REPUBLIC OF SOUTH AFRICA

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FINANCIAL MATTERS AMENDMENT BILL

(As introduced in the National Assembly (proposed section 75); explanatory summary of Bill and prior notice of its introduction published in Government Gazette…)
(The English text is the official text of the Bill)

(MINISTER OF FINANCE)

[B —2026]

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from the existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

BILL

To amend—

- **the Banks Act, 1990, so as to comply with international standards;**
- **the Auditing Profession Act, 2005, so as to amend and insert certain definitions; to enhance auditor independence and improve the quality of audits through the prescription of the duration of appointments that audit firms may accept; to provide for international audit regulator equivalency assessments; to replace the three-year term for the members of the Independent Regulatory Board for Auditors with a five-year term; to exclude the delegation of investigating committee, enforcement committee and disciplinary committee powers and decisions from variation by the Regulatory Board; to include certain persons as members of the committee for auditing standards; to provide for the administration of audit service levies; to empower the Regulatory Board to cancel the registration of a firm which fails to submit a return or a firm that is under provisional or final liquidation; to specify that despite the cancellation of the registration of an audit firm by the Regulatory Board, the audit firm continues to be liable for any outstanding fees; to prohibit audit firms from knowingly employing any registered auditor who is not in good standing with the Regulatory Board; to require individual registered auditors to notify the Regulatory Board of any changes to their personal information within a specified timeframe; to require registered auditors to inform the Regulatory Board of any investigations or disciplinary processes initiated by any other regulators, law enforcement or professional bodies against the registered auditors to the extent relevant to their role as auditors; to prohibit registered auditors from conducting the audit of financial statements of any entity where the registered auditor provides or has provided services other than auditing; to provide for the disclosure of inspection related information to internationally recognised audit forums to which the Regulatory Board is a member or in the pursuit of Regulatory Board's functions to protect the public in their dealings with auditors; to mandate the Regulatory Board to disclose the outcomes of inspections conducted on listed companies; to incorporate the requirement for the publication of the name of firm under which the registered auditor found guilty of improper conduct following a hearing, practiced at the time of the improper conduct; to empower the Regulatory Board to enforce the sanctions imposed by the enforcement and disciplinary committees through court processes; to provide for reconsideration of decisions of the enforcement committee and disciplinary committee by the Financial Services and Audit**

DRAFT

Tribunal; to authorise the disclosure of information to other regulators so as to enable them to carry out their regulatory or enforcement functions and where it is necessary for the proper performance of the Regulatory Board's functions or the protection of the public in their dealings with registered auditors;

- **the Co-operative Banks Act, 2007, so as to include the requirement for a common bond for co-operative financial institutions; to enable the Prudential Authority to prescribe certain requirements for the registration of co-operative banks; to enable the Authority to grant a registration subject to conditions; to provide for the banking services that may be provided by a co-operative financial institution; to provide for the types of co-operative financial institutions that may be registered; to enable co-operative financial institutions to convert their registration from savings co-operative financial institutions to savings and loans co-operative financial institutions; to specify definitions and provisions applicable to co-operative financial institutions; to provide for the Authority to incur expenses in respect of a report prepared in terms of a certain section;**
- **the Financial Sector Regulation Act, 2017, so as to insert and amend certain definitions to include the Deposit Insurance Corporation as a financial sector regulator; to empower the financial sector regulators to, by a notice on their website require supervised entities to provide them with information which is required for the purpose of gathering information relevant to the responsible authority's functions; to provide that a financial sector regulator may, for the purposes of performing its functions, direct a supervised entity to secure an independent review or verification of information provided by a supervised entity in terms of a financial sector law, by a person to be approved by the financial sector regulator, at the cost of the supervised entity; to empower the Corporation to process personal information of qualifying depositors when implementing the Act; to clarify that deposit insurance coverage is limited to a member's operations in the Republic; to clarify that member's minimum amount and interest thereto should be specified by the Corporation by notice in the *Gazette*; to simplify and clarify the process in terms of which the financial sector bodies must finalise their budgets, and levies and fees proposals; to clarify that the Public Finance Management Act, 1999 does not apply to the Corporation;**
- **the Insurance Act, 2017, so as to provide for a fixed timeframe within which the board of directors of a controlling company must notify the Prudential Authority of any change in the structure or material change in the risk profile of the insurance group that may impact on the scope of the insurance group; to provide for a fixed timeframe within which the application for approval of key persons by the Authority must be submitted; to provide for a fixed timeframe within which a branch of a foreign reinsurer and Lloyd's must notify the Authority of any changes to a law under which the head office of a foreign reinsurer or Lloyd's is authorised or supervised to perform business similar to insurance business;**

and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

DRAFT

Amendment of section 73 of Act 94 of 1990, as substituted by section 11 of Act 42 of 1992, section 46 of Act 26 of 1994, and as amended by section 15 of Act 36 of 2000, section 51 of Act 19 of 2003 and section 22 of Act 20 of 2007

1. Section 73 of the Banks Act, 1990, is hereby amended—

(a) by the substitution for paragraph *(b)* of subsection (1) of the following paragraph:

"*(b)* shall in the event of the aggregate amount of investments, loans, advances and other credit contemplated in paragraph *(a)*, **[relating to any private sector non-bank person,]** being equal to or exceeding **[800 per cent]** such a percentage as may be prescribed or directed in writing by the Authority, of such an amount of its capital and reserves as may be prescribed, be subject to such additional capital requirements as may be prescribed.";

(b) by the substitution for paragraph *(a)* of subsection (2) of the following paragraph:

"*(a)* shall not **[without the prior written approval of the Authority]** make an investment with or grant a loan, advance or other credit to any **[private sector non-bank]** person, which transaction, either alone or together with any previous transaction or transactions entered into by it with that **[private sector non-bank]** person, results in the bank, controlling company, branch or branch of a bank being exposed to that **[private sector non-bank]** person to an amount equal to or exceeding **[25 per cent]** such a percentage as may be prescribed or directed in writing by the Authority, of a prescribed amount, for specified persons, unless that bank, controlling company, branch or branch of a bank complies with such requirements related to concentration risk as may be prescribed;";

(c) by the deletion of paragraphs *(b)* and *(c)* of subsection (2);

(d) by the substitution for paragraph *(e)* of subsection (2) of the following paragraph:

"*(e)* shall in such manner and on such a form as may be prescribed report such an investment in or such a loan or advance or other credit exposure to a specific person, industry, sector or geographical area, which investment, loan, advance or credit exposure, either alone or together with any previous investment, loan, advance or exposure, results in the bank, controlling company or branch of a bank being exposed to that person, industry, sector or geographical area up to an amount equal to or exceeding such a percentage of capital and reserve funds as may be prescribed.";

(e) by the deletion of subsection (3); and

(f) by the substitution for subsection (4) of the following subsection:

"(4) The Authority may **[, with the consent of the Minister,]** exempt exposures as may be prescribed, specify in writing and subject to **[with]** such conditions as the Authority may determine, such further types of exposure**[s]** as the

Authority may determine that are exempted from the provisions of this section **[by means of a circular as contemplated in section 6(4)]**.".

Amendment of section 1 of Act 26 of 2005, as amended by section 1 of Act 2 of 2015 and section 1 of Act 5 of 2021

2. Section 1 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the insertion after the definition of "ensure" of the following definition:

"**'Financial Services and Audit Tribunal'** means the Financial Services Tribunal established in terms of section 219(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);";

(b) by the substitution for the definition of "firm" of the following definition:

"**'firm'** means a partnership, company or sole proprietor referred to in section **[40]** 38;";

(c) by the insertion after the definition of "firm" of the following definition:

"**'good standing'** means a registered auditor has complied with all registration eligibility and continuity requirements, having no outstanding returns, fees, levies, or financial obligations towards the Regulatory Board, and not subject to any ongoing disciplinary or enforcement sanctions, or suspensions, which have not been fully discharged;";

(d) by the substitution for the definition of "improper conduct" of the following definition:

"**'improper conduct'** means any non-compliance with this Act or any rules prescribed in terms of this Act or any conduct prescribed by the Regulatory Board as constituting improper conduct;";

(e) by the insertion after the definition of "improper conduct" of the following definitions:

"**'international audit regulator'** means an independent audit regulator from a jurisdiction outside the Republic;

'listed entity' means a publicly traded entity whose securities are listed on a licensed exchange as defined in the Financial Markets Act, 2012 (Act No. 19 of 2012) in the Republic;"; and

(f) by the substitution for the definition of "this Act" of the following definition:

"**'this Act"** includes **[an]** regulations promulgated under section 55;".

Amendment of section 2 of Act 26 of 2005

3. Section 2 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the deletion of the word "and" at the end of paragraph *(d)*;

(b) by the substitution in paragraph *(e)* for the full stop of the expression "; and"; and

(c) by the addition of the following paragraph:

DRAFT

"*(f)* to enhance auditor independence and improve the quality of audits by prescribing the duration of appointment that a firm may accept.".

Amendment of section 4 of Act 26 of 2005, as amended by section 2 of Act 5 of 2021

4. Section 4 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the deletion of the word "and" at the end of paragraph *(d)* of subsection (1);

(b) by the substitution in paragraph *(e)* of subsection (1) for the full stop of the expression "; and";

(c) by the addition after paragraph *(e)* of subsection (1) of the following paragraph:

"*(f)* take steps it considers necessary to enhance auditor independence and improve the quality of audits, including the prescription of the duration of appointments that firms may accept.";

(d) by the substitution for paragraph *(c)* of subsection (2) of the following paragraph:

"*(c)* cooperate with international regulators in respect of matters relating to audits and auditors, which may include the conclusion of bilateral cooperative or reciprocity agreements necessary for effective regulation; **[and]**";

(e) by the insertion after paragraph *(c)* of subsection (2) of the following paragraph:

"*(c*A*)* assess the equivalence of the audit regulatory regime of an international audit regulator for the purpose of comparing the international audit regulator's auditing regime with that of South Africa and conferring an equivalency status on the international audit regulator; and"; and

(f) by the substitution for subparagraph (ii) of paragraph *(c)* of subsection (3) of the following subparagraph:

"(ii) must publish in the *Gazette* the approved regulatory strategy within six months after the date that the Auditing Profession Amendment Act, **[2020]** 2021, takes effect.".

Amendment of section 5 of Act 26 of 2005

5. Section 5 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the substitution for paragraph *(b)* of the following paragraph:

"*(b)* consider and decide on any application for accreditation and if the application meets the prescribed requirements, grant such accreditation in full or in part;"; and

(b) by the substitution for subparagraph (i) of paragraph *(d)* of the following subparagraph:

"(i) the manner in which the register is to be kept;".

DRAFT

Insertion of section 5A in Act 26 of 2005

6. The following section is hereby inserted in the Auditing Profession Act, 2005, after section 5:

"**Functions with regard to the conduct of international audit regulator equivalency assessments**

5A. (1) The Regulatory Board may on application, or on its own initiative, confer an equivalency status on an international audit regulator.

(2) Prior to conferring an equivalency status on an international audit regulator in terms of subsection (1), the Regulatory Board must conduct an equivalency assessment and satisfy itself among others, that:

(a) the primary legislative responsibilities and powers of the international audit regulator include the protection of public interest;

(b) the qualification requirements for auditors registered with the international audit regulator are equivalent to those prescribed by the Regulatory Board in terms of section 6;

(c) the examination, practical training and competency standards, applicable to auditors registered with the international audit regulator are equivalent to those prescribed by the Regulatory Board in terms of section 6;

(d) the ethical requirements applicable to auditors registered with the international audit regulator are equivalent to those prescribed by the Regulatory Board in terms of section 4(1)*(c)*;

(e) the international audit regulator substantially adopts, and its auditors are required to apply, international auditing standards or standards which are substantially equivalent to those prescribed by the Regulatory Board in terms of section 4(1)*(d)*;

(f) the international audit regulator's inspections, investigations and disciplinary processes are equivalent to those followed by the Regulatory Board; and

(g) the international audit regulator and its governance structures are independent from the profession they regulate.

(3) Where the international audit regulator which applied for or has been approached to obtain equivalency status in terms of subsection (1) fails to meet any of the requirements for equivalency status, the Regulatory Board must give the international audit regulator a reasonable opportunity to address gaps identified during the assessment, prior to issuing its final decision on the assessment.

(4) The Regulatory Board must conduct periodic assessments of the equivalency status, every seven years, to ensure continued equivalency.

(5) The Regulatory Board may, if it deems it fit, having regard to the outcome of the periodic assessment undertaken in terms of subsection (4) withdraw the equivalency status conferred in terms of subsection (1).

(6) Prior to implementing a decision taken under subsection (5), the Regulatory Board must give notice in writing to the relevant international audit regulator, of its intended decision to withdraw the conferred equivalency status, and the reasons on which it is based, and afford the relevant international audit regulator a period of not less than 30 days but not more than 60 days in which to submit grounds for not proceeding with the decision.

(7) The Regulatory Board must publish the outcomes of any equivalency assessment or reviews undertaken following the conferment of the equivalency status.".

Amendment of section 6 of Act 26 of 2005, as substituted by section 2 of Act 2 of 2015

7. Section 6 of the Auditing Profession Act, 2005, is hereby amended by the substitution for subparagraph (i) of paragraph *(d)* of the following subparagraph:

"(i) the manner in which the registers are to be kept;".

Amendment of section 7 of Act 26 of 2005

8. Section 7 of the Auditing Profession Act, 2005, is hereby amended by the substitution for paragraphs *(a)* and *(b)* of subsection (2) of the following paragraphs:

"*(a)* establish mechanisms for registered auditors to gain recognition of their qualifications, training and professional status in other countries;

(b) enter into an agreement with any person or body of persons, within or outside the Republic, with regard to the recognition of any **[examination, or]** relevant qualification, training or professional status for the purposes of this Act;".

Amendment of section 8 of Act 26 of 2005

9. The following section is hereby substituted for section 8 of the Auditing Profession Act, 2005:

"**Functions with regard to fees and charges**

8. (1) The Regulatory Board must, in order to give effect to its regulatory functions, prescribe—

(a) accreditation, registration, registration renewal, **[and]** re-registration and registration reinstatement fees;

(b) annual fees**[, or a portion thereof in respect of a part of a year]**;

(c) the date on which any fee is payable; and

(d) the fees payable in respect of any examination referred to in section 37 or assessment, conducted by an accredited professional body or the Regulatory Board.

(2) The Regulatory Board may prescribe—

(a) any fees payable for the purposes of the education fund referred to in section 7(2); and

(b) **[fees payable for an inspection or review undertaken by the Regulatory Board in terms of section 47; and]**

(c) fees payable for any other service rendered by the Regulatory Board.

(3) The Regulatory Board, subject to any conditions, may grant exemption from payment of any fees referred to in subsection (1) or (2).".

Amendment of section 12 of Act 26 of 2005, as amended by section 4 of Act 5 of 2021

10. Section 12 of the Auditing Profession Act, 2005, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) A member of the Regulatory Board appointed in terms of section 11 holds office for such period, but not exceeding **[three]** five years, as the Minister may determine at the time of his or her appointment.".

Amendment of section 13 of Act 26 of 2005

11. Section 13 of the Auditing Profession Act, 2005, is hereby amended by the substitution for paragraph *(c)* of subsection (3) of the following paragraph:

"*(c)* is declared by the High Court to be of unsound mind or mentally disordered or is **[detained]** admitted under the **[Mental Health Act, 1973 (Act No. 18 of 1973)]** Mental Health Care Act, 2002 (Act No. 17 of 2002);".

Amendment of section 14 of Act 26 of 2005, as amended by section 5 of Act 5 of 2021

12. Section 14 of the Auditing Profession Act, 2005, is hereby amended by the substitution for paragraph *(b)* of subsection (1) of the following paragraph:

"(b) The chairperson and deputy chairperson each hold office for a period of **[three]** five years from the date of their appointment.".

Amendment of section 19 of Act 26 of 2005, as amended by section 6 of Act 5 of 2021

13. Section 19 of the Auditing Profession Act, 2005, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The powers and duties of the investigating, enforcement and disciplinary committees referred to in sections 48A, 48B, 49, 50 and 51B are deemed delegated and assigned by the Regulatory Board to the committees and except contemplated in subsection (1)*(b)*, are not subject to this section.".

Amendment of section 20 of Act 26 of 2005, as amended by section 7 of Act 5 of 2021

14. Section 20 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the substitution for paragraphs *(e)* and *(f)* of subsection (2) of the following paragraphs:

"*(e)* an investigating committee in accordance with section 24; and

(f) a disciplinary committee in accordance with section 24A."; and

(b) by the substitution for subsection (5) of the following subsection:

"(5) Save that the disciplinary committee must only meet as and when the circumstances require, **[Sections**] sections 15 and 16 relating to meetings and decisions of the Regulatory Board, respectively, with the necessary changes apply in respect of any committee.".

Amendment of section 21 of Act 26 of 2005, as amended section 3 of Act 2 of 2015

15. Section 21 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the substitution for paragraph *(d)* of subsection (1) of the following paragraph:

"*(d)* one advocate or attorney with at least 10 years' legal experience **[in the practice of law]**."; and

(b) by the addition of the following subsection:

"(3) The committee for auditor ethics may assist the Regulatory Board to influence the nature of international auditor ethics pronouncements by—

(a) preparing comments on exposure drafts or discussion papers and replies to questionnaires prepared by the International Ethics Standards Board for Accountants or a successor body; and

(b) nominating representatives to committees of the International Ethics Standards Board for Accountants or a successor body when requested to do so by the Regulatory Board.".

Amendment of section 22 of Act 26 of 2005

16. Section 22 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the substitution for paragraph *(d)* of subsection (1) of the following paragraph:

DRAFT

"*(d)* an incumbent of the office of the **[Executive Officer of the Financial Services Board]** Commissioner of the Financial Sector Conduct Authority, or a person nominated by that incumbent;";

(b) by the substitution for paragraph *(f)* of subsection (1) of the following paragraph:

"*(f)* one person nominated by **[any stock]** an exchange licensed under the **[Securities Services Act, 2004 (Act No. 36 of 2004)]** Financial Markets Act, 2012 (Act No. 19 of 2012);";

(c) by the deletion of the word "and" at the end of paragraph *(g)* of subsection (1);

(d) by the substitution for paragraph *(h)* of subsection (1) of the following paragraph:

"*(h)* an incumbent of the office of the **[Registrar of Banks]** Prudential Authority, or a person nominated by that incumbent**[.]**;"; and

(e) by the addition in subsection (1) of the following paragraphs:

"*(i)* an incumbent of the Companies and Intellectual Property Commission, or a person nominated by that incumbent;

(j) one advocate or attorney with at least 10 years' legal experience; and

(k) one member of civil society.".

Amendment of section 23 of Act 26 of 2005

17. Section 23 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the deletion of subsections (1) and (2); and

(b) by the substitution for subsection (3) of the following subsection:

"(3) A member of the committee**[s]** for auditor ethics or for auditing standards whose term has expired continues to serve until a successor has been appointed.".

Amendment of section 24A of Act 26 of 2005, as inserted by section 9 of Act 5 of 2021

18. Section 24A of the Auditing Profession Act, 2005, is hereby amended by the substitution for paragraph *(a)* of subsection (7) of the following paragraph:

"*(a)* The chairperson of the disciplinary committee must appoint a member referred to in subsection (2)*(b)* to chair the proceedings of the disciplinary hearing.".

Substitution of section 25 of Act 26 of 2005

19. The following section is hereby substituted for section 25 of the Auditing Profession Act, 2005:

"**Funding**

25. (1) The Regulatory Board is funded from—

(a) the collection of prescribed fees;

(b) levies imposed in terms of the Audit Service Levy Act, 2026;

(c) all other monies which may accrue to the Regulatory Board from any other legal source, including sanctions imposed by the Regulatory Board; and

(d) moneys appropriated for that purpose by Parliament.

(2) The money of the Regulatory Board may be applied to:

(a) the general administrative and operating costs of the Regulatory Board;

(b) exercise the powers, perform the functions, and fulfil the duties of the Regulatory Board in terms of this Act; and

(c) repay amounts paid to it in error.

(3) Any unexpended funds of the Regulatory Board at the end of any financial year must be carried forward as a credit to the next succeeding financial year.".

Insertion of sections 25A, 25B and 25C in Act 26 of 2005

20. The following sections are hereby inserted in the Auditing Profession Act, 2005, after section 25:

"**Administration of audit service levy**

25A. (1) The Regulatory Board is responsible for the collection and administration of the audit service levy referred to in section 2 of the Audit Service Levy Act, 2026, to provide for the funding of the Regulatory Board.

(2) The audit service levy imposed in accordance with the Audit Service Levy Act, 2026, and interest accrued on such levy, must be collected by the Regulatory Board from firms and paid into a bank account designated for that purpose, which is in the name and control of the Regulatory Board.

(3) The designated bank account referred to in subsection (2) must be approved by the National Treasury.

(4) The audit service levy referred to in section 2 of the Audit Service Levy Act, 2026, is payable to the Regulatory Board as specified in that Act.

Audit service levy to be debts

25B. A levy payable to the Regulatory Board in terms of section 2 of the Audit Service Levy Act, 2026, is a debt due to the Regulatory Board.

DRAFT

Interest on late or nonpayment of audit service levy

25C. (1) If the audit service levy is not paid, or not paid in full, within the period specified for payment, the firm liable to pay must pay interest at the rate referred to in subsection (2), on the amount of the levy that remains unpaid 30 days after the due date.

(2) Interest due and payable on an outstanding levy 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) Any overpayment of a levy amount or interest on a levy amount is a debt owed and payable, from the account of the Regulatory Board to which the overpayment was made, to the firm which made the overpayment.".

Amendment of section 32 of Act 26 of 2005

21. Section 32 of the Auditing Profession Act, 2005, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) A professional body must apply, **[on]** in the prescribed **[application]** form, to the Regulatory Board for accreditation in terms of [S]section 33 or 34.".

Amendment of section 37 of Act 26 of 2005, as substituted by section 5 of 2015 and amended by section 11 of Act 5 of 2021

22. Section 37 of the Auditing Profession Act, 2005, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) An individual must apply **[on]** in the prescribed **[application]** manner and form to the Regulatory Board for registration as an auditor or a candidate auditor.".

Amendment of section 38 of Act 26 of 2005, as amended by section 6 of Act 2 of 2015

23. Section 38 of the Auditing Profession Act, 2005, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) On application by a firm which is a partnership fulfilling the conditions in subsection (1) (a) or a sole proprietor, **[on]** in the prescribed **[application]** manner and form, the Regulatory Board must register the firm as a registered auditor on payment of the prescribed fee.".

Amendment of section 39 of Act 26 of 2005, as amended by section 7 of Act 2 of 2015 and section 12 of Act 5 of 2021

24. Section 39 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the insertion after subsection (2) of the following subsections:

"(2A) Subject to subsection (3), the Regulatory Board may cancel the registration of a registered auditor that is a firm, if the firm—

(a) fails to submit a return in terms of section 47(6) of this Act or the Audit Service Levy Act, 2026, by the date on which the Regulatory Board has determined it is due; or

(b) has entered a process of provisional or final liquidation.

(2B) Despite the cancellation of the registration of a registered auditor that is a firm in terms of subsection (2A), the firm remains liable for any fee, levy, arrears or interest imposed by the Regulatory Board for the period that it was registered as an audit firm, with the Regulatory Board."; and

(b) by the substitution for subsection (4) of the following subsection:

"(4) The registration of a registered auditor that is a partnership, sole proprietor or company automatically lapses if it no longer complies with section 38(1) or fails to pay a prescribed fee, levy or interest accrued within the period prescribed by the Regulatory Board.".

Amendment of section 40 of Act 26 of 2005, as amended by section 8 of Act 2 of 2015

25. Section 40 of the Auditing Profession Act, 2005, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) A registered auditor or registered candidate auditor whose registration was terminated in terms of section 39 or cancelled in terms of section 51B(3)*(a)*(iv) may apply for re-registration in the prescribed manner to the Regulatory Board.".

Amendment of section 41 of Act 26 of 2005, as amended by section 9 of Act 2 of 2015 and section 13 of Act 5 of 2021

26. Section 41 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the substitution for the words preceding subparagraph (i) of paragraph *(a)* of subsection (2) of the following words:

"A person or firm **[who is]** not registered in terms of this Act may not—";

(b) by the substitution for subparagraph (ii) of paragraph *(a)* of subsection (2) of the following subparagraph:

"(ii) pretend to be, or in any manner hold or allow himself or herself or itself to be held out as, a person or firm registered in terms of this Act;";

(c) by the substitution for subparagraph (iv) of paragraph *(a)* of subsection (2) of the following subparagraph:

"(iv) perform any act indicating or calculated to lead persons to believe that he or she or it is registered in terms of this Act.";

DRAFT

(d) by deletion of the word "or" at the end of paragraph *(b)* of subsection (4);

(e) by the substitution for the full stop in paragraph *(c)* of subsection (4) of the expression "; or";

(f) by the addition in subsection (4) of the following paragraph:

"*(d)* any registered auditor who is not in good standing with the Regulatory board.";

(g) by the substitution for subsection (5) of the following subsection:

"(5) A registered auditor who is not in public practice as an individual practitioner may practise as a member of a firm only if, by virtue of section **[40]** 38, the firm is itself a registered auditor."; and

(h) by the substitution for paragraph *(b)* of subsection (6) of the following paragraph:

"*(b)* sign any account, statement, report or other document which purports to represent an audit performed by that registered auditor, unless the audit **[were]** was performed by that registered auditor, under the personal supervision or direction of that registered auditor or by or under the personal supervision or directions of that registered auditor and one or more of the partners**[,]** or co-directors **[or co-members]** of the registered auditor, as the case may be, in accordance with prescribed auditing standards;".

Amendment of section 43 of Act 26 of 2005

27. Section 43 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the insertion after subsection (1) of the following subsection:

"(1A) Every individual who is a registered auditor must notify the Regulatory Board of any change in his or her contact details not later than 30 days after the date on which the change takes place.";

(b) by the substitution for paragraph *(c)* of subsection (2) of the following paragraph:

"*(c)* the full names of all (if any) of the registered auditor's partners**[,]** or co-directors **[or co-members]**; and"; and

(c) by the addition of the following subsection:

"(4)*(a)* A registered auditor must inform the Regulatory Board of any pending or completed investigations against him or her by any accredited professional bodies, other regulators, including international regulators, or law enforcement agencies, to the extent relevant to their role as auditor.

(b) The Regulatory Board must be informed in writing and within 10 days of the registered auditor becoming aware of the investigation or outcomes thereof.".

DRAFT

Amendment of section 44 of Act 26 of 2005

28. Section 44 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the deletion of subsections (4) and (5); and

(b) by the substitution for subsection (6) of the following subsection:

"(6) A registered auditor may not conduct the audit of any financial statements of an entity, whether as an individual registered auditor or as a member of a firm, if, the registered auditor has or had a conflict of interest, including where the registered auditor or firm provides or has provided services other than auditing, in respect of that entity, as prescribed by the Regulatory Board.".

Amendment of section 45 of Act 26 of 2005, as amended by section 14 of Act 5 of 2021

29. Section 45 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the substitution for the words preceding paragraph *(a)* of subsection (3) of the following words:

"(3) The registered auditor must as soon as reasonably possible but no later **[that]** than 30 days from the date on which the report referred to in subsection (1) was sent to the Regulatory Board—";

(b) by the substitution for item *(bb)* of subparagraph (i) of paragraph *(c)* of subsection (3) of the following item:

"*(bb)* the **[suspected]** reportable irregularity is no longer taking place and that adequate steps have been taken for the prevention or recovery of any loss as a result thereof, if relevant; or"; and

(c) by the deletion of the word 'or' at the end of item *(cc)* of subparagraph (i) of paragraph *(c)* of subsection (3);

(d) by the addition after item *(cc)* of subparagraph (i) of paragraph *(c)* of subsection (3) of the following item:

"*(dd)* the individual registered auditor has been removed in contravention of subsection (7) and is unable to render a second report on the reportable irregularity; and"; and

(d) by the substitution for subsection (4) of the following subsection:

"(4) The Regulatory Board must as soon as possible after receipt of a report containing a statement referred to in paragraph **[*(b)*]** *(c)*(i)*(cc)* of subsection (3), notify any appropriate regulator in writing of the details of the reportable irregularity to which the report relates and provide it with a copy of the report and any supporting documents accompanying the report.".

Amendment of section 47 of Act 26 of 2005, as amended by section 11 of Act 2 of 2015

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30. Section 47 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the substitution for paragraph *(b)* of subsection (1) of the following paragraph:

"*(b)* Despite the generality of paragraph *(a)*, the Regulatory Board, or any person authorised by it, must at least every three years inspect or review the **[practice]** firm of a registered auditor that audits a **[public company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008)]** listed entity.";

(b) by the deletion of subsection (2);

(c) by the substitution for subsection (5) of the following subsection:

"(5) Despite section 57A, the Regulatory Board must make public, the results and findings of inspections conducted under subsection (1)*(b)*.";

(d) by the insertion after subsection (5) of the following subsection:

"(5A) Despite subsection (5) and section 57A, the Regulatory Board may, when it considers it necessary and in the public interest to do so, make public, the outcomes of any other inspection or review conducted under this section, including inspection results and findings."; and

(e) by the substitution for subsection (6) of the following subsection:

"(6) A registered auditor must **[annually]** submit to the Regulatory Board such information or returns as may be requested by the Regulatory Board on an annual basis or as and when required.".

Amendment of section 48 of Act 26 of 2005, as amended by section 15 of Act 5 of 2021

31. Section 48 of the Auditing Profession Act, 2005, is hereby amended by the substitution for subparagraph (ii) of paragraph *(d)* of subsection (5) of the following subparagraph:

"(ii) effected in any manner agreed upon between **[the]** an employee authorised by **[or]** the investigating committee and the person or registered auditor being subpoenaed,".

Amendment of section 48A of Act 26 of 2005, as inserted by section 16 of Act 5 of 2021

32. Section 48A of the Auditing Profession Act, 2005, is hereby amended by the substitution for subparagraph (ii) of paragraph *(d)* of subsection (7) of the following subparagraph:

"(ii) all proceedings arising out of the investigation have been finally disposed of.".

Amendment of section 48B of Act 26 of 2005, as inserted by section 16 of Act 5 of 2021

33. Section 48B of the Auditing Profession Act, 2005, is hereby amended by the substitution for subparagraph (i) of paragraph *(b)* of subsection (1) of the following subparagraph:

"(i) on written application by the person authorised in terms of section 48A(1) setting out under oath or affirmation why it is necessary to enter and **[investigate]** search the premises; and".

Amendment of section 49 of Act 26 of 2005, as substituted by section 17 of Act 5 of 2021 and amended by section 20 of Act 9 of 2023

34. Section 49 of the Auditing Profession Act, 2005, is hereby amended—

(a) by the substitution for the words preceding paragraph *(a)* of subsection (3) of the following words:

"(3) **[A charge sheet]** In charging the registered auditor, the enforcement committee must inform the registered auditor charged—";

(b) by the substitution for paragraphs *(b)* and *(c)* of subsection (3) of the following paragraphs:

"(*b*) that the registered auditor is required to, in writing, admit or deny the charge;

(c) that the registered auditor, together with the admission or denial, may submit a written explanation regarding the improper conduct **[with]** which is the subject of the **[charged]** charge and, if guilt is admitted, may submit factors in mitigation of sentence; and"; and

(c) by the substitution for subsection (5) of the following subsection:

"(5) If a registered auditor denies guilt or fails to submit a **[denial or]** plea or if the enforcement committee made a decision in terms of section 49(1)*(b)*, the enforcement committee must, on the expiry of the period referred to in subsection (3)*(d)*, refer the charge sheet and any plea received to the disciplinary committee to be dealt with in accordance with section 50.".

Substitution of section 51A of Act 26 of 2005, as inserted by section 12 of Act 2 of 2015 and substituted by section 18 of Act 5 of 2021

35. The following section is hereby substituted for section 51A of the Auditing Profession Act, 2005:

"**Application of certain provisions to registered candidate auditors**

51A. (1) This Chapter does not apply to registered candidate auditors.

(2) Despite subsection (1), the Regulatory Board may, upon receipt of a complaint relating to a registered candidate auditor, refer, in terms of section 48(6)

such a complaint to a professional body with which the registered candidate auditor is registered.".

Amendment of section 51B of Act 26 of 2005, as inserted by section 19 of Act 5 of 2021

36. Section 51B of the Auditing Profession Act, 2005, is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) The Regulatory Board must publish in the Board's website, and if deemed necessary, in any other appropriate medium, the name of the registered auditor found guilty, the name of the firm under which the registered auditor practiced at the time of the improper conduct, a summary of the charges, the finding and the sanction imposed in terms of subsection (3) and a cost order in terms of subsection (4).".

Insertion of sections 51C and 51D in Act 26 of 2005

37. The following section is hereby inserted in the Auditing Profession Act, 2005, after section 51B:

"**Enforcement of sanctions imposed by enforcement committee and disciplinary hearing panel**

51C. (1) Any sanction imposed by the enforcement committee or disciplinary hearing panel has the effect of a civil judgment of any court of law had the matter in question been heard by such court, and must be noted by the clerk or the registrar of the court, as the case may be.

(2) A warrant of execution may be issued by the clerk or the registrar of the court and executed by the sheriff of such court after expiration of a period of 30 days after the date of the imposition of sanction, on condition that no application for judicial review has been made to a court of competent jurisdiction.

Reconsideration by Financial Services and Audit Tribunal

51D. (1) A registered auditor or person aggrieved by a decision made by—

(a) the enforcement committee in terms of section 51(1); or

(b) the disciplinary committee made in terms of section 51B(1)*(a)* or (3),

may apply, in terms of section 230 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), to the Financial Services and Audit Tribunal for the reconsideration of that decision.

(2) An application for reconsideration made in terms of subsection (1) does not suspend the decision of the enforcement committee or the disciplinary committee unless the Financial Services and Audit Tribunal orders otherwise.

(3) In respect of an application made in terms of subsection (1), the Financial Services and Audit Tribunal may make an order it deems appropriate in terms of section 234 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017).".

Amendment of section 57A of Act 26 of 2005, as inserted by section 21 of Act 5 of 2021

38. Section 57A of the Auditing Profession Act, 2005, is hereby amended—

(a) by the insertion after paragraph *(b)* of subsection (2) of the following paragraph:

"*(b*A*)* if the person of necessity supplies it in the performance of functions under this Act;";

(b) by the substitution for paragraph *(c)* of subsection (2) of the following paragraph:

"*(c)* at the written request of, and to, any appropriate regulator, including an international regulator of audits and auditors which requires **[it for the institution or an investigation with a view to the institution of any disciplinary process or criminal prosecution]** the information for the purpose of an inspection, instituting any investigation, disciplinary or enforcement process or to carry out any of its other regulatory functions;";

(c) by the deletion of paragraph *(d)* of subsection (2);

(d) by the substitution for the full stop in paragraph *(e)* of subsection (2) of the expression ";"; and

(e) by the addition in subsection (2) of the following paragraphs:

"*(f)* when necessary for the effective performance of any of the Regulatory Board's functions or to protect the public in their dealings with registered auditors; and

(g) to an international regulator of audits and auditors or a forum of international regulators of auditors for the purpose of international benchmarking, research and educational purposes.".

Amendment of long title of Act 26 of 2005, as substituted by section 13 of Act 2 of 2015

39. The following long title is hereby substituted for the long title of the Auditing Profession Act, 2005:

"**To provide for the establishment of the Independent Regulatory Board for Auditors; to provide for the education, training and professional development of registered auditors and registered candidate auditors; to provide for the accreditation of professional bodies; to provide for the registration of auditors and candidate auditors; to regulate the conduct of registered auditors and registered candidate auditors; to enhance auditor independence and improve the quality of audits through the prescription of the duration of appointments that audit firms may accept;**

to provide for the imposition of levies by the Regulatory Board; to provide for reconsideration of decisions of the enforcement and disciplinary committees by the Financial Service and Audit Tribunal; to repeal an Act; and to provide for matters connected therewith.".

Amendment of Arrangement of Sections of Act 26 of 2005, as amended by section 22 of Act 5 of 2021

40. The Arrangement of Sections of the Auditing Profession Act, 2005, is hereby amended—

(a) by the insertion after item 5 of the following item:

"5A. Functions with regards to the conduct of international audit regulator equivalency assessments"; and

(b) by the insertion after item 25 of the following items:

"25A. Administration of audit service levy

25B. Audit service levy to be debts

25C. Interest on late or nonpayment of audit service levy"; and

(c) by the insertion after item 51B of the following item:

"51C. Enforcement of sanctions imposed by the enforcement committee and disciplinary hearing panel

51D. Reconsideration by Financial Services and Audit Tribunal".

Amendment of section 1 of Act 40 of 2007, as amended by section 240 of Act 45 of 2013 and section 290 read with Schedule 4 of Act 9 of 2017, and by section 22 of Act 23 of 2021

41. Section 1 of the Co-operative Banks Act, 2007, is hereby amended—

(a) by the substitution for the definition of "banking services" of the following definition:

"**'banking services'** means the services that may be provided by a co-operative financial institution in accordance with section 40G or a co-operative bank in accordance with section 14;";

(b) 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 and whose members—

(a) are employed by a common employer or who are employed within the same economic sector or business district;

(b) have common membership in an association or organisation, including a religious, social, co-operative, labour or educational group; or

(c) reside or work within the same defined community or geographical area;";

(c) by the deletion of the definition "managing director"; and

(d) by the insertion after the definition of "joint standard" of the following definition:

"**'managing director'** means a person under the direct authority of the board of directors of the co-operative financial institution or co-operative bank responsible for the day-to-day operations of the co-operative financial institution or co-operative bank;".

Amendment of section 7 of Act 40 of 2007

42. Section 7 of the Co-operative Banks Act, 2007, is hereby amended—

(a) by the deletion of the word "and" at the end of paragraph *(c)*;

(b) by the substitution for the full stop after paragraph *(d)* of the expression ";"; and

(c) by the addition of the following paragraphs:

"*(e)* it meets any prescribed threshold requirements in respect of membership, membership shares and deposits held; and

(f) it meets any other prescribed requirements.".

Amendment of section 40C of Act 40 of 2007, as inserted by section 290 read with Schedule 4 of Act 9 of 2017

43. Section 40C of the Co-operative Banks Act, 2007, is hereby amended by the addition of the following subsections:

"(3) The Authority may grant an application for registration subject to any condition it may determine.

(4) The following types of co-operative financial institutions may be registered in terms of this Act:

(a) a savings co-operative financial institution; or

(b) a savings and loans co-operative financial institution.

(5)*(a)* A savings co-operative financial institution may convert to a savings and loans co-operative financial institution.

(b) A savings co-operative financial institution that wishes to convert to a savings and loans co-operative financial institution must—

(i) apply to the Authority to convert to such a savings and loans co-operative financial institution; and

(ii) request the Authority to cancel its registration as a savings co-operative financial institution and to record its conversion.".

Insertion of sections 40G and 40H in Act 40 of 2007

44. The following sections are hereby inserted in the Co-operative Banks Act, 2007, after section 40F:

"**Banking services provided by co-operative financial institution**

40G. A co-operative financial institution may only provide, participate in or undertake the following banking services:

(a) solicit and accept deposits from its members;

(b) open savings accounts for its members, in the name of each member, into which that member may deposit or withdraw money and from which that member may instruct the co-operative financial institution to transfer or pay money;

(c) borrow money from members and third party, other than deposits referred to in paragraph *(a)*, up to a percentage of the assets held by it as prescribed by the Minister;

(d) open a savings account or cheque account in the name of that co-operative financial institution with any banking institution;

(e) make, draw, accept, endorse, or negotiate negotiable instruments that are paid to the order of or made out and endorsed by that co-operative financial institution;

(f) provide trust or custody services to members;

(g) conduct any additional banking services as may be prescribed by the Minister; and

(h) invest money deposited with it in investments prescribed by the Minister.

Sections of this Act applicable to co-operative financial institutions

40H. Sections 9, 13, 16, 17, 18, 19, 20, 21, 27 and 29 apply, with the necessary changes, to co-operative financial institutions.".

Amendment of section 50 of Act 40 of 2007, as substituted by section 290 read with Schedule 4 of Act 9 of 2017

45. Section 50 of the Co-operative Banks Act, 2007, is hereby amended by the substitution for paragraph *(b)* of the following paragraph:

"*(b)* A report required from a co-operative financial institution or co-operative bank under paragraph *(a)* must be prepared at the expense of the Authority.".

Amendment of section 52 of Act 40 of 2007

46. Section 52 of the Co-operative Banks Act, 2007, is hereby amended by the deletion of subsection (2).

Amendment of section 80 of Act 40 of 2007, as substituted by section 26 of Act 23 of 2021 and section 9 read with item 8 of Schedule of Act 21 of 2024

47. Section 80 of the Co-operative Banks Act, 2007, is hereby amended by the substitution for the words preceding paragraph *(a)* of the following words:

"It is an offence for any co-operative bank, co-operative financial institution or other person to— ".

Amendment of section 83 of Act 40 of 2007, as substituted by section 255 of Act 45 of 2013

48. The following section is hereby substituted for section 83 of the Co-operative Banks Act, 2007:

"**Certification of documents**

83. Any document that must be submitted to the Authority by a co-operative bank or co-operative financial institution in terms of this Act must be certified as correct by the managing director.".

Amendment of section 84 of Act 40 of 2007, as substituted by section 9 read with item 10 of Schedule of Act 21 of 2024

49. The following section is hereby substituted for section 84 of the Co-operative Banks Act, 2007:

"**Access to records, register and other documentation**

84. A regulatory authority must, despite the provisions of any other law, at the request of the Authority make information regarding a co-operative bank or co-operative financial institution available to the Authority.".

Amendment of section 86 of Act 40 of 2007

50. Section 86 of the Co-operative Banks Act, 2007, is hereby amended by—

(a) by the substitution for paragraph *(b)* of subsection (1) of the following paragraph:

"*(b)* the conduct of a member of the board of directors of a co-operative bank or co-operative financial institution in the performance of his or her functions;";

(b) by the substitution for paragraphs *(e)* and *(f)* of subsection (1) of the following paragraphs:

"*(e)* the manner in which the financial statements of a co-operative bank or co-operative financial institution must be prepared;

(f) the manner in which records must be kept by a co-operative bank or co-operative financial institution; and"; and

(c) by the substitution for subsection (2) of the following subsection:

"(2) A regulation in terms of this section may—

(a) apply to co-operative banks or co-operative financial institutions generally; or

(b) differentiate between co-operative banks or co-operative financial institutions, which may be defined either in relation to a type or budgetary size of co-operative bank, co-operative financial institution or to any other matter; or

(c) be limited in its application to a particular 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.".

Amendment of section 88 of Act 40 of 2007, as amended by section 77 of Act 22 of 2008

51. Section 88 of the Co-operative Banks Act, 2007, is hereby amended by—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Any director or managing director that knew or knows that the business of a co-operative bank or co-operative financial institution was or is being carried on recklessly, with intent to defraud creditors of the co-operative bank or co-operative financial institution or creditors of any other person, or for any fraudulent purpose is personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the co-operative bank or co-operative financial institution.";

(b) by the substitution for subsection (2) of the following subsection:

"(2) The Authority may institute legal action against any director or managing director (whether it be in a winding-up, judicial management or otherwise) when it appears that the business of a co-operative bank or co-operative financial institution was or is being carried on recklessly, with intent to defraud creditors of the co-operative bank or co-operative financial institution or creditors of any other person, or for any fraudulent purpose, for all or any of the debts or other liabilities of the co-operative bank or co-operative financial institution."; and

(c) by the substitution for paragraph *(b)* of subsection (3) of the following paragraph:

"*(b)* thereafter to off-set any amount paid to depositors by the Authority, as part or full compensation for the losses suffered by depositors as a result of the co-operative bank or co-operative financial institution having been unable to repay its deposits; and".

Amendment of section 89 of Act 40 of 2007

52. Section 89 of the Co-operative Banks Act, 2007, is hereby amended by—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Minister may, where he or she considers it necessary for the development of a co- operative bank or co-operative financial institution or where compliance may be detrimental to the development of a co-operative bank or co-operative financial institution, by notice in the *Gazette* exempt a cooperative bank or co-operative financial institution for a specific period—"; and

(b) by the substitution for subsection (2) of the following subsection:

"(2) An exemption in terms of subsection (1) may—

(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 kind, type or budgetary size of co-operative bank or co-operative financial institution or to any other matter.".

Amendment of Arrangement of Sections of Act 40 of 2007, as substituted by section 9 read with item 14 of Schedule of Act 21 of 2024

53. The Arrangement of Sections of the Co-operative Banks Act, 2007, is hereby amended by the insertion after item 40F of the following items:

"40G. Banking services provided by co-operative financial institution

40H. Sections of this Act applicable to co-operative financial institutions".

Amendment of Act 9 of 2017, as amended by section 72 read with Schedule 1 of Act 18 of 2017, section 35 of Act 23 of 2021 and section 4 read with Schedule to Act 12 of 2022

54. Section 1 of the Financial Sector Regulation Act, 2017, is hereby amended—

(a) by the substitution for the definition of "financial sector regulator" of the following definition:

"**'financial sector regulator'** means—

(a) the Prudential Authority;

(b) the Financial Sector Conduct Authority;

(c) the National Credit Regulator, but only in respect of Part 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 Part 2, 3 and 5 of Chapter 2 and Parts 1, 2 and 3 of Chapter 5; or

(e) the Corporation, but only in respect of Chapter 9;";

(b) by the substitution for subparagraph (iii) of paragraph *(b)* of the definition of "qualifying deposit" of the following subparagraph:

"(iii) an entity listed in Schedules 2 and 3 to the Public Finance Management Act;"; and

(c) by the substitution for the definition of "Tribunal" of the following definition:

"**'Tribunal'** means the Financial Services and Audit Tribunal established in terms of section 219(1);".

Amendment of section 129 of Act 9 of 2017, as amended by section 48 of Act 23 of 2021

55. Section 129 of the Financial Sector Regulation Act, 2017, is hereby amended by the substitution for paragraph *(a)* of subsection (1) of the following paragraph:

"*(a)* information gathering, supervisory on-site inspections, investigations by the Prudential Authority, **[or]** the Financial Sector Conduct Authority or the Corporation; and''.

Amendment of section 131 of Act 9 of 2017

56. Section 131 of the Financial Sector Regulation Act, 2017, is hereby amended—

(a) by the substitution for paragraph *(a)* of subsection (1) of the following paragraph:

"*(a)*(i) 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**[.]**;

(ii) by notice on its website require supervised entities, or a category of supervised entity, to provide information which is required for the purpose of gathering information relevant to the responsible authority's functions.";

(b) by the substitution for paragraph *(b)* of subsection (1) of the following paragraph:

"*(b)* A supervised entity that has been given a notice in terms of paragraph *(a)*(i) or that is referred to in a notice in paragraph (a)(ii) must comply with the requirements in the notice."; and

(c) by the addition of the following subsection:

"(4)*(a)* A financial sector regulator may, for the purposes of performing its functions, direct a supervised entity to secure an independent review or verification of information provided by a supervised entity in terms of a financial sector law, by a person to be approved by the financial sector regulator, at the cost of the supervised entity.

(b) The person referred to in paragraph (a) must conform to the requirements set out in section 134(2).".

Amendment of section 166AB of Act 9 of 2017, as inserted by section 51 of Act 23 of 2021

57. Section 166AB of the Financial Sector Regulation Act, 2017, is hereby amended by the addition of the following subsection:

"(3) The maximum amount that may be applied from the Fund in terms of subsection (1) must only be in respect of a member's operation in the Republic.".

Substitution of section 166BF of Act 9 of 2017, as inserted by section 51 of Act 23 of 2021

58. The following section is hereby substituted for section 166BF of the Financial Sector Regulation Act, 2017:

"**Information**

166BF.(1) The Prudential Authority, Financial Sector Conduct Authority and members of the Corporation must comply with any request by the Corporation for information relevant to the performance of the Corporation's functions in terms of this Act.

(2) A member of the Corporation must, in order to enable the Corporation to perform its functions in terms of this Act, furnish the Corporation with information on its depositors in respect of such period, at such times and on such a form as may be prescribed by the Corporation.

(3) A member of the Corporation must, in order to enable the Corporation to determine whether a member is complying with this Act, furnish the Corporation with information on its operations in respect of such period, at such times and on such a form as may be prescribed by the Corporation in order to fulfil its objective set out in section 166AF.

(4) In order to fulfil its objective set out in section 166AF(1), and duty set out in section 166AA(1), the Corporation must collect depositor information from members and use such information, including personal information as defined in the Protection of Personal Information Act to the extent necessary to give depositors reasonable access to their covered deposits.".

Substitution of section 166BH of Act 9 of 2017, as inserted by section 51 of Act 23 of 2021

59. The following section is substituted for section 166BH of the Financial Sector Regulation Act, 2017:

"**Fund liquidity**

166BH. (1) Members of the Corporation that hold covered deposits must maintain a minimum amount in the account of the Fund as specified by the Corporation **[in a standard]** by notice on the Corporation's webpage on the Reserve Bank's website.

(2) The Corporation must pay interest to members on the amount referred to in subsection (1), which interest rate must be specified **[in the standard]** in a contractual agreement with members.".

Substitution of heading of Chapter 15 of Act 9 of 2017

60. The following heading is hereby substituted for the heading of Chapter 15 of the Financial Sector Regulation Act, 2017:

"**CHAPTER 15**

FINANCIAL SERVICES AND AUDIT TRIBUNAL".

Amendment of section 218 of Act 9 of 2017

61. Section 218 of the Financial Sector Regulation Act, 2017 is hereby amended by the insertion after paragraph *(d)* in the definition of "decision" of the following paragraph:

"*(d*A) a decision by the enforcement committee of the Independent Regulatory Board for Auditors contemplated in section 24B, or the disciplinary committee contemplated in section 24A, of the Auditing Profession Act, 2005;".

Substitution of heading of Part 2 of Chapter 15 of Act 9 of 2017

62. The following heading is hereby substituted for the heading of Part 2 of Chapter 15 of the Financial Sector Regulation Act, 2017:

"***Part 2***

Financial Services and Audit Tribunal".

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Amendment of section 219 of Act 9 of 2017

63. Section 219 of the Financial Sector Regulation Act, 2017, is hereby amended—

(a) by the substitution for the heading of the following heading:

"**Establishment and function of Financial Services and Audit Tribunal**"; and

(b) by the substitution for subsection (1) of the following subsection:

"(1) The Financial Services and Audit 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.".

Amendment of section 220 of Act 9 of 2017

64. Section 220 of the Financial Sector Regulation Act, 2017, is hereby amended—

(a) by the deletion of "and" after paragraph *(a)* of subsection (2);

(b) by the substitution for the full stop after paragraph *(b)* of subsection (2) of the expression "; and"; and

(c) by the addition in subsection (2) of the following paragraph:

"*(c)* at least two persons with at least 10 years' experience in auditing who were formerly registered as auditors.".

Amendment of section 224 of Act 9 of 2017

65. Section 224 of the Financial Sector Regulation Act, 2017, is hereby amended by the insertion after subsection (2) of the following subsection:

"(2A) A panel must include at least one person referred to in section 220(2)*(c)* if an application concerns a decision on an auditing matter.".

Amendment of section 234 of Act 9 of 2017

66. Section 234 of the Financial Sector Regulation Act, 2017, is hereby amended by the substitution of subparagraph (ii) of paragraph *(b)* of subsection (1) of the following subparagraph:

"(ii) a decision referred to in paragraph *(b)*, **[or]** *(c)* or *(d*A*)* of the definition of "decision" in section 218; and"."

Amendment of section 239 of Act 9 of 2017, as amended by section 4 read with Schedule to Act 12 of 2022

67. Section 239 of the Financial Sector Regulation Act, 2017, is hereby amended—

(a) by the substitution for subsection (4) of the following subsection:

"(4) The financial sector body must **[take into account]**, once submissions made in respect of the budget as well as the fees and levies proposals, which it receives in terms of section 240, have been considered, submit the budget, together with the fees, levies and deposit insurance premium proposals, to the Minister.";

(b) by the substitution for subsection (5) of the following subsection:

"(5) The financial sector bodies referred to in section 248(4) must make the submission as part of the budget submissions contemplated in section 248(4)*(a)*(i).";

(c) by the substitution for subsection (6) of the following subsection:

"(6)*(a)* The Minister must be allowed a period of at least 30 days from the date of receipt of the proposals to consider the proposals and provide comments, if any.

(b) If the Minister does not provide comments within the period contemplated in paragraph *(a),* the financial sector body may continue with the process.";

(d) by the substitution for paragraph *(a)* of subsection (7) of the following paragraph:

"(7)*(a)* In respect of the fees proposals, **[for the first financial year following the commencement of this section, the Minister must approve the proposals for all the financial sector bodies]** the financial sector body must submit a determination of fees to Parliament, for a period of at least 30 days while Parliament is in session, together with—

(i) an explanation by the financial sector body of the determination of fees and of any increase in fees; and

(ii) a consultation report, which must include-

(aa) a general account of the issues raised in the submissions made during the consultation; and

(bb) a response to the issues raised in the submissions.

*(a*B*)* In deciding whether to make the determination of fees, the financial sector body must take into account any comments of the Minister received in terms of subsection (6) and the deliberations of Parliament.

*(a*C*)* A determination of fees must be published in the Register after it is made.

*(a*D*)* A determination of fees comes into effect-

(i) on the date the determination of fees is published in the Register;

(ii) if the determination provides that it comes into effect on a later date, on that date.

*(a*E*)* The financial sector body must publish a consultation report that complies with section 104(2) with the determination of fees."; and

(e) by the deletion of subsections (8) and (9).

Amendment of section 240 of Act 9 of 2017, as amended by section 4 read with Schedule to Act 12 of 2022

68. The following section is hereby substituted for section 240 of the Financial Sector Regulation Act, 2017:

"**Consultation requirements**

240. (1) Each financial sector body must publish—

(a) the budget, estimates of expenditure and the fees, levies and deposit insurance premium proposals provided for in section 239(1) for the relevant financial year;

(b) an explanation of the budget, estimates of expenditure and the fees, levies and deposit insurance premium proposals, and of the variation of the budget, estimates of expenditure and the fees, levies and deposit insurance premium proposals against the budget, estimates of expenditure and the fees, levies and deposit insurance premium proposals adopted for the previous financial year; and

(c) a notice inviting submissions in relation to the budget, estimates of expenditure and the fees, levies and deposit insurance premium proposals and stating where, how and by when submissions are to be made.

(2) The period allowed for making submissions referred to in subsection (1)*(c)* must be at least 30 days.

(3) The financial sector body must, when complying with subsection (1), provide a copy of the documents referred to in that subsection to the other financial sector regulator or financial sector regulators, as the case may be, the Reserve Bank, and the Director-General.".

Amendment of section 247 of Act 9 of 2017, as amended by Schedule to Act 12 of 2022

69. Section 247 of the Financial Sector Regulation Act, 2017 is hereby amended by the addition of the following subsection:

"(3) Any unexpended funds of a financial sector body at the end of any financial year must be carried forward as a credit to the next succeeding financial year.".

Amendment of section 248 of Act 9 of 2017, as amended by section 53 of Act 23 of 2021 and section 4 read with Schedule to Act 12 of 2022

70. Section 248 of the Financial Sector Regulation Act, 2017, is hereby amended—

(a) by the substitution for paragraph *(b)* of subsection (4) of the following paragraph:

"*(b)* The Tribunal **[and the Corporation,]** although **[they are]** it is not a public **[entities]** entity in terms of the Public Finance Management Act, must also comply with the requirements in paragraph *(a)*."; and

(b) by the substitution for paragraph *(a)* of subsection (5A) of the following paragraph:

"*(a)* The Corporation must prepare an annual budget and estimates of expenditure for the financial year in accordance with section 239 **[and in compliance with subsection (4)*(b)*]**, and financial accounts, financial statements and an annual report as contemplated in sections 166AU and 166AV.".

Substitution of long title of Act 9 of 2017, as substituted by section 60 of Act 23 of 2021 and amended by section 64 of Act 22 of 2022

71. The following long title is hereby substituted for the long title of the Financial Sector Regulation Act, 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 provide for the establishment of a framework for the resolution of designated institutions to ensure that the impacts or potential impact of a failure of a designated institution on financial stability are managed appropriately; to designate the Reserve Bank as the resolution authority; to establish a deposit insurance scheme, including a Corporation for Deposit Insurance; 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 Corporation for Deposit Insurance, 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 make provision for designated institutions in connection with resolution matters; 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 and Audit Tribunal as an independent tribunal and to confer on it powers to reconsider decisions by financial sector regulators, the Independent Regulatory Board for Auditors, 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.".

Amendment of Arrangement of Sections of Act 9 of 2017, as amended by section 61 of Act 23 of 2023, section 65 of Act 22 of 2022 and section 4 read with Schedule to Act 12 of 2022

72. The Arrangement of Sections of the Financial Sector Regulations Act, 2017, is hereby amended—

(a) by the substitution for the heading of Chapter 15 of the following heading:

"**CHAPTER 15**

FINANCIAL SERVICES AND AUDIT TRIBUNAL";

(b) by the substitution for the heading of Part 2 of Chapter 15 of the following heading:

"Part 2

Financial Services and Audit Tribunal"; and

(c) by the substitution for item 219 of the following item:

"219 Establishment and function of Financial Services and Audit Tribunal".

Amendment of section 11 of Act 18 of 2017

73. Section 11 of the Insurance Act, 2017, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The board of directors of a controlling company must, **[as soon as reasonably possible]** within 30 days of becoming aware, notify the Prudential Authority of any change in the structure or material change in the risk profile of the insurance group that may impact on the scope of the insurance group designated under section 10.".

Amendment of section 14 of Act 18 of 2017

74. Section 14 of the Insurance Act, 2017, is hereby amended by the substitution for the words preceding paragraph *(a)* of subsection (1) of the following words:

"(1) The appointment of any of the following key persons must be approved by the Prudential Authority, **[and takes effect only if the Prudential Authority approves the appointment]** which approval must be sought by means of a written application made to the Prudential Authority at least 30 days prior to the intended date of appointment by the applicant, and which appointment may only take effect if the Prudential Authority approves the appointment in writing:".

Amendment of section 48 of Act 18 of 2017

75. Section 48 of the Insurance Act, 2017, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) A branch of a foreign reinsurer and Lloyd's must, **[as soon as reasonably possible]** within 30 days of becoming aware, notify the Prudential Authority of any—".

Short title and commencement

76. This Act is called the Financial Matters Amendment Act, 2026, and takes effect on a date determined by the President by proclamation in the *Gazette*.

DRAFT

MEMORANDUM ON OBJECTS OF FINANCIAL MATTERS AMENDMENT BILL, 2026

1. INTRODUCTION

1.1 The Financial Matters Amendment Bill, 2026 ('the Bill') proposes amendments to the following Acts:

1.1.1 The Banks Act, 1990 (Act No. 94 of 1990 - 'Banks Act') is proposed to be amended to comply with international standards.

1.1.2 The Auditing Profession Act, 2005 (Act No. 26 of 2005 – 'Auditing Profession Act') is proposed to be amended to enhance auditor independence and improving the quality of audits.

1.1.3 The Co-operative Banks Act, 2007 (Act No. 40 of 2007 – 'Co-operative Banks Act') is proposed to be amended to include co-operative financial institutions within the ambit of the Act and to enable the Prudential Authority to prescribe certain requirements for the registration of co-operative banks and to enable the Authority to grant a registration subject to conditions. The type of banking services that may be provided by a co-operative financial institution are prescribed and co-operative financial institutions are enabled to convert their registration from savings co-operative financial institutions to savings and loans co-operative financial institutions.

1.1.4 The Financial Sector Regulation Act, 2017 (Act No. 9 of 2017- 'FSR Act') is proposed to be amended with the aim of enhancing the powers of the Deposit Insurance Corporation and the financial sector regulators and to clarify that the Public Finance Management Act, 1999 (Act No. 1 of 1999) does not apply to the Corporation; to rename the Financial Services Tribunal to Financial Services and Audit Tribunal and expand its mandate to reconsider certain decisions by the Independent Regulatory Board for Auditors made in terms of the Auditing Profession Act; and simplifying and clarifying the process in terms

DRAFT

of which the financial sector bodies must finalise their budgets, and levies and fees proposals.

1.1.5 The Insurance Act, 2017 (Act No. 18 of 2017 –'Insurance Act') is proposed to be amended to provide for fixed timeframes within which notifications and applications for approval to the Prudential Authority must be submitted.

2. SUMMARY OF BILL

2.1 Clause 1 of the Bill seeks to amend section 73(1)(b) of the Banks Act to enable the Prudential Authority to prescribe or direct in writing the percentage by which the aggregate amount of investments, loans, advances and other credit be subject to additional capital requirements; to amend section 73(2)(a) of the Banks Act to enable the Prudential Authority to prescribe the amounts that banks may be exposed to one person; to delete section 73(2)(b) and (c); to amend section 73(2)(e) include a "person"; to delete section 73(3); and to amend section 73(4) so that the consent of the Minister is no longer required for exemptions and to empower the Prudential Authority to prescribe exposures to be exempted.

2.2 Clause 2 of the Bill seeks to amend section 1 of the Auditing Profession Act by amending the definitions of "firm", "improper conduct" and "this Act", and by inserting the definitions of "Financial Services and Audit Tribunal"; "good standing"; "international audit regulator"; and "listed entity".

2.3 Clause 3 of the Bill seeks to amend section 2 of the Auditing Profession Act by adding paragraph (f) to expand the objects of the Act to enhancing auditor independence and improving the quality of audits by prescribing the duration of appointment that a firm may accept.

2.4 Clause 4 of the Bill proposes to amend section 4 of the Auditing Profession Act to empower the Independent Regulatory Board for Auditors (Regulatory Board) to prescribe the duration of appointment that firms may accept; to allow cooperation with international regulators to include the conclusion of bilateral

DRAFT

cooperative or reciprocity agreements necessary for effective regulation; to empower the Regulatory Board to assess the equivalence of the audit regulatory regime of an international audit regulator for the purpose of comparing the international audit regulator's auditing regime with that of South Africa and conferring an equivalency status on the international audit regulator; and to correct the reference to the Auditing Profession Amendment Act to 2021.

2.5 Clause 5 of the Bill seeks to amend section 5 of the Auditing Profession Act to clarify that the accreditation of professional bodies must only occur where such bodies meet the prescribed requirements. In addition, to enable the Regulatory Board to decide on the manner in which the register of accredited professional bodies is to be kept.

2.6 Clause 6 of the Bill seeks to amend the Auditing Profession Act by inserting section 5A which provides for the functions of the Regulatory Board with regard to the conduct of international audit regulator equivalency assessments. This will assist to mitigate market risks and protect investors who invest in international financial markets with secondary listing on a domestic licensed exchange, through transparency i.e., informing investors if the international audit regulators of the countries where the companies primarily operate have equivalent regulators and processes to protect investors. The assessment will also enable the Regulatory Board to conclude reciprocity agreements relating to international audit qualifications and the registration of foreign auditors that meet the required criteria.

2.7 Clause 7 of the Bill seeks to amend section 6 of the Auditing Profession Act by clarifying that the Regulatory Board must decide on the manner in which registers of registered auditors and registered candidate auditors are to be kept.

2.8 Clause 8 of the Bill seeks to amend section 7(2) of the Auditing Profession Act to empower the Regulatory Board to establish mechanisms for registered auditors to gain recognition for training in other countries; and allow agreements with regards to the recognition of any relevant training or professional status for purposes of the Act.

DRAFT

2.9 Clause 9 of the Bill seeks to amend section 8 of the Auditing Profession Act by requiring the Regulatory Board in subsection (1) to also prescribe registration reinstatement fees; and to prescribe fees also for assessments conducted; to omit the requirement for the Regulatory Board in subsection (2) to prescribe fees payable for an inspection or review undertaken by the Regulatory Board, since the Board will be funded from levies payable in terms of the Audit Service Levy Bill, 2026; and in subsection (3) to empower the Board to grant exemptions subject to conditions.

2.10 Clause 10 of the Bill seeks to amend section 12 of the Auditing Profession Act to extend the terms of appointment of members of the Regulatory Board from three to five years. This will ensure alignment with the current practice by other regulators and to provide the Board with sufficient time to oversee the strategy adopted under its tenure and to implement its objectives.

2.11 Clause 11 of the Bill seeks to amend section 13(3)(c) of the Auditing Profession Act to update the reference to the Mental Health Care Act, 2002 (No. 17 of 2002).

2.12 Clause 12 of the Bill seeks to amend section 14 of the Auditing Profession Act by extending the term of office of the chairperson and deputy chairperson of the Regulatory Board from three to five years. This will ensure alignment with the current practice by other regulators and to provide the chairperson and deputy chairperson of the Regulatory Board with sufficient time to oversee the strategy adopted under its tenure and to implement its objectives.

2.13 Clause 13 of the Bill seeks to amend section 19(3) of the Auditing Profession Act by specifying that the delegation of investigating, enforcement and disciplinary committees' powers and decisions are not subject to section 19 (1)(b).

2.14 Clause 14 of the Bill seeks to amend section 20 of the Auditing Profession Act to clarify in subsection (2) that the investigating and disciplinary committees are

established in terms of sections 24 and 24A, respectively. This will ensure consistency with the rest of the provision by referencing the provisions in terms of which the Investigating and disciplinary committees are to be appointed. Moreover, subsection (5) is proposed to be amended to ensure that the disciplinary committee does not meet for the sake of meeting but rather that meetings are linked to matters that are ready for hearings.

2.15 Clause 15 of the Bill seeks to amend section 21(1)(d) of the Auditing Profession Act to enable the appointment of lawyers with legal experience. Furthermore, to insert a new subsection (3) to provide the committee for auditor ethics with similar powers available to the committee for auditor standards in relation to influencing the nature of international auditor ethics pronouncements by preparing comments on exposure drafts or discussion papers and replies to questionnaires prepared by the International Ethics Standards Board for Accountants or a successor body, and nominating representatives to committees of the International Ethics Standards Board for Accountants or a successor body, where necessary.

2.16 Clause 16 of the Bill seeks to amend section 22 of the Auditing Profession Act to update the references to the Commissioner of the Financial Sector Conduct Authority, the Prudential Authority and the Financial Markets Act, 2012 (Act No. 19 of 2012) and to include a representative of the Companies and Intellectual Property Commission, experienced Attorney or Advocate and a member of the civil society, as members for the committee for auditing standards.

2.17 Clause 17 of the Bill seeks to amend section 23 of the Auditing Profession Act by correcting a reference to the committee for auditor ethics.

2.18 Clause 18 of the Bill seeks to amend section 24A of the Auditing Profession Act to fix a grammatical error.

2.19 Clause 19 of the Bill seeks to substitute section 25 of the Auditing Profession Act to provide that the Regulatory Board is funded from levies imposed in terms of the Audit Service Levy Act, 2026. In addition, to clarify how the funds of the

Regulatory Board should be applied. Moreover, to stipulate that any unspent funds at the end of the financial year may be carried forward as credit to the next financial year.

2.20 Clause 20 of the Bill seeks to insert sections 25A, 25B and 25C in the Auditing Profession Act to provide for the administration of the audit service levy by the Regulatory Board; to specify the audit service levy to be a debt; and to deal with interest on late or non-payment of the service levy.

2.21 Clause 21 of the Bill seeks to amend section 32 of the Auditing Profession Act to delete reference to “application”.

2.22 Clause 22 of the Bill seeks to amend section 37 of the Auditing Profession Act by specifying that an individual must apply for registration in the prescribed manner and form.

2.23 Clause 23 of the Bill seeks to amend section 38 of the Auditing Profession Act by specifying that partnerships and sole proprietors must apply for registration in the prescribed manner and form.

2.24 Clause 24 of the Bill seeks to amend section 39 of the Auditing Profession Act by inserting subsection (2A) to empower the Regulatory Board to cancel the registration of a firm which fails to submit a return or who is under provisional or final liquidation, and to specify that despite cancellation of the registration, the firm continues to remain liable for outstanding fees. This will address delays in, or the failure by, firms to submit returns necessary to determine an audit service levy payable or design the inspections risk strategy, and to enable the Regulatory Board to remove firms which are in liquidation from the register.

2.25 Clause 25 of the Bill seeks to amend section 40 of the Auditing Profession Act by correcting the reference to section 51B(3)(a)(iv).

2.26 Clause 26 of the Bill seeks to amend section 41 of the Auditing Profession Act to clarify that the prohibitions apply to persons or firms; to prohibit audit firms

from knowingly employing any registered auditor who is not in good standing with the board. This will ensure that firms do not perpetuate any non-compliance or lack of good standing by registered auditors.

2.27 Clause 27 of the Bill seeks to amend section 43 of the Auditing Profession Act by requiring registered auditors to notify the board of any change in contact details within 30 days and to inform the board of any pending or completed investigations against them by any accredited professional bodies, other regulators, including international regulators, or law enforcement agencies, to the extent relevant to their role as auditor. Furthermore, this clause proposes an addition of a subsection (4) to require a registered auditor to inform the Regulatory Board of any pending or completed investigations against him or her by any accredited professional bodies, other regulators, including international regulators, or law enforcement agencies, to the extent relevant to their role as auditor.

2.28 Clause 28 of the Bill seeks to amend section 44 of the Auditing Profession Act to prohibit registered auditors from conducting an audit of financial statements of any entity where the auditor provides or had provided services other than audit services as it creates a conflict of interest for the registered auditor.

2.29 Clause 29 of the Bill seeks to amend section 45 of the Auditing Profession Act to clarify that supporting documents must accompany the report on irregularities.

2.30 Clause 30 of the Bill proposes to amend section 47 of the Auditing Profession Act to update the references to “firm” and “listed entity”; to require the Regulatory Board to make public the outcomes of inspections under certain circumstances. The publication of inspections outcomes is to promote transparency and provide further incentive for firms to adopt timeous remediation on inspection findings while ensuring that the public receives information necessary for them to assess their interactions with auditors, audit products or accredited professional bodies, thus promoting public interest.

DRAFT

2.31 Clause 31 of the Bill seeks to amend section 48(5)(d)(ii) of the Auditing Profession Act by making grammatical corrections to the provision to improve the coherence of the provision.

2.32 Clause 32 of the Bill seeks to amend section 48A(7)(d)(ii) of the Auditing Profession Act by making grammatical corrections to the provision to improve the coherence of the provision.

2.33 Clause 33 of the Bill seeks to amend section 48B(1)(b)(i) of the Auditing Profession Act by substituting the word investigate with the word search to allow persons authorised in terms of section 48A(1) to enter premises and search This substitution aligns the wording to the purpose of the section.

2.34 Clause 34 of the Bill seeks to amend section 49 of the Auditing Profession Act to require the enforcement committee to inform the charged auditor of prescribed matters and to invite the respondent to plead to the charge sheets and create a separate obligation for requesting a plea thus providing a clear process flow. In addition, to provide for a better read and clarity that the explanation sought in section 49(3)(c) is in respect of the improper conduct which is the subject of the charges against the auditor. Furthermore, to delete the reference to fails to submit “a denial” in section 49(5) as it is sufficient to state that fails to submit “a plea”.

2.35 Clause 35 of the Bill seeks to substitute section 51A of the Auditing Profession Act to clarify that Chapter V does not apply to registered candidate auditors but to allow the Regulatory Board to refer complaints against registered candidate auditors to a professional body with which the registered candidate auditor is registered.

2.36 Clause 36 of the Bill seeks to amend section 51B of the Auditing Profession Act to incorporate the requirement for publication of the name of the firm under which a registered auditor, who has been found guilty of improper conduct, practiced at the time of improper conduct. This will enhance transparency, to

ensure proper protection of the public, since clients ordinarily appoint firms and not individual auditors.

2.37 Clause 37 of the Bill seeks to insert section 51C into the Auditing Profession Act to empower the Regulatory Board to enforce the sanctions imposed by the enforcement and disciplinary committee thought court proceedings. This clause further proposes to insert section 51D in the Auditing Profession Act to provide for the reconsideration of decisions by the enforcement committee and disciplinary committee by the Financial Service and Audit Tribunal established by section 219 of the Financial Sector Regulation Act.

2.38 Clause 38 of the Bill seeks to amend section 57A of the Auditing Profession Act to clarify that an “international regulator of audits and auditors” is included as an “appropriate regulator” and to specify that the purpose of the disclosure of information to an appropriate regulator must be for the purpose of an inspection, instituting any investigation, disciplinary or enforcement process or to carry out any of its other regulatory functions; and by addition of two grounds for disclosure, namely when necessary for the effective performance of any of the Regulatory Board’s functions or to protect the public in their dealings with registered auditors; and in the case of an international regulator of audits and auditors for the purpose of international benchmarking, research and educational purposes.

2.39 Clause 39 of the Bill seeks to amend the long title of the Auditing Profession Act.

2.40 Clause 40 of the Bill seeks to amend the arrangement of sections of the Auditing Profession Act.

2.41 Clause 41 of the Bill seeks to amend section 1 of the Co-operative Banks Act to amend the definition of “banking services” to make reference to co-operative financial institutions in, to include in the definition of “co-operative financial institution” the requirement for a common bond and to delete the definition of

DRAFT

managing director in order place it in its alphabetically and to insert a new definition of “managing director”.

2.42 Clause 42 of the Bill seeks to amend section 7 of the Co-operative Banks Act to require a proposed co-operative bank to demonstrate to the Prudential Authority that it meets any prescribed threshold in respect of membership, membership shares and deposits held and to meet any other prescribed requirement.

2.43 Clause 43 of the Bill seeks to amend section 40C of the Co-operative Banks Act to enable the Prudential Authority to grant a registration of a co-operative financial institution subject to conditions; to specify the types of co-operative financial institutions which may be registered in terms of the Act; to further specify the procedure that a savings co-operative financial institution that wishes to convert to a savings and loans co-operative financial institution must follow.

2.44 Clause 44 of the Bill seeks to insert section 40G in the Co-operative Banks Act to provide for the banking services that may be provided by co-operative financial institutions; and to insert section 40H into the Co-operative Banks Act to make certain provisions of the Act applicable to co-operative financial institutions.

2.45 Clause 45 of the Bill seeks to amend section 50 of the Co-operative Banks Act to provide that a report required from a co-operative financial institution or co-operative bank under the section must be prepared at the expense of the Prudential Authority.

2.46 Clause 46 of the Bill seeks to amend section 52 of the Co-operatives Banks Act by deleting subsection (2), which requires the Prudential Authority to submit annual reports to the Minister. The reason for deleting this requirement from the Co-operative Banks Act is that the Prudential Authority annually reports on these institutions in its Annual Report. The Annual Report is tabled in Parliament with the South African Reserve Bank’s Annual Report.

DRAFT

2.47 Clause 47 of the Bill seeks to amend section 80 of the Co-operative Banks Act to make offences in terms of that sections applicable to co-operative financial institutions to do certain things.

2.48 Clause 48 of the Bill seeks to amend section 83 of the Co-operative Banks Act to require that documents submitted co-operative financial institutions in terms of the Act must be certified as correct by the managing director .

2.49 Clause 49 of the Bill seeks to substitute section 84 of the Co-operative Banks Act to require a regulatory to make information regarding a co-operative financial institutions available to the Authority.

2.50 Clause 50 of the Bill seeks to amend section 86 of the Co-operative Banks Act to include co-operative financial institutions in the provision so that the Minister may make regulations pertaining to co-operative financial institutions.

2.51 Clause 51 of the Bill seeks to amend section 88 of the Co-operative Banks Act to specify that the civil liability of directors applies also to the directors of co-operative financial institutions.

2.52 Clause 52 of the Bill seeks to amend section 89 of the Co-operative Banks Act to enable the Minister to grant exemptions in respect of co-operative financial institutions.

2.53 Clause 53 of the Bill seeks to amend the arrangement of sections of the Co-operative Banks Act.

2.54 Clause 54 of the Bill seeks to amend section 1 of the Financial Sector Regulation Act to include the Corporation for Deposit Insurance (“Corporation”) in the definition of a “financial sector regulator” for purposes of Chapter 9 of the Act; and to include public entities listed in Schedule 3 of the Public Finance Management Act, 1999 (Act No. 1 of 1999) in the exclusion from the definition

DRAFT

of “qualifying deposit”. Moreover, to substitute the definition of “Tribunal” to rename it as the Financial Services and Audit Tribunal.

2.55 Clause 55 of the Bill seeks to amend section 129 of the Financial Sector Regulation Act to include the Corporation in the application of Chapter 9.

2.56 Clause 56 of the Bill seeks to amend section 131 of the Financial Sector Regulation Act to empower the financial sector regulators to by notice on their websites require supervised entities, or a category of supervised entity, to provide information which is required for the purpose of gathering information relevant to the responsible authority’s functions; and to empower the financial sector regulators to, for the purposes of performing their functions, direct a supervised entity to secure an independent review or verification of information provided by a supervised entity in terms of a financial sector law, by a person to be approved by the financial sector regulator, at the cost of the supervised entity.

2.57 Clause 57 of the Bill seeks to amend section 166AB of the Financial Sector Regulation Act to clarify that the maximum amount that may be applied from the Fund in terms of subsection (1) must only be in respect of a member’s operation in the Republic.

2.58 Clause 58 of the Bill seeks to substitute section 166BF of the Financial Sector Regulation Act to require the Prudential Authority, Financial Sector Conduct Authority and members of the Corporation to comply with any request by the Corporation for information relevant to the performance of the Corporation’s functions in terms of the Act.

2.59 Clause 59 of the Bill seeks to substitute section 166BH of the Financial Sector Regulation Act to empower the Corporation to specify the minimum amount in the account of the Fund by notice on the Corporation’s webpage on the Reserve Bank’s website; and to require the Corporation to pay interest to members on

DRAFT

the amount referred to in subsection (1), which interest rate must be specified in a contractual agreement with members.

2.60 Clause 60 of the Bill seeks to substitute the heading of Chapter 15 so as to refer to Financial Services and Audit Tribunal.

2.61 Clause 61 of the Bill seeks to amend the definition of “decision” in section 218 of the Financial Sector Regulation Act to include decisions by the enforcement committee of the Independent Regulatory Board for Auditors or the disciplinary committee contemplated in section 24A of the Auditing Profession Act, in the definition of “decision”.

2.62 Clause 62 of the Bill seeks to substitute the heading of Part 2 of Chapter 15 so as to refer to Financial Services and Audit Tribunal.

2.63 Clause 63 of the Bill seeks to amend section 219 of the Financial Sector Regulation Act to rename the Tribunal as the Financial Services and Audit Tribunal and to empower the Tribunal to reconsider certain decisions made in terms of the Auditing Profession Act.

2.64 Clause 64 of the Bill seeks to amend section 220(2) of the Financial Sector Regulation Act to include persons with at least 10 years’ experience in auditing who were formerly registered as auditors as members of the Tribunal.

2.65 Clause 65 of the Bill seeks to amend section 224 of the Financial Sector Regulation Act to specify that a panel must include at least one person referred to in section 220(2)(c) if an application concerns a decision on an auditing matter.

2.66 Clause 66 of the Bill seeks to amend section 234(1)(b)(ii) of the Financial Sector Regulation Act to include decisions by the enforcement committee of the Independent Regulatory Board for Auditors contemplated in section 24B, or the disciplinary committee contemplated in section 24A, of the Auditing Profession

Act, in the decisions that the Tribunal may make an order setting the decision aside and substituting the decision of the Tribunal.

2.67 Clause 67 of the Bill seeks to amend section 239 of the Financial Sector Regulation Act to clarify the process in terms of which the financial sector bodies are required to publish and submit their budgets and fees, levies and deposit insurance premium proposals to the Minister, to empower a financial sector body to continue with the budget process where the Minister does not provide comments within the prescribed period and to provide for the making of a determination of fees and the interaction between the levies proposal and the process prescribed by the Financial Sector and Deposit Insurance Levies Act, 2022 (Act No. 11 of 2022).

2.68 Clause 68 of the Bill seeks to substitute section 240 of the Financial Sector Regulation Act to substitute the consultation process when the financial sector bodies publish their budgets and fees, levies and deposit insurance proposals. It is no longer necessary for financial sector bodies to submit the draft documents to Parliament.

2.69 Clause 69 of the Bill seeks to amend section 247(3) of the Financial Sector Regulation Act by the addition of a provision that any unspent funds of the financial sector body at the end of a financial year may be carried forward as a credit to the next succeeding financial year.

2.70 Clause 70 of the Bill seeks to amend section 248 of the Financial Sector Regulation Act to no longer require the Corporation to comply with the requirements of subsection (4)(a) and (b).

2.71 Clause 71 of the Bill seeks to amend the long title of the Financial Sector Regulation Act to amend the name of the Tribunal to the Financial Services and Audit Tribunal and specify that the Tribunal may reconsider certain decisions of the Independent Regulatory Board for Auditors.

DRAFT

2.72 Clause 72 of the Bill seeks to amend the arrangement of sections of the Financial Sector Regulation Act.

2.73 Clause 73 of the Bill seeks to amend section 11(2) of the Insurance Act to specify that the board of directors of a controlling company must, within 30 days of becoming aware, notify the Prudential Authority of any change in the structure or material change in the risk profile of the insurance group that may impact on the scope of the insurance group designated under section 10.

2.74 Clause 74 of the Bill seeks to amend section 14(1) of the Insurance Act to specify the approval process by the Prudential Authority for the appointment of key persons.

2.75 Clause 75 of the Bill seeks to amend section 48(1) of the Insurance Act to specify the period in terms of which a branch of a foreign reinsurer and Lloyd's must inform the Prudential Authority of changes.

2.76 Clause 76 of the Bill provides for the short title and commencement.

3. ORGANISATIONS AND INSTITUTIONS CONSULTED

The following organisations have been consulted:

(a) The Independent Regulatory Board for Auditors;

(b) Financial Sector Conduct Authority;

(c) Prudential Authority; and

(d) South African Reserve Bank.

4. FINANCIAL IMPLICATIONS FOR STATE

DRAFT

None.

5. PARLIAMENTARY PROCEDURE

5.1 Section 44 of the Constitution of the Republic of South Africa, 1996 ("Constitution"), deals with the national legislative authority. Section 44(1) of the Constitution provides that the national legislative authority is vested in Parliament. The National Assembly has the power to amend the Constitution, to pass legislation regarding any matter, including a matter listed in Schedule 4 to the Constitution, but excluding, subject to section 44(2) of the Constitution, a matter listed in Schedule 5 to the Constitution.

5.2 The National Council of Provinces ("NCOP") has the power to participate in the amendment of the Constitution, to pass legislation in accordance with section 76 of the Constitution and to consider, in accordance with section 75 of the Constitution, any other legislation passed by the National Assembly.

5.3 The Constitution distinguishes between four categories of Bills as follows:

(a) Bills amending the Constitution (section 74);

(b) ordinary Bills not affecting the provinces (section 75);

(c) ordinary Bills affecting the provinces (section 76); and

(d) money Bills (section 77).

5.4 Sections 74, 75, 76 and 77 require Parliament, firstly, to classify a Bill submitted to it, in order to determine which procedure should be followed in enacting the Bill. Section 76(1) of the Constitution provides that "*[w]hen the National Assembly passes a Bill referred to in subsections (3), (4) or (5), the Bill must be referred to the National Council of Provinces and dealt with in accordance with the procedure set out in that provision*". Section 76(3) of the Constitution, in turn, provides that "*a Bill must be dealt with in accordance with the procedure established by either subsection (1) or (2) if it falls within a functional area listed in Schedule 4…*".

5.5 In summary, a Bill will be considered as a section 76 Bill—

- if it provides for legislation mentioned in paragraphs *(a)* to *(f)* of section 76(3) of the Constitution;
- if it provides for legislation envisaged in section 44(2), 220(3) or Chapter 13 of the Constitution; or
- if its provisions in a substantial measure fall within a functional area of concurrent national and provincial legislative competence listed in Schedule 4 to the Constitution.

5.6 In ***Tongoane and Others v Minister of Agriculture and Land Affairs and Others*** 2010 (8) BCLR 838 (GNP) (*"Tongoane judgment"*), the Constitutional Court confirmed and endorsed the test for tagging that was formulated in ***Ex Parte President of the Republic of South Africa: In re Constitutionality of the Liquor Bill*** 2000 (1) BCLR 1 (CC), where Ngcobo CJ held as follows at paragraph 56:

> "[56] …[T]he heading of section 76, namely, "Ordinary Bills affecting provinces" provides "a strong textual indication that section 76(3) must be understood as requiring that **any Bill whose provisions in substantial measure fall within a functional area listed in Schedule 4, be dealt with under section 76.**" (Our emphasis.)

5.7 The Constitutional Court further, at paragraph 58, held as follows:

> "[58] …What matters for the purposes of tagging is **not the substance or the true purpose and effect of the Bill, rather, what matters is whether the provisions of the Bill 'in substantial measure fall within a functional area listed in Schedule 4'**." (Our emphasis.)

5.8 The Constitutional Court also held that the tagging test focuses on all the provisions of the Bill in order to determine the extent to which they substantially affect functional areas listed in Schedule 4 to the Constitution, and not on whether any of the provisions of the Bill are incidental to the substance of the Bill. The following paragraphs from the *Tongoane judgment* are also important:

> "[60] The test for tagging must be informed by its purpose. **Tagging is not concerned with determining the sphere of government that has the competence to legislate on a matter**. Nor is the process concerned with preventing interference in the legislative competence

of another sphere of government. The process is concerned with the question of how the Bill should be considered by the provinces and in the NCOP, and how a Bill must be considered by the provincial legislatures depends on whether it affects the provinces. **The more it affects the interests, concerns, and capacities of the provinces, the more say the provinces should have on its content**.

…

[64] The purpose of tagging is therefore to determine the nature and extent of the input of provinces on the contents of legislation affecting them. Indeed, **all the legislation mentioned in section 76(3) is legislation that substantially affects the interests of provinces.**

…

[71] On the other hand, **the "substantial measure" test permits a consideration of the provisions of the Bill and their impact on matters that substantially affect the provinces**. This test ensures that legislation that affects the provinces will be enacted in accordance with a procedure that allows the provinces to fully and effectively play their role in the law-making process. This test must therefore be endorsed.

[72] To summarise: **any Bill whose provisions substantially affect the interests of the provinces must be enacted in accordance with the procedure stipulated in section 76…. Whether a Bill is a section 76 Bill is determined in two ways. First, by the explicit list of legislative matters in section 76(3)*(a)-(f)*, and second by whether the provisions of a Bill in substantial measure fall within a concurrent provincial legislative competence.**" (Our emphasis.)

5.9 As indicated in the judgment, "*any Bill whose provisions in substantial measure*" fall within a function listed in Schedule 4 to the Constitution must be classified as a section 76 Bill. The question that needs to be asked therefore is whether the provisions of the Bill, in substantial measure, fall within a functional area listed in Schedule 4 to the Constitution, or whether the Bill provides for legislation envisaged in section 76(3)*(a)* to *(f)* of the Constitution.

5.10 In order to determine this, focus should be on all the provisions of the Bill to establish the extent to which they substantially affect functional areas listed in Schedule 4 and not on whether any of its provisions are incidental to its substance. It is thus necessary to examine all the provisions of the Bill in its entirety to determine the extent to which they substantially affect any of the matters listed in Schedule 4.

5.11 What must be stressed is that the judgment went on to state that, "*the procedure envisaged in section 75 of the Constitution remains relevant to all Bills that do not, in substantial measure, affect the provinces.*" Therefore, a Bill which does not deal with a functional area listed in Schedule 4 or Schedule 5 to the Constitution must be considered in accordance with the procedure set out in section 75 of the Constitution.

5.12 Considering the clauses of the Bill, we are of the view that the Bill must be tagged as a section 75 Bill because it does not affect the provinces.

6. Referral of Bill to National House of Traditional and Khoi-San Leaders

6.1 Section 39(1)*(a)* of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), provides for the referral of Bills to the National House of Traditional and Khoi-San Leaders ("National House"), and states as follows:

> "**Referral of Bills to National House**
>
> **39.** (1) *(a)* Any Parliamentary Bill—
>
> (i) which directly affects traditional or Khoi-San communities or pertaining to customary law or customs of traditional or Khoi-San communities; or
>
> (ii) pertaining to any matter referred to in section 154(2) of the Constitution,
>
> **must**, in the case of a Bill contemplated in subparagraph (i) and **may**, in the case of a Bill contemplated in subparagraph (ii), before it is passed by the house of Parliament where it was introduced, be referred by the Secretary to Parliament to the National House for its comments." (Our emphasis.)

6.2 It is our view that the Bill does not contain provisions pertaining to traditional or Khoi-San communities or to customary law or customs of traditional or Khoi-San communities, nor any matter referred to in section 154(2) of the Constitution and, therefore, the Bill does not need to be referred to the National House for comments.

DRAFT