</td>
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<td>4.</td>
<td>The amendment of section 3 by the substitution for the section of the following section: &quot;3. [(1)] This Act applies to all co-operative banks registered under this Act and to any — (a) primary co-operative registered under the Co-operatives Act that takes deposits and— (i) has 200 or more members; and (ii) holds deposits of members to the value of one million rand or more; and (b) secondary or tertiary co-operative registered under the Co-operatives Act, whose members consist of at least— (i) two or more co-operative banks;</td>
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</table>
3. Kwenziwa utshintsho kwicandelo 2 ngokuthi isiqandelo (b) no-(c) zithatyathelo’ indawo ziziqandelo ezilandelayo:

“(b) kukhuthazwe ukuphuculwa kweebhanki zentsebenziswano namaziko emali ayimifelandawonye; kananjalo

(c) kusekwe amaziko afanelekileyo eeRhanki ziziqendu ezilandelayo:

‘

3. Kwenziwa utshintsho kwicandelo 3 ngokuthi elo candelo lithatyathelo’ indawo licandelo elilandelayo:

3. [(1)] Lo Mthetho usebenza kuzo zonke iibhanki zentsebenziswano ezibhaliswe phantsi kwalo Mthetho nakuzo naziphi na—

(a) umfelandawonye ophambili obhaliswe phantsi kweCo-operatives Act othatha iimali ezifakwayo—

(i) onamalungu angama-200 okanye ngaphezulu;

(ii) noneemali ezifakwe ngamalungu ezifikelela kwisigidi seerandi okanye ngaphezulu; kwakunye

(b) nomfelandawonye weshini okanye wokongeza obhaliswe phantsi kweCo-operatives Act, omalungu awo ubuncinane—

(i) aneebhanki ezimbini nangaphezu koko ezimgumfelandawonye;
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- (ii) two or more financial services co-operatives that take deposits; or
- (iii) one co-operative bank and one financial services co-operative that take deposits co-operative financial institution registered under this Act.

[(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.]

5. The amendment of section 4 by the substitution for subsection (1) of the following subsection:

“(1) The Co-operatives Act applies to co-operative banks and co-operative financial institutions unless the application of a provision thereof has specifically been excluded or amended in this Act.”

6. The amendment of section 5 by the substitution for paragraphs (c) and (d) for the following paragraphs:

“(c) a secondary co-operative bank whose members consist of at least—
(i) two or more co-operative banks;
(ii) two or more co-operative financial institutions; or
(iii) one co-operative bank and one co-operative financial institution; and
(b) a tertiary co-operative bank whose members consist of two or more secondary co-operative banks.”
(ii) anemifelandawonye yeenkonzo zemali emibini nangaphezulu eyamkela imali ebantwini;

(iii) anebhanki enye yentsebenziswano nomfelandawonye omnuye wenkonzo yemali owamkela imali ebantwini] iziko lemalile lingumfelandawonye elihaliwe ngokwalo Mthetho.

(2) Umfelandawonye ekuthethwe ngawo kwicandelwana (1) mawuthi, ngokulawulwa licandelo 91, zingekaphe liinyanga ezimbini uthe wahlangabezana neemfuneko ekuthethwe ngazo kwicandelwana (1) wenze isicelo sokubhaliswa njengebhanki yentsebenziswano ngokwalo Mthetho]."

5. Kwenziwa utshintsho kwicandelo 4 ngokuthi indawo yecandelwana (1) ithathwe licandelwana elilandelayo: "’’(1) IC o-operatives Act isebenza kwibhanki zentsebenziswano nakumaziko emali entsebenziswano ngaphandle kokuba icacisiwe into yokuba okutshiwo yinxalenye ethile yalo Mthetho akusebenzi okanye kwenziwe utshintsho.’’.

6. Kwenziwa utshintsho kwicandelo 5 ngokuthi indawo yesiqendu (c) no-(d) ithatyathwe ziziqendu ezilandelayo: ‘’(c) ibhanki yesibini yentsebenziswano emalungu ayo ubuncinane—

(i) aziibhanki ezimbini nangaphezulu zentsebenziswano;
(ii) angamaziko emali entsebenziswano amabini nangaphezulu; okanye
(iii) ayibhanki enye yentsebenziswano nezikizo lemalile lentshebenziswano eclinye; kunye

(b) ibhanki ephezulu yentsebenziswano emalungu ayo aziibhanki ezimbini nangaphezulu zentsebenziswano zokuncedisa.’’.
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 |  | 7. The insertion after section 40 in Chapter VII of the following Chapter:

"CHAPTER VIIA
CO-OPERATIVE FINANCIAL INSTITUTIONS"

Application for registration as co-operative financial institution

40A. (1) A co-operative financial institution must apply to the Authority, or to the Agency if this function has been assigned or delegated to the Agency, for registration on the application form as prescribed.

(2) 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).

Requirements for registration

40B. (1) In order to qualify for registration, or to continue to be registered, a co-operative financial institution must demonstrate, to the satisfaction of the Authority, or to the Agency if this function has been assigned or delegated to the Agency, on an ongoing basis that—

(a) it has the requisite experience, knowledge, qualifications and competence to give effect to its obligations;

(b) it has sufficient human, financial, and operational capacity to function efficiently and competently;

(c) it meets any prescribed threshold requirements in respect of membership, membership shares and deposits held; and

(d) it meets any other applicable prescribed requirements.

(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.

(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 Authority whether the application for registration as a co-operative bank should be approved or declined.

(c) In the event that the application by a co-operative financial institution to register as a co-operative bank is declined—
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
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<td>7.</td>
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<td>7. Emva kwecandelo 40 kwiSahluko VII kufakelwa iSahluko esilandelayo:</td>
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<td></td>
<td>&quot;ISAHLUKO VII AMAZIKO EMALI ENTSEBENZISWANO&quot;</td>
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<td></td>
<td></td>
<td>Isicelo sokubhaliswa njengeziko lemal ali lentsebenziswano</td>
</tr>
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<td></td>
<td></td>
<td>40A. (1) Iziko lemal ali lentsebenzi- swano malenze isicelo kwiGunya, okanye kwiArhente ukuba lo msebenzi wabelwe iArhente, ukuze libhalise kwifomu yesicelo ngendlela efunekayo. (2) Iziko lemal ali lentsebenziswano malingenise iikopi zamaxwebhu kunye nayo yonke enye ingombolela ngendlela efunekayo, kunye nefomu yesicelo ekuthethwe ngayo kwicandelwana (1).</td>
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<td></td>
<td></td>
<td>Iimfuneko zokubhaliswa</td>
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<td></td>
<td></td>
<td>40B. (1) Ukuze lifanelelele ukubhaliswa, okanye ukuqhubeka libhalisiwe, iziko lemal ali lentsebenziswano kufuneka libaliso ngendlela eyaneleyo ukuze lesebenze, iziko lemal ali lentsebenziswano kufuneka libonise ukuba linazo iimali ezilinani elfunekayo ezifakwe ngamalungu, lenze isicelo sokubhaliswa njengebhanki yentsebenziswano ngokwalo Mthetho.</td>
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<td></td>
<td></td>
<td>(a) linawo amava afunekayo, nolwazi, nemfundo nokukwazi ukuphumeza imbhopheleleko zalo; (b) linabasebenzi abaneleyo nemali eyaneleyo ukuze lisebenze ngempumelelo; (c) linazo iimfuneko-tanci zobulungu, izabelo zobulungu neemali ezifakiweyo; (d) liyahlangabezana nazo zonke ezinye iimfuneko. (2) (a) Iziko lemal ali lentsebenziswano malithi, kwaoko lakuba linazo imali ezilini elfunekayo ezifakwe ngamalungu, lenze isicelo sokubhaliswa njengebhanki yentsebenziswano ngokwalo Mthetho. (b) Ukuza imbhopheleleko yokubhaliswa kwenziko lemal ali lentsebenziswano labelwe iArhente, iArhente mayicebise iGunya isicelo sokubhaliswa njengebhanki yentsebenziswano masamkelwe okanye sikhatywe kusini na. (c) Xa isicelo seziiko lemal ali lentsebenziswano sokubhaliswa njengebhanki yentsebenziswano sikhatywe— (i) iGunya lisengaggqiba kwelokuba iziko lemal ali lentsebenziswano alinakucina imali ezifakiweyo engaphezu kxesixu esithile; kananjalo.</td>
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(i) the Authority may determine that the co-operative financial institution concerned may not hold members’ deposits exceeding a specified amount; and
(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.

(d) An amount determined by the Authority in terms of paragraph (c)(i)—

(i) must be based on the nature and size of the co-operative financial institution; and
(ii) may not exceed the general maximum limit for holdings of deposits by any co-operative financial institution prescribed by the Authority.

(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.

(3) On the date that this section comes into operation, a co-operative financial institution that qualifies to be registered in terms of this Act—

(a) must apply for registration in terms of this Act within 12 months from the date on which this section comes into operation; and
(b) that holds members’ deposits exceeding a prescribed threshold, but which does not qualify to be registered as a co-operative bank, must not hold members’ deposits exceeding an amount determined by the Authority, based on the nature and size of the co-operative financial institution.

(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 Authority of the registration of a co-operative financial institution within 14 days of the registration.

Registration of co-operative financial institution

40C. (1) The Authority may grant an application for registration on payment of the fee, prescribed by the Authority, if the Authority is satisfied that—

(a) the application has been made in accordance with this Act; and
(b) the co-operative financial institution complies with the requirements for registration referred to in section 40B.
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
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<tr>
<td>(ii)</td>
<td>iziko lemal i lentsebenziswa maliphinde lenze isicelo sokubhaliswa njengebhanki yentsebenziswa zokubhaliswa njengebhanku yentsebenziswa ziqezekisiwe.</td>
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<td>(d)</td>
<td>Isixa-mali esiqingqwe liGunya ngokwesiqendu (c)(i)——</td>
<td></td>
</tr>
<tr>
<td>(i)</td>
<td>massisikelele kubunjani nakubungakanani bezo le malimi lentsebenziswa; kwaye</td>
<td></td>
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<tr>
<td>(ii)</td>
<td>avumulelelela ukuba ligaqithi komda obekwiweyo weemali eznokucinwa oqinngwe liGunya.</td>
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<td>(e)</td>
<td>Isicelo esenziwa iziko lemal i lentsebenziswa sokubhaliswa njengebhanki yentsebenziswa masiphelelewe yicwadi eceebisa omakwenzeke evela kwiArhente, ukuba kuyasebenza oko kule meko.</td>
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<tr>
<td>(3)</td>
<td>Ngomhla eliqala ukusebenza ngawo eli candelo, iziko lemal i lentsebenziswa elo lemal eleteng ecebisa omakwenzeke evela kwiArhente, ukuba kuyasebenzaoko kule meko.</td>
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<tr>
<td>(a)</td>
<td>malenze isicelo sokubhaliswa ngokwalo Mthetho—</td>
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</tr>
<tr>
<td>(b)</td>
<td>eneemali ezifikwe ngabantu ezingaphaya komlingani selo obekwiweyo, kodwa libe lingafaneleki ukuba llibhaliswa njengebhanki yentsebenziswa, malingagcini iimali ezifikwe ngabantu ezingaphaya komda oqinngwe liGunya, osekelwe kubunjani nobungakanani bezo le malimi lentsebenziswa.</td>
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<td>(4)</td>
<td>Ukuba ukubbaliswa kwamaziko emali entsebenziswa kwabelwe okanye kupathisise iArhente ngokwalo Mthetho, iArhente mayazise iGunya ngokwalo Mthetho—</td>
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Ukubhaliswa kweziko lemal i lentsebenziswa

**40C. (1)** Igunya linokuthi lisivume isicelo sokubhaliswa kusakhiwalulwa umrhumo, otenwe liGunya, ukuba iGunya lanelisekile kwinto yokuba—

(a) isicelo senziwe ngokuvumelana naMthetho; kwaye

(b) iziko lemal i lentsebenziswa livahlangabezana neemfuneko zokubhaliswa ekuluthiwe ngazo kwicandelo 40B.
(2) The Authority must, on registration, issue a certificate of registration to the co-operative financial institution and publish a notice of the registration in the Register.

Suspension of registration or de-registration

40D. The Authority may, subject to subsection (4), de-register or, where appropriate, suspend the registration of a co-operative financial institution where the Authority is satisfied that the co-operative financial institution—

(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;

(b) has ceased to operate;

(c) obtained registration through fraudulent means;

(d) no longer meets the requirements for registration referred to in section 40B;

(e) is unable to meet or maintain its prudential requirements referred to in section 40B;

(f) has failed to comply with any condition imposed under this Act;

(g) has failed to comply with any directive issued under this Act; or

(h) is de-registered or wound-up under the Co-operatives Act.

(2) Where a co-operative financial institution has requested its de-registration, the Authority may on submission of such a request, along with any other prescribed or requested information, de-register the co-operative financial institution.

(3) (a) Where the Authority suspends the registration of a co-operative bank under subsection (1), the Authority may do so subject to any condition that the Authority may determine.

(b) The Authority may revoke any suspension under subsection (1) if the Authority is satisfied that the co-operative financial institution has complied with all the conditions to which the suspension was made subject.

(4) (a) The Authority must publish a notice of such de-registration or suspension in the Register.

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<td>(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;</td>
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<td>(b) has ceased to operate;</td>
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<td>(c) obtained registration through fraudulent means;</td>
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<td>(d) no longer meets the requirements for registration referred to in section 40B;</td>
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<td></td>
<td>(e) is unable to meet or maintain its prudential requirements referred to in section 40B;</td>
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<td>(f) has failed to comply with any condition imposed under this Act;</td>
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<td>(g) has failed to comply with any directive issued under this Act; or</td>
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<td>(h) is de-registered or wound-up under the Co-operatives Act.</td>
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<td>40D. (1) Ngokulawulwa licandelwana (4), iGunya lnokulcinca iziko lemal<code>i lentsebenziswa eebhalihsiwe, okanye, xa kufanelelele, likunquamamise ukubhaliswa kwal</code>o, xa iGunya liqinisekile ukuba iziko lemal`i lentsebenziswa.</td>
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<td>(a) alikaqalisi ukusebenza njengeziko lemal<code>i lentsebenziswa sekuphele iinyanga ezintandathu ukususela kumhla elabhaliswa ngawo njengeziko lemal</code>i lentsebenziswa.</td>
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<td>(b) liyekile ukusebenza;</td>
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<td>(c) likufumene ukubhaliswa ngokusebenzisa ubuqhetseba;</td>
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<td>(d) alisaahlangebana neemfuneko zokubhaliswa ekuthethwe ngazo kwicandelo 40B;</td>
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<td>(e) likwazi ukuhlangabezana okanye ukugubheka lihlangabezana neemfuneko zobulunko ekuthethwe ngazo kwicandelo 40B;</td>
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<td>(f) loyisakele ukufezekisa imiqathango ef`unwa ngulo Mthetho;</td>
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<td>(g) loyisakele ukwenza ngokomyalelo olchutshwe ngokwalo Mthetho;</td>
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<td>(h) licinyewe ekubhalisweni kwalo okanye lathinjwa ngokweCo-operatives Act.</td>
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<td>(2) Xa iziko lemal<code>i lentsebenziswa lisicicile ngokwalo ukucinywa ekubhalisweni, iGunya lnokuthi kusakungeniswa isicelo esinjalo, kunye neny</code>e ingcombololo efinekayo okanye eccelweyo, ilicime ekubhalisweni iziko lemal`i lentsebenziswa.</td>
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<td></td>
<td>(3) (a) Xa iGunya likunquamamisa ukubhaliswa kwebhanki yentsebenziswa ngokwecandelwana (1), iGunya lnokwenza njalo ngokomqathango onokuthi ubekwe i`Gunya.</td>
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<td>(b) iGunya lnokukupheliisa ukunquanyisiwa okwenziwe ngokwecandelwana (1) ukuba iGunya liqinisekile ukuba iziko lemal`i lentsebenziswa livifezile yenke imiqathango.</td>
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<td>(4) (a) IGunya malipapashe kwRejista tsasziso sokucinywa okanye sokunquanyisiwa.</td>
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(b) The de-registration of a co-operative financial institution takes effect on the date specified in the notice referred to in paragraph (a).

(c) Where a co-operative financial institution has applied for reconsideration of the decision of the Authority referred to in subsection (1), the Authority must not publish the notice referred to in paragraph (a) until the application for reconsideration of the decision has been finalised.

### Repayment of deposits on de-registration or lapsing of registration

40E. (1) The Authority 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.

(2) A directive referred to in subsection (1) may—

(a) apply to all deposits generally; or

(b) differentiate between different types, kinds and amounts of deposits.

(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.

### Winding-up or judicial management of co-operative financial institution

40F. (1) Despite the provisions of sections 72(1), 73(1) and 77(2) of the Co-operatives Act—

(a) the Authority may—

(i) apply to a court that a co-operative financial institution be wound-up;

(ii) recommend to the Minister responsible for co-operatives that a co-operative financial institution be wound-up; and

(iii) apply to a court for a judicial management order; and

(b) the Minister responsible for co-operatives may not order that a co-operative financial institution be wound-up without the written concurrence of the Authority, or the Agency, if functions of the Authority have been assigned or delegated to the Agency as contemplated in this Act.
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<td>(b)</td>
<td>Ukucinywa ekubhalisweni kweziko lemali lentsebenziswano kuqala ukusebenza ngomhla oxelwe kwisaziso ekuthethwe ngaso kwisigqibo (a).</td>
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<td>(c)</td>
<td>Xa iziko lemali lentsebenziswano lenze isicelo sokuqwalaselwa ngokutsha kwenziyo seGunya ekuthethwe ngalo kwicandelwana (1), iGunya malingasipapashi isaziso ekuthethwe ngaso kwisigqibo (a) de kube kugqitywe ukuqwalaselwa ngokutsha kwesigqibo.</td>
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**Ukubuyiswa kweemali ebeziqaphre lisakucinywa iziko okanye kusakuphela ukubhaliswa kwalo**

40E. (1) Xa iziko lemali lentsebenziswano licinywa ekubhalweni, iGunya linokuthi liyalele elo ziko lemali ukuba libuyise imali ezikakhayo kulo, kuquka nenzala yazo, mali ezo ezisekwiziko ekupheleni komhla wokucinywa kwalo ekubhalisweni lingekekhepi ixesha elixelwe kumyalelo.

(2) Umyalelo ekuthethwe ngawo kwicandelwana (1) unokuthi—
   (a) usebenze kuzo zonke imali ezifakiweyo; okanye (b) usebenze kuphela kwintlobo ezithile nakwinimi ezithile ezifakiweyo.

(3) Iziko lemali lentsebenziswano elingakwenziyo okufunwa ngumyalelo ngokwecandelwana (1) lithathwa ngokuthi liyoyisakala ukuhlawula amatyala alo.

**Ukuthinjwa kweziko lemali lentsebenziswano**

40E. (1) Kungakhathaliseki ukuba lithini icandelo 72(1), 73(1) nele-77(2) leCo-operatives Act—

(a) iGunya linokuthi—

   (i) lenz’isicelo enkundleni sokuba iziko lemali lentsebenziswano lithinjwe;

   (ii) licebise uMphathiswa ophathiswa imifelandawonye ukuba iziko lemali lentsebenziswano lithinjwe; kana njalo

   (iii) lenz’isicelo enkundleni somyolelo wokuba iziko liphathwe ngabalawuli abamiselwe yinkundla; kana njalo

(b) uMphathiswa ophathiswa imifelandawonye akavumelekanga ukuba ayalele ukuba iziko lemali lentsebenziswano lithinjwe
(2) 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 Authority.

(3) Despite any other law, the Master of the High Court may only appoint a person recommended by the Authority 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.

(4) A liquidator of a co-operative financial institution that is voluntarily wound-up must submit to the Authority any documents that the co-operative financial institution being wound-up would have been obliged to submit in terms of this Act.”.

8. The repeal of sections 41 and 43.

9. The amendment of section 44—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Authority may, in writing, delegate or assign any of the powers entrusted to him or her the Authority in terms of this Act and assign any of the duties imposed on him or her the Authority in terms of this Act to a deputy supervisor, any person employed by the Authority or the South African Reserve Bank, to the Financial Sector Conduct Authority, or, with the concurrence of the Minister, to the Agency a deputy supervisor or any other person.

(b) by the insertion after subsection (3) of the following subsection:

“(4) (a) To the extent that a power or function relating to the licensing of co-operative financial institutions has been delegated to the Agency, references in Chapter VIIA to “the Authority” must be read as a reference to “the Agency”.

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| Act No. 9 of 2017| Financial Sector Regulation Act, 2017 | (2) 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 Authority. (3) Despite any other law, the Master of the High Court may only appoint a person recommended by the Authority 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. (4) A liquidator of a co-operative financial institution that is voluntarily wound-up must submit to the Authority any documents that the co-operative financial institution being wound-up would have been obliged to submit in terms of this Act.”. 8. The repeal of sections 41 and 43. 9. The amendment of section 44— (a) by the substitution for subsection (1) of the following subsection: “(1) The Authority may, in writing, delegate or assign any of the powers entrusted to him or her the Authority in terms of this Act and assign any of the duties imposed on him or her the Authority in terms of this Act to a deputy supervisor, any person employed by the Authority or the South African Reserve Bank, to the Financial Sector Conduct Authority, or, with the concurrence of the Minister, to the Agency a deputy supervisor or any other person.”; and (b) by the insertion after subsection (3) of the following subsection: “(4) (a) To the extent that a power or function relating to the licensing of co-operative financial institutions has been delegated to the Agency, references in Chapter VIIA to “the Authority” must be read as a reference to “the Agency”.

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<td>ngaphandle kwemvume ebhaliweyo yeGunya, okanye iArhente, ukuba imisebenzi yeGunya yabelwe okanye iphathiswe iArhente njengoko kuxelwe kulo Mthetho.</td>
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<td>(2) Isicelo esibhekiswa enkundleni sokuthinjwa, kuquka nokuthinjwa ngokuzithandela kweziko lemalai lentsebenziswano malaziswe iGunya ngaso.</td>
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<td>(3) Kungakahthалиsekis ekuuka uthini na omnye umthetho, uMgcini-Mafa WeNkulenda Ephakamileyo unokumisela kuphela umuntu onconyuwe iGunya njengonothimba wexeshana okanye unothimba weziko lemalai lentsebenziswano, ngaphandle kokuba uMgcini-Mafa unoluvo lokuba umuntu onconyiweyo akefanelekanga ukuba amiselwe njengonothimba wexeshana okanye njengonothimba weziko lemalai lentsebenziswano.</td>
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<td>(4) Unothimba weziko lemalai lentsebenziswano elishunegokwalo ukuthinjwa makanike iGunya nawaphi na amaxwebhu ebefile kunyanzeleka ukuba liwakhuphelo elo ziko ngokwalo Mthetho.</td>
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|                        | 9. Kwenziwa utshintsho kwicandelo 44—  
|                        | (a) ngokuthi indawo yecandelwana (1) ithatyathwe icandelwana elilandelayo: "(1) [Umphathi] iGunya linokuthi, ngokubhala, liphathise okanye lebele amagunya eliphathishisweyo lwabele iGunya ngokwalo Mthetho [usekelaphathi,] nawuphi na umuntu oqeshwe liGunya okanye yeSouth African Reserve Bank, kwíFinancial Sector Conduct Authority, okanye, ngokuvumelana noMpahthiswa, kwíArhente [usekelaphathi okanye omnye umuntu]."; nangokuthi |
|                        | (b) emva kwecandelwana (3) kufakwe icandelwana elilandelayo: "(4) (a) xa igunya okanye umsebenzi wokuwukhtshelwa ilayisensi kweziko lemalai lentsebenziswano uphathiswe iArhente, xa kwisahluko VIIA kuthethwa nge-"Gunya" oko makuthathwe njengokuphekisela kwí-"Arhente"."; |
(b) A reference in Chapter VIIA to “prescribed” means “prescribed in prudential, conduct or joint standards”.

(c) To the extent that a power or function relating to the licensing of co-operative financial institutions has been assigned or delegated to the Agency—
(i) the Agency may make rules in relation to the performance of that power or function; and
(ii) “prescribed” must be read as referring to “rules made by the Agency”.

10. The substitution for section 45 of the following section:

“45. The [supervisor] Authority, in addition to other functions conferred on the [supervisor] Authority by or in terms of any other provision of this Act—
(a) must take steps [he or she] that the Authority considers necessary to protect the public in their dealings with co-operative banks and co-operative financial institutions;
(b) may, on the written request of a co-operative bank, co-operative financial institution, representative body, support organisation or auditor, extend any period within which any documentation, information or report must be submitted to [him or her] the Authority;
(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, co-operative financial institution, [a] representative body, support organisation or auditor is required to submit to the [supervisor] Authority under this Act must be submitted;
(d) may, despite the provisions of any law, furnish information acquired by [him or her] the Authority under this Act to any person charged with the performance of a function under any law;
(e) may issue guidelines to co-operative banks, co-operative financial institutions, 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;
10. Indawo yeucandelo 45 ithatyathwa licandelo elilandelayo:

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<td>(b) Xa kwiSahluko VIIA kukho igama elithi “emiselweyo” kuthethwa ”emiselweyo kwizenzo zokuphathwa zobulunumko okanye ngokwemilinganiselo yendibaniselwano”.</td>
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<td>(c) Xa igunya okanye umsebenzi wokukhuthsheliwa ilayiseni kwamaziko emali entsambenhiselwano wabelwe okanye uphathiswe iArhente— (i) iArhente inokuthi iqulunqe imigaqo engokwenza loo msebenzi ukusetyenziswa kwegunya; kwaye (ii) elithi “emiselweyo” malithathwe njengeliyisela “kwimigaqo equlunqwe yiArhente”.</td>
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45. [Umphathi] [Gunya, ukongezelela kweminye imisebenzi enikwe [umphathi] [Gunya ngokwalo Mthetho— (a) malithathabhe amanyathelo eliwabona lona liliGunya efanelekile ukukhusela uluntu ekusetyenzisela namaziko emali entsambenhiselwano; (b) unokuthi, ngesicelo esibhaliwweyo sebhanki yentsebenziswano, amaziko enqu entsambeniwano iqumrhuko elingummemi, axhase umbutho okanye umphicicintho-zincwadi, olule ithuba lokungeniswa koxwebhu oluthile okanye ingomcobo ethile ingeniswa kwiGunya; (c) makenz’ isiqgibo ngohlobo, ngendlela, ngobude bexesa, ukuba ubude bexesha abuxelwanga kuMthetho, ekufuneka lingapheli ibhanki yentsebenziswano, iziko lemali lentsebenziswano, iqumrhuko elingummemi, umbutho wenkwaso okanye umphicicinco-zincwadi, ekufuneka angenise ngalo [kumphathi] kwiGunya ngokwalo Mthetho; (d) unokuthi, kungakhathaliseki ukuba uthini omnye umthetho, anikele ngomcobo eloofunekayo kwiGunya ngokwalo Mthetho eyinika umntu ophathiswe isebenzi ngokwalo Mthetho; (e) unokuhupa izikhokelo eziya kwiibhanki zentsambeniwano, kumaziko emali entsambeniwano, kumalungu, kumaziko enkxaso nakubaphicicinco-zincwadi malungu nokusetyenziswa nokuchazwa |
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<td>(f)</td>
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<td>may publish a journal or any other publication, and issue newsletters and circulars containing information relating to co-operative banks and co-operative financial institutions; and</td>
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<td>(g)</td>
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<td>may take any measures [he or she] that the Authority considers necessary for the proper performance and exercise of [his or her] the Authority’s functions or duties or for the implementation of this Act.”.</td>
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11. The substitution for section 46 of the following section:

“Power to make [rules] standards

46. (1) [The supervisor may pre-]

scribe rules with regard to— | A pru-

dential, conduct or joint standard for or in respect of co-operative financial insti-
tutions and co-operative banks may be made on any of the following matters:

(a) [any] Any matter that is required or permitted to be prescribed in terms of this Act; and

(b) any other matter for the better imple-

mentation of this Act or a function or power provided for in this Act.

(2) [Rules] Standards referred to in subsec-

tion (1) may—

(a) apply to co-operative banks or co-

operative financial institutions gener-

ally; or

(b) be limited in application to a particu-

lar co-operative bank or co-operative financial institution or kind of co-

operative bank or co-operative financial institution, which may be de-

fined in relation to either a type or budgetary size of co-operative bank or co-operative financial institution or to any other matter.

(3) (a) Before the supervisor pre-

scribes any rule under this section, he or she must—

(i) publish a draft of the proposed rule in the Gazette 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
11. Indawo yecandelo 46 ithatyathwa licandelo elilandelayo:

“Igunya lokuqulunqa [imigaqo] imilinganiselo

46. (1) [Umphathi unokuqulunqa imigaqo ngokubhekiselele]- [Isenso sobulumko okanye umlinganiselo wendibaniselwano weziko lemalile lentsebenziswa sinokwenziwa ngawo nawuphi na kule micimbi ilandelyo:

(a) [nayiphi na] Nawuphi na umcimbi ekufuneka okanye ekuvumeleleleko ukuba kwensiwe imisingelo ngawo; kwakunye
(b) nawuphi na umcimbi wokusetyenziswa bhetele kwalo Mthetho okanye umsebenzi okanye igunya eliqulethwe kulo Mthetho.

(2) [Imigaqo] Imilinganiselo ekuthethwe ngayo kwicandelwana (1) inokuthi—

(a) isebenze kwibihaniki zentsebenzi-swano okanye kumaziko emali entsebenziswa galabalala; okanye
(b) ekusebenzeni kwuyo ipheleleilele kwibihaniki ethile yentsebenziswa okanye iziko lemalile lentsebenziswa, elingachazwa ngohlolo lwalo okanye ngobungakanani bebhaniki yentsebenziswa okanye iziko lemalile lentsebenziswa okanye ngokubhekiselele nakweyiphi na into.

(3) (a) Ngaphambi kokuba umphathi aqulunqo nawuphi na umthetho ngokweli candelo—

(i) makapapashe umgqo ocetewayo oseluvanyo avwupapashe kwitGazethi kunye nesihlokomsis esicela ukuba uluntu luvakalise izimvuyo ngokubhala lingekapheli
12. The substitution for section 47 of the following section:

“Inspections

47. (1) [(a)] The [supervisor] Authority may at any time of [his or her] the Authority’s 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 or a co-operative financial institution, inspect the business of a co-operative bank or a co-operative financial institution if the [supervisor] Authority has reason to believe that the co-operative bank or co-operative financial institution is not conducting its affairs in accordance with the provisions of this Act or is contravening a provision of this Act.

[(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.]

(2) The [supervisor] Authority may take any measures and make any recommendation [he or she] that the Authority considers appropriate following an inspection in terms of subsection (1), including a recommendation to—

(ii) secure the written approval of the Minister.

(b) If the supervisor alters a draft rule because of any comment, he or she need not publish the alteration before prescribing the rule.

(4) The supervisor may, if circumstances necessitate the immediate publication of a rule, publish that rule without the approval as contemplated in subsection (3)(a)(ii).]”.

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<td>(b) If the supervisor alters a draft rule because of any comment, he or she need not publish the alteration before prescribing the rule.</td>
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<td>(4) The supervisor may, if circumstances necessitate the immediate publication of a rule, publish that rule without the approval as contemplated in subsection (3)(a)(ii).]”.</td>
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<td>ixesha elixelwe kwisihlokomiso, xesha elo elingenakuba ngaphantsi kwentsuku ezingama-30 ukususela kumhla wokupapashwa kwsishlokomiso; kwaye (ii) makafumane imvume ehlaliweyo yoMphathiswa.</td>
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<td>(b) Ukuba umphathi uyawutshi-ntsha umgaqo osebuluvanyo ngenxa yoluvo oluvakalisweyo, akukho mfuneko yokuba alupapase olo tshinlulo ngaphambili kokuba awuqulunqe umgaqo.</td>
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<td>(4) Ukuba lumeke zifunisa ukuba upapapshwe ngoke nangoko umgaqo, umphathi unokuwupapasha loo mgaqo ngaphandle kwemvume ezelwe kwicandelwana (3)(a)(ii),]”</td>
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12. Indawo yecandelo 47 ithathyathwa licandelo elilandelayo:

“Ukuhlolwa

47. (1) [(a)] [Umphathi] iGunya linokuthi nangaliphi na ixesha, xa kwenziwe isicelo ubuncinane lishumi ekhulwini lamalungu okanye xa kucele umphathi ogwebayo webhanki yentsebenziswa okanye weziko lemal i lentsbenziswa, ahlile isishini lebhanki yentsebenziswa okanye leziko lemal i lentsbenziswa seukuba [umphathi] iGunya limesizathu sokukhololwa ukuba ibhanki yentsebenziswa okanye iziko lemal i lentsbenziswa aliqhubi ngokwalo Mthetho okanye laphula okutshwilo ngulo Mthetho. [(b) Njenjongo yokusebenza kwecandelwana (2) umpahli unamagunya nemisebenzi athiwe jize kumgcini-zifayile yi-Inspection of Financial Institutions Act 80 ka-1998, kwaye nanini na xa kuloo Mthetho kuthethwa nge-“mgcini-zifayile” makuthathwe oko njengokubhekisela ku-“mphathi” kwaye nanini na xa kuthethwa nge-“ziko lemal i” makuthathwe oko njengokuthetha “ibhanki yentsebenziswa”, kodwa ke akufuneki sigunyazisi yokugqogqa nokuthathwa njenjongo yokufanezwa okufunwa yimimiselo.] (2) [Umphathi] iGunya linokutha-batha nawaphi na amanyathelo lize lenze naziphi na izipakamiso elizibona zifanelekele emva kokuhlola ngokwecandelwana (1), kuquka isiphakamiso esiya—
### Extent of repeal or amendment

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<td><em>(a)</em> the co-operative bank or the co-operative financial institution; and <em>(b)</em> the relevant prosecuting authority if the inspection was done on the authority of a warrant.”.</td>
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13. The amendment of section 48— *(a)* by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

> “The [supervisor] Authority 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 or a co-operative financial institution—”; and *(b)* by the substitution in subsection (2) for paragraphs *(a)* and *(b)* of the following paragraphs:

> “*(a)* apply to co-operative banks or co-operative financial institutions generally; or *(b)* be limited in its application to a particular co-operative bank or co-operative financial institution, or kind of co-operative bank or co-operative financial institution, which may be defined either in relation to a type or budgetary size of co-operative bank or co-operative financial institution or to any other matter.”. |

14. The amendment of section 49— *(a)* by the substitution for subsection (1) of the following subsection:

> “*(1)* The [supervisor] Authority may, despite and in addition to taking any step [he or she] that the Authority may take under this Act, impose an administrative penalty on [the] a co-operative bank or co-operative financial institution for any failure to comply with a provision of this Act.”; and *(b)* by the substitution for subsection (4) of the following subsection:
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<tr>
<td>(a)</td>
<td>kwibhanki yentsebenziswa okanye kwiziko lemaili lentsenbenziswa;</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>nakwigungunya lotshutshiso elfanelekeleyo ukuba ukuhlola kwenziwa ngesigunyazisi.”.</td>
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13. Kwenziwa utshintsho kwicandelo 48—
   (a) ngokuthi amazwi awandulela isiqendu
   (b) isiqendu (a) no-(b) kwicandelwana (2) zithatyathelw’ indawo ziziqendu ezilandelayo:
   “(a) isebenza kwibhanki zentsebenziswa okanye kumaziko emali entsebenziswa nangokubanz; okanye
   (b) ekusetyenzisweni kwawo uphelelelelw kwibhanki ethile yentsebenziswa okanye kwiziko lemaili lentsenbenziswa elihile, okanye kuhlilo oluthile lwebhanki yentsebenziswa okanye kwiziko lemaili lentsenbenziswa lohlilo oluthile, enokuthi ichazwe ngokuhlilo lwayo okanye ngokubungakanani bebhanki yentsebenziswa okanye ngokubungakanani beziko lemaili lentsenbenziswa.

14. Kwenziwa utshintsho kwicandelo 49—
   (a) ngokuthi indawo yecandelwana (1) ithathwe licandelwanda elilandelayo:
   “(1) [Umphathii] Ginya linokuthi, ukongezelela phezu kwenyathelo elithatyathileyo elinokuthathathwa [Gunya ngokwalo Mthetho, likhuphe isohlwayo isohlwaya ibhanki yentsebenziswa okanye iziko lemaili lentsenbenziswa ngenxa yokungakwenzi okufunwa nguloMthetho.’’; nangokuthi
   (b) ngokuthi icandelwana (4) lithatyathelw’ indawo licandelwana elilandelayo:
15. The substitution for section 50 of the following section:

“Information and reports

50. [(1)] (a) The [supervisor] Authority may on written notice require a co-operative bank, a co-operative financial institution, a representative body or a support organisation [of a co-operative bank] to submit to [him or her] the Authority—

(i) the information specified in the notice; or
(ii) a report by an auditor or by any other person with appropriate professional skill, designated by the [supervisor] Authority, on any matter specified in the notice.

(b) A report required under [subsection (1)] paragraph (a) must be prepared at the expense of the co-operative bank, representative body or support organisation.”.

16. The amendment of section 55 by the insertion after paragraph (l) of the following paragraph:

“(IA) 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 Authority may, with the concurrence of the Minister, delegate or assign to the Agency.”.

17. The amendment of section 57—

(a) by the substitution in subsection (1) for paragraph (aA) of the following paragraph:

“(aA) the matters referred to in section 55(1)(f) to (h) and paragraph (aB) of this subsection, in consultation with the [supervisor] Authority.”;
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<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khuslwane</th>
<th>Bogolo jwa phimolo kgotsa tlahbololo</th>
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<tr>
<td></td>
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<td>&quot;(4) Ukuba ibhanki yentsebenzi-swano okanye iziko lemali yentsebenzi-swano liyisakala ukuthi ukuthi yentsebenzi-swano lisoziwa nga yentsebenzi-swano ea lebogolo kgotsa tlhabololo lise [umphathi] iGunya linokuthi liyifune loo mali ngokumangala enkundleni.&quot;.</td>
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<td>15. Icandelo 50 lithatyathelw'indawo licandelo elilandelayo:</td>
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<td></td>
<td></td>
<td>&quot;Inkazelo neengxelo&quot;</td>
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<td>50. <a href="a">(1)</a> [umphathi] iGunya linokuthi ngokwenza isaziso esibhaliweyo lifune ukuba ibhanki yentsebenziswano, iziko lemali yentsebenziswano, qumruthu elingummeli okanye umbutho wenkxaso [webhanki yentsebenziswano] lingenise kulo iGunya—</td>
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<td></td>
<td>(i) inkazelo exelwe kwisaziso; okanye</td>
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<td></td>
<td></td>
<td>(ii) ingxelo eyenziwe ngumphicothizincwadi okanye ngomnye umuntu owufundeleyo usumzombo wakhe, o schonwe [umphathi] iGunya, ngawo nawuphi na umcimbi oxelwe kwisaziso.</td>
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<td></td>
<td></td>
<td>(b) Ingxelo efuneayo [ngokwe-candelwana (1)] ngokweqiqiwe (1) mayiqulunqwe ngendleko yeYaba yentsebenziswano, yequmruthu elingummeli okanye yembutho wenkxaso.&quot;.</td>
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<td>16. Kwenziwa utshintsho kwicandelo 55 ngokuthi emva kwesiqendu (l) kufakelwe isiqiwe esilandelayo:</td>
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<td></td>
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<td>&quot;(2A) lisebenzise amagunya lenze nemisebenzi yamaziko emali yentsebenziswano, kuquka imisebenzi yolawulo neyokuphathisa, njengoko xelwe ngokwalo Mhetho, okanye leyo iGunya elinokuthi, ngemvume yomphathiswa, liviphathise okanye liyabele iArhente;&quot;.</td>
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<td></td>
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<td>17. Kwenziwa utshintsho kwicandelo 57—</td>
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<td></td>
<td>(a) ngokuthi kwicandelwana (1) isiqiwe esilandelayo:</td>
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<td></td>
<td>&quot;(a) imicimbi ekuthethwe ngayo kwicandelo 55(1)(f) ukuya ku-(h) nakwisigqena seli candelwana, ngokubonisana [nomphathi] neGunya;&quot;;</td>
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</tbody>
</table>
420

<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<tbody>
<tr>
<td>(b)</td>
<td></td>
<td>by the insertion after paragraph (aA) of the following paragraph:</td>
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<tr>
<td></td>
<td></td>
<td>“(aB) 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 Authority may, with the concurrence of the Minister, delegate or assign to the Agency;”;</td>
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<td></td>
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<td>(c) by the substitution in subsection (2) of the following subsection:</td>
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<td>“(2) Rules referred to in subsection (1) may—</td>
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<td></td>
<td></td>
<td>(a) apply to co-operative banks, representative bodies [or], support organisations or co-operative financial institutions generally; [or]</td>
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<td></td>
<td>(b) be limited in application to a particular co-operative bank, representative body [or], support organisation or co-operative financial institution, or kind of co-operative bank or co-operative financial institution, which may be defined either in relation to a type or budgetary size of co-operative bank or co-operative financial institution, or to any other matter; and</td>
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<td></td>
<td>(c) only apply to co-operative financial institutions, in the case of rules referred to in subsection (1)(aB).”;</td>
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<td>18.</td>
<td></td>
<td>The repeal of sections 75 and 76.</td>
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<td>19.</td>
<td></td>
<td>The substitution for section 77 of the following section:</td>
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<td></td>
<td>“Unlawful use of word ‘co-operative bank’, ‘co-operative financial institution’ or unlawful conduct of [banking] business of co-operative bank or co-operative financial institution.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>77. (1) It is an offence for any person who is not registered as a co-operative bank or a co-operative financial institution under this Act to—</td>
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</table>
### NOMORO YA MOLAO LE NGWAGA

<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khotshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tbody>
<tr>
<td>(b)</td>
<td></td>
<td>&quot;(aA) amaziko emali entsebenziswano, ukuze enze imisebenzi ye-Arhhente emayela namaziko emali entsebenziswano, kuquka imisebenzi yolawulo nokuphatha, njengoko ixelwe kulo Mthetho, okanye leyo elinokuthi iGunya, ngokuvumelana noMphathiswa, liyiphathe okanye liyabele i-Arhhente;&quot;;</td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td>&quot;(2) Imigaqo ekuthethwe ngayo kwicandelwana (1) inokuthi—(a) isebenze kwibhanki zentsebenziswano, kumaqumrhu angabameli [okanye], kwimibutho yenxaxaso okanye kumaziko emali entsebenziswano ngokubanzi; <a href="b">okanye</a> ekusetyenziswa kwayo ipheleleiswe kwibhanki ethile yentshebenziswano, kwiququmrhu elingumneli [okanye], kumbutho wenxaxaso okanye kwiziko lemali lentsebenziswa, elinokuchazwa ngohlobo iwalo okanye ngobukhulu bebhanki yentshebenziswa okanye beziko lemali lentsebenziswa, okanye enye into; kwaye</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) isebenza kuphela kumaziko emali entsebenziswano, xa kuyigmaga ekuthethwe ngayo kwicandelwana (1)(aB).&quot;).&quot;</td>
</tr>
</tbody>
</table>

18. Kutshitshiswa icandelo 75 nelamatho-76.

19. Icandelo 77 lithatyathelw’ indawo icandelo elilandelayo:

"Ukusetyenziswa ngokungekho mthethweni kwegama elithi ‘ibhanki yentshebenziswa,’ “iziko lemali lentsebenziswa’ okanye ukwenza okungekho mthethweni kwamashishini [aziibhanki] ebhanki yentshebenziswa okanye eziko lemali lentsebenziswa."

77. (1) Kusisenzo esikukona ukuba umuntu ongabhaliswanga njengebhanki yentshebenziswa okanye njengeziko
Act No. and year | Short Title | Extent of repeal or amendment
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(a) in connection with any business conducted by him, her or it—
(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 co-operative financial institution registered as such under this Act; or
(ii) in any manner purport to be a co-operative bank or a co-operative financial institution registered as such under this Act; or
(b) use in respect of any business a name or description that includes the expression “co-operative bank”, “co-op bank”, “co-operative financial institution” or any derivative thereof.
(2) It is an offence for any person to conduct the business of any co-operative bank or co-operative financial institution unless such person is registered as a co-operative bank or a co-operative financial institution in terms of this Act.
(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.
(b) 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.

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 co-operative financial institution to provide any information that to the knowledge of such person is untrue or misleading in any material respect.”.

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
Nomoro ya Molao le ngwaga | Setlhogo se se khushele | Bogolo jwa phimolo kgotsa tlhabololo
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Molelengisizwano ngokwalo Mthetho ukuba—
(a) athi mayela neshishini eliqhutywa nguye—
(i) athethe ngaye siqu okanye athethe ngebhanki leyo ngemagama okanye engendlela eyenzelwe ukuba yenze abantu bacinge ukuba iyibhanki yentsebenziswano okanye iliziko lemalile yentsebenziswano elibhalisiwego ngokwalo Mthetho; okanye
(ii) nangayiphi na indlela azenze ibhanki yentsebenziswano okanye iliziko lemalile yentsebenziswano elibhalisiwego ngokwalo Mthetho; okanye
(b) asebenzise kwishishini igama okanye inkcazelo eqina intetho "ibhanki yentsebenziswano" "iziko lemalile yentsebenziswano" ngokwalo Mthetho.
(2) (a) Kusisenzo esikukona ukuba ibhanki yentsebenziswano inike inkunzolo zebhanki ezingezizo eziqigongoxo ezinge ezenze elibhaliselwe ukuba ibe yiyi ngokwalo Mthetho.
(b) Kusisenzo esikukona ukuba iliziko lemalile yentsebenziswano inike inkunzolo ezingezizo eziqigongoxo ezenze ezinge ezenze elibhaliselwe ukuba iliziko zona ngokwalo Mthetho.
20. Icandelo 78 lithathyathelw’ indawo icandelo elilandelayo:
"Ingcombolo engeyonyani malunga nezicelo"
78. Kusisenzo esikukona ukuba umuntu athi xa esenza isicelo sokubhaliswa njengebhanki yentsebenziswano okanye iliziko lemalile yentsebenziswano anike ingcombolo ayaziyo ukuba ayiyonyani okanye iyinkohliso.".
21. Icandelo 79 lithathyathelw’ indawo icandelo elilandelayo:
"Ukuba netyala lolwaphulo-mthetho komlawuli, komlawuli ophetheyo, kwegosa eliphabezulu eliququzelelelayo nabanye abantu"
79. (1) Kusisenzo esikukona ukuba umlawuli, umlawuli ophetheyo okanye igosa eliphabezulu eliququzelelelayo lebhanki yentsebenziswano okanye leziko lemalile yentsebenziswano lithi ngokungqaliyeo okanye ngokunganga-ngqalanga libandakanyeke okanye
### Fair administrative action

**82.** Where a decision or other step of an administrative nature taken by the [supervisor,] Authority or the Agency [or appeal board that] affects the rights of another person, the [supervisor,] Authority or the 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 or in terms of the Financial Sector Regulation Act.  

### Indemnity

**85.** Neither the [supervisor,] Authority or the Agency [or appeal board], nor 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.”.
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlabololo</th>
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<td>lithabath’ inxaxheba ekuphathweni kwebhanki yentsbenziswano okanye kweziko lemali lentsebenziswano ngoxa ishishimi lebhanki yentsbenziswano okanye leziko lemali lentsebenziswano liqutywa ngokungenankathalo, ngenjongo yokuqaththa abo libatyalayo. (2) Kusisenzo esikukona ukuba umntu ongenguye umlawuli, ummlawuli ophethayo okanye igosa eliphezulu eliquzelelalo liti lisazi, ngokungqa-lileyo okanye ngokungangqalanga, lizuze, libandakanyeke okanye lithabath’ inxaxheba ekuphathweni kwebhanki yentsbenziswano okanye kweziko lemali lentsebenziswano ngoxa ishishini lebhanki yentsbenziswano okanye leziko lemali lentsebenziswano liqutywa ngokungenankathalo, ngenjongo yokuqaththa abo libatyalayo.”.</td>
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<td>22.</td>
<td>Icandelo 82 lithatyathelw’indawo licandelo elilandelayo:</td>
<td>“Ukwenziwa kweziggibo ngobulunguisa</td>
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<td>23.</td>
<td>Icandelo 85 lithatyathelw’indawo licandelo elilandelayo:</td>
<td>“Ukungabili nabutyala</td>
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<td>85. [Umphathi] [i]Gunya okanye iArhente [okanye ibhodi yezibheno], okanye ilungu lebhodi okanye umqeshwa okanye umlawuli ophethayo walo, okanye ikomiti yeArhente okanye ilungu layo, akabekeki tyala ngokwenza okanye ngokusilela ukwenza xa oko bekungenganjongo imbi okanye xa oko bekungena yoko kutshiwo ngulo Mthetho, ngaphandle kokuba okwenzekileyo kube kukungakhathali okukhwanqisayo.”.</td>
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<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td>24.</td>
<td>The substitution for section 87 of the following section:</td>
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<td></td>
<td>“Powers of Minister”</td>
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<td>87. The Minister may delegate any of [his or her] the Minister’s powers in terms of this Act, excluding 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.”.</td>
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<td>25.</td>
<td>The substitution for the long title of the Act for the following:</td>
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<td>“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 co-operative financial institutions; to establish an appropriate regulatory framework and regulatory institutions for co-operative banks and co-operative financial institutions that protect members of co-operative banks and co-operative financial institutions; to provide for the registration of deposit-taking financial services co-operatives as co-operative banks and co-operative financial institutions; to provide for the regulation and supervision of co-operative banks and co-operative financial institutions; 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”.</td>
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<td>26.</td>
<td>The substitution for the expression “supervisor”, wherever it occurs, of the expression “Authority”.</td>
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<td>27.</td>
<td>The amendment of the arrangement of sections—</td>
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<td>(a) by the insertion after item 1 of the following items:</td>
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<td></td>
<td>“1A. Relationship between Act and Financial Sector Regulation Act”</td>
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<td>1B. Regulatory instruments”;</td>
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<td>(b) by the substitution for items 18 and 19 of the following items:</td>
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<td>“18. Functions of Auditor in relation to Authority”</td>
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<td></td>
<td>19. Submission of documents to Authority”;</td>
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<tr>
<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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<td>24.</td>
<td>Icandelo 87 lithatyathelw' indawo licandelo etilandelayo:</td>
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<td></td>
<td>&quot;Amagunya oMphathiswa &quot;</td>
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<td>87. UMP hathiswa unokuwaphathiswa amagunya akhe ngokwalo Mthetho, ngaphandle kwegunya lokwenza imimiselo negunya lokumisela amalungu eArhente [okanye ebhodi yezibheno], awaphathise uMlawuli-Jikelele okanye elinye igosa elisebenza kwiNxili Yelizwe.&quot;</td>
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<td>25. Amazwi achaza injongo yoMthetho athatyathelw' indawo ngamazwi alandelayo:</td>
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<td></td>
<td>&quot;Injongo kukuphucula intlalontle yabo bonke abantu baseMzantsi-Afrika kwicala loqoqoshho ngokuba-fumanisa inkonzo zeebhanki phantsi kweemeko ezintle; kukukhuthaza ukusebenzisana kweebhanki namaziko emali entsendenziswano; kukwenza ukuba zilawulwe ngokufanelekileyo ibhanki zentsendenziswano namaziko emali entsendenziswano kuze kukhuseleke amalungu eebhanki zentsendenziswano namaziko emali entsendenziswano; kukwenza ukuba ibhaliwe imifelandawonye cyamkela imali ebantwini njengeebhanki zentsendenziswano namaziko emali entsendenziswano; nokwenza ukuba kubezikh [abaphathi beebhanki zentsebenziswano] nearhente yophuhliso yeebhanki zentsendenziswano; nokulungiselela izinto ezicye elele apho&quot;.</td>
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<td>26. Naphi na kukho igama elithi &quot;umphathi&quot; indawo yalo ithatyathwa lelithi &quot;iGunya&quot;.</td>
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<td>27. Kwenziwa utshintsho kuleandelwano lwamacandelo ngokuthi—</td>
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<td></td>
<td>(a) emva ko-1 kufakelwa oku kulandelayo:</td>
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<td></td>
<td>&quot;1A. Ubudlelane phakathi kwal Mthetho neFinancial Sector Regulation Act&quot;</td>
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<td></td>
<td>1B. Izihobo zolawulo&quot;;</td>
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<td>(b) endaweni ka-18 no-19 kufakelwe oku kulandelayo:</td>
<td></td>
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<td></td>
<td>&quot;18. Imisebenzi yoMphicothi-zincwadi ngokuhlubene neGunya&quot;</td>
<td></td>
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<tr>
<td></td>
<td>19. Ukungeniswa kwamaxwebhu kwiGunya&quot;;</td>
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</tbody>
</table>
Act No. and year | Short Title | Extent of repeal or amendment
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Act No. 9 of 2017 | Financial Sector Regulation Act, 2017 | (c) the insertion after item 40 of the following heading and items:

```
CHAPTER VIIA
CO-OPERATIVE FINANCIAL INSTITUTIONS

40A. Application for registration as co-operative financial institution
40B. Requirements for registration
40C. Registration of co-operative financial institution
40D. Suspension of registration or de-registration
40E. Repayment of deposits on de-registration or lapsing of registration
40F. Winding-up or judicial management of co-operative financial institution'';
```

(d) the substitution for item 77 of the following item:

```
77. Unlawful use of words “co-operative bank”, “co-operative financial institution” or unlawful conduct of business of co-operative bank or co-operative financial institution”.
```

(a) by the deletion in subsection (1) of the definition of “appeal board”;
(b) by the insertion in subsection (1) after the definition of “authorised user” of the following definition:

```
‘Authority’ means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;
```

(c) by the deletion in subsection (1) of the definition of “board”;
(d) by the insertion in subsection (1) after the definition of “bank” of the following definition:

```
‘central counterparty’ means a clearing house that—

(a) 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
```
Nomoro ya Molao le ngwaga | Setlhogo se se khotshwane | Bogolo jwa phimolo kgotsa tlabololo
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(c) emva ko-40 kufakelwe umxholo olandelayo namacandelo olandelayo:

“ISAHLUKO VIIA AMAZIKO EMALI ENTSEBENZISWANO

40A. Ukwenza isicelo sokubhaliswa njengeziko lemalali lentsebenziswano

40B. limfuneko zokubhaliswa

40C. Ukubhaliswa kweziko lemalali lentsebenziswano

40D. Ukunqunyanyiswa kokubhaliswa okanye ukucinywa kwako

40E. Ukubuyiswa kweemali ebezhilawulwe xa kucinywa ukubhaliswa okanye kuphelelwa

40F. Ukuthinjwa kweziko lemalali lentsebenziswano”; nangokuthi

(d) u-77 athatyathelw’indawo koku kulandelayo:

“77. Ukusetzenziswa ngokungengeko mthethweni kwamazwi athi “ibhanki yentsebenziswano,” “iziko lemalali lentsebenziswano” okanye ukukhuluya okungengeko mthethweni kweshishini lebhanki yentsebenziswano okanye leziko lemalali lentsebenziswano”.

(a) ngekususa inchazelo ye-“ibhodi yetikhalo” esigatjaneni (1);
(b) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuvu kwenchazelo ye-“umsebenziswe loqunyatiwe”:

‘Ligatja’ kushiwo liGatja leNchubo yeMkhakha wetetiMali lelisingulwe ngekwemigomo yesigaba 56 se-Financial Sector Regulation Act;

(c) ngekususa inchazelo ye-“ibhodi” esigatjaneni (1);
(d) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuvu kwenchazelo ye-“libhange”:

‘ligatja lelisingulwethu’ kushiwo indlu lehosanakhe—

(a) Lekhuza evumvelo othiwo ukuthi ukuthi ngekuzo inkhulukho

(b) Lekhuza evumvelo othiwo ukuthi ukuthi ngekuzo inkhulukho

(c) Lekhuza evumvelo othiwo ukuthi ukuthi ngekuzo inkhulukho

(d) Lekhuza evumvelo othiwo ukuthi ukuthi ngekuzo inkhulukho

(e) Lekhuza evumvelo othiwo ukuthi ukuthi ngekuzo inkhulukho

(f) Lekhuza evumvelo othiwo ukuthi ukuthi ngekuzo inkhulukho

(g) Lekhuza evumvelo othiwo ukuthi ukuthi ngekuzo inkhulukho
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<td>(b)</td>
<td>becomes a counterparty to trades with market participants through novation, an open offer system or through a legally binding agreement;</td>
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<td>(e)</td>
<td>by the substitution in subsection (1) for the definition of “clearing house directive” of the following definition: “‘clearing house directive’ means a directive issued by a licensed independent clearing house or a licensed central counterparty in accordance with its rules;”</td>
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<td>(f)</td>
<td>by the substitution in subsection (1) for the definition of “clearing house rules” of the following definition: “‘clearing house rules’ means the rules made by a licensed independent clearing house or a licensed central counterparty in accordance with this Act;”</td>
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<td>(g)</td>
<td>by the substitution in subsection (1) for paragraph (b) of the definition of “clearing member” of the following paragraph: “(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;”</td>
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<td>(h)</td>
<td>by the insertion in subsection (1) after the definition of “Companies Act” of the following definition: “‘conduct standard’ has the same meaning ascribed to it in terms of the Financial Sector Regulation Act;”</td>
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<td>(i)</td>
<td>by the deletion in subsection (1) of the definition of “enforcement committee”</td>
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<td>wonkhe lotsengako phindze</td>
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<td>khona lapho licinisekise</td>
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<td>kusebenta kwetinkomtileka</td>
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<td>letivunako; phindze</td>
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<td>(b)</td>
<td></td>
<td>iba ligatja letetimali</td>
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<td>kuteluhwebo nalabangenelelako</td>
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<td>bemakethe ngekuchibiyela,</td>
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<td>luhelo iwekuphisa loluvunako</td>
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<td>nobe ngekwasivumelwano</td>
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<td>lesibopho ngekwemtsetfo;'';</td>
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<td>(e)</td>
<td>ngekuntjintjwa kwenchazelo ye-</td>
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<td>“tinkhambiso tendlu legunya Takato”</td>
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<td>“tinkhambiso tendlu legunya Takato”</td>
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<td>kushiwo inkhambiso leniketwe</td>
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<td>sikhungo lesitimele lesigunyaTsiwe</td>
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<td>nome ligatja lelisemkhatsini</td>
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<td>letekuhweba lelisemtsetfweni</td>
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<td>ngekuhambisana nemitsetfo yalo;'';</td>
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<td>(f)</td>
<td>ngekuntjintjwa kwenchazelo ye-</td>
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<td>nobe ligatja lelisemkhatsini</td>
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<td>letekuhweba lelisemtsetfweni</td>
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<td>ngekuhambisana naloMsetfo;'';</td>
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<td>(g)</td>
<td>ngekuntjintjwa kwenchazelo ye-</td>
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<td>“lilunga leligunyaTako” kunzima (b)</td>
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<td>esigatjaneni (1) ngendzima</td>
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<td>“(b) ngalokuphatsele neSikhungo</td>
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<td>lesitimele lesignyatako nobe</td>
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<td>ligatja lelisemkhatsini letekuh-</td>
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<td>hweba leligyatiwe, umuniflu</td>
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<td>loniketwe imvume kutsi ente</td>
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<td>umsebentse logunyaTsiwe noza</td>
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<td>imisebentse yekukuhokhela noza</td>
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<td>ngekwemtsetfo yesikhungo lesignyatako,</td>
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<td>Kantsi kufaka</td>
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<td>ekhatsi lilunga lelitimele noza</td>
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<td>lelingasilo lesikhungo, lapho</td>
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<td>kufanele khon;’’;</td>
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<td>(h)</td>
<td>ngekufakwa kwalenchazelo lelandze-</td>
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<td>lako esigatjaneni (1) ngemuva</td>
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<td>kwenchazelo ye: ‘’i-Companies Act’’;</td>
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<td>‘’ untsetfo wenchabo’’ Ichenchazelo</td>
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<td>lelanako nayelo leniketwe yona</td>
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<td>Sector Regulation Act;’’;</td>
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<td>(i)</td>
<td>ngekususwa kwenchazelo ye-</td>
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<td>“likhomidi lelibeka imitsetfo”</td>
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<td>esigatjaneni (1);</td>
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(j) | by the insertion in subsection (1) after the definition of “external authorised user” of the following definition: “external central counterparty” means a 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—(a) establish a regulatory framework equivalent to that established by this Act; and(b) are supervised by a supervisory authority;’’;
(k) | by the insertion in subsection (1) after the definition of “external exchange” of the following definition: “external market infrastructure” means each of the following:(a) An external central counterparty;(b) an external central securities depository;(c) an external clearing house;(d) an external exchange;(e) an external trade repository;”;
(l) | by the insertion in subsection (1) after the definition of “Financial Intelligence Centre Act” of the following definitions: “financial sector law” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act; ‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;
(m) | by the deletion in subsection (1) of the definition of “Financial Services Board Act”;
(n) | by the substitution in subsection (1) for the definition of “independent clearing house” of the following definition: “independent clearing house” means a clearing house that clears transactions in securities on behalf of any person in accordance with its clearing house rules, and authorises and supervises its clearing members in accordance with its clearing house rules;”;

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<th>Bogolo jwa phimolo kgotsa tshaboalo</th>
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<tr>
<td>(j) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuvwa kwenchazelo ye-“umsebentisi longaphandle logunyatiwe”</td>
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<tr>
<td>“ligatja lelisemkhatsini letekhuweba lelisemtsetfweni langephandle” Kushiwo umuntu fangaphandle lelogunyatiwe ligatja lelilawulako kutsi ente imisebeni lefana naye yeligatja leliserenade letekhuweba njengoba kubekwe kuloMtsetfo futsi lohambisana nemisitse futhi ngaphandle kwalena yeRiphabhu-likhi, Le kumitteloo—</td>
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<td>(a) Lesungula sakhiwotsinchanti lelilawulako nalese lesitfoiwe nguloMtsetfo; phindze</td>
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<td>(b) lelulwele ligatja lelilawulaa ko; ”</td>
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<td>(k) ngekufakwa kwale-nchazelo lelandzelako esigatjaneni (1) ngemuvwa kwenchazelo ye-“ligatja langaphandle” ;</td>
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</table>
| “tinsitanchanti tetimakethe tangaphandle” Kushiwo ngakunye kwalolokulandzelako:
(a) Ligatja langaphandle letetimali lelilamulako;
(b) lebhangangaphandle lelilamulako lekumshaya;
(c) indlu legunyatako yangaphandle;
(d) ligatja langaphandle;
(e) lebhangangaphandle lekhalubhawela;” ; |
<p>| (l) ngekufakwa kwenechazelo Lelandzelako “Financial Intelligence Centre Act” esigatjaneni (1) ngemuvwa kwenechazelo ye-kaletinchazelo lelilawulako: |
| “umsetfo wemkhakha wetetimali” unyenchazelo lefana naye yeniketwe yona ngekwemibandzela yesiqaba 1(1) se-Financial Sector Regulation Act; “Financial Sector Regulation Act”, isho i-Financial Sector Regulation Act, 2017;” ; |
| (m) ngekusawisa kwenechazelo ye- “Financial Services Board Act” esigatjaneni (1); |
| (n) ngekunjintja inchazelo ye- “ligatja lelitimele leligunyatako” ngalenchazelo lelandzelako esigatjaneni (1): |
| “ligatja lelitimele leligunyatako” kushiwo ligatja leligunyatako lelikhipha ematransekshini kemashaya ngalokuphatseleni nanoma ngubani ngekukhumisa nemisitse futhi yendlu yalo legunyatako, ibuye lelawui lelawulwe emafutha emalunga a Lo lagunyatiwe ngekuhambisana neligatja leligunyatako ngekuhambisana nemisitse futhi yeligatja leligunyatako,” ; |</p>
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<tr>
<td>(o)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “issuer” of the following definition: “‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act”;</td>
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<td>(p)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “juristic person” of the following definition: “‘licensed central counterparty’ means a central counterparty licensed under section 49”;</td>
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<td>(q)</td>
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<td>by the insertion in subsection (1) after the definition of “licensed exchange” of the following definitions: “‘licensed external central counterparty’ means an external central counterparty licensed under section 49A; “licensed external trade repository” means an external trade repository licensed under section 56A”;</td>
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<td>(r)</td>
<td></td>
<td>by the substitution in subsection (1) for the definition of “market infrastructure” of the following definition: “‘market infrastructure’ means each of the following— (a) a licensed central counterparty; <a href="b">(a)</a> a licensed central securities depository; <a href="c">(b)</a> a licensed clearing house; <a href="d">(c)</a> a licensed exchange; <a href="e">(d)</a> a licensed trade repository;”</td>
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<td>(s)</td>
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<td>by the deletion in subsection (1) of the definition of “official website”;</td>
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<td>(t)</td>
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<td>by the substitution in subsection (1) for the definition of “participant” of the following definition: “‘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;”</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td>Bogolo jwa phimolo kgotsa tlhobololo</td>
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<td>(o)</td>
<td>ngekufakwa kwalenchazelo lelandzelako ngemuvu kwenchazelo ye-“loniketako” esigatjaneni se(1):</td>
<td>&quot;umtsengisi longumlamuli esigatjaneni (1):</td>
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<td>&quot;umtsengisi longumlamuli esigatjaneni (1):&quot;</td>
<td>&quot;lakgotla lesiiso khutshwane Setlhago se se khutshwane &quot;</td>
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<td>&quot;umtsengisi longumlamuli esigatjaneni (1):&quot;</td>
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<td>ngekufakwa kwalenchazelo lelandzelako ngemuvu kwenchazelo ye-“loniketako” esigatjaneni se(1):</td>
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<td>ngekufakwa kwalenchazelo lelandzelako ngemuvu kwenchazelo ye-“loniketako” esigatjaneni se(1):</td>
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<td>&quot;lakgotla lesiiso khutshwane Setlhago se se khutshwane &quot;</td>
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<td>(r)</td>
<td>ngekufakwa kwalenchazelo lelandzelako ngemuvu kwenchazelo ye-“loniketako” esigatjaneni se(1):</td>
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<td>by the insertion in subsection (1) after the definition of “participant” of the following definition:</td>
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<td>“prescribed” means prescribed by the Minister by regulations, or by a conduct standard or a joint standard;</td>
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<td>(v)</td>
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<td>by the deletion in subsection (1) of the definitions of “prescribed by the Minister” and “prescribed by the registrar”;</td>
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<td>(w)</td>
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<td>by the insertion in subsection (1) after the definition of “prescribed” of the following definitions:</td>
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<td>“Prudential Authority” means the authority established in terms of section 32 of the Financial Sector Regulation Act;</td>
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<td>“prudential standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;</td>
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<td>“Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;</td>
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<td>(x)</td>
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<td>by the substitution in subsection (1) for the definition of “registrar” of the following definition:</td>
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<td>“registrar” means [the person referred to in section 6] the Registrar and Deputy Registrar of Securities Services referred to in section 1A(1);</td>
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<td>(y)</td>
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<td>by the substitution in subsection (1) for the definition of “regulated person” of the following definition:</td>
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<td>“regulated person” means—</td>
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<td>(a) a licensed central counterparty;</td>
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<td>(c) a licensed clearing house;</td>
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<td>(e) a licensed trade repository;</td>
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<td>(f) an authorised user;</td>
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<td>(g) a clearing member;</td>
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<td>(h) a nominee;</td>
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<td>Nomoro ya Molao le ngwaga</td>
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|                           | yekucedzelela noma kokubili ngekuhambisana nemitsetfo yekusisa [yekufakwa kwemashaya lasemkhatsini], kantsi kungafaki ekhati bangaphandle labangenelelako, laapho kunesidzingo khona; “;
|                           | (u) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye- “labangenelelako”:
|                           | “‘kuncunyiwe’ kushiwokokuncunywe nguNgcongcoshe ngetimiso temsetfo, nobe umitsetfo wenchuba, nobe ngemitsetfo wekuhlanganyela;”; |
|                           | (v) ngekususwa kwenchazelo ye- “njengoba kubekwe nguNgcongcoshe” kanye neye- “njengoba kubekwe ngunobhala” esigatjaneni (1);
|                           | (w) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye- “njengoba kubekwe”:
|                           | “‘Ligatja lebuNgweti’ kushiwoligatja lelisungulwe ngekwegababila 32 se-Financial Sector Regulation Act;”
|                           | ‘umitsetfo webungweti’ unenchazelo lefananko lesiwe ngekwengwembandzela yesigaba I se-Financial Sector Regulation Act;”
|                           | “‘iRejista’ kushiwoiRejista yemningwane wemkhakha wetetimali lekuhlanganyela;”
|                           | (x) ngekuntjintja inchazelo “yanobhala” esigatjaneni (1) ngalenchazelo lelandzelako:
|                           | “‘nobhala’ kushiwolomuntfu lekuhlanganyela ngaye kusigaba 6” nobhala nelisekela lanobhala wetinu temashaya lekucondziswe kuye esigabeni 1A(1);”; |
|                           | (y) ngekuntjintja inchazelo ye-“umuntfu losemtsetfweni” esigatjaneni (1) ngalenchazelo lelandzelako:
|                           | “‘umuntfu losemtsetfweni’ kushiwoligatja leligunyatiwe ulosemtsetfweni;”
|                           | (a) silulu semasheya lesemkhatsini lesibhalisiwe;
|                           | (b) ligatja leligunyatiwe lelibhalisiwe;
|                           | (c) indzawo yekuhwebelana;
|                           | (d) umsebentisi losemtsetfweni;
|                           | (e) lilunga leligunyatiwe;
<table>
<thead>
<tr>
<th>Act No. and year</th>
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<tbody>
<tr>
<td><a href="/"><strong>(h)</strong></a><strong>(i)</strong></td>
<td>a participant;</td>
<td><a href="/"><strong>(i)</strong></a><strong>(j)</strong> except for the purposes of section 3(6), sections 74 and 75, sections 89 to 92, and sections 100 to 103, an issuer;</td>
</tr>
<tr>
<td><a href="/"><strong>(k)</strong></a><strong>(j)</strong></td>
<td>except for the purposes of sections 89 to 92, and sections 100 to 103, a licensed external central counterparty and a licensed external trade repository; or</td>
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<tr>
<td><a href="/"><strong>(l)</strong></a><strong>(j)</strong></td>
<td>any other person [prescribed by the Minister in terms of section 5] specified in regulations for this purpose;</td>
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<tr>
<td><em>(z)</em></td>
<td>by the substitution in subsection (1) in paragraph (a) of the definition of “securities” for subparagraph (v) of the following subparagraph:</td>
<td>“(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”;</td>
</tr>
<tr>
<td><em>(zA)</em></td>
<td>by the substitution in subsection (1) in paragraph (c) of the definition of “settle” for subparagraph (ii) of the following subparagraph:</td>
<td>“(ii) the parties have appointed a licensed independent clearing house, a licensed central counterparty or a licensed central securities depository to settle a transaction, in which case it has the meaning assigned in paragraph (a);”;</td>
</tr>
<tr>
<td><em>(zB)</em></td>
<td>by the insertion in subsection (1) after the definition of “transfer” of the following definition:</td>
<td>“Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;’’;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
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<tr>
<td>(b)(i)</td>
<td>labangenelelako;</td>
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<tr>
<td>(b)(ii)</td>
<td>ngaphandle kwetizatfu tesigaba 3(6), tigaba 74</td>
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<td></td>
<td>kanye na 75, tugaba 89</td>
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<td>kanye na 92 netigaba 100 kuya ku 103, loniketako;</td>
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<tr>
<td>(k)</td>
<td>ngaphandle ngekmetinjongo tesigaba 89 kuya ku-92,</td>
<td></td>
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<td></td>
<td>kanye nesigaba 100 kuya ku-103, ligatja letimitali langaphandle lehilamulako futsi</td>
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<td></td>
<td>leligunyatiwe kanye nendzawo yekuhwebelana; none</td>
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<td>(g)(i)</td>
<td>nama ngabe ngubani</td>
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<td>[lobeke nguNgcongeshe ngekwegisigaba 5]</td>
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<td>lekucondziswe kuye</td>
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<td>kutimiso temsetfo ngalekizatfu;</td>
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<td>(z)</td>
<td>ngekuntjintja inchazelo ye-“emasheya” kundzima (v) yesigatjana</td>
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<td>(1)</td>
<td>ngalenchazelo lelandzelako:</td>
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<td>“(v) inshisekalo yekungenelela ekusiseni ndzawonye njengenhlangano njengoba kuchazwe</td>
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<td>ku-Collective Investment Schemes Control Act, 2002 (Umtsetfo Nom. 45 wanga 2002), kanye</td>
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<td>nemayunithi nanoma ngayiphile lenye indlela yekungenelela kunhlangano yekusisa</td>
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<td>ndzawonye yangaphandle levunyelwe [nguNobhala weNhlangano yeKusisa ngeKuhlanganyela]</td>
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<td>liGatja ngekwegisigaba 65 saloMsetfo; kanye’’;</td>
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<tr>
<td>(zA)</td>
<td>ngekuntjintja inchazelo ye-“kubhadala konkhe” kundzima (c) nasendzinyaneni (ii)</td>
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<td>yesigatjana (1) ngaleyalendzinyana lelandzelako:</td>
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<td></td>
<td>“(ii) tinhlango tibeke sikhungo lesigunyatako lestimiele, ligatja lelisemkhatsini le</td>
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<td>tekhuweba noma silulu semahsheya lesisemkhatsini lesibhalisiwe kutsi</td>
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<td>bacedzelele iransekshini, ngaleyo ndlela itawuba nenchazelo leniketwe kundzima (a),’’;</td>
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<tr>
<td>(zB)</td>
<td>ngekufaka esigatjaneni (1) kwenchazelo lelandzelako ngemuvu kwenchazelo ye- “kudululise”’</td>
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<td></td>
<td>“Inkhunda” kushiwo inkantolo yetinSita teiMali leyasungulwa ngekwebandzela yesigaba 219</td>
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<td>ye-Financial Sector Regulation Act’’;</td>
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(zC) 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

(zD) by the addition of the following subsection:
“(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.”.

3. The insertion after section 1 of the following section:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) If the Minister has determined by notice in the Gazette 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—

(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

(b) the Registrar and Deputy Registrar of Securities Services exercise the powers and perform the functions of the Authority.

(2) If the Minister has determined by notice in the Gazette 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 on which the Prudential Authority is established—

(a) a reference to “Prudential Authority” must be read as a reference to the Registrar of Banks; and
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<tr>
<td>(zC) Kuntjintjwa kwesigatjana (3) ngesigatjana lesilandzelako:</td>
<td>&quot;(3) lapho khona kuloMtsetfo lonke ligunya lekulawula libukwe kutsi itsatse sincumo nguekuchumana [namabhale] nelIGatja, sincumo lesinjalo sidzinga kuhlanguyela nelIGatja.&quot;; futsi</td>
<td></td>
</tr>
<tr>
<td>(zD) ngekuungetwa kwesigatjana lesilandzelako:</td>
<td>&quot;(4) ngaphelele nangabe ingcikitsi isho ngalenye indela, emagama netinkhomba letingaka-chanza wesiGatjaneni (1) kunenehazelo lefanako nalena lekunikelelwe yona nguwe-Financial Sector Regulation Act.&quot;.</td>
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</tr>
<tr>
<td>3. Kufakwa kwalestigaba lesilandzelako ngemuva kweGatja sekucala (1):</td>
<td>Budlelwane emkhatsini weMtsetfo kanye neMtsetfo wekuLawulwa kweMkhakha wetetiMali</td>
<td></td>
</tr>
<tr>
<td>1A. (1) Nangabe Ngcongcoshe ancume ngesatiso kuGatja kutsi tichibiyelo taloMtsetfo letikutfwe kushejuli 4 ku-Financial Sector Regulation Act kufuna ticalise kusekala (1) kuneketfwe kuze kutoGatja lesinjalo sidzinga seikule NGatja, kuye kyoba kheselo lekuGatja ngalo loGatja—</td>
<td>(a) irefurensi &quot;kuleGatja&quot; kufuna ifundvwe njengerefreunzi kusotho lisiphiwe lekucondzise kobo esigabeni 1 se-Financial Sector Regulation Act. lekungunobhala wetinsita weMsheya kanye nasekela wakhwe phahelelwe futsi</td>
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<td>(b) Nobhala wetinsita temasheya kanye nasekela wakhwe basibentisa emandla bente imisebenti yeliGatja;</td>
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<td>(2) Nangabe Ngcongcoshe ancume ngesatiso kuGatja kutsi tichibiyelo taloMtsetfo letikutfwe kushejuli 4 we-Financial Sector Regulation Act kufuna ticalise kusekala ngaphambili kwetimiso te-Financial Sector Regulation Act ngewendela iGatja lebungcwethi lisungulwe ngayo licale kusekala ngayo, kuye kyoba kuseselo lekuGatja kweliGatja lebuNgewethi—</td>
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</table>
(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.

(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.

(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.

(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—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard, or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(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.

(b) A reference to an inspection in terms of a provision of this Act other than section 79(b) must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.

(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.

(b) The Authority may also publish the information or document on the Authority’s website.

(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 237 and Chapter 16 of the Financial Sector Regulation Act.
Molao wa Taolo ya Lephata la Ditshelte, 2017

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(b) Nobhala wemabhangwe lokokwe
ngaphisi kwesigaba 4 we-Banks Act
(Umtsetfo Nom. 94 wanga 1990)
usebenzisa emandla ene imisebeni
yeliGatja leBungcwethi.

(3) Ngaphandle uma ngabe kuniketwe
kuMtsetfo no h-Financial Sector Regu-
lation Act, emandla nemisebeni
yeliGatja ngekwemibandzela yalomtsetfo
angetwatso kulawo leselele linawo
ngekwemibandzela ye-Financial Sector
Regulation Act.

(4) Irefensi kuloMtsetfo leya
kulGatja lencuma noh leshicilela
laDitshelte ngesa isa bongcethi
iFundvwe njengoba kufaka ekhatshi
iRefensi leya kulGatja lencuma noh
leshicilela loludzaba ngesa isa Rejista.

(5) Ngaphandle nangabe kuloMtsetfo
kushiwo ngalele indlela, nome
lomtsetfo udzinga loludzaba luncunywe
ngemsetfesimiso, iRefensi
kuloludaba—

(a) luncunywe iFundvwe njenge-
refensi kuloludaba luncunywe
kumisetfo yeBungcwethi, iMisebeni
yenchubo, nome iMisebeni
yekuhlanganyela; noma

(b) nakungabi njalo, iRefensi kulGatja
lencuma loludzaba ngekbalulo kanye
nekubhalulo leselelango kumiBhala.

(6) Irefensi kuloMtsetfo
ekuvakashelweni kwesiya, kuhlolela
noh kuphenya ngaphisi kwaloKushwa
nguloMtsetfo, kufuna iFundvwe
njengereFrense kulawulweni kuhlolela
kwasayithi noh kuphenya
ngekwemibandzela ye-Financial Sector
Regulation Act.

(7) Irefensi kuloMtsetfo kul-Gatja lebikako noh leshicilela lwatiso	nome umcudlwana kuwebhusayithi
kufuna iFundvwe njengereFrense
kulGatja leshicilela lwatiso nome
umcudlwana.

(b) IKGatja lingaphindze lishicilele
loMniningwane noh umcudlu kuwe-
busayithi yalo.

(8) Irefensi ngeMali leFanele
luncunywe kuloMtsetfo kumele
iFundvwe njengereFrense leFanele kumali
luncunywe ngekwemibandzela yesiya
237 se-Financial Sector Regulation Act.
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<td></td>
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<td>(9) A reference in this Act to an appeal of a decision of the Authority or a market 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.</td>
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<td>(10) For the purposes of the Financial Sector Regulation Act, conduct standards made in terms of section 74 are regulatory instruments.”.</td>
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<td>4.</td>
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<td>The amendment of section 3—</td>
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<td>(a) by the substitution for subsection (3) of the following subsection: “(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, except the Financial Intelligence Centre Act and the Financial Sector Regulation Act, this Act prevails.”; and</td>
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<td>(b) by the substitution for subsection (5) of the following subsection: “(5) Despite any other law, if other national legislation confers a power on or imposes a duty upon an organ of state, other than the South African Reserve Bank or the Prudential Authority, 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.”.</td>
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<td>5.</td>
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<td>The amendment of section 4—</td>
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<td>(a) by the substitution in subsection (1) for paragraph (e) of the following paragraph: “(e) act as a clearing member unless authorised by a licensed exchange [or], a licensed independent clearing house, a 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, as the case may be.”;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khotshwane</td>
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<tr>
<td>(9) Irefiheng kuloMsetfo ngekubuyeketwa kwenesincumo seliGatja kubhodi yentikhalo kufanele ifundwwe njenge: Irefiheng yekubuyeketwa leso sincumo yINkantolo ngekweMihandzela ye-Financial Sector Regulation Act.</td>
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<td>(10) Ngetizatfu te-Financial Sector Regulation Act, imsetfo wenchubo lwentiwe ngekwegwesigaba 74 fitinikhomba lelalulwe.</td>
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4. kuchitjiyelwa kwesigaba 3—
(a) ngekunjintjwa kwesigawatjana (3) ngasigatjana lesilandzelafo:

“(3) Ngaphandle kwanoma miphedi setlhogo, [kungasiyo i-Financial Intelligence Centre Act,] uma ngabe kune kungcubutana kumona ngabe nguyiphi imibandzela yaloMsetfo noma imbandzela yanoma ngabe nguwuphi umsetfo lomisiwe velonkho, nangaphandle kwe-Financial Intelligence Centre Act kanye ne-Financial Sector Regulation Act kutawuma loMsetfo.”; futsi

(b) ngekunjintjwa kwesigawatjana (5) ngasigatjana lesilandzelafo:

“(5) Ngaphandle kwanoma miphedi setlhogo, uma ngabe umsetfo lomisiwe velonkho uniketa emandla nomina uniketa umsebenzi kwintimba wahulumende, kungasilo lBhange Ngodla laseNingizimu Afrika nabe ligatja lebungcwele ngalokuphtselene nelaNdubuzwa loluwaluwu ngaphansi kwaloMsetfo, lawo mandla noma umsebenzi kufanele kwintiwe noma kusitetjistwwe ngekutsintsana [nanobhala] neliGatja, kantsi noma ngabe ngusiphi sincumo lestisafwe ngekukhambisana nalawo mandla noma umsebenzi kufanele sistafwe ngekusuyumelanana [ifola invume] [yanobhala] neliGatja.”;

5. kuchitjiyelwa kwesigaba 4—
(a) ngekunjintjwa kwendzima (e) esigatjaneni (1) nagalendzima lelandzelafo:

“(e) asebente njengelilungu leligunyatiwe ngaphandle kwekutsi agunyatiwe ligatja lelibhalisiwe [nomal], ligatja leligunyatako lelitimele nobe ligatja lelesiwangakhatseni lelekuhweba, ligatja letetimali langaphandle leliqhubulako nomleligatja lelesiwangakhatseni lelekuhweba lelelikhululiwe kulokudzingekele kute ligunyatiwe ngrescia ngwezisigaba 49A njengoba kungabe kubekile;”;

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(b) by the substitution in subsection (1) for paragraph (g) of the following paragraph: “(g) perform the functions of or operate as a trade repository unless that person is licensed under section 56 or section 56A, as the case may be; or”; (c) by the substitution for subsection (2) of the following subsection: “(2) A person who is not— (a) licensed as an exchange, a central securities depository, a trade repository [or], a clearing house or a central counterparty; (b) a participant; (c) an authorised user; (d) a clearing member; (e) an approved nominee; [or] (f) an issuer of listed securities[,] (g) licensed as an external central counterparty, or exempt from the requirement to be licensed in terms of section 49A; or (h) licensed as an external trade repository, may not purport to be an exchange, central securities depository, trade repository, clearing house, central counterparty, external central counterparty, external trade repository, 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, central counterparty, external central counterparty, external trade repository, participant, authorised user or clearing member, as the case may be, where in fact no such connection exists.”; and
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td>(b) ngekuntjintjwa kwendzima <em>(g)</em> yesigatjana <em>(1)</em> ngalendzima lelandzelako: &quot;&quot;(g) yente imisebenti ye-, nome isebente njengemhwebeli <em>(indzawo yekuhwebelana)</em>, ngaphandle nangabe loyo muntfu ugunyatwe ngaphasi kwesigaba 56 nome sigaba 56A njengobe kungabe kubekiwe; nome&quot;&quot;;</td>
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<td>(c) ngekuntjintja sigatjana <em>(2)</em> ngesigatjana lelandzelako: &quot;&quot;(2) Umuntfu— <em>(a)</em> longenayo imvume njengeligatja, sikhungo semasheya lesisemkhatsini, indzawo yekuhwebelana <em>[noma]</em>, sikhungo lesigunyatalo noma liga lelisa lehwebediveli letekukhweba; <em>(b)</em> longangeneleli; <em>(c)</em> longasuye umsebenzisini lesiempela; <em>(d)</em> longasilo lilunga leligunyati; <em>(e)</em> longakaphakanyiswana; noma <em>(f)</em> longanayo imvume yekuniketela ngemasheya labhalisiwe, <em>(g)</em> longakagunyatwa njengemhlamuli wetetimalo wengaphandle nome lokhululwe kulokudzangeke kuxe ugunyatwe ngokwe 49A; noma</td>
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| (h) longakagunyatwa njengemhwebeli wengaphandle *(indzawo yekuhwebelana yengaphandle)* angeke wafaka sicelo sekutsi abe liga lelisa lehwebediveli letekukhweba, lhiphange lelisa lehwebediveli letekukhweba yingaphandle, umhlubeni wengaphandle *(indzawo yekuhwebelana yengaphandle)* labangeneleli, umsebenzisini lesiempela, lilunga leligunyati; lophakanyisiwe lesiempela, lophakanyisiwe lesiempela noma loniketa f emasheya labhalisiwe, njengoba kungabe kubekiwe, noma kutiphatsa ngendlela noma kusebenzisa liga noma inchazelo lephakamisa kutsi, lekhombisa noma lechaza kutsi kunebudlelwe emakhotso walowo muntfu neliga, sikhungo semasheya lesisemkhatsini, indzawo yekuhwebelana, sikhungo lesigunyatako, liga leletimela lelisa lehwebediveli letekukhweba, lhiphange lelisa lehwebediveli letekukhweba yingaphandle, umhlubeni wengaphandle *(indzawo yekuhwebelana yengaphandle)*.
(d) by the substitution for subsection (5) of the following subsection:

“(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 licensed central counterparty, as the case may be, in terms of the exchange rules or clearing house rules, as the case may be.

(b) 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.”.

6. The amendment of section 5—

(a) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs:

“(b) a category of regulated persons, other than those specifically regulated under this Act, if the securities services provided, and the functions and duties exercised, 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;
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<td>letekuhweba langaphandle, umihwebeli wengaphandle (indzawo yekuhwebela) yangaphandle, labangenelelako, imsebenzisi losetsetweni nona lilunga leligunyatiwe, njengoba kungabe kubekiwe, lapo khona akunabudlelwano lobukhona.”; futsi</td>
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<td>(d)</td>
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<td>&quot;(5)(a) Lilunga leligunyatiwe linganiketa tinsita tekugunyaya nona tekakahokela ngalokugcwele letiniketwe imvume yekwenta ligatja lelibhalisiwe [nomal], sikhungo lesitumele lesigunyatiwe lesinemvume, nona libhang elesemkhatsi letekuhweba leligunyatiwe, njengoba kungabe kubekiwe, ngakuhambisana nemitsetfo yeligatja nona imitsetfo yesikhungolesigunyaya nona, njengoba kungabe kubekiwe.</td>
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<td>&quot;(5)(b) Lilunga leligunyatiwe linganika tinsita tekugunyaya kufhela nome tinsita tekubhadala lapo ligunyatiwe khona libhang elesemkhatsi letekuhweba langaphandle leligunyatiwe nome ligatja lelesemkhatsi letekuhweba langaphandle lelibhalisiwengegu nyatwe ngukwesigaba 49A, ngakuvumela lokuhalwe ngakuhlanganyela phambili lamkweliGatja, Umntsetfo weBungcwethi kanye kwaNgcongcoshe, utawuchuthuswa tinjongo taloMntsetfo letikusigaba 2 tekulawula bantu laba bantfu basengakalawulwa kulowo mikhakha ngakwaloMntsetfo, uma ngabe umbono waNgcongcoshe, utawuchubekisa tinjongo taloMntsetfo letikusigaba 2 tekulawula bantu la labanqalo labakuleyo mikhakha;&quot;</td>
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6. kuchitjiyelwa kusigaba 5—
(a) ngakuntjihana tindzima (b) kanye ne-
(c) ngaletindzima letilandzelako esigatjaneni (1):
"(b) luha lwebantfu labalawulwako, ngaphandle kwalabo labalawulwe ngakwaloMntsetfo, uma ngabe imisebeni yemasheya iniketiwe futsi kusebenta nemisebeni yentwana, nona ngabe kua ngalobhalisiwe nona langakabhalisiwa, [uma ngabe] laba bantu basengakalawulwa kulowo mikhakha ngakwaloMntsetfo, uma ngabe umbono waNgcongcoshe, utawuchubekisa tinjongo taloMntsetfo lethikusigaba 2 tekulawula bantu labanqalo labakuleyo mikhakha;"
### Table: Extent of repeal or amendment

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- **(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, external clearing member, external central counterparty or external trade repository, as the case may be.”; and

- **(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, or 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).”.

7. The amendment of section 6:

- **(a)** by the substitution for the heading of the section of following heading:

  “[Registrar and Deputy Registrar] Authority”;

- **(b)** by the deletion of subsections (1) and (2);

- **(c)** by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

  “In performing [those] its functions in terms of this Act, the Authority—”;

- **(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;”;

- **(e)** by the substitution in subsection (3) for paragraph (m) of the following paragraph:

  “(m) may exempt, for a specified period which may be renewed, any person or category of persons from the provisions of a section of this Act if the [Registrar] Authority is satisfied that—
Nomoro ya Molao le ngwaga | Setlhogo se se khotshwane | Bogolo jwa phimolo kgotsa tlhabololo
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(c) lemisebenti yemasheya lenganiketwa kanye nemisebenti lengentiwa ngumsebentisi longaphandle, ligatja lelitimele, bangaenele labatimele, libhange lemasheya lelitimele langaphandle, indlu yangaphandle legunyatako, lilunga leligunyatako, ligatja lelimenkhatshi letekukhweba langaphandle, lilunga langaphandle leligunyatako noma ligatja langaphandle lekuhwebelana, njengoba kungabe kubekiwe.
(b) ngekuntjintja sigatjana (2) ngesigatjana lesilandzelako:
   "(2) Umsebentisi wangaphandle logunyatiwe, ligatja langaphandle, longenelelako wangaphandle, sikhungo semasheya lestimetele sangaphandle, indlu yangaphandle legunyatako, noma lilunga Langaphandle leligunyatako [noma libhange langaphandle lekuhwebelana] lingahle linikete leto tinsita temasheya noma kusebentisa imisebenti, njengoba kungabe kubekiwe, kubekwe nguNgcongcoshe ngekuya ngalesigatjana (1)(c).".
7. Kuchitjiyelwa kwesigaba 6:
(a) ngekuntjintja sihloko salesigaba ngalesihloko lesilandzelako:
   "[Nobhala nasekela waNobhala] liGatja";
(b) Ngekususwa kwetigatjana (1) kanye na (2);
(c) ngekuntjintjwa kwemagama langaphambikwendzima (a) ngemagama lalandzelako esigatjaneni (3):
   "Ekwenti [le]misebenti yalo ngewemibandzela yaloMtsetfo, liGatja——";
(d) ngekushintjwa kwendzima (k) ngendzima lelandzelako esigatjaneni sesi-(3):
   "(k) anganiketa [tinkhombandlela] lwati loluholako ngekusete-titswa nekuhunyushwa kwaloMtsetfo;";
(e) ngekuntjintja indzima (m) ngendzima lelandzelako esigatjaneni (3):
   "(m) ngesikhatshi lesitsite lesingaphindze sivisetelwe [angavumela] angakhuula bantfu nome tinhlobo tsite tebantfu kulitimiso talesigaba saloMtsetfo [noma bani noma]"
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<td>[(i) the application of said section will cause the applicant or clients of the applicant financial or other hardship or prejudice; and]</td>
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<td><a href="i">(ii)</a> the granting of the exemption will not—</td>
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<td>(aa) conflict with the public interest; or</td>
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<td>(bb) frustrate the achievement of the objects of this Act; and</td>
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<td>(ii) the application of the section will cause the applicant or clients of the applicant financial or other hardship or prejudice; and</td>
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<td>(iii) in relation to an external market infrastructure, and with the concurrence of the South African Reserve Bank and the Prudential Authority, the applicant—</td>
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<td>(aa) is based in an equivalent jurisdiction in terms of section 6A and is authorised by the supervisory authority of such jurisdiction;</td>
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<td>(bb) complies with any criteria prescribed in joint standards for the exemption of such persons; and</td>
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<td>(cc) undertakes to cooperate 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; “</td>
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<td>(f) by the substitution in subsection (3) for paragraph (n) of the following paragraph: &quot;(n) 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];&quot;;</td>
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<td>(g) by the deletion in subsection (3) of paragraph (o);</td>
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<td>(h) by the substitution for subsection (5) of the following subsection: &quot;(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 Authority’s website, and a copy of the published exemption or directive must be tabled in Parliament;&quot;;</td>
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<td>(i) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words: &quot;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—&quot;;</td>
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<td>(j) by the substitution in subsection (7) for paragraph (b) of the following paragraph: &quot;(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;&quot;;</td>
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Molao wa Taolo ya Lephata la Ditshelete, 2017

Nomoro ya Molao le ngwaga
Setlhogo se se khutshwane
Bogolo jwa phimolo kgotsa tlahbololo

laseNingizimu Afrika kanye neli-bhangi lebunegcwethi kuncedzisa ngekwe-ntwa kwemisebenti kanye nekusetjie-ntiswa kwemandla ngekwele kwemsetfo wemkhakhha wetetimali;";

(f) ngekuntjintjwa kwendzima (n) ngalendzima lelandzelako esigatjaneni (3);
"(n) kufanele kwatiswe Ngco-ngcoshe kanye neMbusi nganoma ngaluphi ludzaba Le- ngekwembono [wanobhala] weliGatja kungalelsa bungoti [kutinhlelo tetimakethe temnotfo; kanye];";

(g) ngekususwa kwendzima (o) esigatjaneni (3);

(h) ngekuntjintjwa kwesigatjana (5) ngalesigatjana lesilandzelako;
"(5) [nobhala] liGatja kufanele, lapho kunekuniketwa kungasebenti noma umyalelo ufaka ekhatisi bonkhe bantfu, bantfu labasemtsetfweni noma temitsima temashaya ngalokutayelekile, kukhishwe lomlayelo kuGatja kufanele, lapho kunekuniketwa kungasebenti noma umyalelo kufanele yetfulwe ePhalamende.";

(i) ngekuntjintjwa kwemagama landvulela indzima (a) ngemagama lalandzelako esigatjaneni (7);
"[nobhala] liGatja ngekuhlanga nyela nelGatja lebuNgcwethi, nangekuhambisana netidzingo letibekwe nguNgcongcoshe ngaphansi kwesigaba 5(1)(a), kunchubo lesezingeni nemsetso wekuhlanganyela, nole ngekwele kwemisebenti yemasheya—";

(j) ngekuntjintjwa kwendzima (b) esigatjaneni (7) ngendzima lelandzelako:
"(b) abeke imibandzela netidzingo ngendela lekuFanele kutsi imisebenti yemasheya ngalokuphatseleni nalatsite langakhaliswa lekuFanele anikete, kufaka ekhatisi,kutsi kungashi kungaphandle, ngekusho indlela yeikutiphatsa] kugunya nekuhko-kheleka kwalawo masheya kufanele kwenekwe ngayo;";

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<td>(k) by the substitution in subsection (7) for paragraph (d) of the following paragraph:</td>
<td>“(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;”</td>
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<td>(l) by the substitution in subsection (8) for the words preceding paragraph (a) of the following words:</td>
<td>“In relation to the persons in the category prescribed by the Minister under in terms of section 5(1)(b), the registrar standards may —”</td>
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<td>(m) by the substitution in subsection (8) for paragraph (b) of the following paragraph:</td>
<td>“(b) prescribe conditions and requirements for the provision of securities services by such persons, including, but not limited to, prescribing a code of conduct standards and imposing reporting requirements;”</td>
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<td>(n) by the substitution in subsection (8) for paragraph (d) of the following paragraph:</td>
<td>“(d) prohibit such persons from providing securities services or undertaking any activities which may frustrate the objects of this Act or the Financial Sector Regulation Act.”</td>
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<td>(o) by the addition of the following subsection:</td>
<td>“(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 house, external central counterparty, external clearing member or external trade repository, as the case may be, 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.”</td>
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<td>(k) ngekuntjintjwa kwendzima (d) ngalandzima lelandzelako esigatjaneni (7):</td>
<td>“(d) abeke imibandzela netidzingo ngendlela lekufanle kutsi imisebenti yemashaya ngalokuphatsetlene nalalitse langakabhaliswa lekufanle aniketwe, kufaka ekhatshi, [kutsi kungashiyi ngaphandle], indlela kugunyata nekukhokheleka kwawo masheya kufanle kwelela ngayo;”;</td>
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<tr>
<td>(l) ngekuntjintjwa kwemagama landvulela indzima (a) esigatjaneni (8) ngalamagama lelandzelako:</td>
<td>“Ngalokuphatsetlene nalabantfu lababalwe kulembekwe nguNgcongcoshe ngaphansi ngekwesigaba 5(1)(b), [nobhala] nchapo yeemseteto inga—”;</td>
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<tr>
<td>(m) ngekushintjwa kwendzima (b) ngalandzima lelandzelako esigatjaneni (8):</td>
<td>“(b) kubeka imibandzela netidzingo talembandzela yemisebenti yemashaya ngulabo bantu kufaka ekhatshi, [kungashiyi ngaphandle],] kubeka [indlela] umtsetfo wenchubo [Y] wekuhlangatsa nekubeka lokudzingekakoma uma ngabe kubikwa;”;</td>
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<td>(n) ngekuntjintjwa kwendzima (d) ngalandzima lelandzelako esigatjaneni (8):</td>
<td>“(d) kuvimbela bantfu labanjalo ukunoketeni imisebenti yemashaya noma kwawo fanga ngabe miphimisebenti lengasebentisa kabi tinjongo taloMseteto noma ye-Financial Sector Regulation Act.”;</td>
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<tr>
<td>(o) ngukungetwa kwalestigatjana lesilandzelako:</td>
<td>“(9) ngukuhambelana nemisebenti yemashaya lengabe inkutse kw-, kanye nemisebenti lengentiwa ngumsebentisi waphandle logunyatiwe, lushintjo lwangaphandle, longenelelako wanga- phandle, indlu yaphandle yetekuhweza kwemashaya, ligatja lelesemkhatsi letekuhweza langaphandle, njengobe ludzaba lungaba njalo, njengobe kuncunywe ngungcongcoshe ngaphansi kwesti- gaba 5(1)(c), [Gatja kukrathiriya yemseteto wekuhlanganyela, kugunyata, kunaka, kufaka emsetifweni nohe kakhulu kuMseteto waphandle kuRiphabhulikhi, kanye nekwatiwa ngekalingana kwefile fuefiele lelangaphandle.”;</td>
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<tr>
<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td>-----------------</td>
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<td>8.</td>
<td></td>
<td>The insertion after section 6 of the following sections:</td>
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<tr>
<td></td>
<td></td>
<td>“Equivalence recognition of foreign jurisdictions”</td>
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<tr>
<td></td>
<td></td>
<td>6A. (1) On application by an interested party, the Authority, with the concurrence of the South African Reserve Bank and the Prudential Authority, may determine that the regulatory framework of a specified foreign country is equivalent (an “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.</td>
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<tr>
<td></td>
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<td>(2) A recognition in terms of section 6A(1) must be published on the Authority’s website and in the Register.</td>
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<td></td>
<td>(3) The Authority must maintain a list of all foreign countries recognised under this section.</td>
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<td></td>
<td>(4) 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 —</td>
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<td>(a) 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;</td>
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<td></td>
<td>(b) alignment of the foreign country’s regulatory framework with relevant principles developed by international standard setting bodies applicable to market infrastructures;</td>
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<td>(c) observed outcomes of the foreign regulatory framework applicable to market infrastructures relative to those in South Africa; and</td>
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<td></td>
<td>(d) the need to prevent regulatory arbitrage.</td>
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<td></td>
<td><strong>Withdrawal of recognition</strong></td>
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<td></td>
<td>6B. 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.</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khotshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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<tr>
<td>8.</td>
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<td>&quot;Kwatiwa ngalokulinganako kwetinhlelo temsetfo tangaphandle</td>
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<td></td>
<td></td>
<td>6A.</td>
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<td>(1) ekusetjentisweni lilunga lelidzingile, liGatja, ngekuhlanganyela nelihBhange Ngodla laseNingizimu Afrika nemsetfo webungweti, liGatja lingancuma kutsi sakhionchani leslawulako selive langaphandle lelilinganako (kugunyata lokulinganako) kulislonchani lwemsetfotumisisi luncunywe ngekwemsetfeto wemakhaka wetetimali, nangabe lusinchani lekushaywa nukuwebwusivhu yenigatja kanye nakuurejista.</td>
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<td></td>
<td></td>
<td>(2) Kwatiwa ngekwesigaba 6A(1) kufuna kushicilelele kwekuwebhusayithi yenigatja kanye nakuurejista.</td>
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<td></td>
<td></td>
<td>(3) yenigatja kunena ligele huwalo onkhe emave angaphandle latiwako ngaphasi kwalesigaba.</td>
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<td>(4) Nakuholisiswa kulingana kuslonchanthiwe lawalulako lwelelive laangaphandle, ligatja, liBhange Ngodla laseNingizimu Afrika kanye nemsetfo webungweti kunena banake nakanaka lokulandzelako—</td>
</tr>
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<td></td>
<td></td>
<td>(a) luhlobo kanye nemandla eluhlelo lekuholisisa kulingana lelawulako, kufaka ekgatsi kuutsisisa lokucondzile neluhlelo, lusetjentiswa ligatja, ligatja lebungweti kanye nelihBhange Ngodla laseNingizimu Afrika;</td>
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<td>(b) Kweyamaniswa kuslonchathini lwakualulako lwelive laangaphandle kanye nemsetfo lefanele lesungulwe mitimba yavelonkhe ancuma umsetfo losebenta kusakhionchani setimakethe;</td>
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<td></td>
<td></td>
<td>(c) imiphumela leboniwe yelusitonchathi lolawulako lolusebenta kuthakhiwonchani lethelobene naletseNingizimu Afrika; futsi</td>
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<td></td>
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<td>(d) sidzindo sekuvimbela luhwebo lwemattu.</td>
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<td>Kukhishwa kwekwatiwa</td>
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<td>6B. yenigatja ngekuhlanganyela nelihBhange Ngodla laseNingizimu Afrika kanye neligatja lebungwethi kunganyomula kwatiwa lapho indiela luncunywe kusigaba 6A ingasalandzelwa.</td>
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</table>
### Principles of co-operation

6C. (1) The Authority must enter into a supervisory co-operation arrangement with the relevant supervisory authority from the equivalent jurisdiction for the purpose of performing its functions in terms of this Act.

(2) A supervisory co-operation arrangement referred to in subsection (1) must at least specify—

(a) 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;

(b) 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;

(c) 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;

(d) 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 memorandum of understanding for enforcement co-operation;

(e) 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

### Table

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<tr>
<td>Act No. 9 of 2017</td>
<td>Financial Sector Regulation Act, 2017</td>
<td>Principles of co-operation</td>
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<tr>
<td>6C. (1)</td>
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<tr>
<td>(b)</td>
<td>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;</td>
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<td>(d)</td>
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<td></td>
</tr>
<tr>
<td>(e)</td>
<td>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</td>
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Nmr 9 ya 2017

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Imitsetfo yekubandzakanyeka

(6) Gatlja kufuna lingene ehlelweni lekubambisana ngekawula likanye nemagatja lafanele lalawulako ehlelweni lwemsetfo lolulinganako ngetinjongo tekwenta umsebenzi walo ngekwaloMisetfo.

(2) Luhlelo lokubambisana ngekawula lekucondziswe kile esigatjaneni (1) kufuna lokungenami leacisise—

(a) indlela yekuntjintjana

ngemniningwane emikhatsini weligatja, leBhange Ngodla laseNingizimu Afrika, ligatja lebungcwethi kanye nemaGatja ekawula, kufaka ekhati kufinyelela kuwo wonke unmingwane locelwe lekucondziswe kiliGatja.

(b) indlela yekbukhishwa kwesatiso ngesikhaksatsi lefaka kulekucondziswe kuthandza

lapho kufana lokungenani lucacise—

(1) indlela yekuntjintjana

ngemniningwane emikhatsini weligatja, leBhange Ngodla laseNingizimu Afrika, ligatja lebungcwethi kanye nemaGatja ekawula, kufaka ekhati kufinyelela kuwo wonke unmingwane locelwe lekucondziswe kiliGatja.

(c) indlela letiphatselene nekutibandzakanya

kwekawula lefaka ekhati, lapho kufanele khona, kulumaliso kucacise—

(d) indlela emagatja lekufanele

lekufanele atishibentsi lefaka ligejatja selincuma kutsi kufanele lisebentise unmingwane kawula leceliwe kusimamisa umsetfo nobe ngenhloso yekucondzisa tigwegwe, njengekufola imvumo yeligatja leceliwe kanye nekubambisa unmingwane lonjalo ngekawulambisa nemibandzela yememoranda lesekhona yekuvisisa kusinyanyiswa kwekutibandzakanya;

(e) indlela yekutibandzakanya, kufaka ekhati, lapho kwengayo khona, kucacise ngemibikho yekuhlole lefanele, kuncedzisa ekhulatiheni imiculu nobe kufola lwati.
(f) 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.

(3) The Authority and supervisory authorities that have entered into supervisory co-operation arrangements in terms of subsection (1) must—

(a) establish and maintain appropriate confidential safeguards to protect all non-public supervisory information obtained from another supervisory authority;

(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;

(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;

(d) co-operate in the day-to-day and routine oversight of internationally active licensed external market infrastructures;

(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;

(f) design mechanisms for supervisory co-operation to provide information both for routine supervisory purposes and during periods of crisis; and

(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.”.

9. The amendment of section 7—

(a) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

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<td>(f)</td>
<td></td>
<td>(f) 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.</td>
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<td>(3) The Authority and supervisory authorities that have entered into supervisory co-operation arrangements in terms of subsection (1) must—</td>
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<td>(a)</td>
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<td>(a) establish and maintain appropriate confidential safeguards to protect all non-public supervisory information obtained from another supervisory authority;</td>
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<td>(b)</td>
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<td>(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;</td>
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<td>(c)</td>
<td></td>
<td>(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;</td>
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<tr>
<td>(d)</td>
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<td>(d) co-operate in the day-to-day and routine oversight of internationally active licensed external market infrastructures;</td>
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<tr>
<td>(e)</td>
<td></td>
<td>(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;</td>
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<tr>
<td>(f)</td>
<td></td>
<td>(f) design mechanisms for supervisory co-operation to provide information both for routine supervisory purposes and during periods of crisis; and</td>
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<tr>
<td>(g)</td>
<td></td>
<td>(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.”.</td>
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469 | | kulusitonchanti lwetimaketha kanye nemalanga emtimba lolawulako nome labaphetse, futsi (f) lizinga ligatja lelilawulako lelingabela ngalo nalenye inhlangano uminingwane wekulawula lelwutfole kulelinye ligatja kanye netindlela tekwenta njalo. (3) lGatja kanye nemagatja lalawulako langene langenele emalungiselelo ekutibandzakanya ngekwemibanjela yesigatjana se(1) kulanele— (a) asungule aphindze agcine kulondza lokuvimihlo kuze kuvikeleke yonkhe uminingwane wekulawula longakadzingeki kubantfu lotfolwe kulamanye emagatja ekulawula. (b) kcuciscwane kuphindze kwatifelwane ngelucwaninga lekuhlati weungathiya bungoti kanye neminingwane wekweseka kutfolwa, kucwaninga kanye nekuncishiswa kwebungoti kutimaketha nalatibandzakanye ngoba balindzele kuzuza; (c) bacocisane, batibandzakanye phindze kufite lapho bangaggina khona babelana ngelwati loluphatselane nemagatja ekubahuleka kwetimihlele nobe kusebenta kwawo kunemtselela hoilelele tsi tse etimakethi; (d) batibandzakanye ngalokufana malanga onkhe ekuphatfweni njalo kwetinsitanchhani temakethi tangaphandle letigunyatiwe letisebenta velonkhe; (e) batise kusanesikhatsi baphindze bacocisane, nakwentekile, nobe-ke masisha nakukhonakala, kuphatse-lane netinkinga letingatsikabela sidzingo sekulawula kwalelinye ligatja; (f) kwecanwe indlela yekutibandza-kanye lokwentelewa kulawula khona kutoniketa ngelwati lwako kokubili, tinhloloso tekulawula njalo kanye nasekitkhatini tebumatima; futsi kutsatsa sibopho setekuchumanana njalo nebaisebenti ngetinsitanchhani temakethi letisebentako tangaphandle letisemtsefweni kanjalo nemihlangano yangerikhatsi tonkhe leyenteka njalo lapho kucubuka tinkinga letinsha tekulawula ngekuhlanyela "". 9. Kuchitjiyelwa kwesigaba 7— (a) ngendzima lelandzelako esigatjaneni esigatjaneni (3):
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<td></td>
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<td>“(a) be made in the manner and contain the information prescribed by the [registrar] Authority;”;</td>
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<td>(b) by the substitution in subsection (3)(c) for subparagraph (v) of the following subparagraph:</td>
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<td>“(v) the application fee [prescribed by the registrar] determined in terms of the Financial Sector Regulation Act;”;</td>
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<td></td>
<td>(c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:</td>
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<td>“(a) The [registrar] Authority must publish a notice of an application for an exchange licence in two national newspapers at the expense of the applicant, and on the [official] Authority’s website.”;</td>
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<td>(d) by the substitution in subsection (4)(b) for subparagraphs (ii) and (iii) of the following subparagraphs:</td>
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<td>“(ii) [where] that the proposed exchange rules and listing requirements [may be inspected by] are available on the website of the Authority for comments from members of the public; and</td>
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<td></td>
<td>(iii) the period within, and the process by, which objections to the application or rules and listing requirements may be lodged with the [registrar] Authority;”; and</td>
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<td>(e) by the addition in subsection (4) of the following paragraph:</td>
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<td></td>
<td></td>
<td>“(c) The Authority must publish the proposed exchange rules and listing requirements referred to in paragraph (b)(ii) on the Authority’s website.”.</td>
</tr>
</tbody>
</table>

10. The amendment of section 8—
(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:
“(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
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<thead>
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<tbody>
<tr>
<td>“(a)”</td>
<td>sentiwe ngendlela kanye nekucuketsa lwati lolubekwe [ngunobhala] liGatja;”</td>
</tr>
<tr>
<td>(b)</td>
<td>ngekuntjintjwa kwaletindzinyana (v) esigatjaneni (3)(c) ngendzinyana lelandzelako:</td>
</tr>
<tr>
<td>(v)</td>
<td>linani lemal i yekufaka sicelo [lebekwe ngunobhala] lenyanywe ngkwe-Financial Sector Regulation Act;”</td>
</tr>
<tr>
<td>(c)</td>
<td>ngekuntjintjwa kwendzima (a) ngaledzina lelandzelako kusigatjana (4):</td>
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<tr>
<td>(a) [ngunobhala]</td>
<td>liGatja kufanele [a]likhiphe saturdays sesicelo sekuba melayisensi yeligatja kumaphypedzanda lamahili lafundwva velonkhe lokutawuba tindleko talona lolafa sicelo, kanye nakuwebhusayithi yeligi [lesemsetfweni].”</td>
</tr>
<tr>
<td>(d)</td>
<td>ngekuntjintjwa kwendzinyana (ii) kanye nendzinyana (iii) esigatjaneni</td>
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<td>(4)(b)</td>
<td>ngetindzinyana letilandzelako:</td>
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<tr>
<td>(ii) [lapho]</td>
<td>kufanele kuhlofwe khona lemitsetfo ye-ligatja lephakanyisiwe kanye nalokudzingekako [kute ubhaliswe ngalokuhlofwe] kuyatfolakala kubwebhusayithi yeligi [kute emalungelangile] emmango abeke imibono; futsi</td>
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<td>(iii)</td>
<td>isho leshikatsi, kanye nenchubo, lapho kungabekwa khona lokuhlikisa sicelo nome Imitsetfho kanye nalokudzingekile kungalethwa ngaphambi kweliGatja [lesembekwe ngunobhala].”; futsi</td>
</tr>
<tr>
<td>(e)</td>
<td>ngekungeta lendzima lelandzelako esigatjaneni (4);</td>
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<tr>
<td>“(c)”</td>
<td>liGatja kufanele lishicilele lemitsetfo ye-ligatja lephakanyisiwe kanye nalokudzingekile lekukhulunywe ngako endzimeni ye-(ii) kuwebhusayithi.”</td>
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### 10. Kuchitjiyelwa kwaesigaba 8—

| (a) | ngekuntjintjwa kwendzima (c) esigatjaneni (1) ngaledzina lelandzelako: |
| “(c)” | kukhombisa kutsi letidzingo letifanele letibekwe [ngunobhala] kumtsetfo wekuhlulanyela lolafele, lolafa sicelo uyatifeza, nama ligatja lelibhaliswe, njengoba kungabe kubekwe, [bacondzisi] bemalungu nemtimba lolawulako [halo] kanye naphatsi labasetulu;” |

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(b) by the addition of the following subsection:

“(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.

(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.

(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).

(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.”.

11. The amendment of section 9(4) by the substitution for paragraph (a) of the following paragraph:

“(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.”.

12. The amendment of section 10—

(a) by substitution in subsection (2) for paragraph (f) of the following paragraph:

“(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

(b) by the substitution in subsection (2)(i) for subparagraph (ii) of the following subparagraph:

“(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;”.

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<td>(b) by the addition of the following subsection:</td>
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<td>““(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.</td>
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<td>(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.</td>
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<td>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</td>
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<td>(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.”.</td>
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<td>““(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.”.</td>
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|                  |             | 12. The amendment of section 10—
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|                  |             | ““(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
|                  |             | (b) by the substitution in subsection (2)(i) for subparagraph (ii) of the following subparagraph:
<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>
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<tr>
<td>(b) ngekungetwa kwalesigatjana lesilandzelako:</td>
<td>“(3) (a) Ngekunganakwa kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwe- kuca la kwalesigatjana kuchubeka kudzingeke.</td>
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<td>(b) Ngekwetimiso temtsetfo letincunywe ngekwemibandzela wesigatjana (1)(a), Ngcongcoshe angacitsa timiso temtsetfo, bese kutsi lokudzingekile lokusha kungabese sekuncunywa emitsetfweni yekuhlanganyela nobe umtsetfo wenchubo.</td>
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<td>(c) Indzima (b) ayisikabeti noble ivimbele emandla aNgcongcoshe kuncuma nobe kuchibiyela timiso temtsetfo ngembikwekuca la kwalesigatjana (1)(a).</td>
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<td>(d) Lokudzingekile lokuncunywe ngekwemibandzela yesigatjana (1)(c) nobe (2)(c) ngembikwekuca la kwalesigatjana kungachitjiyelwa nobe kucitfwe ngewenchubo nobe umtsetfo wekuhlanganyela.”</td>
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<tr>
<td>11. Kuchitjiyelwa kwesigaba 9(4) ngekunjintjwa kwendzima (a) ngalendzima lelandzelako:</td>
<td>“(a) kufanele akhiphe satiso sesicelo kwentela kuchibiyela imitsetfo yelayisensi yeligatja noma imbandzela ngekuya ngekutsi nguyiphi layisesni leyaniwka kumaphephandzaba avelonkhe lamabili, ngetindleko talona lofake sicelo, kanye nakwебbusavathi yeliGatja [lesemsetfweni].”</td>
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<td>12. Kuchitjiyelwa kwesigaba10 (a) ngekunjintjwa kwendzima (f) esigatjaneni (2) ngalendzima lelandzelako:</td>
<td>“(f) ngekushesha ngalesikhatsi sebati kufanele batise [nobhala] liGatja kanye neMbusi nganoma luphi ludzaba labatsemba ngalokufanele kutsi [lolungabangela bungoti kuloluhlelo kutimaketho tengnito] jungakhuliswa nobe lunyuse bungoti beluhlelo; “”, futsi</td>
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<td>(b) ngekunjintjwa kwendzinyana (ii) ngendzinyana lelandzelako esigatjaneni (2)(i) “(ii) angabeka ligatja leligunyatiwe lelibhalisiwe nome ligatja letetimali leligunyatiwe</td>
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<td>13. The amendment of section 11—</td>
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<td>(a) by the substitution in subsection (2) for paragraph (c) of the following paragraph;</td>
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<td>“(c) an exchange may take into account at a hearing information obtained by the [registrar] Authority in the course of [an] a supervisory 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.”;</td>
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<td>(b) by the substitution in subsection (6) by the substitution for paragraphs (c) and (d) of the following paragraphs;</td>
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<td>“(c) The [registrar] Authority must, as soon as possible after the receipt of a proposed amendment, publish —</td>
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<td>(i) the amendment on the [official] Authority’s website; and</td>
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<td>(ii) a notice in the Gazette that the proposed amendment is available on 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.</td>
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<td>(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 —</td>
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<td>(i) the amendment and the date on which it comes into operation on the [official] Authority’s website; and</td>
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<td>(ii) a notice in the Gazette, which notice must state—</td>
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<td>(aa) that the amendment of the listing requirements has been approved;</td>
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<td>[lelihambisanako noma Lelitlile] ngaphansi kweSchluko V kugunyata noma kubhadaladematratsekhshininomakububilikugunyatanekubhadalangekumelela ligatja;&quot;.</td>
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13. Kuchitjiyelwa kwesigaba 11—
   (a) ngekuntjintjwa kwendzima (c)
   ngendzima lelandzela lako esigatjaneni (2):
   "(c) ligatja linganaka ngalesi khatsi kutshanyelwe licala lwatiso [lebelutfolakele] lelitlfolwekuluphenyo ngaphansi kwasigaba 84 sifundwwe nesigaba 85;";
   (b) ngekuntjintjwa kwetindzima (c) neye
   (d) ngaletindzima leltiendzela lako esigatjaneni (6):
   "(c) [nothala]liGatja, ngemuvu kwekufola kwelelcibhiyelo letiphakanyisiwe kufanele lishicilele masisha loku lokulandzela—
   (i) tichibiyelo kwelelcibhiyethi yeligatja; futsi
   (ii) satiso kuGazethi lesishoko kutshyelo letiphakanyisiwe tiyafolakala kwelelcibhiyethi yeligatja, sibite bokhe banti futha labadzinga kuphakamisa imibono yabo ngaletlichibhiyelo letiphakanyisiwe kutsi bentjalo kuliGatja ekhatji kwelelcibhiyelo sibaya leke futha labaphakamise leto tichibiyelo lebetiphakanyisiwe, ligatja kufuna lishicilele—
   (i) sichibiyelo kwelelcibhiyethi kanye nelusuku lekuftuna sicaletjalo kusebenta yeligatja; futsi
   (ii) satiso kuGazethi, lekuftuna sicaletjalo kusebenta yeligatja; futsi
   (a) kutshyelo talokudzingesiwe kwelelcibhiyelo tlhubhu tiyfane luko kubana.

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<td>(bb) that the listing require-</td>
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<td>(i) of the following words:</td>
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<td>“(a) The [registrar] Authority may,</td>
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<td>website, amend the listing re-</td>
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<td>quirements of an exchange—”;</td>
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<td>“(ii) publish the reasons for the</td>
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<td>Authority’s website.”.</td>
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<td>14. The amendment of section 12(6) by</td>
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<td>“(b) If the refusal to list securities was</td>
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<td>due to any fraud or other crime commit-</td>
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<td>ted by the issuer, or any material mis-</td>
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<td>statement of its financial position or non-</td>
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<td>disclosure of any material fact, or if the</td>
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<td>removal of securities was due to a failure</td>
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<td>to comply with the listing require-</td>
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<td>ments of the exchange, no other exchange in</td>
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<td>the Republic may, for a period of six</td>
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<td>months from the date referred to in para-</td>
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<td>graph (a), grant an application for the</td>
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<td>inclusion of the securities concerned in</td>
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<td>the list kept by it, or allow trading in</td>
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<td>such securities, unless the refusal or re-</td>
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<td>moval is withdrawn by the first exchange</td>
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<td>by the [appeal board in terms of sec-</td>
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<td>tion 105] Tribunal.”.</td>
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<td>(bb) Kutsi lokudzingekako kute kubhaliswe njengobe njengobe kuchitjiyelwe kuyatfolakala kuwebhusayithi yeligatja kanye nakuwebhusayithi yetekuhweba; futsi</td>
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<td>(cc) Lusuku lekuwayawucala kusebenta nga lo tichibiyelo talokudzingekako kute kubhaliswe</td>
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<td>(c) Ngekuntjintjwa kwemagama landvulela indzinyana (i) ngalamagama lalandzelako kusigatjana 7(a): “(a) [nabhala] liGatja [a]lingachibiyela lokudzingekako kute kubhaliswe ligatja, ngekwasatiso kuGazethi nakuwebhusayithi yeliGatja, [lesemsetfweni] futsi “</td>
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<td>(d) Ngekuntjintjwa kwendzinyana (ii) ngendzinyana lelandzelako kusigatjana 7(b): “(ii) nekukhipha tizatfu tekuchibiyela, kanye nekubululeka kwaloko kuchibiyela kuGazethi kanye nakuwebhusayithi yeliGatja [lesemsetfweni]”</td>
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<td>14. Kuchitjiyelwa kwesigaba 12(6) ngekuntjintja indzima (b) ngalendzima lelandzelako: “(b) Uma ngabe lokwala kutsi kufakwe emasheya eluhleni kubangelwe kukoholahakala noma bugebengu lobentiwe ngoloninkelako, noma lenye yetinifo letikhiphe kabi sitatimende lesikhuluma ngesimi setimali noma kungavetwa noma yini lephatselene nemphahla, noma kakhishwa kwemasehayea kubangelwe kuhululeka kuhambisana nalokudzingekako kute ubhaliswe kugatja, aliko lelineyile gitja eRiphabhulikhi lelinga, sikhatzi lesingalinganiselwa kutinyanga letisitupha kusukela ngalolusuku lolubalwe kundzima (a), anikete sicelo sekutsi kufakwe emasheya latsintsekako kuloluhla loulugcinwe ngilo, livumele kutsengiswa kwabeni masheya, ngaphandle kwekutsi lokwala noma lokukhishwa noma kubekelwe eceleni [ngekufaka] ngekubuyeketwa yinkhundla yetemacala futsi [sikhalo] [lobhodi letikhalo ngekuya ngesigaba 105].”</td>
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| 15. | The amendment of section 17—  
(a) by the substitution for subsection (1) of the following subsection:  
“(1) The exchange rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.”;  
(b) by the insertion after subsection (2) of the following subsection:  
“(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the exchange rules.”; and  
(c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:  
“(a) Subject to section 5(1)(c) and (2) and the requirements prescribed [by the registrar] in joint standards, the exchange rules may provide for the approval of external authorised users to be authorised users of the exchange.”. | |
| 16. | The amendment of section 25(2) by the substitution for the words preceding paragraph (a) of the following words:  
“The [registrar] Authority may[, prescribe standards in respect of [a report] reports referred to in subsection (1)[, prescribe] specifying— “. | |
| 17. | The amendment of section 27—  
(a) by the substitution in subsection (4) for paragraph (a) of the following paragraph:  
“(a) The [registrar] Authority 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] Authority’s website.”; and  
(b) by the addition in subsection (4) of the following paragraph:  
“(c) The Authority must publish the proposed depository rules referred to in paragraph (b)(ii) on the Authority’s website.”. | |
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|                             | (a) ngakunjitiwa kwesigatjana (1) ngaleseitlanyana lesihlizi: | "(1) Lemitseto ye-lesegatjana kufanele ihambisane naloMtsetfon, ne-Financial Sector Regulation Act kanye nayo yonke imitseto lekweni lesegatjana lelengwena."
<p>|                             | (b) ngakunjitiwa kwesigatjana lesihlizi: | &quot;(2) Umtsetfotimiso nomu lasekweni ungancuma tindzaba letingetwe kuleto letibaliwe esegatjaneni (2) lekuhlangana lemitsetweni yelesegatjana.&quot; |
|                             | (c) ngakunjitiwa kwesigatjana lesihlizi: | &quot;(4) Ngekuya ngesigaba 5(1)(a) na (2) kanye netudzingo letibekwe n沽shiliwo konke, kanye ngakunjitiwa kwesigatjana (1), abeke lokalwe kusigatjana (1), [letiwebhu sayithi yelesegatjana.]&quot; |
| 16.                         |                          |                                   |
|                             | (a) ngakunjitiwa kwensigaba (2) ngalengdzima lesegatjaneni (4): | &quot;(a) Ngekuya ngesigaba 5(1)(c) na (2) kanye netudzingo letibekwe ngunokhanya kumsetfo wekuhlangana imitseto ye-lesegatjana lekweni ungancuma tindzaba letingetwe kuleto lesebenzisa, umitsetfo kufuna letinhasa, ngakunjitiwa kwesigatjana (1), abeke lesebenzisa.&quot; |
| 17.                         |                          |                                   |
|                             | (a) ngakunjitiwa kwendzima esegatjaneni (4) ngendzima lesegatjaneni: | &quot;(a) [lesentsetfweni] ngakunjitiwa kwendzima esegatjaneni (4): | &quot;(c) LiGatja kufuna lishicilele lemitsetfo ye-lesentsetfweni lesebenzisa lekukhulunywe ngayo endzimeni (b)(ii) kuwebhusayithi yelesegatjana.&quot; |</p>
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<td>18.</td>
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<td>The amendment of section 28 —</td>
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<td>(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:</td>
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<td></td>
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<td>“(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;”; and</td>
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<td></td>
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<td>(b) by the addition of the following subsection:</td>
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<td></td>
<td></td>
<td>“(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.</td>
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<td></td>
<td></td>
<td>(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.</td>
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<td></td>
<td></td>
<td>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</td>
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<td>(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.”.</td>
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<td>19.</td>
<td></td>
<td>The amendment of section 29 —</td>
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<td></td>
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<td>(a) by the substitution for subsection (2) of the following subsection:</td>
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<td>“(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.”; and</td>
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<tr>
<td>Nomoro ya Molao le ngwaga</td>
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<td>18. Kuchitjiyela kwesigaba 28—</td>
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<td></td>
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<td>(a) ngekuntjintjwa kwendzima (c)</td>
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<td>esigatjaneni (1) ngalentzima</td>
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<td>lelandzelako:</td>
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<td></td>
<td></td>
<td>“(c) kukhombisa lokudzinekako</td>
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<td>nalokulungele lokubekwe</td>
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<td>yemtsetfo lefanele, lofako</td>
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<td>sicelo uyafinyelela kulo,</td>
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<td>njengoba kungabe kubeke,</td>
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<td>[bacondzisi] kumalunga</td>
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<td>emtimba wabo lolawunako</td>
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<td>[habo] kanye nebaphatsi</td>
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<td>labaphakeme;”; fusi</td>
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<td>(b) ngekungetwa kwalesigatjana</td>
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<td>lesilandelako:</td>
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<td>“(3)(a)engekunganakwa</td>
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<td>kwesigatjana (1), lokudzinekile</td>
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<td>luchubeke kudzineke.</td>
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<td>(b) Ngekwetimiso temtsetfo</td>
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<td>wesigatjana (1)(a). Ngcongcoshe</td>
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<td>yekekuhlanganyela nobe yeukulingana</td>
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<td>“(c) Indzima (b) ayitsikabeti nobe</td>
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<td>yesigatjana (1)(a).</td>
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<td>(d) Lokudzinekile lokuncunyiwe</td>
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<td>ngekwe sigatjana (1)(c) nobe (2)(c)</td>
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<td>kungachitjiyela nobe kuCITFWE</td>
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<td>ngekwenchubiko nobe umtsetfo</td>
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<td>wekuhlanganyela.”.</td>
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<td>19. Kuchitjiyela kwesigaba 29—</td>
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<td>(a) ngekuntjintjwa kwesigatjana (2)</td>
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<td>ngaLesigatjana lesilandelako:</td>
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<td>“(2) Lelayisensi kufanele ibhalwe</td>
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<td>lelilhovisi lelibhalisiwe kusikhungo</td>
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<td>semasheya lasemkhatsini</td>
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<td>eRiphabhuHliki naletindzawo lapho</td>
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<td>ngekuhlanganyela yangaphambilini</td>
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<td>lebhaimwe [ngunobhala] liGatja,</td>
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<td>liGatja lebuNgcwethi kanye</td>
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<td></td>
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<td>neliBhange Ngodia iaseNingizimu.”;</td>
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<td>(b) by the substitution in subsection (4) for paragraph (a) of the following paragraph: &quot;(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 two national newspapers at the expense of the applicant and on the official Authority’s website.&quot;.</td>
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<td>20. The amendment of section 30(2) by the substitution for paragraph (h) of the following paragraph: &quot;(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 give rise to, or increase, systemic risk;&quot;.</td>
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<td>21. The amendment of section 33 by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: &quot;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, and an issuer may, subject to subsection (2), issue uncertificated securities despite any contrary provision in—&quot;.</td>
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<td>22. The amendment of section 35— (a) by the substitution for subsection (1) of the following subsection: &quot;(1) The depository rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.&quot;; (b) by the insertion after subsection (2) of the following subsection: &quot;(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the depository rules.&quot;;</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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<td>(b)</td>
<td>Ngekuntjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): &quot;(a) [nobhala] liGatja kufanele [al]kiphi satsi ngekuchitjiyelwa kwemigomo yelayisensi yesikhungo semasheya lesismkhatsini nemibandzela lapho khona ilayisensi beyinketiwe kumaphlepandzaba lamabili avelonkhe ngekwenindleko talofake sicelo kanye nakwebbusayithi yeliGatja [lesemtsetfweni].&quot;</td>
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<td>20.</td>
<td>kuchitjiyelwa kwesigaba 30(2) ngekuntjintjwa kwendzima (h) ngenzima lelandzelako: &quot;(h) kufanele ngekushesha uma ngabe bacala kwati, atise [nobhala] liGataja nganoma luphi ludzaba lebalukholwako [lolungabangela luwele lunebungoti kutimakethe temnonto] lolungakhulisa nobe lunyuse, bungoti beluylelo;&quot;</td>
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<td>21.</td>
<td>kuchitjiyelwa kwesigaba 33 ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lelandzelako esigatjaneni (1): &quot;Loniketako angagucula Emasheya [acinisekisiwe] lanestifiti [Angaguculwa] abe emasheya langekho emsetfweni, ekucoweni kwalooniketako nome umbambeli wemasheya lasemtsetfweni, futsi loniketako [nemnikeli anga], ngekuya ngesigatjana (2).[.] anganiketa elmasheya langekho emsetfweni nomia kungahambisani nemibandzela——.&quot;</td>
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<td>22.</td>
<td>kuchitjiyelwa kwesigaba 35—(a) ngekuntjintjwa kwesigatjana (1) ngalesenigatjana lesilandzelako: &quot;(1) imitsetfo yesikhungo kufanele ihambisane naloMtsetfo, i-Financial Sector Regulation Act kanye nemitsetfo leyentiwe ngekwalamtsetfo nome i-Financial Sector Regulation Act.;&quot;</td>
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<td>(b) ngekungeta lesigatjana lesilandzelaka ngemuva kwesigatjana (2): &quot;(2A) Umsetfotimiso nome umitsetfo kungancuma tindzaba letingetiwe kuleto lesetibaliwe esigatjaneni (2) lekuwa tibe khona kumitsetfo wekugcina.&quot;</td>
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|                 |             | (c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:  
|                 |             | “(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 or external central securities depositories to be participants of the central securities depository.”; and.  |
|                 |             | (d) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:  
|                 |             | “(ii) where a central securities depository has approved an external central securities depository as a participant, 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.[]—  
|                 |             | (aa) the identification of the supervisory authority that supervises that external central securities depository;  
|                 |             | (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.”.  |
| 23.            |             | The amendment of section 36 by the substitution for subsection (1) of the following subsection:  
<p>|                 |             | “(1) The [registrar] Authority may [direct] determine 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] Authority.”.  |</p>
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<td>(c) ngekuntjintja indzima (a) ngalandzima lelandzelako esigatjaneni (4):</td>
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<td>“(4) (a) Ngekuya ngesigaba 5(1)(c) na (3) kanye netidzingo letibekwe [ignunobhala] kumsetfo wenchubo nome wekuhlanganyela, imisetfo yesikhungo inga, niketela labangenelele bangaphandle kanye nelihbang lelisemkhatsini langaphandle lemasheya kokutsi babe ngulabangenelelako besikhungo semasheya lesisemkhatsini.”’</td>
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<td>(d) ngekuntjintjwa kwendzinyana (ii) ngalandzinyana lelandzelako esigatjaneni (4)/(b):</td>
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<td>“(ii) Lapho [i] sikhungo semasheya lesisemkhatsini sivumele sikhungo semasheya lesisemkhatsini lesitimele njengalabangenelelako, ngetinjongo tekuhlanganyela kwemitsetfo lefanele nome imisetfo yesikhungo lesebenta kuko konkhe lekuhlanganyela nekungenelela, kufaka ekhatsi imisetfo lelawula kanye nakumalunga lamanye netinchubo letingakalungiseki. [— (aa) lokubonwa kwalone-ligunya lekuhlanganyela kanye nebhatsi baleso sikhungo semasheya lesisemkhatsini lesitimele; (bb) Kubona imisetfo lefanele nome imisetfo yesikhungo leebenta kuko konkhe kusebenta, kufaka ekhatsi, ingavimbi lemitsetfo lelawula kusebenta kable kwesimsitsetsa netindlela tekuhlakata.]”</td>
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<td>23. kuchitjiyelwa kwesigaba 36 ngekuntjintja kwesigatjana (1) ngalesigatjana lesilandzelako:</td>
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<td>“(1) [nobhala] liGatja [langasho] lincuma kutsi nama waphi emasheya kumabhangane lasemkhatsini labanjwa sikhungo semasheya lesisemkhatsini kufanele, ngaphandle kwekutso amathulisi, emasheya asemakethe yetimali nama barekhode emasheya langekho emsethweni kurejista ng ekhambisana nesigaba 50 se-Companies Act nemisetsefo yesikhungo, abhalishwe ngakeligmaga lelabangenelelakobesikhungo semasheya lesisemkhatsini.”</td>
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<tr>
<td>24.</td>
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<td>The amendment of section 39 by the substitution for subsection (3) of the following subsection: “(3) An interest in respect of uncertificated securities may be granted under this section, where applicable, and in the manner provided for in the depository rules, and is effective against third parties, in relation to a central securities account or a securities account, where such an interest extends to all uncertificated securities standing to the credit of the relevant central securities account or securities account at the time the pledge is effected.”.</td>
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<tr>
<td>25.</td>
<td></td>
<td>The amendment of the heading in Chapter V preceding section 47 by the substitution for the heading of the following heading: “Licensing of clearing house and central counterparty”.</td>
</tr>
<tr>
<td>26.</td>
<td></td>
<td>The amendment of section 47— (a) by the substitution for the heading of the section of the following heading: “Application for clearing house licence and central counterparty licence”; (b) by the substitution for subsection (1) of the following subsection: “(1) A clearing house and a central counterparty must be licensed under section 49.”; (c) by the insertion after subsection (1) of the following subsection: “(1A) Subject to section 110(6), a central counterparty must be an independent clearing house.”; (d) by the substitution for subsection (2) of the following subsection: “(2) A juristic person may apply to the registrar Authority for a clearing house licence or a central counterparty licence.”;</td>
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Molao wa Taolo ya Lephata la Ditshelte, 2017

24. Kuchitjiyelwa kwesigaba 39 ngekuntjintjwa kwesigatjana (3) ngalesigaba lesilandzelako:

“(3) Intalo ngalokuphatselene nemasheya langakabhaliswa inganiketwa ngaphansi kwalesigaba, uma kufanele, nangendela lekubekwe ngayo kulomtsetfo wemabhange, kantsi kusebenta ngekumela nemacembeni esitsatfu, ngalesigatjane ne-akhawunti yemasheya lasemkhatsini nome ne-akhawunti yemasheya, lapho khona lenshisekela ichubekela kw[u]b[a] o onke emasheya langakacinsiskiwa lamele kuba yinzuzo ye-akhawunthi yemasheya lasemkhatsini nome yale-akhawunti yalamasheya lafanele ngalesikhtis lesincumo sentiwa.”.

25. Kuchitjiyelwa kwesihloko kuSehluko V lesandvulela sigaba 47 ngalesihloko lesilandzelako:

“[Ilayisensi yendlu legunyatako neligatja lelisemkhatsini letekuhweta kuphaka emitsetfweni kwendlu legunyatako neligatja lelisemkhatsini letekuhweba]”;

26. kuchitjiyelwa kwesigaba 47—

(a) ngekuntjintjwa kwesihloko salesigaba nganasi lesilandzelako:

“[kufaka sицеlo selayisensi yendlu legunyatako neligatja lelisemkhatsini letekuhweba]”;

(b) ngekuntjintja sigatjana (1) ngalesigatjana lesilandzelako:

“(1) Indlu legunyatako kanye neligatja lelisemkhatsini letekuhweba kufanele [il]kuniketwe ilayisensi ngaphansi kwesigaba 49.”;

(c) ngkekufaka lesigaba lesilandzelako ngemuvha kwesigatjana (1):

“(1A) Ngękuyə ngesigaba 110(6), ligatja lelisemkhatsini letekuhweba kufuna [ib]e yindlu legunyata ngękuthemelena.”;

(d) ngekuntjintja sigatjana (2) ngalesigatjana lesilandzelako:

“(2) Umuntfu losemtsetfweni angafaka [kufanele afake] sицеlo selayisensi yendlu legunyatako nome ligatja lelisemkhatsini letekuhweba [kunobhala] kuliGatja [kwentela indlu legunyatako]”;

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<td></td>
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<td>semasheya lesisemkhatsini noma lababanikati baso, njengoba kuchazwe kusigaba 1 se-Companies Act, kwavunywa [ngunobhala] liGatja.”.</td>
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<td>24.</td>
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| 26.                      |                         | Kuchitjiyelwa kwesigaba 47—

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<td>(e)</td>
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<td>by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “An application for a clearing house licence or central counterparty licence must—”</td>
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<td>(f)</td>
<td></td>
<td>by the substitution in subsection (3)(c) for subparagraph (iii) of the following subparagraph: “(iii) the application fee [prescribed by the registrar] determined in terms of the Financial Sector Regulation Act;”</td>
</tr>
<tr>
<td>(g)</td>
<td></td>
<td>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 or a central counterparty licence, a copy of the proposed clearing house rules that must comply with section 53; and”</td>
</tr>
<tr>
<td>(h)</td>
<td></td>
<td>by the substitution in subsection (4) for paragraph (a) of the following paragraph: “(a) The [registrar] Authority 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] Authority’s website;”</td>
</tr>
<tr>
<td>(i)</td>
<td></td>
<td>by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph: “(ii) in relation to an independent clearing house or a central counterparty, [where] that the proposed clearing house rules [may be inspected by] are available on the Authority’s website for comments from members of the public; and”</td>
</tr>
<tr>
<td>(j)</td>
<td></td>
<td>by the addition in subsection (4) of the following paragraph: “(c) The Authority must publish the proposed clearing house rules referred to in paragraph (b)(ii) on the Authority’s website;”</td>
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<tr>
<td>(e)</td>
<td>ngekuntjintjia emagama landvulela sigaba (a) esigatjaneni (3) ngalamagama lelandzelako: &quot;&quot;Sicelo selayisensi yendlu legunyatako nome selayisensi veligatja lelisemkhatsini letekuhweba kufanele——&quot;&quot;;</td>
<td></td>
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<tr>
<td>(f)</td>
<td>ngekuntjintjwa kwendzinyana (iii) ngalendzinyana lelandzelako esigatjaneni (3)(c): &quot;&quot;(iii) imali yesicelo [lebekwe ngunobhala] lencunywe ngekwemibandzela ye-Financial Sector Regulation Act&quot;&quot;;</td>
<td></td>
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<tr>
<td>(g)</td>
<td>ngekuntjintjwa kwendzinyana (v) ngalendzinyana lelandzelako esigatjaneni (3)(c): &quot;&quot;(v) nekuhambisana nesicelo lesiphatselene selayisensi yendlu legunyatako nobe ilayisensi veligatja lelisemkhatsini letekuhweba, ikhophi yemitsetelo yendlu legunyatako lekuhweba kuhambisane nesigaba 53; kanye&quot;&quot;;</td>
<td></td>
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<tr>
<td>(h)</td>
<td>ngekuntjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): &quot;&quot;(a) [nobhala] liGatja kufanele [a]likhiphe satiso sesicelo selayisensi yendlu legunyatako kumaphephandzaba lamabili avelonkhe ngetindleko talofake sicelo kanye nakuwwebhuwebhusayithi yeliGatja [lesentsetweni].&quot;&quot;;</td>
<td></td>
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<tr>
<td>(i)</td>
<td>ngekuntjintjwa kwendzinyana (ii) ngalendzinyana lelandzelako esigatjaneni (4)(b): &quot;&quot;(ii) ngalokuptatselene nendlu legunyatako letimele nobe ligatja lelisemkhatsini letekuhweba, [japho khona] ngekutsi umitsetelo yendlu legunyatako [ingahlolwa] iyatfolakala kuwebhusayithi yeliGatja kwentela kubekwana kwemibono lephumia kumalunga emmango; kanye;&quot;&quot;; kanye</td>
<td></td>
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<tr>
<td>(j)</td>
<td>ngekungeta lendzima lelandzelako esigatjaneni (4): &quot;&quot;(c) liGatja kufuna lishicilele kuwebhusayithi yalo umitsetelo lephakanyiswe yendlu legunyatako lekuhulunywe ngayo kundzima (b)(ii).&quot;&quot;.</td>
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<td>27.</td>
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<td>(a) by the substitution for the heading of the section of the following heading: “Requirements applicable to applicants for clearing house licence, central counterparty licence [and], licensed clearing house and licensed central counterparty”;</td>
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<td></td>
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<td>(b) by the substitution for subsection (1) of the following subsection: “(1) An applicant for a clearing house licence and a licensed clearing house, and an applicant for a central counterparty licence and a licensed central counterparty must—</td>
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<tr>
<td></td>
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<td>(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;</td>
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<td></td>
<td></td>
<td>(b) have governance arrangements that are clear and transparent, promote the safety and efficiency of the clearing house or central counterparty, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders;</td>
</tr>
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<td>(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in the relevant joint standards are met by the applicant [or], the licensed clearing house or the licensed central counterparty, as the case may be, [its directors]members of its controlling body and senior management;</td>
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<td>(d) comply with the requirements prescribed [by the registrar]in the joint standards for the clearing or settlement of transactions in securities, or both;</td>
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<td>27.</td>
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<td>kuchitjivelwa kwegababa 48—</td>
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<td>ngekuntjintjwa kwegashloko sesababa</td>
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<td></td>
<td></td>
<td>ngaleshloko lelaendzelaakgo:</td>
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<td></td>
<td></td>
<td>&quot;[Tidzingo letikhona]</td>
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<td></td>
<td>lokudzingekile kulabafa sicolob</td>
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<td>sekubu nelayisensi [yelagatja]</td>
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<td>[I] yendlu legunyato, yelagatja</td>
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<td>leleisekhiatsini letekukhweba,</td>
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<td>ngaleiskelmetsetfweni kanye</td>
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<td>neyelagatja leleisekhiatsini</td>
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<td>letekukhweba leleiskelmetsetfweni&quot;;</td>
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<td>(b)</td>
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<td>ngekuntjintjwa sigatjana (1)</td>
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<td>&quot;(1) Lofakale sicolob selayisensi</td>
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<td>leleishesiwe, kanye nalo sicolob</td>
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<td>selayisensi yelagatja leleisekhiatsi</td>
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<td>letekukhweba kanye neyelagatja</td>
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<td>wekuhlanganyela fofanele</td>
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<td>tiyatfolakala kaifone fofane sicolob</td>
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<td>[noma], ligatja leleigunyatiwe</td>
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<td>leleibalisiwe nome leigatja leleisekhiatsi letekukhweba,</td>
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<td>leleigunyatiwe, njengoba kungabe</td>
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<td>labasetulu;</td>
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<td>(d)</td>
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<td>kukhombisa ngetidzingo</td>
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<td>[letibekwe nungonobhala]</td>
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<td>kugunyata noma kucedzelela</td>
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<td>kwemranteke seki kumashoeya,</td>
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<td>noma kokubili;</td>
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<td>(e) implement an effective and reliable infrastructure to facilitate the clearing of securities cleared by the clearing house or central counterparty;</td>
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<td>(f) implement effective arrangements to manage the material risks associated with the operation of a clearing house or central counterparty;</td>
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<td>(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 or central counterparty; and</td>
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<td></td>
<td>(h) in relation to an applicant for an independent clearing house licence [or], a central counterparty licence, a licensed independent clearing house or a licensed central counterparty, 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.”;</td>
</tr>
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<td></td>
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<td>(c) by the insertion after subsection (1) of the following subsection: “(1A) Subject to subsection (1) and the regulations prescribed by the Minister, a central counterparty must—</td>
</tr>
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<td></td>
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<td>(a) implement a margin system that establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and market it serves;</td>
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<td></td>
<td>(b) collect and manage collateral held for the due performance of the obligations of clearing members or clients of clearing members;</td>
</tr>
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<td></td>
<td><em>(e)</em> kusebentisa indlela[s] lekahle naletsembekile yetinsita kuhambisana nekugunyatwa kwemashaya lagunyatwe sikhungo lesigunyatako nome ligatja lelisemkhatsini letekuhweba;</td>
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<td></td>
<td><em>(f)</em> kusebentisa ivumelwano letikahlale kulawula lokuyimphahlina lebengungo lehambisana nekusebenta kwendlu legunyatako nome ligatja lelisemkhatsini letekuhweba;</td>
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<td><em>(g)</em> abc [sewente]lekente emalungiselelo ekuvikela kanye netindlela tekulandzelela kucinisekisa sitfunti semerekhodi ematransekshini lagunyatwe, lakhishiwe no lelagunyatwe akhokhela kulendlu legunyatwako nome ligatja lelisemkhatsini letekuhweba; kanye</td>
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<td></td>
<td><em>(h)</em> ngekufakwa khwelela sicelo selayisendi yenidlu legunyatiwe letimele [nom] veligatja lelisemkhatsini letekuhweba, yesikhungo lesitmele lesigunyatiwe lesinemvume nome yeligatja lelisemkhatsini letekuhweba lelagunyatiwe, abe ente emalungiselelo [kanye n]lengaluNalwula kwelitumfo lelagunyatiwe kute kutsi kucinisekise kuhambisana nemitsetfoyenidlu legunyatako kanye nemibandzela yenidlu legunyatako kanyenalo-Mtseto.”;</td>
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<td></td>
<td><em>(c)</em> ngekufakwa kwalesigatjana lesilandzelako ngemva kwasesigatjana <em>(1)</em>: “(1A) ngekuywa ngekwesigatjana <em>(1)</em> kanye netimiso temtsetfo letincunywe nguNgcongoshe, ligatja lelisemkhatsini letekuhweba kufanele—</td>
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<tr>
<td></td>
<td><em>(a)</em> isungule luhlelo lekwese ka lelimisa kulingana kwemazinga ekwese ka kanye nebunogti kanye netumanele letisito temkhicito ngamunye, ema-Pholotlholiyo, kanye netimaketha letisebentelako;</td>
<td></td>
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<td></td>
<td><em>(b)</em> icokelele iphindze iphatse lokumele emasheya lokubanqeti lekuNcuncunywa kwemsebenti weskutsho philela kwemalunga lagunyatako;</td>
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<td>(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;</td>
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<td>(d) maintain initial capital as prescribed, including an appropriate buffer;</td>
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<td>(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;</td>
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<td>(f) provide an appropriate segregation and portability regime to protect the positions of clients of a defaulting clearing member; and</td>
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<td>(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—</td>
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<td>(i) ensure that sufficient risk policies, procedures and processes are in place; and</td>
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<td>(ii) have sound internal controls for robust transaction processing and management.”;</td>
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<td>(d) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:</td>
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<td>“(2) The [registrar] Authority may—</td>
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<td>(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;</td>
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<td>(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”; and</td>
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Molao wa Taolo ya Lephata la Ditshelete, 2017

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(c) isungule iphindze igcine sikhwama lesifanele kunciphisa bungoti laapho kungaba khona nekapalamana lokungentiwa lilunga leligunyatako, phindze nekucinisekisa, laapho kukhonakala khona, kutsi sibopho selilunga leligunyatako siyachube ka siyagcwaliswa;
(d) igcine imali yekucala iphindze ichube njengoba kuncunyiwe, kufaka ekhatsi kulindza lokufanele;
(e) Yati kahle lokungakahanjiswa kahle laapho khona lilunga leligunyatako lelente loko, lamanye emalunga lagunyatako kanye neligatja lelisenkhatsini letekuhweba kuphethlwe ngalo kusentfweni futsi ngalo kucacako;
(f) Ifunene lusihitiyo nekuhlanakisa lokufanele kuvikela indrawo yebatsengibelilunga leligunyata ngendlela lengasiyo; futsi
(g) Inkete ngetinchanethi letifanele, tinsita kanye nekulawulwa kwenkvela umsebenzi wayo wekuphatsa tekuhweba, nasetimeni laapho khona munye nobe labanye yintelo kumalunga lagunyatako baphule sibopho.
(i) Kucinisekisa kutsi imigomo yebungoti, inchubo kanye nemihambisendzaweni lefanele; phindze
(ii) Ibe nekulawula, kubukisisa nekuphatsa umsebenzi wensesi wanglekhatshi;

(d) Ngekuntjintjwa kwetindzima (a) kanye na-(b) ngaletindzima letilandzelako esigatjaneni (2):

“(2) [nobhala] liGatja linga—
(a) cela lofake sicelo [noma], ligajja leligunyatiwe lelibhalisiwe nome ligatja lelisenkhatsini letekhuweba lelisenstfweni futsi [a]litete lolwatiso lolungetiwe, noma adzinge lolwatiso kutsi lucinisekisiwe, njengoba liGatja [nobhala] [a]lingakubona kufanele; [kanye] futsi
(b) nekunaka noma luphi lwatiso lolususelwa kunome wuphi umfombolo lopoluphatselene nolofake sicelo, indlu legunyatako lelibhalisiwe nome ligatja lelisenkhatsini letekhuweba lelisenstfweni,
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<td>“(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.</td>
</tr>
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<td></td>
<td>(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.</td>
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<td></td>
<td></td>
<td>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</td>
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<td></td>
<td></td>
<td>(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.”</td>
</tr>
</tbody>
</table>

28. The amendment of section 49—

(a) by the substitution for the heading of the section of the following heading: “Licensing of clearing house and central counterparty”;

(b) by the substitution for subsection (1) of the following subsection:

“(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—”;

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Molao wa Taolo ya Lephata la Ditshelero, 2017

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[nom a ligatja leligunyatiwe lelibhalisiwe, uma ngabe lolo lwatiso luvetise kuloaloake sicelo, ligatja leligunyatiwe lelibhalisiwe,] kufaka ekhatisi lamanye emagatja lalawulako, uma ngabe lolo lwatiso luvetise kumfakiscicelo nome indlu legunyatiwe lebalhaliwe futsi nencwadzi iniketwe litifuba lelifanele lekuphendvula ngaloko; kanye

(e) ngekungetwa kwalesigatjana lesilandzelako:

“(3) (a) ngekungananaka kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwekucala kwalesigatjana kuchubeka kudzingekile.

(b) Ngekwetimiso temtsetfo letincunywe ngekwemibandzela wesigatjana (1)(a). Ngcongcoshe angacitsa umtsetfotimiso, lokudzingekile lokushe kungabese kuyancunyana kumtsetfo kuncunywe kumtsetfo wenchubo.

(c) Indzima (b) afitsikabeti nobe ivimbele emandla aNgcongcoshe kuncuma nobe kuchibeyela timiso temtsetfo ngekwemibandzelayesigatjana (1)(a).

(d) Lokudzingekile lokuncunywe ngekwemibandzela wesigatjana (1)(c) nobe (2)(c) ngembikwekucala kwalesigatjana kungachitjiyela ngebicita nobe kungachitjiyela kuncuma nobe kuchibeyela timiso temtsetfo kumtsetfo kungachitjiyela.”

28. Kuchitjiyela kwesigaba 49—

(a) ngekuntjinjwywa kwehloko salesigaba ngalesihloko lesilandzelako:

“ilayisensi yendlu legunyatako kanye neligatja lelisehmhatsini kutekuhweba”

(b) ngekuntjinjwywa kwehloko salesigaba ngalesigatjana lesilandzelako:

“(1) [nobhala] liGatja, ngekuhlanganyela kwesigaba 47(4) nangekuya
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(c) by the insertion after subsection (1) of the following subsection:

“(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—

(a) the applicant complies with the relevant requirements of this Act; and

(b) the objects of this Act referred to in section 2 will be furthered by the granting of the licence.”;

(d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“The clearing house licence and the central counterparty licence —”;

(e) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

“(a) must specify the functions that may be performed by the clearing house and central counterparty, 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 and central counterparty, and the places where the clearing house and central counterparty may be operated, and stipulate that the clearing house and central counterparty, 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; and

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### Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo
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| | | ngemibandzela lapho khona [nobhala] liGatja [a]lingakubona kufanele, [a]limikete ilayisensi yendlu legunyatako kutsi kwenitiwe umsebenti lobatwe kusigaba 50 uma ngabe—"
| (c) | ngekufakwa kwalesigatjana | lesilandzelako ngemuvu kwesigatjana

(1)

"(1A) ngekuya ngemtsetfotimiso nome uMtsotfo wekuhlhanganyela, liGatja ngekhulhanganyela neliGatja lebungwetini kanye neliBhange Ngodla leSeNingizimu Afrika ngemuvu kwekucabanga nyanome kuphi kuphikisa lokumukelwe ngemiphumela vesatiso lekucondziswe kiso kusigaba sema-47(4) nangekuya ngetimo liGatja lelititona tifanele, linganiketa ligatja lelisemkhatsini letekhuwe ba ilayisensi yekwenta imisebenti lekucondziswe kyo kusigaba 50, nangabe—

(a) lofaka sicelo uhambisana nako konkhle lokudzingekile kwakolotsetfo; phindze

(b) tinjongo taloMtsotfo lekuhaulunywe ngato kusigaba 2 nitawuchutjekiswa ngekuniketwa kwelayisensi.;

(d) ngekuntjintjwa kwemagama landvulela indzima (e) ngalamagama lalelandzelako esigatjaneni (2):

"ilayisensi yendlu legunyatako nelayisensi yeligatja lelisemkhatsini letekhuwe ba"

(e) ngekuntjintjwa kwetindzima (a) na (b) ngaletindzima letilandzelako kusigatjana (2):

"(a) kufanele ichaze lemisebenti lekucondziswe lekucondziswe lekucondziswe lekucondziswe neliGatja lelisemkhatsini letekhuwe ba, kanye nalalamesheya lapho khona lemisebenti ingentiwa khona, noma ngabe nguyiphi lemihawino imibandzela yalelayisensi, lelikuphi lekucondziswe lekucondziswe lekucondziswe lekucondziswe kusigaba kusigaba kusigaba kusigaba, nangabe—"

(k) ngekufakwa kwalesigatjana | lesilandzelako ngemuvu kwesigatjana

(1):

"(1A) ngekuya ngemtsetfotimiso nome uMtsotfo wekuhlhanganyela, liGatja ngekhulhanganyela neliGatja lebungwetini kanye neliBhange Ngodla leSeNingizimu Afrika ngemuvu kwekucabanga nyanome kuphi kuphikisa lokumukelwe ngemiphumela vesatiso lekucondziswe kiso kusigaba sema-47(4) nangekuya ngetimo liGatja lelititona tifanele, linganiketa ligatja lelisemkhatsini letekhuwe ba ilayisensi yekwenta imisebenti lekucondziswe kyo kusigaba 50, nangabe—"
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No. 41060 | | 
Act No. 9 of 2017 | Financial Sector Regulation Act, 2017 | 

(b) may specify that insurance, a guarantee, compensation fund, or other warranty must be in place to enable the clearing house and central counterparty to provide compensation, subject to the clearing house rules, to clients of clearing members.;

(f) by the substitution in subsection (3) of the following subsection:

“(3) A clearing house and a central counterparty, may at any time apply to the [registrar] Authority for an amendment of the terms of the licence and the conditions subject to which the licence was granted.”; and

(g) by the substitution in subsection (4) for paragraph (a) of the following paragraph:

“(a) The [registrar] Authority must publish a notice of an application for an amendment of the terms of a clearing house licence and central counterparty 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.”.

29. The insertion after section 49 of the following section:

“Licensing of external central counterparty

49A. (1) An external central counterparty must be licensed under this section to perform functions or provide services, unless it is exempt from the requirement to be licensed in terms of section 6(3)(m).

(2) An external central counterparty from an equivalent jurisdiction may apply to the Authority for a licence.
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>nguyiphi indzawo ngaphandle kwemvuume lebalwe phansi yinhlanganyela yeliGatja, lIGatja lebungewethi kanye neliBhange Ngodla laeNingizimu Afrika [yanobhala]; kanye (b) angachaza kutsi umshwalensi, siciniseko, sikhwama sesincepeteliso, noma siphi lesinye sicinisekiso kufanele sibekwe kahle kwentela kutsi imitsetfoyendlu ndlu legunyatako kanye neligatja lelisemkhatsini letekukhweba, kumaklayenti ellungela leligunyatiwe.”;</td>
</tr>
<tr>
<td></td>
<td>(f) ngekunjintjiwa kwesti ngamakgabo ya (3) ngalesigatjana lesilandzelako: “(3) Indlu legunyatiwe neligatja lelisemkhatsini letekukhweba, nome nini kungafaka sicelo kuliGatja [ingasebentisa nom ngabe ngasiphi sikhatsi ifake sicelo kunobhala kwamakgabo]; sekuchitiyelwa kwembandzela yelayisesi nemibandzela lekwanikeya ngaphansi kwayo lelayisensi.”; futsi</td>
</tr>
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<td></td>
<td>(g) Ngekushintjiwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): “(a) [nobhala] lIGatja kufanele [a]likhiphe satiso sesicelo sekuchibiyela sekuchitiyelwa kwembandzela yendlu legunyaiako kanye nelyelatjana lelisemkhatsini letekukhweba, kancempe kwile [kanye] nemibandzela lekwanikeya ilayisensi ngaphansi kwayo kumaphephandzaba lamabili avelonke ngakwesti nalafoke sicelo kanye nakuwetsho kungafaka yeliGatja lesemtsetfweni.”;</td>
</tr>
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<td>29. Kufakwa kwesigaba lesilandzelako ngemuva kwesigaba 49:</td>
<td>“Kufakwa emtsetfweni kwesti lelisemkhatsini letekukhweba langaphandle</td>
</tr>
</tbody>
</table>

49A. (1) ligatja lelisemkhatsini letekukhweba kufuna likfaka emtsetfweni ngaphansi kwesigaba kute lente imisebenti nome linikete ngetinsita, ngaphandle nangabe likhululule kula kudzingekile kokufaka emtsetfweni ngaphansi kwegisaba b(3)(m). |
|                          | (2) Libhange lelilaliyelako letekukhweba langaphandle — ekugunyatiwe lokulinganako lingafaka sicelo selayisensi kuliGatja.
(3) An application for a licence in terms of this section must—
(a) be made in the manner and contain information determined by the Authority;
(b) be accompanied by a copy of the proposed rules;
(c) be accompanied by the application fee determined in terms of the Financial Sector Regulation Act; and
(d) be supplemented by any additional information that the Authority may reasonably require.

(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.
(b) The notice must state—
(i) the name of the applicant; and
(ii) the availability of the operating rules of the external central counterparty on the Authority’s website, for members of the public.

(5) An applicant for a licence or a licensed external central counterparty must be either—
(a) a company as defined in section 1(1) of the Companies Act; or
(b) an external company as defined in section 1(1) of the Companies Act that is registered as required by section 23 of that Act.

(6) The Authority may—
(a) 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
(b) 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.

(7) Regulations or joint standards may prescribe additional criteria for the licensing or exemption of an external central counterparty.
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khotshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<td></td>
<td></td>
<td>(3) Kufaka sicelo selayisensi ngkekwaesigaba kufanele—</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a) kwentiwe ngendlela phindze sicukatse lwati lelimucnywe lGatja;</td>
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<td></td>
<td></td>
<td>(b) kuhambisane nekhophi yemitsetfo lephakanyisiwe;</td>
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<td></td>
<td></td>
<td>(c) kuphekeletelwe yimali yekufaka sicelo ngtekwemibandzela ye-Financial Sector Regulation Act; futsi</td>
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<td></td>
<td></td>
<td>(d) kusekwe nan obe nguluphi lolunywe lwati lolunywe leGatja lelingalidzinga.</td>
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<td></td>
<td>(4) (a) lGatja kufanele lishicilele saliso sesicelo setincwadzi lethugunyakato emaphathandzabeni lamabili avelonkhe ngetindleko talofaka sicelo kanye nakuwebhusayithi yeliGatja.</td>
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<td></td>
<td></td>
<td>(b) Inothisi kufanele isho—</td>
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<td></td>
<td></td>
<td>(i) ligama talofaka sicelo; kanye</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(ii) bokhona kwemitsetfo lesiembentswako yeliGatja lelismekhatsini letekukhwebe langaphandle kujemakhathini yeliGatja, kwentiwe emalungu emaphakatsi.</td>
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<td>(5) Lofaka sicelo selayisensi nome ligatja lelismekhatsini letekukhwebe kufanele kuba—</td>
</tr>
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<td></td>
<td></td>
<td>(i) yinkapani njengoba kushiwo esigabeni 1(1) we-Companies Act; nobe</td>
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<td></td>
<td></td>
<td>(ii) inkapani vangaphandle njengoba kushiwo esigabeni 1(1) we-Companies Act leblaliswe njengoba bekudzinge sigaba 23 salowo Mtsefo</td>
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<td>(6) lGatja linga—</td>
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<td></td>
<td></td>
<td>(a) funa Lofake nome libhange lelamlulako letekukhwebe langaphandle kutsi linikete ngelwatiso lolunyalo nome lidzinge kutsi lolwatiso lucrinsikelele, njengobe lGatja lingakubona kubalulekile ekufakweni kwesicelo; futsi</td>
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<td></td>
<td></td>
<td>(b) buka futsi nalolunye lwatiso loluphatseleni nalofaka sicelo nome ligatja lelismekhatsini letekukhwebe lulosuselwa kunome nguwuphi umtombolo, kufaka ekhatsi nome lifhi lelinywe ligatja lelilawulako, namgabo lolo lwatiso lwetsi kuholofaka sicelo nome kuligatja lelismekhatsini letekukhwebe sekutsi incwadzi inkwetwa lifuba lelifanele kuphendvula.</td>
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<td></td>
<td>(7) Imitsetfotimidisa nome imitsetfio yekuhlanganyela ingancuma tinthlobo letengetiwe tekufaka emitsetfweni nome kukhululwi kweligatja lelismekhatsini letekukhwebe.</td>
</tr>
</tbody>
</table>
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(8) The Authority may, with the confluence of the South African Reserve Bank and the Prudential Authority, grant a licence or an exemption, if—
(a) the applicant or the external central counterparty undertakes to cooperate 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
(b) the objects of this Act referred to in section 2 will be furthered by the granting of the licence.
(9) A licence or exemption may only be granted after the following factors have been taken into consideration:
(a) Relevant international standards;
(b) the type and size of external central counterparty;
(c) the impact of the activities of the external central counterparty on the South African financial system;
(d) the degree of systemic risk posed by the activities of the external central counterparty; and
(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.
(10) A licensed external central counterparty must comply with the relevant requirements of this Act and any other terms and conditions of the licence.
(11) 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.
(12) 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.
(13) (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.
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<thead>
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<tr>
<td>(8)</td>
<td></td>
<td>liGatja ngekuhlhanganyela nelihange Ngodla laseNingizimu Afrika neliGatja leBungcwethi kungankiketla ilayisensi nome kukhulula nangabe—</td>
</tr>
<tr>
<td>(a)</td>
<td></td>
<td>lofaka sicelo nome ligatja lelisemkhatsini letekhuweba kutsatsa sibopho sekutsatsa lichaza nekwaba ngelwatiso kulGatja ligatja lebungcwethi kanye nelihange Ngodla laseNingizimu Afrika kuncedzisa ngekwenata misebenti nekusebentsa emandla ngekwemi-bandzela yemtsetto wemikkhaka wetetimali; kanye</td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td>tinjongo talotsetfo lekkhu-lunywe ngato esigabeni 2 titawuchutjwa ngekuniketa ilayisensi;</td>
</tr>
<tr>
<td>(9)</td>
<td></td>
<td>ilayisensi nome kukhululwa kungankiketwa kuphela ngemuva kwekubukwa kaloku lokulandzelako;</td>
</tr>
<tr>
<td>(a)</td>
<td></td>
<td>Tinchubo tavelonkhe letifanele;</td>
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<tr>
<td>(b)</td>
<td></td>
<td>luhlobo nobukhulu beligatja lelisemkhatsini letekhuweba;</td>
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<tr>
<td>(c)</td>
<td></td>
<td>umtselela wemisebenti weligatja lelisemkhatsini letekhuweba chelweni lwetetimali lNingizimu Afrika;</td>
</tr>
<tr>
<td>(d)</td>
<td></td>
<td>umtsamo weluhlelo lwebungoti lobekwa misebenti veligatja lelisemkhatsini letekhuweba; futsi</td>
</tr>
<tr>
<td>(e)</td>
<td></td>
<td>nome ngukuphi lokunye lokungabonwa kufanele kunakwa nguNgconcgoshe, liGatja, liBhange Ngodla laseNingizimu Afrika nome liGatja lebungcwethi.</td>
</tr>
<tr>
<td>(10)</td>
<td></td>
<td>ligatja lelisemkhatsini letekhuweba lelisemsetfweni kufuna ilandzele nome kuphi lokubalulekile lokudzingwa nguoloMseteto kanye naleminyie imigomo nemibandzela yalelayisensi.</td>
</tr>
<tr>
<td>(11)</td>
<td></td>
<td>lelayisensi leniketwe ngekwesigatjana (8) kufuna isho leyo misebenti nome tinsita letinganiketwa nguleligatja lelisemkhatsini letekhuweba kanye nemasheya lekungentjwa ngawo leyo misebenti.</td>
</tr>
<tr>
<td>(12)</td>
<td></td>
<td>liGatja lelisemkhatsini letekhuweba langaphandle lelisemsetfweni, nome kunini lingafaka sicelo sekuchitiyelwa kwemigomo yelayisensi netimo indlela ilayisensi yaniketwa ngato.</td>
</tr>
<tr>
<td>(13)</td>
<td></td>
<td>(a) liGatja kufuna lishicilele satiso sesicelo sekuchitiyelwa kwemigomo yelayisensi netimo indlela ilayisensi yaniketwa ngato kumaphempedzaba lamibili ngetindleko lephuma kumfakisiselo kanye nakuwebhusayithi yeliGatja.</td>
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</tbody>
</table>
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(b) The notice must state—
(i) the name of the applicant;
(ii) the nature of the proposed amendments; and
(iii) the period within which objections to the application may be lodged with the Authority.

(14) 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.

(15) (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.

(b) Paragraph (a) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (7).

(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).

30. The amendment of the heading in Chapter V preceding section 50 by the substitution for the heading of the following heading:

“Functions of licensed clearing house and licensed central counterparty”.

31. The amendment of section 50—
(a) by the substitution for the heading of the section of the following heading:

“Functions of licensed clearing house and licensed central counterparty, and power of Authority to assume responsibility for functions”;

(b) by the substitution for subsection (1) of the following subsection:

“(1) A licensed clearing house and a licensed central counterparty must conduct its business in a fair and transparent manner with due regard to the rights of clearing members and their clients.”;
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
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</tr>
</thead>
<tbody>
<tr>
<td>(b) satiso kufuna sisho—</td>
<td>(i) ligama lemfakitsicele;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii) lulhobo lwesichibivelo</td>
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<td>leshiphakanyisiwe;</td>
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<td>(iii) sikhatsi lekungaphakanyiswa ngaso</td>
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<td></td>
<td>imibono kuliGatja mayelana</td>
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<td></td>
<td>nalesicelo lesifakiwe.</td>
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</tr>
</tbody>
</table>

(14) liGatja ngekuvumelana
neliBhange Ngodla laseNingizimu
Afrika kanye neliGatja lebuNgweti
kungachibiyela imigomo yeleyisensi
nome timo iyisensi leyiakhetla ngato.

(15) (a) ngeMsetfotimiso
letinganuncunya ngsekwesigatjana (7);
Ngcongcoshe angacitsa imitsetfotimiso,
bese kusti lokudzingekile lokusha
kuyanchunywa kumsetfeto
wekuhlanganyela nome umsetfeto
wenchubho.

(b) Indzima (a) ayitsikabeti nome
ikhawulise emandla aNgcongcoshe
ekuncuma nome achibiyele
umsetfotimiso ngsekwesigatjana (7).

(c) umsetfeto wekuhlanganyela
ungancunyelwa kulingisa tindzaba
letinganuncunya kumsetfotimiso,
nome kuniketa ngeminingwane
longetiwe kodwva ungakagcili
kumsetfotimiso letinccunywe
nguNgcongcoshe ngsekwesigatjana (7).”

30. Kuchitjiyelwa kwesihloko kuSehluko
V lesandvulela sigaba 50 ngekuntjintjwa
kwaso ngalesihloko lesilandzelako:
’’Imisebenti yeligatja legunyatako
lelįljįbhališive kanye neligatja
lelisemkhaštini letekukhweba
lelisemtsetfveni’’;

31. Kuchitjiyelwa kwesigaba 50—
(a) ngekuntjintjwa kwesihloko salesigaba
ngalesihloko lesilandzelako:
’’[Imisebenti [yeligatja]
lelįlįguyanušite lelįljįbhališive
kanye neyeligatja lelisemkhaštini
letekukhweba kanjalo nemandla
[anobhala] eliGatja ekucala
Umsebenti’’;
(b) ngekuntjintjwa kwesigatjana (1)
ngalesigatjana lesilandzelako:
’’(1) Indlu legunyatako
yemasheya kanye neligatja
lelisemkhaštini letekukhweba
kufanele [y]kwenta umsebenti
wa[y]ko ngendlela lengavuni licala
nangendlela lekhanyako
ngalokuphatselene nemalungelo
emaalunga lagunyatako
nemaklayenti abo.’’;
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(c) | by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: “A licensed clearing house and a licensed central counterparty—”;
(d) | by the substitution in subsection (2) for paragraph (b) of the following paragraph: “(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] give rise to, or increase, systemic risk;”;
(e) | by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “A licensed independent clearing house and a licensed central counterparty, in addition to the functions referred to in subsection (2)—”;
(f) | by the insertion after subsection (3) of the following subsection: “(3A) A central counterparty, in addition to the functions referred to in subsections (1), (2) and (3), must—
(a) interpose itself between counterparties to transactions in securities through the process of novation, legally binding agreement or open offer system;
(b) manage and process the transactions from the date the central counterparty interposes itself between counterparties to transactions, becoming the buyer to every seller and seller to every buyer, to the date of fulfilment of the legal obligations in respect of such transactions; and
(c) facilitate its post-trade management functions;”; and
(g) | by the substitution in subsection (4) for paragraph (b) of the following paragraph: “(b) The [registrar] Authority must, before assuming responsibility as contemplated in paragraph (a)—
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| (c) ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako kusigatjana (2): | | “Indlu legunyatwako le[ng]blalisiwe letimele kanye neligatja lelisemkhatsini letekuhweba—”;
| (d) ngekuntjintjwa kwendzima (b) ngalendzima lelandzelako esigatjaneni (2): | | “(b) kufanele ngalesikhatsi bakwati kutsi, batise [nobhala] lGatja nganoma laphi ludzaba lek[a]ukholelwana ekutseni lungahle [lubange tingoti teluhlelo kutimakethe temnotfo] lukhulise nome lwenyuse bungoti’’; |
| (e) ngeshintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (3): | | “Indlu legunyatwako le[ng]blalisiwe letimele kanye neligatja lelisemkhatsini letekuhweba lelisemsetfweni, [ngekuhambisa] kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (b) ngakwela ngalesikhatsi bakwati kutsi, batise [nobhala] lGatja "Indlu legunyatwako le[ng]blalisiwe letimele kanye neligatja lelisemkhatsini letekuhweba—”;
| (f) ngekufaka lesigatjana lesilandzelako ngemva kwesigatjana (3): | | “(3A) ligatja lelisemkhatsini letekuhweba, kungeta kemisebenti lekucondziswe kuyi esigatjaneni (1), (2) na-(3) kufanele—”;
| (a) litigcusha emikhatsini kwemagatja etetimali kuhwebelana kumasheya, ngemhambo yekuvunzelana, ngesivumelwano leselele nemisebenti
| | (b) liphatshe liphindze lhibe yekuvunzelana, ngumisebentselele nemutelele lophakathi, lekucondziswe kuyi esigatjaneni (b) ngakwela ngalesikhatsi bakwati kutsi, batise [nobhala] lGatja "Indlu legunyatwako le[ng]blalisiwe letimele kanye neligatja lelisemkhatsini letekuhweba—”;
| (c) laphatshe liphindze lhibe yekuvunzelana, ngumisebentselele nemutelele lophakathi, lekucondziswe kuyi esigatjaneni (b) ngakwela ngalesikhatsi bakwati kutsi, batise [nobhala] lGatja "Indlu legunyatwako le[ng]blalisiwe letimele kanye neligatja lelisemkhatsini letekuhweba—”;
| (g) ngekuntjintjwa kwendzima (b) ngalendzima lelandzelako esigatjaneni (4): | | “(b) [nobhala] lGatja kufanele, ngemvi kwelilela umsebenti njengoba kuvetwe kundzima (a)—”;}
### Act No. and year | Short Title | Extent of repeal or amendment
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(i) inform the clearing house or central counterparty of the [registrar’s] Authority’s intention to assume responsibility:
(ii) give the clearing house or central counterparty the reasons for the intended assumption; and
(iii) 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.”.

32. The amendment of section 51—

(a) by the substitution for subsection (1) of the following subsection:

“(1) An independent clearing house or a central counterparty 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

(b) by the substitution for subsection (2) of the following subsection:

“(2) Any funds received or held by an independent clearing house or a central counterparty 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.”.
32. Kuchitjiyelwa kwesigaba 51—
(a) ngekuntjintjwa kwesigatjana (1)
ngalesigatjana lesilandzelako:
“(1) Indlu legunyatako letimele nome ligatja lelisemkhatsini letekuluwebe lekudzingeka ngaphansi kwesigaba 49(2)(b) kutsi abe nemshwalensi, siciniseko, sikhwama sesincepheteliso, noma lenye iwaranti lekhona, kungabekwa imali kunoma ngubani umuntfu longenelela kutransekshini kuluhla nomaku-mamasheya labhalisiwe lagunyatiwe nomalactzelelewe nomakokubili ngekusebentisa indlu legunyatako ngetizatfu tekulondza lomshwalensi, siciniseko, sikhwama sesincepheteliso nomalacsehemeltso nomalacsehemeltso nomalacsehe.
”, futsi
(b) ngekuntjintjwa kwesigatjana (2)
ngalesigatjana lesilandzelako:
“(2) Noma tiphi timali letitfolwe nomalacsehemeltso nomalacsehemeltso nomalacsehemeltso kwenetela tizatfu tekucinca umshwalensi, siciniseko, sikhwama sekancephetelisa nomalacsehe.
”, futsi

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CONTINUES ON PAGE 514 - PART 5
It is hereby notified that the President has as-
sented to the following Act, which is hereby
published for general information:—

Act No. 9 of 2017: Financial Sector Regula-
tion Act, 2017

MO-PRESIDENTE
No. 853  22 August 2017
Mo go tsebiswa gore Mo-Presidente o dumetse
molao o latelago, wona o tla gatiswa e le tsebi-
so ya kakaretso:—

Nmr 9 ya 2017: Molao wa Taolo ya Lephata la
Ditshelete , 2017
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33. The amendment of section 52 by the substitution for the section of the following section:

"Funds of mutual independent clearing house or central counterparty";

“A mutual independent clearing house or a central counterparty 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.”.

34. The amendment of section 53—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The clearing house rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.”;

(b) by the substitution in subsection (2) for paragraph (u) of the following paragraph:

“(u) for the administration of securities and funds 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”;

(c) by the substitution in subsection (2) for paragraphs (z) and (aa) of the following paragraphs:

“(z) for the segregation and portability of funds and securities held as collateral; [and]

(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; and”;

(d) by the addition in subsection (2) of the following paragraph:

“(bb) 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;”;

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| 33.                      |                          | Kuchitjiyelwa kwesigaba 52 ngekunjintjiwa kwalesigaba ngalesigaba lesilandzelako: “Timali tendlu legunyatako letimele nome ligatja lelisemkhatsini letekhuweba”;
|                          |                          | “Indlu legunyatako letimele nome ligatja lelisemkhatsini letekhuweba [i][k]ungadzinga kutsi [ii][em]alunga ako[leli][lag]unyatiwe kutsi [b][afake sandla kuqefunefunedi tendlu legunyatako kwetisela itza’tu tekuhambisa ibhizinisi yendlu legunyatako.”. |
| 34.                      |                          | Kuchitjiyelwa kwesigaba 53— (a) ngalesigatjana (1) lesilandzelako: “(1) Imitsetfo yendlu legunyatako kufanele ihambisane naloMtsetfo, i-Financial Sector Regulation Act kanye nalemimy Imitsetfo leyentiwe ngekwalomseto nome i-Financial Sector Regulation Act.”; (b) Ngekunjintjiwa kwendzima (u) ngalendzima lelandzelako kusigatjana (2): “(u) Kwentela kulawulwa kwemasheya kanye netimali labatibambele yona [laphatse]we [wenalanga] noma lilunga leligunyatiwe leliviambalele lileyentu [nke]kutjintjiwa kelelanga lelivala leligunyatiwe, kufaka ekhatsi kuisedziwa kwemabanakatwena kwelihlabambele, kufaka ekhatsi kufaka kubaka ekhetsi kudzela kwemabanakatwena kwemabanakatwena kwela lakelela, kufaka ekhatsi kufaka kubaka ekhetsi kudzela kwemabanakatwena kwelihlabambele; kanye”;
|                          |                          | (c) ngakekunjintjiwa kwetindzima (z) na (aa) ngalendzima letilanadzelako kusigatjana (2): “(z) kwentela kuhlukanisa nekusebentiseka kwetimali nemasheya labanjiwe ndawonye; [kanye] (aa) nekutsi emalunga legunyatako kufanele atise tendlu legunyatako ngekushesha uma ngabe icala inchubo yekuhlabata noma inchubo yekuhlabata ngekumelana nayo[.]: futsi 
<p>|                          |                          | (d) ngakungetwana kwavelindzima lelandzelako esigatjane(2): “(bb) eludzabeni lwelihlabange lelisemkhatsini letekhuweba, kuze kulandzelwe inchubo lejwayelekile, kufaka ekhatsi... |</p>
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| (e)            |             | by the insertion after subsection (2) of the following subsection:  
|                |             | “(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the clearing house rules.”; and |
| (f)            |             | by the substitution in subsection (4) for paragraph (a) of the following subsection:  
|                |             | “(a) Subject to section 5(1)(c) and (2) and the requirements prescribed by the registrar; the] in joint standards, clearing house rules may provide for the approval of external clearing members to be clearing members of the clearing house.”. |

35. The amendment of section 54—  
(a) by the substitution for subsection (1) of the following subsection:  
“(1) [Subject to the regulations prescribed by the Minister, a] A trade repository must be licensed under section 56.”;  
(b) by the substitution in subsection (3)(c) for subparagraph (iii) of the following subparagraph:  
“(iii) the application fee [prescribed by the registrar] determined in terms of the Financial Sector Regulation Act.”; and  
(c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:  
“(a) The [registrar] Authority 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] Authority’s website.”. |

36. The amendment of section 55—  
(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:  
“(c) demonstrate that the fit and proper requirements prescribed by the registrar in the joint standards are met by the applicant; its directors]members of its controlling body and senior management.”;
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<td>levalelewe etimeni tendlu legunyatiwe lejwayelekile;”; (e) ngekungetwa kwalesigatjana leslandzelako ngemva kwesigatjana (2): “(2A) lMitsetfotimiso nome imitsetfo lebekiwe ingancuma letinye tindzaba lekufuna tibe khona kumitsetfo yendlu legunyatako kuleto lesetivele tibalwe kusigatjana (2);” futsi (f) ngekunjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): “(a) Ngekuya ngesigaba 5(1) na (2) kanye nhalokudzingekile lokuncunywe kumitsetfo wekuhlanguyela, [lem]itsetfo y[al]endlu legunyatako ingahle inikete kutsi kuvunyelwe lilunga leligunyatiwe langaphandle kutsi libe lilunga leligunyatiwe lendlu legunyatako.”.</td>
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35. Kuchitjiyelwa kwesigaba 54— (a) ngekunjintjwa kwesigatjana leslandzelako: “(1) [Ngekuya ngenitsetfo lemiswe lebekwe nguNgco- ngeshe] Indzawo yekuhwebelana kufanele inikete ilayisensi ngaphansi kwesigaba 56.”; (b) ngekunjintjwa kwendzinyana (iii) ngalendzinyana lelandzelako esigatjaneni (3)(c): “(iii) Imali yekufaka sicelo [lebekwe Ngunobhala] letfolwe ngekwe-Financial Sector Regulation Act;”; futsi (c) ngekunjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): “(a) [nobhala] lGatja kufanele akhiphe satiso sesicelo selayisensi yendzawo yekuhwebelana kumaphepha- ndzaba lamabili avelonkhe, ngekwetindleko tesicelo, kanye nakuwebhusayithi yeliGatja [lesemtsetfweni].”.

36. Kuchitjiyelwa kwesigaba 55— (a) ngekunjintjwa kwendzima (c) ngalendzima lelandzelako esigatjaneni (1): “(c) kukhombisa kutsi [letidzingo lekungito naletifanako letibhalwe ngnobhala] tidzingo lekungitona tifanele letincunywe kumitsetfo
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(b) by the substitution for subsection (2) of the following subsection:
“(2) The [registrar] Authority may [—
(a) require an applicant to furnish such additional information, or require such information to be verified, as the registrar may deem necessary;
(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
(c) prescribe any of the requirements referred to in subsection (1) in greater detail].”; and
(c) by the addition of the following subsection:
“(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.
(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.
(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).
(d) Requirements prescribed in terms of subsection (1)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.”.

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<td>wekuhlanganyela umfaksicelo umfaksicelo unato, kanye nemalunga emtimba wakhe lolawulako nepaphatsi labasetulu kufinyelela kuto ngulofake siculo, bacondzisi bakhona nepaphatsi labasetulu]; &quot;;</td>
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| (b)                       | ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako: | "(2) [nobhala] [Gatja [a][tinga]—
- (a) kudzingeka kutsi lofaka siculo kutsi anikete lolwatiso lolungetiwe, nama kudzingeka lolwatiso kutsi lucinisekiswe, njengoba nobhala angakubona kufanele]; kanye
- (b) Kunakisiswa nanoma luphi lwatiso lolphathselene nalofake siculo, lokutfolakala kunoma muphi umtombom, kufaka ekhatsi noma lhiphi ligunya lekularula, uma ngabe lolo lwatiso luvetwa kulofake siculo kanye nalkunye kuniketwe litufu lelifanele kutsi baphendvule kuloko]; kanye
(c) Kubeka noma tiphi taleti-dzingo letibhalwe kusigatjana (1) ngemininingwane Leyanele]; "; kantsi
<p>|                          |                          | (c) ngekungetwa kwalesigatjana lesilandzelako: |
|                          |                          | &quot;(3) (a) ngekunganakwa kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwe-kucala kwalesigatjana kuchubeka kudzingeke, |
|                          |                          | (b) ngekuhlonishwa kwetimiso tenntsetfo letinunywe ngekwemibandzela yesigatjana (1)(a), Ngcongcoshe angacitsa umntsetfo lomisiwe, kantsi lokusha lokudzingekile kungabese kuncunywa kumntsetfo wekuhlanganyela nome kumntsetfo wenchubo, |
|                          |                          | (c) Indzima (b) ayitsikabeti nobe ilamate emandla aNgcongcoshe kutsi amcume nobe achibiyele umntsetfo lomisiwe ngekwemibandzela yesigatjana (1)(a), |
|                          |                          | (d) Lokudzingekile lokuncunyiwe ngekwemibandzela yesigatjana (1)(c) ngembikwe-kucala kwalesigatjana kungachitiyelwa nobe kucitiwe yinchubo nome umntsetfo wekuhlanganyela, &quot;; |</p>
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<td>the applicant, and on the [of-</td>
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<td>56 of the following section:</td>
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<td>“Licensing of external trade</td>
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<td>repository”</td>
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<td>56A.</td>
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<td>(1) An external trade reposi-</td>
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<td>tory must be licensed under</td>
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<td>this section to perform duties</td>
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<td>or provide services, unless</td>
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<td>(2) An external trade reposi-</td>
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<td>tory from an equivalent juris-</td>
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<td>(3) An application for a li-</td>
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<td>(a) be made in the manner and</td>
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<td>(c) be supplemented by any</td>
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<td>the Authority may reason-</td>
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37. Kuchitijeyelwa kwesigaba 56—
(a) Ngekunjintjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako:

“(1) Ngekuya ngesigatjana (2) kanye [nemitsetfotimiso lebekwe ngUngcegoshe] LiGatja,

[ Nobhala Anga] lingga, ngemuvu kwekutsatsa noma kuphi kungavumelani lokutfolakele ngenca yesatiso lesivetwe kusiGaba 54(4), nangekuhambisana netimo lapho khona [ Nobhala] LiGatja [a]lingakubona kufanele, kuniketa ilayisensi yendzawo yekuhwebelana kutsi kwenintjiniwembe benti lobalwe kusiGaba 57.”; futsi
(b) Ngekunjintjintjwa kwendzima (a) ngalandzinyana lelandzelako esigatjaneni (6):

“(a) [ Nobhala] LiGatja kufanele [a]likhiphe satiso setieselo sekuchitijeyelwa kwemibandzelwana selayisensi yendzawo yekuhwebelana kanjalo nemigomo ilayisensi leyaniketwa ngayo kumaphandzaba lamabili avelonkhe, ngetindleko [ Kwetindleko] tesicelo letiphuma kumfaki sicelo, kanye

[nakuwebhusayithi yeliGatja [lesemtilsetfweni].”.

38. Kufakwa kwaLesigaba lesilandzelako ngemuvu kwiGaba 56:

“Kwenta libandla langaphandle letekukhwebe lelisisako libe semtilsetfweni.

56A. (1) Ligatja langaphandle letekukhwebe kufanele libe semtilsetfweni ngaphasi kwesigaba kute leke umsebenzi nobe limkete ngetinsita ngmekwesigaba (6)(3)(m).
(2) Letekukhwebe lelisisako ekugunyathywe lokulinganano lingafaka sicelo selayisensi kuliGatja.
(3) Sicelo selayisensi ngsekwesigaba kufanele—

(a) sentiwe ngendele futsi sicukatse umminingwane lobekwe ligatja;
(b) sibe sihamba nemali yekufaka sicelo lebekwe ngekwemibandzela ye

Financial Sector Regulation Act, phindze
(c) sigcwaliswe nganobe ngumphu losiyengwane umminingwane liGatja lelingahle liwudzinge.
### Financial Sector Regulation Act, 2017

<table>
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<tr>
<th>Act No. and year</th>
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| Act No. 9 of 2017 | Financial Sector Regulation Act, 2017 | (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.  
(b) The notice referred to in paragraph (a) must state—  
(i) the name of the applicant; and  
(ii) the period within, and the process by, which objections to the application may be lodged with the Authority.  
(5) Regulations or joint standards may prescribe additional criteria for the licensing of an external trade repository.  
(6) The Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, grant a licence, if—  
(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  
(b) the objects of this Act referred to in section 2 will be furthered by the granting of the licence.  
(7) A licence or exemption may only be granted after the following factors have been taken into consideration:  
(a) Relevant international standards;  
(b) the type and size of the external trade repository;  
(c) the impact of the activities of the external trade repository on the South African financial system;  
(d) the degree of systemic risk posed by the activities of the external trade repository; and  
(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.  
(8) A licensed external trade repository must comply with the relevant requirements of this Act and any other terms and conditions of the licence.  
(9) The licence granted in terms of subsection (6) must specify the services that may be provided by the external trade repository and the securities in respect of which those services may be provided. |
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<th>Nomoro ya Molao le ngwaga</th>
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| (4) (a) līGatja kufanele lishicilele satiso sekufaka sicielo setincwadzı letigunyata kusebenta kwelihbandla langaphandle letekuhwebe lelisisasako ngetindleko talofaka sicielo sumapherhandzaba lamabili avelonkhe, futši nakuwebhusayithi yelīGatja. (b) Satiso lekukulunywa ngaso endzimeni (a) kufanele sichaze—
   (i) ligama lalofaka sicielo; kanye (ii) sikhatsi kanye nedlela lokungasetjentsiswa kūbeka kuliGatja ngekuphikisana nesicelo. |
| (5) imitsetfotimiso nobe imitsetfö yekuhlanganyela ingancuma tinhlombo letengetiwe tekufakwa entsetfweni-kweliGatja langaphandle letekuhwebe. |
| (6) līGatja ngekuhlanganyela neligatja lebungcwetehi kanye nelīBhange Ngodla laseNingizimu Afrika, kunganiketa ilayisensi nangabe—
   (a) lofaka sicielo utiphedela ngekutimukile kanye nekubanele ngekhwati nelīGatja, īGatija lebungwethi kanye nelīBhange Ngodla laseNingizimu Afrika kuncedziza ekusebenteni kanye nasēkubenteni emandla ngwekumile ngabe kwakakha lewenamhlophe; futši |
| (7) ilayisensi nome kukhuluwa kunganiketwa kuphela ngemvusi kwakubukisiswa kwaloku lokulandelako: (i) Tinchabo letibekiwe letifanele tavelonkhe; (ii) tinhlombo neukulunga belīGatja langaphandle letekuhwebe; (iii) umtsalela wemisebenti yeligatja langaphandle letekuhwebe kuluhelelotimali lwaseNingizimu Afrika; (iv) umtsamo webungoti lobekwa mesebenti yeligatja langaphandle letekuhwebe; futši (v) nalokukulalobonwa kubalulekile ngeNkongoshe, liBhange Ngodla laseNingizimu Afrika nome īGatja lebungcweti. |
| (8) īGatja letekuhwebe langaphandle lesimsetfweni kufuna lente konkhe lokudzingwa nglomisetfö naleminye imigmom nemiandzela yelayisensi. |
| (9) ilayisensi lenkiterw ngkekwestigatihana (46) kufanele isho ngetinsita letinganiketwa nguleligatja letekuhwebe langaphandle kanye nemasheya lekuwayentwiwa ngawo leto tinsita. |
(10) 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.

(11)(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.

(b) The notice must state—
(i) the name of the applicant;
(ii) the nature of the proposed amendments; and
(iii) the period within which objections to the application may be lodged with the Authority.

(12) 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.

(13)(a) 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.

(b) Paragraph (a) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (5).

(c) 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).''.

39. The amendment of section 57—
(a) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

"(b) make [the] information [prescribed by the registrar] prescribed by the Authority in joint standards made with the concurrence of the South African Reserve Bank available to the [registrar] Authority, the Prudential Authority, the South African Reserve Bank, other relevant supervisory authorities and other persons, subject to the requirements prescribed by the [registrar] Authority in joint standards made with the
Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane
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(10) | ligatja langaphandle letekuwebe lelisemsetfweni lingafaka sicelo sekuchitjiyelwa kwemibandzela yelaviseni yayo nome timo ilaviseni leniketwe ngato.
(11) (a) | ligatja kufuna lishicilele satiso sekufakwa kwesicelo sekuchitjiyelwa kwemibandzela yelaviseni kanye netimo lekumketwe ngato lelaviseni kumaphephandzaba jamabili avelonkhe ngetindleko talona lofaka sicelo, phindze futsi nakuwebhusayithi yeliGatja.
(b) | Lesatiso kufuna sichaze—
(i) | ligama laflofaka sicelo; kanye
(ii) | neluhlobo letchibiyelo letpahakanyisiwe;
(iii) | sikhatsi lekungaphakanyiswa ngaso simbono kuliGatja mayelana nalesicelo lesifakiwe.
(12) | Igatja ngekuvumelana neliBhange Ngodla laseNingizimu Afrika kanye neliGatja lebuNgeweti kungachibiyela imigomo yelaviseni nome timo ilaviseni leyaniketwa ngato.
(13) (a) | ngeMsetfotimiso letingancunywa ngekwesigatjana (5), Ngecongoshe angacitsa imitsetfotimiso; bese kusi lokudzingekile lokusha kuyanchunywa kumtsetfo wekuhlanganyela nome umentseto wenchubo.
(b) | Indzima (a) ayitsikabeti nome ikhawulise emandla aNgcongcoshe ekuncuma nome achibivele umentsetfotimiso ngekwesigatjana (5).
(c) | imitsetfo yekuhlanganyela ingancunyela kulungisa tindzaba letingakancunywa kumtsetfotimiso, nome kumiketa ngemningwane longeziwe kodywa ungakagcilel kumtsetfotimiso letinumunye nguNgcongcoshe ngekwesigatjana (5)."

39. Kuchitjiyelwa kwesigaba 57—
(a) ngekuntjintjwa kwendzima (b) esigatjaneni (2) ngalendzima lelandzela:
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<td>can Reserve Bank under sec-</td>
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<td>tion 58 [regarding] as to the</td>
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<td>manner, form, and frequency of</td>
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<td>disclosure;””; and</td>
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<td>(b) by the substitution for sub</td>
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|                  |             | section (3) of the follow-
|                  |             | ing subsection: |
|                  |             | “(3) [The registrar] Joint stan-
|                  |             | dards may prescribe [addi-
|                  |             | tional] duties additional to |
|                  |             | those referred to in sub-
|                  |             | section (2) [in greater de-
|                  |             | tail].’’. |
| 40.              |             | The amendment of section 58 by |
|                  |             | the addition of the follow-
|                  |             | ing subsection, the exist-
|                  |             | ing section becoming sub-
|                  |             | section(1): |
|                  |             | “(2) (a) Despite subsection (1), re-
|                  |             | quirements prescribed under this |
|                  |             | section that are in force im-
|                  |             | mediately before the commen-
|                  |             | cence of this subsection con-
|                  |             | tinue to be in force: |
|                  |             | (b) In respect of regulations pres-
|                  |             |cribed in terms of subsection (1), |
|                  |             | the Minister may repeal regu-
|                  |             | lations, and new require-
|                  |             | ments may then be prescribed in |
|                  |             | joint standards or conduct |
|                  |             | standards, |
|                  |             | (c) Paragraph (b) does not affect |
|                  |             | or limit the power of the Minis-
|                  |             | ter to pre-
|                  |             | scribe or amend regulations in |
|                  |             | terms of subsection (1). |
|                  |             | (d) Requirements other than those |
|                  |             | that were prescribed in regu-
|                  |             | lations referred to in para-
|                  |             | graph (b) that were prescribed |
|                  |             | terms of subsection (1) before |
|                  |             | the commencement of this sub-
|                  |             | section, may be amended or re-
|                  |             | pealed by conduct stan-
|                  |             | dards or joint standards.’’. |
| 41.              |             | The substitution for section 59|
|                  |             | of the following section: |
|                  |             | “Annual assessment |
| 59.              |             | The [registrar] Authority, in con-
|                  |             |sultation with the Prudential |
|                  |             | Authority, must annually assess |
|                  |             | whether a licensed |
|                  |             | market infrastructure — |
|                  |             | (a) complies with this Act, the |
|                  |             | Financial Sector Regulation Act |
|                  |             | and the rules of the market in-
<p>|                  |             | frastructure; |</p>
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<td>wekuhlanganyela lowentiwe ngekuhlanganyela [nemsetfo webungcwethi nobe]</td>
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<td>nelihhange Ngodla laseNingizimu Afrika ngaphasi kwegisiga sema58 njengobo kungakhona, indlela, kanye nekuwertwa kaningi;”); futsi</td>
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<td>(b) ngekuntjintjywa kwegisagjana (3) ngalesigjana lesilandzelako:</td>
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<td>“(3) [Nobhala] Umtseto wekuhlanganyela [a]ungabeka [lemiine] imisebenti lengetiwe kulela lebalwe kusigagjana (2) [agalokucacile].”</td>
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<td>40.</td>
<td>Kuchitjiylewla kwegiagaba 58 ngekungetwa kwalesetiagjana letilandzelako, sigaba besisevele sikhona siba sigagjana (1):</td>
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<td>“(2) (a) Ngekunganakwa kwegisagjana (1), lokudzingekile lokuncunywe ngaphazi kwalesigaba lokudzingkeke masisha ngembikwekucaala kwegisagjana kuchubeka kudzingekhe,</td>
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<td>(b) Ngekwemisimo temsetfo letincunywe ngekwegisamandzela lesigagjana (1), Ngcongcoshe angacitsa timiso temsetfo, bese kuti lokudzingekile lokusha kungabase sekuncunywa kumiseto yekuhlanganyela nobe yenchubo.</td>
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<td>(c) Indzima (b) ayitsikabeti nobe ivimbele emandla aNgcongcoshe kuncuma nobe kuchibeka temisemo temsetfo ngekwegisamandzela yesiagjana (1).</td>
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<td>(d) Lokunye lokudzingekile ngaphandle kwaloko lokuncunywe etimisweni temsetfo lekuholunywe ngato endzimeni (b), letincunywa ngekwegisamandzela yesiagjana (1) ngaphambili kwekucaala kwegisagjana, tingachitiylewla nobe ticifwe ngekumiseto yenchubo nome wekuhlanganyela.”</td>
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<td>41.</td>
<td>Ngekushintjywa kwegiagaba 59 ngalesigaba lesilandzelako:</td>
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<td>“Kuhlolewa minyaka yonke</td>
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<td>59. [Nobhala] LiGatja ngekucocisana neligatja lebungcwethi kufuna njalo ngemnyaka kuhole kutsi tinsitanchani tetimakethe——</td>
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<td>(a) tiyabhumibana naoloMsetfo [kanye nemsetfo yetinsitanchani temakethe], Financial Sector Regulation Act [kanye nemsetfo yesakhiwonchani setimakethe];</td>
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42. The amendment of section 60—
(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The [registrar] Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, cancel or suspend a licence if—”;

(b) by the substitution in subsection (1)(a) for subparagraphs (ii) and (iii) of the following subparagraphs:

“(ii) comply with a directive, request, condition or requirement of the [registrar] Authority in terms of [this Act] a financial sector law; or

(iii) give effect to a decision of the [appeal board in terms of section 105] Tribunal.”;

(c) by the substitution in subsection (1)(b) for the words preceding subparagraph (i) of the following words:

“(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—”;

(d) by the substitution in subsection (1)(b) for subparagraph (i) of the following subparagraph:

“(i) not in the best interests of clearing members of independent clearing houses or of central counterparties, authorised users or participants, or users or members of the market infrastructure, as the case may be, and their clients; or”.

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<td>(b)</td>
<td>(b) 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 (c) where applicable, gives effect to decisions of the [appeal board in terms of section 105] Tribunal.”.</td>
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42. The amendment of section 60—
(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The [registrar] Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, cancel or suspend a licence if—”;

(b) by the substitution in subsection (1)(a) for subparagraphs (ii) and (iii) of the following subparagraphs:

“(ii) comply with a directive, request, condition or requirement of the [registrar] Authority in terms of [this Act] a financial sector law; or

(iii) give effect to a decision of the [appeal board in terms of section 105] Tribunal.”;

(c) by the substitution in subsection (1)(b) for the words preceding subparagraph (i) of the following words:

“(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—”;

(d) by the substitution in subsection (1)(b) for subparagraph (i) of the following subparagraph:

“(i) not in the best interests of clearing members of independent clearing houses or of central counterparties, authorised users or participants, or users or members of the market infrastructure, as the case may be, and their clients; or”).
### Molao wa Lephata ya Ditshelete, 2017
Nmr 9 ya 2017

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(b) laapho kufanele khona, kuhambisana nemiyaletlo, ticulo, imibandzela noma tizhingo [tanobhala] teliGatifja [nqegkwaloMtsetfo] nqegwemthi-bandzela yemtsetfo wemkhakhaka wetetimali; noma

(c) laapho kufanele khona, kuphumele-liswe tincumo [talebhodi yetihalo ngekwesigaba 105] tenkundla yemacala."

42. kuchitiylvlw kwesigaba 60—

(a) ngakpekunjintjwa kwemagama landvulela indzima (a) esigatjaneni (1)

(b) ngakpekunjintjwa kwemagama landvulela indzima (a) esigatjaneni (1)(a)

(c) ngakpekunjintjwa kwemagama landvulela indzima (a) esigatjaneni (1)(b):


(d) ngakpekunjintjwa kwemagama landvulela indzima (a) esigatjaneni (1)(b) ngalendzinyana (i) esigatjaneni (1)(b):

"(i) Akukho kunshisekelo lebalulekile yeSizyingana leligunyatiwe yendlu legunyatiwe letimele nobe emagatja etetetimali;  
alaamulako, basebentisi 
labagunyatiwe noma 
labangenelelako noma 
basebentisi noma emalunga etetsitchante temakethe, 
jengoba kungabe kubekiwe, 
noma;";
Act No. and year | Short Title | Extent of repeal or amendment
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43. | The amendment of section 61—  
(a) by the substitution for subsection (1) of the following subsection:  
“(1) A market infrastructure may not conduct any additional business [which may introduce] if to do so would create or increase systemic risk.”;

(b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:  
“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—”;

(c) by the substitution for the words following paragraph (b) of the following words:  
“[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.”;

(d) by the insertion after subsection (3) of the following subsection:  
“(3A) The Authority may not make a determination in terms of subsection (3) in respect of a particular market infrastructure unless—  
(a) a draft of the determination has been given to the market infrastructure;  
(b) the market infrastructure has had a reasonable period of at least 14 days to make submissions to the Authority about the matter; and  
(c) the Authority had regard to all submissions made to it in deciding whether or not to make the determination.  
(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).”;

(e) by the substitution for subsection (4) of the following subsection:  
“(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.”.
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<td>43. kuchitjiyelwa kwesigaba 61</td>
<td>(a) ngekuntjintjwa kwesigatjana (1) ngalesigatjana leasilandelako:</td>
<td>“(1) Tinsitanchanti temakethe angeke teta lamanye emabhibizini [langangenisa] nangabe kwenta njalo kutawakha nofe kukhulise bungoti beluhlelo.’’;</td>
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<td>(b) ngekuntjintjwa kwemagama landvulela indzima (a) esigatjaneni (3) ngalamagama laolandzelako:</td>
<td>“[nobhala] liGatja [a]linga, uma ngabe [nobhala analomeondo] iyakabalwa kwewekutsi [le]lhizimini, [lomsebenti] kusebenta, nofe lomsebenti lobalwe kusigatjana [{(1)2} unga—’’;</td>
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<td>(c) ngekuntjintjwa kwalamagama laolandze indzima (b) ngalamagama laolandzelako:</td>
<td>“[kuvimbela noma kubeka kucae lokudzingekako ngalokuphatse–leni] ngemuvu kwekwutsinsana veliGatja lebungwehlweli bhizinisa Ngodla lasiNingizimu Afrika, kwenta tincumo letchassisa ngalokudzingekile nekhechibhimbisana netinsitanchanti tetimakethe nekuhambisa lelo lhizimini, umsebenti noma tinsita.’’;</td>
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<td></td>
<td>(d) ngekufakwa kwalesigatjana leasilandzelako ngemuvu kwesigatjana (3):</td>
<td>“(3A) LiGatja angeke lente sincumo ngokwemibandzela yesigatjana (3) ngakwetinsitanchanti tetimakethe kettitsu negaphande uma ngabe—</td>
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<td>(a) lufhiya lwatenticumo selunikelewa tinsitanchanti tetimakethe;</td>
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<td>(b) tinsitanchanti tetimakethe tibe nesiKhati leihilationa nemalanga la-14 lokungenani ekumikisa kuliGatja ngaloludza; futsi</td>
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<td></td>
<td>(c) liGatja ngako konkhe lokumikisiwe kili ekwenteni sincumo sekutsi liyatisatsa nofe cha sincumo.</td>
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<td>(3B) Uma ngabe liGataja libala ngetumo tekutsi kubalulekile kwenta sincumo ngekudhusha, lingenta njalo ngaphandle kwekuhambisana ngalokuphele nesigatjana (3A).’’;</td>
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<td>phindze</td>
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<td>(e) ngekuntjintjwa kwesigatjana (4) ngalesigatjana leasilandzelako:</td>
<td>“(4) LiGatja kufanele, ekhatsi kwemalanga la-14 ngemuvu kwekwenta sincumo ngokwemibandzela yesigatjana (3), limikete</td>
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<td>44.</td>
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<td>The amendment of section 62 by the substitution for paragraph (b) of the following paragraph:</td>
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<td>&quot;(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.&quot;.</td>
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<td>45.</td>
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<td>The amendment of section 63—</td>
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<td></td>
<td>(a)</td>
<td>by the substitution for the heading of the section of the following heading: &quot;Demutualisation of exchange, central securities depository[ or independent clearing house or central counterparty];&quot;</td>
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<td></td>
<td>(b)</td>
<td>by the substitution for subsection (1) of the following subsection: &quot;(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 section 1 of the Companies Act, may convert 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.&quot;;</td>
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<td></td>
<td>(c)</td>
<td>by the substitution in subsection (2) for paragraphs (a) to (k) of the following paragraphs: &quot;(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;&quot;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khotshwane</td>
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<td>tinsitanchi tefitseto tse redise, sitatim Medintjwe setshwara setitlha kwa fekconga fekconga fetsi (3), phendze nesitatsi tefitseto kwele lemogwe fekconga fekconga.</td>
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<td>44.</td>
<td>Kuchitjiyelwa kwesigaba 62 ngekunjintjwa kwendzima (b) ngalendzima lelandzelako:</td>
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<td>“(b) kuhola ngemnyaka ngekuhambisana, kwa kwenda wendzima kuburu, kwekukhanganisa lekubalwe kwa kubalwe, noma kwele lekubalwe; kublonde kwele irelwele, ngakuphela lekubalwe kwele lekubalwe;”</td>
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<td>45.</td>
<td>Kuchitjiyelwa kwesigaba 63— (a) ngekunjintjwa kwele kwenzi (b) ngalendzima lelandzelako:</td>
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<td>“Kuguculwa kwetinhlangano letilawulako, libhange lemasheya lelesemkhatsini, nendu legunyakiselele lekubalwe, nome legunyakiselele lekubalwe. Kuguculwa kwetinhlangano lekalulamalela, libhange lemasheya lelesemkhatsini, nendu legunyakiselele lekubalwe, nome legunyakiselele lekubalwe;”</td>
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<td>Kuguculwa kwetinhlangano lelesemkhatsini lekelekuhweba.</td>
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<td>(b) ngekunjintjwa kwesigatjana (1) ngalesigatjana leselandzelako:</td>
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<td>“(1) LiGatja, libhange lemasheya lelesemkhatsini, [noma] indlu letimele legunyakiselele lekubalwe, nome legunyakiselele lekubalwe, noma legunyakiselele lekubalwe, noma legunyakiselele lekubalwe;”</td>
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<td></td>
<td>(c) ngekunjintjwa kwetindzima (a) kuya ku-(k) ngaletindzima letilandzelako esigatjaneni (2):</td>
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<td>“(a) kuGatja, libhange lemasheya lelesemkhatsini, [noma] indlu letimele legunyakiselele lekubalwe, nome legunyakiselele lekubalwe, nome legunyakiselele lekubalwe;”</td>
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<td></td>
<td>(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);</td>
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<td></td>
<td>(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;</td>
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<td>(d) the terms and conditions of service of employees of the exchange, central securities depository, [or] independent clearing house or central counterparty are not affected;</td>
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<td>(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</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td>ngelusuku loluncunywe [ngunobhala] liGatja ngekutsintsana nenhlangano letilawulako;</td>
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<td>(b)</td>
<td></td>
<td>leTinkhapani kanye neNkomishana Yemphahla Yebuhlakani, lesungulwe ngekwestigaba 185 se-Companies Act, kufanele atsatse lesatsa lesifakiwe sekuhlanganisa sale ligatja, libhange lemasheya lelisekhatsini, [noma] indlu letimele legunyapako nome ligatja lelisekhatsini letekushweba ngekwestigaba 13 saloMsfele nekubhalisa lenhlangano lekekulunywa ngayo njengenkhipani ngekwestigaba 14 saloMsfele ngalolusuku lolubalwe kunzima (a);</td>
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<td>(c)</td>
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<td>lokuchubeka kube khona kwelibizinisileligatja, libhange lemasheya lelisekhatsini, [noma] indlu letimele legunyapako nome ligatja lelisekhatsini letekushweba kusukela ngalolusuku leyaniketwa ngalo ilayisensi yekuqala [ngunobhala] ngekwalaloMsfele alikatsintseki naleminyie imisebentseki yalenhlangano letilawulako ngembini kwekuguculwa kuhlala kunemandla;</td>
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<td>(d) [lembandzela ye kwebasebenti labatilawulako ayitsintsekisa;] imogomo nemibandzela yethinya tebasebenti beligatja letekushweba, ligatja lelisekhatsini letekushweba, indlu legunyata ngekutimela nome ligatja lelisekhatsini letekushweba ayitsikabeteke;</td>
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<td>(e)</td>
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<td>tonkhe timphahla kanye nemitlwalo kweligatja, libhange lelisekhatsi atsini lemasheya, indlu legunyata ngekutimela nome libhange lelisekhatsini, kufaka ekhatsi nanome yiphi imishwalensi, siciniseko, sikhwama sekunsepethelisa nome letinye ticintsekiletilawulwa ligatja letekushweba, libhange lelisekhatsini lemasheya, indlu legunyata ngekutimela nome ligatja lelisekhatsini letekushweba kwekwele ka temsebentisi;</td>
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 |  | exchange, central securities depository, 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 to the Authority as the company may designate;
(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 or central counterparty immediately before its conversion;
(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 or central counterparty 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;
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<td>logunyatiwe wetindlu leligunyatiwe ngekutimela nome</td>
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<td>emagatja lasemkhatsini etekuhweba, basebentisi labagunyatiwe nome</td>
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<td>labangenelelako, njengobe kungaba njalo, kumaklayenthi</td>
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<td>agcinwa phindze asibopho kunkapani nome lelinye ligatja lelivunyelwako kulIGatja njengoba inkapani ingancuma</td>
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<td>[tonkhe timphahla kanye nemitfwalo yenkhapani letilawulako, kufaka ekhatsi nama muphi umshwale, siciniseko, sikhwama sekuncephetelisa nama lenye iwaranti lephetfwe nama leginwe yinhlangano kuvala nama muphi umitfvalo yalellunga leligunyatiwe yendlu legunyatalo letimele, basebentisi labagunyatiwe nama Labangenelelako, njengoba kungabe kube kwe, kumaklayent, kutawuhlala kube kwe futsi kusibopho kelenkhapama nama kulesinye sikhungo lesivumekile kungobhala njengoba inkapani ingabelibekile];</td>
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<td>(f) inkapani imenalungelo lafanako kantsi iya ngemisebenti lebeyiphethwe nama isibopho kuligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyatalo nome ligatja lelisemkhatsini etekuhweba ngekushesa ngembis kwenukhlangana;</td>
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|                          |                        | (g) tonkhe tivumelwano, kuncuma ngetinsuku, ematransekshini kanye nemiculu lekuhulunywa ngayo, leyentiwe, lesunguliwe nama ledvwetiwe, ngekuhambisana neligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyatalo nome ligatja lelisemkhatsini etekuhweba nai[el]okusebenta ngekushesa ngembis kwalokugucula lokuhlala kukhonanalokunempumelelo, kantsi kwentelwa tonkhe tidzingo njengoba kungabe kuvunyelwene, kweniwe, kucalese noma fudwetiwe ngu, ngekumelana nenkhapani, njengoba kungabe kube;}
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<td>(h) any bond, pledge, guarantee or other instrument to secure future advances, facilities or services by the exchange, central securities depository, [or] independent clearing house or central counterparty 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;</td>
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<td>(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, [or] independent clearing house or central counterparty is enforceable against or owing to the company, subject to any law governing prescription;</td>
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<td>(j) any legal proceedings that were pending or could have been instituted against the exchange, central securities depository, [or] independent clearing house or central counterparty before the conversion may be continued or instituted against the company, subject to any law governing prescription; and</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td>(h)</td>
<td>[noma yini lehlanguanisiwe, sifungo, siciniseko noma lelanye lithulusi kucinisekisa lokungenteka ngalokutako, tindzawo noma imisebenti lekwentiwa tinhlangano letimele lebeyisebenta ngekushesha ngembi kwetingucuko letitawuhlala tikhona, kantsi kutsatfwa njengebhondi, sifungo, siciniseko noma lithulusileliniketwe ngekuhambisana nenkhapani, njengoba kungabe kubekiwe;] noma yini lehlanguanisiwe, sifungo, siciniseko noma lelanye lithulusi kucinisekisa lokungenteka ngalokutako, tindzawo noma imisebenti lekwentiwa ligatja, libhangane lemasheya lelisemkhatsini, libhangane lelisemkhatsini letekuhweba nome yindlu legenyata ngekutimela lebeyisebenta ngekushesha ngembi kwetingucuko letitawuhlala tikhona, kantsi kutsatfwa njengebhondi, sifungo, siciniseko noma lithulusileliniketwe ngekuhambisana nenkhapani, njengoba kungabe kubekiwe;</td>
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<td>(i)</td>
<td>noma yiphi ikleyimu, lilungelo, sikwelei, umtfwalo noma umsebenti lotalela noma bani ngekmemelana naligatja, libhangane lemasheya lelisemkhatsini, [noma] indlu letimele legunyatako noma ligatja lelisemkhatsini letekukhuweba noma lekukweletwa ngunoma ngubani kuleyo nthlangano nome ligatja lelisemkhastini</td>
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<td>(j)</td>
<td>noma ngabe nguiphusho cinhube lesemsetfweni lebeyingakapheleli noma ingabe ibekiwe ngekmelana naleligatja, libhangane lemasheya lelisemkhatsini, [noma] indlu letimele legunyatako nome ligatja lelisemkhatsini letekukhuweba ngembi</td>
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<td>(k)</td>
<td>the licence of the exchange, central securities depository, [or] independent clearing house or central counterparty, 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 or central counterparty.”.</td>
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46. The amendment of section 64 by the substitution in subsection (5) for paragraph (a) of the following paragraph:

“(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 or central counterparties, 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] Authority as the parties to the amalgamation may designate;”.

47. The amendment of section 65 by the substitution for subsection (2) of the following subsection:

“(2) The members of the controlling body of a market infrastructure owe a fiduciary duty and a duty of care and skill to the market infrastructure, in the exercise of the functions as a market infrastructure.”.
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<td>kwaletcungcoco kungachu-tjekwa noma lethiba kwe ngekumelana nenkhapani, ngekuya ngnoma muphi umtsefiso lolawula lokubekwe kwako; kanye</td>
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<td>(k) ilayisensi yaleligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunya tako nobe ligatja lelisemkhatsini leteku kwiweba kuyawahlahla kubekwe emandleni alenkapani uma ngabe lenkhati ihambisana nato tonkhe tidzingo talo Msetfo ngekuya ngenhlangano letilawulako, indlu legunya tako letimele nobe libhane lelisemkhatsini leteku kwiweba.</td>
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<td>46. Kuchitjyelwa kwesigaba 64 ngekunjintjwa kwendzima (a) ngalendzima lelandzelako esigatjani (5): “(a) yonkhe imphahla kanye nemifwalo yalokuhlanganiswa kwetinhlangano (noma uma ngabe kunokudululiselwako lke uyimpahla noma u mufwalo, waleshlangano lapho khona lokudululiselwe kusetjentjisa khona), kufaka ekhatsi noma muphi umshwansen, siciniseko, sikhwama sekunze heaven elisa nama iwarantle ngukugunyelawulo kutsi ifake ekhatsi noma muphi imifwalo yelilunganga lelisemkhatsini yeleligatja leleti makle noma li yelilunganga leleti kungabe ukelele, ukubhala kuliGatja njengoba ku kungabe kungabe, basebentisi lebeng elapo, njengoba kungabe kubekwe, kunaklayenteni, kutawahlala futse kutawubu sibopho kulahlangano lelahlanganisiwe noma, njengoba kungabe kubekwe, lenkhati ihambisana letawula isebentisa leto timphahla nemifwalo noma lokanye lokukhona kuleligatja lokuvumelekile [kubobhala] kuliGatja njengoba lelanganise noma kulokuhlanganiswa kungabekwa;”.</td>
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<td>47. Kuchitjyelwa kwesigaba 65— (a) ngekunjintjwa kwesigatjana (2) ngalesigatjana lelandzelako: “(2) Lamalunga alomtimba lophetse tinsitanchani tetimakethe [le] akweleta budlelwano</td>
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| 48.             | The amendment of section 66—  
(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:  
“(c) does not meet the fit and proper requirements prescribed [by the registrar] in the relevant joint standards.”; and  
(b) by the deletion of subsections (8) and (9). |
| 49.             | The amendment of section 67—  
(a) by the substitution for subsection (4) of the following subsection:  
“(4) A person may not, without the prior approval of the registrar Authority, acquire shares or any other interest in a market infrastructure in excess of that approved under subsection (3)[, but not exceeding 49 per cent].”;  
(b) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:  
“[The] An approval referred to in subsection (3), (4) or (5)—”;  
(c) by the substitution in subsection (7) for paragraph (a) of the following paragraph:  
“(a) compelling that person to reduce, within a 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, as the case may be,]—  
(i) in a case where subsection (3) applies, 15 per cent; or  
(ii) 49 per cent,  
of the total nominal value of all the issued shares of the market infrastructure; and”; and  
(d) by the substitution for subsection (8) of the following subsection:  
“(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.” |
emkhatsini wababanemasheya [kute] kanye [ba] nekunakekela nelikhono kulütsitsitsitsi khotlhalo, ekwenti imisebenzi njengenhlangano letimele."

48. Kuchitjiyelwa kwesigaba 66—
(a) ngokuntjintjinta indzima (c) ngalendzima lelandzelako esigatjaneni sekucala:
  "(c) akufinyeleli kulütižingo tekuvéle ungene lethišabekele [ngunobhala] kumtsétšo wekuhlánganyelé lophanele;",
(b) ngokusbuswa kwetigatjana (8) kanye nese (9).

49. Kuchitjiyelwa kwesigaba 67—
(a) ngokuntjintjwa kwetigatjana (4) ngaletigatjana letilandzelako:
  "(4) Umuntfu angeke, ngaphandle kwemvume yangaphambilini [yanobhala] yeliGatja, afune emashaya nomu lenye intalo kulütsitsitsi khotlhalo, kuti, kuti lokuvuniwe ngaphansi kwesigatjana (3), kodywa kungandluli kumaphesenti langema-49];",
(b) ngokuntjintjwa kwemagama landvulela indzima (a) esigatjaneni (6) ngalendzima lelandzelako:
  "[Le] Imvume lecondziswe kusigatjana (3), (4) noma (5)—"
(c) ngokuntjintjwa kwendzima (a) esigatjaneni (7) ngalendzima lelandzelako:
  "(a) acindzetele lowo muntfu kutsi anciphise, ngesikhatsi lesincunywe yinkhantolo, lokuba nemashaya nomu lenye intalo kulütsitsitsi khotlhalo, kulütižingo kulelelelo lemalinganisiwe lelingandluli emaphesenti lali-15 noma 49]
    (i) esimeni lapho khona sigatjana (3) sisebenta, emaphesenti la-15; nobe nasekaphelele, [njengoba kungabe kubekiwe] kulütižingo lelinganisiwe leliphelele yawa onkhe emashaya laniketitiwe kulütsitsitsi khotlhalo, kusigatjana (3), (4) noma (5) kufanele sentiwe ngendenda lebekwe [Ngunobhala] liGatja;",
(d) ngokuntjintjwa kwesigatjana (8) ngalesigatjana lesilandzelako:
  "(8) Sicelo lesinivalwe ku[s]tiga-
tjana (3), (4) noma (5) kufanele sentiwe ngendenda lebekwe [Ngunobhala] liGatja;".
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<td>50. The substitution for section 69 of the following section:</td>
<td>&quot;Report to [registrar] Authority</td>
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<td>69. Within four months after the financial year-end of a market infrastruc-</td>
<td>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.&quot;.</td>
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<td>ture, that market infrastructure must submit to the [registrar] Authority an</td>
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<td>annual report containing the details [prescribed by the registrar] determi-</td>
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<td>ned in joint standards and audited annual financial statements that fairly</td>
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<td>present the financial affairs and status of the market infrastructure.&quot;.</td>
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<td>51. The amendment of section 71—</td>
<td>(a) by the insertion after subsection (1) of the following subsection:</td>
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<td>(a) by the insertion after subsection (1) of the following subsection:</td>
<td>&quot;(1A) 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.&quot;;</td>
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<td>(b) by the substitution in subsection (2) for paragraph (b) of the following</td>
<td>(b) The [registrar] Authority may, after consultation with the Prudential Authority and the South African Reserve Bank, subject to this section, amend the rules or issue an interim rule.&quot;;</td>
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<td></td>
<td>paragraph:</td>
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<td>(c) by the substitution in subsection (3) for paragraphs (b) and (c) of the</td>
<td>(c) by the substitution in subsection (3) for paragraphs (b) and (c) of the following paragraphs:</td>
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<td>following paragraphs:</td>
<td>&quot;(b) The [registrar] Authority must as soon as possible after the receipt of a proposed amendment publish—</td>
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<td>(i) the amendment on the [registrar’s] Authority’s website; and</td>
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<td>(ii) a notice in the Gazette that the proposed amendment is available on the [registrar’s] Authority’s website,</td>
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50. Ngekuntjintjwa kwesigaba 69 ngalesigaba lesilandzelako:

"Umbiko [wanobhala] kuGatja [wenhlangano letilawulako]

69. Ekhatshi kwetinyanga letine nasekuphele umnyaka timali wetinstanchanti tetimakethe, letinstanchanti tetimakethe kufanele tetfule [kunobhala] kuGatja umbiko wemnyaka wonkhe locuketse imininigwane [lebalwe ngunobhala] letfolwe kuma-Joint standards kanfywe netitatitwende temnyaka temalii letihloliwe letikhombisa simo setimali kanye nesimo saletinstanchanti tetimakethe.".

51. Kuchitjiyelwa kwesigaba 71-

(a) ngekufakwa kwalesigatjana leesigatjana ngumovi ngulesigatjana (1)

"(1A) Imitsetfo lesemtsetfo

tinsitanchanti tetimakethe tingete
tashayisana nanobe ngutiphi timiso
temtsefo, umtsetfo wenchubo,
litsetfo lesemtsetfo wekuhlanganyela lokhoshe
ngekwenibandzela yaloMsetfo
nome i-Financial Sector Regulation
Act";

(b) ngekuntjintjwa kwendzima (b) ngalendzima leesigatjana (2):

"(b) [Nobhala anga, ngekuya ngalesigaba, kuchibiyela lemtsetfo nome kukhipha umtsetfo wesikhshane.] LiGatja ngumovi kwamabi kancane nomukhipha umtsetfo wesikhshane.

(b) LiGatja kufanele ngemtsetfo wesikhshane.

(c) ngekuntjintjwa kwetindzima (b) na (c) ngaletindzima leesigatjana (3):

"(b) [Nobhala] LiGatja kufanele
ngesheshesha ngumovi kwekufunza
[t]sichibiyelo le[T]sip lakhe kanyi
[ti]khowise
lishicilele—
(i) [kuchitjiyelwa] kuchibiyelo
kwamabi kancane nomukhipha umtsetfo wesikhshane.

[lesemsetfweni]; kanye

(ii) satiso kuGatja LOKUHANGANYELA
kwekufunza
[kuchibiyelo le[T]sip lakhe kanyi
[ti]khowise
lishicilele—
(i) [kuchitjiyelwa] kuchibiyelo
kwamabi kancane nomukhipha umtsetfo wesikhshane.

[lesemsetfweni]; kanye

kubita bonkhene bantu
labanenshisekelo labaphiki-
sanako naletichibiyelo
letiphakanyisekile.

kutsi bafake
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<td>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.</td>
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<td>(c) If there are no such objections, or if the registrar Authority 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—</td>
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<td>(i) the amendment and the date on which it comes into operation on the official Authority’s website; and</td>
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<td>(ii) a notice in the Gazette, which notice must state—</td>
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<td>(aa) that the amendment to the rules has been approved;</td>
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<td>(bb) that the rules as amended are available on the official Authority’s website and the website of the market infrastructure; and”;</td>
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<td>(d) by the substitution in subsection (4) for paragraph (a) of the following paragraph:</td>
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<td>“(a) The registrar Authority, after consultation with the Prudential Authority and the South African Reserve Bank, by notice in the Gazette and on the official Authority’s website, may amend the rules of that market infrastructure—”;</td>
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<td>(e) by the substitution in subsection (4) for paragraph (b) of the following:</td>
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<td>“(b) Where the registrar Authority has amended the rules of a market infrastructure under paragraph (a), the registrar Authority must—”;</td>
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<td>(f) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:</td>
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<td>“(ii) give reasons for the amendment, and explain the imperative referred to in paragraph (a)(i), in the Gazette and on the official Authority’s website.”;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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<td></td>
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<td>tikhala tabo [nganobhala]</td>
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<td>kuliGatja kungakapheli</td>
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<td>emalanga lali-14 kusukela</td>
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<td>ngalelilanga lekushicilelwla</td>
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<td>kwalesatiso.</td>
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<td>(c) Uma ngabe kunyekho</td>
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<td>lokuphikiswako, nomu umu ngabe</td>
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<td>[nobsala] liGatja [a]</td>
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<td>likutsetse loku</td>
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<td>lokuphikiswako kanye, umu</td>
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<td>kufanele, [a]itsintsene netinsita-</td>
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<td>nchanti tetimakethe kanye</td>
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<td>nalomuntu lophikisako kanye</td>
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<td>nalocume kuvuma nomu kufikwakamisa</td>
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<td>sikhubeli,</td>
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<td>[nobsala] liGatja kufanele</td>
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<td>[a]ishicilele—</td>
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<td>(i) [lokuchibiyela] kuchibiyela</td>
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<td>nelusuku lapho kucale khaon</td>
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<td>kusebenta kuwebhusayithi yeliGatja</td>
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<td>[lesemtsetfweni]; kanye</td>
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<td>(ii) ngesatiso kugazethi, lapho</td>
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<td>khona lesatiso kufanele sisha kutsi—</td>
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<td>(aa) lokuchibiyela</td>
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<td>kwalemisitfo kuvunyelo;</td>
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<td>(bb) kutsi lemisitfo njengoba</td>
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<td>ichtiyelwe ikhona</td>
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<td>kuwebhusayithi yeliGatja</td>
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<td>[lesemtsetfweni] yaletinsitanchanti</td>
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<td>tetimakethe; kanye:”;</td>
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<td>(cc) lulusuku lokuchitjiyelwa</td>
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<td>lekutawusetjentiswa ngalo.</td>
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<td>(d) ngekuntjintjwa kwendzima (a)</td>
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<td>ngalendzima lelandzelako esigatjaneni</td>
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<td>“(a) [Nobhala] LiGatja ngemuva,</td>
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<td>ngemuva kwekucoconisa neliGatja</td>
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<td>lebuNgcwethi kanye neliBhange</td>
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<td>Ngodla lasenKiNjirimu Afrika</td>
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<td>lingchibiyela limisitfo yaleso</td>
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<td>sakhiwonchanti setimakethe,</td>
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<td>ngekwestiso kuthethi kanye</td>
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<td>nakuwebhushayithi yeliGatja</td>
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<td>[lesemtsetfweni, kungachitjiyelwa</td>
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<td>lemisitfo yaletinsitanchanti</td>
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<td>tetimakethe];</td>
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<td>(e) ngekuntjintjwa kwendzima (b)</td>
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<td>ngalendzima lelandzelako esigatjaneni</td>
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<td>“(b) Lapho khona [nobsala]</td>
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<td>liGatja [a]iichibiyle[e]g limisitfo</td>
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<td>yetinsitanchanti tetimakethe</td>
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<td>ngaphansi kwendzima (a), [nobsala]</td>
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<td>liGatja kufanele— “”</td>
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<td>(f) ngeshintjwa kwendzinya (ii)</td>
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<td>ngalendzinya lelandzelako</td>
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<td>esigatjaneni (4)(b):</td>
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<td>“(ii) kuniketa tizatfu talokuchibiyela, nekuchaza kubaluleka lokubalwe kusigaba (a)(i),</td>
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(g) by the substitution in subsection (5) for paragraphs (a) and (b) of the following paragraphs:

“(a) Subject to prior approval of the registrar Authority, a market infrastructure may 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.

(b) The registrar Authority may after consultation with the Prudential Authority and the South African Reserve Bank, for the period of such suspension, issue an interim rule by notice in the Gazette to regulate the matter in question.”;

(h) by the substitution in subsection (6)(a) for subparagraphs (iv) to (vii) of the following subparagraphs:

“(iv) suspension or cancellation of the right to be a clearing member of an independent clearing house or central counterparty, an authorised user or a participant;

(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 or central counterparty, an authorised user or a participant, as the case may be, for any period of time;

(vi) a restriction on the manner in which a clearing member of an independent clearing house or central counterparty, an authorised user or a participant may conduct business or may utilise an officer, employee or agent;
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|                           | kuGazethi kanye nakwe-bhusayithi yeliGatja [lesemtsetfweni];

(g) ngekuntjintjwa kwetindzima (a) na (b) ngalelindzima matlalo esigabenni (5):

“(a) Ngekuya ngemvume yangaphambibilini [yanobhala] yeliGatja, tinsitanchanti Tetimakethe ingamisa noma muphi yalemtsetfo yalenhlangano kwentela sikhati lezingadluli emalanga langema-30 ngesikhathi ngemvume kwekhuso leselengakalako salokumiswa lokuphakanyisiwe kukhangiswe kuwebhu [lesemtsetfweni].

(b) [Nobhala] LiGatja, ngemvume kwekucocisana neliGatja lebuNgcwethi kanye neliBhange Ngodla lasiNingizimu Afrika [a]lingakholha umtsetfo wesikhathana ngesaiso kuGazethi kwentela kulawula louludzaba. [kuleselwe sekuGatja, kubona umtsetfo wesikhathana ngekhuso kugazethi kulawula louludzaba lekuGatja ngendazana ngalo.]

(h) ngekuntjintjwa kwetindzima (iv) kuya ku-(vii) ngalelindzima matlalo esigatjaneni (6)(a):

“(iv) kumiswa noma kukhanselwa kwelilungelo lekuba lilungana lelegunyatiwe lendlu letimele legunyatiwe nome ligatja lelisothembhathini letekukhwebe, umsebentisi lesimtsetweni lekuGatja ngabona labangenelelako;”

(v) kungasavumeli, uma ngabe kungumuntu, kutsi aphatse lihhovisi lemekondzisi noma asebenzi selilungana lelegunyatiwe sendlu letimele legunyatiwe nome ligatja lelisothembhathini letekukhwebe, umsebentisi lesimtsetweni noma labangenelelako, njengoba kungabe kubekiso, ngenoma sikhati lezingakanani;

(vi) imitsetfo levimbela indlela lilungana lelegunyatiwe yendlu letimele legunyatiwe nome ligatja lelisothembhathini letekukhwebe, umsebentisi lesimtsetweni noma labangenelelako bangenta umsebenzi noma bangasebentisa umsebenzi, sisebeni ne ejenti;
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(vii) suspension or cancellation of the authorisation of an officer or employee of a clearing member of an independent clearing house or central counterparty, an authorised user or a participant to perform a function in terms of the rules;”; and

(i) by the substitution in subsection (6)(b) for subparagraph (iii) of the following subparagraph:

“(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] in terms of the Financial Sector Regulation Act”.

52. The amendment of the heading for Chapter VIII by the substitution for the heading of the following heading:

“[CODE OF CONDUCT]
CHAPTER VIII
CONDUCT STANDARDS”.

53. The amendment of section 74—

(a) by the substitution for the heading of the section of the following heading:

“[Code of conduct] Conduct standards for regulated persons”;

(b) by the substitution for subsection (1) of the following subsection:

“(1) [The registrar may in an appropriate consultative manner prescribe a code of conduct for] Conduct standards may prescribe requirements in relation to—

[(i)(a)] authorised users, participants or clearing members of independent clearing houses or central counterparties; or

[(iii)(b)] any other regulated person, where the required standard of conduct is not prescribed in another law or [code of conduct] conduct standard, and a [code of conduct] conduct standard is necessary or expedient for the achievement of the objects of this Act.”; and
52. Kuchitjiyelwa kwesihloko seSehluko VIII ngekuntjintjwa kwalesihloko ngalesihloko lesilandzelako:

“[INDLELA YEKUTIPHATS] SEHLUKO VIII UMTSETFO WENCHUBO”

53. Kuchitjiyelwa kwesihloko-74—
(a) ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako:
   “Umtsetfo wenchubo webantu labalawulwako”;
(b) ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako:
   “(1) [Nobhala angenta ngenxelele lefanele yekutsintsana antikete indlela Yekutiphatsa]
   Umtsetfo wenchubo ungancuma lokudzingakile ngalokuphatselane—
   [(i)](a) nebasebentisi
      labagunyatiwe, labangenelelako noma lilunga lelignyatiwe lendlu letimele lelignyateko no be emagatja etetimali;
      lalamula: nobe
   [(ii)](b) noma ngabe ngubani
      umuntfu losemtsetweni, lapho khona lizinga letelizengakale kutiphatsa
      [alikabekwa nobe]
      allikuncunyya kulomunye umtsetfo wenchubo [noma]
544

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<td>(c) by the substitution for subsection (2) of the following subsection:</td>
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<td></td>
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<td>“(2) A [code of conduct] conduct standard is binding on authorised users, participants or clearing members of independent clearing houses or central counterparties or any other regulated person in respect of whom the [code of conduct] conduct standard was prescribed, as the case may be, and on their officers and employees and clients.”.</td>
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</table>

54. The amendment of section 75—
(a) by the substitution for the heading of the section of the following heading:
“Principles [of code of conduct] for conduct standards”;
(b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
“A [code of conduct] conduct standard for authorised users, participants or clearing members of independent clearing houses or central counterparties must be based on the principle that—”;
(c) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
“(a) an authorised user, participant or clearing member of an independent clearing house or central counterparty must—”;
(d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
“A [code of conduct] conduct standard for regulated persons, other than the regulated persons mentioned in subsection (1), must be based on the principle that the regulated person must—”;

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<td></td>
<td>indlela yekutiphatsa],</td>
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<td>[kantsi] phinde futsi</td>
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<td>[indlela yekutiphatsa]</td>
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<td>nemtsetfo wenchubo</td>
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<td>[I]uyadzingeka noma</td>
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<td>[I]uyaphutfuma kwentela</td>
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<td>kuphumelela kwalelinitjongo</td>
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<td>taloMtsetfo.”; futsi</td>
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<td>(c) ngekuntjintjwa kxesigatjana (2) ngalesigatjana lesilandzelako:</td>
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<td>“(2) [Indlela yekutiphatsa] Umtsetfo wenchubo [I]uyabopha kabasebentisi labagunyatiwe, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako nome ligatja lelisemkhatsini letekhuweba nome lomunye umuntfu lolawulwako lekunguye umtsetfo wancunyelwa yena [losemtsetfweni] [lona lewakhishelwa indlela yekutiphatsa], njengoba kungabe kabekeiwe, nakutisebeni kanye nebsebeni nemaklayenti.”.</td>
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<td>54. Kuchitjiyelwa kxesigaba 75—</td>
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<td>(a) ngekuntjintjwa kxesihloko salesigaba ngalesihloko lesilandzelako:</td>
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<td>“Imigomo yekuchutjwa kwemtsetfo [yekutiphatsa]”;</td>
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<td>(b) ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjani (1):</td>
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<td>“[Indlela yekutiphatsa] umtsetfo wenchubo [y]webasebentisi labasemtsetfweni, labangenelelako, noma emalunga lagunyatiwe latimele endlu legunyatako nome ligatja lelisemkhastini letekhuweba kufanele icondziswe kulomgomo wekutsi—””;</td>
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<td>(c) ngekuntjintjwa kwendzima (a) ngalenzima lelandzelako esigatjani (1):</td>
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<tr>
<td>“(a) umsebentisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako nome ligatja lelisemkhatsini letekhuweba kufanele—””;</td>
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<td>(d) ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjani (2):</td>
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<td>“[Indlela yekutiphatsa] umtsetfo wenchubo [y]webaqntfu labasemtsetfweni, ngaphandle kwakala labasemtsetfweni lababalwe kusigatjana (1), kufanele icondziswe kumigomo yekutsi lomuntfu losemtsetfweni kufanele—””;</td>
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Financial Sector Regulation Act, 2017

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<td>(e)</td>
<td>by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “A [code of conduct] conduct standard may provide for—”; and</td>
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<td>(f)</td>
<td>by the substitution in subsection (3) for paragraph (f) of the following paragraph: “(f) any other matter which is necessary or expedient to be regulated in a [code of conduct] conduct standard for the achievement of the objects of this Act.”.</td>
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</table>

55. The amendment of section 76—
(a) by the substitution for subsection (2) of the following subsection:
“(2) The criteria for the approval of a nominee of an authorised user or a participant and the ongoing requirements applicable to it must be equivalent to [that applied by the registrar when approving a nominee under subsection (3)] criteria determined in conduct standards for nominees.”; and
(b) by the substitution for subsection (3) of the following subsection:
“(3) (a) [The registrar may prescribe requirements for—
(i) the approval of a nominee that is not approved as a nominee in terms of subsection (1); and
(ii) approved nominees.] A nominee that is not approved as a nominee in terms of subsection (1) must—
(i) be approved by the Authority; and
(ii) comply with conduct standards determined by the Authority.
(b) The [registrar] Authority must maintain a list of all nominees approved under this section.”.

56. The amendment of section 77—
(a) by the deletion of the definition of “claims officer”;
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<td>(e) Ngekunftjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (3): &quot;[Indlela yekutiphatsa] Umtsetfo wenchubo [Hlunganiketa———]; futsi</td>
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<td>(f) Ngekunftjintjwa kwendzima (f) ngale-ndzima lelandzelako esigatjaneni (3): &quot;(f) nomu ngabi yiphi lenye indzaba lefanele nomu lekufenele ilawulwe ngekushesha [yendlela yekutiphatsa] kumtsetfo wenchubo ngekuhumelelisa tinjongo taloMtsetfo.”.</td>
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<td>55. Kuchitjyela kwesigaba 76—</td>
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<td></td>
<td>(a) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td></td>
<td>(b) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(c) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(d) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(e) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(f) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(g) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(h) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(i) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(j) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(k) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(l) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(m) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(n) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(o) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(p) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(q) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(r) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(s) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(t) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(u) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(v) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(w) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(x) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(y) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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<td>(z) Ngekususwa le Molao le ngwaga: &quot;Ngekuhumelelisa tinjongo taloMtsetfo.&quot;; futsi</td>
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56. Kuchitjyela kwesigaba 77—

(a) Ngekususwa kwenchazo ye-

“lhhovisi lemakleyimu”;
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<td><em>(b)</em> by the substitution for paragraph <em>(b)</em> of the definition of “inside information” of the following paragraph: “<em>(b)</em> 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 or of any derivative instrument related to such a security;”; and <em>(c)</em> by the substitution in paragraph <em>(a)</em> of the definition of “insider” for subparagraph <em>(i)</em> of the following subparagraph: “<em>(i)</em> being a director, employee or shareholder of an issuer of securities listed on a regulated market or an issuer of derivative instruments related to such securities to which the inside information relates; or”.</td>
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57. The amendment of section 78 — *(a)* by the substitution in subsection *(1)* for paragraph *(a)* of the following paragraph: “*(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 or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence.”; *(b)* by the substitution in subsection *(2)* for paragraph *(a)* of the following paragraph: “*(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 or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence.”; *(c)* by the substitution in subsection *(3)* for paragraph *(a)* of the following paragraph: “*(a)* Any person who deals for an insider, directly or indirectly or through an agent, in the securities listed on a regulated market or in derivative instruments related to such securities, 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.”;
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<td>(b) ngekuntjintjwa kwendzima (b) enchazelweni ye— “Iwati lwangekhatsi” ngalentzima lelandzelako:</td>
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<td>“(b) uma ngabe bekwatiwa nguwonkhe umuntfu bekungaba nemtselela wempahla kulelinani noma bungako banoma maphi emasheya kumakethe lelawulwako nobe-ke ngukuphi lokususela eluhlwimi lwetetimali lophatselene nemasheya lanjalo”; phindze</td>
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<td>(c) ngekuntjintjwa kwendzinyana (i) enchazelweni ye— “ngekhatsi” lesendzimeni (a) ngalentzinyana lelandzelako:</td>
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<td>“(i) angumcondzisi, umsebenti noma lonemasheya kantsi angumniketti wemashaya labhalisiwe kemakethe lesemsetwefeni nobe lolutus ela eluhlwimi lwetetimali lophatselene nemasheya lanjalo lapho lopolwatiso lwangekhatsi luhambisana khona; noma”</td>
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<td>57. Kuchitjiyelwa kwesigaba 78—</td>
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<td>“(a) Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalosebenta ngakonoma phoceleti noma ngkuha-mbisana ne-ejentj kutenela yena kemashoya labhalisiwe kemakethe lesemsetwefeni lapho khona lopolwatiso lopolwatiso lwangekhatsi luhambisana nabo lolutusela eluhlwimi lwetetimali lophatselene nemasheya lanjalo, lutawubangela kutsi abe nelicala.”;</td>
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<td>“(b) ngekuntjintjwa kwendzinyana (a) esigatjaneni (2) ngalentzina lelandzelako:</td>
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<td></td>
<td>“(a) Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalosebenta ngakonoma phoceleti noma ngkuha-mbisana ne-ejentj kutenela yena kemashoya labhalisiwe kemakethe lesemsetwefeni nobe lolutusela eluhlwimi lwetetimali lophatselene nemasheya lanjalo, lutawubangela kutsi abe nelicala.”;</td>
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<td>“(c) ngekuntjintjwa kwendzinyana (a) esigatjaneni (3) ngalentzina lelandzelako:</td>
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(d) | by the substitution in subsection (4) for paragraph (b) of the following paragraph:  
“(b) An insider is, despite paragraph (a), not guilty of the offence 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 or trading with a derivative instrument related to such a security and that he or she at the same time disclosed that the information was inside information.”; and  
(e) | by the substitution for subsection (5) of the following subsection:  
“(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 or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence.”.  
58. The amendment of section 82—  
(a) | by the substitution for the expression “Enforcement Committee”, wherever it occurs in the section, of the expression “Authority”;  
(b) | by the substitution for subsection (4) of the following subsection:  
“(4) Any amount recovered by the Authority as a result of the proceedings contemplated in this section must be deposited by the Authority directly into a specially designated trust account and—
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<tr>
<td>(d) Noma ngabe ngubani lotsengiselana nemuntu longe khuhtshwane noma ngakumelela yena noma ngakusebentisa s-ejenti kulamashaya labhaliswe kumakethe lesentsetiwineni lapho khona lwatise alosethshiane lolo kwetsethe noma ndugubani lotsengiselana luhabelana alo noma lutawutsintfwa ngilo, nohe lulususelwa eluhlwini lwatemilelani lophatsaeline neshehaya lanjalo lwotakho kutsi nemuntu Lonjalo longe khuhtshiane, unelicala.</td>
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<td>(e) ngekuntjiniya kwendzima (b) esigatjaneni (4) ngagendzinyana lelandzelako:</td>
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<td>“(b) Umuntu longe khuhtshiane, kungabukwa indzima (a), akamacala lelivetwe kundzima uma ngabe loha longe khuhtshiane uyacinelela ngalokwanele kutsi kulutsete lohulwiso lophuntsi ngoba bekufanele kutsi ente njalo kute kutsi kusebentse ke kahle emsebenzini wakhe, ethovhisa noma emsebenzini kuti kekuto letina ha longe khuhtshiane nguwebelane kubona noma nguubaphi emashey elahambisanako laselulwini laswakethe lesentsetiwineni nobe lwewebo ngeku suselwa eluhlwini lwatemilelani lophatsaeline neshehaya lanjalo nekutsi ngaleso sikhati uvete kutsi lwatise bebulwatiso lwangaketha.</td>
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<td>(g) ngekuntjiniya kwesigatjana (5) ngalesigatjana leselandzelako:</td>
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<td>“(5) Umuntu longe khuhtshiane lwotakho kutsi unelwatiso lwangaketha nalogcugcutelana noma ambanele nomunye umuntu kutsi ahwebelane noma advumate noma amise nomunye umuntu kutsi ahwebelane kulamashaya laselulwini kumakethe lesentsetiwineni nobe lulususelwa eluhlwini lwatemilelani lophatsaeline neshehaya lanjalo lapho lwatise lwangaketha lubhekise khona noma uma kungatsintfwa ngilo [nobe lulususelwa eluhlwini lwatemilelani lophatsaeline neshehaya lanjalo] angaba nelicala.“.</td>
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58. kuchitjiyelwa kwesigaba 82— |
(a) ngekuntjiniya kwekuwetwa kwe “likomidi lelibeka imitsetso” ngeligama leltisi “’iGatja’ nobe”; kuku kaphi lapho livela khona kulesigaba; |
(b) ngekuntjiniya kwesigatjana (4) ngalesigatjana leselandzelako: |
| “(4) Noma ngabe nguliphi linani lelibekwe [yibhodi] ’iGatja’ njengemplumela walenchibu“.
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<td>(a)</td>
<td>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);</td>
<td></td>
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<tr>
<td>(b)</td>
<td>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</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>any amount not paid out in terms of paragraph (b) accrues to the [board] Authority;’’;</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>by the substitution in subsection (5) for paragraph (a) of the following paragraph:</td>
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<td></td>
<td>“(a) submit claims to the [direc- torate] 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</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>by the substitution in subsection (5)(b) for the words preceding subparagraph (i) of the following words:</td>
<td></td>
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<td></td>
<td>“prove to the reasonable satisfaction of the [claims officer] Authority that — ’’.</td>
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</tbody>
</table>

59. The substitution for section 83 of the following section:

“Attachments and interdicts

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.”.
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimo lo kgotsa tlhabololo</th>
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<tr>
<td></td>
<td>levetwe kulesigaba kufanele ifakwe ku-akhawunti leyakhelelo loko</td>
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<td></td>
<td>[yibhodi]  ǂGatja kube yi-akhawunti [yebatsenjwa]  yesikhwama</td>
<td></td>
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<tr>
<td></td>
<td>semfelandzawonye futsi—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a)  [ibhodi] ǂGatja, njengoba ngiyo yekucala lemeline ne-akhawunti yebatsenjwa,inemvume yekuntjintjela tonkhe tindleko letitifolakele ngalokungakho- nakala ngekutsi yenta leto tinchubo nangekulawula lokusatjalaliswa lokwentiwe ngulabafake tikhalo temali ngekwegwisigatjana (5);</td>
<td></td>
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<tr>
<td></td>
<td>(b)  lelinani lelisele, uma likhona, kufanele lisatjalaliswe ǂSisebenti ǂSemakleyimu ǂGatja kulabo labafake tikhalo lababalwe kusigatjana (5) ngekuhambigisana nesigatjana (6); kantsi futsi</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) noma ngabe nguliphi limani lelingakakhokhelwa ngekwendzima ǂKubhodi ǂKuliGatja ǂ ǂ;</td>
<td></td>
</tr>
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<td></td>
<td>(c) ngekuntjintjwa kwendzima (a) esigatjaneni (5) ngekalendzima lelandzelako:</td>
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<tr>
<td></td>
<td>“(a) batfumelo emakleyimu ǂehhovisi ǂkuliGatja kungakapheli emalanga lâ-90 kusuka ngalelilanga lekuakhishwe ngalo satiso ephephandzabeni lavelonkhe noma kuwebhusayithi ǂLesenentsetweni ǂYalo ǂyeliGatja kumenywa bantfu labatsintsekako ngekuhwebelanâ lokubalwe kusigâba 78(1) kuya (5) kutsi batfumelo emakleyimu; kanye” ; futsi</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d) ngekuntjintjwa kwemagama landvulela indzinyana (1) esigatjaneni (5)(b) ngalamagama laelandzelako; “;bavumele ngekwenetiseka lokufanele ǂKusisebenti ǂSemakleyimu ǂKuliGatja ǂLekufanele ǂkutsi—”</td>
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</tbody>
</table>

59. Kuntjintjwa kwesigaba 83 ngalesigaba lesilandzelako:

“Lokufakiwe netivimbo

83. Ngescelo lesifakwe [yibhodi] ǂGatja, inkhantolo inganiketa incwadzi yekubâla enkhantolo ngalokuhambela na naloludzaba lolubalwe kuSekhulo X noma ngeluhlelo lwalemphahlâ lefakiwe noma bufakazi bekuvikela lokufihlwe, lokukhishwe, lokungahambí kahle noma lokuphatamisako.”.
Act No. and year | Short Title | Extent of repeal or amendment
--- | --- | ---
| | | 60. The substitution for section 84 of the following section:

**“Additional powers of Authority**

84. The Authority may —

(a) after consultation with the relevant regulated markets in the Republic, —

(i) make conduct standards, or

(ii) 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

(b) make conduct standards for the disclosure of inside information.”.

61. The substitution for section 85 of the following section:

**“Composition and functions of directorate**

85. (1) (a) 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.

(b) 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.

(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 sections 78, 80 and 81 of this Act and section 135(2) of the Financial Sector Regulation Act.

(2) (a) The directorate consists of members and alternate members appointed by the Authority.

(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.
60. Kushintjwa kwesigaba 84 ngalesigaba lesilandzelako

"Emandla langetiwe eliGatja

84. liGatja linga—
(a) ngemuva kwekubuta kutimakethe letifanele letilawuliwe kuRiphabhu-lukhi,
(i) ente umtsetfo wenchubo, nome
(ii) amikete ngemandla kute kusungulwe tinhlelo letinjalo njengobe tibalululekile ekunakweni nasekutfolweni kwekwaphulwa lokungahle kube khona kuleSethlulo; futsi;
(b) ente umtsetfo wenchubo wekuvetwa kwelwati lwangekhatsi.''

61. Kushintjwa kwesigaa 85 ngalesigaba lesilandzelako

"Kwakheka nekusebenta kwebhodi yebacondzisi"
(c) A member and an alternate member hold office for a period, not exceeding three years, as the Authority may determine at the time of the member’s appointment, and is eligible for reappointment upon the expiry of the member’s term of office.

(d) If on the expiry of the term of office of a member, a 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.

(e) The Authority may remove a member of the directorate from office on good cause shown and after having given the member sufficient opportunity to show why the member should not be removed.

(3) The members of the directorate may comprise of—

(a) not more than two members of staff of the Authority;

(b) one person and an alternate from each of the licensed exchanges in the Republic;

(c) one commercial lawyer of appropriate experience and an alternate;

(d) one accountant of appropriate experience and an alternate;

(e) one person of appropriate experience and an alternate from the insurance industry;

(f) one person of appropriate experience and an alternate from the banking industry;

(g) one person of appropriate experience and an alternate from the fund management industry;

(h) one person of appropriate experience and an alternate that represents institutional investors;

(i) one person of appropriate experience and an alternate nominated by the South African Reserve Bank;

(j) one person of appropriate experience and an alternate nominated by the Prudential Authority; and

(k) two other persons of appropriate experience and alternates, to ensure that the directorate is comprised of an appropriate mix of skills and experience.

(4) The persons referred to in subsection (3) who are nominated—

(a) must be available to serve as members of the directorate;

(b) must have appropriate knowledge of financial markets; and

(c) may not be practising authorised users.
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<tr>
<td>(c)</td>
<td>Lilunga kanye nehlinga lelingetiwe bababa lhhovisi iminyaka lengedi lulekemitsatfu, njengoba ligatja lingangcuma esikhathzimini sekucokwa kwelilunga, futsi ligunyatiwe kubuyisela lilunga futsi lapho sekuphela sikhatsiisa lo sekabamba ehlovisi;</td>
<td>(c) Lilunga kanye nehlinga lelingetiwe bababa lhhovisi iminyaka lengedi lulekemitsatfu, njengoba ligatja lingangcuma esikhathzimini sekucokwa kwelilunga, futsi ligunyatiwe kubuyisela lilunga futsi lapho sekuphela sikhatsiisa lo sekabamba ehlovisi;</td>
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<tr>
<td>(d)</td>
<td>Nangabe lilunga lingacokwa futsi lapho liphelelewe sikhatsi ehlovisi, lelo lunga kunfuna hhlahale hhlhovisi thinyanga letinye letingedluli kulutsitsutupha.</td>
<td>(d) Nangabe lilunga lingacokwa futsi lapho liphelelewe sikhatsi ehlovisi, lelo lunga kunfuna hhlahale hhlhovisi thinyanga letinye letingedluli kulutsitsutupha.</td>
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<td>(e)</td>
<td>ithatja lingasusa lilunga lebhodi yebancondzisi ehlovisi ngesihehlake phinze nangemuva kwekuniketa lelo lunga llitfu lalela kuhlahla kuphishisa kutsi kunkani kulelane lelingasusa.</td>
<td>(e) ithatja lingasusa lilunga lebhodi yebancondzisi ehlovisi ngesihehlake phinze nangemuva kwekuniketa lelo lunga llitfu lalela kuhlahla kuphishisa kutsi kunkani kulelane lelingasusa.</td>
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<td>(3)</td>
<td>Emalunga eebhodi yebancondzisi ingakhiwa—</td>
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<td>(a)</td>
<td>malunga langadluli kulamabili</td>
<td>(a) malunga langadluli kulamabili</td>
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<td>(b)</td>
<td>umuntu loyedvwa kanye nalogetiwe bemagatja etekuhweba lasemtsetweni kuRiphadhuliki;</td>
<td>(b) umuntu loyedvwa kanye nalogetiwe bemagatja etekuhweba lasemtsetweni kuRiphadhuliki;</td>
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<td>(c)</td>
<td>ummeli wetemnotfo leyedvwa lonelwati lolwelele kanye nemlekeleli;</td>
<td>(c) ummeli wetemnotfo leyedvwa lonelwati lolwelele kanye nemlekeleli;</td>
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<td>(d)</td>
<td>ngcwethi wetemnotfo nonelwati lolufanele kanye nemlekeleli;</td>
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<td>(e)</td>
<td>umuntu loyedvwa lonelwati lolufanele nemlekeleli labaphuma kumkhakha wemishwale;</td>
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<td>(f)</td>
<td>umuntu loyedvwa lonelwati lolufanele nemlekeleli labaphuma kumkhakha wetekukuhanga;</td>
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<td>(g)</td>
<td>umuntu loyedvwa lonelwati lolufanele nemlekeleli labaphuma kumkhakha wekukulwulwa kwekusi;</td>
<td>(g) umuntu loyedvwa lonelwati lolufanele nemlekeleli labaphuma kumkhakha wekukulwulwa kwekusi;</td>
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<td>(h)</td>
<td>umuntu loyedvwa lonelwati lolufanele nemlekeleli labamele basi kutikhungo;</td>
<td>(h) umuntu loyedvwa lonelwati lolufanele nemlekeleli labamele basi kutikhungo;</td>
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<td>(i)</td>
<td>umuntu loyedvwa lonelwati lolufanele nemlekeleli labacokwe lilphange Nqodla lasemtsetfo webungcweti;</td>
<td>(i) umuntu loyedvwa lonelwati lolufanele nemlekeleli labacokwe lilphange Nqodla lasemtsetfo webungcweti;</td>
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<td>(j)</td>
<td>umuntu loyedvwa lonelwati lolufanele nemlekeleli labacokwe ngumsetfo webungcweti; futsi</td>
<td>(j) umuntu loyedvwa lonelwati lolufanele nemlekeleli labacokwe ngumsetfo webungcweti; futsi</td>
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<tr>
<td>(k)</td>
<td>bantfu labanye lababili labanekwait</td>
<td>(k) bantfu labanye lababili labanekwait</td>
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<tr>
<td></td>
<td>lolufanele kanye nebalekileli, kucinisekisa kutsi lebhodi yebancondzisi yakhiwe yinhlanganisela yemakhono nelwati.</td>
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</tbody>
</table>
(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 the chairperson’s functions.

(6) 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.

(7) A meeting of the directorate is convened by the chairperson.

(8) If four members of the directorate in writing request the chairperson of the directorate to convene a meeting of the directorate, a meeting must be held within seven business days of the date of receipt of the request.

(9) A meeting of the directorate is chaired by the chairperson or, in the chairperson’s absence, by the deputy chairperson or another member designated by the chairperson or the remaining members.

(10) The directorate determines its procedures, subject to any directions of the Authority.

(11) The decision of a majority of the members of the directorate constitutes the decision of the directorate.

(12) The Authority must ensure that written minutes of each meeting of the directorate are kept in a manner determined by the Authority.

(13) A member of the directorate must disclose, at a meeting of the directorate, or in writing to each of the other members of the directorate, any interest in a matter that is being or is intended to be considered by the directorate, being an interest that—

(a) the member has; or

(b) a person has who is a related party to the member.

(14) A disclosure in terms of subsection (13) must be given as soon as practicable after the member concerned becomes aware of the interest.

(15) A member referred to in subsection (13) may not participate in the consideration of or decision on that matter by the directorate unless—

(a) the member has disclosed the interest in accordance with subsection (13); and

(b) the other members of the directorate have decided that the interest does not affect the proper execution of the member’s functions in relation to the matter.”

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### Molao wa Taolo ya Lephata la Ditshelete, 2017

Nmr 9 ya 2017

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<tr>
<td></td>
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<td>(5) LiGatja kufuna licoke sihlalo, longebe abe ngukomishi welifatja, nasekelasihlalo lowenta isimbenti yashihlalo lapho kunekho muntfu ehhovisi lathihlalo nome lapho sihlalo angakhi kweny isimbenti yakhhe njengashihlalo,</td>
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<td>(6) Onkhe emalunga ebhodi yeticondziso, ngaphandle kwemalunga lanagetiwe aneliviti lelilodywa etindzabeni letuphakanyiswa yibhodi yebacondzisi, kepha lilunga lelengetiwe liba neliviti kuphela nangabe lona lelimmele angekho kumhlango.</td>
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<td>(7) Umlhlangano webhodi yebacondzisi uhlenganiswa ngusihlalo.</td>
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<td>(8) Nangabe emalunga lamame ngakahhala acela sihlalo kutsi ahlanganise umhlhlangano webhodi yebacondzisi, lomhlhlangano kufuna ubanjwe ehatshi kwemalanga lasikhomba ekusebenta kusuka ngelusuku sihlalo latfole ngalo lesicelo.</td>
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<td>(9) Umlhlangano webhodi yebacondzisi uhlenganiswa ngusihlalo nome, lapho angekho sihlalo, kuma sekela wakhe etinsanjeni name lelimy ilelunga jelero kwe sikhomba ngusihlalo nome ke lamanye emalungo lakhona.</td>
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<td>(10) Ibhodi yebacondzisi incuma tinchubo tayo ngwekeftindlela telitja.</td>
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<td>(11) Sincumo selinyenti lemalunga ebhodi yebacondzisi sakha sincumo sebhodi.</td>
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<td>(12) LiGatja kufanele licinisekhise kutsi emamintsi labhalwe emhlhlangano nqamunye webhodi yebacondzisi ugmwini lengendi lelenyana yithi.</td>
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<td>(13) Lilunga lebhodi yeticondziso kufuna livete kubhodi, nome ngakahhala leqamunye wemalunga ebhodi nome siphi sifiso eludzabeni lompgakanyisiwe nome lomugawuphakanyisiwe yibhodi, kungaba sifiso—</td>
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<td></td>
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<td>(a) lilunga lelinoso; nome</td>
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<td></td>
<td>(b) umuntfu lanaso loholobene nalelilunga.</td>
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<td>(14) Kuveta ngekwesigatjana (13) kufuna kwetwene masisha ngemuya kwekuhala lelo lunga selati ngalesifiso.</td>
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<td>(15) Lilunga lekucondziswe kulo kusi gatjana (13) angekhe labamba lichaza lapho ihhodi iphakamitsa nome incuma ngaloluzaba, ngaphandle nangabe—</td>
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<td></td>
<td></td>
<td>(a) lelilunga livete lesifiso ngakahambisana nengatjana (13); futsi</td>
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<td></td>
<td></td>
<td>(b) lamanye emalungo ebhodi ancumwe kutsi lesifiso asitsikabedi tinchubo lelifanele tekusebenta kweliyilanga ngalolukuyamene nololuzaba.”.</td>
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</tbody>
</table>

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<table>
<thead>
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<th>Act No. and year</th>
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<tbody>
<tr>
<td>62.</td>
<td>The repeal of section 86.</td>
<td></td>
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<tr>
<td>63.</td>
<td>The substitution for section 88 of the following section:</td>
<td></td>
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<td></td>
<td>“Confidentiality and sharing of information”</td>
<td></td>
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<tr>
<td></td>
<td>88. The [directorate] Authority may share information concerning any matter</td>
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<td>dealt with in terms of this Chapter with the [institutions which have nominated</td>
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<td>persons to the directorate, the] Take-over Regulation Panel[,] established by</td>
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<td>section 196 of the Companies Act, the South African Reserve Bank, the</td>
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<td>Prudential Authority, the Independent Regulatory Board for Auditors</td>
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<td>constituted in terms of the Auditing Profession Act, a [licensed exchange, a</td>
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<td>licensed central securities depository, or a licensed independent clearing</td>
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<td>house] market infrastructure, the Financial Intelligence Centre</td>
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<td>established by the Financial Intelligence Centre Act, the National Treasury</td>
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<td>, the Minister and the persons, inside the Republic or elsewhere,</td>
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<td>responsible for regulating, investigating or prosecuting insider trading,</td>
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<td></td>
<td>prohibited trading practices and other market abuses.</td>
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<td>64.</td>
<td>The amendment of section 90 by the substitution for paragraphs (a) and (b)</td>
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<td></td>
<td>of the following paragraphs:</td>
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<td>“(a) maintain on a continual basis the accounting records [prescribed by</td>
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<td>the registrar] determined in joint standards and prepare annual financial</td>
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<td>statements that conform with the financial reporting standards prescribed</td>
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<td>under the Companies Act and contain the information that may be [prescribed</td>
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<td>by the registrar] determined in joint standards;</td>
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<td>(b) cause such accounting records and annual financial statements to be</td>
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<td>audited by an auditor appointed under section 89, within a period [prescribed</td>
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<td>by the registrar] determined in joint standards or such later date as the</td>
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<td>[registrar] Authority may allow on application by a regulated person; and”.</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kgotsa tlabololo</td>
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<td>62.</td>
<td>Kucitfwa kwesigaba 86</td>
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<td>63. Kuntjintjwa kwesigaba 88 ngalessigaba lesilandzelako:</td>
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<td>64. Kuchitjiyelwa kwesigaba 90 ngekuntjintjwa kwetindzima (a) neye (b) esigabeni 90 ngaletindzima letilandzelako:</td>
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<td>&quot;(a) aqine njalo emarekhodi etimali [lekakhishwe] [ngunobhala] luncunywe ngewmhentsetfo wekuhlanganyela abuye alung[ng]se tititimeni temali temnya wanna wonke lekuhambisana nalo ukubika negtimali lokubekwe ngaphansi kwe-Companies Act kantsi kube nalolwatiso [lolungakhishwa] [ngunobhala] lolungancunywa ngewchunhubo yentsetfo; futsi</td>
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<td>(b) abangele kutsi lawo marekhodi etimali kanye nentitimeni temnya wanna wonke tihlobo ngumhlo lo mabhu lo caswaye ngapfansi kwesigaba 89, ngesikhetsi [lesibkwe] [ngunobhala] lesicunywe ngewmhentsetfo wekuhlanganyela nama lolo lusuku lwamuvu lolungavunyelwa [ngunobhala] liGatja ngesicelo lesifakwe ngumuntfu losemisefweni; kanye&quot;.</td>
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<tr>
<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td>65.</td>
<td></td>
<td>The amendment of section 91 —</td>
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<td>(a) by the substitution in subsection (2) for</td>
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<td></td>
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<td>the words preceding paragraph (a) of the</td>
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<td></td>
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<td>following words:</td>
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<td></td>
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<td>“When an auditor of a regulated</td>
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<td></td>
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<td>person has conducted an audit</td>
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<td>in terms of subsection (1), the</td>
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<td></td>
<td>auditor must, subject to subsection</td>
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<td>(3), report to the regulated</td>
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<td>person or to the exchange, central</td>
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<td>securities depository, [or]</td>
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<td>independent clearing house</td>
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<td>or central counterparty in question,</td>
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<td>if the auditor is the auditor of an</td>
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<td>authorised user, participant or clearing</td>
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<td></td>
<td>member of an independent clearing</td>
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<td></td>
<td>house or central counterparty,</td>
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<td></td>
<td>and on request to the [registrar] Authority — ”; and</td>
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<td></td>
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<td>(b) by the substitution for paragraph (b) of the</td>
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<td>following paragraph</td>
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<td>“(b) on the matters prescribed [by the registrar, including matters relating to the nominees of those regulated persons] in conduct standards.”</td>
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<td>66.</td>
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<td>The substitution in Chapter XII for</td>
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<td>the heading preceding section 94 of the</td>
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<td>following heading:</td>
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<td>“Powers of [registrar] Authority and court”</td>
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<td>67.</td>
<td></td>
<td>The substitution for section 94 of the</td>
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<td></td>
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<td>following section:</td>
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<td></td>
<td></td>
<td>“General powers of [registrar] Authority”</td>
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<td>94.</td>
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<td>(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—</td>
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<td>(i) provide the registrar with any information, document or record reasonably required by the registrar about such services;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kqotsa tlhabololo</td>
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<td>65.</td>
<td>(a) Kuchitjityelwa kwesigaba 91 ngekuntjintjya kwemagama landvulela indzima (a) ngalamagama lalandzelako:</td>
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<td>&quot;Nangabe umhleli timali wemuntfu lolawulwako ente kuhlela timali ngekwesigatjana (1), umhleli timali kufanele ngekwesigatjana (3), abike kuloyo muntfu lolawulwako nobe kutelelewebo, libhang felsimakhatseni lemasheya, indlu legunyata ngekutimela nome ligatja lehlamulako lekungayo, nangabe umhleli timali wekhephethi lelogunyate, longenelelako nome lilungu leligunyate lelifungu lehlamulako, futsi ngefaka sicololo kuliGatja—&quot;; futsi</td>
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<td>(b) ngekuntjintjya indzima (b) ngalendzima lelalangzela:</td>
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<td>&quot;(b) ngaletindzaba letibekjwe [ngunobhala, kufakah kihatsi tindzaba letiphatselene nalophakanyiswe walabo bantfu labasemtsetweni] kunchubo yemtsetfo.&quot;.</td>
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<td>66.</td>
<td>Ngekuntjintjela kuSahluko XII sibhloko lesandvulela sigaba 94 ngalesihloko lesilandzelako:</td>
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<tr>
<td>[Kushintjwa kwesigaba 94 ngalesigaba lesilandzelako:] &quot;Emandla [anobhala] eliGatja nenkhantolo&quot;</td>
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<td>67.</td>
<td>Kuntjintjya kwesigaba 94 ngalesigaba lesilandzelako:</td>
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<td>&quot;Emandla latayelekile [anobhala] liGatja &quot;</td>
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68. The repeal of section 95.

69. The amendment of section 96—
   (a) by the substitution for the heading of
       the section of the following heading:
       “Powers of [registrar] Authority
       after supervisory on-site [visit or]
       inspection or investigation”;
   (b) by the substitution for the words pre-
       ceding paragraph (a) of the following
       words:
       “After [an] a supervisory on-site
       [visit or] inspection or an investiga-
       tion has been conducted [under sec-
       tion 95], the [registrar] Authority
       may, in order to achieve the objects
       of this Act referred to in section
       2—”; and
   (c) by the substitution for paragraph (c) of
       the following paragraph:
       “(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 ir-
       regularity or state of affairs
       disclosed by the supervisory
       on-site [visit or] inspection or
       investigation]: Provided that
       the registrar may not make
       an order contemplated in sec-
       tion 6D(2)(b) of the Financial
       Institutions (Protection of
       Funds) Act.]”.

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<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
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<td>(ii) appear before the registrar at a specified time and place] in terms of the Financial Sector Regulation Act.</td>
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</table>
| (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].”.

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(ii) avelengembikwanobhala
gesikhatsi nendzawo layibekile.
ngekwemibandzela ye-Financial
Sector Regulation Act.

(2) [Ngaphandle kwakutsi kube
nemtsetfo longcubutanako, nobhala
anga, uma ngabe] emandla eliGatja
ekuniketa sicondziso semlawuli
ngekwemibandzela ye-Financial Sector
Regulation Act achubeka antikete
sicondziso lesimjena ngekwesikhangiso,
incwajana noma leminye imiculu
lephatseline nemasheya [yilahlekisa
Noma] laphamafa siphi sizafu
iyaphikiweka[, ngoba lesikhangiso,
incwajana noma leomanye umseculo
ungakakhishwa noma lokukhishwa
kwawo kumiswe noma letio tichibiyelo
njengoba nobhala akubona kufanele
kwentiwe].”.

68. Kucitfwa kwesigaba 95.

69. Kuchitjiyelwa kwesigaba 96—
(a) Ngekunjintjwa kwesihloko salesigaba
ngalesihloko lesilandzelako
[ngalesihloko lesilandzelako]:
“Emandla [anobhala] eliGatja
ngemuva kwkuphatsa kuhlola
nobe kuphenywa wakwesiyiti
[kwekuvakashela] kwesiyiti
[noma]”;
(b) Ngekunjintjwa kwemagama lalendzela
indzima (a) ngalamagama
lalandzelako:
“Ngemuva kwakuhlola kuphatfwa
kwakuvashela] kwangekhatshi
nobe luphenyo [nomu kuhlola]
se[k]wortiwe [ngkewesigaba 95,]
ngekwemibandzela yeSchuloko 9
se-Financial Sector Regulation Act,
/nobhala/ eliGatja [a]lingenta loku
kate kutsi [a]tihimyelele kuletinjongo
taloMtsetfo letibalwe kusigaba
2—”; futsi
(c) Ngekunjintjwa kwendzima (c)
ngalesigaba lesilandzelako:
“(c) acondzise lolophendvulako
kutsi atatsa nama tiphi
tinyatselo, nama angasenti
nama achubeke kwena nama
yini, kute acedze nama
alungise okungakahambikahle
khele
nama simo setinto letivetwe
kuphatfwa kweluhlolo
[ngulebavakashele]
wangekhatshi nobe lupetwe
[noma labatholola: Uma
ngabe nobhala angeke ente
siphakamiso lesivetwe
Act No. and year | Short Title | Extent of repeal or amendment
---|---|---
70. | The repeal of section 97. | |
71. | The amendment of section 98 by the addition of the following subsection: “(5) This section does not affect Part 5 of Chapter 10 of the Financial Sector Regulation Act.” | |
72. | The deletion of the following heading in Chapter XII preceding section 99: “Enforcement Committee” | |
73. | The repeal of section 99. | |
74. | The amendment of section 105— (a) by the substitution for subsection (1) of the following subsection: “(1) A person aggrieved by a decision of— (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; (b) an exchange to refuse an application by that person to be admitted as an authorised user; (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; (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; (e) a central securities depository to refuse an application by a person to be accepted as a participant; (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 employee of a participant; | |
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khotshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<td></td>
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<td>kusigaba 6D(2)(b) se-\textit{Financial Institutions (Protection of Funds) Act}_.</td>
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<td>70.</td>
<td></td>
<td>Kucitfwa kwesigaba sema-97.</td>
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<td>71.</td>
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<td>Kuchitjiyelwa kwesigaba 98 ngekungetjana kwalesigatjana lesilandelako;</td>
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<td></td>
<td>‘‘(5) lesigaba lesi asiyitsikabeta incencye 5 yeSehluko 10 se\textit{Financial Sector Regulation Act}.’’</td>
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<td>72.</td>
<td></td>
<td>Kususwa kwalesihloko lesilandelako kuSehluko XII lesandvulela sigaaba 99:</td>
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<td>‘‘\textit{Likomidi lellicinisekisako}’’.</td>
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<td>73.</td>
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<td>Kucitfwa kwesigaba 99.</td>
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<td>74.</td>
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<td>Kuchitjiyelwa kwesigaba 105—</td>
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<td>(a) ngekuntjintjwa kwesigatjana (1) ngalesigatjana lelandzelako:</td>
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<td>‘‘(1) Umuntfu longakaphatfwa kahle sincumo se—</td>
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<td></td>
<td></td>
<td>(a) \textit{nobhala} liGatja ngaphasi kwemandla leliftwese wona nome umseenti lobekwe kilo yi-, nome ngaphasi kwaloMtsetfo nome i-\textit{Financial Sector Regulation Act}.’’</td>
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<td></td>
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<td>(b) tingcoco tekuncatjelwa kwesicelo lesentiwa nguloyo muntfu sekumukelwa njengemsebenzini logunyatiwe;</td>
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<td>(c) tingcoco tekususwa kwekugunya1awa kwembr1eb1entini lokunyatiwe noe kucondzisa umsebenzini logunyatiwe kutsi acitse kufinyelela etingeigeweni temphatsi nome sisebenti saloyo mesebenzini loguyatiwe;</td>
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<td>(d) tingcogo tekuhl1etisa, kuncabela nome kuniketa sicelo ngekubandzakanya kwemasheya lakulolu1hu nome kususa emashaya kulolu1hu nome kumisa loluhwebo kumasheya labaliwe;</td>
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<td>(e) \textit{lilbang} lelimsekh1atsini lemasheya ngewa1aela sicelo lesentiwa ngumuntfu leku1funa amakwelwe njengalongenelelako;</td>
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<td>(f) \textit{lilbang} lelimsekh1atsini lemesheya ngekucitsa kungenelela kwalongenelelelako nome kucondzisa longenelelako kutsi acitse kufinyelela kulelibhange lelimsekh1atsini lemasheya ngesicelo nome sisebenti salongenelelako;</td>
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75. The amendment of section 108 by the substitution for subsection (1) of the following subsection:

“(1) The registrar Authority may prescribe determine fees in respect of matters contemplated in this Act and, in relation to such those fees as well as fees payable in terms of this Act, 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.”

76. The amendment of section 109 by the substitution for paragraph (c) of the following paragraph:

“(c) contravenes or fails to comply with the provisions of sections 4, 7(1), 24, 25(1), 27(1), 47(1), 49A(1), 54(1), 56A(1) or a prohibition by the registrar Authority referred in terms of section 6(7), commits
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<td>(g)</td>
<td>indlu legunyata ngekutimela nome ligatja lelilamulako ngekuncabela sicelo leseptiwa ngumuntfu lotuna kumukelwa njengelilunga leligunyatakotse</td>
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<td>(h)</td>
<td>indlu legunyata ngekutimela nome ligatja lelilamulako ngekususa kugunyatwa kwelilunga leligunyatakotse nome kucundzisa lilunga leligunyatakotse kutsi liyewuncamula kufinyelela endimi legunyata ngekutimela nome ligatja lelilamulako ngemphatsi nome sisebenti salelo lunga leligunyatakotse</td>
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<td>(i)</td>
<td>lelisemkhatsini lemasheya, indlu legunyata ngekutimela nome ligatja lelilamulako ngekuhlawulisa umsebentisi logunyatiwe, umsebentisi, longeneleleko nome lilunga leligunyatakotse lendlu legunyata ngekutimela nome ligatja lelilamulako nome kusohhovisi nome sisebenti sensebentisi logunyatiwe, loniketako, longeneleleko nome lilunga leligunyatakotse lendlu legunyata ngekutimela nome ligatja lelilamulako;</td>
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<td>(j)</td>
<td>sohhovisi wetikhalo lekucondziswa kuye kuSehluko X, angaya enkhundleni ngekubuyekhetwa kwesincumo.’’; futsi</td>
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75. Kuchitiyelwa kwsigaba 108 Ngekushintjwa esigatjaneni (1) ngalesigatjana lesilandzelako: ‘’(1) lIGatja lingancuma timali ngekwetindzaba letibekewe kulomtsetfo phindze, ngekuyamana lelalalalo timali umuntfu lekuhamba abhadale leto timali, indlela yekubhadala, futsi lapho kufanele khexa, nentalo lebhadala la futhi timali tidlulele sikhatsi.’’.

76. Kuchitiyelwa kwsigaba 109 ngekunjintjwa kundzima (c) ngalendzima lelandzelako: ‘’(c) kuphula nome kuhuleka kulandzela lokushiwo sigaba 4, 7(1), 24, 25(1), 27(1), 49A(1), 54(1), 56A(1), nome kuvimbela lokweniwa [ngunobhalu] ligatja lekucondziswa kuko ngekwegisiga 6(7), kulicala nome ufanele kuhlawula imali lengedluli R10 ugdzi nome kuboshwa iminyaka lengedluli iminyaka lesihlanu nome
77. The amendment of section 110—
(a) by the deletion of subsection (5); and
(b) by the addition of the following subsection:

“(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—

(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, in the manner and form prescribed by the Authority, to perform the functions of a central counterparty;

(b) as of 1 January 2022, be licensed as both an independent clearing house and a central counterparty.”.

78. The substitution for the long title of the following long title:

“To provide for the regulation of financial markets; to license and regulate exchanges, central securities depositories, clearing houses, central counterparties 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.”.

79. The substitution for the expression “registrar”, wherever it occurs, of the expression “Authority”, except in section 1(1) and 1A(1).
77. Kuchitjiyelwa kwesigaba 110
   (a) ngkususwa kwesigatjana (5); futsi
   (b) ngkekusungitwa kwalesigatjana
   lesilandzelako:
   "(6) Indlu legunyatako leyentsa
   umsebenziwelagita lelilamulako
   kufanele ihambisane nanome
   ngukuphi lokudzingekele lokushwimo
   ngumisitsetitimiso nome lokufanele;
   phindze kufanele—
   (a) Kuzo kube ngumhla tingema- 31

   Ingongoni 2021, iBhe
   isemtsetweni ngalokuyamene
   nendlu legunyata nome
   nendlu legunyata ngekutshweni
   bese igunyatwa liGatja,
   liBhange Ndola las'Ningizimu
   Afrika, liGatja lebuhlakani
   ngendlela lenozerwe liGatja
   kwenta umsebenzi yeligatja
   lelilamulako;
   (b) Kusuka ngamhla tingema- 22

   Bhimbidywane igunyatwe kuko
   kokubili njengendlu legunyata
   ngekutshweni kanye ngekutshweni
   lelilamulako.
   "

78. Kuntjintjwa kwesihloko lesidze
   kufakwe lesihloko lesidze lesilandzelako:
   "Kuniketelo kunsetsetitima
   wetimaletse tetimala; kugunyata
   kuphindze kulawulwe kuhwebelana,
   libhange lelisemkhatsini lemasheya,
   indlu legunyata, emagatja
   lalamulako kanye neluhwebo
   lwetemasheya; kulawulwe kuhwebelana
   ngemasheya, kugunyata nekucedzel,
   nekubanywa nekuphatfwa
   kwemasheya; kuvimbela kuhwebo
   kwabangkekhsiti nalokunye
   kuhukumeteka kwemaketha;
   kuniketa ligunya lalabakhetswe;
   kuniketa nge[nchubomgom] inchubo
   lefanele; kususa i-Securities Services
   Act, 2004 njengoba ichitjiyelwa yi-
   Financial Services Laws General
   Amendment Act, 2008, kute iyamanise
   lomsetso nemisetso yavelomkh; nekuniketa ngekukwedinkwe
   letiyamene naloko.
   "

79. Kushintjwa kwekukwetwa nga
   "nobhala" ngukwetwa nge "liGatja"
   nobe kukuphi lapho kuvetwe kholo,[-1],
   Ngaphandle kwasesigabeni 1(1) kanye
   na 1A(1).
<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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</thead>
<tbody>
<tr>
<td>80.</td>
<td>The amendment of the arrangement of sections—</td>
<td></td>
</tr>
<tr>
<td>(a)</td>
<td>by the insertion after item 1 of the following item:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>“1A. Relationship between Act and Financial Sector Regulation Act”;</td>
<td></td>
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<tr>
<td>(b)</td>
<td>by the substitution for item 6 of the following item:</td>
<td></td>
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<tr>
<td></td>
<td>“6. Authority”;</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>by the insertion after item 6 of the following items:</td>
<td></td>
</tr>
</tbody>
</table>
| | “6A. Criteria for recognition of external market infrastructures.  
6B. Withdrawal of recognition.  
6C. Principles of co-operation”; |  |
<p>| (d) | by the substitution for the heading in Chapter V preceding item 47 of the following heading: |  |
| | “Licensing of clearing house and central counterparty”; |  |
| (e) | by the substitution for item 47 of the following item: |  |
| | “47. Application for clearing house licence and central counterparty licence”; |  |
| (f) | by the substitution for item 48 of the following item: |  |
| | “48. Requirements applicable to applicants for clearing house licence, central counterparty licence, licenced clearing house and licensed central counterparty”; |  |
| (g) | by the insertion after item 49 of the following item: |  |
| | “49A. Licensing of external central counterparty”; |  |
| (h) | by the substitution for the heading in Chapter V preceding item 50: |  |
| | “Functions of licensed clearing house and licensed central counterparty”; |  |</p>
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<td><strong>80.</strong> Kuchitjiyelwa kwendlela yekuhlelwa kwetigaba—</td>
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<td></td>
<td>(a) ngekufakwa kwaloluhlavu lolulandzelako ngemva kweluhlavu 1:</td>
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<tr>
<td></td>
<td></td>
<td>“1A. Budlelwane emkhatsini weMtsetfo kanye neMtsetfosimiso weMkhakha weteMnotfo”;</td>
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<td></td>
<td>(b) ngekuntjintja luhlavu 6 ngaloluhlavu lolulandzelako:</td>
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<td>“6. iGatja”;</td>
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<td>(c) ngekufakwa kwaletinhlavu letilandzelako ngemva kweluhlavu 6:</td>
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<td></td>
<td></td>
<td>“6A. Luhlelo lekwatiwa kwesakhiwonchanti semakethe yangaphandle.</td>
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<td></td>
<td>6B. Kusulwa kwekwatiwa.</td>
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<td></td>
<td>6C. Tinchubu tekuncedzisa”;</td>
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<td>(d) ngekuntjintja sihloko kuSehluko V lesandvulela luhlavu 47 ngalesihoko lesilandzelako:</td>
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<td></td>
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<td>“kufakwa emtsetfweni kwendlu legunyatako kanye neligatha letekuhweba lelisemkhatsini”;</td>
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<td>(e) ngekuntjintja luhlavu 47 ngaloluhlavu lolulandzelako:</td>
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<td></td>
<td>“47. Sicelo selayisensi yendlu legunyatako kanye nelayisensi yeligatja letekuhweba lelisemkhatsini”;</td>
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<td>(f) ngekuntjintja luhlavu 48 ngaloluhlavu lolulandzelako:</td>
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<td>“48. Lokadzingekile lokusetjentiswako kulabafaka ticelo telayisensi yendlu legunyatako, ligatja letekuhweba lelisemkhatsini, indlu legunyatiwe lesemitsetfweni kanye neligatja letekuhweba lelisemkhatsini lelesemitsetfweni”;</td>
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<td>(g) ngekufakwa kwaloluhlavu lolulandzelako ngemva kweluhlavu 49:</td>
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<td>“49A. Kufakwa emtsetfweni kweligatja letekuhweba lelisemkhatsini langaphandle”;</td>
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<td></td>
<td>(h) ngekuntjintja sihloko kuSehluko V lesandvulela luhlavu 50 :</td>
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<td>“Imisebenti yendlu legunyatako lesemitsetfweni kanye neligatja letekuhweba lelisemkhatsini lelesemitsetfweni”;</td>
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<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td></td>
<td>(i) by the substitution for item 50 of the following item:</td>
<td>“50. Functions of licensed clearing house and licensed central counterparty, and power of Authority to assume responsibility for functions”;</td>
</tr>
<tr>
<td></td>
<td>(j) by the insertion after item 56 of the following item:</td>
<td>“56A. Licensing of external trade repository”;</td>
</tr>
<tr>
<td></td>
<td>(k) by the substitution for item 63 of the following item:</td>
<td>“63. Demutualisation of exchange, central securities depository, independent clearing house or central counterparty”;</td>
</tr>
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<td></td>
<td>(l) by the substitution for item 69 of the following item:</td>
<td>“69. Report to Authority”;</td>
</tr>
<tr>
<td></td>
<td>(m) by the substitution for the heading of Chapter VIII of the following heading:</td>
<td>“CHAPTER VIII CONDUCT STANDARDS”;</td>
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<td></td>
<td>(n) by the substitution for item 74 of the following item:</td>
<td>“74. Conduct standards for regulated persons”;</td>
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<td>(o) by the substitution for item 75 of the following item:</td>
<td>“75. Principles for Conduct standards”;</td>
</tr>
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<td></td>
<td>(p) by the substitution for item 84 of the following item:</td>
<td>“84. Additional powers of Authority”;</td>
</tr>
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<td></td>
<td>(q) by the substitution for the heading in Chapter XII preceding section 94 of the following heading:</td>
<td>“Powers of Authority and court”;</td>
</tr>
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<td></td>
<td>(r) by the substitution for item 94 of the following item:</td>
<td>“94. General powers of Authority”;</td>
</tr>
<tr>
<td></td>
<td>(s) by the substitution for item 96 of the following item:</td>
<td>“96. Powers of Authority after supervisory on-site inspection or investigation”; and</td>
</tr>
<tr>
<td></td>
<td>(t) by the deletion of the following heading in Chapter XII preceding item 99:</td>
<td>“Enforcement Committee”</td>
</tr>
</tbody>
</table>
### Nomoro ya Molao le ngwaga
### Setlhogo se se khutshwane
### Bogolo jwa phimolo kgotsa tlhabelolo

<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlhabelolo</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) ngakuntjinta lu hlavu 50 ngalolo hlavu lolulandzelako:</td>
<td>“50. Imisebenti yendlu legunyatako lesemsetfweni kanye neligatja le tekuhweba le lisemkhatsini le lisemsetfweni, kanye nemandla eliGatja kwen t ela yele ku kalisa tidingo temisebenti”;</td>
<td></td>
</tr>
<tr>
<td>(j) ngakufakwa kwalolohluvulolulandzelako ngemva kwelolohluvulolulandzelako:</td>
<td>“56A. Kufakwa emsetfweni kwelibhange le tekucopha le lisemkhatsini”;</td>
<td></td>
</tr>
<tr>
<td>(k) ngakuntjinta lu hlavu 63 ngalolo hlavu lolulandzelako:</td>
<td>“63. Kuguculwa kw ebun yiko k tep e ku t elo le lisemkhatsini”,</td>
<td></td>
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<tr>
<td>(l) ngakuntjinta lu hlavu 69 ngalolo hlavu lolulandzelako:</td>
<td>“69. Bika kuliGatja”;</td>
<td></td>
</tr>
<tr>
<td>(m) ngakuntjinta kwesihloko se Sehluko VIII ngalesihloko leslandzelako:</td>
<td>“SEHLUKO VIII UMTSETFO WENCHUBO”;</td>
<td></td>
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<tr>
<td>(n) ngakuntjinta lu hlavu 74 ngalolo hlavu lolulandzelako:</td>
<td>“74. Imitsetfo yenchubo yebantu le labalawulwako”;</td>
<td></td>
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<tr>
<td>(o) ngakuntjinta lu hlavu 75 ngalolo hlavu lolulandzelako:</td>
<td>“75. Timiso temtsetfo we Nchubo”;</td>
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<tr>
<td>(p) ngakuntjinta lu hlavu 84 ngalolo hlavu lolulandzelako:</td>
<td>“84. Emandla lengetiwe eliGatja”;</td>
<td></td>
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<tr>
<td>(q) ngakuntjinta kwesihloko kwesihloko II lesandvulela sisiga 94 ngalesihloko leslandzelako:</td>
<td>“Emandla eliGatja nenkantolo”;</td>
<td></td>
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<tr>
<td>(r) ngakuntjinta lu hlavu 94 ngalolo hlavu lolulandzelako:</td>
<td>“94. Emandla jikelele eliGatja”;</td>
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<tr>
<td>(s) ngakuntjinta lu hlavu 96 ngalolo hlavu lolulandzelako:</td>
<td>“96. Emandla eliGatja ng emuva kwelucwangingo lolulawulwako kusayithi nome luphenyo”;</td>
<td></td>
</tr>
<tr>
<td>(t) ngakususwa kwalesihloko leslandzelako kuSehluko XII lesandvulela hlavu 99:</td>
<td>“kuciniswa kwalesihloko leslandzelako kuSehluko XII lesandvulela hlavu 99:”</td>
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<tr>
<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<tr>
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</tbody>
</table>
| Act No. 24 of 2012 | Credit Rating Services Act, 2012 | 1. The amendment of section 1—
| | | (a) by the insertion in subsection (1) after the definition of “associate” of the following definition: “‘Authority’ means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;
| | | (b) by the insertion in subsection (1) after the definition of “Companies Act” of the following definition: “‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| | | (c) by the deletion in subsection (1) of the definition of “deputy registrar”;
| | | (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 Financial Sector Regulation Act, 2017;”;
| | | (e) by the deletion in subsection (1) of the definitions of “Financial Services Board Act”, “FSB official web site” and “prescribe”;
| | | (f) by the insertion in subsection (1) after the definition of “rating category” of the following definition: “‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
| | | (g) by the deletion in subsection (1) of the definition of “registrar”;
| | | (h) by the insertion in subsection (1) after the definition of “this Act” of the following definition: “‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”;
<p>| | | and |</p>
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
</tr>
</thead>
</table>
| Mulayo wa nomboro ya. 24 wa 2012 | Mulayo wa zwa Tshumelo dza u Kala Zwikolodo, 2012 | 1. U kwiniswa ha khethekanyo ya vhu 1——-(a) nga u dzenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutshedzo ya ipfi “mushumisani” hu tshi khou dzeniswa thalutshedzo i tevhelaho: “‘Maandalanga’ zwi amba Maandalanga a VhudiFiri kha Sekithara ya Mashelesi o thomiwaho hu tshi khou tevhedzwa khethekanyo ya vhu 36 ya Mulayo wa Financial Sector Regulation Act;”;(b) nga u dzenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutshedzo ya ipfi “Mulayo wa zwa Dzikhamphani” hu tshi khou dzeniswa thalutshedzo i tevhelaho: “‘tshifandadi tsha VhudiFiri’ ipfi ji li na thalutshedzo ine ya fana na yo vhothekanywaho na ipfi ji u ya nga khethekanyo ya vhu (1) ya Mulayo wa Financial Sector Regulation Act;”;(c) nga u thutha kha khethekanyo thukhu ya vhu (1) hu tshi khou thuthwa thalutshedzo ya ipfi “muthusare-dzhistra”; (d) nga u dzenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutshedzo ya ipfi “zhendedzi ja u kala zwikolodo ja mjaja” hu tshi khou dzeniswa thalutshedzo i tevhelaho: “‘Mulayo wa Financial Sector Regulation Act’ zwi amba Mulayo wa Financial Sector Regulation Act, 2017;”; (e) nga u thutha kha khethekanyo thukhu ya vhu (1) hu tshi thuthwa thalutshedzo ya maipfi “Mulayo wa Bodo ya Tshumelo dza zwa Mashelesi”, “webusaihini ya tshiofisi ya Bodo ya Tshumelo dza zwa Mashelesi (FSB)” na ipfi “u randela”; (f) nga u dzenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutshedzo ya ipfi “khethekanyo ya u kala” hu tshi dzeniswa thalutshedzo i tevhelaho: “‘Redzhisijara’ zwi amba Redzhisijari ya Mafhungo a Sekithara ya zwa Mashelesi yo ambwaho kha khethekanyo ya vhu 736 ya Mulayo wa Financial Sector Regulation Act;”; (g) nga u thutha kha khethekanyo thukhu ya vhu (1) hu tshi thuthwa thalutshedzo ya ipfi “redzhisijra”; (h) nga u dzenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutshedzo ya ipfi “uyu Mulayo” hu
Act No. and year | Short Title | Extent of repeal or amendment
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(i) by the addition of the following sub-section:
“(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.”.

2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the registrar must be read as a reference to the Authority.

(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.

(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.

(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—

(a) prescribed must be read as a reference to the matter being prescribed in a conduct standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(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.
<table>
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlobololo</th>
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</table>
|                           |                           | "'Khothe' zwi amba Khothe ya Tshumelo dza zwa Masheleni ' u ya nga khethekanyo ya vhu 219 ya Mulayo wa Financial Sector Regulation Act;' na (i) nga u engedza khethekanyo thukhu i tevhelaho; "(7) Nga nda ha musi zwo sumbedzwa nga inwe ndilha, maipfi na kuambele hu songo halutshedzwaho kha khethekanyo thukhu ya vhu (1) halutshedzo kana zwine a amba zwi fanana na zwe zwa vhofhekanywa nazwo u ya nga Mulayo wa Financial Sector Regulation Act."
|                           |                           | 2. U dzheniswa nga murahu ha khethekanyo ya vhu 1 ya khethekanyo dzi tevhelaho: "Vhushaka vhukati ha Mulayo na Mulayo wa Financial Sector Regulation Act 1A. (1) Kha uyu Mulayo musi hu tshiambiwa nga redzhisira hu vha hu khouambiwa Maandalanga. (2) Nga nda ha musi zwo vhetshelwa nga inwe ndilha nga uno Mulayo kana Mulayo wa Financial Sector Regulation Act, maanda na mishumo zwa Maandalanga u ya nga uno Mulayo ndi u tou engedza maanda na mishumo zwa Maandalanga u ya nga Mulayo wa Financial Sector Regulation Act. (3) Kha uno Mulayo Maandalanga a lavhelesaho kana u andadza fhungo nga ndjivhado kha Gazette zwi tea u vhalwa zwi tshi katela Maandalanga a lavhelesaho kana amk a andadza fhungo nga ndjivhado kha Redzhisitara. (4) Nga nda ha musi zwo vhetshelwa kha uno Mulayo, kana uno Mulayo u tshi toda fhungo li tshi randelwa, zwoambiwaoho kha uyu Mulayo kha fhungo line ja khou— (a) randelwa li tea u vhalwa sa zwoambiwaoho kha fhungo line ja khourandelwa kha tshitananditha vhudifari; kana (b) tiwa li tea u vhalwa na zwine zwa khouambiwa kha Maandalanga a lavhelesaho fhungo nga u tou nwala na u nwalisa ndavheleso kha Redzhisitara. (5) Zwiambiwaoho kha uno Mulayo zwi tshi kwama u dala hune ha khou shunwa hone hu tshi tevhedzwa mbetsheyo ya uno Mulayo zwi tea u |
### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

<table>
<thead>
<tr>
<th>Act No. and year</th>
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<th>Extent of repeal or amendment</th>
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<td></td>
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<td>(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.</td>
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<td></td>
<td>(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.</td>
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<td></td>
<td></td>
<td>(b) The Authority may also publish the information or document on its web site.</td>
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<td>(8) A reference in this Act to a prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.</td>
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<td>(9) 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.</td>
</tr>
</tbody>
</table>

### Regulatory instruments

1B. 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.

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".

4. The repeal of sections 21 and 22.

5. The deletion in section 23(1) of paragraphs (c), (e) and (h).
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<td>vhalwa sa zwo ambiwaho nga vhulavhelesi ha fiehu hune ha khou shumelwa hone u ya nga Mulayo wa Financial Sector Regulation Act.</td>
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<td>6) Zwi ambiwaho kha uyu Mulayo maługana na nyingamelo hu tshi khou tevhedzwa mbetshelo ya uyu Mulayo zwi tea u vhalwa sa zwi ambiwaho maługana na tsedzuluso u ya nga Mulayo wa Financial Sector Regulation Act.</td>
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<td>7) (a) Kha uno Mulayo Maandala nga a divhadza kana u andadza maľhungo kana Jiňwalwa kha webusaihi a tea u vhalwa sa Maandalanga a andadzaho maľhungo kana Jiňwalwa kha Redzhisitara.</td>
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<tr>
<td></td>
<td></td>
<td>(b) Maandalanga a nga andadza-vho maľhungo kana Jiňwalwa kha webusaihi yao.</td>
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<td></td>
<td>8) Kha uno Mulayo mbadelo yo randelwaho i tea u vhalwa sa zwo ambiwaho kha mbadelo yo tealo yo tshwaho u ya nga khethekanyo ya vhu 237 na Ndima ya 16 ya Mulayo wa Financial Sector Regulation Act.</td>
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<td>9) Zwi ambiwaho kha uno Mulayo u tša לטוחה ya napisana zwi tea u vhalwa sa u lavhelesi ha fihesya ha tsho vo dzhiwaho nga Khothe u ya nga Mulayo wa Financial Sector Regulation Act.</td>
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<td>Zwishumiswa zwa ndangulo</td>
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<td>1B. Hu tshi itelwa ndivho dza thutshzedzo ya &quot;tshishumiswa tsha ndangulo&quot; kha khethekanyo ya vhu 1(1) ya Mulayo wa Financial Sector Regulation Act, tshiniwe na tshiniwe tsho randelwaho nga Maandalanga maľugana na ndivhada zwi Gazete zwi žodwa nga uyu Mulayo una wa vha wone u anglulaho.&quot;</td>
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<td>3. U khwuiiswa ha khethekanyo ya vhu 5(1) nga u imelwa kha khethekanyo šhuku kha phara ya (e) ya phara i tevhelaho: &quot;(e) mbadelo yo randelwaho ya u ita khumbelo [nga redzhisitara]; na&quot;.</td>
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<td>4. U fleiswa ha khethekanyo dza vhu 21 na 22.</td>
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<td>5. U thutha kha khethekanyo ya vhu 23(1) ya phara dza (c), (e) na (h).</td>
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<tr>
<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
</tr>
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</table>
| 6.              |             | 6. The amendment of section 24 —  
(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: “A conduct standard for or in respect of credit rating agencies may be made on any of the following matters:”; and  
(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: “The [rules] conduct standards contemplated in subsection (1) may — “. |
| 7.              |             | 7. The deletion in section 24 of subsections (3) and (4). |
| 8.              |             | 8. The repeal of sections 25, 26, 27, 28, 30, 31 and 33. |
| 9.              |             | 9. The deletion in section 34 of subsection (2). |
| 10.             |             | 10. Amendment of the arrangement of sections by the insertion after item 1 of the following items: “1A. Relationship between Act and Financial Sector Regulation Act  
1B. Regulatory instruments”. |
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
</tr>
</thead>
</table>
| 6. U kwiniswa ha khethekanyo ya vhу 24—  
(a) nga u imelwa kha khethekanyo ũthukhu ya vhу (1) ya maipfi a rangelwaho nga phara ya (a) ya maipfi a tevhelaho: "Tshitandadi tsha vhudifari kha kana malugana na mazhendedzi a u kala zwikolodo tshi nga itwa kha malthungo a tevhelaho:"; na  
(b) nga u imelwa kha khethekanyo ũthukhu ya vhу (2) kha maipfi a rangelaho phara ya (a) ya maipfi a tevhelaho: "'[milayo] tshitandadi tsha vhudifari tsho ambiwaho kha khethekanyo ũthukhu ya vhу (1) tshi nga—". |
| 7. U thutha kha khethekanyo ya vhу 24 ya khethekanyo ũthukhu dza vhу (3) na (4). |
| 8. U fheliswa ha khethekanyo dza vhу 25, 26, 27, 28, 30, 31 na 33. |
| 9. U thuthwa kha khethekanyo ya vhу 34 ya khethekanyo ũthukhu ya vhу (2). |
| 10. U kwiniswa ha nzudzanyo ya khethekanyo nga u dzhenisa tshitenwa tshi tevhelaho nga murahu ha zwiwenwa zwa:  
1A. Vhushaka vhukati ha Mulayo na Mulayo wa Financial Sector Regulation Act  
1B. Zwishumiswa zwa ndangulo". |