

**SOUTH AFRICAN RESERVE BANK
SUID-AFRIKAANSE RESERWEBANK**

No. 1176

1 December 2006

BANKS ACT, 1990**DESIGNATION OF AN ACTIVITY NOT FALLING WITHIN THE MEANING OF "THE BUSINESS OF A BANK" (A GROUP OF PERSONS BETWEEN THE MEMBERS OF WHICH EXISTS A COMMON BOND)**

Under paragraph (cc) of the definition of "the business of a bank" in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), I, Errol Melville Kruger, Registrar of Banks, hereby designate, with the approval of the Minister of Finance with effect from 1 December 2006, the activity set out in paragraph 2 of the Schedule as an activity that does not fall within the meaning of "the business of a bank".

E M KRUGER
Registrar of Banks

SCHEDULE**DEFINITIONS**

1. In this Schedule -

"a common bond" exists between-

- (a) members of a specific group consisting of employees of the same employer who are members of the same savings and credit scheme that is operated and administered on behalf of such group of employees in accordance with set rules agreed upon between such group of employees and their employer; or
- (b) members of a specific group that may be described by the term or concept known as "stokvel", which-
 - (i) is a formal or informal rotating credit scheme with entertainment, social and economic functions;

- (ii) fundamentally consists of members who have pledged mutual support to each other towards the attainment of specific objectives;
 - (iii) establishes a continuous pool of capital by raising funds by means of the subscriptions of members;
 - (iv) grants credit to and on behalf of members;
 - (v) provides for members to share in profits and to nominate management; and
 - (vi) relies on self-imposed regulation to protect the interest of its members; or
- (c) members of a specific group, governed in terms of rules agreed to and signed by the group's founders, exclusively established for the purpose of raising funds and applying or holding available such funds for housing advances to members, irrespective of whether or not such group is bound by its rules to terminate upon the expiration of a fixed period or upon the occurrence of an event specified in its rules; or
- (d) members of a specific group that chooses to identify itself by use of the name Credit Union or Savings and Credit Cooperative-
- (i) which group consists of persons of similar occupation or profession or who are employed by a common employer or who are employed within the same business district; or
 - (ii) which group has common membership in an association or organisation, including religious, social, co-operative, labour or educational groups; or
 - (iii) which group resides within the same defined community, rural or urban district,

and which group receives funds from members against the issue of stock or by means of the subscriptions of members;

"employee" means any person who is employed by or working for an employer and is receiving or entitled to receive any remuneration,

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

"group" means a number of natural persons;

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

DESIGNATED ACTIVITY

2. Subject to the conditions set out in paragraph 3, the acceptance by or on behalf of a group, between the members of which there exists a common bond, of money from such members, the pooling of such money, and the utilisation thereof for one or more of the following objectives:

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

- (m) the development of the community to which the members belong;
- (n) the provision of means whereby members may receive interest or a dividend on their respective contributions.

CONDITIONS

3. The conditions referred to in paragraph 2, applicable to a group between the members of which there exists a common bond (hereinafter referred to as "a group"), are the following, namely-

- (a) none of the activities of a group may fall within the objectives of a pension fund organisation as set out in paragraph (a) or (b) of the definition of "pension fund organisation" in section one of the Pension Funds Act, 1956;
- (b) the rules of a group shall not entitle any member at any time, albeit subject to any such notice as may be prescribed in the rules of the group, to withdraw the full amount of his contributions;
- (c) a group as mentioned in subparagraph (b) of paragraph 1 shall either be a member of or be affiliated to the National Stokvels Association of South Africa ("NASASA") or any such similar representative self-regulatory body approved by the Registrar of Banks in writing;
- (d) a group as mentioned in subparagraph (d) of paragraph 1 shall either be a member of or be affiliated to the Savings and Credit Co-operative League of South Africa ("SACCOL") or any such similar representative self-regulatory body approved by the Registrar in writing;
- (e) the benefits of the members of the group shall not be provided exclusively by way of loans that, in terms of the rules of a group, must be repaid;
- (f) a group shall keep, in one of the official languages of the Republic of South Africa, such accounting records as are necessary to fairly reflect the state of affairs and business of a group and to explain the transactions and financial position of such group;
- (g) a group shall fix a date on which, in each year, its financial year will end, and such financial year shall be a group's annual accounting period;
- (h) a group shall within 120 days after the end of each financial year cause annual financial statements, pertaining to its affairs and business in respect of that financial year, to be made out in one of the official languages of the Republic of South Africa;
- (i) a group must fit into one of the following categories:

- (i) A group that does not at any time hold subscriptions from members amounting in the aggregate to more than R3 million; or
 - (ii) a group that at any time holds subscriptions from members amounting in the aggregate to more than R3 million but not amounting in the aggregate to more than R30 million or;
- (j) the financial statements of a group that fits into the category mentioned in item (ii) of subparagraph (i) shall be presented to a person duly registered as an accountant and auditor, in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005), for purposes of the drawing up and presentation of a report;
- (k) in the event of the accountant and auditor being unable to make such report or to make it without qualification, he shall include in his report a statement to that effect and set forth the facts or circumstances that prevent him from so making his report or from making it without qualification;
- (l) copies of such audit report shall within 60 days after completion thereof in respect of a group fitting into the category mentioned in item (ii) of subparagraph (i) be presented-
- (i) in the case of a group mentioned in subparagraph (a) of paragraph 1, to the members of such group and to their employer; or
 - (ii) in the case of a group mentioned in subparagraph (b) of paragraph 1, to the members of such group and the National Stokvels Association of South Africa ("NASASA") or any such similar representative self-regulatory body approved by the Registrar in writing; or
 - (iii) in the case of a group mentioned in subparagraph (c) of paragraph 1, to the members of such group; or
 - (iii) in the case of a group mentioned in subparagraph (d) of paragraph 1, to the members of such group and to the Savings and Credit Co-operative League of body approved by the Registrar in writing.

REPEAL OF NOTICE

4. Government Notice No. 2173 published in *Government Gazette* No. 16167 on 14 December 1994 is hereby repealed and substituted by this notice.