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

Act No. 9 of 2017: Financial Sector Regulation Act, 2017
To establish a system of financial regulation by establishing the Prudential Authority and the Financial Sector Conduct Authority, and conferring powers on these entities; to preserve and enhance financial stability in the Republic by conferring powers on the Reserve Bank; to establish the Financial Stability Oversight Committee; to regulate and supervise financial product providers and financial services providers; to improve market conduct in order to protect financial customers; to provide for co-ordination, co-operation, collaboration and consultation among the Reserve Bank, the Prudential Authority, the Financial Sector Conduct Authority, the National Credit Regulator, the Financial Intelligence Centre and other organs of state in relation to financial stability and the functions of these entities; to establish the Financial System Council of Regulators and the Financial Sector Inter-Ministerial Council; to provide for making regulatory instruments, including prudential standards, conduct standards and joint standards; to make provision for the licensing of financial institutions; to make comprehensive provision for powers to gather information and to conduct supervisory on-site inspections and investigations; to make provision in relation to significant owners of financial institutions and the supervision of financial conglomerates in relation to eligible financial institutions that are part of financial conglomerates; to provide for powers to enforce financial sector laws, including by the imposition of administrative penalties; to provide for the protection and promotion of rights in the financial sector as set out in the Constitution; to establish the Ombud Council and confer powers on it in relation to ombud schemes; to provide for coverage of financial product and financial service providers by appropriate ombud schemes; to establish the Financial Services Tribunal as an independent tribunal and to confer on it powers to reconsider decisions by financial sector regulators, the Ombud Council and certain market infrastructures; to establish the Financial Sector Information Register and make provision for its operation; to provide for information sharing arrangements; to create offences; to provide for regulation-making powers of the Minister; to amend and repeal certain financial sector laws; to make transitional and savings provisions; and to provide for matters connected therewith.

ARRANGEMENT OF SECTIONS

CHAPTER 1

INTERPRETATION, OBJECT AND ADMINISTRATION OF ACT

Part 1

Interpretation

1. Definitions
2. Financial products
MOLAO

Go tlhoma thulaganyo ya taolo ya ditšhelete ka go tlhoma Bothati jwa Tlhokomelo le Bothati jwa Boitshwara jwa Lephata la Ditšhelete, le go naya ditheo tseo maatla; go boloka le go oketsa tlhomamo ya ditšhelete mo Rephaboliking ka go naya Banka ya Resefe dithata; go tlhoma Komiti ya Keotchhoka ya Tlhomamo ya Ditšhelete; go laola le go tlhokomela batlamedi ba dikuno tsu ditšhelete le batlamedi ba ditirelo tsu ditšhelete; go tokafatsa boitshwara jwa mmaraka go sireletsa badirelwa ba ditšhelete; go tlameloa ka kgolagano, tirisanommogo, kopano le therisang magareng ga Banka ya Resefe, Bothati jwa Tlhokomelo, Bothati jwa Boitshwara jwa Lephata la Ditšhelete, Molaoi wa Bosthapa wa Sekoloto, Senthara ya Bothlodi jwa Ditšhelete le ditheo tsa puso mabapi le tlhomamo ya ditšhelete le ditiro tsu ditheo tseno; go tlhoma Khansele ya Balaoi ba Thulaganyo ya Ditšhelete le Khansele ya Ditona ya Lephata la Ditšhelete; go tlameloa ka go dira didiriswa tsu taolo, go akaretsa le maemo a tlhokomelo, maemo a boitshwara le maemo a a kopantsweng; go dira kabelo ya go abela ditheo tsa ditšhelete ditlaesense; go dira kabelo e e tseneyletsang ditlhalo tsa go kgobokanyo tsehidimo setso go le dira ditlhathoho tsu boththokomedi tsu kwa tirong le dipatlisiso; go dira kabelo mabapi le heng ba ba bothhokwa ba ditheo tsu ditšhelete le tlhokomelo ya ditheo tsa ditšhelete ditse di kopantsweng mabapi le ditheo tsu ditšhelete ditse di matshwane tse e leng karolo ya ditheo tsu ditšhelete ditse di kopantsweng; go tlameloa mabapi le ditlhalo tsa go gatelela melao ya lephata la ditšhelete, go akaretsa le go pateletsa dikothla tsu tsamaiso; go tlameloa mabapi le thsireletso le tsweto tsa ditshwanelo mo lephateng la ditšhelete jaaka go lhagisitswe mo Molaotheong; go tlhoma Khansele ya Ombud le go e naya ditlhalo mabapi le dikema tsa ombud; go tlameloa mabapi le thsireletso ya kuno ya ditšhelete le batlamedi ba ditirelo tsu ditšhelete ke, dikema tse di maleba tsa ombud; go tlhoma Lekgotla la Ditirelo tsu Ditšhelete jaaka lekgotla le le ikemetseng le go le naya ditlhalo tsu go sekasekagape ditshweto tsu tsamaiso ya lephata la ditšhelete, Khansele ya Ombud le ditshwanelo tse di rileng tsa pogotheo ya mmaraka; go tlhoma rejsetara ya Tshedimo setso ya Lephata la Ditšhelete le go dira kabelo ya go dira ga yona; go tlameloa ka ditshubanganyo tsa go arogana tshedimo setso; go tlhama ditlhalo; go tlameloa ka ditlhalo tsa go dira malawana ga Tona; go thabolola le go phimola melao e e rileng ya lephata la ditšhelete; go dira dikabelo tsa kgapaganyo le ditshomarelo; le go tlameloa mabapi le merero e e amanang le ona.

THULAGANYO YA DIKAROLO

KGAOLO 1

TLHALOSO, MAITLHOMO LE TSAMAISO YA MOLAO ONO

Karolo 1

Thhaloso

1. Ditlhaloso
2. Dikuno tse ditšhelete
3. Financial services
4. Financial stability
5. Responsible authorities
6. Financial institutions that are juristic persons

Part 2

Object and administration of Act

7. Object of Act
8. Administration of Act

Part 3

Application of other legislation

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

CHAPTER 2

FINANCIAL STABILITY

Part 1

Powers and functions of Reserve Bank

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

Part 2

Managing systemic events and risks in relation to systemic events

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

Part 3

Financial Stability Oversight Committee

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

Part 4

Financial Sector Contingency Forum

25. Financial Sector Contingency Forum
3. Ditirelo tsa ditšhelete
4. Tlhomamo ya ditšhelete
5. Bothati jo bo rwalang maikarabelo
6. Ditheo tsa ditšhelete tseo e leng ditheo tsa molao

Karolo 2

Maitlhomo le tsamaiso ya Molao

7. Maitlhomo a Molao
8. Tsamaiso ya Molao

Karolo 3

Tiragatso ya molao o mongwe

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

KGAOLO 2

TLHOMAMO YA DITŠHELETE

Karolo 1

Dithata le diiřo tsa Banka ya Resefe

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

Karolo 2

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

14. Tlhomamiso ya ditiragalo tse di rulaganeng
15. Ditiria tsa Banka ya Resefe mabapi le ditiragalo tse di rulaganeng
16. Tshedimose tso go Tona
17. Maikarabelo a balaodi ba lephata la ditšhelete
18. Ditaelo go balaodi ba lephata la ditšhelete
19. Tiragatso ya dithata ka maphata a mangwe a puso

Karolo 3

Komiti ya Ketlotlhoko ya Tlhomamo ya Ditšhelete

20. Go tlhongwa ga Komiti ya Ketlotlhoko ya Tlhomamo ya Ditšhelete
21. Ditiri tsa Komiti ya Ketlotlhoko ya Tlhomamo ya Ditšhelete
22. Boloko
23. Tshegetso ya tsamaiso ka Banka ya Resefe
24. Dikopano le tsamaiso

Karolo 4

Foramo ya Tshoganyetso ya Lephata la Ditšhelete

25. Foramo ya Tshoganyetso ya Lephata la Ditšhelete
Part 5

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

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

Part 6

Systemically important financial institutions

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

CHAPTER 3

PRUDENTIAL AUTHORITY

Part 1

Establishment, objective and functions

32. Establishment
33. Objective
34. Functions

Part 2

Governance

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

Part 3

Staff, resources and financial management

50. Staff and resources
51. Resources provided by Reserve Bank
52. Duties of staff members
53. Financial management duties of Chief Executive Officer
54. Information by Chief Executive Officer
55. Annual reports and financial accounts
7

Karolo 5

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

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

Karolo 6

Ditheo tsa dišhetele tse di bothhokwa tse di rulaganeng

29. Tshupo ya diitheo tsa dišhetele tse di bothhokwa tse di rulaganeng
30. Maemo a a bothhokwa le ditaelo tsa balaodi mabapi le diitheo tsa dišhetele tse
di bothhokwa tse di rulaganeng
31. Go swetsa le dikgato tse di tshwanang mabapi le diitheo tsa dišhetele tse di
bothhokwa tse di rulaganeng

KGAOLO 3

BOTHATI JWA TLHOKOMELO

Karolo 1

Go tlhongwa, maithlomo le ditiro

32. Go tlhongwa
33. Maithlomo
34. Ditiro

Karolo 2

Puso

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

Karolo 3

Badiri, ditlamelo le taolo ya dišhetele

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

Part 1
Establishment, objective and functions

56. Establishment
57. Objective
58. Functions

Part 2
Governance

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

Part 3
Staff and resources

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

CHAPTER 5
CO-OPERATION AND COLLABORATION

Part 1
Co-operation and collaboration

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

Part 2
Financial System Council of Regulators

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

BOTHATI JWA BOITSHWARO JWA LEPHATA LA DITŠHELETE

Karolo 1

Tlhomo, maithomo le ditiro

56. Tlhomo
57. Maithomo
58. Ditiro

Karolo 2

Puso

59. Maithomo ka kakaretso a puso
60. Tlhomo le botsayakaro lo jwa Komitikhuduthamaga
61. Khomišenara le Batlatsakhomišenara
62. Botsayakaro lo jwa Khomišenara le Batlatsakhomišenara
63. Paka ya tiro
64. Mabaka a tirelo
65. Go tloswa mo tirong
66. Dikopano tsa Komitikhuduthamaga
67. Ditshweto tsa Komitikhuduthamaga
68. Puso le dikomititlalelele tse dingwe
69. Ditiro tsa Khomišenara, Batlatsakhomišenara le maloko a mangwe a komititlalelele
70. Leano la bolao di
71. Ditholelo
72. Tshenolo ya dikgatlhegelo

Karolo 3

Badiri le ditlamelo

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

KGAOLE 5

TIRISANOMMOMGO LE KOPANO

Karolo 1

Tirisanimomogo le kopano

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

Karolo 2

Khanele ya Balaodi ba Thulaganyo ya Ditšhelete

79. Khanele ya Balaodi ba Thulaganyo ya Ditšhelete
80. Dikopano
81. Dithopha tse di dirang le dikomititlalelele
82. Tshegetso ya Khanele ya Balaodi ba Thulaganyo ya Ditšhelete
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

Part 3

Financial Sector Inter-Ministerial Council

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

CHAPTER 6

ADMINISTRATIVE ACTIONS

Part 1

Administrative action committees

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

Part 2

Administrative justice

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

CHAPTER 7

REGULATORY INSTRUMENTS

Part 1

Regulatory instruments

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

Part 2

Standards

105. Prudential standards
106. Conduct standards
107. Joint standards
108. Additional matters for making standards
109. Standards requiring concurrence of Reserve Bank
110. General
Karolo 3

Khansele ya Ditona ya Lephata la Ditšhelete

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

KGAOLO 6

DITIRO TSA TSAMAIISO

Karolo 1

Dikomiti tsa tiro ya tsamaiso

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

Karolo 2

Bosiamisi jwa tsamaiso

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

KGAOLO 7

DIDIRISWA TSA BOLAODI

Karolo 1

Didiriswa tsa balaodi

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

Karolo 2

Maemo

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

LICENSING

Part 1

Licensing requirements

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

Part 2

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

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

Part 3

Provisions relating to all licences under financial sector laws

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

CHAPTER 9

INFORMATION GATHERING, SUPERVISORY ON-SITE INSPECTIONS AND INVESTIGATIONS

Part 1

Application and interpretation

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

Part 2

Information gathering

131. Information gathering
13

KGAOLO 8

KABO YA LAESENSE

Karolo 1

Ditlhokego tsa kabo ya laesense

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

Karolo 2

Dilaesense tse di tlhokegang go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162

112. Tlhaloso
113. Thata ya go aba dilaesense
114. Kopo ya tshedimosetso e ngwe kgotsa dikwalao ka bothati jo bo rweleng maikarabelo
115. Merero e e maleba ya go dira kopo ya laesense
116. Tlhomamiso ya dikopo
117. Go bega ditlamego tsa moabelwalaesense
118. Dilaesense tse di sa sutisiweng
119. Pharologantsho ya dilaesense
120. Kemiso ya dilaesense
121. Phediso ya dilaesense
122. Go tswela pele ga tiro e e abetsweng laesense go sa kgathalesege tsekego kgotsa phediso ya laesense
123. Tsamaiso mabapi le go farologanya, go sekega le go fedisa dilaesense
124. Go dira kopo ya laesense

Karolo 3

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

125. Tiragatso
126. Tumalano ya balaodi ba lephata la ditšhelete ka ga merero ya kabo ya laesense
127. Tshenolo ya pateletso ya dilaesense
128. Phasalatso

KGAOLO 9

KGOBOKANYO YA TSHEDIMOSETSO, DITLHATLHOBHO TSA BOTLHOKOMEDI TSA KWA TIRONG LE DIPATLISISO

Karolo 1

Tiragatso le tlhaloso

129. Tiragatso le tlhaloso ya Kgaolo
130. Tshwanelo ya badiredi ba tsa molao

Karolo 2

Kgobokanyo ya tshedimosetso

131. Kgobokanyo ya tshedimosetso
Part 3

Supervisory on-site inspections

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

Part 4

Investigations

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

Part 5

Protections

140. Protections

CHAPTER 10

ENFORCEMENT

Part 1

Guidance notices and interpretation rulings

141. Guidance notices
142. Interpretation rulings

Part 2

Directives by financial sector regulators

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

Part 3

Enforceable undertakings

151. Enforceable undertakings

Part 4

Court orders

152. Compliance with financial sector laws
15

Karo 3

Dithatlhoboe tsa botlhokomedi kwa tirong

132. Dithata tsa go dira dithatlhoboe tsa botlhokomedi kwa tirong
133. Go ithunyatshunya mo dithatlhobong tsa botlhokomedi kwa tirong

Karo 4

Dipatlisiso

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

Karo 5

Ditshireletso

140. Ditshireletso

KGAOLO 10

KGATELELO

Karo 1

Dikitsiso tsa ka elo le ditshwetso tsa tlhaloso

141. Dikitsiso tsa ka elo
142. Ditshwetso tsa tlhaloso

Karo 2

Ditaelo tsa balaodi ba lephata la ditšhelete

143. Ditaelo ka Bothati jwa Thhokomelo
144. Ditaelo ka Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
145. Go tshiwa ga batho mo maemong
146. Ditlokego tsa ditherisano
147. Paka ya go ikamany
148. Kgogelomorago ya ditaelo
149. Boikamanyo le ditaelo
150. Tiragatso le tlhaloso

Karo 3

Ditumalano tse di gatelelwang

151. Ditumalano tse di gatelelwang

Karo 4

Ditaelo tsa Kgotlatshekelo

152. Go ikamany le melao ya lephata la ditšhelete
16

Part 5

Debarment

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

Part 6

Leniency agreements

156. Leniency agreements

CHAPTER 11

SIGNIFICANT OWNERS

Part 1

Significant owners

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

CHAPTER 12

FINANCIAL CONGLOMERATES

Financial conglomerates

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

CHAPTER 13

ADMINISTRATIVE PENALTIES

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

CHAPTER 14

OMBUDS

Part 1

Ombud Council

175. Ombud Council
176. Objective
17

Karolo 5

Kganelo

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

Karolo 6

Ditumalano tsa kutwelobotlhoko

156. Ditumalano tsa kutwelobotlhoko

KGAOLO 11

BENG BA BA BOTLHOKWA

Karolo 1

Beng ba ba botlokwa

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

KGAOLO 12

DITHEO TSA DITŠHELELE TSE DI KOPANENG

Ditheo tsa ditšhelete tse di kopaneng

160. Go thongwa ga ditheo tsa ditšhelete tse di kopaneng
161. Kitšiso ka setheo sa ditšhelete se se matshwanedi
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SEJULE 4
DITLHABOLOLO LE DIPHEDISO
BE IT ENACTED by the Parliament of the Republic of South Africa, as
follows:—

CHAPTER 1

INTERPRETATION, OBJECT AND ADMINISTRATION OF ACT

Part 1

Interpretation

Definitions

1. (1) In this Act, unless the context indicates otherwise—
   “administrative action” has the same meaning ascribed to it in terms of section 1 of the Promotion of Administrative Justice Act;
   “administrative action committee” means a committee established in terms of section 87;
   “administrative action procedure” means a procedure determined in terms of section 92;
   “administrative penalty order” means an order in terms of section 167;
   “Banks Act” means the Banks Act, 1990 (Act No. 94 of 1990);
   “benchmark” means any index—
      (a) by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument, is determined; or
      (b) that is used to measure the performance of an investment fund with the purpose of tracking the return of such index or of defining the asset allocation of a portfolio or of computing the performance fees;
   “business document” means a document held by a person in connection with carrying on a business;
   “business premises” means premises, including a building or a part of a building, used by a person for carrying on a business;
   “Chairperson” means the person holding the office of the Chairperson of the Tribunal in terms of section 220(4), and includes a person acting as the Chairperson;
   “Chief Executive Officer” means the Chief Executive Officer of the Prudential Authority appointed in terms of section 36(1), and includes a person acting as the Chief Executive Officer;
   “Chief Ombud” means a person appointed as the Chief Ombud of the Ombud Council in terms of section 188;
   “collective investment scheme” has the same meaning ascribed to it in terms of section 1 of the Collective Investments Schemes Control Act, 2002 (Act No. 45 of 2002);
   “Commissioner”, in relation to the Financial Sector Conduct Authority, means the Commissioner of the Financial Sector Conduct Authority appointed in terms of section 61(1), and includes a person acting as the Commissioner;
   “Companies Act” means the Companies Act, 2008 (Act No. 71 of 2008);
   “company” has the same meaning ascribed to it in terms of section 1 of the Companies Act;
   “Competition Commission” means the Competition Commission established in terms of section 19 of the Competition Act, 1998 (Act No. 89 of 1998);
   “conduct standard” means a standard made in terms of section 106;
   “Consumer Protection Act” means the Consumer Protection Act, 2008 (Act No. 68 of 2008);
   “contractor” means a person with whom a financial institution has entered into an outsourcing arrangement but does not include an independent contractor as described in the definition of “staff member”;

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O TSENNGWE MO TAOLONG ke Palamente ya Rephaboliki ya Aforika Borwa, jaana:—

KGAOLO 1

TLHALOSO, MAITLHOMO LE TSAMAIISO YA MOLAO

Karolo 1

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Thaloso

Dithaloso

1. (1) Mo Molaong ono, ntle le fa bokao bo tlhalosa ka mokgwa mongwe—

“tiro ya tsamaiso” e na le bokao jo bo tshwanang le jo e tlhalositsweng ka jona go ya ka karolo 1 ya Promotion of Administrative Justice Act;

“komiti ya tiro ya tsamaiso” e kaya komiti e e tlhomilweng go ya ka karolo 87;

“kgato ya tiro ya tsamaiso” e kaya kgato e e tlhomamisitsweng go ya ka karolo 92;

“taelo ya kothlao ya tsamaiso” e kaya taelo go ya ka karolo 167;

“Banks Act” o kaya Banks Act, 1990 (Molao 94 wa 1990);

“kaelo” e kaya tshupanekelo ngwe le ngwe—

(a) ka tshupetsa e mo go yona tuelo e e duelwang ka fa tlase ga sediriso sa ditšhelete kgotsa konteraka ya ditšhelete, kgotsa boleng jwa sediriso sa ditšhelete, bo tlhomamiswang; kgotsa

(b) e e dirisetswang go lekanyetsa tiro ya letšelope ka maitlhomo a go sala morago motlhalwa wa poelo ya tshupanekelo eo kgotsa ya go thalosa kabo ya photo ya photefolio kgotsa go tsenya tiragatso ya ditœelo mo khomputareng;

“lokwalo la kgwebo”, mabapi le motho, le kaya lokwalo le le tšhwera lele kgwebo;

“mafele a kgwebo” a kaya mafele, go akaretsa le moago kgotsa karolo ya moago, e e diriswang ke motho go tšweletsa pele kgwebo;

“Modulasetilo” o kaya motho yo o mo ofising ya Modulasetilo wa Lekgotla go ya ka karolo 220(4), le go akaretsa nama-o-sa-tšwere wa Modulasetilo;

“Motlhankedimogolo wa Khuduthamaga” o kaya Motlhankedimogolo wa Khuduthamaga wa Bothati jwa Thokomelero ya o thapilweng go ya ka karolo 36(1), le go akaretsa nama-o-sa-tšwere wa Motlhankedimogolo wa Khuduthamagama;

“Ombud yo Mogolo” o kaya motho yo o thapilweng jaaka Ombud yo Mogolo wa Khanele ya Ombud go ya ka karolo 188;

“sekema sa peelsommmogo” se na le bokao jo bo tshwanang le jo se tšhalositsweng ka jona mo karolong 1 ya Collective Investments Schemes Control Act, 2002 (Molao 45 wa 2002);

“Khoimišenara”, mabapi le Bothati jwa Boitšhwaro jwa Lephata la Ditšhelete, o kaya Khoimišenara wa Bothati jwa Boitšhwaro jwa Lephata la Ditšhelete yo o thapilweng go ya ka karolo 61(1), le go akaretsa nama-o-sa-tšwere wa Khonišenara;

“Companies Act” o kaya Companies Act, 2008 (Molao 71 wa 2008);

“setlamo” se na le bokao jo bo tshwanang le jo se tšhalositsweng ka jona mo karolong 1 ya Companies Act;

“Khoimišene ya Kgaisano” e kaya Khomišene ya Kgaisano e tlhomilweng go ya ka karolo 19 ya Competition Act, 1998 (Molao 89 wa 1998);

“maemo a boitšhwaro” a kaya maemo a a dirilweng go ya ka karolo 106;

“Molaotho” o kaya Molaotho wa Rephaboliki ya Aforikaborwa, 1996;

“Consumer Protection Act” o kaya Consumer Protection Act, 2008 (Molao 68 wa 2008);

“mokonteraka” o kaya motho yo setheo sa ditšhelete se dirileng thulaganyo ya kabelano ya ka ditirelo go tšwa kwa ntle nmme fela a sa akarete mokonteraka yo o ikemetseng jaaka go bonetswe pele mo tšhalosong ya “leloko la badiri”;

“tiro ya taolo” e kaya ngwe le ngwe ya tse di latelang:

(a) Tiro ya boltelo jwa kotsi;

(b) tiro ya boikamanyi;
"control function" means each of the following:
(a) The risk management function;
(b) the compliance function;
(c) the internal audit function; and
(d) the actuarial function;

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

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

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

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

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

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

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

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

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

"document" includes—
(a) a book, record, security, invoice, account and any other information appearing on a physical object;
(b) information stored or recorded electronically, digitally, photographically, magnetically or optically; and
(c) any device on, or by means of, which information is recorded or stored;
(c) tiro ya boruni jwa ka fâ gare; le
(d) tiro ya bogakolodi;
“Khansele ya Dikema ts’ka Kalàfi” e kaya Khansele ya Dikema ts’ka Kalàfi e e
thomilweng go ya ka karolo 3 ya Medical Schemes Act;
“Kgotlatshekelo” e kaya Kgotlatshekel kgolo jaaka e tlahalositswe mo karolong 1
ya Superior Courts Act, 2013 (Molao 10 wa 2013);
“sekolo” se na le bokao jo bo tshwanang le jo bo fithelweng mo karolong 1 ya
Molao wa Sekolo lo wà Bosétshaba;
“tumalano ya sekolo” e na le bokao jo bo tshwanang le jo bo fithelweng mo
karolong 1 ya Molao wa Sekolo lo wà Bosétshaba;
“taelo ya kanelo” e kaya taelo e e dirilweng go ya ka karolo 153 kgotsa 205;
“Motlatsakhoñiñëna” o kaya motho yo o thapilweng jaaka Motlatsakhoñiñëna
go ya ka karolo 61(2), le ge akaretse nama-o-sa-tshwere wa Motlatsakhoñiñëna;
“Motlatsamussení” o kaya motho yo o thapilweng go ya ka karolo 4 kgotsa
6(1)(a) ya Reserve Bank Act jaaka Motlatsamussení wa Banka ya Resefe;
“Mokaeñikakaretso” o kaya Mokaeñikakaretso wa Matlotlo la Bosétshaba, le ge
akaretse nama-o-sa-tshwere wa Mokaeñikakaretso;
“motho yo o ileitsweng” o kaya motho yo—
(a) o samaganeng le kgwebo wa setheo sa ditshelete, kgotsa yo o nang le
gkaltheho e e e thamalesteng mo setheong sa ditshelete, ntle le fa e se jaaka
morekedi wa ditshelete;
(b) e leng leloko la Kabinete, leloko la Khanselekhuduthamanga ya porofense,
leloko la Kokoano Bosétshaba, kemedi ya leruri ya Khansele ya Bosétshaba
ya Diporofense, leloko la kgotlatheomolao la porofense kgotsa leloko la
khaneše ya kganeša ya tsenyeletseng go ya ka karolo 3 ya Medical Schemes Act;
(c) e leng modiredi wa, kgotsa o mo maemong a a duelang a boeteledipele jwa,
mokgatlho wa sepolotiki;
(d) ka nako ngwe le ngwe a kileng a tšoswa mo ofising kgotsa maemong a
terasete;
(e) o kgotsa kileng a ganelo ga go ya ka molao wa lephata la ditshelete;
(f) o kgotsa kileng ka nako ngwe le ngwe a othaiwa semmuso ka nthia ya go
tiola molao o o amang le taelo kgotsa thathíbho ya ditheo ts’a ditshelete,
kgotsa dikabelo ts’a dikuno ta ditshelete kgota ditirelo ta ditshelete kgota
mola o o tsamaelanang le wa taelo wa bóditshele;
(g) o kgotsa a kileng ka nako ngwe le ngwe a bonwa molato wa—
(i) bogodu, tsietso, kutso ka leina, tlhagiso ya lokwalo le le utswitsweng,
maikano a maaka kgotsa tlolomolao e e tsenyelentseng go ththo na neate, e
ka tswa e le mo Rephaboliking kgotsa gongwe le gongwe; kgotsa
tlolomolao go ya ka Prevention of Corruption Act, 1958 (Molao 6 wa
1958), Corruption Act, 1992 (Molao 94 wa 1992), Dikarolo 1 go fitlhí go
4, kgotsa dikarolo 17, 20 kgotsa 21, tsa Prevention and Combating of
Corrupt Activities Act, 2004 (Molao 12 wa 2004), kgotsa tlolomolao e e
tsamaelanang go ya ka molao wa naga ntle;
(h) o kgotsa a kileng a bonwa molato wa tlolomolao ngwe le ngwe e e dirileng
morago ga fa Molaotheo o sena go tseneng mo tiriso, moo kotlhao e
neng e pateleditswe motlolomolao ke kgotsa e ne e le kathílo ya go ya
gkolgelela ntle le boikgethelo jwa twelo ya tšhelete;
(i) o lebawe ke taelo ya kamogotoho ya nakonyana kgotsa ke mokoloti yo o sa
koppeleng;
(j) o ileitsweng go ka nna leloko la mokgatlho o o busang wa setheo go ya ka
molawana o o maleba; kgotsa
(k) o thomarnitswëtse ke Kgotlatshekel kgolo go sa itekanelang mo thalaga-
ynyng kgotsa setseno, kgotsa o emitswëtse go ya ka Mental Health Act, 2002
(Molao 17 wa 2002);
“lokwa” le akaretse—
(a) buka, rekoto, thoto, lenanetheko, akhaonto le tshedimosetso ngwe le ngwe e
 e e tlahelagelang mo selong ka namana;
(b) tshedimosetso e e bolokiliweng kgotsa gatisitswëtse seileketeroniki, tshedimo-
setso palo, mo ditshwantshong, semakenete kgotsa ka pono; le
(c) sediriwa sengwe se sengwe ka ga, kgotsa ka, se tshedimosetso e gatisitsweng
kgotsa bolokiliweng;
“eligible financial institution” means each of the following:

(a) A financial institution licensed or required to be licensed as a bank in terms of the Banks Act;

(b) a financial institution licensed or required to be licensed as a long-term insurer in terms of the Long-term Insurance Act or a short-term insurer in terms of the Short-term Insurance Act;

(c) a market infrastructure; and

(d) a financial institution prescribed in Regulations for the purposes of this definition;

“enforceable undertaking” means an undertaking referred to in section 151 or 203;

“Executive Committee” means the Committee established in terms of section 60;

“Financial Advisory and Intermediary Services Act” means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);

“financial conglomerate” means a group of companies designated as a financial conglomerate in terms of section 160;

“financial crime” includes an offence in terms of—

(a) a financial sector law;

(b) sections 2, 4, 5 and 6 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);

(c) the Financial Intelligence Centre Act; or

(d) section 4 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004);

“financial customer” means a person to, or for, whom a financial product, a financial instrument, a financial service or a service provided by a market infrastructure is offered or provided, in whatever capacity, and includes—

(a) a successor in title of the person; and

(b) the beneficiary of the product, instrument or service;

“financial inclusion” means that all persons have timely and fair access to appropriate, fair and affordable financial products and services;

“financial institution” means any of the following, other than a representative:

(a) A financial product provider;

(b) a financial service provider;

(c) a market infrastructure;

(d) a holding company of a financial conglomerate; or

(e) a person licensed or required to be licensed in terms of a financial sector law;

“financial instrument” means—

(a) a share as defined in section 1 of the Companies Act;

(b) a depository receipt and other equivalent instruments;

(c) a debt instrument such as a debenture or a bond, but not a credit agreement;

(d) money market securities as defined in section 1(1) of the Financial Markets Act;

(e) a derivative instrument as defined in section 1(1) of the Financial Markets Act; or

(f) a warrant, certificate, securitisation instrument or other instrument acknowledging, conferring or creating rights to subscribe to, acquire, dispose of, or convert, the financial instruments referred to in paragraphs (a) to (e);

“Financial Intelligence Centre” means the Financial Intelligence Centre established in terms of section 2 of the Financial Intelligence Centre Act;

“Financial Intelligence Centre Act” means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);

“Financial Markets Act” means the Financial Markets Act, 2012 (Act No. 19 of 2012);

“financial product” means a financial product as defined in section 2;

“financial product provider” means a person that, as a business or as part of a business, provides a financial product;
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“ditheo tsa ditšhelete tse di matshwanedi” di kaya nngwe le nngwe ya tse di latelang:
(a) Setheo sa ditšhelete se se abetsweng laesense kgotsa se tlhoka go abelwa laesense jaaka banka go ya ka Banks Act;
(b) setheo sa ditšhelete se se abetsweng laesense kgotsa se tlhoka go abelwa laesense jaaka motlamedi wa inšorense wa paka e e telele go ya ka Long-term Insurance Act kgotsa motlamedi wa inšorense wa paka e e khutshwane go ya ka Short-term Insurance Act;
(c) thulaganyetso ya popegotheo ya mmaraka; le
(d) setheo sa ditšhelete se se neetsweng mo Melawaneng go ya ka maithhomo a thhaloso eno;

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

“Komitì ya Khuduthamaga” e kaya Komiti e e thomilweng go ya ka karolo 60;
“Financial Advisory and Intermediary Services Act” o kaya Financial Advisory and Intermediary Services Act, 2002 (Molao 37 wa 2002);
“ditheo tsa ditšhelete tse di kopaneng” di kaya setlhophsa sa ditlamo tse di thapilweng jaaka setheo sa ditšhelete go ya ka karolo 160;
“bosenyi jwa ditšhelete” bo akaretsa tlomolao go ya ka—
(a) molao wa lephata la ditšhelete;
(b) dikarolo 2, 4, 5 le 6 tsu Prevention of Organised Crime Act, 1998 (Molao 121 wa 1998);
(c) Financial Intelligence Centre Act; kgotsa karolo 4 ya Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Molao 33 wa 2004);
“morekedi wa ditšhelete” o kaya motho yo, kuno ya ditšhelete, sediriswa sa ditšhelete, tirelo ya ditšhelete kgotsa tirelo e e tlametsweng ke thulaganyetsa yo popegotheo ya mmaraka e abelwang kgotsa tlamelwang, kgotsa boemong jwa, ka maemo afe kgotsa afe, gape o akaretsa—
(a) mothaflhami wa maemo a motho; le
(b) moamogela ditšhwanelo tsu kuno, sediriswa kgotsa tirelo;
“tseyletso ya tsa ditšhelete” e kaya gore batoth botlhle ba na le phitlhelelo e e mo nakong e bile e lolame go dikuno le ditirelo tsa ditšhelete tse di siameng, lolameg le go rekega;
“setheo sa ditšhelete” se kaya nngwe le nngwe ya tse di latelang, esele go na le kemedi:
(a) Moabi wa kuno ya ditšhelete;
(b) Moabi wa tirelo ya ditšhelete;
(c) thulaganyetsa ya popegotheo ya mmaraka;
(d) kgwebo e e okameng tse dingwe ya ditheo tse di kopantsweng tsa ditšhelete; kgotsa
(e) motho yo o abetsweng laesense kgotsa yo o tlhokang go abelwa laesense go ya ka molao wa lephata la ditšhelete;
“sediriswa sa ditšhelete” se kaya—
(a) šere jaaka e tlhalositswse mo karolong 1 ya Companies Act;
(b) setlankana sa peeleeto le didiriswa tse dingwe tse di lekanang;
(c) sediriswa sa molato se se jaaka tshupamolato kgotsaibonto, mme e seng tumalano ya sekoloto;
(d) tshireletso ya mmaraka wa madi jaaka e tlhalositse mo karolong 1 (1) ya Financial Markets Act;
(e) sediriswa se se tswang jaaka go tlhalosiswse mo karolong 1 (1) ya Financial Markets Act;
(f) thebolo, setošiši, sediriswa sa bosireletsi kgotsa sediriswa sengwe se se amogelang, abelang kgotsa tlamang ditšhwanelo tsa go nna tokololo go, fitlhelela, rulaganya, kgotsa fetola, didiriswa tsa ditšhelete tse di kailweng mo ditemang (a) go fitlha go (e);
“Senthara ya Bothhodi ba tsa Ditšhelete” e kaya Senthara ya Bothhodi ba tsa Ditšhelete e e thomilweng go ya ka karolo 2 ya Financial Intelligence Centre Act;
“Financial Intelligence Centre Act” e kaya Financial Intelligence Centre Act, 2001 (Molao 38 wa 2001);
“Financial Markets Act” e kaya Financial Markets Act, 2012 (Molao 19 wa 2012);
“financial sector body” means each of the following:
(a) The Prudential Authority;
(b) the Financial Sector Conduct Authority;
(c) the Tribunal;
(d) the Ombud Council;
(e) the Office of the Pension Funds Adjudicator; and
(f) the Office of the Ombud for Financial Services Providers;

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

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

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

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

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

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

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

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

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

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

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

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

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

“governing body” means—
(a) in relation to a financial institution, a person or body of persons, whether elected or not, that manages, controls, formulates the policy and strategy of the financial institution, directs its affairs or has the authority to exercise the powers and perform the functions of the financial institution, and includes—
(i) the general partner of an en commandite partnership or the partners of any other partnership;
(ii) the members of a close corporation;
(iii) the trustees of a trust;
(iv) the board of directors of a company; and
(v) the board of a pension fund referred to in section 7A of the Pension Funds Act; and
(b) in relation to an ombud scheme, the body of persons that oversees the affairs of the ombud scheme;
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“kuno ya ditshelete” e kaya kuno ya ditshelete jaaka e tlhalositswe mo karolong 2;
“moabi wa dikuno tsa ditshelete” o kaya motho yo, jaaka kgwebo kgotsa karolo ya kgwebo, a tlamelang ka kuno ya ditshelete;
“mokgatlhoo walephata la ditshelete” o kaya ngwwe le ngwwe ya tse di latelang:  
(a) Bothati jwa Tlhokomelo;
(b) Bothati jwa Boitshwaro jwa Lephata la Ditshelete;
(c) Lekgotla;
(d) Khansele ya Ombud;
(e) Ofisi ya Moatlhodi wa Matlole a Penšene; le
(f) Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Ditshelete;

“Bothati jwa Boitshwaro jwa Lephata la Ditshelete” bo kaya bothati jo bo tlhomilweng go ya ka karolo 56;
“molao wa lephata la ditshelete” o kaya—  
(a) Molao ono;
(b) molao o o neetsweng mo Žejuleng 1;
(c) Molawana o o dirilweng go ya ka Molao ono kgotsa o o dirilweng go ya ka molao o o o kailweng mo Žejuleng 1; kgotsa
(d) sediriswa sa taolo se se dirilweng go ya ka Molao ono kgotsa se se dirilweng go ya ka molao o o o kailweng mo Žejuleng 1;

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

“tirelo ya ditshelete” e kaya tirelo ya ditshelete jaaka e tlhalositswe mo karolong 3;
“moabi wa tirelo ya ditshelete” o kaya motho yo, jaaka kgwebo kgotsa karolo ya kgwebo, a tlamelang ka tirelo ya ditshelete;
“thlhamamo ya ditshelete” e kaya tlhamamo ya ditshelete jaaka e tlhalositswe mo karolong 4;
“Komiitši ya Kelothoko ya Thlhamamo ya Ditshelete” e kaya komiitši e e tlhomilweng go ya ka karolo 20;
“THULAGANYO YA DITSHELETE” e kaya thulaganyo ya ditho le mebaraka eo ka yona dikuno tsa ditshelete, didiriswa tsa ditshelete le ditirelo tsa ditshelete di tlamelwang le go gweba ka tsona, le go akaretsa go dira ga thulaganyetso ya popegotheo ya mmara ka le tlulaganyo ya teto;

“Khanešele ya Balaodi ba Thulaganyo ya Ditshelete” e kaya khanešele e e tlhomilweng go ya ka karolo 79(1);
“ngwaga wa ditshelete” e kaya paka ya dikhwedi tse 12 go simolola ka 1 Moranang wa ngwaga ngwwe le ngwwe;
“kuno ya ditshelete ya bodišhaba” e kaya sedirisgo kgotsa thulaganyo e e tlamelsweng kwa ntle ga Rephaboliki, kgotsa e tlamelswes ke motho kwa ntle ga Rephaboliki, e e tsanangang le kgotsa e e tsanangang le kuno ya ditshelete;
“Friendly Societies Act” o kaya Friends Societies Act, 1956 (Molao 25 wa 1956);
“mokgatlhoo o o busang” o kaya—
(a) mabapi le setheo sa ditshelete, motho kgotsa mokgatlhoo wa batho, ba tlhophiwe kgotsa ba sa tlhophiwa, ba ba laalong, tsamaisang, thamang pholisi le lemo tsa, lebisa merero ya bona kgotsa ba na le thata ya go dirisa ditho le go go ditiro tsa setheo sa ditshelete, le go akaretsa—
(i) mogwebisani wa kakaretso wa sampeto se se lekanyeditlweng kgotsa bagwebisani ba sampeto sengwe le sengwe;
(ii) maloko a setlamotokanyetsobeng;
(iii) bathsokomedi ba terase;e;
(iv) boto ya bakaedi ba setlamo; le
(v) boto ya letlele la pensene le le kailweng mo karolong 7A ya Pension Funds Act; le
(b) mabapi le sekema sa ombud, o kaya mokgatlhoo wa batho o o tlhokomelang merero ya sekema sa ombud;

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

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

“head of a control function” means a person appointed by a financial institution to ensure the performance of a control function, and includes a person so appointed through an outsourcing arrangement;

“holding company” means a holding company as defined in section 1 of the Companies Act, being a company incorporated in the Republic;

“index” means any figure—
(a) that is published or made available to the public; and
(b) that is regularly determined—
   (i) entirely or partially by the application of a formula or any other method of calculation, or by an assessment; and
   (ii) on the basis of the value of one or more underlying assets or prices, and any derivative thereof; and
(c) is determined to be an index for this purpose by the Financial Sector Conduct Authority;

“industry ombud scheme” means an arrangement with the following characteristics:
(a) The arrangement is established by one or more financial institutions;
(b) the purpose of the arrangement is to facilitate mediation and resolution of complaints from financial customers about financial institutions that are members of the ombud scheme; and
(c) mediation or resolution of the complaints in terms of the ombud scheme is undertaken by an ombud appointed in terms of the ombud scheme’s governing rules;

“Inter-Ministerial Council” means the Financial Sector Inter-Ministerial Council established in terms of section 83(1);

“interpretation ruling” means a statement in terms of section 142;

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

“investigator” means a person appointed as an investigator in terms of section 134;

“joint standard” means a standard made in terms of section 107;

“juristic person” includes—
(a) a company, close corporation or co-operative incorporated or registered in terms of legislation whether in the Republic or elsewhere;
(b) an association, partnership, club or other body of persons of whatever description, corporate or unincorporated;
(c) a trust or trust fund;
(d) an entity referred to in paragraph (a), (b) or (c) that is in liquidation, under business rescue proceedings or under judicial management; and
(e) the estate of a deceased or insolvent person;

“key person”, in relation to a financial institution, means each of the following:
(a) A member of the governing body of the financial institution;
(b) the chief executive officer or other person in charge of the financial institution;
(c) a person other than a member of the governing body of the financial institution who makes or participates in making decisions that—
   (i) affect the whole or a substantial part of the business of the financial institution; or
   (ii) have the capacity to affect significantly the financial standing of the financial institution;
(d) a person other than a member of the governing body of the financial institution who oversees the enforcement of policies and the implementation of strategies approved or adopted by the governing body of the financial institution;
(e) the head of a control function of the financial institution; and
(f) the head of a function of the financial institution that a financial sector law requires to be performed;
“Mmusisi” o kaya motho yo o thapilweng go ya ka karolo 4 kgotsa 6(1)(a) ya Reserve Bank Act jaaka Mmusisi wa Banka ya Resefe;

“sethophsa sa ditlamo” se na le bokao jo bo tshwanang le jo se tlahlositsweng ka jona mo karolong 1 ya Companies Act;

“tlhogo ya tiro ya taolo” o kaya motho yo o thapilweng ke setheo sa ditšhelete go netefatsa go dira ga tiro ya taolo, le go akaretse motho yo o thapilweng jalo ka thulaganyo ya go batla tirelo go tswa kwa ntle;

“kgwebo e e okameng tse dingwe” e kaya kgwebo e e okameng tse dingwe jaaka e tlahlositswe mo karolong 1 ya Companies Act, e leng setlamo se se tsentsweng mo Rephaboliking;

“tshupanekelo” e kaya pala ngwe le ngwe—
(a) e e phasaladitsweng kgotsa e e filhlelelwang ke setšha; le
(b) e e thomamiswang nako le nako—
   (i) ka botlalo kgotsa e seng ka botlalo ka tiriso ya fomula kgotsa mokgwaa mongwe le mongwe pa palelo, kgotsa ka tekolo; le
   (ii) ka go laeega mo boleng jwa thoto kgotsa ditlhotihlwa tse di fiñheldieng,
      kgotsa ditlwa dinwe le dingwe tsa tsona; le
(c) e thomamiswa go nna tshupanekelo mabapi le maitlhomo ano ke Botha jwa Boitshwara jwa Lephata la Ditšhelete;

“sekema sa ombud wa bodirelo” se kaya thulaganyo ya dipharologantsho tse di latelang:
(a) Thulaganyo e thomilwe ke setheo sa ditšhelete se le esi kgotsa go feta;
(b) maitlhomo a thulaganyo ke go nolofatsa tsereganyo le tharabololo ya dingongorego ga tswa go badirisi ba ditšhelete ka ga dikuno tse di tsengampeng tsa ditšhelete kgotsa ditirelo tsa ditšhelete; le
(c) tsereganyo kgotsa tharabololo ya dingongorego ga ka sekema sa ombud e dirwa ke ombud yo o tshiñlweng go ya ka melawana ya taolo ya sekema sa ombud;

“Khansele ya Ditona” e kaya Khansele ya Ditona ya Lephata la Ditšhelete e e thomilweng go ya ka karolo 83(1);

“tshwetsa ya tlahalo” e kaya kanego go ya ka karolo 142;

“amanang” e na le bokao jo bo tshwanang le jo e tlahlositsweng ka jona mo karolong 1 ya Companies Act;

“mmatlisisi” o kaya motho yo o thapilweng jaaka mmatlisisi go ya ka karolo 134;

“maemo a a kopantsweng” a kaya maemo a a diirilweng go ya ka karolo 107;

“setheo se se mo molaong” se akaretsa—
(a) setlamo, setlamotekanyetsobeng kgotsa kgwebo tirisano e e tsenyeleditsweng kgotsa e e kwaditsweng go ya ka molawana o o ka tswang o le mo Rephaboliking kgotsa gongwe le gongwe;
(b) mokgatlho, semphato, kgotsa setlhopha kgotsa mokgatlho wa batho wa tlahalo efe, tshwaçaragageng kgotsa ga sa tshwaraganang;
(c) terasete ya letilele la terasete;
(d) setheo se se kailweng mo temaneng (a), (b) kgotsa (c) seo se lebaganeng le tswalokgwebo, ka fa tlase ga ditsamaio tsa phaloso ya kgwebo kgotsa ka fa tlase ga taolo ya boathodi; le
(e) ditlho tsa moswi kgotsa motho yo o phuthlameng;

“motho yo o bothlokwa”, mabapi le setheo sa ditšhelete, o kaya ngwe le ngwe ya tse di latelang:
(a) Leloko la mokgatlho o o busang wa setheo sa ditšhelete;
(b) mothankedimagolo wa khuduthamaga kgotsa motho mongwe yo o laolong setheo sa ditšhelete;
(c) motho yo mongwe kwa ntle ga leloko la mokgatlho o o busang setheo sa ditšhelete yo o dirang kgotsa yo o tsayang karolo mo go tsyeng ditshwetsi tse di—
   (i) amang kgwebo yo tšhilhe kgotsa karolo e e bothlokwa ya kgwebo ya setheo sa ditšhelete; kgotsa
   (ii) nang le bokgoni jwa ga ama segolo maemo a ditšhelete a setheo;
(d) motho yo mongwe kwa ntle ga leloko la mokgatlho o o busang setheo sa ditšhelete yo o bayang leitlho go gatelelwana ga dopholisi le go tseenmgwa tirisong ga maano a a dumeletseng (kgotsa amogetsweng) ke mokgatlho o o busang wa setheo sa ditšhelete;
(e) tlhogo ya tiro ya taolo ya setheo sa ditšhelete; le
“legal practitioner” means a legal practitioner as defined in section 1 of the Legal Practice Act, 2014 (Act No. 28 of 2014);
“leniency agreement” means an agreement referred to in section 156;
“levy” means a levy imposed by a financial sector body in terms of legislation that empowers the imposition of a levy, and includes interest payable on an unpaid levy;
“licence” includes a written licence, registration, approval, recognition, permission, consent or any other authorisation in terms of a financial sector law, however it is described in that law, to provide a financial product, financial service or a market infrastructure;
“Long-term Insurance Act” means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);
“market infrastructure” means each of the following, as they are defined in section 1(1) of the Financial Markets Act:
(a) A central counterparty;
(b) a central securities depository;
(c) a clearing house;
(d) an exchange; and
(e) a trade repository;
“Medical Schemes Act” means the Medical Schemes Act, 1998 (Act No. 131 of 1998);
“Minister” means the Minister of Finance;
“National Credit Act” means the National Credit Act, 2005 (Act No. 34 of 2005);
“National Credit Regulator” means the National Credit Regulator established in terms of section 12 of the National Credit Act;
“National Payment System Act” means the National Payment System Act, 1998 (Act No. 78 of 1998);
“National Treasury” means the National Treasury established in terms of section 5 of the Public Finance Management Act;
“ombud” means each of the following:
(a) The Adjudicator as defined in section 1(1) of the Pension Funds Act;
(b) the Ombud for Financial Services Providers as defined in section 1(1) of the Financial Advisory and Intermediary Services Act;
(c) a person declared by a specific financial sector law to be a statutory ombud; and
(d) a person who has the function, in terms of the rules of a recognised industry ombud scheme, of mediating or resolving complaints to which the scheme applies;
“Ombud Board” means the Board of the Ombud Council established in terms of section 179(1);
“Ombud Council” means the Ombud Council established in terms of section 175;
“Ombud Council rule” means a rule made by the Ombud Council in terms of section 201;
“ombud scheme” means—
(a) an industry ombud scheme; or
(b) a statutory ombud scheme;
“organ of state” has the same meaning ascribed to it in terms of section 239 of the Constitution;
“outsourcing arrangement”, in relation to a financial institution, means an arrangement between a financial institution and another person for the provision to or for the financial institution of any of the following:
(a) A control function;
(b) a function that a financial sector law requires to be performed or requires to be performed in a particular way or by a particular person; and
(c) a function that is integral to the nature of a financial product or financial service that the financial institution provides, or is integral to the nature of the market infrastructure, but does not include—
(i) a contract of employment between the financial institution and a person referred to in paragraph (a) or (b) of the definition of “staff member”; or
(ii) an arrangement between a financial institution and a person for the person to act as a representative of the financial institution;
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(f) motho yo o dirang tiro mo kgotsa go setheo sa ditšhelete e molao wa lephata la ditšhelete o batlang gore e dirwe;
“modirakamolao” o kaya modirakamolao jaaka go tlhalositswe mo karolong 1 ya Molao wa Tiragatso ya tsu Molao, 2014 (Molao 28 wa 2014);
“tumalano ya kutwelobotlhoko” e kaya tumalano e e kailweng mo karolong 156;
“lekgethwana” le kaya lekgethwana lengwe le lengwe le le duelwengweng ke mokgatlho wa lephata la ditšhelete go ya ka molawana o o nanag tha ya tuediso ya lekgethwana, e bile le akaretsa morokotsa o o duelweng mo lekgethweng le le sa duelweng;
“laensedense” e akaretsa laensedense e e kwetsweng, kwadiso, thebolo, kamogelo, tetelelo, tumelelo kgotsa tumelelo ngwe le ngwe go ya ka molao wa lephata la ditšhelete, mme fela go tlhalositswe mo molaong go, oo tlamela kuno ya ditšhelete, tirelo ya ditšhelete kgotsa thulaganyetsa ya popegotheo ya mmara;
“Long Term Insurance Act” o kaya Long-term Insurance Act, 1998 (Molao 52 wa 1998);
“thulaganyeto ya popegotheo” e kaya ngwe le ngwe ya tse di latelang, jaaka di tlhalositswe mo karolong 1(1) ya Financial Markets Act:
(a) Mokgatlho o o kgatlhanong le tirisano ya ditšhelete wa magareng;
(b) Bobeelo jwa magareng jwa tlhoto;
(c) setheo sa kgwebo sa dibanka;
(d) kananyo; le
(e) setheo sa kgwebo;
“Medical Schemes Act” o kaya Medical Schemes Act, 1998 (Molao 131 wa 1998);
“The National Credit Act” o kaya 2005 (Molao 34 wa 2005);
“Bolaodi jwa Bosetšhaba jwa Sekoloto” bo kaya Bolaodi jwa Bosetšhaba jwa Sekoloto jo bo tlhomilweng go ya ka karolo 12 ya Molao wa Bosetšhaba wa Sekoloto;
“National Payment System Act” o kaya National Payment System Act, 1998 (Molao 78 wa 1998);
“Matlotlo a Bolaodi jwa Bolaodi jwa Bosetšhaba” a kaya Matlotlo a Bolaodi a Bolaodi a a tlhomilweng go ya ka karolo 5 ya Public Finance Management Act;
“ombud” o kaya ngwe le ngwe ya tse di latelang:
(a) Mosthetho jaaka go tlhalositswe mo karolong 1(1) ya Pension Funds Act;
(b) Ombud wa Batlamedi ba Ditirelo tsa Ditšhelete jaaka go tlhalositswe mo karolong 1(1) ya Financial Advisory and Intermediary Services Act;
(c) motho yo o tlhomamisitsweng ke molao o o tsepameng wa lephata la ditšhelete go ya ka ombud wa semolao; le
(d) motho yo o nang le tiro, yo ya ka mela ya seka sa se amogelelsesegan sa ombud wa bodirelo, ya go tsereganyama kgotsa raborola lingongoreng tse seka sa diragatsweng go tsona;
“Boto ya Ombud” e kaya Boto ya Khansele ya Bolaodi jwa Ombud e e tlhomilweng go ya ka karolo 179(1);
“Khansele ya Bolaodi ya Ombud” e kaya Khansele ya Khansele ya Bolaodi ya Dikema tsa Ombud wa lephata la Ditšhelete e e tlhomilweng go ya ka karolo 175;
“molao wa Khansele ya Bolaodi ya Ombud” o kaya molao o o dirilweng ke Khansele ya Bolaodi ya Ombud go ya ka karolo 201;
“sekema sa ombud” se kaya—
(a) sekema sa ombud wa bodirelo; kgotsa
(b) sekema sa semolao sa ombud;
“setheo sa puso” se na le bokao jo bo tshwanang le jo se tlhalositsweng ka jona mo karolong 239 ya Molaotše;
“thulaganyo ya go bona tirelo kwa ntšle”, mabapi le seheo sa ditšhelete, e kaya thulaganyo magareng ga seheo sa ditšhelete le motho yo mongwe mabapi le go tlamela kgotsa mabapi le seheo sa ditšhelete sa ngwe le ngwe ya tse di latelang:
(a) Tiro ya go laola;
(b) tire o e tlhokwang go dirwa kgotsa go dirwa ka mokgwa o o rieng ke molao wa lephata la ditšhelete kgotsa le motho yo o rieng; le
(c) tire o e e leng boltshoka mo go mneng teng ga kuno ya ditšhelete kgotsa tirelo ya ditšhelete e e abelweng ke seheo sa ditšhelete, kgotsa e e leng boltshoka.
“panel” means a panel of the Tribunal constituted in terms of section 224;
“panel list” means the list referred to in section 225;
“panel member” means a member of a panel;
“party”, to proceedings on a reconsideration of a decision by the Tribunal, means—
(a) the person who applied for the reconsideration; and
(b) the decision-maker that made the decision;
“payment service” means a service provided to a financial customer to facilitate payments to, or from, the financial customer;
“payment system” has the same meaning ascribed to it in terms of section 1 of the National Payment System Act;
“Pension Funds Act” means the Pension Funds Act, 1956 (Act No. 24 of 1956);
“person” means a natural person or a juristic person, and includes an organ of state;
“Promotion of Administrative Justice Act” means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);
“Protection of Personal Information Act” means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
“provision of a benchmark” includes—
(a) administering the arrangements for determining a benchmark;
(b) collecting, analysing or processing input data for the purpose of determining a benchmark; and
(c) determining a benchmark through the application of a formula or other method of calculation or by an assessment of input data provided for that purpose;
“Prudential Authority” means the authority established in terms of section 32;
“Prudential Committee” means the committee established in terms of section 41;
“prudential standard” means a standard made in terms of section 105;
“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
“qualifying stake” means, in respect of a financial institution that—
(a) is a company, that a person, directly or indirectly, alone or together with a related or inter-related person—
(i) holds at least 15% of the issued shares of the financial institution;
(ii) has the ability to exercise or control the exercise of at least 15% of the voting rights attached to securities of the financial institution;
(iii) has the ability to dispose of or control the disposal of at least 15% of the financial institution’s securities; or
(iv) holds rights in relation to the financial institution that, if exercised, would result in the person, directly or indirectly, alone or together with a related or inter-related person—
(aa) holding at least 15% of the securities of the financial institution;
(bb) having the ability to exercise or control at least 15% of the voting rights attached to shares or other securities of the financial institution; or
(cc) having the ability to dispose of or direct the disposal of at least 15% of the financial institution’s securities;
(b) is a close corporation, that a person, directly or indirectly, alone or together with a related or inter-related person, holds at least 15% of the members’ interests or controls, or has the right to control, at least 15% of members’ votes in the close corporation;
(c) is a trust, that a person has, directly or indirectly, alone or together with a related or inter-related person—
(i) the ability to exercise or control the exercise of at least 15% of the votes of the trustees;
(ii) the power to appoint at least 15% of the trustees; or
(iii) the power to appoint or change any beneficiaries of the trust;
mo go mmeng teng ga thulaganyetsa ya popegotho ya mmaraka, mme ga e akaretse—
(i) konteraka ya tiro magareng ga setheo sa ditshelete le motho yo o kailweng mo temaneng (a) kgotsa (b) ya tlhalosyo ya lelakoa la badirimemotho; kgotsa
(ii) thulaganyo magareng ga setheo sa ditshelete le motho mabapi le gore motho a dire jaaka kemedi ya setheo sa ditshelete;

“panele” e kaya panele ya Lekgotla e e bopiilweng go ya ka karolo 224;

“lenane la panele” le kaya lenane le le kailweng mo karolong 225;

“lelakoa la panele” le kaya lelako la panele;

“moamegi”, mo ditsamaisong mo tshekatshekopoeletsong ya tshwetso ka Lekgotla, o kaya—
(a) motho yo o dirileleng koplo ya tshekatshekopoletseto; le
(b) motsayatshwetso yo o tsreng tshwetso;

“tirelo ya tuelo” e kaya tirelo e e tlametsweng go morekedi wa ditshelete go nolofatsa tuelo go, kgotsa go tswa go, morekedi wa ditshelete;

“thulaganyo ya tuelo” e na le bokao jo bo tshwanang le jo e tlhalositsweng ka jona mo karolong I ya National Payment System Act;

“Pension Fund Act” o kaya Pension Funds Act, 1956 (Molao 24 wa 1956);

“motho” o kaya motho wa tlholego kgotsa setheo, le go akaretse setheo sa puso;

“Promotion of Administrative Justice Act” o kaya Promotion of Administrative Justice Act, 2000 (Molao 3 wa 2000);

“Protection of Personal Information Act” o kaya Protection of Personal Information Act, 2013 (Molao 4 wa 2013);

“kabelo ya ka elo” e akaretsa—
(a) tsamaiso ya dilhulaganyo tsa go tlhomamisa ka elo;
(b) go kgobokanya, go sekaseka kgotsa go tsamaisa tsenygo ya tshedimosetsa mabapi le maithlomo a go tlhomamisa ka elo; le
(c) go tlhomamisa elo ka tiriso ya fomula kgotsa mokgwa mongwe wa palelo kgotsa tsekatanyetsa ya tshedimosetso e e tsentsweng e e tlametsweng mabapi le maithlomo ao;

“Bothati jwa Thokomelo” bo kaya bothati jo bo tlhomilweng go ya ka karolo 32;

“Komiti ya Thokomelo” e kaya komiti e e tlhomilweng go ya ka karolo 41;

“maemo a thokomelo” a kaya maemo a a dirilweng go ya ka karolo 105;

“Public Finance Management Act” o kaya Public Finance Management Act, 1999 (Molao 1 wa 1999);

“maemo a bokgoni” a kaya, mabapi le setheo sa ditshelete se—
(a) e leng setlamo, seo motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmngo le motho yo o amanang kgotsa wa kamano—
(i) a nang le bonnye 15% ya diisere tsa setheo sa ditshelete;
(ii) a nang le bokgoni jwa go diragatsa kgotsa go laola tiragatsa ya 15% ya ditshwanelo tsa go tlhopha tse di patagantsweng le ditshwano tsa setheo sa ditshelete;
(iii) a nang le bokgoni jwa go ntsha kgotsa go laola go ntshiwa ga bonnye 15% ya ditshwanelo tsa setheo sa ditshelete; kgotsa
(iv) yo o nang le ditshwanelo mabapi le setheo sa ditshelete tse, fa di diragatsa, di ka nnang le ditlamorago tseo motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmngo le motho yo o amanang kgotsa wa kamano—

(aa) a nang le bonnye 15% ya ditshwano tsa setheo sa ditshelete;

(bb) a nang le bokgoni jwa go diragatsa kgotsa go laola tiriso 15% ya ditshwanelo tsa go tlhopha tse di patagantsweng le diisere kgotsa ditshwano tse diingwe tsa setheo sa ditshelete; kgotsa

(cc) a nang le bokgoni jwa go ntsha kgotsa go laola go ntshiwa ga bonnye 15% ya ditshwano tsa setheo sa ditshelete;

(b) e leng selenamotokanetseng, se motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmngo le motho yo o amanang kgotsa wa kamano, a nang le bonnye 15% ya dikgatlhengo kgotsa ditshwano tse diboutu maloko mo setlamotokanetseng;

(c) e leng tserate, se kaya gore motho o na le, ka tlhamalalo kgotsa e seng ka tlhamalalo, a le esi kgotsa mmngo le motho yo o amanang kgotsa wa kamano—
“recognised industry ombud scheme” means an industry ombud scheme that is recognised in terms of section 194;
“Regulation” means a Regulation made in terms of section 288;
“regulator’s directive” means a directive issued by a financial sector regulator in terms of section 143, 144 or 159;
“regulatory instrument” means each of the following:
(a) A prudential standard;
(b) a conduct standard;
(c) a joint standard;
(d) an Ombud Council rule;
(e) a determination of fees in terms of section 237(1)(a);
(f) an instrument identified as a regulatory instrument in a financial sector law; and
(g) an instrument amending or revoking an instrument referred to in paragraphs (a) to (f);
“related party”, in relation to a person (the “first person”), means a person connected to the first person in a manner described in section 2(1)(a), (b) or (c) of the Companies Act;
“Register” means the Financial Sector Information Register referred to in section 256;
“representative”, in relation to a financial institution, means a representative of the institution in terms of the Financial Advisory and Intermediary Services Act;
“Reserve Bank” means the South African Reserve Bank as referred to in section 223 of the Constitution, read with the Reserve Bank Act;
“Reserve Bank Act” means the South African Reserve Bank Act, 1989 (Act No. 90 of 1989);
“responsible authority”, for a financial sector law, means the responsible authority for the financial sector law as defined in section 5;
“section 27 memorandum of understanding” means a memorandum of understanding referred to in section 27;
“section 77 memorandum of understanding” means a memorandum of understanding referred to in section 77;
“securities services” has the same meaning ascribed to it in terms of section 1(1) of the Financial Markets Act;
“service provided by a market infrastructure” means business conducted or a function or duty performed by a market infrastructure in terms of the Financial Markets Act, and “services provided by market infrastructures” has a similar meaning;
“Short-term Insurance Act” means the Short-term Insurance Act, 1998 (Act No. 53 of 1998);
“significant owner”, of a financial institution, means a significant owner of the institution as described in section 157;
“special levy” means a levy imposed as a special levy by a financial sector body in terms of legislation that empowers the imposition of a levy;
“specific financial sector law” means a financial sector law, other than this Act, regulating a specific type of financial product, financial service or market infrastructure;
“staff member”, of a person, means—
(a) an employee, as defined in section 213 of the Labour Relations Act, 1995 (Act No. 66 of 1995);
(b) a natural person who is seconded to the person;
(c) a natural person who is engaged by the person on contract as an independent contractor to provide goods or services to the person or to perform functions or duties on behalf of the person under terms specified in the contract, but not in terms of an outsourcing arrangement;
“standard” means any of the following:
(a) A prudential standard;
(b) a conduct standard; and
(c) a joint standard;
(i) a nang le bokgoni jwa gpo diragatsa kgotsa go laola tiragatso ya bonnye 15% ya diboutu tsa badisi;
(ii) thata ya go thapa bonnye 15% ya badisi; kgotsa
(iii) thata ya go thapa kgotsa go fetola baamogeladitshwanelo bangwe le bangwe ba terasete.

“sekema sa ombud wa bodirelo se se amogetsweng” se kaya sekema sa ombud wa bodirelo se se amogetsweng go ya ka karolo 194;
“Molawana” o kaya Molawana o o diri lweng go ya ka karolo 288;
“taelo ya molaodi” e kaya taelo e e rebotseng ke molaodi wa lephata la ditšhelete go ya ka karolo 143, 144 kgotsa 159;
“sediriswa sa boloadi” se kaya nngwe le nngwe ya tse di latelang:
(a) Maemo a tlhokomelo;
(b) maemo a boitshwaro;
(c) maemo a a kopantsweng;
(d) mola wa Khansele ya Boloadi jwa Ombud;
(e) tlihomamiso ya dituediso go ya ka karolo 237(1)(a);
(f) sediriswa se se supilweng jaka sediriswa sa boloadi mo molaong wa lephata la ditšhelete; le
(g) sediriswa se se thabologong kgotsa gogelang morago sediriswa se se kai lweng mo ditemaneng (a) go fitlha go (f);

“lethakore la kamano”, mabapi le motho (“motho wa ntlha”), le kaya motho yo o amanang le motho wa ntlha go ya ka mokgw a o o tlhalositsweng mo korolong 2(1)(a), (b) kgotsa (c) ya Companies Act;
“Rejisetara” e kaya Rejisetara ya Tshedimosetso ya Leaphata la Ditšhelete e e kailweng mo korolong 256;
“kemedi”, mabapi le setheo sa ditšhelete, e kaya kemedi ya setheo go ya ka Financial Advisory and Intermediary Services Act;
“Banka ya Resefe” e kaya Banka ya Resefe ya Aforikaborwa jaka eailwe mo korolong 223 ya Molaotheo, buisa mmogo le Reserve Bank Act;
“Reserve Bank Act” o kaya South African Reserve Bank Act, 1989 (Molao 90 wa 1989);
“bothati jo bo rwalang maikarabelo” bo kaya bothati jo bo rwalang maikarabelo jaka bo tlhalositswe mo korolong 5;
“karolo 27 memorantamo wa tumalano” e kaya memorantamo wa tumalano o o kailweng mo korolong 27;
“karolo 77 memorantamo wa tumalano” e kaya memorantamo wa tumalano o o kailweng mo korolong 77;
“ditirelo tsa dithoto” di na le bokao jo bo tshwanang le jo bo tlhalositsweng ka jona mo korolong 1(1) ya Financial Markets Act;
“tirelo e e tlametsweng ke thulaganyetso ya popegotheo ya mmaraka” e kaya kgwebo e e diri lweng kgotsa tiro e e diri lweng ka thulaganyetso ya popegotheo ya mmaraka go ya ka Financial Markets Act, le “ditirelo tse di tlamelwang ke thulaganyetso ya popegotheo ya mmaraka” di na le bokao jo bo tshwanang;
“Short Term Insurance Act” e kaya Short-term Insurance Act, 1998 (Molao 53 wa 1998);
“mong yo o bohlhkwa”, o kaya mong yo o bohlhkwa wa setheo jaka go tlhalositswe mo korolong 157;
“lekgethswana le le kgethegileng” le kaya lekgethswana le le duel disweng jaaka lekgethswana le le kgethegileng ke mokgatlho wa lephata la ditšhelete go ya ka molawana o o neelanang ka maatla a tuediso ya lekgethswana;
“mola o o tsepameng wa lephata la ditšhelete” o kaya mola wa lephata la ditšhelete, ntle le Molao ono, o o laolang mofuta o o tsepameng wa kuno ya ditšhelete, tirelo ya ditšhelete kgotsa thulaganyetso ya popegotheo ya mmaraka;
“leloko la badiri” leo e leng motho, le kaya—
(a) modiri, jaka go tlhalositswe mo korolong 213 ya Labour Relations Act, 1995 (Molao 66 wa 1995);
(b) motho fela yo o boneng tshegetso mo mothong;
“Maemo” a kaya nngwe le nngwe ya tse di latelang:
(a) Maemo a tlhokomelo;
“statutory ombud” means each of the following:
(a) The Adjudicator as defined in section 1(1) of the Pension Funds Act;
(b) the Ombud for Financial Services Providers as defined in section 1(1) of the Financial Advisory and Intermediary Services Act; and
(c) a person declared by a specific financial sector law to be a statutory ombud;
“statutory ombud scheme” means a scheme declared by a specific financial sector law to be a statutory ombud scheme;
“supervised entity” means each of the following:
(a) A licensed financial institution;
(b) a person with whom a licensed financial institution has entered into an outsourcing arrangement; and
(c) a representative of a financial institution;
“supervisory on-site inspection” means an inspection as contemplated in Part 3 of Chapter 9;
“systemic event” means an event or circumstance, including one that occurs or arises outside the Republic, that may reasonably be expected to have a substantial adverse effect on the financial system or on economic activity in the Republic, including an event or circumstance that leads to a loss of confidence that operators of, or participants in, payment systems, settlement systems or financial markets, or financial institutions, are able to continue to provide financial products or financial services, or services provided by a market infrastructure;
“systemically important financial institution” means a financial institution designated in terms of section 29;
“taxable income” has the same meaning ascribed to it in terms of section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);
“this Act” includes the Regulations and regulatory instruments made in terms of this Act;
“transformation of the financial sector” means transformation as envisaged by the Financial Sector Code for Broad-Based Black Economic Empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
“Tribunal” means the Financial Services Tribunal established in terms of section 219(1);
“Tribunal member” means a member of the Tribunal referred to in section 220;
“Tribunal rules” means rules made in terms of section 227;
“trust” has the same meaning ascribed to it in terms of section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988);
“trustee” has the same meaning ascribed to it in terms of section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988);
“website” means a website as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002); and
“winding-up” means the process of dissolving a financial institution that includes the selling of all assets, the paying off of creditors and the distribution of any remaining assets.
(2) In this Act, unless the context indicates otherwise, a word or expression derived from, or that is another grammatical form of, a word or expression defined in this Act has a corresponding meaning.
(3) A reference in a financial sector law, or in an instrument made or issued in terms of a financial sector law, to compliance with financial sector laws or to compliance with a particular financial sector law includes a reference to compliance with requirements in instruments made or issued in terms of the relevant financial sector laws.

Financial products

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

(c) maemo a a kopantsweng;

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

(a) Mootlhodi jaaka go thalositswe mo karolong 1(1) ya Pension Funds Act;

(b) Ombud wa Batlamedi ba Ditirelo tsa Ditšhelete jaaka go tthalositswe mo karolong 1(1) ya Financial Advisory and Intermediary Services Act; le

(c) motho yo o tlhomamisistsweng ka molao o o tsepmang wa lephata la ditšhelete go nna ombud wa semolao;

“sekema sa ombud sa semolao” se kaya sekema se se tlhomamisistsweng ke molao o o tsepmang wa lephata la ditšhelete go nna sekema sa ombud sa semolao;

“setheo se se tlhokometsweng” se kaya nngwe le nngwe ya tse di latelang:

(a) Setheo sa ditšhelete se se abetsweng laesense;

(b) motho yo setheo sa ditšhelete se se abetsweng laesense se dirileng thulaganyo ya go bona tirelo kwa ntle le ena; le

(c) moemedi wa setheo sa ditšhelete;

“tlhathoho ya tlhokomelo ka tiron” e kaya tlhatlhoboi jaaka e kailwe mo Karolong 3 ya Kgaolo 9;

“tiragalo e e rulaganeng” e kaya tiragalo kgotsa lebaka, go akaretsa le le le diragalang kgotsa simololang kwa ntle ga Rephaboliki, leo go ka solofelwang go lere ditlamorago tse di sa siamang mo thulaganyong ya ditšhelete kgotsa tiro ya ikonomi mo Rephaboliking, go akaretsa tiragalo kgotsa lebaka le le tisang go tlhoka boikanyego jwa gore badirisi ka, kgotsa batsayakarolo mo, ditulaganyang tsa tuelo, ditulaganyang tsa tsheletle kgotsa mebaraka ya ditšhelete, kgotsa ditheo tsa ditšhelete, ba kgona go tswela pele go tlamele dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete;

“setheo sa ditšhelete sa botlhokwajoborulaganeng” se kaya setheo sa ditšhelete se se tlhomilweng go ya ka karolo 29;

“lotseno le le dediswang lekgetho” le na le bokao jo le bo neilweng mo karolong 1 ya Income Tax Act, 1962 (Molao 58 wa 1962);

“Molao ono” o akaretsa Melawana le didiriswa tsa tse tshwe tele di dirilweng go ya ka Molao ono;

“phetolo ya lephata la ditšhelete” e kaya phetolo jaaka e bonetsweng pele ke Khoutuya la Lephata la Ditšhelete mabapi le MaatlaFatsa ya Ikonomi ya Motheo o o Anameng ya Batho ba Batswe e e botshweng go ya ka karolo 9(1) ya Broad-Based Black Economic Empowerment Act, 2003 (Molao 53 wa 2003);

“Lekgotla” le kaya Lekgotla la Ditirelo tsa Ditšhelete le le tlhomilweng go ya ka karolo 219(1);

“leloko la Lekgotla” le kaya leloko la Lekgotla le le kailwe mo karolong 220;

“melawana ya Lekgotla” e kaya melawana e e dirilweng go ya ka karolo 227;

“terasete” e na le bokao jo bo tshwangan le jo e tlhalexitsweng ka jona mo karolong 1 ya Trust Property Control Act, 1988 (Molao 57 wa 1988);

“motlhokekedi” o na le bokao jo bo tshwangan le jo a thalositswe ka jona mo karolong 1 ya Trust Property Control Act, 1988 (Molao 57 wa 1988);

“webesae” e kaya webesae jaaka e thalositswe mo karolong 1 ya Electronic Communications and Transactions Act, 2002 (Molao 25 wa 2002); le

“phetiso” e kaya kgota ya go phatlalatsa setheo sa ditšhelete go akaretsa le thekiso ya dittho tsotlhe, tuelo ya banayamolato le kabola phatlalatso ya dittho tse di setseng.

(2) Mo Molaong ono, ntle le la tiriso e kaya ka mokgwang mngwe, lefoko kgotsa tlaqiso e e tsuwa va kgotsa e e tlaqiso e e mokgwang mngwe wa thepau, lefoko kgotsa thlaqiso e e tlaqiso mngwe mo Molaong ono le na le bokao jo bo tshwangan.

(3) Tshupetso mo molaong ono lephata la ditšhelete, kgotsa mo sedirisweng se se dirilweng kgotsa rebotsweng go ya ka molao wa lephata la ditšhelete, go ikaman ya le melao ya lephata la ditšhelete kgotsa molao o o rilegwa le lephata la ditšhelete e ekaresetsa tshipetsa ya go ikaman ya le ditlhoko ke didirisweng tse di dirilweng kgotsa 55 rebotsweng go ya ka melao e e melo ya setheo sa ditšhelete.

Dikuno tsa ditšhelete

2. (1) Mo Molaong ono “dikuno tsa ditšhelete” di kaya—

(a) kgatlhogo ya botsayakarolo mo sekema sa peelelomogamo;

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

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

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

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

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

Financial services

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

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

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

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

(g) ntle le maitlhomo a a mabapi le Kgaolo 4 le karolo 106, dikabelo tsa sekoloto tse di tlametsweng go ya ka tumalano ya sekoloto e e laolweng go ya ka Molaow wa Bosethaba wa Sekoloto;

(h) tsholofetso, tshireletsego kgotsa—
   (i) mokgatlho wa letlole la pens ˇene, jaaka o tlhalositswe mo karolong 1(1) ya Pension Funds Act, go leloko la mokgatlho go ya ka botokololo;
   (ii) mokgatlho wa botsalano, jaaka o tlhalositswe mo karolong 1(1) ya Friendly Societies Act, go leloko la mokgatlho go ya ka botokololo;

(i) sediriswa kgotsa thulaganyo e e dirilweng ka Melawana malebana le karolo eno jaaka kungo ya ditšeletse; le

(j) sediriswa kgotsa thulaganyo e e akaretsang kungo kgotsa dikuno tsa ditšeletse tse di kaiblweng mo ditemane e ka fete tse di latelang: 15

(2) Melawana e ka thloma jaaka kungo ya ditšeletse sediriswa kgotsa thulaganyo ngwe le ngwe e e sa laolweng go ya ka molaow o o tsepameng wa setheo sa ditšeletse fa—

   (a) go direng jalo, seno se tla ntshetsa pele maitlhomo a Molaow ono a a tlhagisitswe mo karolong 7; le
   (b) sediriswa kgotsa thulaganyo ke ka yona, kgotsa go mneng le yona, motho o ka dirang e e le ngwe kgotsa go feta ya ditiro tse di latelang:
      (i) Kadimo;
      (ii) go dira peelotso ya ditšeletse; le
      (iii) go laola dikotsi tsa ditšeletse. 20

(3) mabapi le maitlhomo a karolotlaleletsolo (2)/(b)/(ii), motho ("mmeletsi") o dira peelotso ya ditšeletse fa a—

   (a) etleetsa, ka tšeletse kgotsa boleng jwa tšeletse, go motho yo mongwe mme ngwe le ngwe ya tse di latelang e e diragatswa:
      (i) Motho yo mongwe o dirisa ketleetso go tlisa poelo ya ditšeletse go mmeletsi;
      (ii) mmeletsi o ikalela gore motho yo mongwe o tshwanetse go dirisa ketleetso go tlisa poelo ya ditšeletse go mmeletsi, le fa go sena poelo, kgotsa tatlhegelo, e e dirilweng; le
      (iii) motho yo mongwe o ikalela gore ketleetso e dirisetswe go direla mmeletsi poelo ya ditšeletse, le fa go sena poelo, kgotsa tatlhegelo, e e dirilweng; le

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

(4) Mabapi le maitlhomo a karolotlaleletsolo (2)/(b)/(iii), motho o laola dikotsi tsa ditšeletse fa a

   (a) laola ditlamoraego tsa tšeletse go motho wa ditiragalo kgotsa mabako a a rileng a diragala kgotsa a sa diragale; kgotsa
   (b) tila kgotsa lekanyetsa ditlamorago tsa ditšeletse tsa go ya godimo le tlae mo, kgotsa mo boleng jwa, dirasiti kgotsa ditshenyegelo, go akaretsa ditshothlwa le dikelo tsa morokotsi. 45

(5) Melawana e e laolang kungo ya ditšeletse go ya ka karolotlaleletsolo (2) e ka totoabaetsa boloaudi jwa lephata la ditšeletse goke ke jona bothati jo bo rwelleng maikarabelo a go laola batlamedi ba kungo ya ditšeletse.

Ditirelo tsa ditšeletse

3. (1) Mo Molaow ono“tirelo ya ditšeletse” e kaya—

   (a) ngwe le ngwe ya ditiro tse di latelang tse di dirvang mo Rephaboliking mabapi le kungo ya ditšeletse, kungo ya ditšeletse ya boditšabha, sediriswa sa ditšeletse, kgotsa sediriswa sa ditšeletse sa boditšabha:
      (i) Kabelo, tsweletso, papatso kgotsa phatlalaetso;
      (ii) go tlameloa ka kgakololo, dikafatlaneego kgotsa kaelo;
      (iii) go dirisa ka kgotsa go tsaimea; 55
(iv) providing administration services;
(b) dealing or making a market in the Republic in a financial product, a foreign financial product, a financial instrument or a foreign financial instrument;
(c) a payment service;
(d) securities services;
(e) an intermediary service as defined in section 1(1) of the Financial Advisory and Intermediary Services Act;
(f) a service related to the buying and selling of foreign exchange;
(g) a service related to the provision of credit, including a debt collection service, but excluding the services of—
   (i) a debt counsellor registered in terms of section 44 of the National Credit Act who provides the services of a debt counsellor as contemplated in that Act;
   (ii) a payment distribution agent as defined in section 1 of the National Credit Act; or
   (iii) an alternative dispute resolution agent, as defined in section 1 of the National Credit Act;
(h) a service provided to a financial institution through an outsourcing arrangement;
(i) any other service provided by a financial institution, being a service regulated by a specific financial sector law; and
(j) a service designated by the Regulations for this section as a financial service.

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

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

(4) For the purposes of subsection (1)(b) of the definition of “financial service” in subsection (1)—
   “dealing” means any of the following, whether done as a principal or as an agent:
   (a) In relation to securities or participatory interests in a collective investment scheme, underwriting the securities or interests; and
   (b) the buying or selling of the securities or interests for own account or on behalf of another person as a business, a part of a business or incidental to conducting a business;
   “making a market” in a financial instrument takes place when—
   (a) a person, through a facility, at a place or otherwise, states the prices at which the person offers to acquire or dispose of financial instruments, whether or not on the person’s own account; and
   (b) other persons reasonably expect that they can enter into transactions for those instruments at those prices.

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

Financial stability

4. (1) For the purposes of this Act, “financial stability” means that—
   (a) financial institutions generally provide financial products and financial services, and market infrastructures generally perform their functions and duties in terms of financial sector laws, without interruption;
(iv) go tlamelwa ka ditirelo ts tsamaiso;
(b) go samagana kgotsa go dira mmaraka mo Rephaboliking mo kunong ya ditšhelete, kuno ya ditšhelete ya bodišhaba, sediriswa sa ditšhelete kgotsa sediriswa sa ditšhelete sa bodišhaba;
(c) tirelo ya tuelo;
(d) ditirelo tsa dithoto;
(e) tirelo ya magareng jaaka e tlahalositse mo karolong (1) ya Financial Advisory and Intermediary Services Act;
(f) tirelo e e amanang le theko le thekiso ya kananyo ya bodišhaba;
(g) tirelo e e amanang le kabelo ya sekoloto, go akaretsa le tirelo ya kgobokanyo ya molato, mme ga e akaretsa ditirelo ts—a—
(i) mokakolodi wa tsa sekoloto yo o kwadisitsweng go ya ka karolo 44 ya Molao wa Bosetšhaba wa Sekoloto yo o tlamelang ka ditirelo tsa mokakolodi wa tsa sekoloto jaaka go tlahalositse mo Molaong oo;
(ii) modiritedi yo o phatlalatsang tuelo jaaka go tlahalositse mo karolong 1 ya Molao wa Bosetšhaba wa Sekoloto; kgotsa
(iii) moemedi yo mongwe wa tharesho ya ditlhalaganyo ya ditshelete, jaaka go tlahalositse mo karolong 1 ya Molao wa Bosetšhaba wa Sekoloto;
(h) tirelo e e tlamelwang kwa setheo nga ditšhelete ka thulaganyo ya go bona tirelo kwa ntle;
(i) tirelo ngwe le ngwe e e tlamelwang ke setheo sa ditšhelete, e leng tirelo e e laolweng ke molao o o tsepameng wa lephata la ditšhelete; le
(j) tirelo e e tholomilweng ka Melawana ya karolo eno jaaka tirelo ya ditšhelete.
(2) Tirelo e e tlamelwang ke thulaganysetso ya popegotheo ya mmaraka ga se tirelo ya ditšhelete, ntle le fa e tholomihwe ka Melawana go ya ka karololaleletsotse (3).
(3) Fa go dira jalo go tla tselelela maikaelaile a Molao ono jaaka a thahabisitswe mo karolong 7, Melawanetsa e ka thloma jaaka tirelo ya ditšhelete—
(a) tirelo ne ngwe le ngwe e e sa laolweng go ya ka molao o o tsepameng wa lephata la ditšhelete fa tirelo, e e tlamelwang mo Rephaboliking, e anana le—
(i) kuno ya ditšhelete, kuno ya bodišhaba ya ditšhelete, sediriswa sa ditšhelete kgotsa; sediriswa sa ditšhelete sa bodišhaba
(ii) thulaganyo e e leng ka boyona thulaganyo ya Kadimo, go dira peelelto ya ditšhelete kgotsa tuelo ya dikotsi tsa ditšhelete, tswilhe jaaka di kaiile mo dikarolong 2(2) go fitha go (4); kgotsa
(iii) kabelo ya kaelo kgotsa tshupanekeleko; kgotsa
(b) tirelo e e tlamelwang ke thulaganysetso ya popegotheo ya mmaraka.
(4) Mabapi le mafihumo a karolo (1)/(b) a thahlososya ya “tirelo ya ditšhelete” mo karololaleletsong (1)—
“go dirisana le”—, go kaya ngwe le ngwe ya tse di latelang, e dirilwe jaaka moikamadi kgotsa moemedi:
(a) Mabapi le dipolo tsa ditlhotla kgotsa botsakarolo jwa kgatlhego mo sekemeng sa peeleletsomomo, go tsamaisa ditlhotla kgotsa dipolo; le
(b) go reka le go rekisa ditlhotla kgotsa morokotso mabapile le maikaarabelo bobona kgotsa mo boemong jwa motho yo mongwe jaaka kgwebo, karolo ya kgwebo kgotsa kgwebo kgotsa go go tsaemelenana le go dira kgwebo;
“go dira mmaraka” mo sediriswaeng sa ditšhelete go diragala fa—
(a) motho, ka tiriso ya sediriswa, kwa lefelong kgotsa ka gongwe, a thahiga ditlhotlha tse motho a di beileng go fithilelela kgotsa go rulaganyo sediriswa sa ditšhelete, e ka tswe a le ka kgotsa e se ka akhaantso ya motho you; le
(b) batho ba bangwe ka mabaka ba solofela gore ba ka tsemi mo kgwebisanang ya didiriswa tseo ka ditlhotlha tseo.
(5) Melawanetsa e e tholomang tirelo ya ditšhelete go ya ka karololaleletsotse (3) e ka tsepamisa bolodi jwa lephata la ditšhelete joo e leng bothati jo bo rweleng maikaarabelo a go laolo batlamele na tirelo.

**Tlhomamo ya ditšhelete**

4. (1) Mabapi le mafihumo a Molao ono, “**Tlhomamo ya ditšhelete**” e kaya gore—
(a) ditlhotla sa ditšhelete ka kakaretso di tlamelwa dikuno tṣa ditšhelete le ditirelo tṣa ditšhelete, le ditlhalagonetso tsa popegotheo ya mmaraka di dira ka kakaretso ditlhotla sa ditšhelete a tsona go ya ka melao ya lephata la ditšhelete, ntle le kgoreletso;
(b) financial institutions are capable of continuing to provide financial products and financial services, and market infrastructures are capable of continuing to perform their functions and duties in terms of financial sector laws, without interruption despite changes in economic circumstances; and

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

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

Responsible authorities

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

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

Financial institutions that are juristic persons

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

Part 2

Object and administration of Act

Object of Act

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

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

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

Administration of Act

8. The Minister is responsible for the administration of this Act.
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(b) ditheo tsa ditšhelete di na le bokgongi jwa go tswelela pele go tlamela dikuno tsa ditšhelete, le ditšulaganyetsø tsa dipopegotheo tsa mmarakà di na le bokgongi jwa go dira ka kakaretso ditiro le maikarabelo a tsona go ya ka melao ya lephata la ditšhelete, ntle le kgoreletso le fa go na le diphetogo mo mabakeng a ikonomi; le
g(c) go na le boikanyegø ka kakaretso mo bokgonging jwa ditheo tsa ditšhelete go tswelela pele go tlamela dikuno tsa ditšhelete le ditirelo tsa ditšhelete, le bokgongi jwa ditšulaganyetsø tsa dipopegotheo go tswelela go dira ditiro le maikarabelo a tsona go ya ka melao ya lephata la ditšhelete, ntle le kgoreletso le fa go na le diphetogo mo mabakeng a ikonomi.

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

Bothati jo bo rwalang maikarabelo

5. (1) Go tsamaelana le karolotlaleletso (2), bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete ke molaodi wa lephata la ditšhelete yo o kalweng mo Šejuleng 2 jaaka bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete.

(2) Ntle le karolotlaleletso (1) le dikarolo 2(5) le 3(5), fa karolo 77 ya memorantamo wa tumalano o tlamela mabapi le ngwe ya bolaodi jwa lephata la ditšhelete go rolela ditiro tsa yona le dithata mabapi le kabelo ya molao wa lephata la dišhelete o e leng bothati jo bo rwalang maikarabelo a bolaodi jo bongwe jwa lephata la ditšhelete, bolaodi jo bongwe jwa lephata la ditšhelete ke, go ya ka bogoło jwa tholelo, bothati jo bo rwalang maikarabelo mabapi le kabelo.

Ditheo tsa ditšhelete tseo e leng ditheo tsa molao

6. Fa molao ya lephata la ditšhelete o pateletsà tlaneogo e tšwanetseng go diragatswe ke setheo seo se leng mo molaong, maloko a mokgatlıho o o busang wa setheo se se mo molaong a tšwanetseng go netefatsa gore go ikamangwela le pataletsegø.

Karolo 2

Maitlhomo le tsamaiso ya Molao

Maitlhomo a Molao

7. (1) Maitlhomo a Molao ono ke go fitšhelela tsamaiso e e tlhomameng ya ditšhelete e e dirang go ya ka dikgatlhегelo tsa barekedi ba ditšhelete e e tšhegetsa kgolo ya ikonomi e e lekalekanang e e tsewelelweng mo Rephaboliklng, ka go tlhoma, mmogo le melao e e tšepameng ya lephata la ditšhelete, letlhomeso la bolaodi le tlhokomelo le le nishetsang pele—

(a) tlhomameng ya ditšhelete;
(b) poloko go le itekanelo ya ditheo tsa ditšhelete;
(c) tsholo e e lolaefeng le tshireletso ya barekedi ba ditšhelete;
(d) bokgongi le tshiamo ya thulaganyo ya ditšhelete;
(e) tšibelo ya bosenyi jwa ditšhelete;
(f) tšenyeletso mo o tsà ditšhelete;
(g) photolo ya lephata la ditšhelete; le
(h) boikanyego mo thulaganyong ya ditšhelete.

(2) Fa go baflica go fitšhelelewla maitlhomo a Molao ono Banka ya Resefè le balaodi ba lephata la ditšhelete ga ba a thswanela go thibilwa mo go fitšheleleling maitlhomo a bona le maikarabelo jaaka go thlagisitswe mo dikarolong 11, 33 le 57.

Tsamaiso ya Molao

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

Application of other legislation

Inconsistencies between Act and other financial sector laws

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

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

Application of other legislation

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

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

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

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

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

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

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

CHAPTER 2

FINANCIAL STABILITY

Part 1

Powers and functions of Reserve Bank

Responsibility for financial stability

11. (1) The Reserve Bank is responsible—

(a) for protecting and enhancing financial stability; and

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

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

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

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

Tiragatso ya molao o mongwe

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

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

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

Tiragatso ya molawana

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

(a) tiro, tiragatso, kuno ya ditšhelete kgotsa tirelo ya ditšhelete tse di leng ka fa tlase ga *National Payment System Act* kgotsa molao wa lephata la ditšhelete, e bile di laolwana ke Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete; kgotsa

(b) Banka ya Resefe, Bothathi jwa Tlhokomelo, Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete, Komiti ya Tlhokomelo, Komiti Khuduthamaga, Motlhankedimogolo wa Khuduthamaga, Khoamišenara kgotsa Motsatsakhomošenara.

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

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

(c) Karolo 116 (4) le (9) ya *Companies Act* e diragatswa, le diphetogo tse di tlhokwang ke maemo, go kopano kgotsa tshwaraganyo e e tlhokang thebolo ya Tona, Bothathi jwa Tlhokomelo kgotsa Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete.

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

KGAOLO 2

TLHOMAMO YA DITŠHELETE

KAROLO 1

Dithata le diitiro tsa Banka ya Resefe

Maikarabelo tlhomamo ya ditšhelete

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

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

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

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

(a) tshvanetse go dira go ya ka letlhomeso la pholisi le go dumalaweng ka lona magareng ga Tona le Mmusisi;

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

**Monitoring of risks by Reserve Bank**

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

**Financial stability review**

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

**Part 2**

**Managing systemic events and risks in relation to systemic events**

**Determination of systemic events**

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

Go lekolwa ga dikotsi ke Banka ya Resefe

12. Banka ya Resefe e tshwanetse—

(a) go ela tlhoko le go baya ka fa tlase ga thadiso—

(i) dikgono le makoa a thulaganyo ya dišhelete; le

(ii) dikotsi dingwe le dingwe go tlhomamo ya dišhelete, le thloego le bogolo jwa dikotsi tseo, go akaretsa le dikotsi tsa gore ditiragalo tse di rulaganeng di tla diragala le dikotsi dingwe le dingwe tse di kailweng mo mabakeng a a tlhagisitsweng ke maloko a Komiti ya Keletlhoko ya Thlomamo ya Dišhelete kgotsa a begilwe go Banka ya Resefe ke molaodi wa lephata la dišhelete;

(b) go tsaya dikgato go fokotsa dikotsi go tlhomamo ya dišhelete, go akaretsa le go gakolola balaodi ba lephata la dišhelete, le lephata lengwe le lengwe la puso, ka ga dikgato tse di ka tsewang go fokotsa dikotsi tseo; le

(c) nako le nako go lekanyetsa temogo ya ditheo mo Rephaboliking tse di thlabolotsweng ke mekgatlho ya boditšhabatšhaba ya go tlhoma dikemo tsa thulaganyetso ya popegotheo ya mmaraka, le go bega diphillhelelo tsaa yona go balaodi ba lephata la dišhelete le Tona, ka go ela tlhoko mabaka le maemo a mo gare ga Rephaboliki.

Thadiso ya tlhomamo ya dišhelete

13. (1) Banka ya Resefe e tshwanetse, bonnye dikgwedi dingwe le dingwe tse thataro, go dira tekanyetsa ya tlhomamo ya thulaganyo ya dišhelete, eo e kailweng fano jaaka “thadiso ya tlhomamo ya dišhelete”.

(2) Thadiso ya tlhomamo ya dišhelete e tshwanetse go thagisa—

(a) tekanyetsa ya Banka ya Resefe ya tlhomamo ya dišhelete mo pakeng e e ka fa tlase ga thadiso;

(b) tlhagiso le tekanyetsa ya dikotsi go tlhomamo ya dišhelete mo bonnyeng dikgwedi tse 12 tse di latelang;

(c) tshosobanyo ya dikgato tse e di tseweng mmogo le balaodi ba lephata la dišhelete go tlhagisa le go laola dikotsi, makoa kgotsa dikotsi mo thulaganyang ya dišhelete mo pakeng e e ka fa tlase ga thadiso le ao go bonelweng pele gore a tla diragala mo dikgwedweng tse 12 tse di latelang; le

(d) tshosobanyo ya dikatanegiso tse e di dirileng mmogo le Komiti ya Keletlhoko ya Thlomamo ya Dišhelete mo pakeng e e ka fa tlase ga thadiso le tswelelo e e fihleletsweng mo go tsenyeng tiseng dikatanegiso tseo.

(3) Tshedimosetso e, fa e ka phasalatswa e ka gakatsang kgonagalo ya tiragalo e e rulaganeng, e tlhoko go phasalatswa mo thadison ga tlhomamo ya dišhelete morago ga go foketsega ga kotsi ya tiragalo e e rulaganeng, kgotsa e sekasekilwe.

(4) Banka ya Resefe e tshwanetse go—

(a) romela kgatiso ya thadiso mngwe le mngwe go Tona le Komiti ya Keletlhoko ya Thlomamo ya Dišhelete go bona tshedimosetso le tshwaelo, le go letla Tona kgotsa Komiti ya Keletlhoko ya Thlomamo ya Dišhelete go dira ditshwaelo bonnye dibike di le pedi fa ba eletsa go dira jalo;

(b) phasalatsa thadiso, morago ga go tsaya tsia ditshwaelo dingwe le dingwe tse di ka tswang di amogotsew go ya ka temana (a); le

(c) go baya fa pele ga Palamente khopi ya thadiso.

KaroLO 2

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

Tlhomamiso ya ditiragalo tse di rulaganeng

14. (1) Minuisi o ka, morago ga go rerisana le Tona, tlhomamisa gore tiragalo kgotsa lebaka le le tsepameng, kgotsa kopano e e tsepameng ya ditiragalo kgotsa mabaka, ke tiragalo e e rulaganeng.
Financial Sector Regulation Act, 2017

Act No. 9 of 2017

(2) The Governor may, before making a determination in terms of subsection (1), consult the Financial Stability Oversight Committee.

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

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

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

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

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

Functions of Reserve Bank in relation to systemic events

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

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

Information to Minister

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

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

Responsibilities of financial sector regulators

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

(3) Tlhomamiso go ya ka karolotlaleletso (1) e ka dirwa fa ka gongwe tiragalo kgotsa lebaka, kgotsa kopano ya dirirugalo kgotsa mabaka, di diragetsa kgotsa di simolotsa.

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

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

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

(7) Banka ya Resefe e tshwanetse, mabapi le tlhomamiso e e dirilweng go ya ka karolotlaleletso (1) kgotsa (4), le tlhabololo ngwe le ngwe kgotsa kgogoloromorago ya tlhomamiso eo—
(a) go baya fa pele ga Palamente tlhomamiso, kgotsa tlhabololo kgotsa phimolo ya tlhomamiso; le
(b) go phasalatsa tlhomamiso, kgotsa tlhabololo kgotsa phimolo ya tlhomamiso, le webesetaeng ya Banka ya Resefe.

Ditiro tsa Banka ya Resefe mabapi le diriragalo tse di rulaganeng

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

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

Tshedimosetso go Tona

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

(2) Banka ya Resefe e ka se, ntle le thebolo ya Tona, tseye kgato go ya ka karolo 15 e e ka kgotsa e e nang le kgonagalo ya go—
(a) tlameleta Letlole la Bosetšhaba la Lotseno go ditshenyegelo dingwe le dingwe;
(b) nna le kutlwalo e e botlhokwa mo ditlhothlwakadimong go Letlole la Bosetšhaba la Lotseno; kgotsa
(c) thlola boitlamo jwa ditšhelete jwa isago kgotsa molato wa thoganyetsgo go Letlole la Bosetšhaba la Lotseno.

Maikarabelo a balaodi ba lephata la ditšhelete

17. Fa Mmusisi go ya ka karolo 14(4) a tlhomamisitse gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, molaodi mongwe le mongwe wa lephata la ditšhelete o tshwanetse—
(a) provide the Reserve Bank with any information in the possession of the financial sector regulator, which may be relevant for the Bank to manage the systemic event or the effects of the systemic event; and

(b) consult the Reserve Bank before exercising any of their powers in a way that may compromise steps taken or proposed in terms of section 15 to manage the systemic event or the effects of the systemic event.

Directives to financial sector regulators

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

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

(b) A directive in terms of paragraph (a) may include directions aimed at—

(i) supporting the restructuring, resolution or winding-up of any financial institution;

(ii) preventing or reducing the spread of risk, weakness or disruption through the financial system; or

(iii) increasing the resilience of financial institutions to risk, weakness or disruption.

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

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

Exercise of powers by other organs of state

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

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

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

Part 3

Financial Stability Oversight Committee

Establishment of Financial Stability Oversight Committee

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

(2) The primary objectives of the Financial Stability Oversight Committee are to—

(a) support the Reserve Bank when the Reserve Bank performs its functions in relation to financial stability; and

(b) facilitate co-operation and collaboration between, and co-ordination of action among, the financial sector regulators and the Reserve Bank in respect of matters relating to financial stability.
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(a) tlamela Banka ya Resefe ka tshedimosetso ngwwe le ngwwe e e mo diatleng tsa balaodi ba lephata la dišišhelete, eo e ka kgontshang Banka go laola tiragalo e e rulaganeng kgotsa ditlamarago tsa tiragalo e e rulaganeng; le

(b) go rerisana le Banka ya Resefe pele ba ka diragatsa diithata dingwe le dingwe tsa bona ka mokgwa o o o ka amang dikgato tse di tserweng kgotsa tshitsintswe ng go ya ka karolo 15 go laola tiragalo e e rulaganeng kgotsa ditlamarago tsa yona.

Ditaelo go balaodi ba lephata dišišhelete

18. (1) Mmusisi o ka laela molaodi wa lephata la dišišhelete, ka go kwala, go tlamela Banka ya Resefe ka tshedimosetso e e thalositsweng mo taelong e Banka ya Resefe kgotsa Mmusisi a e thokang go diragatsa diithata tsa gagwe go ya ka karolo 14 kgotsa 15, eo e leng mo diatleng tsa molaodi wa lephata la dišišhelete kgotsa e fitlhelelwang ke jona.

(2) (a) Fa Mmusisi go ya ka karolo 14(4) a tlhomamisitse gore tiragalo e e rulaganeng e e diregile kgotsa e ka diragala, Mmusisi o ka, ka go kwala, laela molaodi wa lephata la dišišhelete, go thusa Banka ya Resefe go ikamanya le karolo 15 go ka dira go tsamela tsa le tlaeloa go bo diragatsa diithata tsa jona.

(b) Taelo go ya ka temana (a) e ka akaretso dintlha tse di ikaelelang go—

(i) tshegetsa kagosešwa, tharabololo kgotsa tshwetso ya setheo sengwe le sengwe sa dišišhelete;

(ii) thibela kgotsa fokotsa go anama ga dikotsi, makoa kgotsa dikgoreletsi mo thulaganyong ya dišišhelete; kgotsa

(iii) oketsa bokgoni jwa ditheo tsatlheši diemela go emelana le dikotsi, makoa kgotsa dikgoreletsi.

(3) Bothathi jwa Tlhokomelo, Bothathi jwa Botshwano jwa Lehefa la Dišišhelete le Senthara ya Bothodi jwa Dišišhelete di tshwanetse go ikamanya le taelo e e rebotsweng go tsona go ya ka karolotlaleletso (1) kgotsa (2).

(4) Bolaodi jwa Botšetšaba jwa Sekoloko bo tshwanetse go ikamanya le taelo eo e e rebotsweng go ya ka karolotlalelelelelo (1) kgotsa (2), fela fa Tona a rerisane le Tona e e rweleng maikarabelo a merero ya sekoloko sa badirisi mo taelong eo.

Tiragatso ya diithata ka maphata a mangwe a puso

19. (1) Fa Mmusisi go ya ka karolo 14(4) a tlhomamisitse gore tiragalo e e rulaganeng e e diregile kgotsa e ka direga, lephata la puso le le diragatsang diithata tsa lona mabapi e le thulaganyo ya dišišhelete le ka se, ntle le thebolo ya Tona, ka go dira ka therisano le leloko la Kabinete le le rweleleng maikarabelo a lephata le, diragatse diithata tsa lona ka mokgwa o o sa tsamela tsa tshwetso kgotsa dikgato tse di tserweng ke Mmusisi kgotsa Banka ya Resefe go ya ka Karolo eno, gore go laolwe tiragalo eo e e rulaganeng kgotsa ditlamarago tsa tiragalo eo e e rulaganeng.

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

(3) Karolotlalelelelo (1) ga e diragatswe mo balaodi la lephata la dišišhelete.

Karolo 3

Komiti ya Kelotlhoko ya Tlhomamo ya Dišišhelete

Go tlhongwa ga Komiti ya Kelotlhoko ya Tlhomamo ya Dišišhelete

20. (1) Komiti e e bidiwang Komiti ya Kelotlhoko ya Tlhomamo ya Dišišhelete e a tlhongwa.

(2) Matlhomamagolo a Komiti ya Kelotlhoko ya Tlhomamo ya Dišišhelete ke go—

(a) tshgetsa Banka ya Resefe fa Banka ya Resefe e e dira ditiro tsa yona mabapi le tlhomamo ya dišišhelete; le

(b) nolofatsa tirisamomomo le kgolagano magareng ga, le kopanyo ya tiro magareng ga, balaodi ba lephata la dišišhelete le Banka ya Resefe mabapi le merero e e amanang le tlhomamo ya dišišhelete.

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Functions of Financial Stability Oversight Committee

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

Membership

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

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

Administrative support by Reserve Bank

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

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

Meetings and procedure

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

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

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

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

21. Komiti ya Keloththo ya Thlomamo ya Ditšhelete e na le ditiro tse di latelang:
   (a) Go dira jaaka foramo ya baemedi ba Banka ya Resefe gape bolaodi bongwe le bongwe jwa lepaha la ditšhelete bo tshwanetse go itsisiwe, le go refosana dikakanyo, ka ga ditirwana tsa Banka ya Resefe le balaodi le lepaha la ditšhelete mabapi le thlomamo ya ditšhelete;
   (b) go dira dikatlaneqiso go Mmususi ka ga go thlomiviwa ga ditheo tse di rulaganeng tsa ditšhelete tse di bothlokwa;
   (c) go gakolola Tona le Banka ya Resefe ka ga—
      (i) dikgato tse di ka tsewang go tlhatlosa, sireletsa kgotsa tlamel, kgotsa go laola kgotsa thibela dikotsi go, thlomamo ya ditšhelete; le
      (ii) merero e e amanang le taolo ya dikotsi le thibelo;
   (d) go dira dikatlaneqiso go maphata a mangwe a puso mabapi le dikgato tse di maleba go bona go ka di isaya go thusa mo go tlhatloseng, sireletseng kgotsa tlameleng, kgotsa laoleng kgotsa thibela dikotsi go thlomamo ya ditšhelete; 15 le
   (e) tiro nngwe le nngwe eo e e neetsweng go ya ka molawana o o maleba.

**Boloko**

22. (1) Komiti ya Keloththo ya Thlomamo ya Ditšhelete e na le maloko a a latelang:
   (a) Mmususi;
   (b) Motlatsamamusi yo o rwalang maikarabelo a merero ya thlomamo ya ditšhelete;
   (c) Motlehankedimogolo wa Khuduthamaga;
   (d) Khomišenara;
   (e) Molehankedimogolo wa Khuduthamaga wa Bolaodi jwa Bsetšhaba jwa Sekoloto;
   (f) Mokaedikakaretso;
   (g) Mokaedi wa Senthara ya Botlhodi jwa Ditšhelete; le
   (h) tekanyetso ya batho ba le bararo ba tlaletse bo ba thapilweng ke Mmusisi.

(2) Lelo loko la Komiti ya Keloththo ya Thlomamo ya Ditšhelete e e kailweng go ya ka karolotlaleletso (1)(h) le dira go ya ka paka, le ka dipelo, tse di thlomamisitsweng ke Mmusisi.

**Tshegetso ya tsamaiso ka Banka ya Resefe**

23. (1) Banka ya Resefe e tshwanetse go tlamel la tshegetso ya tsamaiso, le ditlamelwana tse dingwe, go akaretsa le ditlamelwana tsa ditšhelete, gore Komiti ya Keloththo ya Thlomamo ya Ditšhelete e dire ka matsetseleko.

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

**Dikopano le tsamaiso**

24. (1) Komiti ya Keloththo ya Thlomamo ya Ditšhelete e tshwanetse go kopana bonnye mo dikgweding dingwe le dingwe tse thataro.
   (2) Mmususi—
      (a) o ka bitsa kopano ya Komiti ya Keloththo ya Thlomamo ya Ditšhelete nako nngwe le nngwe; le
      (b) o tshwanetse go bitsa kopano fa a kopilwe go dira jalo ke Motlhekadedimogolo wa Khuduthamaga, Khomišenara kgotsa ke Motlhekadedimogolo wa Khuduthamaga ya Bolaodi jwa Bsetšhaba jwa Sekoloto.
   (3) (a) Mmususi o okamela kopano ya Komiti ya Keloththo ya Thlomamo ya Ditšhelete eo Mmususi a leng teng mo go yona.
      (b) Fa Mmususi a seyo mo kopanong, Motlatsamamusi yo o rweleng maikarabelo a merero ya thlomamo ya ditšhelete o okamela kopano.
   (4) (a) Lelo loko la Komiti ya Keloththo ya Thlomamo ya Ditšhelete le le sa kngoneng go tselena kopano le ka, morago ga go itise maloko a mangwe le ka tumalano ya motho yo o tla okamela kopano, tlhopha mongwe yo o refosanang nae go tselena kopano eo boemong jwa gagwe.
(b) An alternate referred to in paragraph (a) has, for that meeting, the same rights as the member of the Financial Stability Oversight Committee.

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

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

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

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

Part 4

Financial Sector Contingency Forum

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

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

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

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

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

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

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

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

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

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

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

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

Part 5

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

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

26. (1) The financial sector regulators must—

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

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

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

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

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

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

(7) Komiti e ka tlhoma ditlhopha tse di farologangeng tsa tiro kgotsa dikomititlaleletso.

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

Karolo 4

Foramo ya Tshoganyetso ya Lephata la Ditšhelete

Foramo ya Tshoganyetso ya Lephata la Ditšhelete

25. (1) Mmusisi o tshwanetse go tlhoma foramo, e e bidiwang Foramo ya 15 Tshoganyetso ya Lephata la Ditšhelete.

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

(a) go tlhagisa dikotsi tsa kgonagalo ya go direga ga ditiragalo tse di rulaganeng; le 20

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

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

(a) Motlatsummusisi yo o thapilweng ke Mmusisi, yo e leng Modulasetilo;
(b) dikemedi tsa balaodi bangwe le bangwe ba lephata la ditšhelete;
(c) dikemedi tsa maphata a mangwe a puso, jaaka Modulasetilo a ka tlhomamisa; le 25

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

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

(5) Foramo ya Tshoganyetso ya Lephata la Ditšhelete e tshwanetse go kopana e bile e tshwanetse go dira go tsamaelana le ditsamaiso tse di tlhomamisitsweng ke Mmusisi.

(6) Banka ya Resefe e tshwanetse go tlamela ka tshegetso ya tsamaiso, le ditlamelwana tse dingwe, go akaretsa le ditlamelwana tsa ditšhelete, gore Foramo ya 30 Tshoganyetso ya Lephata la Ditšhelete e dire ka matsetseleko.

Karolo 5

Botsayakarolo jwa balaodi ba lephata la ditšhelete le maphata a mangwe a puso mo go tshegetse tshomamo ya ditšhelete

Tirisanommogo magareng ga Banka ya Resefe le balaodi ba lephata la ditšhelete 40 mabapi le tlhomamo ya ditšhelete

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

(a) go dirisannmmogo le go kopana le Banka ya Resefe, le ka bobona, go tshegetsa, sireletsa le go oketsa tlhomamo ya ditšhelete;
(b) go neelana ka thuso eo le tshedimose tso go Banka ya Resefe le Komiti ya 45 Kelothloko ya Tlhomamo ya Ditšhelete go tshegetsa kgotsa busetsa tlhomamo ya ditšhelete, jaaka go kopile Banka ya Resefe kgotsa Komiti ya Kelothloko ya Tlhomamo ya Ditšhelete;
(c) go bega ka potlako go Banka ya Resefe moreromongwe mongwe o o lemongweng ke molaodi ba lephata la ditšhelete e le o o tlisang kgotsa o o ka 50 tlisang dikotsi mo tlhomamong ya ditšhelete; le
(d) go kgobokanya tshedimose tso go tswa go, kgotsa ka ga, ditheo tsa ditšhelete tse di di amang tlhomamo ya ditšhelete.
(2) The Reserve Bank must, when exercising its powers in terms of this Chapter, take into account—
   (a) any views expressed and any information reported by the financial sector regulators; and
   (b) any recommendations of the Financial Stability Oversight Committee.

Memoranda of understanding relating to financial stability

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

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

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

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

Roles of other organs of state in relation to financial stability

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

Part 6

Systemically important financial institutions

Designation of systemically important financial institutions

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

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

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

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

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

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

      (a) The size of the financial institution;

      (b) the complexity of the financial institution and its business affairs;

      (c) the interconnectedness of the institution with other financial institutions within or outside the Republic;

      (d) whether there are readily available substitutes for the financial products and financial services that the financial institution provides or, in the case of a market infrastructure, the market infrastructure;

      (e) recommendations of the Financial Stability Oversight Committee;

      (f) submissions made by or for the institution; and

      (g) any other matters that may be prescribed by Regulation.
Molao wa Taolo ya Lephata la Ditshelete , 2017
Nmr 9 ya 2017

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(2) Banka ya Resefe e tshwanetse, fa e diragatsa ditahaha ts a yona go ya ka Kgaolo eno, go tsaya tsa—
(a) dikakanyo dingwe le dingwe tse di thlagisitsweng le tshedi mosetso nngwe le nngwe e e begilweng ke balaodi ba lephata la ditšelete; le
(b) dikatlanegiso dingwe le dingwe tsa Komiti ya Kelothoko ya Tlhomamo ya Ditšelete.

Memorantamao wa tumalano o o mabapi le tlhomamo ya ditšhelete

27. (1) Balaodi ba lephata la ditšelete le Banka ya Resefe ba tshwanetse, e seng mo sebakeng sa dikgwedi tse thataro morago go go tsenngwa tirisong ga Kgaoelo eno, go tsena mo memorantamong wa tumalano o le esi kgotsa go feta mabapi le ka mokgwa o ba tla dirisanang le go kopana ta teng, le go thusana, le go dira ditiro tsa bona le go ikamanya le ditiro tsa bona tse di amanang le tlhomamo ya ditšelete. (2) Balaodi ba lephata la ditšelete le Banka ya Resefe ba tshwanetse go tlhathloha le go tlhabolola memorantamong wa tumalano jaaka go tshwanetse, fela bonnye gangwe mo dingwangweng tse tharo.

(3) Kgatsio ya memorantamong wamalalano e tshwanetse ntle le tshenyo nako fa go sena go tsenwa mo go yona kgotsa tlhalolowga, go romelwa go Tona le lelolo la Kabinetse le le rwalang maikarabelo a merero ya sekolo to badirisi.

(4) Kamogelesego ya tiro nngwe le nngwe e e dirilweng ke molaodi wa lephata la ditšelete go ya ka molao wa lephata la ditšelete, Mola o Bo tsetšabha wa Sekolo tsa Kgotsa Mola o Senthara ya Bothodi jaaka Ditšelete ga e angwe ke go tlhlelega go ikamanya le karolo eno kgotsa memorialong o wa tumalano o o kailweng mo karolong eno.

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

28. Lephata la puso, ntle le molaodi wa lephata la ditšelete, le tshwanetse—
(a) mo go direng ditiro tsa lona, go tsaya tsa bokao jwa ditiro tsa lona mo tlhomamong ya ditšelete; le
(b) go neelana ka thuso eo le tshedimosetso go Banka ya Resefe le Komiti ya Kelothoko ya Tlhomamo ya Ditšelete go tshegetsa le go busetsa tlhomamo ya ditšelete, jaaka Banka kgotsa Komiti e kopa.

Karolo 6

Ditheo tsa ditšhelete tse di botlhokwa mo thulaganyong

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

29. (1) (a) Mmusisi o ka, ka kitsiso e e kwaletsweng setheo sa ditšhelete, tlhoma setheo jaaka setheo sa ditšhelete se se botlhokwa mo thulaganyong.
(b) Thata ya Mmusisi go ya ka temana (a) ga e rolelwe.
(2) Pele go tlhongwa setheo sa ditšhelete go ya ka karolotlaletso (1) jaaka setheo sa ditšhelete se se botlhokwa mo thulaganyong, Mmusisi o tshwanetse go—
(a) naya Komiti ya Kelothoko ya Tlhomamo ya Ditšelete, morago ga moo setheo sa ditšhelete, kitsiso ya tlhomo e e tshitsintsweng le polelo ya mabaka a gore goreng tlhomo e tshitsintsw; le
(b) laletsa setheo sa ditšhelete go dira ditlhabogiso ka ga morero, le go se naya nako e e lekaneng go dira seo.
(3) Mo go swetseng ka ga go tlhongwa ga setheo sa ditšhelete go ya ka karolotlaletso (1), Mmusisi o tshwanetse go tsaya tsa bonnye tse di latelang: (a) Bogolo jwa setheo sa ditšhelete;
(b) thataano ya setheo sa ditšhelete le merero ya sona ya kgwebo;
(c) kgagakagano ya setheo le ditheo tse dingwe tsa ditšhelete mo gare ga kgotsa kwa ntle ga Rephaboliki;
(d) a go na le dikemisetso tse di baakantsweng tsa dikuno tsa ditšhelete le ditirelo tsa ditšhelete tse di tlamelwang ke setheo sa ditšhelete;
(e) dikatlanegiso tsa Komiti ya Kelothoko ya Tlhomamo ya Ditšelete;
(f) ditlhabogiso tse di dirilweng ke kgotsa mababi le setheo; le
(g) merero mengwe le mengwe e e ka newang ke Molawana.
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

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

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

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

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

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

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

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

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

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

(b) leverage ratios;

(c) liquidity;

(d) organisational structures;

(e) risk management arrangements, including guarantee arrangements;

(f) sectoral and geographical exposures;

(g) required statistical returns;

(h) recovery and resolution planning; and

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

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

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

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

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

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

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

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

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

(e) placing the financial institution under business rescue or adopting a business rescue plan for the financial institution;
(4) (a) Fa Mmusisi a thlomamisitse go ya ka karolo 14(4) gore tiragalo e e rulanganeng e diregie kgotse e ka direga, Mmusisi o ka tlohome setheo sa ditšhelete jaaka setheo sa ditšhelete se se bothlokwa mo thulaganangong ntle le go ikamananya, kgotse go ikamananya ka gothle, le karolotlaleteso (2) kgotse (3).

(b) Fa Mmusisi a dira go ya ka temana (a) le go tlahoma setheo sa ditšhelete ntle le go ikamananya, kgotse go ikamananya ka gothle, le karolotlaleteso (2) kgotse (3), setheo sa ditšhelete se ka dira ditlhagiso ka ga go tlhongwa go Mmusisi mo matsatsing a le 30 morago ga go itsiswwe ka ga go tlhongwa.

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

(5) Go tlhongwa ga setheo sa ditšhelete jaaka setheo sa ditšhelete se se bothlokwa mo thulaganangong ga go ka e gore, kgotse ga go neye setheo sa ditšhelete tetla ya, tshireletseng kgotso mokgwa mongwe le mongwe wa sekoloto kgosong ngwone go tswa go lepha le lengwe le lengwe la puso.

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

(7) Tlhomoe, le kgogelomorago ya tlhomo, go ya ka karolo eno e tshwanetse go phasalatswe.

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

30. (1) Go fokotsa dikotsi tsa gore ditiragalo tse di rulaganeng di ka diragala, Banka ya Resefe e ka, morago ga go rerisana le Bothati jwa Tlhokomelo, laela Bothati jwa Tlhokomelo go patelela, ka ditaelo kgotso maemo a tlhokomelo, ditlhogelo tse di diragatswang go le e ngwone kgotso go feta ya ditheo tsa ditšhelete tse di bothlokwa mo thulaganangong kgotso go ditheo tse ka kakaretsa mabapi le ngwone le ngwone ya dirilweng tse di latelang;

(a) Dilekanyo tsa phutlhamo le ditlhogelo tsa khatlele, tse di ka akaretsang ditlhogelo mabapi le disireletsi tsa khatlele tse di sa tlwaegang;

(b) dikamanang magangeng ga khatlele ya kadimo le dišere;

(c) phthhlatokgwelo;

(d) dibopego tsa setheo;

(e) ditlhalaganyo tsa tloalo ya dikotsi, go akaretsa ditlhalaganyo tsa tshireletsego;

(f) ditlhalagiso tsa lepha le kgao;

(g) dipoelo tse di tlhokeng tsa dipalopalo;

(h) mokgwa ya kgoletšana ya poelo le tharabololo; le

(i) morero mongwe le mongwe o o mabapi le maemo a tlhokomelo kgotsa taelo ya molaodi e e e dirilweng; va Lewatuka e e e dirilweng.

(2) Bothati jwa Tlhokomelo bo ka dira maemo a tlhokomelo kgotsa bo ka rebole ditaelo tsa molaodi jaaka go kailwe mo karolotlaletson (1).

(3) Bothati jwa Tlhokomelo bo tshwanetse go itsise Banka ya Resefe le Komiti ya Kelothlho ya tlhomoe ya Ditšelete ka ga dikgato dingwe le dingwe tse di tserweng go gatšelao taelo e e e dirilweng; va Lewatuka e e e dirilweng.

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

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

(a) Go sekega, go fetolagetsa le phimola laesenseng e e rebolelsweng setheo se sa ditšhelete;

(b) go dirisa tharabololo e e kgethegileng go konotelela setheo sa ditšhelete ka boithaopo;

(c) go dira kopo go kgotlaetshekelo ya gore setheo sa ditšhelete se konotelele;

(d) go thapa motsamaisi, molothokomedi kgotsa mohlomamisi mo setheong sa ditšhelete;

(e) go baya setheo sa ditšhelete ka fa tlaše ga phaloso ya kgwebo kgotsa tiriso ya leano la phaloso ya kgwebo ya setheo se ditšhelete;
(f) entering into an agreement for amalgamation or merger of the financial institution with a company; and

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

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

CHAPTER 3
PRUDENTIAL AUTHORITY

Part 1
Establishment, objective and functions

Establishment

32. (1) An authority called the Prudential Authority is hereby established.
(2) The Prudential Authority is a juristic person operating within the administration of the Reserve Bank.
(3) The Prudential Authority is not a public entity in terms of the Public Finance Management Act.

Objective

33. The objective of the Prudential Authority is to—

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

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

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

(d) assist in maintaining financial stability.

Functions

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

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

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

(ii) market infrastructures;

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

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

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

(e) support financial inclusion;

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

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

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

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

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

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

(2) Kgato e e kalweng mo karolotlaletsong (1) e e tserweng ntle le thebolo ya Banka ya Resefe ga e na pateletso ya semalo.

KGAOLO 3

BOTHATI JWA TLHOKOMELO

Karolo 1

Go tlhomiwa, maitlhomo le ditiro

Go tlhongwa

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

Maitlhomo

33. Maitlhomo a Bothati jwa Tlhokomelo ke go—
(a) tsholetsa le go oketsa pabalesego le tshiamo ya ditheo tsa ditšhelete tse di tlamelang ka dikuno tsa ditšhelete le ditirelo tsa ditlhoto;
(b) tsbolela le go oketsa pabalesego le itekanelo ya thulaganyeto ya popegotheo ya mmaraka;
(c) sireletsa barekedi ba ditšhelete kgatlanong le kotsi ya gore ditheo tse tsa ditšhelete di ka palelwa ke go fitlhela ditlamego tsa tsona; le
(d) thusa mo go tshegetseng tlhomamo ya ditšhelete.

Ditiro

34. (1) Gore bo fitlhela maitlhomo a jona, Bothati jwa Tlhokomelo bo tsbwanetse—
(a) go laola le go tlhokomela, go tsamaelana le melao ya lephata la ditšhelete—
(i) ditheo tsa ditšhelete tse di tlamelang ka dikuno tsa ditšhelete kgotsa ditirelo tsa ditlhoto;
(ii) ditulaganyeto tsa popegotheo ya mmaraka;
(b) go dirisana mmogo le, le go thusa Banka ya Resefe, Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete, Bothati jwa Boitshwaro jwa lephata la Ditšhelete, Bolaodi jwa Botesšhaba jwa Sekoloto le Senthara ya Bothhodi jwa Ditšhelete, jaaka go tlhokega go ya ka Molao ono;
(c) go dirisana mmogo le Khanele ya Dikema tsa Kalafi mo go sekasekeng merero ya dikgalthegelelele tse di tshwanang;
(d) go tshegetsa kgaisano ya leruri mo kabelong ya dikuno tsa ditšhelete le ditirelo tsa ditlhoto, go akaretsa le tirisanommogo le kopano le Khomišene ya Kgaisano;
(e) go tshegetsa tsenyeletso ya ditšhelete;
(f) thadiso ya ka gale ya modiko le boteng jwa Bolaodi jwa lephata la ditšhelete, le go tsaya dikgato go fokotsa dikotsi tse di supilweng mo go fitlhelengeleng maitlhomo a bona kgotsa mo go direng ditiro tsa bona ka matsetseleko; le
(g) go dira le go phasalatsa patlisiso e e tsamaelanang le maitlhoma a jona.

(2) Bothati jwa Tlhokomelo bo tsbwanetse go dira tiro nngwe le nngwe le bo e abetsweng go ya ka kabelo nngwe le nngwe ya Molao ono kgotsa molawana mongwe le mongwe.
(3) Bothati jwa Tlhokomelo bo ka dira sengwe le sengwe se se tlhokegang go fitlhela le maitlhomo a jona, go akaretsa le—
(a) go dirisana mmogo le badiri-ka-bona mo ditaalong tse dingwe; le
(b) go tsaya karolo mo bolaoding jwa bodišhabatišhaha, bothhokomeding, tsepamong ya ditšhelete le mo mekgatlhong e e bayang maemo.
(4) When performing its functions, the Prudential Authority must—
   (a) take into account the need for a primarily pre-emptive, outcomes focused and risk-based approach, and prioritise the use of its resources in accordance with the significance of risks to the achievement of its objective; and
   (b) to the extent practicable, have regard to international regulatory and supervisory standards set by bodies referred to in subsection (3)(b), and circumstances in the Republic.

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

Part 2

Governance

Overall governance objective

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

Appointment of Chief Executive Officer

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

   (2) When appointing a Deputy Governor as the Chief Executive Officer, that Deputy Governor and the Governor must agree, in writing, on—
   (a) the performance measures that will be used to assess the Deputy Governor’s performance as the Chief Executive Officer; and
   (b) the level of performance to be achieved against those performance measures.

   (3) A person may not be appointed or hold office as the Chief Executive Officer if the person—
   (a) is a disqualified person; or
   (b) is not ordinarily resident in the Republic.

Role of Chief Executive Officer

37. (1) The Chief Executive Officer—
   (a) is responsible for the day-to-day management and administration of the Prudential Authority; and
   (b) subject to section 42(b), must perform the functions of the Prudential Authority, including exercising the powers and carrying out the duties associated with those functions.

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

Term of office of Chief Executive Officer

38. (1) A person appointed as the Chief Executive Officer—
   (a) holds office for a term no longer than five years, as the Governor may determine;
   (b) is, at the expiry of that term, eligible for re-appointment for one further term; and
   (c) must vacate office before the expiry of a term of office if that person—
      (i) resigns as Chief Executive Officer, by giving at least three months written notice to the Governor, or a shorter period that the Governor may accept;
(4) Fa bo dira ditiro tsa bona, Bothati jwa Tlhokomelo bo tshwanetse—
   (a) go tsaya tsia tlhoko ya tsamaiso e e bonelang pele segolosegolo, e e
       ikagileng ka dipolo le e e ishelegileng ka mokgw tsa o o theiweng mo
       dikotsing, le go baya kwa pele tiriso ya ditlamelwana tsa bona go tsamaelana
       le bothokwa jwa dikotsi mo go fitlheleleleng maitlhomo a jona; le 5
   (b) go ya ka moo go kgonagalang, go tsaya tsia maemo a taolo le tlhokomelo a
       bodihihabatsha a a theiweng ke mekgatlho e e kailweng mo karolo-
       tlaleteso (3)(b), le maemo mo Rephaboliki.
(5) Bothati jwa Tlhokomelo bo tshwanetse go dira ditiro tsa jona ntle le poifo,
    tseoletlhakore le kgobelelo.

Karolo 2

Puso

Maitlhomo ka kakaretso a puso

35. Bothati jwa Tlhokomelo bo tshwanetse go laola merero ya bona ka bokgoni le
    nonofo, le go thloma le go tsena tiriso dikgato le dithulaganyo tse di maleba e bile
    di nonofile tsa puso, ka go el tlhoko, mo gare go dilo tse dingwe, maemo le ditiragatso
    tse di amogetsweng bodihihabatsha mo mabakeng ano.

Go thapiwa ga Motlhankedimogolo wa Khuduthamaga

36. (1) Mmusisi o tshwanetse, ka tulumano le Tona, go thapa Motlatsammusisi yo o
    leng moitseanape mo lehateng la ditšeletse, ntle le Motlatsammusisi yo o rwalang
    maikarabelo a thomamo ya ditšeletse, jaaka Motlthankedimogolo wa Khuduthamaga wa
    Bothati jwa Tlhokomelo.
(2) Fa go thapiwa Motlatsammusisi jaaka Motlthankedimogolo wa Khuduthamaga,
    Motlatsammusisi yoo le Mmusisi ba tshwanetse go dumalana, ka go kwala, ka—
       (a) ditekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiro ya
           Motlatsammusisi jaaka Motlthankedimogolo wa Khuduthamaga; le
       (b) boemo jwa tiro jo bo tshwanetseng go fitlhelela kgatlhanong le
           ditekanyetsotiro tseo.
(3) Motho a ka se thapiwe kgotsa go tshwara maemo a Motlthankedimogolo wa
    Khuduthamaga fa motho—
       (a) e le motho yo o ileditsweng; kgotsa
       (b) e se moagi wa tlholego wa Rephaboliki.

Botsayakarolo jwa Motlhankedimogolo wa Khuduthamaga

37. (1) Motlhankedimogolo wa Khuduthamaga—
       (a) o rwalang maikarabelo a taolo ya letsatsi le letsatsi le tsamaiso ya Bothati jwa
           Tlhokomelo; le 35
       (b) go tsamaelana le karolo 42(b), o tshwanetse go dira ditiro tsa Bothati jwa
           Tlhokomelo, go akaretse le go diragatsa ditlhate le go dira ditiro tse di
           tsamaelanang le ditiro tseo.
(2) Fa a dira go ya ka karolotlaletse (1), Motlhankedimogolo wa Khuduthamaga o
    tshwanetse go diragatsa dipholisi le maano tse di amogetsweng ke Komiti ya
    Tlhokomelo.

Paka ya tiro ya Motlhankedimogolo wa Khuduthamaga

38. (1) Motho yo o thapilweng jaaka Motlhankedimogolo wa Khuduthamaga—
       (a) o thapiwa paka e e sa feteng dingwaga tse tlhano, jaaka Mmusisi a ka
           thomamisa;
       (b) o, kwa bokhutlong jwa paka eo, na le tshwanelo ya go ka thapiwa gape sebaka
           sa paka e e le ese e e oceditsweng; le
       (c) o tshwanetse go tswa mo ofising pele ga bokhotlo jwa paka ya tiro fa motho
           yoo—
           (i) a rola tiro ya Motlhankedimogolo wa Khuduthamaga, ka go naya
               Mmusisi kitsiso e e kwetsweng ya sebaka sa bonnye dikgwedw tse tharo,
               kgotsa paka e e khutshwane e e ka amogelweng ke Mmusisi;
(ii) ceases to hold office as Deputy Governor; or
(iii) is removed from office as Chief Executive Officer.

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

Removal of Chief Executive Officer

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

(2) The Governor may, with the concurrence of the Minister, remove the Chief Executive Officer from office if an independent inquiry, established by the Governor with the concurrence of the Minister, has found that the Chief Executive Officer—
   (a) is unable to perform the duties of office for health or other reasons;
   (b) has failed in a material way to achieve the level of performance against the performance measures agreed to in terms of section 36(2);
   (c) has failed in a material way to discharge any of the responsibilities of office, including any responsibilities entrusted in terms of legislation; or
   (d) has acted in a way that is inconsistent with continuing to hold the office.

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

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

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

Acting Chief Executive Officer

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

Establishment of Prudential Committee

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

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

Role of Prudential Committee

42. The Prudential Committee must—
   (a) generally oversee the management and administration of the Prudential Authority to ensure that it is efficient and effective; and
   (b) act for the Prudential Authority in the following matters:
      (i) Authorising the Chief Executive Officer to sign, on behalf of the Prudential Authority, a section 27 or section 77 memorandum of understanding and any amendment to such a memorandum;
      (ii) delegating powers of the Prudential Authority to the Financial Sector Conduct Authority in terms of a section 77 memorandum of understanding;
      (iii) adopting the regulatory strategy of the Prudential Authority, and any amendment to the strategy;
      (iv) adopting the administrative action procedures of the Prudential Authority, and any amendment to those procedures;
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(ii) a lologela tiro jaaka Motlatsammusisi; kgotsa

(iii) a lologediswa tiro jaaka Motlhankedimogolo wa Khudathamaga.

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

Go tloswa ga Motlhankedimogolo wa Khudathamaga

39. (1) Mmusisi o tshwanetse, go tsamaclana le kgato e e maleba, go tlosa Motlhankedimogolo wa Khudathamaga mo tirong fa Motlhankedimogolo wa Khudathamaga a nna motho yo o ileliditsweng.

(2) Mmusisi o ka, ka tumalano le Tona, tlosa Motlhankedimogolo wa Khudathamaga mo tirong fa patlisiso e e ikemetseng, e e tiholmilweng ke Mmusisi ka tumalano le Tona, e fitheletse gore Motlhankedimogolo wa Khudathamaga—

(a) ga a kgone go dira ditiro tsa ofisi ka nilha ya boitekanelo kgotsa mabaka mangwe;

(b) a paletswe ka gotlhe go fitlhelela boemo jwa tiro kgathlanong le ditekanyetsotiro tse go dumalanweng ka tsona go ya ka karolo 36(2);

(c) a paletswe ka gotlhe go diragatsa ngwe le ngwe ya maikarabelo a ofisi, go akaretsa ngwe le ngwe ya maikarabelo ao a a neilweng go ya ka molawana; kgotsa

(d) a dirile ka mokgw o o sa tsamaelaneng le go tswelela go nna mo tirong.

(3) Fa patlisiso e e ikemetseng e tiholmilwe go ya ka karolotlaleletso (2), Mmusisi o ka sekega Motlhankedimogolo wa Khudathamaga mo tirong fa go sa nte ge leti tshweto ya go tlosa Motlhankedimogolo wa Khudathamaga.

(4) Ntle le go lekanyetsa karolotlaleletso (2)(c), Motlhankedimogolo wa Khudathamaga o tshwanetse go tsewa jaaka a paletswe ka gotlhe go diragatsa maikarabelo a tirofa a sa nna teng mo dikopanong tse pedi tse di latelanang tsa Komiti ya Tlhokomelo ntle le khunulogo ya Komiti ya Tlhokomelo.

(5) Fa Motlhankedimogolo wa Khudathamaga a tlositswe mo tirong go ya ka karolotlaleletso (2), Tona o tshwanetse go romela pegelo le diphithlelelo tsatpatlisiso e e ikemetseng go Kokoano Bosetsabeng mo matsatseng a le 30.

Motlhankedimogolo wa Khudathamaga wa nama-o-tsware

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

Go tlhongwa ga Komiti ya Tlhokomelo

41. (1) Komiti e e bidiwang Komiti ya Tlhokomelo e tsholomela fano Bothati jwa Tlhokomelo.

(2) Komiti ya Tlhokomelo e na le Mmusisi, Motlhankedimogolo wa Khudathamaga le Batlatsammusissi ba bangwe.

Botsayakarolo jwa Komiti ya Tlhokomelo

42. Komiti ya Tlhokomelo e tshwanetse—

(a) ka kakaretsa go ela tlhoko taolo le tsamaiso ya Bothati jwa Tlhokomelo go netefatsa gore bo na le bokgoni le nonofo; le

(b) go direla Bothati jwa Tlhokomelo mo mabakeng a a latelang:

(i) Go dumelela Motlhankedimogolo wa Khudathamaga go saena, mo boemong jwa Bothati jwa Tlhokomelo, memorantamo wa tumalano wa karolo 27 kgotsa karolo 77 le tlhabololo ngwe le ngwe ya memorantamo oo;

(ii) go rolela dithata tsat Bothati jwa Tlhokomelo go Bothati jwa Boitshware jwa Lephata la Ditšeletse go ya ka karolo 77 ya memorantamo wa tumalano;

(iii) go amogela leano la taolo la Bothati jwa Tlhokomelo, le tlhabololo ngwe le ngwe ya leano;

(iv) go amogela ditumaiso tsa tiro ya tsamaiso ya Bothati jwa Tlhokomelo, le tlhabololo ngwe le ngwe go ditumaiso tseo;
Meetings of Prudential Committee

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

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

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

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

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

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

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

Decisions of Prudential Committee

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

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

   (3) A decision of the Prudential Committee is not invalid merely because—
      (a) there was a vacancy in the office of a member when the decision was taken; or
      (b) a person who was not a member participated in the decision, as long as such person did not vote.

Governance and other subcommittees

45. (1) The Prudential Committee must establish—
   (a) a subcommittee to review, monitor and advise the Prudential Committee on the risks faced by the Prudential Authority and plans for managing those risks; and
   (b) a subcommittee to advise the Prudential Committee on measures that must be taken to ensure that the Prudential Authority complies with its obligations in relation to auditing and financial management.
(v) go thapa maloko a dikomititlaleletso tsa Bothati jwa Tlhokomelo a a thhokegang kgotsa a a dumeletsengwa ke molao, le go bontsha tselabapi le matsholo a tiro a komititlaleletso ngwe le ngwe;

(vi) go dira maemo a tlhokomelo, maemo a thhakanelo le didiriswa tse dingwe tsa taolo go latela melao ya lephata la ditlhlelele; 5

(vii) go dira dithhomamiso tsa dituelo go ya ka molao wa lephata la ditlhlelele; le

(viii) morero mongwe le mongwe o o abetsweng go ya ka molao wa lephata la ditlhlelele kwa Komiting ya Tlhokomelo.

Dikopano tsa Komiti ya Tlhokomelo

43. (1) (a) Komiti ya Tlhokomelo e tshwanetse go kopana kgapetsakgapetsa fa go thhokega go dira ditiro tsa yona.
(b) Khonferenseyakutlokgotsakutloponomagarenggabontsijwamalokoa Komiti ya Tlhokomelo, eekgontshanglelokolengwelelengweleletsayangkarologoutlwale go utlwelelwa ke mongwe le mongwe wa maloko a mangwe a a tsayang karolo, e tshwanetse go tsewa jaaka kopano ya Komiti ya Tlhokomelo, e bile leloko lengwe le lengwe le le tsayang karolo le tshwanetse go tsewa jaaka fa le le teng kwa kopanong eo.

(2) Dikopano tsa Komiti ya Tlhokomelo di tshwarwa ka nako le, ntle le moo karolotlaleleletso (1)/(b) ediragatswang, kwa mafelong a a thhomasitsweng ke Mmusisi.

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

(4) (a) Mmusisi o okamela dikopano tsa Komiti ya Tlhokomelo tse a leng teng mo go tsona.
(b) Fa Mmusisi a se teng kwa kopanong, Motlatsammusisi, yo mongwe yo e seng Motlhankekdimogolo wa Khuduthamaga, yo o supilweng ke Mmusisi kgotsa yo o thhophilwenggo ya ka tsa sa mo e e tshwanetse go tshitsinyo, a boutela tshitsinyo.

(5) Mmusisi kgotsa Motlatsammusisi yo o okametseng kopano ya Komiti ya Tlhokomelo o ka laletsa kgotsa letla motho mongwe le mongwe, go akaretse le kemedi ya Bothati jwa Boitshwaro a Leplhata la Ditlhlelele kgotsa Bolaodi jwa Bostèhàba jwa Sekoloco, go tla kopanong ya Komiti ya Tlhokomelo, fela motho yo o laleditsweng ga a na tshwanelo ya go thhopha kwa kopanong.

(6) Maloko a ka laola ditlameimo ca dikopanong tsa Komiti ya Tlhokomelo jaaka ba bona go le maleba.

(7) Motlhankekdimogolo wa Khuduthamaga o tshwanetse go netefatsa gore metsoto yo kopano e gatiswe ga makgaolakgeng o o robotsweng ke Motlhankekdimogolo wa Khuduthamaga.

Ditshwetso tsa Komiti ya Tlhokomelo

44. (1) (a) Tshitsinyo e e dirilweng kwa kopanong ya Komiti ya Tlhokomelo e nna tshwetso ya komiti e e kailweng fa bontsi jwa maloko a a tileg kapongan, kgotsa a a tseetsweng go nna teng kwa kopanong, le ao a ka tsayang karolo mo thhekaitekhenya ya tshitsinyo, a boutela tshitsinyo.
(b) Mo lebakeng la la diboutu tsa tshitsinyo di lekana, motho yo o okametseng kopano o dira boutu ya makgaolakgeng mo godimo ga boutu ya tlwaelo.

(2) Komiti ya Tlhokomelo e ka, go tsamaelana le ditlameimo tse di thhomasitsweng ke komiti e e kailweng, dira ditshwetso ka ga tshitsinyo kwa ntle ga kopano ya komiti.

(3) Tshwetso ya Komiti ya Tlhokomelo ga e tlhoke kamogelegosego fela ka nthla ya gore—
(a) go nnile le phatlatiso mo ofising ya leloko fa tshwetso e ne e tsewa; kgotsa
(b) motho yo o neng e se leloko o tsere karolo mo tshwetsong, fa fela motho yoo a sa bouta.

Puso le dikomititlaleletso tse dingwe

45. (1) Komiti ya Tlhokomelo e tshwanetse go tlhoma—
(a) komititlaleletso go sekaseka, lekola le go gakolola Komiti ya Tlhokomelo ka ga dikotsi tse Bothati jwa Tlhokomelo bo lebaganeng le tsona le maano a a loalo dikotsi tsee; le
(b) komititlaleletso go gakolola Komiti ya Tlhokomelo ka ga dikgato tse di tshwanetseg go tsewa go netefatsa gore Bothati jwa Tlhokomelo bo ikamanya le ditlameimo tsa jona mabapi le boruni le tao lo ya ditlhlelele.
(2) The Prudential Committee may establish one or more other subcommittees for the Prudential Authority, with functions that the Prudential Committee may determine.

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

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

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

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

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

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

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

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

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

Duties of members of Prudential Committee and members of subcommittees

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

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

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

(i) in good faith;

(ii) for a proper purpose; and

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

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

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

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

(c) cause improper detriment to another person.

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

Regulatory strategy

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

(2) A regulatory strategy must—

(a) state—

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

(ii) the intended key outcomes of the strategy;

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

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

(3) (a) Komiti ya Tlhokomelo e tlhomamisa botokololo jwa komititlaleletso e e tlhomilweng go ya ka karolo eno.

   (b) Bontsi jwa maloko a komititlaleletso e e tlhomilweng go ya ka karolotlaleletso (1) bo ka se nne badirammogo ba Bothati jwa Tlhokomelo kgotsa Banka ya Resefe.

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

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

(4) Komiti ya Tlhokomelo e ka, boemong jwa go tlhoma komititlaleletso e e kailweng mo karolotlaleletsong (1), naya tiro ya komititlaleletso go komiti ya Banka ya Resefe e e dirang tiro e e tshwanang.

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

(6) Komiti e e tlhomilweng go ya ka karolotlaleletso (1) e tshwanetse go okamelwa ke motho yo o seng Mmuisi, Motlatsammusisi, Motlhankedimogolo wa Khuduthagama kgotsa leloko la badirammogo ba Bothati jwa Tlhokomelo.

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

(8) Motlhankedimogolo wa Khuduthagama o tshwanetse go netefatsa gore metsotsotse ya kopano nngwe le nngwe ya komititlaleletso nngwe le nngwe e e tlhomilweng go ya ka karolo eno e tsholwa go ya ka mokgwa o o tlhomamisitswe ke Komiti ya Tlhokomelo.

**Ditiro tsa maloko a Komiti ya Tlhokomelo le maloko a dikomititlaleletso**

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

   (a) dira ka botshepegi mo mererong yotlhe e e amanang le Bothati jwa Tlhokomelo; le

   (b) dira ditiro tsa ofisi jaaka leloko—

      (i) le le ikanyegang;

      (ii) mabapi le maitlhomo a nnete; le

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

(2) Motho yo e leng kgotsa yo o kileng a nna leloko la Komiti ya Tlhokomelo kgotsa komititlaleletso e e tlhomilweng go ya ka karolo 45(1) o ka se dirise maemo ao kgotsa tshedimosetsong le nngwe le nngwe e a e fitlheleleng jaaka leloko leo go—

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

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

   (c) thatafaletsa mohlo yo mongwe.

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

**Leano la bolaodi**

47. (1) Komiti ya Tlhokomelo e tshwanetse, mo dikgweding tse thataro morago ga lethla ga tsenngwa tirisong ga Kgaolo eno, go amogela leano la bolaodi gore Bothati jwa Tlhokomelo bo neye kgakololo e e akarestang go Bothati jwa Tlhokomelo mo go fitlheleleng maika lelolo le go dira ditiro tsa jona tsa bolaodi le bothhokomedi.

(2) Leano la bolaodi le tshwanetse go—

   (a) thagaisa—

      (i) ditlapele tsa bolaodi le bothhokomedi tsa Bothati jwa Tlhokomelo mo dingwageng tse tharo tse di latelang; le

      (ii) dipelo tse di bothhkwa tse di lebelestseng tsa leano;

   (b) tlhama ditheo tsa kaelo boemong jwa Bothati jwa Tlhokomelo ka ga—

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

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

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

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

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

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

Delegations

48. (1) The Prudential Committee may, in writing—
   (a) delegate any power or duty referred to in section 42(b)(viii) to the Chief Executive Officer or another staff member of the Prudential Authority; and
   (b) at any time, amend a delegation made in terms of paragraph (a).
(2) The Chief Executive Officer may, in writing—
   (a) delegate to a staff member of the Prudential Authority or an official or staff member of the Reserve Bank any power or duty assigned or delegated to the Chief Executive Officer in terms of a financial sector law, except the power to delegate contained in this subsection;
   (b) delegate to an administrative action committee the power to impose administrative penalties that are specified in the delegation, if the Prudential Authority establishes an administrative action committee; and
   (c) at any time amend a delegation made in terms of paragraph (a) or (b).
(3) A delegation in terms of subsection (1)(a) or (2)(a) may be to a specific person or to a person holding a specific position.

(4) Any power or duty of the Prudential Authority may be delegated to the Financial Sector Conduct Authority by a section 77 memorandum of understanding in accordance with a framework and system of delegation developed by the financial sector regulators to ensure that any delegation does not constrain the Prudential Authority or the Financial Sector Conduct Authority from achieving their respective objectives as set out in sections 33 and 57.

(5) A delegation in terms of this section—
   (a) is subject to the limitations and conditions specified in the delegation;
(ii) merero e bo tshwanetsetse go e ela thlako mo go direng ditiro tsa jona;
(iii) ithlagiso ya jona go ditiro tsa tsamaiso; le
(iv) ka moo bo ka neelanang ka ditlhoko kego tse di maleba go jona mabapi le—

(a) ponalethego;
(b) dithesano tse di seng bofitlha; le
(c) boikarabelo; le

(c) go lebiswa ma go tsamaelaneng le ditheo tsa karolo 34(4).

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

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

(i) go tlamela ka kgatiso ya thalo ya leano kgotsa tlhabololo go Tona, Bothathi jwa Boitshwara jwa Lephata la Ditšhelete le Bolaodi jwa Bosetšaba jwa Sekoloto; le
(ii) go laletsa distshwaelo go tswa go Tona, Bothathi jwa Boitshwara jwa Lephata la Ditšhelete le Bolaodi jwa Bosetšaba jwa Sekoloto, ka ga thalo, gor e dirwe mo pakeng e e kailweng ke Komiti ya Tlhokomelo.

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

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

(6) Komiti ya Tlhokomelo e tshwanetse go leka ka gotthe ho fokotsa, ka moo go kgonagalong e bile go tshwanetse, go sa tsamaelaneng magareng ga leano la balaodi la Bothathi jwa Tlhokomelo le leano la balaodi la Bothathi jwa Boitshwara jwa Lephata la Ditšhelete.

(7) Motlhankedimogolo wa Khuduthamaga o tshwanetse—

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

(b) go phasalatsa leano le tlhabolola nngwe le nngwe.

Ditholelo

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

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

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

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

(a) rolela go modirimmogo wa Bothathi jwa Tlhokomelo kgotsa mokantoroko kgotsa mothankedi kgotsa modirammogo wa Banka ya Reseфе thata ngwe le ngwe kgotsa tiro e e neilweng kgotsa roletseng Motlhankedimogolo wa Khuduthamaga go ya ka mola go lepha la ditšhelete, ntle le thata ya tholelo e e umakilweng mo karolotlalelatsong eno;

(b) rolela go komiti ya tiro ya tsamaiso thata ya go pateletsa dikotlhao tsamaiso tse di tspamisitsweng mo tholeleng, fa Bothathi jwa Tlhokomelo bo tlhoma komiti ya tiro ya tsamaiso; le

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

(3) Tholelo go ya ka karolotlalelatsosino (1)(a) kgotsa (2)(a) e ka dirwa go motho yo o tspameng kgotsa go motho yo o tšwereng maemo a a tspameng.

(4) Thata ngwe le ngwe kgotsa tiro ya Bothathi jwa Tlhokomelo e ka rolelwa go Bothathi jwa Boitshwara jwa Lephata la Ditšhelete ka memorantamo wa tulamano wa karolo 77 go tsamaelaneng le lethomeso le thulaganyo ya tholelo e e tlhabolotsweng ke balaodi ba lepha la ditšhelete go netefatsa gore tholelo ngwe le ngwe ga e tieble Botthati jwa Tlhokomelo kgotsa Bothathi jwa Boitshwara jwa Lephata la Ditšhelete mo go fitlheleleng matlhitho a jona a a thalositsweng mo dikarolong 33 le 57.

(5) Tholelo go ya ka karolo eno—

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

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

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

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

Disclosure of interests

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

(a) the member has; or

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

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

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

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

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

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

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

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

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

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

(b) when the interest was acquired.

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

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

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

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

(b) an interest that is not material.

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

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

(b) an offence in terms of section 265.

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

(9) The Chief Executive Officer must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.
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(b) ga e amoge Bothati jwa Tlhokomelo, Komiti ya Tlhokomelo kgotsa Molthankedimogolo wa Khuduthamaga maikarabelo mabapi le thata e e roletseng kgotsa tiro; le

c) ea gogelwa morago nako ngwwe le ngwwe, mme kgogelomorago ga e ame ditshwanelo dipe kgotsa melato tse di bonweng ka ntlha ya ditlamarago tsa thololo.

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

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

Tshenolo ya dikgatlhegelo

49. (1) Leloko la Komiti ya Tlhokomelo kgotsa komitiitlalele tse e e tlhomilweng go ya ka karolo 45(1) le tshwanetse go senola, kwa kophonong ya Komiti ya Tlhokomelo kgotsa komitiitlalelele tse, go ya ka mabaka, kgotsa ka go kwalela mongwe le mongwe wa maloko a mongwe a komiti eo kgotsa komitiitlalelele tse, kgatlhegelo ngwwe le ngwwe mo morerong o o tsaweng kgotsa o o ila tsaweng tsia ke komiti e e maleba ya gore—

(a) leloko le na le yona; kgotsa
(b) motho yo o amang se leloko o o le yona.

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

(3) (a) Leloko le lenang le, kgotsa le wa losika la gagwe a nang le, kgatlhegelo e e tshwanetse go senolwa go ya ka karolotlalelele tse (1), le ka se tseye karolo mo tshekatshekong ya, kgotsa mo tshwetsong ya, morero o kgatlhegelo e amanang le ona ntle le fa—

(i) leloko le senotse kgatlhegelo jaaka go tlhokega go ya ka karolotlalelele tse (1); le
(ii) maloko a mongwe a komiti eo a swedishe gore kgatlhegelo e ka se tseelwe gore e ama go dira tiro go go siameng ga leloko lea leloko le morero.

(b) Tshekatsheke kgotsa le tshwanetse go tshwetsong (1) e tshwanetse go se ditholo ka go kgatlhegelo.

(4) (a) Mongwe le mongwe wa leloko la badiri ba Bothati jwa Tlhokomelo le mongwe le mongwe yo o roletseng thata ya Bothati jwa Tlhokomelo o tshwanetse go dira tshenolo ya dikgatlhegelo tsa gagwe ka nako, tshiamo le tekane, go akaretsa le dikgatlhegelo tsa lelthokare le a amanang le lona, tseo di ka tsaweng jaaka dikgatlhegelo tse di ka ba amang mo go direng ditiro tsa ofisi ka thomama kgotsa thata e e roletseng.

(b) Molthankedimogolo wa Khuduthamaga o tshwanetse go netefatsa gore temana (a) e a obamela.

(5) Mabapi le matlhomo a karolo eno, ga go kgathalesege—

(a) gore kgatlhegelo ke e e tlhamaletse, motsopodia, ya tsehelo kgotsa e seng ya tselele; kgotsa
(b) gore kgatlhegelo e fitlheletse leng.

(6) Mabapi la matlhomo a karolo eno, ga go tlhokege gore motho a senole—

(a) ntlha ya gore motho yoo, kgotsa motho yo e e leng lelthokare la kamano go motho yoo, ke —

(i) molthankedi kgotsa modiri wa Banka ya Resefe; kgotsa
(ii) morekedi wa ditshelete wa setheo sa ditshelete; kgotsa
(b) kgatlhegelo e e senang boleng.

(7) Go palelwa ga motho go senola ka ga kgatlhego go tsamaelana le karolo eno le dikaelo dingwwe le dingwwe tse di ka neelweng ka Tona go ya ka karolo 288(3) go nna le ditlamarago tsa—

(a) tlolo ya ditlamego mo karolong 46 kgotsa 52, karolo ngwwe le ngwwe e e diragatswang mo mothong; le
(b) tlolo ya molao go ya ka karolo 265.

(8) Fa motho a paletswe ke go senola kgatlhego ya gagwe go ya ka karolo eno, Komiti ya Tlhokomelo e tshwanetse go phalatata kisiso mo webesaeteng ya Bothati jwa Tlhokomelo e e ka ga go diragala ga go palelwa ke go senola kgatlhego.

(9) Molthankedimogolo wa Khuduthamaga o tshwanetse go tshola rejisetara ya ditshenoko tsotlho tse di diriweng go ya ka karolo eno le ya ditshwetso tsotlho tse di diriweng go ya ka karolo eno.
Staff and resources

50. (1) The Prudential Authority must determine the personnel, accommodation, facilities, use of assets, resources and other services that it requires to function effectively.

(2) The Prudential Authority may—
(a) enter into secondment arrangements in respect of persons;
(b) engage persons on contract otherwise than as employees;
(c) enter into contracts;
(d) acquire or dispose of property;
(e) insure itself against any loss, damage, risk or liability that it may suffer or incur; and
(f) do anything else necessary for the performance of its functions.

(3) The Prudential Authority may not enter into a secondment arrangement in respect of a person, or engage persons on contract, unless the person and the Prudential Authority have agreed in writing on—
(a) the performance measures that will be used to assess that person’s performance; and
(b) the level of performance that must be achieved against those measures.

Resources provided by Reserve Bank

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

(2) The Reserve Bank must second the personnel that it provides in terms of subsection (1) to the Prudential Authority.

Duties of staff members

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

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

Financial management duties of Chief Executive Officer

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

50. (1) Bothati jwa Tlhokomelo bo tshwanetsa go tlhomamisa badiri, marobalo, didiriswa, tiriso ya dithoto, ditlamelwana le ditirelo tse dingwe tseo bo batlang gore di dire ka nono.
   (2) Bothati jwa Tlhokomelo bo ka—
      (a) tsena mo dithulaganyong tsa go tlatsa mabapi le batho;
      (b) go thapa batho jaaka bakonteraka ga na le jaaka badiri;
      (c) go tsena mo dikonterakeng;
      (d) go reka le go rekisa thoto;
      (e) go inšora kgatlhanong le ditatlhegelo, ditshenyegelo, kotsi kgotsa molato eo bo ka lebaganang le yona kgotsa ba nna le yona; le
      (f) go dira sengwe le sengwe se se tlhokegang go dira ditiro tsa jona.
   (3) Bothati jwa Tlhokomelo bo ka se tsene mo thulaganyong ya go tlatsa mabapi le motho, kgotsa go tsenya batho mo konterakeng, ntle le fa motho le Bothati jwa Tlhokomelo ba dumalane ka go kwala ka—
      (a) ditekanyetsotiro tse di tla diriswang go lekanyetsa tiro ya motho yoo; le
      (b) boemo jwa tiro jo bo tshwanetseng go fitlhenelewa kgatlhanong le ditekanyetso tseo.

Ditlamelo tse di tlamelwang ke Banka ya Resefe

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

Ditiro tsa maloko a badiri

52. (1) Motho yo e leng kgotsa yo o kileng a nna leloko la badiri ba Bothati jwa Tlhokomelo o ka se dirise maemo ao kgotsa tshedimosetso ngwe le ngwe e e bonweng fa e ne e le leloko la badiri go ka—
      (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tsela e e sa siamang;
      (b) kgoreletska Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa
      (c) thatafaletsa motho yo mongwe.
   (2) Mabapi le maithlhumma a karolo eno, “kunomolemo” le “thatafaletso” ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete ya ditšhelete.

Ditiro tsa taolo ya ditšhelete tsa Motlhankedimogolo wa Khuduthamaga

53. Motlhankedimogolo wa Khuduthamaga o tshwanetsa—
      (a) go atlanegisa go Komiti ya Tlhokomelo dituelo tsa tlhokomelo ya bothokomedi ka, le ditirelo tse dingwe tse di tlamelwang ke, Bothati jwa Tlhokomelo go ya ka Molao ono le melao e mengwe ya lephata la ditšhelete, le makgethwana go ya ka molawana wa makgethwana;
      (b) go bonitsa tlhokomelo e kgo loireletsatsa dithelelo le direkoto tsa Bothati jwa Tlhokomelo;
      (c) go dira ka boikanye, botshepegi, tshiamo le ka kgatlhegelo e e seseneletseng ya Bothati mo go laoleng merero ya ditšhelete ya Bothati jwa Tlhokomelo;
      (d) ka kopo, go senolela Tona kgotsa Mmusisi ditilha ka botalo tse di amanang le Bothati jwa Tlhokomelo, go akaretsa le tseo di rirolotsoweng ka mabaka, tseo ka mokgwa mongwe di ka susumetsang di tiriseletseng kgotsa ditiro tsa Tona kgotsa Mmusisi;
      (e) go batla, mo tshusumetsong ya Motlhankedimogolo wa Khuduthamaga, go thibela kgobelelo ngwe le ngwe go dikgatlhegelo tsa ditšhelete tsa Rephaboliki;
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(f) ensure that the Prudential Authority has and maintains—
   (i) effective, efficient and transparent systems of financial and risk
       management;
   (ii) an effective, efficient and transparent system of internal audit; and
   (iii) a procurement and provisioning system that is fair, equitable, transpar-
       ent, competitive and cost-effective;

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

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

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

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

Information by Chief Executive Officer

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

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

Annual reports and financial accounts

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

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

(g) go tsaya dikgato tse di maleba gape di le tlhotlhwa e e nonofileng go—
   (i) kgobokanya lotseno le le kolotwang Bothati jwa Tlhokomelo;
   (ii) thibela ditatlhegelo tse di bakilweng ke maithsholo a bosenyi le
   ditshenyegelo tse di sa tsamaelaneng le dipholisi tsa tsamaiso tsa Bothati
   jwa Tlhokomelo; le
   (iii) laola khapetelele ya tiro e e leng teng ka nonofo le tshomarel;

(h) laola le go sireletsa ditlhoto tsa Bothati; le go laola lotsen, ditshenyegelo le
   melato ya Bothati;
(i) tlhoma dithulaganyo le ditsamaiso go netefatsa gore dikgato tsa kgalemle tse
   di nonofileng e bile di le maleba di a tsewa kgathanong le leloko lo la
   badirimmogo ba Bothati le le—
   (i) tlolang molao o o malebana le tiragatso ya ditiro tsa Bothati; kgotsa
   (ii) amegang mo maithsholong a a nyenyefatsang taolo ya dišhelete le
   dithulaganyo tsa ka fa gare tsa taolo tsa Bothati; le

(j) netefatsa ka kakaretso gore Bothati bo ikamanya le ditlamego tsa jona tsa
   semolao.

Tshedimosetso ka Motlhankedimogolo wa Khuduthamaga

54. (1) Motlhankedimogolo wa Khuduthamaga o tshwanetse go tlamela Komiti ya
   Tlhokomelo le Matlofo a Bosethhaha ka tshedimosetso, dipolo, dikwalo, dithhaloselo le
   ditshhegetso tse di ka neelwang ke Molawana wa karolo eno kgotsa eo e ka kopiwang ke
   Komiti ya Tlhokomelo kgotsa Matlofo a Bosethhaha.
(2) Karolotlaleletso (1) ga e tlhoe kgotsa dumelele kabelo ya tshedimosetso ka ga
   batho ba ba ba ka supiwang go tswa mo tshedimosetsong.

Dipegelo tsa ngwaga le diakhanto tsa dišhelete

55. (1) Motlhankedimogolo wa Khuduthamaga o tshwanetse go—
   (a) netefatsa gore direkoto tse di feletseng tse nnete tsa merero ya dišhelete tsa
   Bothati jwa Tlhokomelo di a tsholwa le go thokomelwa;
   (b) baakanya diakhanto tsa dišhelete tsa Bothati jwa Tlhokomelo ngwaga
   mongwe le mongwe wa dišhelete tse di tla nnang karolo ya pegelo ya ngwaga
   ya Banka ya Resef; le
   (c) rimelela Tona mo dikgweding tse tlhano morago ga bokhutlo jwa ngwaga
   mongwe le mongwe wa dišhelete, mabapi le go di baya fa pele ga Kokoano
   Bosethhaha pegelo ya ngwaga e e ka ga ditiro tsa Bothati jwa Tlhokomelo mo
   ngwageng oo wa dišhelete , go akaretsa le dinlha tsa morero mongwe le
   mongwe tse di ka neelwang ke Molawana wa karolo eno.
   (2) Diakhanto tsa dišhelete tsa Bothati jwa Tlhokomelo tse di kailweng mo
   karolotlaleletsong (1)(b)—
   (a) di tsawanele go senolwa mo pegeleng ya Banka ya Resef ka mokgwa o o
   bonishang ditshenyegelo ka tlhamalalo tse di tswang kwa Bothating jwa
   Tlhokomelo; e bile
   (b) di ka senolwa ka mokgwa wa mametlelelelo go pegelo ya ngwaga ya Banka ya
   Resef.
CHAPTER 4

FINANCIAL SECTOR CONDUCT AUTHORITY

Part 1

Establishment, objective and functions

Establishment

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

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

Objective

57. The objective of the Financial Sector Conduct Authority is to—
   (a) enhance and support the efficiency and integrity of financial markets; and
   (b) protect financial customers by—
      (i) promoting fair treatment of financial customers by financial institutions;
      and
      (ii) providing financial customers and potential financial customers with financial education programs, and otherwise promoting financial literacy and the ability of financial customers and potential financial customers to make sound financial decisions; and
   (c) assist in maintaining financial stability.

Functions

58. (1) In order to achieve its objective, the Financial Sector Conduct Authority must—
   (a) regulate and supervise, in accordance with the financial sector laws, the conduct of financial institutions;
   (b) co-operate with, and assist, the Reserve Bank, the Financial Stability Oversight Committee, the Prudential Authority, the National Credit Regulator, and the Financial Intelligence Centre, as required in terms of this Act;
   (c) co-operate with the Council for Medical Schemes in the handling of matters of mutual interest;
   (d) promote, to the extent consistent with achieving the objective of the Financial Sector Conduct Authority, sustainable competition in the provision of financial products and financial services, including through co-operating and collaborating with the Competition Commission;
   (e) promote financial inclusion;
   (f) regularly review the perimeter and scope of financial sector regulation, and take steps to mitigate risks identified to the achievement of its objective or the effective performance of its functions;
   (g) administer the collection of levies and the distribution of amounts received in respect of levies;
   (h) conduct and publish research relevant to its objective;
   (i) monitor the extent to which the financial system is delivering fair outcomes for financial customers, with a focus on the fairness and appropriateness of financial products and financial services and the extent to which they meet the needs and reasonable expectations of financial customers; and
   (j) formulate and implement strategies and programs for financial education for the general public.

   (2) In relation to a financial institution that is a credit provider regulated in terms of the National Credit Act, the Financial Sector Conduct Authority may, in addition to regulating and supervising the financial institution in respect of the financial services
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KGAOLO 4

BOTHATI JWA BOITSHWARO JWA LEPHATA LA DITŠHELETE

Karolo 1

Thlomo, maikaelelo le ditiro

Thlomo

56. (1) Bothati jwa Boitshwara jwa Lephata la Ditšhelete bo a tlhongwa, jaaka setheo se se mo molaong.
(2) Bothati ke setheo sa setšhaba sa bosetšhaba mabapi le maithhomo a Public Finance Management Act le, ntle le karolo 49(2) ya Public Finance Management Act, le kwa ntle ga karolo 49(2) ya Public Finance Management Act, Khomisenara ke moitseanape yo o ikarabelang wa Bothati jwa Boitshwara jwa Lephata la Ditšhelete mabapi le maithhomo a Molao ono.

Maikaelelo

57. Maikaelelo a Bothati jwa Boitshwara jwa Lephata la Ditšhelete ke go—
(a) oketsa le go tshegetsœtšo nofo le tshiama ya thulaganyo ya ditšhelete; le
(b) sreiešta bareki le ditšhelete ka go—
(i) nthšetsœ pele tsholo e e lolameng ya badirelwa ba ditšhelete ka ditheo tsa ditšhelete; le
(ii) tlama le bareki le ditšhelete le bao ba tla nnang bareki le ditšhelete ka mananeo a thuto ya tsa ditšhelete, le ka go tsheletsœ bobuisokwalo jwa tsa ditšhelete le bokgoni jwa bareki le ditšhelete le bao ba tla nnang bareki le ditšhelete go tsaya ditšhwetsœ tse di nepagetsœn tša ditšhelete; le
(c) thusa go tshegetsœ tlhomasœ ya ditšhelete.

Ditiro

58. (1) Go fitlhelela maikaelelo a jona, Bothati jwa Boitshwara jwa Lephata la Ditšhelete bo tshwanetše go—
(a) laola le go tlhokomela, go tsamaelana le melao ya lephata la ditšhelete, boitshwara jwa ditheo tsa ditšhelete;
(b) dirisa na mmogo le, le go Thusa, Banka ya Rese, Komiti ya Kelothoko ya Tlhomamo ya Ditšhelete, Bothati jwa Thlokomela le Bolaodi jwa Bosetšhaba jwa Sekoloto, jaaka go thokgàgo ya ya ka Molao ono;
(c) dirisa na mmogo le Khanele ya Dikema tsa Kalafi mo go sekasekeng merero eo ka bobedi e nang le kgatlhëgo mo go yona;
(d) nthšetsœ pele, go fitlhëla mo go tsinasansœn le philhelelelong ya maikaelelo a Bothati jwa Boitshwara jwa Lephata la Ditšhelete, kgaßano e e tseletšswang mo kabelong ya dikuno tša ditšhelete le ditiríløo tša ditšhelete, go akaretsa le ka go dirisa na mmogo le go kopana le Khomisenane ya Kgaßano;
(e) nthšetsœ pele tsiyëletsœ ya ditšhelete;
(f) tlhathëhøa nako le nako modiko le seelo tsa balaodi jwa lephata la ditšhelete, go tša tšaya dikgato go fokotsa dikotsœ tse di supilweng go fitlhëlela maikaelelo a jona kgotsa tiragatsœ e e nonofileng ya ditiro tsa jona;
(g) tsamaisa go kgobokamngwa ga magkhetshœna le go phatlalatsœ madi a a amogetsweng mabapi le nakgetshœwana;
(h) dira le go phusatša patšisœ e e malebana le maikaelelo a jona;
(i) tlhokomela seelo se thulaganyo ya ditšhelete e abelaeng bareki le ditšhelete dipolo tši di lolameng ka teng, ka go tsepama mo tlameng le tshiamaong ya dikuno tša ditšhelete le ditiríløo tša ditšhelete le seelo seo bo tla fitlhëlelelang ditlhokëgøo le ditsholofelo tši di amogelesegang tša bareki le ditšhelete; le
(j) tlhama le go tsena tirisoŋ maanœ le mananeo a a mabapi le thuto ya tša ditšhelete mo setšhabeng ka kakaretsœ.
(2) Mabapi le setheo sa ditšhelete seoce e lêng batlamedi ba sekoloto se se laowang go ya ka Molao wà Bosetšhëba wa Sekoloto, Bothati jwa Boitshwara jwa Lephata la Ditšhelete bo ka, mo godimo ga go laola le go tlhokomela setheo sa ditšhelete mabapi
that the financial institution provides, and notwithstanding section 2(1)(g), regulate and supervise the financial institution’s conduct in relation to the provision of credit under a credit agreement only in respect of those matters referred to in section 108.

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

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

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

(b) participating in relevant international regulatory, supervisory, financial stability and standard setting bodies.

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

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

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

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

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

Part 2

Governance

Overall governance objective

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

Establishment and role of Executive Committee

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

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

(3) The Executive Committee must—

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

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

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

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

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

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

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

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

(4) Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete bo ka dira sengwe le sengwe se se tlhokegang go fithilela maikaelo a jona, go akaretsa go—

(a) dirisana mmogo le badirikabona mo ditaolong tse dingwe; le

(b) tsaya karolo mo bolaoding jwa boditšhabatšhaba jo bo maleba, tlhokomelo, tlhomamo ya ditšhelete le mekgatlho e e bayang maemo.

(5) Mo go direng ditiro tsa jona, Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete bo tshwanetsa go—

(a) tsaya tsa Molao wa Bosesitšhaba wa Sekoloto le ditlhokego tsa taolo tsa ditheo tsa ditšhelete tse di dumeletsengwe le go laolwa ka fa tlase ga Molao oo;

(b) tsaya tsa tlhokego ya ithagiso e bogolo e thibela, e e tsepangang mo dipoloeng le mokgwao o o theiIweng mo dikotsing, le le tisa pele tiriso ya ditlamelwana tsa jona go tsamaelana le bothokwana jwa dikotsi mo go filheleleneng maikaelo a jona; le

(c) go ya ka moo go ka kgonegang, go tsaya tsa bolaodi jwa boditšhabatšhaba le maemo a tlhokomelo a a beilweng e e mekgatlo e e kailweng mo karolotaletswa tsa jona go tsamaelana le botlhokwana jwa dikotsi mo go filheleleneng maikaelo a jona; le

(6) Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete bo tshwanetsa go dira ditiro tsa jona ntle le leshgo, tseoletlhakore kgotsa kgobelelo.

**Karolo 2**

**Puso**

Maithlomo ka Kakaretso a puso

59. Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete bo tshwanetsa go laola merero ya jona ka nonofo le bokgoni, le go thloma le go tsenywa mo tiriseng dithulaganyo tsa tsamaiso le ditirego tse di maleba gape di na le bokgoni, ka go elwa tlhoko, mo gare ga tse tiengwe, ga maemo a a amogelesegang boditšhabatšhaba mo mererong eno.

**Tlhome lebotsayakarolo jwa Komiti Khuduthamaga**

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

(2) Komiti Khuduthamaga e na le Khomisišena le Batlatsakomisišena.

(3) Komiti Khuduthamaga e tshwanetsa go—

(a) baya leitlhoo ka kakaretso taolo le tsamaiso ya Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete go netefatsa gore bo nonofile e bile bo na le bokgoni; le

(b) dira boemong jwa Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete go mererong e e latelang:

(i) Go dumelela Khomišenara go saena, mo boemong jwa Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete, memorantamo wa tumalano wa karolo 27 kgotsa karolo 77 le ditlhabololo dingwe le dingwe go memorantamo oo;

(ii) go rolela dithaana qa Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete go Bothati jwa Tholokomelo go ya qa karolo 77 ya memorantamo wa tumalano;

(iii) go amogela leano la taolo la Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete, le ditlhabololo dingwe le dingwe go leano;

(iv) go amogela ditsamaiso tsa tiro ya tsamaiso ya Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete, le ditlhabololo dingwe le dingwe go ditsamaiso tseo;

(v) go thaopa maloko a dikomiti tsa Bothati jwa Boitshwaro jwa Lephalale la Ditšhelete tse di tlhokekeng kgotsa leletleletseng ke molao, le go neelana ka dikaelo mabapi le tiragatsa ya tiro ya komiti ngwe le ngwe;
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(vi) making conduct standards, joint standards and other regulatory instruments in terms of financial sector laws for which it is the responsible authority;

(vii) granting, varying, suspending and revoking licences in terms of a financial sector law;

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

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

Commissioner and Deputy Commissioners

61. (1) The Minister must appoint a person who is fit and proper and has appropriate expertise in the financial sector as the Commissioner of the Financial Sector Conduct Authority.

(2) The Minister must appoint at least two, but no more than four, persons who have appropriate expertise in the financial sector as Deputy Commissioners.

(3) The Commissioner and Deputy Commissioners serve in a full-time executive capacity.

(4) A process for the selection of persons for appointment as Commissioner or Deputy Commissioner must be prescribed by Regulation.

(5) (a) The Commissioner may designate a Deputy Commissioner to act as Commissioner when the Commissioner is absent from office.

(b) If the Commissioner is unable to designate an acting Commissioner in terms of paragraph (a), or if the office of Commissioner is vacant, the Minister may designate a Deputy Commissioner to act as Commissioner during the Commissioner’s absence or pending the appointment of a Commissioner.

(6) A person may not be appointed or hold office as Commissioner or Deputy Commissioner if the person—

(a) is a disqualified person; or

(b) is not ordinarily resident in the Republic.

(7) When appointing the Commissioner or Deputy Commissioner, the Minister and the person appointed must agree, in writing, on—

(a) the performance measures that must be used to assess the person’s performance; and

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

Roles of Commissioner and Deputy Commissioners

62. (1) The Commissioner—

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

(b) subject to section 60(3)(b), must perform the functions of the Financial Sector Conduct Authority, including exercising the powers and carrying out the duties associated with those functions.

(2) The roles of the Deputy Commissioners are determined by the Executive Committee.

(3) When acting in terms of subsection (1) or (2), the Commissioner or a Deputy Commissioner must implement the policies and strategies adopted by the Executive Committee.

Terms of office

63. (1) A person appointed as Commissioner or Deputy Commissioner—

(a) holds office for a term determined by the Minister, which term may not be longer than five years;

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

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

(i) resigns by giving at least three months written notice to the Minister, or a shorter period that the Minister may accept; or

(ii) is removed from office as Commissioner or Deputy Commissioner, as the case may be.
(vi) go dira maemo a boitshwaro kgotsa maemo a kopanelo, le didiriswa tse dingwwe tsa boalodi go ya ka melao ya lephata la ditšhelete eo e leng boalodi jo bo rwalang maikarabelo;
(vii) go neelana, go farologantsha, go sekega le go gogela morago dilaesense go ya ka molao wa lephata la ditšhelete;
(viii) go tlhomamisa dituelo go ya ka melao ya lephata la ditšhelete;
(ix) morero mongwe le mongwe o o abetsweng go ya ka molao wa lephata la ditšhelete go Komiti Khuduthamaga.

Khomšenara le Batlatsakhomišenara

61. (1) Tona o tšwanetse go thapa motho yo o nang le boitseanape jo bo maleba mo lepheteng la ditšhelete jaaka Khomšenara wa Bothathi jwa Boithswaro jwa Lephtla la Ditšhelete.  
(2) Tona o tšwanetse go thapa bonnye batho ba le babedi, mme e seng go feta ba le bane, ba ba nang le boitseanape jo bo maleba mo lepheteng la ditšhelete jaaka Batlatsakhomišenara.
(3) Khomšenara le Batlatsakhomišenara ba dira mo maemong a nako e e tletseng a khuduthamaga.
(4) Kgato ya go tlhopha batho ba tla thapiwang jaaka Khomšenara kgotsa batlatsakhomišenara e ka kaelwa ka Molawana.
(5) (a) Khomšenara o ka thapa Motlatsakhomišenara go tšhwara marapo nakwana jaaka Khomšenara fa Khomšenara a seyo mo ofising.
(b) Fa Khomšenara a sa kgone go thapa Khomšenara wa nama-o-tšhwere go ya ka temana (a), kgotsa fa go na le phatlhatitso mo ofising ya Khomšenara, Tona o ka thapa Motlatsakhomišenara go tšhwara marapo nakwana jaaka Khomšenara ka nako e Khomšenara a seng teng kgotsa go fitlhela go thanwa Khomšenara.
(6) Motho a ka se tšapiwe, kgotsa go na go nna go tirong jaaka, Khomšenara kgotsa Motlatsakhomišenara fa motho—
(a) a ileditswe; kgotsa
(b) e se moagi wa Rephaboliki ka tlhago.
(7) Fa a thapa Khomšenara kgotsa Motlatsakhomišenara, Tona le motho yo o thapilweng ba tšwanetse go dumalana, ka go kwala, ka—
(a) ditekenysetsotiro tse di tšwanetseng go diriswa go lekanyetsa tiro ya motho yoo; le
(b) boemo jwa tiro jo bo tšwanetseng go fitlhela kgaFitlhela kgaTlhana long go ditekenyetsotiro tse tsoe.

Botsayakarolo jwa Khomšenara le Batlatsakhomišenara

62. (1) Khomšenara—
(a) o rwala maikarabelo a taolo le tsamaiso ya letsatsi le letsatsi ya Bothathi jwa Boithswaro jwa Lephta la Ditšhelete; le
(b) go tsamaelana le karolo 60(3)(b), o tšwanetsego dira ditiro tsa Bothathi jwa Boithswaro jwa Lephta la Ditšhelete, go akaretša le go diragatsa ditlhahe le maikarabelo a a tsamaelanang le ditiro tse tsoe.
(2) Ditiro tsa Batlatsakhomišenara di tlhomamiswa ke Komitikhuduthamaga.
(3) Fa a dira go ya ka karololaleletsogo (1) kgotsa (2). Khomšenara kgotsa Motlatsakhomišenara o tšwanetse go tsenya mo tirisong dipholisi le maano tse di amogetsweng ke Komitikhuduthamaga.

Paka ya ofisi

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

Service conditions

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

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

Removal from office

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Meetings of Executive Committee

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

(b) An audio or audio-visual conference among a majority of the members of the Executive Committee, which enables each participating member to hear and be heard by each of the other participating members, must be regarded as a meeting of the Executive Committee, and each participating member must be regarded as being present at such a meeting.
Mabaka a tirelo

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

Go tloswa mo ofising

65. (1) Tona o tshwanetse, go tsamaelana le dikgato tse di maleba, go tlosa Khomišenara mo tirong fa Khomišenara a nna motho yo o ileditsweng.
(2) Khomišenara o tshwanetse, go tsamaelana le dikgato tse di maleba le tumalano le Tona, go tlosa Motlatsakhomišenara mo tirong fa Motlatsakhomišenara a nna motho yo o ileditsweng.
(3) Tona o ka tlosa Khomišenara mo tirong fa patlisiso e e ikemetseng e e thlomilweng ke Tona e filtheletse gore Khomišenara—
    (a) ga a kgone go dira ditiro tse a di thapetsweng ka nthla ya boitekanelo kgotsa mabaka a mangwe;
    (b) o paletswe ka gotlhe go filthelela boemo jwa tiro kgathanong le ditekanyetsotiro tse go dumalanweng ka tsona go ya ka karolo 61(7);
    (c) o paletswe ka gotlhe go diragatsa ngwe le ngwe ya maikarabelo a tiro, go akaretsa ngwe le ngwe ya maikarabelo a a abilweng go ya ka molavana; kgotsa
    (d) o dirile ka mokgwa o o sa tsamaelaneng le go ka tswelela pele go dira.
(4) Fa patlisiso e e ikemetseng e thlomilwe go ya ka karolotlaleletso (3), Tona o ka sekega Khomišenara mo tirong go letilwe tshwetso ya go tlosa motho yoo mo tirong.
(5) Khomišenara o ka, ka tumalano le Tona, tlosa Motlatsakhomišenara mo tirong fa patlisiso e e ikemetseng e e thlomilweng ke Khomišenara, ka tumalano le Tona, e filtheletse gore Motlatsakhomišenara—
    (a) ga a kgone go dira tiro e a e thapetsweng ka nthla ya boitekanelo kgotsa mabaka a mangwe;
    (b) o paletswe ka gotlhe go filthelela boemo jwa tiro kgathanong le ditekanyetsotiro tse go dumalanweng ka tsona go ya ka karolo 61(7);
    (c) o paletswe ka gotlhe go diragatsa ngwe le ngwe ya maikarabelo a tiro, go akaretsa ngwe le ngwe ya maikarabelo a a abilweng go ya ka molavana; kgotsa
    (d) o dirile ka mokgwa o o sa tsamaelaneng le go ka tswelela pele go dira.
(6) Fa patlisiso e e ikemetseng e thlomilwe go ya ka karolotlaleletso (5), Khomišenara o ka emisa Motlatsakhomišenara mo tirong go ya ka karoloeno, Tona o tshwanetse; momatsatsingale 30, goromelapegelo lediphitlhelelo tsa patlisiso e e ikemetseng go Kokoano Bosetšaba.

Dikopano ts Komitikhuduthamaga

66. (1) (a) Komitikhuduthamaga e tshwanetse go kopana kgapetsakgapetsa ga go thokegoa go dira ditiro tsa yona.
(b) Khonerense ya kuto kgotsa kutlopono magareng go bontsi jwa maloko a Komitikhuduthamaga, e e kgontshang leloko lengwe le lengwe le le tsayang karolo go utlwa go go utlwelewa ke mongwe le mongwe wa maloko a mangwe a a tsayang karolo, e tshwanetse go sewa jaaka kopana ya Komiti ya Khuduthamaga, e e dileko lengwe le lengwe le le tsayang karolo ke tshwanetswe go tselela gore le teng kwa kopanong eo.
(2) Meetings of the Executive Committee must be held at times and, except where subsection (1)(b) applies, at places determined by the Commissioner.

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

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

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

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

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

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

Decisions of Executive Committee

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

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

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

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

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

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

Governance and other subcommittees

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

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

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

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

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

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

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

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

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

(4) A member of a subcommittee established in terms of this section, including a person who is not in the service of an organ of state, holds office for the period, and on the terms and conditions, including terms regarding remuneration, determined by the Director-General or the Executive Committee, as the case may be, who established the subcommittee.
(2) Dikopanotsa Komitikhuduthamaga di tshwanetse go tshwarwa ka nako le, ntle le mo karolotlalelets o (1b) e diragatswang, kwa mafelong a a tlhomamisitsweng ke Kholmišena.
(3) Khoramo ya kopano ya Komitikhuduthamaga ke bontsi jwa maloko a yona.
(4) (a) Khomišena o okamela dikopano tsa Komitikhuduthamaga tseo Khomišena a leng teng kwa go tsona.
   (b) Fa Khomišena a se teng kwa kapanong, Motlatsakhomišena ya o tlhopihlweng ke Khomišena kgotsa a tlhopihlwe go tsamaelana le tsamaiso e e tlhomamisitsweng ke Khomišena, o okamela kopano.
(5) Khomišena kgotsa Motlatsakhomišena ya o okametseng kopano ya Komitikhuduthamaga o ka laletsa kgotsa lelalele motho mangwe le mongwe, go akaretse moemedi wa Bothathi jwa Thlhokomelo, Banka ya Resefe, Senthana ya Bothlodzi jwa tsa Ditšhelete, Khansele ya Dikema tsa Kalafhi kgotsa Boladi jwa Bošešhaha jwa Sekelele, go tselena kopano, mme motho yo o laleditsweng o ka tsaya karolo mme ga a na tshwanelo ya go bouta mo kopano
(6) Maloko a ka laola ditsamaiso kwa dikopanong tsa Komitikhuduthamaga jaaka a bona go tshwanetse.
(7) Khomišena o tshwanetse go netefatsa gore metotoso ya kopano ngwe le ngwe e Komiti e tsholwa ka mokgwà o o tlhomamisitsweng ke Khomišena.

**Ditšwetso tsa Komitikhuduthamaga**

67. (1) (a) Tshitsinyo pele ga kopano ya Komitikhuduthamaga e nna tshwetso ya Komitikhuduthamaga fa bontsi jwa malako a a leng teng, kgotsa a a tselweng gore a teng, le ao a a ka tseang karolo mo go sekasekeng tshitsinyo, a bontsi tshitsinyo.
   (b) Fa go diragala gore diboutu tsa tshitsinyo di lekane, motho yo o okametseng kopano o ka dira boutu e e kgethegileng mo godimo ga boutu e e tlwaelegileng.
(2) Komiti ya Khuduthamaga e ka, go tsamaelana le ditsamaiso tse di tlhomamisitsweng ke Komitikhuduthamaga, tsaya tshwetso ka ga tshitsinyo nga ntle ga kopano ya Komitikhuduthamaga.
(3) Tshwetso ya Komitikhuduthamaga e amogelesega fela ka ntla ya—
   (a) Fa go nile le phatlatiro kwa tirong ya leloko fa tshwetso e ne e tsewa; kgotsa
   (b) Fa go nile le phatlatiro kwa tirong ya leloko fa tshwetso e ne e tsewa; kgotsa

**Puso le dikomiti tlaletso dingwe**

68. (1) Mokaedikakaretso o tshwanetse go tlhoma—
   (a) komititi tlaletso go thadisa, lekela le go gakolola Komitikhuduthamaga ka ga pholisi ya moputso ya Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete; le
   (b) komititi tlaletso go thadisa, lekela le go gakolola Komitikhuduthamaga ka ga dikotsi tse Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete bo lebaganeng le tsona le maano a go laola dikotsi tseo.
(2) Komitikhuduthamaga e ka tholos Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete komititi tlaletso e le ngwe kgotsa go feta, eo ditiro tsa yona di ka tlhomamisitsweng ke Komitikhuduthamaga.
(3) (a) Mokaedikakaretso o tlhomamisa botokololo jwa komititi tlaletso ngwe le ngwe e e tlhomilweng go ya ka karolotlaleletso (1).
   (b) Bontsi jwa malako a komititi tlaletso e le tlhomilweng go ya ka karolotlaleletso (1) bo ka se nne malako a badiramnogì bå Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete.
   (c) Komitikhuduthamaga e tlhomamisa botokololo jwa komititi tlaletso ngwe le ngwe e e tlhomilweng go ya ka karolotlaleletso (2).
   (d) Komititi tlaletso e le tlhomilweng go ya ka karolotlaleletso (2) e ka akaretsa batho bao e seng malako a Komitikhuduthamaga kgotsa badiramnogì bå Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete.
   (e) Moko yo o ilelitsweng o ka se nne kgotsa o ka se tswelele go nna leloko la komititi tlaletso e ethomilweng go ya ka karolo eno.
(4) Lelo ko komititi tlaletso e le tlhomilweng go ya ka karolo eno go akaretse le motho yo o seng mo tirelong ya lephata ya puso, yo o dirang sebaka sa paka, le go ya ka dipelo le mabaka, le dipeelo mabapi le moputso, tse di tlhomamisitsweng ke Mokaedikakaretso kgotsa Komitikhuduthamaga, jaaka mabaka a ntsì, yo o tlhomileng komititi tlaletso.
(5) A subcommittee established in terms of subsection (1) must be chaired by a person who is not the Commissioner, a Deputy Commissioner or a staff member of the Financial Sector Conduct Authority.

(6) A subcommittee established in terms of this section determines its procedures, subject to any directions of the Director-General or the Executive Committee, as the case may be, who established the subcommittee.

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

**Duties of Commissioner, Deputy Commissioners and other subcommittee members**

69. (1) The Commissioner, each Deputy Commissioner and each member of a subcommittee of the Financial Sector Conduct Authority established as contemplated in section 51(1)(a)(ii) of the Public Finance Management Act or of section 68 of this Act must—

(a) act honestly in all matters relating to the Financial Sector Conduct Authority; and

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

(i) in good faith;

(ii) for a proper purpose; and

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

(2) A person who is or has been a person mentioned in subsection (1) must not use the position, or any information obtained because of the position, to—

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

(b) impede the Financial Sector Conduct Authority’s ability to perform its functions; or

(c) cause improper detriment to another person.

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

**Regulatory strategy**

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

(2) A regulatory strategy must—

(a) state—

(i) the regulatory and supervisory priorities for the Financial Sector Conduct Authority for the next three years; and

(ii) the intended key outcomes of the strategy;

(b) set guiding principles for the Financial Sector Conduct Authority on—

(i) how it should perform its regulatory and supervisory functions;

(ii) the matters which it should have regard to in performing those functions;

(iii) its approach to administrative actions; and

(iv) how it should give effect to the requirements applicable to it with respect to—

(aa) transparency;

(bb) openness to consultation; and

(cc) accountability; and

(c) be aimed at giving effect to section 58.

(3) The Executive Committee must review its regulatory strategy at least annually, and may amend it at any time.
(5) Komititlaleletso e e tlhomilweng go ya ka karolotlaleletso (1) e tshwanetse go okamelwa ke motho yo o seng Khomišenara, Motlatsakhomišenara kgotsa lelolo la badirimmogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.
(6) Komititlaleletso e e tlhomilweng go ya ka karolo eno e tlhomaesisa tsamaiso ya yona, go tsamaelana le kae lo ya Mokaedikakakaroto kgotsa KomitiKhuduthamaga, jaaka mabaka a nte, yo o tlhomilela komititlaleletso.
(7) Khomišenara o tshwanetse go netefatsa gote metsotsa ya kopano ngwwe le ngwwe ya komititlaleletso e e tlhomilweng go ya ka karolo eno e tsholwa ka mokgwa o o tlhamamisitsweng ke KomitiKhuduthamaga.

Ditiro tsa Khomišenara, Batlatshakamišenara le maloko a mangwe a komititlaleletso

69. (1) Khomišenara, Motlatsakamišenara mongwe le mongwe le lelolo lengwe le lengwe la komititlaleletso ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete e e tlhomilweng jaaka go kailwe mo karolong 51(1)(a)(ii) ya Public Finance Management Act kgotsa karolo 68 ya Molao ona bo tshwanetse go—
(a) dira ka botshepego mo mererong yotlhe e e amanang le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le
(b) dira ditiro tsa di tipetse na jaaka maloko—a a tshapalang;
(ii) a maithlomo a a siamang; le
(iii) a tlhokomelo e e kwa godimo le matseteleko tsa motho yo o mo maemo aga a ka di diragatsang.
(2) Motho yo kaiwang kgotsa yo o kailweng mo karolotlaleletsong (1) ga a tshwanela go dirisa moaemo, kgotsa tsedimosetso ngwwe le ngwwe e e fitlehletseng ka nthla ya moaemo, go—
(a) una molemo ka boena kgotsa go dira motha yo mongwe a une molemo ka tsela e e sa siamang;
(b) go kgoreletsa Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa
c) thatafaletsa motha yo mongwe.
(3) Mabapi le maithlomo a karolo eno, “kunomoemelo” le “thatafaletso” ga di a lekanyetswa go kunomoemelo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

Leano la bolodii

70. (1) KomitiKhuduthamaga e tshwanetse, mo dikgwedwedse tsa tsharotaro morago ga letlha la go tseungwwe tirisinga ga Kgaolo eno, go amogela leano la bolodii la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go neelana ka kaelo ya kakaretso mo go 35 fitleheleleng maikaelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le go dira ditiro tsa yona tsa bolodii le bolthokomedi.
(2) Leano la bolodii le tshwanetse—
(a) go tšhagisa—
(i) ditlapele tsa bolodii le bolthokomedi tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete tsa dingwwe tsa tharos tsa di tšeing le le;
(ii) dipelo tsa di bolthokwa tsa di ikeleitsweng tsa leano;
(b) go tšhagisetsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ditheo tsa kaelo ka ga—a
(i) mopitse o o tšhawetseng go dira ditiro tsa bolodii le bolthokomedi ka ona;
(ii) merero e e tshwanetseng go e ela tšhoko mo go direng ditiro tšebo;
(iii) tšhagisetsa ya jona go ditiro tsa tšamaesia; le
(iv) ka mopitse o e tshwanetseng go diragatsa ditšhoego tse di diragatsweng tsa jona mabapi le—
(aa) ponatsetshego;
(bb) go kgona go rerisana; le
(cc) boikarabelo; le
(c) go nna le maikaelo a go kgontsha go nna teng ga karolo 58.
(3) KomitiKhuduthamaga e tshwanetse go thadisa leano la yona tsa bolodii bonnye ngwwe le ngwwe, e biele e ka le tšhabolola nako ngwwe le ngwwe.
(4) (a) Before the Executive Committee adopts a regulatory strategy or an amendment to a regulatory strategy, it must—
   (i) provide a copy of the draft of the strategy or amendment to the Minister, the Prudential Authority and the National Credit Regulator; and
   (ii) invite comments from the Minister, the Prudential Authority and the National Credit Regulator, on the draft, to be made within a period specified by the Executive Committee.

(b) The period referred to in paragraph (a)(ii) must be at least one month.

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

(6) If the Minister agrees, the Financial Sector Conduct Authority’s adopted regulatory strategy may be incorporated into its corporate plan in terms of section 52(b) of the Public Finance Management Act.

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

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

Delegations

71. (1) The Executive Committee may, in writing—
   (a) delegate any power or duty of, or delegated to, the Financial Sector Conduct Authority in terms of a financial sector law to the Commissioner or a Deputy Commissioner, except—
      (i) the power to delegate contained in this subsection; and
      (ii) the powers referred to in section 60(3)(b)(i) to (viii);  
   (b) delegate to an administrative action committee the power to impose administrative penalties that are specified in the delegation, if the Financial Sector Conduct Authority establishes an administrative action committee; and
   (c) at any time, amend a delegation made in terms of paragraph (a) or (b).

(2) The Commissioner may, in writing—
   (a) delegate any power or duty assigned or delegated to the Commissioner in terms of a financial sector law, except the power to delegate contained in this subsection, to—
      (i) a Deputy Commissioner; or
      (ii) a staff member of the Financial Sector Conduct Authority; and
   (b) at any time, amend a delegation made in terms of paragraph (a).

(3) A Deputy Commissioner may, in writing—
   (a) delegate any power or duty delegated to that Deputy Commissioner in terms of a financial sector law, except the power to delegate contained in this subsection, to a staff member of the Financial Sector Conduct Authority; and
   (b) at any time, amend a delegation made in terms of paragraph (a).

(4) A delegation in terms of subsection (2)(a)(ii) or (3)(a) may be made to a specified person or to a person holding a specified position.

(5) Any power or duty of the Financial Sector Conduct Authority may be delegated to the Prudential Authority by a section 77 memorandum of understanding in accordance with a framework and system of delegation developed by the financial sector regulators to ensure that any delegation does not constrain the Prudential Authority or the Financial Sector Conduct Authority from achieving their respective objectives as set out in sections 33 and 57.

(6) A delegation made in terms this section—
   (a) is subject to the limitations and conditions specified in the delegation;
(4) (a) Pele Komitikhuduthamaga e ka amogela leano la bolaodi kgotsa tlhabololo ya leano la tboalaodi, e tshwanetse go—
   (i) tlamela Tona, Bothati jwa Tlhokomeloa le Boloaodi jwa Bostoṣhaba jwa Sekoloło ka kgatiso ya leano kgotsa tlhabololo e e thadilweng; le
   (ii) laleta ditshwaelo go tswana go Tona, Bothati jwa Tlhokomeloa le Boloaodi jwa Bostoṣhaba jwa Sekoloło, ka ga thadiso, tseo di tshwanetsego go dirwa mo pakeng e e tsepamisitsweng ke Komitikhuduthamaga.
   (b) Paka e e kaailweng mo temaneng (a)(ii) e tshwanetse go mma bonnye kgwedi e le esi.

(5) Mo go tseyeng tshwetso ka ga go amogela leano la bolaodi kgotsa tlhabololo ya leano la bolaodi, Komitikhuduthamaga e tshwanetse go tsaya tsia ditshwaelo tsothle tse di dirilweng mo thalang.

(6) Fa Tona a dumela, leano la bolaodi la Bothati jwa Boitshwaro jwa Lephata la Diṭshelete le le amogetsweng le ka tsemyelestse mo leanoeng la sêfam e ya ka karolo 52(b) ya Public Finance Management Act.

(7) Komitikhuduthamaga e tshwanetse go isa tlaše, go ya ka boemo jo bo kgonagang e bie bo le maleba, go sa thomamang magareng ga leano la bolaodi la Bothati jwa Boitshwaro jwa Lephata la Diṭshelete le leano la bolaodi la Bothati jwa Tlhokomelo.

(8) Khomiṣenara o tshwanetse go—
   (a) tlamela Tona, Bothati jwa Tlhokomeloa le Boloaodi jwa Bostoṣhaba jwa Sekoloło ka kgatiso ya leano labolaodi la Bothati jwa Boitshwaro jwa Lephata la Diṭshelete; le
   (b) phasalatsa leano la bolaodi le tlhabololo ngwe le ngwe.

**Ditholelo**

71. (1) Komitikhuduthamaga e ka, ka go kwala—
   (a) rolela thata ngwe kgotsa tiro ya, kgotsa go rolela go, Bothati jwa Boitshwaro jwa Lephata la Diṭshelete go Khomiṣenara kgotsa Motlatsakhomiṣenara, ntle le—
      (i) thata ya go romeletsa e e tlhagelanelang mo karolotlaleletsong eno; le
      (ii) dithata tse di kaillweng mo karolong 60(3)(b)(i) go fihla go (viii); le
   (b) rolela go komiti ya tsamaiso ya tiro thata ya go lefisa dikothlaqo tsa tsamaiso tse di tsepamisitsweng mo thomeletsong, fa Bothati jwa Boitshwaro jwa Lephata la Diṭshelete bo tlhoma komiti ya tsamaiso ya tiro; le
   (c) ka nako ngwe le ngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a) kgotsa (b).

(2) Khomiṣenara o ka, ka go kwala—
   (a) rolela thata kgotsa tiro ngwe le ngwe e e neetsweng kgotsa neetsweng Khomiṣenara go ya ka molao wa lepha le Diṭshelete, ntle le thata ya go romeletsatsa e e tlhagelelang mo karolotlaleletsong eno, go—
      (i) Motlatsakhomiṣenara; kgotsa
      (ii) leloko la badirimmongo ba Bothati jwa Boitshwaro jwa Lephata la Diṭshelete; le
   (b) ka nako ngwe le ngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a).

(3) Motlatsakhomiṣenara o ka, ka go kwala—
   (a) rolela thata kgotsa tiro ngwe le ngwe e e roletsweng go Motlatsakho-
      miṣenara yoo go ya ka molao wa lepha la diṭshelete, ntle le thata ya go roneletsatsa e e tlhagelelang mo karolotlaleletsong eno, go leloko la badirimmongo ba Bothati jwa Boitshwaro jwa Lephata la Diṭshelete; le
   (b) ka nako ngwe le ngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a).

(4) Tholelo go ya ka karolotlaleletsos (2)(a)(ii) kgotsa (3)(a) e e dirilewa motho yo o supilweng kgotsa go motho yo o tshwereng maemo a a tsepameng.

(5) Tholelo kgotsa tiro ngwe ya Bothati jwa Boitshwaro jwa Lephata la Diṭshelete e ka rolelwa go Bothati jwa Tlhokomelo ka karolo 77 ya memorandum wa tumalano go tsaamelaana la letlhomeso le tlhalanganyo ya tholelo e e tlhabolotsweng ke baloedi ba lepha la Diṭshelete go netefatsa gore tholelo ngwe le ngwe ga e thibele Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwaro jwa Lephata la Diṭshelete gore bo fitlhetele maikaelo a jona jaaka a thagisitswe mo dikarolong 33 le 57.

(6) Tholelo e e dirilweng go ya ka karolo eno—
   (a) e go ya ka ditekanyetso le dipeelo tse di tlhalositsweng mo tholelong eno;
(b) does not divest the Financial Sector Conduct Authority, the Commissioner or the Deputy Commissioner concerned of responsibility in respect of the delegated power or duty; and

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

(7) Anything done by a delegate in terms of the delegation must be regarded as having been done by the Financial Sector Conduct Authority.

(8) This section does not affect a power under a specific financial sector law to delegate a power of the Financial Sector Conduct Authority.

Disclosure of interests

72. (1) A member of the Executive Committee must disclose, at a meeting of the Executive Committee, or in writing to each of the other members, any interest in any matter that is being or is intended to be considered by him or her, whether or not at a meeting of the Executive Committee, being an interest that—

(a) the member has; or

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

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

(3) (a) A member referred to in subsection (1) may not perform a function in relation to the matter concerned unless—

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

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

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

(4) A member of a subcommittee of the Financial Sector Conduct Authority established as contemplated in section 51(1)(a)(ii) of the Public Finance Management Act or section 68(1) of this Act must disclose, at a meeting of the subcommittee, or in writing to each of the other members of that subcommittee, any interest in a matter that is being or is intended to be considered by that subcommittee, being an interest that—

(a) the member has; or

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

(5) A disclosure in terms of subsection (4) must be given as soon as practicable after the member concerned becomes aware of the interest.

(6) A member referred to in subsection (4) may not participate in the consideration of or decision on that matter by the subcommittee unless—

(a) the member has disclosed the interest in accordance with subsection (4); and

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

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

(b) The Commissioner must ensure that paragraph (a) is complied with.

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

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

(b) when the interest was acquired.

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

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

(i) an official or employee of the Financial Sector Conduct Authority; or

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

(b) an interest that is not material.

(10) The Commissioner must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.
(b) ga e amoge Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete, Khomišenara 
gotsa Molatsatsakomihšenara yo o ameganag mabapi le tha ka gotsa tiro e e 
rolestweng; le 
(c) e ka gogelwa morago ka go kwala nako ngwe le ngwe, go latela 
ditšhwanelo dingwe le dingwe tse di ka tswang di fitlheletswe.

(7) Sengwe le sengwe se se dirilweng ke baemedi go ya ka tholelo se tšhwanesetse go 
tsewa jaaka se dirilwe ke Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete.

(8) Karolo eno ga e ame thata e e ka fa tlase ga molao wa lephata la ditšhelete o o 
rileng wa ga roleda thata ya Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete.

Tšhenolo ya dikgatlhegelo

72. (1) Leloko la Komititlaleletso le tšhwanesetse go senola, mo kopanong ya 
Khuduthamaga, gotsa ka go kwalela go mongwe le mongwe wa maloko, kgatlhego 
ngwe le ngwe mo morerong o o gotsa o a ikaletsegeng go o tsaya tsia, kwa kopanong 
gotsa e seng kwa kopanong ya Komititkuduthamagaga, go ka nna kgatlhegelo e—
(a) leloko le nang le yona; gotsa
(b) motto yo o amanang le leloko a nang le yona.

(2) Tšhenolo go ya ka karolotlaleletso (1) e tšhwanesetse go dirwa ka bonako jo bo 
kgonagangalang morago ga fa leloko le le amegang le sena go lemoga ka kgatlhegelo.

(3) (a) Leloko le le kaileweng mo karolotlaleletsong (1) le ka se dire tiro mabapi le 
meroro o kailweng fa fela—
(i) leloko le senotse kgatlhegelo go tšamaešana le karolotlaleletso (1); le 
(ii) maloko a mangwe a Komititkuduthamagaga a swedište gore kgatlhegelo ga e ame 
ka gope go diro tiro ka matsetseleko ga leloko mabapi le meroro o o amegang.
(b) Tšhekatsheko ngwe le ngwe ya, gotsa tšhwetse ka ga, moero o o sa 
ıkamanyeng le temana (a) ga le amogelesege e bile le tšhwanesetse go sekasekape 
gape gotsa go swetswa leloko le se teng.

(4) Leloko la komititlaleletso ya Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete jo 
bo tšholimweng go ya ka karolo 51(1)(a)(ii) ya Public Finance Management Act gotsa 
karolo 68(1) ya Molao ono le tšhwanesetse go senola, kwa kopanong ya komititlaleletso,
gotsa ka go kwalela mongwe le mongwe wa maloko a komititlaleletso, kgatlhegelo 
gange le ngwe mo morerong o o gotsa o komititlaleletso e ikaelelang go o sekaseka,
e le kgatlhegelo e—
(a) leloko le nang le yona; gotsa
(b) motto yo o amanang le leloko a nang le yona.

(5) Tšhenolo go ya ka karolotlaleletso (4) e tšhwanesetse go dirwa ka bonako jo bo 
kgonagangalang morago ga fa leloko le le amegang le sena go lemoga ka kgatlhegelo ea.

(6) Leloko le le kaileweng mo karolotlaleletsong (4) le ka se tšeye karolo mo 
šhekatshekonag ya gotsa tšhwetse ya moero o o ke komititlaleletso ea fela—
(a) leloko le senotse kgatlhegelo go tšamaešana le karolotlaleletso (4); le 
(b) maloko a mangwe a komititlaleletso ea a swedište gore kgatlhegelo ea e ka se 
ame ka gope go diro ditiro ka matsetseleko ga leloko mabapi le meroro o o 
amengang.

(7) (a) Leloko lengwe le lengwe la badirimmogo ba Bothathi jwa Boitshwaro jwa 
Lephata la Ditšhelete le mabapi le mabapi le mongwe le mongwe yo o amegang mo go 
direng tiro ya Bothathi jwa Boitshwaro jwa Lephata la Ditšhelete gotsa tiragatso ya 
dišhata tsa jona o tšhwanesetse go senola ka nako, nepagalo le tšholimo, dikgatlhegelo, go akaretse le 
dikgatlhegelo tsaa losika, tseo di ka amang go diro ditiro tsa bona ka matsetseleko 
gotsa thata e e roletsweng.
(b) Khomišenara o tšhwanesetse go netefatsa gore temana (a) e a diragatswa.

(8) Mabapi le mašthumo a karolo eno, ga go kgatshalesege—
(a) gore kgatlhegelo e tšhamalešte, ga e a tšhamalala, ya tšhelete gotsa e e seng 
y a tšhelete; gotsa
(b) fa kgatlhegelo e e ne e fitlheletwa.

(9) Mabapi le mašthumo a karolo eno, motto ga a tšhwanela go senola—
(a) ntla ya gore motto yo o, gotsa motto yo o amanang le ena, ka—
(i) mothankedi gotsa mothapiwa ya Bothathi jwa Boitshwaro jwa Lephata 
la Ditšhelete; gotsa
(ii) morekedi wa ditšhelete wa setheo sa ditšhelete; gotsa

(b) kgatlhegelo e e seng ya bothokwa.

(10) Khomišenara o tšhwanesetse go tšhola rejisetara ya ditšhenolo tšotšhe tse di 
dirilweng go ya ka karolo eno le ka ga ditšhweto tšotšhe tse di dirilweng go ya ka karolo 
eno.
Staff and resources

73. (1) The Financial Sector Conduct Authority may, in accordance with applicable law—
   (a) for the work of the Financial Sector Conduct Authority—
       (i) appoint persons as employees;
       (ii) enter into secondment arrangements; or
       (iii) engage persons on contract otherwise than as employees;
   (b) enter into contracts;
   (c) acquire and dispose of property;
   (d) insure itself against any loss, damage, risk or liability that it may suffer or incur; and
   (e) do anything else necessary for the performance of its functions.

(2) The Financial Sector Conduct Authority may not enter into a secondment arrangement in respect of a person, or engage persons as employees or on contract, unless the person and the Authority have agreed in writing on—
   (a) the performance measures that must be used to assess that person’s performance; and
   (b) the level of performance that must be achieved against those measures.

Duties of staff members

74. (1) A person who is or was a staff member of the Financial Sector Conduct Authority may not use that position or any information obtained as a staff member to—
   (a) improperly benefit himself or herself or another person;
   (b) impede the Financial Sector Conduct Authority’s ability to perform its functions; or
   (c) cause improper detriment to another person.

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

Information by Commissioner

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

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

CHAPTER 5

CO-OPERATION AND COLLABORATION

Part 1

Co-operation and collaboration

76. (1) The financial sector regulators and the Reserve Bank must co-operate and collaborate when performing their functions in terms of financial sector laws, the National Credit Act, and the Financial Intelligence Centre Act, and must for this purpose—
Karolo 3

Badiri le ditlamelwana

73. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka, go tsamaelana le molao o o maleba—
   (a) mabapi le tiro ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete—
      (i) thapa batho jaaka badiri;
      (ii) tšena mo thulaganyong ya kadimisano; kgotsa
      (iii) rerisana le batho ka ga konteraka fela e seng jaaka bathapiwa;
   (b) tšena mo dikonterakeng;
   (c) fitlhela le go fetisa thoto;
   (d) inšora kgatlhanong le tšalhegelo, tšenyeego, dikotsi kgotsa molato e bo ka e itemogelang kgotsa ya nna ka fa tšase ga yona; le
   (e) dira sengwe le sengwe se se tšlhegeng go dira ditiro tsja bona ya ka.

    (2) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka se tsene mo thulaganyong ya kadimisano mabapi le motho, kgotsa go rerisana le batho jaaka bathapiwa kgotsa mo konterakeng, fa fela motho yoo le Bothati ba dumalane ka go kwala ka—
       (a) ditekanyetsotiro tse ditswanetseng go diriswa go tšalihobo tiro ya motho yoo; le
       (b) boemo jwa tiro jo bo tšwanetseng go fitlhela le kgatlhanong le ditekanyetsotiro.

Ditiro ts'a maloko a badirimmogo

74. (1) Motho yo e leng kgotsa yo e neng e le leloko la badirimmogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete o kase dirise maemo ao kgotsa tshedimosetso ngwe le ngwe e a e boneng jaaka leloko la badirimmogo go—
       (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tšela e e sa siamang;
       (b) kgoreletsia Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa
       (c) thetšafatsa motho yo mongwe.

    (2) Mabapi le maitlhomo a karolo eno. “kunomolemo” le “thetšafatsa” ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thetšafatsa ya ditšhelete.

Tshedimosetso ka Khomišenara

75. (1) Khomišenara o tšwanetse go tšlane Komitkhuduthamaga le Matlotlo a Bosetšhaba ka tshedimosetso, dipoelo, dikwalo, ditšalose le ditšhegetsetso tse di ka neelwang ke Molawana mabapi le karolo eno kgotsa tshedimosetso e Komiti Khuduthamaga kgotsa Matlotlo a Bosetšhaba a ka e kopang.

    (2) Karolotlaleletsos (1) ka e tšhoke kgotsa neye teta kabelo ya tshedimosetso ka ga batho ba ba ka supiwang go tšwa mo tshedimosetsong.

KGAOLO 5

TIRISANOMMODO LE KOPANO

Karolo 1

Tirisanommomo le kopano magareng ba balaodi ba lephata la ditšhelete le Banka ya Resefe

76. (1) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tšwanetse go dirisanommomo le go kopana fa ba dira ditiro ts’ona go ya ka melao ya lephata la ditšhelete, Molao ya Bosetšhaba wa Sekoloto, le Financial Intelligence Centre Act, ba tšwanetse mabapi le maitlhomo ano—
(a) generally assist and support each other in pursuing their objectives in terms of financial sector laws, the National Credit Act and the Financial Intelligence Centre Act;

(b) inform each other about, and share information about, matters of common interest;

(c) strive to adopt consistent regulatory strategies, including addressing regulatory and supervisory challenges;

(d) co-ordinate, to the extent appropriate, actions in terms of financial sector laws, the National Credit Act and the Financial Intelligence Centre Act, including in relation to—

(i) standards and other regulatory instruments, including similar instruments provided for in terms of the National Credit Act and the Financial Intelligence Centre Act;

(ii) licensing;

(iii) supervisory on-site inspections and investigations;

(iv) actions to enforce financial sector laws, the National Credit Act and the Financial Intelligence Centre Act;

(v) information sharing;

(vi) recovery and resolution; and

(vii) reporting by financial institutions, including statutory reporting and data collection measures;

(e) minimise the duplication of effort and expense, including by establishing and using, where appropriate, common or shared databases and other facilities;

(f) agree on attendance at relevant international forums; and

(g) develop, to the extent that is appropriate, consistent policy positions, including for the purpose of presentation and negotiation at relevant South African and international forums.

(2) The financial sector regulators and the Reserve Bank must, at least annually as part of their annual reports, or on request, report to the Minister, the Cabinet member responsible for administering the National Credit Act and the National Assembly on measures taken to co-operate and collaborate with each other.

Memoranda of understanding

77. (1) The financial sector regulators and the Reserve Bank, must, as soon as practicable but not later than six months after the date on which this Chapter comes into effect, enter into one or more memoranda of understanding to give effect to their obligations in terms of section 76.

(2) A delegation of a power or duty by a financial sector regulator to another financial sector regulator must be effected by a memorandum of understanding entered into in terms of this section.

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

(4) The financial sector regulators and the Reserve Bank must review the memoranda of understanding at least once every three years and amend them as appropriate.

(5) The financial sector regulators and the Reserve Bank must provide a copy of each memorandum of understanding entered into in terms of this section, and each amendment of such a memorandum of understanding, to the Minister and the Cabinet member responsible for administering the National Credit Act.

(6) The financial sector regulators and the Reserve Bank must each publish each memorandum of understanding in terms of this section and each amendment thereof.

Other organs of state

78. (1) An organ of state that has a regulatory or supervisory function in relation to financial institutions must, to the extent practicable, consult the financial sector regulators and the Reserve Bank in relation to the performance of that function.
(a) ka kakaretso go thusana le go tshegetsana mo go fitlheleleng maikaelelo a bona go ya ka melao ya lephata la ditšhelele , Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act;

(b) go sedimosetsana ka, le go arogana tshedimosetso ka merero ya kgatlhogo e e tshwanang;

(c) go leka ka thata go amogela maano a taolo a a thomameng, go akaretsa le go rarrowola dikgwetlho tsa taolo le thokomelo;

(d) go rulaganya, ka mokgwa o o maleba, ditiro mabapi le melao ya lephata la ditšhelele, Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act, go akaretsa mabapi le—

(i) maemo le didiriswa tse dingwe tsa taolo, go akaretsa didiriswa tse di tshwanang le tse di tlametsweng go ya ka , Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act;

(ii) kabo ya dilaesense;

(iii) ditlhatlhobo tsa bothokomedi tsa kwa tiron le dipatlisiso;

(iv) ditiro tsa go gatelela melao ya lephata la ditšhelele le Molao wa Bosetšhaba wa Sekoloto;

(v) karogano ya tshedimosetso;

(vi) pusetso le tharabololo; le

(vii) pegelo ka ditheo tsa ditšhelele, go akaretsa pegelosemolao le mokgwa ya go kgobokanya tshedimosetso;

(e) go isa tlase sebedi sa matsapa le ditshenyegelo, go akaretsa le go thoma le go dirisa, mo go tshwanetseng, didethabise tse di tshwanang kgotsa tse di aroganwang le dibehofatsi tse dingwe;

(f) go dumalana ka go mneng teng kwa diforamong tsa boditšhabatšhaba tse di maleba; le

(g) go thabolola, go ya ka mokgwa o o maleba, maemo a a thomameng a pholisi, go akaretsa mabapi le tilagiso le therisano kwa diforamong tse di maleba tsa Aforikaborwa le tsa bodišhabatšhaba.

(2) Balaodzi ba lephata la ditšhelele le Banka ya Resefe ba tshwanetse, bonnye ka ngwaga, jaaka karolo ya dipegelo tsa bona tsa ngwaga kgotsa go kopilwe, go begela Tona, maloko a Kabinet a a diragatsang Molao wa Bosetšhaba wa Sekoloto le Kokoano Bosetšhaba ka ga dikgato tse di tserweng go dirisana mmogo le go kopana.

Memorantamo wa tumalano

77. (1) Balaodzi ba lephata la ditšhelele le Banka ya Resefe, ba tshwanetse, ka bonako jo bo kgonaqangalang fela e seng morago ga dikgwedi tse theo tsa tshwanetseg, ga Kgaolo eno, go dira memorantamo wa tumalano o le esi kgotsa go feta go diragatsa ditlamogna tse bana go ya ka karolo 76.

(2) Tholelo ya thata kgotsa tiro ke molaodzi wa lephata la ditšhelele go molaodzi yo mongwe wa lephata la ditšhelele go tshwanetse go tshengweng tirisong ka memorantamo wa tumalano o o dirilweng go ya ka karolo eno.

(3) Kamogelego ke kgato ngwego le ngwego e e tserweng ke molaodzi, Banka ya Resefe kgotsa Minisisi go ya ka mola ao lephata la ditšhelele kgotsa Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act ga e angwe ke go palela ke go ikamanya le karolo eno kgotsa memorantamo wa tumalano go ya ka karolo eno.

(4) Balaodzi ba lephata la ditšhelele le Banka ya Resefe ba tshwanetse go tshengweng tirisong ka memorantamo wa tumalano o o dirilweng go ya ka karolo eno.

(5) Maphata a mangwe a puso

78. (1) Lephata la puso le le nang le tiro ya balaodzi kgotsa bothokomedi mabapi le ditheo tsa ditšhelele le tshwanetse, ka mokgwa o o kgonaqangal, go rerisana le balaodzi ba lephata la ditšhelele mabapi le go dira tiro eo.
(2) A financial sector regulator or the Reserve Bank may, in writing, request an organ of state referred to in subsection (1) to provide information about any action that the organ of state has taken or proposes to take in relation to a financial institution specified in the request.

(3) The organ of state must comply with a request in terms of subsection (2), but this subsection does not require or permit an organ of state to do something that contravenes a law.

Part 2

Financial System Council of Regulators

79. (1) The Financial System Council of Regulators is hereby established.
(2) The objective of the Financial System Council of Regulators is to facilitate co-operation and collaboration, and, where appropriate, consistency of action, between the institutions represented on the Financial System Council of Regulators by providing a forum for senior representatives of those institutions to discuss, and inform themselves about, matters of common interest.

(3) The Financial System Council of Regulators must be composed of the following members:

(a) The Director-General;
(b) the Director-General of the Department of Trade and Industry;
(c) the Director-General of the Department of Health;
(d) the Chief Executive Officer;
(e) the Commissioner;
(f) the Chief Executive Officer of the National Credit Regulator;
(g) the Registrar of Medical Schemes;
(h) the Director of the Financial Intelligence Centre;
(i) the Commissioner of the National Consumer Commission;
(j) the Commissioner of the Competition Commission;
(k) the Deputy Governor responsible for financial stability matters; and
(l) the head, however described, of any organ of state or other organisation that the Minister may determine.

Meetings

80. (1) Meetings of the Financial System Council of Regulators must be held at least twice a year, or more frequently as determined by the Director-General.
(2) The Director-General, or an alternate nominated by the Director-General, chairs the meetings of the Financial System Council of Regulators.
(3) The Director-General must convene a meeting at the request of a member of the Financial System Council of Regulators.
(4) A member of the Financial System Council of Regulators may, with the concurrence of the Director-General, nominate a senior official of the member’s institution to act as an alternate for the member.
(5) Meetings of the Financial System Council of Regulators must be conducted in accordance with procedures determined by it.

Working groups and subcommittees

81. (1) The Financial System Council of Regulators must establish working groups or subcommittees in respect of the following matters:

(a) Enforcement and financial crime;
(b) financial stability and resolution;
(c) policy and legislation;
(d) standard-setting;
(e) financial sector outcomes;
(2) Molaodi wa lephata la dišhelete kgotsa Banka ya Reseфе o ka, ka go kwala, kopa lephata la puso le le kailweng mo karolotlaletetsong (1) go neelana ka tshedimosetsa ka ga kgato mgwwe e e tseryweng ke lephata la puso kgotsa e e tshitsinyang go ka e tsaya mabapi le setheo sa dišhelete se se tsepamisitsweng mo kopong.

(3) Lephata la puso le tshwanetse go ikamanya le kopo go ya ka karolotlaletetsong (2), mme karolotlaletetsong eno ga e tlhoke kgotsa neye tseta lephata la puso go dira sengwe se se kgatlhanong le molao.

Karolo 2

Khasele ya Balao Di Thulaganyo ya Dišhelete

Khasele yalo Balao Di Thulaganyo ya Dišhelete

79. (1) Khasele yalo Balao Di Thulaganyo ya Dišhelete e a tlhongwa.

(2) Maikaelelo a Khasele yalo Balao Di Thulaganyo ya Dišhelete ke go noloftsatsa tirisanommomo le kopano, le, mo go tlhokegang, tlhomamo ya tiro, magareng ga dtiheo tsei di emetsweng mo Khanseleng yalo Balao Di Thulaganyo ya Dišhelete ka go abelana ka foramgo ya baemedi le bagolo di dtiheo tseo go buisana, le go itshedimos ka merero ya kgatlhego e e tshwanang.

(3) Khasele yalo Balao Di Thulaganyo ya Dišhelete e tshwanetse go nna le maloko a a latelang:

(a) Mokaedikakaretso;
(b) Mokaedikakaretso wa Lefapha la Kgwebisano le Madirelo;
(c) Mokaedikakaretso wa Lefapha la Boitekanelo;
(d) Motlhankedimogolo wa Khuduthamaga;
(e) Khomišëna;
(f) Motlhankedimogolo wa Khuduthamaga wa Balao Di jwa Botšëbaba jwa Sekoloto;
(g) Mokwadisi wa Dikema tsa Kalafi;
(h) Mokaedi wa Senthara ya Botlhodi jwa Dišhelete;
(i) Khomišëna wa Khotśëne ya Botšëbaba ya Botlhodi;
(j) Khomišëna wa Khomišëne ya Kgaisano;
(k) Motlatšamutsitsa yo o rweleng maikarabelo a merero ya tlhomamo ya 30 dišhelete; le
(l) tlhogo, go mokgwë e e thlositsweng, yalo lephata lengwe le lengwe la puso kgotsa mokgathlo mongwe o Tona a ka o tlhomamisang.

Dikopano

80. (1) Dikopano tsa Khasele yalo Balao Di Thulaganyo ya Dišhelete di tshwanetse go tshwarwa bonnye gabedi mo ngwageng, kgotsa kgapetsegapetsa jaaka go tlhomamisitswe ke Mokaedikakaretso.

(2) Mokaedikakaretso, kgotsa mongwe yo o tlhophilweng ke Mokaedikakaretso, o okamela dikopano tsala Khasele yalo Balao Di Thulaganyo ya Dišhelete.

(3) Mokaedikakaretso o tshwanetse go tshwarwa kopano ka kopo ya leloko la Khasele yalo Balao Di Thulaganyo ya Dišhelete.

(4) Lelo la Khasele yalo Balao Di Thulaganyo ya Dišhelete le ka, ka tumalane le Mokaedikakaretso, tlhopho motlhankedi yo mojolo wa setheo sa leloko go dira jaaka morefosani wa leloko.

(5) Dikopano tsala Khasele yalo Balao Di Thulaganyo ya Dišhelete di tshwanetse go tshwarwa go tsa melaena le ditsamaiso tse di tlhomamisitsweng ke yona.

Ditlhopha tse didirang

81. (1) Khasele yalo Balao Di Thulaganyo ya Dišhelete e tshwanetse go tlhoma ditlhopha tsala tiro tse di kwa thoko kgotsa dikomitiitlaletseto mabapi le merero e e latelang:

(a) Kgatetelo le bosenjy jwa dišhelete;
(b) tlhomamo ya dišhelete le tharabololo;
(c) pholisi le molao;
(d) peo ya maemo;
(e) dipolo tsala lephata la dišhelete;
(f) financial inclusion;
(g) transformation of the financial sector; and
(h) any other matter that the Director-General may determine after consulting the other members of the Financial System Council of Regulators.

(2) The Financial System Council of Regulators must determine the membership, terms of reference and procedure of a working group or subcommittee.

Support for Financial System Council of Regulators

82. (1) The Financial Sector Conduct Authority must provide administrative support and other resources for the Financial System Council of Regulators and its working groups and subcommittees.

(2) The Financial Sector Conduct Authority must ensure that minutes of each meeting of the Financial System Council of Regulators, and of each meeting of a working group or subcommittee, are kept in a manner determined by the Financial Sector Conduct Authority.

Part 3

Financial Sector Inter-Ministerial Council

83. (1) The Financial Sector Inter-Ministerial Council is hereby established.

(2) The objective of the Inter-Ministerial Council is to facilitate co-operation and collaboration between Cabinet members responsible for administering legislation relevant to the regulation and supervision of the financial sector by providing a forum for discussion and consideration of matters of common interest.

(3) The members of the Inter-Ministerial Council are—
(a) the Minister;
(b) the Cabinet members responsible for consumer protection and consumer credit matters;
(c) the Cabinet member responsible for health; and
(d) the Cabinet member responsible for economic development.

Meetings

84. (1) Meetings of the Inter-Ministerial Council take place at times and places determined by the Minister.

(2) The Minister, or another Cabinet member nominated by the Minister, chairs the meetings of the Inter-Ministerial Council.

(3) The Minister must convene a meeting at the request of a member of the Inter-Ministerial Council.

(4) A member of the Inter-Ministerial Council may nominate a Deputy Minister to act as alternate for the member at a particular meeting of the Inter-Ministerial Council.

(5) The Minister may invite any Cabinet member who is not a member of the Inter-Ministerial Council to attend a meeting of the Inter-Ministerial Council.

(6) Meetings of the Inter-Ministerial Council are conducted in accordance with procedures determined by it.

Protection for financial customers in terms of financial sector laws, National Credit Act and Consumer Protection Act

85. (1) The Cabinet members responsible for consumer protection and consumer credit matters may request the Inter-Ministerial Council to consider whether or not a provision in a financial sector law, or in a proposed financial sector law, Regulation or regulatory instrument, provides or would provide for a standard of protection for financial customers that is equivalent to, or higher than, the protection provided for them in terms of the National Credit Act or the Consumer Protection Act.

(2) The Inter-Ministerial Council—
(a) must comply with the request; and
(f) tsenyeletso ya ditšhelete; le
(g) phetolo ya lephata la ditšhelete; le
(h) morero mongwe le mongwe o o ka tlhomamiswang ke Mokaedikakaretso morago ga go rerisana le maloko a mangwe a Khaanse ya Balaodi ba Thulaganyo ya Ditšhelete.

(2) Khaanse ya Balaodi ba Thulaganyo ya Ditšhelete e tshwanetse go tlhomamisa botokololo, mabaka a kaelo le tsamaiso ya setlhophsa sa tiro kgotsa komititi laletsetso.

Tshegetso go Khaanse ya Balaodi ba Thulaganyo ya Ditšhelete

82. (1) Bothathi jwa Boitshwara jwa Lephata la Ditšhelete bo tshwanetse go tlamelaa ka tshegetso ya tsamaiso le ditlameloa tse dingwe go Khaanse ya Balaodi ba Thulaganyo ya Ditšhelete le ditlhophsa tsaa yona tsa tiro le dikomititi laletsetso.

(2) Bothathi jwa Boitshwara jwa Lephata la Ditšhelete bo tshwanetse go netefatsa gore metsoto ya kopano ngwe le ngwe ya Khaanse ya Balaodi ba Thulaganyo ya Ditšhelete, le ya kopano ngwe le ngwe ya setlhophsa sa tiro kgotsa komititi laletseto, e tsholo ga mokgya o o tlhomamisitsweng ke Bothathi jwa Boitshwara jwa Lephata la Ditšhelete.

Karolo 3

Khansele ya Ditona ya Lephata la Ditšhelete

83. (1) Khansele ya Ditona ya Lephata la Ditšhelete e a tlhongwa.

(2) Maikaelelo a Khansele ya Ditona ya Lephata la Ditšhelete ke go nolo fatsa tirisanommogo le kopano magareng ga maloko a Kabinete a a tsamaisa molao o o maleba go taole le tlhokomelo ya lephata la ditšhelete ka go tlamelaa ka foramo ya dipuisa le tsehekatsheko ya merero ya kagatlhegelo e e tshwanaang.

(3) Maloko a Khaanse ya Ditona ya Lephapha la Ditšhelete ke—

(a) Tona;
(b) maloko a Kabinete a a rwalang mai korabelo a tshireletso ya badirisi le merero ya sekolo lo sa badirisi;
(c) leloko la Kabinete le le rwalang mai korabelo a boitekanelo; le
(d) leloko la Kabinete le le rwalang mai korabelo a tlabololo ya ikonomi.

Dikopano

84. (1) Dikopano tsa Khansele ya Ditona ya Lephapha la Ditšhelete di diragala ka dinako le kwa mafelong a a tlhomamisitsweng ke Tona.

(2) Tona, kgotsa leloko le lengwe la Kabinete le le le tlhophilweng ke Tona, le okamela dikopanotsa Khansele ya Ditona.

(3) Tona o tshwanetse go bitso kopano ka kopoo ya leloko la Khansele ya Ditona.

(4) Lelelo la Khansele ya Ditona le ka tlhophia Motlatsamoporesidente go dira jaka morefosi le leloko kwa kopanong e e rileng ya Khansele ya Ditona.

(5) Tona o ka laletsa leloko lengwe le lengwe la Kabinete leo e seng leloko la Khansele ya Ditona go lla kopanong ya Khansele ya Ditona.

(6) Dikopano tsa Khansele ya Ditona di tshwarwa go tsa malao le ditsamaiso tse di tlhomamisitsweng ke yona.

Tshireletso ya barekedi ba ditšhelete go ya ka melao ya lephata la ditšhelete, Molao wa Botesha ba Sekolo lo le Molao wa Tshireletso ya Badirisi

85. (1) Maloko a Kabinete a a rwalang mai korabelo a merero ya tshireletso ya badirisi le sekolo lo sa badirisi a ka kopa Khansele ya Ditona go sekaseka fa ka gongwe kabelo e e maleba mo molaong wa lephata la ditšhelete, kgotsa mo molaong o o tshitsintsweng wa lephata la ditšhelete, Molawana kgotsa sediriso sa taolo, se tlamelaa kgotsa se tla tlamelaa ka maemo a tshireletso go barekedi ba ditšhelete a a lekanang, kgotsa a a fetang, tshireletso e ba e tlametsweng go ya ka Molao wa Botesha ba Sekolo lo kgotsa Molao wa Tshireletso ya Badirisi.

(2) Khansele ya Ditona—

(a) e tshwanetse go ikamanya le kopoo; le
(b) may, if it considers that the provision does not provide for such a standard of protection for financial customers, make recommendations to amend the provision, or to take other lawful and appropriate action, to ensure that the protection is at least equivalent.

Independent evaluation of effectiveness of co-operation and collaboration

86. (1) (a) The Inter-Ministerial Council must, as soon as practicable following the expiration of the six month period described in section 77(1), commission an independent evaluation of the establishment of co-operative and collaborative mechanisms between the financial sector regulators, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes and the Competition Commission.

(b) The Inter-Ministerial Council must, every two years after the initial independent evaluation referred to in paragraph (a), commission an independent evaluation of the effectiveness of co-operative and collaborative mechanisms between the financial sector regulators, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes and the Competition Commission.

(2) An evaluation in terms of this section must at least contain an analysis and evaluation of the memoranda of understanding required in terms of section 77, the outcome of any and all consultations in terms of section 78, and compliance with those sections.

(3) The Inter-Ministerial Council may on its own initiative, or at the request of a financial sector regulator, at any time commission an independent evaluation of the effectiveness of co-operation and collaboration between the financial sector regulators, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes and the Competition Commission.

(4) When a financial sector regulator makes a request for an evaluation, the Inter-Ministerial Council must consider the request and the concerns raised in the request regarding the effectiveness of co-operation and collaboration, and, if the Council rejects the request, provide the financial sector regulator that made the request with the reasons for rejecting the request.

(5) Any evaluation commissioned by the Inter-Ministerial Council in terms of this section must be tabled in Parliament immediately following the Council’s consideration of the evaluation, and must be accompanied by a report from the Council on the evaluation’s contents.

CHAPTER 6

ADMINISTRATIVE ACTIONS

Part 1

Administrative action committees

Establishment and membership

87. (1) A financial sector regulator may establish an administrative action committee to consider and make recommendations to the financial sector regulator on matters that are referred to it by that financial sector regulator.

(2) The members of an administrative action committee—

(a) must include—

(i) a retired judge; or

(ii) an advocate or attorney with at least 10 years relevant legal experience; and

(b) may include persons who are not members of the Prudential Committee or the Executive Committee or staff members of the financial sector regulator.

(3) A person referred to in subsection (2)(a) must be appointed as chairperson of an administrative action committee.

(4) A disqualified person may not be appointed to, or remain a member of, an administrative action committee.
(b) e ka, fa e tsaya gore kabelo e e maleba ga e tlanele maemo ao a tshireletsso go badirisi ba ditshelete, dira dikatlanegiso go tlhabolola kabelo e e maleba, kgotsa go tsaya dikgato tse dingwe tsa semolao tse di matshwanedi, go netefatsa gore bonnye tshireletsso e lekane.

Tekanyetsa e e ikemetseng ya nonofo ya tirisanommogo le kopano

86. (1) (a) Khansele ya Ditona e tshwanetse, ka bonako jo bo kgonegang go latela go ya bokhutlong ga paka ya dikgwedi tse thataro e e tlhalositsweng mo karolong 77(1), go dira tshekatsheko e e ikemetseng ya tlhomo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditshelete, Banka ya Resefe, Senthara ya Bothlodi jwa Ditshelete, Khansele ya Dikema tsa Kalali le Khomisene ya Kgaisano.

(b) Khansele ya Ditona e tshwanetse, go dingwageng dingwe le dingwe tse pedi morago tshekatsheko ya nthla e e ikemetseng e e kailweng mo temaneng (a), go dira tshekatsheko e e ikemetseng ya nonofo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditshelete, Banka ya Resefe, Senthara ya Bothlodi jwa Ditshelete, Khansele ya Dikema tsa Kalali le Khomisene ya Kgaisano.

(2) Tshekatsheko go ya ka karolo eno e tshwanetse go ma le bonnye kanoko le tshekatsheko ya memonantamo wa tumalano o o tlhokegang go ya ka karolo 77, ditlamorago tsa ditherisano dingwe le dingwe tsothie go ya ka karolo 78, le boikamanyo le dikarolo tse.

(3) Khansele ya Ditona ka boitlhamedi jwa yona, kgotsa ka kopo ya molaodi wa lephata la ditshelete, ka nako ngwe le ngwe e ka dira tshekatsheko e e ikemetseng ya nonofo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditshelete, Banka ya Resefe, Senthara ya Bothlodi jwa Ditshelete, Khansele ya Dikema tsa Kalali le Khomisene ya Kgaisano.

(4) Fa bolaodi jwa lefapha la ditshelete bo dira kopo ya tshekatsheko, Khansele ya Ditona e tshwanetse go tsaya tsia kopo le matshwenyego a a tlhagisitsweng mo kopong mabapi le nonofo ya tirisanommogo le kogolagano, e bile, fa Khansele e gana kopo, go tlamela bolaodi jwa lephata la ditshelete jo bo dirileng kopo ka mabaka a go gana kopo.

(5) Tshekatsheko ngwe le ngwe e e dirilweng ke Khansele ya Ditona go ya ka karolo eno e tshwanetse go tlhagiswa kwa Palamenteng ka bonako go latela tshekatsheko ya kanoko, e bile e tshwanetse go patwa ke pegelo go tswa kwa Khanselego ya tshekatsheko ya diteng.

KGAOLO 6

DITIRO TSA TSAMAIISO

Karolo 1

Dikomiti ts'o tiro ya tsamaiso

Go tlhongwa le botokololo

87. (1) Molaodi wa lephata la ditshelete o ka tlhama komiti ya tiro ya tsamaiso go sekaseka le go dira dikatlanegiso go molaodi wa lephata la ditshelete ka ga ditiro ts'a tsamaiso tse di rometsweng go ena ka molaodi wa lephata la ditshelete.

(2) Maloko a komiti ya tiro ya tsamaiso—

(a) a tshwanetse go akaretsa-

(i) moatlhodi yo o rotseng tiro; kgotsa
(ii) mmueledi kgotsa ramolao a le esì yo o nang le maitemogelo a molao a a maleba a dingwaga tse 10; le

(b) a ka akaretsa batho ba e seng maloko a Komiti ya Thokomelo kgotsa Komiti Khuduthamagga kgotsa maloko a badirammogo a bolaodi jwa lephata la ditshelete.

(3) Motho yo o kailweng mo karolotlaleletsong (2)(a) o tshwanetse go thapiwa jaaka modulasetilo wa komiti ya tiro ya tsamaiso.

(4) Motho yo o ileditsweng a ka se thapitwe go, kgotsa go nna leloko la, komiti ya tiro ya tsamaiso.
Terms of membership

88. (1) A person appointed as a member of a financial sector regulator’s administrative action committee who is not a member of the Prudential Committee, the Executive Committee or a staff member of a financial sector regulator holds office for a period not exceeding five years, and on the terms, including terms regarding remuneration, determined by the financial sector regulator.

(2) A member of an administrative action committee whose term expires may be reappointed.

(3) The financial sector regulator that established an administrative action committee may, subject to due process, remove a member of the administrative action committee from office if the member—

(a) is unable to perform the functions of the office effectively;
(b) has failed in a material way to discharge any of the responsibilities of the office; or
(c) has acted in a way that is inconsistent with continuing to hold the office.

(4) Without limiting subsection (3)(b), a member must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the administrative action committee without the leave of the administrative action committee.

Meetings

89. (1) A meeting of an administrative action committee—

(a) is convened by the chairperson of the committee; and
(b) is chaired by the chairperson or, in the chairperson’s absence, by another member designated by the chairperson or the remaining members.

(2) An administrative action committee determines its procedures, subject to any directions of the financial sector regulator that established the administrative action committee.

(3) The financial sector regulator must ensure that written minutes of each meeting of its administrative action committee are kept in a manner determined by the financial sector regulator.

Application of Part to Ombud Council

90. This Part applies, with the necessary changes required by the context, in relation to the Ombud Council.

Part 2

Administrative justice

Applicability of Promotion of Administrative Justice Act to administrative action by financial sector regulators

91. The Promotion of Administrative Justice Act applies to any administrative action taken by a financial sector regulator in terms of this Act or a specific financial sector law.

Procedures for specific administrative action in terms of Act

92. (1) A financial sector regulator may, by notice in the Register, determine procedures for administrative action to be taken by it in terms of a financial sector law, which procedures must—

(a) be aimed at promoting a fair and consistent approach to administrative action taken by the financial sector regulator in terms of the financial sector laws; and
(b) be consistent with—

(i) the principles of the Promotion of Administrative Justice Act; and
(ii) any applicable requirements of a financial sector law.

(2) If it is reasonable and justifiable in the circumstances, procedures for administrative action may depart from specific requirements of the Promotion of Administrative Justice Act, in accordance with sections 3(4), 4(4) and 5(4) of that Act.
Dipeelo tsa botokololo

88. (1) Motho yo o thapilweng jaaka leloko la komiti ya tiro ya tsamaiso ya balaodi jwa lephata la ditšhelete yo e seng leloko la Komiti ya Tlhokomelo, Komiti Khuduthamaga kgotsa leloko la badirimmo ga balaodi jwa lephata la ditšhelete o thapiwa sebaka se se sa feteng dingwaga tse tlhano, le ka dipeelo, go akaretsa le dipeelo tse di amanang le tuelo, tse di tlhomamisitsweng ke balaodi jwa lephata la ditšhelete.  

(2) Leloko la komiti ya tiro ya tsamaiso yo paka ya gagwe e yang bokhutlong o ka thapiwa gape.  

(3) Molaodi jwa lephata la ditšhelete yo o tlhomileng komiti ya tiro ya tsamaiso o ka, go tsamaelana le kgato e e maleba, tlosa leloko la komiti ya tiro ya tsamaiso mo ofising fa leloko le—  

(a) sa kgone go dira tiro e le e thapetsweng ka nonofo;  
(b) paletswe ka gotlhe go diragatsa ngwwe ya maikarabelo a tiroi; kgotsa  
(c) le dirile ka mokgwana o o sa tsamaelaneng le ditlhokego tsa go tswelela go dira.  

(4) Ntle le go lekanye kisanga kalolalefetse (3)(b), leloko le shwanetse go tselewa gore le paletswe ka gotlhe go diragatsa maikarabelo a ofisi fa le ka se me teng mo dikopanong tse pedi tse di latelanang tsa komiti ya tiro ya tsamaiso ntle le khunulogo ya komiti ya tiro ya tsamaiso.

Dikopano

89. (1) Kopano ya komiti ya tiro ya tsamaiso—  

(a) e kokoamngwa ke modulasetilo wa komiti; le  
(b) e okamelwa ke modulasetilo kgotsa, fa modulasetilo a se teng, ke leloko le lengwe le le thapilweng ke modulasetilo kgotsa maloko a a setseng.  

(2) Komiti ya tiro ya tsamaiso e e tsepameng go ya ka Molao ona kgotsa molao o o tsepameng wa lephata la ditšhelete.  

(3) Molaodi wa lephata la ditšhelete o tshwanetse go netefatsa gore metsotso e e kwetsweng ya kopano ngwwe le ngwwe ya komiti ya bona ya tiro ya tsamaiso e a tsholwa.

Tiriso ya Karolo go Khansele ya Ombud

90. Karolo eno e diragatsa, ka diphetogo tse di tlhokegang go ya ka bokao, mabapi le Khansele ya Ombud.

Karolo 2

Bosiamisi jwa tsamaiso

Tirego ya Promotion of Administrative Justice Act go tiro ya tsamaiso ka balaodi ba lephata la ditšhelete

91. Promotion of Administrative Justice Act e diragatswa mo tirong ngwwe le ngwwe ya tsamaiso e e dirilweng ke molaodi wa lephata la ditšhelete go ya ka Molao ono kgotsa molao o o tsepameng wa lephata la ditšhelete.  

Ditsamaiso mabapi le tiro ya tsamaiso e e tsepameng go ya ka Molao

92. (1) Bolaodi jwa lephata la ditšhelete bo ka, ka kitisiso mo Rejsisetareng, thomamisa ditsamaiso ts a tiro ya tsamaiso e e dirilweng ke jona go ya ka molao wa lephata la ditšhelete, o o tshwanetseng—  

(a) go ikaelela go tsweletha pele kgato e e lolameng le go tlhomama mo tirong ya tsamaiso e e dirilweng ke balaodi jwa lephata la ditšhelete go ya ka molao ya lephata la ditšhelete; le  

(2) Fa go utlwalega e bile go na le lebaka mo maemong, ditsamaiso mabapi le tiro ya tsamaiso di ka tswa mo ditlhokegong tse di tsepameng tsa Promotion of Administrative Justice Act, go tsamaelaneng le karolo 3(4), 4(4) le 5(4) ya Molao oo.
(3) Different procedures may be determined for different types of administrative actions and different circumstances.

Processes for determining or amending administrative action procedures

93. (1) Before a financial sector regulator determines or amends an administrative action procedure in terms of section 92, the financial sector regulator must—
   (a) publish on its website—
      (i) a draft of the proposed procedure or amendment; and
      (ii) a notice calling for written public comment within a period stated in the notice, which must be at least 30 days from the date of publication of the notice;
   (b) submit a draft of the proposed procedure or amendment to the Director-General and the other financial sector regulator; and
   (c) consider any comments received.

(2) If a financial sector regulator intends to make an administrative action procedure or amendment that is materially different in form from the draft procedure or amendment that was previously published in terms of subsection (1), the regulator must, before making the procedure or amendment, repeat the process referred to in subsection (1).

Review of administrative action procedures

94. A financial sector regulator must review its administrative action procedures at least once every three years.

Revocation of decisions

95. (1) A financial sector regulator may, by notice to a person in relation to whom the regulator made a decision in terms of a financial sector law (or, if more than one such person, all of them), revoke the decision if—
   (a) the decision was made as a result of fraud or illegality;
   (b) the information on which the decision was made was inaccurate or incomplete and the financial sector regulator would not have made the decision if it had had accurate and complete information; or
   (c) the decision is, for any reason, invalid.

(2) A revocation of a decision in terms of subsection (1) has effect from the date on which the revoked decision was made.

(3) A financial sector regulator may not take action in terms of subsection (1)—
   (a) if the action would adversely affect the existing or accrued rights of any person (except the person in relation to whom the regulator made the decision); or
   (b) if—
      (i) the financial sector regulator has been notified that an application to the Tribunal or a court in relation to the decision will be made; or
      (ii) proceedings have commenced in the Tribunal or a court in relation to the decision.

(4) Before a financial sector regulator takes action in terms of subsection (1), it must—
   (a) notify its intention to do so to the person in relation to whom the regulator made a decision; and
   (b) give the person a reasonable period, of at least 14 days, to make submissions to the regulator.

(5) In determining whether to take action in terms of subsection (1), the financial sector regulator must take into account all the submissions received during the period referred to in subsection (4)(b).

Interpretation

96. In this Part “financial sector regulator” includes the Ombud Council.
(3) Ditsamaiso tse di farologaneng di ka tlhomamisetswa ditiro tse di farologaneng tsa tsamaiso.

**Dikgato tsa go tlhomamisa kgotsa go tlhabolola ditsamaiso tsa tiro ya tsamaiso**

93. (1) Pele molaodi wa lephata la ditšhelete a tlhomamisa kgotsa tlhabolola tsamaiso ya tiro ya tsamaiso go ya ka karolo 92, bolaodi jwa lephata la ditšhelete bo tshwanetsese go—

(a) phasalatsa mo webesaeteng ya jona—
   (i) thalo ya tsamaiso kgotsa tlhabolo e e tshitsintsweng; le
   (ii) kитисо и e leletsang tshwaelo e e kwetsweng ya setšhaba mo pakeng e e neetsweng mo kitisisong, eo e tshwanetseng go nna bonnye matsatsi a le 30 go simolola ka letsatsi la phasalatso ya kitisiso;

(b) gorosa thalo ya tsamaiso kgotsa tlhabolo e e tshitsintsweng go Mokaedika-karetso le molaodi yo mongwe jwa lephata la ditšhelete; le

(c) sekaseka ditšhwaelo dingwe le dingwe tse di amogetsweng.

(2) Fa bolaodi jwa lephata la ditšhelete bo skaelela go dira tsamaiso kgotsa tlhabolo ka mokgwà o o farologaneng go tswa go tsamaiso e e thadi lweng kgotsa tlhabolo e e phasaladitsweng go ya ka karolotlaleletso (1), molaodi o tshwanetse, pele a dira tsamaiso kgotsa tlhabolo, go bolelets di dikgato tse di kailweng mo karolotlaleletsong (1).

**Thadiso ya ditsamaiso tsa kgato ya tsamaiso**

94. Bolaodi ba lephata la ditšhelete bo tshwanetse go thadisa ditsamaiso tsa jona tsa tiro bonnye gangwe mo dingwageng dingwe le dingwe tse tharo.

**Kgogelomorago ya ditšhwtso**

95. (1) Bolaodi jwa lephata la ditšhelete bo ka, ka kитисо go motho wa kamano yo bolaodi bo dirileng ts'hweto ka ena go ya ka mola wo lephata la ditšhelete (kgotsa, fa batho bao ba feta bongwe, bothle), gogela morago tshweto fa—

(a) tshweto e dirilwe ka nthla ya tsietso kgotsa e seng ka molao;

(b) tshedimosetso e tshweto e dirilweng ka yona e ne e sa nepagala kgotsa e sa felela e bile bolaodi jwa lephata la ditšhelete bo ne bo ka se dire tshweto fa bo ne bo na le tshedimosetso e e nepagetseng e bile e feletse; kgotsa

(c) tshweto e, ka lebaka lengwe, sa amogelasege.

(2) Kgogelomorago ya tshweto go ya ka karolotlaleletso (1) e tse na mo tirisong go simolola ka letlha le tshweto e e gogetsweng morago ka lona.

(3) Molaodi wa lephata la ditšhelete o ka se tseye kgato go ya ka karolotlaleletso (1)—

(a) fa kgato e ka ama bobe ditšhwanelo tse di leng teng kgotsa tse di bonweng ts'a motho mongwe le mongwe (ntle le motho yo molaodi a dirileng tshweto mabapi le ena); kgotsa

(b) fa—
   (i) bolaodi jwa lephata la ditšhelete bo itsissywe gore kopo go Lekgotla kgotsa kgotlatshhekelo mabapi le tshweto e tla dirwa; kgotsa
   (ii) ditsamaiso di simolotse kwa Lekgotleng kgotsa kgotlatshhekelong mabapi le tshweto.

(4) Pele bolaodi jwa lephata la ditšhelete bo tsaya kgato go ya ka karolotlaleletso (1), bo tshwanetse go—

(a) itsise ka ga maikaelelo a jona a go dira jalo go motho yo tshweto e dirilweng mabapi le ena; le

(b) naya motho sebaka se se lekaneng, sa bonnye matsatsi a le 14, go dira ditlhagiso kwa boloading.

(5) Mo go tlhomamiseng gore kgato e tsewe go ya ka karolotlaleletso (1), bolaodi jwa lephata la ditšhelete bo tshwanetse go tsaya tsia ditlhagiso tsotlhe tse di amogetsweng ka nako e e kailweng mo karolotlaleletsong (4)/(b).

**Tlhaloso**

96. Mo Karolong eno “molaodi wa lephata la ditšhelete” o akaretsa Khansele ya Ombud.
CHAPTER 7
REGULATORY INSTRUMENTS

Part I

Regulatory instruments

Interpretation

97. In this Part, “maker”, in relation to a regulatory instrument, means the person that proposes to make the regulatory instrument.

Process for making regulatory instruments

98. (1) A regulatory instrument must not be made unless the maker—
   (a) has published—
      (i) a draft of the regulatory instrument;
      (ii) a statement explaining the need for and the intended operation of the regulatory instrument;
      (iii) a statement of the expected impact of the regulatory instrument; and
      (iv) a notice inviting submissions in relation to the regulatory instrument and stating where, how and by when submissions are to be made; and
   (b) has, once submissions referred to in paragraph (a)(iv) have been received and considered, submitted the regulatory instrument to Parliament in terms of section 103(1).

   (2) The period allowed for making submissions referred to in subsection (1) must be at least six weeks.

   (3) If the maker is a financial sector regulator, the maker must, when complying with subsection (1), provide a copy of the documents referred to in that paragraph to—
      (a) the other financial sector regulator, the Reserve Bank, the National Credit Regulator, the Council for Medical Schemes and the Director-General; and
      (b) if the regulatory instrument would impose requirements on providers of securitiesservices, the market infrastructure that has the function of licensing those providers in terms of a financial sector law.

   (4) If the maker is the Ombud Council, the maker must, when complying with subsection (1), provide a copy of the documents referred to in that subsection to the financial sector regulators, the Council for Medical Schemes, the National Credit Regulator and the Director-General.

Substantially different regulatory instrument

99. If a maker of a regulatory instrument intends, whether or not as a result of a consultation process, to make a regulatory instrument in a materially different form from the draft regulatory instrument published in terms of section 98, the maker must, before making the regulatory instrument, repeat the process referred to in section 98.

Urgent regulatory instruments

100. (1) If the maker of a regulatory instrument determines that compliance with section 98 or 99 is likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed regulatory instrument, the maker must before making the instrument—
      (a) publish—
         (i) a draft of the regulatory instrument and a statement explaining the need for and the intended operation of the regulatory instrument;
         (ii) a notice inviting submissions in relation to the regulatory instrument and stating where, how and by when submissions are to be made; and
         (iii) a statement of the reasons why the delay involved in complying with sections 98 and 99 is considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed regulatory instrument.
Molao wa Tao yo Lephata la Ditshelete , 2017

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KGAOLO 7

DIDIRISWA TSA BOLAODI

Karolo 1

Didiriswa tsa bolaodi

Tlhaloso

97. Mo Karolong eno “modiri”, mabapi le sediriswa sa bolaodi, o kaya motho yo o tshtsinyang go dira sediriswa sa bolaodi.

Dikgato tsa go dira didiriswa tsa bolaodi

98. (1) Sediriswa sa bolaodi ga se a tshwanela go dirwa ntle le fa modiri
(a) a phasaladitse—
   (i) thalo ya sediriswa sa bolaodi;
   (ii) polelo e e tlhalosang tlhokego ya le tiro e e ikaelletseng ya sediriswa sa bolaodi;
   (iii) polelo ya kutlwalo e e solofetsweng ya sediriswa sa bolaodi; le
   (iv) kitsiso e e letlela tlhalosang ditlhagiso mabapi le didiriswa tsa bolaodi le tlhaloso ya gore ditlhagiso di ka dirwa kae, jang le gore leng; le
(b) a, fa ditlhagiso tse di kailweng mo temaneng (a)(iv) di sena go amogelwa le go sekasekwa, rometse sediriswa sa bolaodi kwa Palamenteng go ya ka karolo 103(1).

(2) Paka e e dumeletsweng ya go dira ditlhagiso e e kailweng mo karolotlaleletsong (1)(a)(iv) e tshwanetse go ma bonyne dibeko tse thataro.
(3) Fa modiri e le moaodi wa lephata la ditšhelete, modiri o tshwanetse go, fa a ikamanya le karolotlaleletso (1)(a), neclana ka kgatiso ya dikwalo tse di kailweng mo temaneng eo go—
   (a) molaodi yo mongwe wa lephata la ditšhelete, Banka ya Resefe, Bolaodi jwa Bosetšhaba jwa Sekoloto, Khansele ya Dikeka tsa Kalafi le Mokaedikakaretso; le
   (b) fa sediriswa sa bolaodi se ka gobelela ditlhokego mo batlaming ba ditirelo tsa ditho, dithulaganyetsos tsa popegotheo ya mmaraka tse di nang le tiro.

(4) Fa modiri e le Khansele ya Ombud, modiri o tshwanetse, fa a ikamanya le karolotlaleletso (1)(a), tlamel ka kgatiso ya dikuakwego tse di kailweng mo karolotlaleletsong eo go bolaodi ba lephata la ditšhelete, Bolaodi jwa Bosetšhaba jwa Sekoloto le Mokaedikakaretso.

Didiriswa tsa bolaodi tsa pharologano e kgolo

99. Fa modiri wa sediriswa sa bolaodi a ikaelela, e le ka ntlha ya kgato ya therisano kgotsa mnyaa, go dira sediriswa sa bolaodi ka mokgwana o o farologaneng thata go tswa mo sedirisong sa bolaodi se se thadilweng se se phasaladitsweng go ya ka karolo 98, modiri o tshwanetse, pele a dira sediriswa sa bolaodi, go boeletseng kgato ya therisano e e kailweng mo karolong 98.

Didiriswa tsa bolaodi tsa Potlako

100. (1) Fa modiri wa sediriswa sa bolaodi a tlhomamisa gore go ikamanya le karolo 98 kgotsa 99 go na le bokgoni jwa go isa kwa kgobelelong ya barekedi ba ditšhelete kgotsa go ka ama segolo thulaganyo ya ditšhelete, kgotsa go fenya matlhomo a sediriswa sa bolaodi se se tshitsintsweng, modiri o tshwanetse go, pele a dira sediriswa—
(a) phasalatsa—
   (i) thalo ya sediriswa sa bolaodi le polelo e e tlhalosang tlhokego ya le tiriso e e ikaelletseng ya sediriswa sa boaodi;
   (ii) kitsiso e e letlela tlhalosang ditlhagiso mabapi le sediriswa sa bolaodi le tlhaloso ya gore ditlhagiso di ka dirwa kae, jang le gore leng; le
   (iii) polelo ya mabaka a a tlhalosang gore goreng go bile le tiego mo go ikamanyeng le dikaro 98 le 99 e tseelelwana gore e ka isa kwa

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customers or harm to the financial system, or defeat the object of the proposed regulatory instrument; and

(b) submit the regulatory instrument to Parliament in terms of section 103(2).

(2) The period allowed for making submissions in terms of subsection (1)(a)(ii) must be at least seven days.

(3) A maker must, after making an instrument pursuant to subsection (1), as soon as possible, but not later than within 30 days of making the instrument—

(a) submit to Parliament a report of the consultation process, which report must include a general account of the issues raised in the submissions and a response to the issues raised in the submissions.

(b) if the maker is a financial sector regulator, provide a copy of the documents referred to in paragraph (a) to—

(i) the other financial sector regulator, the Reserve Bank, the National Credit Regulator, the Council for Medical Schemes and the Director-General; and

(ii) if the regulatory instrument would impose requirements on providers of securities services, the market infrastructure that has the function of licensing those providers in terms of a financial sector law.

(c) if the maker is the Ombud Council, provide a copy of the documents referred to in that subsection to the financial sector regulators, the National Credit Regulator and the Director-General.

Part does not limit other consultation

101. This Part does not prevent a maker of a regulatory instrument from engaging in consultations in addition to those required in terms of this Part.

Making, publication and commencement of regulatory instruments

102. (1) In deciding whether to make a regulatory instrument, the maker must take into account all submissions received by the expiry of the period referred to in section 98(2) or 100(2) and any deliberations of Parliament.

(2) A regulatory instrument must be published in the Register after it is made.

(3) A regulatory instrument comes into effect—

(a) on the date the instrument is published in the Register; or

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

Submission of regulatory instruments to Parliament

103. (1) Before making a regulatory instrument in terms of section 98 or 99, the maker of the regulatory instrument must submit the regulatory instrument to Parliament, for a period of at least 30 days while Parliament is in session, together with—

(a) the documents mentioned in section 98(1)(a); and

(b) a report on the consultation process referred to in section 104.

(2) Before making a regulatory instrument in terms of section 100, the maker of the regulatory instrument must submit to Parliament, whether in session or not, the documents mentioned in section 100(1)(a) for a period of at least seven days (which period may run concurrently with the seven days referred to in section 100(2)).

Reports on consultation processes

104. (1) With each regulatory instrument, the maker must publish a consultation report.

(2) A consultation report must include—

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

(b) a response to the issues raised in the submissions.
kgobelelong ya barekedi ba ditšhelete kgotsa e ka ama segolo thulangyo ya ditšhelete, kgotsa ya fenya maithlomo a sediriswa sa bolaodi se se tshitsintsweng; le

(b) romela sediriswa sa bolaodi kwa Palamenteng go ya ka karolo 103(2).

(2) Nako e e letlelelwang go dira dithagiso go ya ka karolotlateletso (1)(a)(ii) e tshwanetse go nna bonnye matsatsi a le supa.

(3) Modiri o tshwanetse, morago ga go dira sediris se se tsamaelanang le karolotlateletso (1), ka bonako jo kgonagalanag, fela e seng morago ga mo matsatsing a le 30 a go dira sediriswa—

(a) go romelela Palamente peqelo go kgato ya therisano, eo e tshwanetseng go akaretsa maikarabelo ka kakaretsa a morero o o tlhagisitsweng mo dithagisong le tshibogelo go merero e e tlhagisitsweng mo dithagisong;

(b) fa modiri e le bolaodi jwa lephata la ditšhelete, go tlamela ka kgatiso ya makwalo a a kailweng mo temaneng (a) kwa—

(i) bolaoeding jo bongwe jwa ditšhelete, Banka ya Resefe, Bolaodi jwa Bosetshaba jwa Sekoloto, Khansele ya Dikema tsa Kalafi le Mokaedikakaretso; le

(ii) fa sediriso sa bolaodi se ka pateletsatlhokoko mo batlamedeng ba ditirelo sa dithoto, thulaganyeto yo popegotheo yo mmareka e e nang le maikarabelo a go abela batlamedi bao ka dileseseng go ya ga molao wa lephata la ditšhelete.

(c) fa modiri e le Khansele ya Ombud, go tlamela ka kgatiso ya makwalo a a kailweng mo karolotlateletsong ko go bolaodi ba lephata la ditšhelete, Molao wa Bosetshaba wa Sekoloto le Mokaedikakaretso.

Karolo ga e lekanyetse ditherisano tse dinngwe

101. Karolo eno ga e thibele modiri wa sediriswa sa baoaodi mo go rerisaneng le mo godimo ga tseo di tlhokhegong go ya ka Karolo eno.

Go dira, phasalatso le tshimologo ya didiriswa tsa bolaodi

102. (1) Mo go swetseng ka ga go dira sediriswa sa bolaodi, modiri o tshwanetse go ela tlhoko dithagiso tsotho tse di amogetsweng ka nako ya ga yoka bokhutlong gap aka e e kailweng mo karolotlateletsong 98(2) kgotsa 100(2) le dipuisano dingwe le dingwe tsa Palamente.

(2) Sediriswa sa bolaodi se tshwanetse go phasalatswa mo Rejisetareng fa se sena go dirwa.

(3) Sediriswa sa bolaodi se tsena mo tirisong—

(a) ka lethla le sediriswa si phasaladitsweng mo Rejisetareng ka lona, kgotsa

(b) fa sediriso se tlamela gore se tsengwara mo tirisong mo lethleng le le kwa moraganyana, ka lethla le le kwa moragonyana.

Thomelo ya didiriswa tsa bolaodi kwa Palamenteng

103. (1) Pele go dirwa sediriswa sa bolaodi go ya ka karolo 98 kgotsa 99, modiri wa sediriswa sa bolaodi o tshwanetse go romela sediriswa sa bolaodi kwa Palamenteng, mo matsatsing a le 30 fa Palamente e kokoane, mmogo le—

(a) makwalo a a kailweng mo karolong 98(1)(a); le

(b) pegelo ka ga kgato ya therisano e e kailweng mo karolong 104.

(2) Pele go dirwa sediriswa sa bolaodi go ya ka karolo 100, modiri wa sediriswa sa bolaodi o tshwanetse go romelaletse Palamente, e kokoane kgotsa e sa kokoana, makwalo a a kailweng mo karolong 100(1)(a) mo matsatsing a le supa (paka e e tsamaelanang mmogo le matsatsi a le supa a a kailweng mo karolong 100(2)).

Dipegelo ka ga kgato tsa therisano

104. (1) Ka sediriswa sengwe le sengwe sa bolaodi, modiri o tshwanetse go phasalatsa pegelo ya kgato ya ditherisano.

(2) Pegelo ya ditherisano e tshwanetse go akaretsa—

(a) karabelo ka kakaretsa ya merero e e tlhagisitsweng mo dithagisong tse di dirilweng ka nako ya ditherisano; le

(b) tsibogelo go merero e e tlhagisitsweng mo dithagisong.
(3) If the maker did not comply with section 98 or 99 for the reason stated in section 100, the consultation report must be published 30 days after the instrument was made and the report must include a statement of the reasons why the delay involved in complying, or complying fully, with sections 98 and 99 was considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the regulatory instrument.

Part 2

Standards

Prudential standards

105. (1) The Prudential Authority may make prudential standards for, or in respect of—
   (a) financial institutions that provide financial products or securities services;
   (b) financial institutions that are market infrastructures; and
   (c) key persons of such financial institutions.

(2) A prudential standard must be aimed at one or more of the following:
   (a) Ensuring the safety and soundness of those financial institutions;
   (b) reducing the risk that those financial institutions and key persons engage in conduct that amounts to, or contributes to, financial crime; and
   (c) assisting in maintaining financial stability.

(3) Without limiting subsection (1), a prudential standard may be made on any of the following matters:
   (a) Financial soundness requirements, including requirements in relation to capital adequacy, minimum liquidity and minimum asset quality;
   (b) matters on which a regulatory instrument may be made by the Prudential Authority in terms of a specific financial sector law;
   (c) matters that may in terms of any other provision of this Act be regulated by prudential standards, including matters as contemplated in section 30; and
   (d) any other matter that is appropriate and necessary for achieving any of the aims set out in subsection (2).

Conduct standards

106. (1) The Financial Sector Conduct Authority may make conduct standards for or in respect of—
   (a) financial institutions;
   (b) representatives of financial institutions;
   (c) key persons of financial institutions; and
   (d) contractors.

(2) A conduct standard must be aimed at one or more of the following:
   (a) Ensuring the efficiency and integrity of financial markets;
   (b) ensuring that financial institutions and representatives treat financial customers fairly;
   (c) ensuring that financial education programs, or other activities promoting financial literacy are appropriate;
   (d) reducing the risk that financial institutions, representatives, key persons and contractors engage in conduct that is or contributes to financial crime; and
   (e) assisting in maintaining financial stability.

(3) Without limiting subsections (1) and (2), a conduct standard may be made on any of the following matters:
   (a) Efficiency and integrity requirements for financial markets;
   (b) measures to combat abusive practices;
(3) Fa modiri a sa ikamanya le karolo 98 kgotsa 99 ka mabaka a a tlahalositsweng mo karolong 100, pegelo ya ditherisano e tshwanetse go phaslalatswa mo matsatsing a la 30 morago ga go dirwa ga sediriswa e bile pegelo e tshwanetse go akaretsa polelo ya mabaka a gore gore goreng go diega mo go ikamanyeng, kgotsa go ikamanyeng ka botlalo, le dikarolo 98 le 99 go tseetswe gore go ka isa kwa kgobelelong ya morekedi wa ditšhelete kgotsa go ama bobe thulaganyo ya ditšhelete, kgotsa go fenya maitlhomo a sediriswa sa bolaodi.

**Karolo 2**

Maemo a tlhokomelo

**Maemo**

105. (1) Bothati jwa Tlhokomelo bo ka dira maemo a tlhokomelo mabapi le, kgotsa malebana le—
(a) ditheo tsa ditšhelete ts di tlamelang ka dikuno tsa ditšhelete kgotsa ditirelo tsa ditlhoto;
(b) ditheo tsa ditšhelete tse e leng tshulaganyetsa tsa popegotheo ya mmaraka; le
(c) batho ba bothlhokwa ba ditheo tseo tsa ditšhelete.

(2) Maemo a tlhokomelo e tshwanetse go nna le maikaelelo a e le ngwwe kgotsa go feta ya tse di latelang:
(a) Go netefatsa poloko e le tolam o ya ditheo tseo tsa ditšhelete;
(b) fokotsa kotsi ya gore ditheo tseo tsa ditšhelete, le batho ba ba bothlhokwa ba itshotse ka mokgwa o o ka tilsang, kgotsa o o bakang, bosenyi jwa ditšhelete; le
(c) go thusa go tshegetsa tlhomamo ya ditšhelete.

(3) Ntle le go lekanyetsa karolotlaleletso (1), maemo a tlhokomelo a ka dira mo go ngwwe le ngwwe ya merero e e latelang:
(a) Dithloko e tsa ditšhelete tse di nepagetseng, go akaretsa dithloko e mabapi le tekano ya khapelele, maemotlase a thekiso le theko ya ditlhoto le maemotlase a boleng jwa ditlhoto;
(b) merero e mo go yona go ka dirwang sediriso sa bolaodi ke Bothati jwa Tlhokomelo go ya ka molao wa ditšhelete o o tsepamisitsweng;
(c) merero e go ya ka kabelo ngwe le ngwwe ya Molao ono e ka laolwange ke maemo a tlhokomelo, go akaretsa le merero e e ka tshweng mo karolong 30; le
(d) morero mongwe le mongwe o o maleba le bothlhokwa go fitlhelela nngwe le ngwwe ya maikaelelo a a tshagisitsweng mo karolotlaleletsong (2).

Maemo a boitshwaro

106. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka dira maemo a boitshwaro go, kgotsa mabapi le—
(a) ditheo tsa ditšhelete;
(b) dikemedi tsa ditheo tsa ditšhelete;
(c) batho ba ba bothlhokwa ba ditheo tsa ditšhelete; le
(d) bakonteraka.

(2) Maemo a boitshwaro a tshwanetse go nna le maikaelelo a e le ngwwe kgotsa go feta ya tse di latelang:
(a) Go netefatsa nonofo le tshiamo ya mebaraka ya ditšhelete;
(b) go netefatsa gore ditheo tseo tsa ditšhelete le baemedi ba tshola barekedi ba ditšhelete ka tolamo;
(c) go netefatsa gore mananeo a thuto ya tsa ditšhelete, kgotsa ditiro tse dingwe tse di tsweletsang kitso ya tsa ditšhelete di nepagetseng;
(d) go fokotsa kotsi ya gore ditheo tseo tsa ditšhelete, dikemedi, batho ba ba bothlhokwa le bakonteraka ba tsaya karolo mo boitshwarong jwa kgotsa jo bo nang le seabe mo bosenyi jwa ditšhelete; le
(e) go thusa mo go tshegetseng tlhomamo ya ditšhelete.

(3) Ntle le go lekanyetsa dikarolotlaleletso (1) le (2), maemo a boitshwaro a ka dirwa mo go ngwwe le ngwwe ya merero e e latelang:
(a) Dithloko e tsa nonofo le tshiamo ya mebaraka ya ditšhelete;
(b) mekgwa ya go lwantsha ditiragatso tse di bothhaswa;
(c) requirements for the fair treatment of financial customers, including in relation to—
   (i) the design and suitability of financial products and financial services;
   (ii) the promotion, marketing and distribution of, and advice in relation to, those products and services;
   (iii) the resolution of complaints and disputes concerning those products and services, including redress;
   (iv) the disclosure of information to financial customers; and
   (v) principles, guiding processes and procedures for the refusal, withdrawal or closure of a financial product or a financial service by a financial institution in respect of one or more financial customers, taking into consideration relevant international standards and practices, and subject to the requirements of any other financial sector law or the Financial Intelligence Centre Act, including—
      (aa) disclosures to be made to the financial customer; and
      (bb) reporting of any refusal, withdrawal or closure to a financial sector regulator;

(d) the design, suitability, implementation, monitoring and evaluation of financial education programs, or other initiatives promoting financial literacy;

(e) matters on which a regulatory instrument may be made by the Financial Sector Conduct Authority in terms of a specific financial sector law;

(f) matters that may in terms of any other provision of this Act be regulated by conduct standards; and

(g) any other matter that is appropriate and necessary for achieving any of the aims set out in subsection (2).

(4) A conduct standard may declare specific conduct in connection with a financial product or a financial service to be unfair business conduct if the conduct—
   (a) is or is likely to be materially inconsistent with the fair treatment of financial customers;
   (b) is deceiving, misleading or is likely to deceive or mislead financial customers;
   (c) is unfairly prejudicing or is likely to unfairly prejudice financial customers or a category of financial customers; or
   (d) impedes in any other way the achievement of any of the objectives of a financial sector law.

(5) (a) In relation to a credit provider regulated in terms of the National Credit Act, a conduct standard may only be made in relation to a financial service provided in relation to a credit agreement and matters provided for in section 108.

   (b) A conduct standard referred to in paragraph (a) may only be made after consultation with the National Credit Regulator.

Joint standards

107. The Prudential Authority and the Financial Sector Conduct Authority may make joint standards on any matter in respect of which either of them have the power to make a standard.

Additional matters for making standards

108. (1) To achieve the respective objectives of the financial sector regulators as set out in sections 33 and 57, the standards referred to in sections 105, 106 or 107 may be made on any of the following additional matters:

   (a) fit and proper person requirements, including in relation to—
      (i) personal character qualities of honesty and integrity;
      (ii) competence, including experience, qualifications and knowledge; and
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(c) ditlhokegotsa go tshola barekedi ba diitišeleke ka tolamo, go akaretsa le mabapi le—
(i) go tlhangu tsa go tshwanela ga dikuno tsa diitišelele le ditirelo tsa diitišele;
(ii) tsweletso pele, papatsyo le phatlalatso ya, le kgakololo mabapi le, dikuno tseo le ditirelo;
(iii) tharabololo ya dingongorego le ditlhalunolo mabapi le dikuno tseo le ditirelo, go akaretsa le go busetsa le maemong;
(iv) tshenolo ye tshedimoseyo go barekedi ba diitišele; le
(v) meono e e kaelang dikgato le ditšamaiso mabapi le go ganwa, go gogelwa morago kgotsa go tswalwa ga tlahigiso ya diitišeleke kgotsa tirole ya diitišeleke ka setheo sa diitišeleke mabapi le morekedi a le le ši kgotsa go feta wa diitišeleke, go etsewe tšhoko mae moy a a malela a bodišhabatšhaba le ditiragatso, le go lelala ditlhokegotsa tsa molao bo mongwwe le mongwe wa lephata la diitišelete kgotsa Financial Intelligence Centre Act, go akaretsa le—
(aa) ditšenonolo se tšišwanetseng se dirwa ke morekeding wa diitišele; le
(bb) pegelo ya kgano ngwele ngwe, kgogelomorago kgotsa tswalo go molaodi wa lephata la diitišele;
10(d) tlhamo, tšhwanolo, tšenyo tšoršišon, tlhokomo lele tekenyetso ya mananeo a thuto ya tsa diitišelele, kgotsa mananeo a mangwe a a tšweletšang kitšo ya tsa diitišele;
(e) meroe e me go yona se dirisa sa bolaodi sa ka dirang ke Bothati jwa Boithshwaro jwa Lephata la Diitišelele go ya ka mola o o tsepareng wa lephata la diitišele;
(f) meroe e go ya ka kabelo ngwele ngwe ya Molao ono e ka laolwane ke maemo a boithshwaro; le
(g) meroe mongwele mongwe o o malele be boithhokwala go go filhelele ngwe le ngwe ya maikaelele a a thalositsengeng mo karolotša lelapošošošo (2).
15(4) Maemo a boithshwaro a ka tšhomamisle boithshwaro jo bo tsepareng mabapi le kuno ya diitišeleke kgotsa tirole ya diitišelele go nna boithshwaro jwa kgwebo jo bo sa lolamang fa boithshwaro joo—
(a) bo kgotsa bo ka tlhoka tlhamo ya boithhokwala ka go tshola barekedi ba diitišeleke ka tolamo;
(b) bo tšetsa kgotsa bo faposa kgotsa bo ka tšetsa kgotsa bo ka faposa barekedi ba diitišele;
(c) bo gobelela e seng ka tolamo kgotsa bo ka gobelela e seng ka tolamo barekedi ba diitišele kgotsa tšelophsa sa badirisi be diitišele; kgotsa
(d) bo kgoreleše ka mokgwa ofe philhelhelelo ya ngwe ya maikaelelo a molaodi wa lephata la diitišele.
30(5) Maemi a boithshwaro a na tšhandamisa boithshwaro jo bo tsepareng mabapi le kuno ya diitišeleke kgotsa tirole ya diitišelele go nna boithshwaro jwa kgwebo jo bo sa lolamang fa boithshwaro joo—
(a) bo kgotsa bo ka tlhoka tlhamo ya boithhokwala ka go tshola barekedi ba diitišeleke ka tolamo;
(b) bo tšetsa kgotsa bo faposa kgotsa bo ka tšetsa kgotsa bo ka faposa barekedi ba diitišele;
(c) bo gobelela e seng ka tolamo kgotsa bo ka gobelela e seng ka tolamo barekedi ba diitišele kgotsa tšelophsa sa badirisi be diitišele; kgotsa
(d) bo kgoreleše ka mokgwa ofe philhelhelelo ya ngwe ya maikaelelo a molaodi wa lephata la diitišele.
40(4) Maemo a boithshwaro a ka tšhomamisle boithshwaro jo bo tsepareng mabapi le kuno ya diitišeleke kgotsa tirole ya diitišelele le le phalala le nna boithshwaro jwa kgwebo jo bo sa lolamang fa boithshwaro joo—
(a) bo kgotsa bo ka tlhoka tlhamo ya boithhokwala ka go tshola barekedi ba diitišeleke ka tolamo;
(b) bo tšetsa kgotsa bo faposa kgotsa bo ka tšetsa kgotsa bo ka faposa barekedi ba diitišele;
(c) bo gobelela e seng ka tolamo kgotsa bo ka gobelela e seng ka tolamo barekedi ba diitišele kgotsa tšelophsa sa badirisi be diitišele; kgotsa
(d) bo kgoreleše ka mokgwa ofe philhelhelelo ya ngwe ya maikaelelo a molaodi wa lephata la diitišele.

Maemo a a kopantsweng

107. Bothati jwa Tlhokomo lele Bothati jwa Boithshwaro jwa Lephata la Diitišelele bo ka dira maemo a a kopantsweng mo morerong mongwele mongwe mabapi le gore mongwe le mongwe wa bona o na le thata ya go ka dira maemo.

Mereto ya tlaleletso ya go dira maemo

108. (1) Go filhelela maemo a a kailweng a bolaodi jwa lephata la diitišelele jaaka a tlhagisitswe mo dikarolong 33 le 57, maemo a a kailweng mo dikarolong 105, 106 kgotsa 107 a ka dira mo go ngwele ngwe ya dirlhla tse di latelang tsa tlaleletso: 55
(a) Ditlhokegotsa tsa motho yo o itekanetseng le matshwanedi, go akaretsa mabapi le—
(i) boleng jwa semelo sa motho jwa boikanye go le tshiamo;
(ii) bogongi, go akaretsa le maitemogelo, borutegi le kitšo; le
(iii) financial standing;

(b) governance, including in relation to—
   (i) the composition, membership and operation of governing bodies and of
   substructures of governing bodies; and
   (ii) the roles and responsibilities of governing bodies and their substructures;

(c) the appointment, duties, responsibilities, remuneration, reward, incentive
   schemes and, subject to applicable labour legislation, the suspension and
   dismissal of, members of governing bodies and of their substructures;

(d) the appointment, duties, responsibilities, remuneration, reward, incentive
   schemes and, subject to applicable labour legislation, the suspension and
   dismissal of, key persons;

(e) the operation of, and operational requirements for, financial institutions;

(f) financial management, including—
   (i) accounting, actuarial and auditing requirements;
   (ii) asset, debt, transaction, acquisition and disposal management; and
   (iii) financial statements, updates on financial position, and public reporting
   and disclosures;

(g) risk management and internal control requirements;

(h) the control functions of financial institutions, including the outsourcing of
   control functions;

(i) record-keeping and data management by financial institutions and represen-
   tatives;

(j) reporting by financial institutions and representatives to a financial sector
   regulator;

(k) outsourcing by financial institutions;

(l) insurance arrangements, including reinsurance, of financial institutions;

(m) the amalgamation, merger, acquisition, disposal and dissolution of financial
   institutions;

(n) recovery, resolution and business continuity of financial institutions;

(o) requirements for identifying and managing conflicts of interest;

(p) requirements for the safekeeping of assets, including requirements pertaining
   to the approval and supervision of nominees and custodians.

(2) A standard may—
   (a) provide for a financial sector regulator or the Reserve Bank to make
       determinations, in accordance with procedures defined in a standard, for the
       purposes of the standard; and
   (b) impose requirements for approval by a financial sector regulator in respect of
       specified matters.

(3) A standard made by a financial sector regulator may amend or revoke another
   standard made by the financial sector regulator.

Standards requiring concurrence of Reserve Bank

109. (1) The Financial Sector Conduct Authority may not make a standard that
   imposes requirements on providers of payment services without the concurrence of the
   Reserve Bank.

(2) A financial sector regulator may not make a standard aimed at assisting in
   maintaining financial stability without the concurrence of the Reserve Bank.

General

110. (1) Different standards may be made for, or in respect of—
   (a) different categories of financial institutions, representatives, contractors or
       key persons; or
   (b) different circumstances.

(2) A standard may be made applicable to existing actions, activities, transactions,
   policies and appointments.

(3) A standard must be published on the maker’s website.
(iii) kemo ya ditšhelete;  
(b) puso, go akaretse mabapi le—  
(i) popego, botokololo le tsamaiso ya mokgatlho o o busang le wa dilthophatlaleletso tsa mokgatlho e e busang; le  
(ii) ditiro le maikarabelo a mokgatlho e e busang le dilthophatlaleletso tsa yona;  
(c) go thapiwa, ditiro, maikarabelo, tuelo, tebogo, dikema tsa thotloeto, le go ya ka melawana ya tiro, go sekgwa le go belesetswa ga maloko a mokgatlho ya puso le dilthophatlaleletso tsa yona;  
(d) go thapiwa, ditiro, maikarabelo, tuelo, tebogo, dikema tsa thotloeto, le go ya ka melawana ya tiro, go sekgwa le go belesetswa ga batho ba ba botlhokwa;  
(e) tiro ya, le dilthokego tsa tiro tsa, ditheo tsa ditšhelete;  
(f) taolo ya ditšhelete, go akaretse le—  
(i) dilthokego tsa palotlotlo, bogakolodi le boruni;  
(ii) taolo ya dithoto, sekoloto, tirisano, kgobokanyo le tatlho; le  
(iii) dikanego tsa ditšhelete, dipeonakong tsa maemo a ditšhelete, le pegelo go setšhaba le ditšenoino;  
(g) taolo ya dikotsi le dilthokego tsa taolo ya ka fa gare;  
(h) ditiro tsa taolo tsa ditheo tsa ditšhelete, go akaretse le go batla tirole ya konteraka ya ditiro tsa taolo go tswa kwa nle;  
(i) tsholo ya direkoto le taolo ya tsamedimo tsa ditheo tsa ditšhelete le dikemedi;  
(j) pegelo ka ditheo tsa ditšhelete le dikemedi go bolaodi jwa lepahla la ditšhelete;  
(k) dilthulaganyo tsa go bona tirole ya konteraka go tswa kwa nle ke ditheo tsa ditšhelete;  
(l) dilthulaganyo tsa inšorense, go akaretse le go inšorwa gape, ga ditheo tsa ditšhelete;  
(m) kopano, tlhakano, tirisano, tatlho le phatlalatso ya ditheo tsa ditšhelete;  
(n) namolo ya kgwebo le tswelelo ya ditheo tsa ditšhelete;  
(o) dilthokego tsa go supa le go laola thulano ya dikgatlhogo; le  
(p) dilthokego tsa go boloka dithoto ka tshireletsego, go akaretse le dilthokego mabapi le thebolo le tlholomelo ya ba ba kgethilweneng le badisi.  
(2) Maemo a ka—  
(a) tlamela mabapi le bolaodi jwa lepahla la ditšhelete kgotsa Banka ya Resefe go dira dilthophamiso, go tsaemaclana le ditsamaiso tse di tshhalositsweng mo maemo, mabapi le nasisang a maemo; le  
(b) pateletsa dilthokego mabapi le thebolo ka bolaodi jwa lepahla la ditšhelete mabapi le merero e e tsamaisitsweng.  
(3) Maemo a a dirilweng ke bolaodi jwa lepahla la ditšhelete a ka tlhabolola kgotsa a gogela morago maemo a mangwe a a dirilweng ke bolaodi jwa lepahla la ditšhelete.  

Maemo a a tlhokang tumelelo ya Banka ya Resefe  
109. (1) Bothathi jwa Boitshwabo jwa Lephata la Ditšhelete bo ka se dire maemo a a gobelelang dilthokego mo batameding ba ditirelo tsa tuelo nle le tumalano ya Banka ya Resefe.  
(2) Molaodi wa lepahla la ditšhelete o ka se dire maemo a a ikaelelang go thusa go tshegetsa thonamoyo ya ditšhelete nle le tumalano ya Banka ya Resefe.  

Kakaretso  
110. (1) Maemo a a farologaneng a ka direlwa, kgotsa mabapi le—  
(a) dilthopha tse di farologaneng tsa ditheo tsa ditšhelete, baemedi, beng ba ba bothlokwa, bakonteraka kgotsa batho ba ba bothlokwa; kgotsa  
(b) mabaka a a farologaneng.  
(2) Maemo a ka dirwa go tsamaelana le dikgado, ditiro, ditirisano, dipholisi le ditapoo.  
(3) Maemo a tshwanetse go phusalatswa mo webesaeteng ya modiri.
CHAPTER 8

LICENSING

Part 1

Licensing requirements

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

111. (1) A person may not provide, as a business or part of a business, a financial product, financial service or market infrastructure except—

(a) in accordance with a licence in terms of a specific financial sector law, the National Credit Act or the National Payment System Act; or

(b) if no specific financial sector law provides for such a licence, in accordance with a licence in terms of this Act.

(2) A person may not provide, as a business or part of a business, a financial product designated in terms of section 2, or a financial service designated in terms of section 3, except in accordance with a licence in terms of this Chapter.

(3) Subsections (1) and (2) only apply to a contractor if a responsible authority specifically, in a standard, requires that contractor to be licensed.

(4) A person may not describe or hold itself out as being licensed in terms of a financial sector law, including being licensed to provide particular financial products, financial services or market infrastructure, unless that person is so licensed.

(5) A person may not permit another person to identify the first person as licensed in terms of a financial sector law, including licensed in terms of a financial sector law to provide particular financial products, financial services or market infrastructure, unless the first person is so licensed.

(6) For the purposes of subsections (4) and (5), a person whose licence has been suspended or revoked is not licensed.

(7) Except to the extent expressly provided by this Act, this Act does not affect the provisions of the specific financial sector laws with respect to licensing in relation to financial products, financial services and market infrastructures.

Part 2

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

Interpretation

112. In this Part—

“application” means an application for a licence required in terms of section 111(1)(b) or (2) or section 162;

“licence” means a licence required in terms of section 111(1)(b) or (2) or section 162;

“licensee” means a person licensed in terms of section 111(1)(b) or (2) or section 162.

Power to grant licences

113. (1) The responsible authority may, on application, grant a licence.

(2) The application must—

(a) be in writing and in a form approved or accepted by the responsible authority; and

(b) include or be accompanied by the information and documents—

(i) required in the form; or

(ii) required by the responsible authority.
KGAOLO 8

KABO YA LAESENSE

Karolo 1

Ditlhokego tsa kabo ya laesense

Tlhokego ya laesense mabapi le batlamedi ba dikuno tsa ditšhelete, ditirelo tsa ditšhelete, le ditshulaganyetso tsa popegotheo ya mmaraka

111. (1) Motho o ka se tlamele, jaaka kgwebo kgotsa karolo ya kgwebo, kuno ya tišhelete, tirelo ya tišhelete kgotsa thulaganyetso ya popegotheo ya mmaraka ntle le—
   (a) go isamaelana le laesense go ya ka molao o o tsepmeng wa lephata la ditšhelete kgotsa Molao wa Bosetšhaba wa Sekoloto kgotsa National Payment System Act; kgotsa
   (b) fa go se molao o o tsepmeng wa lephata la ditšhelete o o tlamelang ka laesense eo, go isamaelana le laesense go ya ka Molao ono.
(2) Motho o ka se tlamele, jaaka kgwebo kgotsa karolo ya kgwebo, kuno ya ditšhelete e e thapilweng go ya ka karolo 2, kgotsa kuno ya ditšhelete e e tlhomilweng go ya ka karolo 3, ntle le go isamaelana le laesense go ya ka Kgaolo eno.
(3) Dikarolotlaleletso (1) le (2) di diriswa fela go mokonteraka fa bothati jo bo rwalang maikarabelo ka tsepamo, mo maemong, bo tlhoka gore mokonteraka a abelwe laesense.
(4) Motho o ka se ithalose kgotsa ga tsewa gore o abetswe laesense go ya ka molao wa lephata la ditšhelete, go akaretsa le go abelwa laesense go la tlamelang ka dikuno tse di rileng ts a ditšhelete, ditirelo tsa ditšhelete kgotsa thulaganyetso ya popegotheo ya mmaraka, fa fela motho yoo a abetswe laesense jalo.
(5) Motho o ka se letle motho yo mongwe go supa motho wa nthla jaaka yo o abetsweng laesense go ya ka molao wa lephata la ditšhelete, go akaretsa le go abelwa laesense go ya ka molao wa lephata la ditšhelete go tlamelang ka dikuno tse di rileng ts a ditšhelete, ditirelo tsa ditšhelete kgotsa thulaganyetso ya popegotheo ya mmaraka, ntle le fa motho wa nthla a abetswe laesense jalo.
(6) Mabapi le matlhomolo a dikarolotlaleletso (4) le (5), motho yo laesense ya gague e sekegiliweng kgotsa phimotseng ga a abelwe laesense.
(7) Ntle le ka moo go tlameetseng ka thamalalo le Molao ono, Molao ono ga a o ame dikabelo tsa melao e e tsepmeng ya lephata la ditšhelete mabapi le kabo ya laesense e e amanang le dikuno tsa ditšhelete le ditirelo tsa ditšhelete le thulaganyetso ya popegotheo ya mmaraka.

Karolo 2

Laesense e e tlhokegang go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162

Tlhalooso

112. Mo Karolong eno—
   “kopo” e kaya kopo ya laesense e e tlhokegang go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162;
   “laesense” e kaya laesense e e tlhokegang go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162;
   “moabelwalaesense” o kaya motho yo o abetsweng laesense go ya ka karolo 111(1) (b) kgotsa (2) kgotsa karolo 162.

Thata ya go ab a dilaesense

113. (1) Bothati jo bo rwalang maikarabelo bo ka, ka kopo, aba laesense.
(2) Kopo e tshwanetse—
   (a) go kwalwa le go nna mo foromong e e rebotsweng kgotsa amogetsweng ke bothati jo bo rwalang maikarabelo; le
   (b) go akaretsa kgotsa go romelwa le tshedimosetso le dikwalo—
      (i) tse di tlhokwang mo foromong; kgotsa
      (ii) tse di tlhokwang ke bothati jo bo rwalang maikarabelo.
Request for further information or documents by responsible authority

114. (1) The responsible authority may, by notice in writing, require an applicant for a licence to—
   (a) give the responsible authority additional information or documents specified by the responsible authority; and
   (b) verify any information given by the applicant in connection with the application in a manner specified by the responsible authority.

   (2) The responsible authority need not deal further with the application until the applicant has complied with the notice.

Relevant matters for application for licence

115. The matters to be taken into account in relation to an application for a licence include—
   (a) the objective of the responsible authority as set out in section 33 or 57;
   (b) the financial and other resources of and available to the applicant;
   (c) fit and proper person requirements applicable to the applicant and to any key person or significant owner of the applicant;
   (d) the governance and risk management arrangements of the applicant; and
   (e) whether the applicant made a statement that is false or misleading, including by omission, in or in relation to the application.

Determination of applications

116. (1) The responsible authority to which an application for a licence has been made must determine the application by—
   (a) granting the application and issuing a licence to the applicant; or
   (b) refusing the application and notifying the applicant accordingly.

   (2) The responsible authority may not grant a licence to an applicant unless satisfied that—
      (a) the applicant has or has available to it sufficient resources and capacity to ensure that it will comply with the requirements of financial sector laws in relation to the licence; and
      (b) issuing the licence to the applicant will not be contrary to the interests of financial customers, the financial sector or the public interest.

   (3) (a) The responsible authority must determine an application as contemplated in subsection (1) and notify the applicant within three months after the application is made.
       (b) The responsible authority may, by notice to the applicant, extend the period of three months in paragraph (a) for one or more further periods, but the total period may not be more than nine months.
       (c) In working out when the period mentioned in paragraph (a) or (b) expires, any period between the responsible authority giving the applicant a notice in terms of section 114 and the requirements in the notice being satisfied is not to be counted.

Reporting obligations of licensee

117. (1) A licensee must promptly report any of the following to the responsible authority that issued the licence:
       (a) The fact that the licensee has contravened or is contravening, in a material way—
           (i) a financial sector law;
           (ii) a regulator’s directive or a directive in terms of section 202;
           (iii) an enforceable undertaking;
           (iv) an order of a court made in terms of a financial sector law; or
           (v) a decision of the Tribunal;
Kopo ya tsledimose tse ngwe kgotsa dikwalo ka bothati jo bo rweleng maikarabelo

114. (1) Bothati jo bo rwalang maikarabelo bo ka, ka kitsiso e e kwetsweng, kopa modirakopo ya laesense go—
(a) neela bothati jo bo rwalang maikarabelo tsledimose tse ngwe kgotsa dikwalo tse di tsepamisitsweng ke bothati jo bo rwalang maikarabelo; le
(b) netefatsa tsledimose tse ngwe le ngwe e e nielweng ke modirakopo mabapi le kopo ka mokgwa o o tsepamisitsweng ke bothati jo bo rwalang maikarabelo.

(2) Bothati jo bo rwalang maikarabelo bo ka nna jwa se sekegele kopo tsebe go 10 filhela modirakopo a ikamany ka le kitsiso.

Merero e e maleba ya go dira

115. Dintlha tse di tshwanetseng go tsewa tsia mabapi le kopo ya kabelo ya laesense di akaretsa—
(a) maikaelelo a bothati jo bo rwalang maikarabelo jaaka go tlhagisitswe mo karolong 33 kgotsa 57;
(b) ditlamelo tsa ditshelthele le tse dingwe tsa, le tse di leng teng go, modirakopo;
(c) ditlhokego tsa batho ba ba itekanetseng e biele ba le matshwaneli tse di diragatswng go modirakopo le go motho mongwe le mongwe yo o bothokwa kgotsa mong yo o bothokwa wa modirakopo;
(d) ditlhulanganyo tsa puso le taolo ya dikotsi tsa modirakopo; le
e) gore a modirakopo o dirile polelo e e fosagetseng kgotsa e e timetsang, go akaretsa le ka tlogelo, ka kgotsa mabapi le kopo.

Tlhomamiso ya dikopo

116. (1) Bothati jo bo maleba mabapi le kopo ya laesense bo tshwanetse go 25 tlhomamisa kopo ka go—
(a) sekengela kopo le go rebola laesense go modirakopo; kgotsa
(b) sa amogele kopo le go itisise modirakopo ka tshwanelo.

(2) Bothati jo bo rwalang maikarabelo bo ka se abele modirakopo laesense ntle le fa bo kgotsofetse gore—
(a) modirakopo o na le ditlamelo tse di lekaneng le bokongi go netefatsa gore o tla ikamany ka ditlhokego tsa melao ya lephata la ditshelthele mabapi le laesense; le
(b) go rebolela modirakopo laesense go ka se nne kgatlhanong le dikgatlheng tsa barekedi ba ditshelthele kgotsa lephata la ditshelthele kgotsa dikgatlheng tsa setšhaba.

(3) (a) Bothati jo bo rwalang maikarabelo bo tshwanetse go go tlhomamisa kopo jaaka go thalisitswe mo karolotlaletsetsong (1) le go itisise modirakopo mo dikwedwing tse tharo morago ga fa kopo e sena go dirwa.
(b) Bothati jo bo rwalang maikarabelo bo ka, ka kitsiso go modirakopo, oketsa paka ya dikgwedi tse tharo mo temaneng (a) go paka ele ngwe kgotsa go feta, felana paka yothle e se fete dikgwedi tse robongwe.
(c) Mo go batleng go itse gore paka e e kailweng mo temaneng (a) kgotsa (b) e ya bokhutlong leng, paka ngwe le ngwe magareng ga nako e bothati jo bo rwalang maikarabelo bo nayang modirakopo kitsiso go ya ka karolo 114 le nako e ditlhokhego tse di mo kitsisong di kgotsofatswng ka yona ga e baleliwe.

Go bega Ditlamego tsa moabelwalaesense

117. (1) Moabelwalaesense o tshwanetse go begela bothati jo bo rwalang maikarabelo jo bo rebotseng laesense ka potlako ngwe le ngwe ya tse di latela:
(a) Ntlha ya gore laesense e tlotse kgotsa e tlola, ka mokgwa o o fetang tekano—
(i) molao wa lephata la ditshelthele;
(ii) taelo ya molaodi kgotsa taelo go ya ka karolo 202;
(iii) tumaiano e e gatelelwang;
(iv) taelo ya kgotlatshekelo e e dirilweng go ya ka molao wa lephata la ditshelthele; kgotsa
(v) tshwetso ya Lekgotla;

(b) taelo ya lephata la ditshelete kopo ya laesense go di tsepamisitsweng ke bothati jo bo rwalang maikarabelo; le
(c) taelo ya lephata la ditshelete kopo ya laesense go di tsepamisitsweng ke bothati jo bo rwalang maikarabelo; le
(d) taelo ya lephata la ditshelete kopo ya laesense go di tsepamisitsweng ke bothati jo bo rwalang maikarabelo; le
(e) taelo ya lephata la ditshelete kopo ya laesense go di tsepamisitsweng ke bothati jo bo rwalang maikarabelo; le
(f) taelo ya lephata la ditshelete kopo ya laesense go di tsepamisitsweng ke bothati jo bo rwalang maikarabelo; le

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

Act No. 9 of 2017: Financial Sector Regulation Act, 2017
(b) the fact that the licensee has become aware that information given in connection with the application for the licence was false or misleading.

(2) Subsection (1) also applies in relation to events and circumstances that occur while a licence is suspended.

(3) Information that is reported in terms of this section is not admissible in evidence in any criminal proceedings, except in criminal proceedings for perjury.

Licences not transferable

118. A licence is not transferable from the licensee to another person.

Variation of licences

119. (1) The responsible authority that issued a licence may, by notice to the licensee, vary the licence if to do so will assist in achieving the objective of the responsible authority as set out in section 33 or 57.

(2) A variation of a licence may include—

   (a) removing or varying a condition of the licence, or adding a condition; and

   (b) changing the categories of financial products, financial services or financial customers to which the licence relates.

(3) A variation of a licence takes effect on a date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

Suspension of licences

120. (1) The responsible authority that issued a licence may, by notice to the licensee, suspend the licence, for the period specified in the notice, if—

   (a) the licensee applies for suspension of the licence;

   (b) a condition of the licence has been contravened or not been complied with in a material way;

   (c) the licensee has contravened in a material way—

      (i) a financial sector law;

      (ii) a prudential standard, a conduct standard or a joint standard;

      (iii) a regulator’s directive or a directive in terms of section 202;

      (iv) an enforceable undertaking;

      (v) an order of a court made in terms of a financial sector law; or

      (vi) a decision of the Tribunal;

   (d) the licensee has in a foreign country contravened in a material way a law of that country that corresponds to a financial sector law;

   (e) information provided in or in relation to an application in relation to the licence was false or misleading (including by omission) in a material way;

   (f) the suspension is necessary to prevent—

      (i) a serious contravention of a financial sector law; or

      (ii) financial customers of the licensee suffering material prejudice; or

   (g) fees in respect of the licence, a levy or an administrative penalty payable by the licensee, including any interest, are unpaid and have been unpaid for at least 30 days.

(2) The responsible authority may refuse to suspend a licence in terms of subsection (1)(a) if the suspension—

   (a) would not be in the best interests of financial customers; or

   (b) would frustrate the objects of a financial sector law applicable to the licence.

(3) The responsible authority that suspended a licence may at any time revoke the suspension.
(b) ntlha ya gore moabelwalaesense o itse gore tshedimosetso e eneIweng mabapi le kopo ya laense e fosagetse kgotsa e a timetsa.

(2) Karolotlaleletso (1) e diragatswa mabapi le ditiragalo le mabaka a a diragalang fa laense e emisitswe.

(3) Tshedimosetso e e begiIweng go ya ka karolo eno ga e amogelesegoe mo bopaking mo ditsamaisong dingwe le dingwe tsa bosenyi, ntle le mo ditsamaisong tsa bosenyi mabapi le go bua maaka ka fa tlase ga maikano.

Dilaesense tse di sa fetisiweng

118. Laesense ga e fetisiwe go tswa go moabelwalaesense go ya ya motho yo mongwe.

Pharologantsho ya dilaesense

119. (1) Bothati jo bo rwalang maikarabelo jo bo rebotseng laesense bo ka, ka kitsiso go moabelwalaesense, farologanya laesense fa go dira jalo go tla thu ka phitlhelelo ya maikaelelo a bothati jo bo rwalang maikarabelo jaaka go tlhagisitswe mo karolong 33 kgotsa 57.

(2) Pharologanyo ya laesense e ka akaretso go—
(a) tlosa kgotsa farologanya lebaka la laense, kgotsa go tsenya lebaka; le
(b) fetola ditlhopho tsa dikuno tsa ditlhelele kgotsa ditirelo tsa ditlhelele tseol lasense e amanang le tsona.

(3) Pharologanyo ya laesense e tsena mo tirisong ka letlha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa letlha le le kwa morago le tsepamisitswe mo kitsisong, letlha le le kwa morago.

Tshekego ya dilaesense

120. (1) Bothati jo bo rwalang maikarabelo jo bo rebotseng laesense bo ka, ka kitsiso go moabelwalaesense, sekega laesense fa, sebaka se se tsepamisitsweng mo kitsisong, fa—
(a) moabelwalaesense a dira kopo ya tshekego ya laesense;
(b) lebaka la laense le tlotse kgotsa go sa ikamanngwa le lona ka tlotlo yotlhe;
(c) moabelwalaesense o dirile tlolo e kgolo ya —
(i) molao wa lephata la ditlhelele;
(ii) maemo a tlhokomelo, maemo a boitshharo, maemo a a kopanetsweng kgotsa taolo ya Khanele ya Bolaodi jwa Ombud;
(iii) taelo ya molaoi kgotsa taolo go ya ka karolo 202;
(iv) tumalano e e gatelelwang;
(v) taelo ya kgotlatshekelo e e diriIweng go ya ka molao wa lephata la ditlhelele; kgotsa
(vi) tshwetso ya Lekgotla;
(d) moabelwalaesense a tlote molao thata kwa nangeng ya boditshhaba o o tsamaelanang le molao wa lephata la ditlhelele;
(e) tshedimosetso e e tlameletswe kgotse kgotsa mabapi le kopo e e amanang le laense e fosagetse kgotsa e timetsa (go akaretso le ka tlogelo) thata;
(f) tshekego e bothokwao go thibela—
(i) tlolomolao e e masisi ya molao wa lephata la ditlhelele; kgotsa
(ii) barekedi ba ditlhelele ba moabelwalaesense ba le ka fa tlase ga kgobelelo; kgotsa
(g) dituelo mabapi le laense, lekgethwana kgotsa kotlhaol ya tsamaio e e duelwang ke moabelwalaesense, e akaretso le morokotso mongwe le mongwe, ga di a duelwa e bile di ntse di sa duelwa bonnye matsatsi a le 30.

(2) Bothati jo bo rwalang maikarabelo bo ka gana go sekega laesense go ya ka karolotlaleletso (1)(a) fa tshekego—
(a) e ka senne mo kgatlhegong ya barekedi ba ditlhelele; kgotsa
(b) e tla dira gore maikaelelo a molao wa lephata la ditlhelele a a diragatsweng mo laenseseng a tselela.

(3) Bothati jo bo rwalang maikarabelo jo bo sekegileIeng laesense bo ka nako ngwe le ngwe phimola tshekego eo.
(4) The suspension of a licence takes effect on the date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

(5) The suspension of a licence does not affect an obligation of the licensee that it has in terms of a financial sector law.

Revocation of licences

121. (1) The responsible authority that issued a licence may, by notice to the licensee, revoke the licence—

(a) if the licensee applies for revocation of the licence;

(b) on any of the bases on which it may suspend the licence, as set out in section 120(1)(b) to (g); or

(c) if the licensee has ceased to conduct the licensed business.

(2) The responsible authority may refuse to revoke a licence in terms of subsection (1)(a) if the revocation—

(a) would not be in the best interests of financial customers; or

(b) would frustrate the objects of a financial sector law applicable to the licence.

(3) Revocation of a licence takes effect on the date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

Continuation of licensed activity despite suspension or revocation of licence

122. (1) The responsible authority that suspended or revoked a licence may, by notice to the licensee, on conditions specified in the licence, allow the licensee to carry out the licensed activity to the extent, and for the period, specified in the notice to facilitate the orderly suspension or termination of the activity.

(2) Conditions in terms of subsection (1) must be aimed at—

(a) ensuring that financial customers of the licensee are treated fairly; or

(b) the orderly suspension or termination of the licensed activity.

(3) Carrying out the licensed activity in accordance with the requirements of a notice in terms of subsection (1) is not a contravention of section 111 or 162.

Procedure for varying, suspending and revoking licences

123. (1) (a) Before the responsible authority varies, suspends or revokes a licence, it must—

(i) give the licensee notice of the proposed action and a statement of the reasons for it; and

(ii) invite the licensee to make submissions on the matter, and give it a reasonable period to do so.

(b) The period referred to in paragraph (a)(ii) must be at least one month.

(c) The responsible authority need not comply with paragraph (a) if the licensee has applied for the proposed action to be taken.

(2) In deciding whether to vary, suspend or revoke a licence, the responsible authority must take into account all submissions made within the period specified in the notice in terms of subsection (1)(a)(ii).

(3) If the delay involved in complying, or complying fully, with subsection (1)(a) in respect of a proposed action is likely to prejudice financial customers, prejudicially affect financial stability or defeat the object of the action, the responsible authority may take the action without having complied, or complied fully, with that subsection.

(4) (a) If the responsible authority takes action without having complied, or complied fully, with subsection (1)(a) for the reason set out in subsection (3), the responsible authority must give the licensee a written statement of the reasons why that subsection was not complied with.

(b) The licensee may make submissions to the responsible authority within one month after being provided with the statement.
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(4) Go sekegwa ga laesense go tseengwa mo tirisong ka letlha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa letlha le le kwa morago le tsepamisitse, letlha le le kwa morago.

(5) Go sekegwa ga laesense ga go ame ka gope tlamego e moabelwalaesense a nang le yona go ya ka molao wa lephata la dišišelete.

Phediso ya dilaesense

121. (1) Bothati jo bo rwalang maikarabelo jo bo rebotseng laesense, ka kitsiso go moabelwalaesense, bo ka phimola laesense—
   (a) fa moabelwalaesense a dirile kopo ya phimolo ya laesense;
   (b) mo mabakeng mangwe le mangwe ao bo ka emisang laesense, jaaka go tlahlositse mo karolong 120(1)(b) go fitlha go (g); kgotsa
   (c) fa moabelwalaesense a khutlisisi go dira kgwebo e e abetsweng laesense.

(2) Bothati jo bo rwalang maikarabelo bo ka gana go phimola laesense go ya ka karolotlaleletso (1)(a) fa phimolo—
   (a) e ka se nne mo kgatlhegong ya barekedi ba dišišelete; kgotsa
   (b) e tla dira gore maikaelelo a molao wa lephata la dišišelete a a diragatswang mo laesenseng a tselege.

(3) Phimolo ya laesense e tseengwa mo tirisong ka letlha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa letlha le le kwa morago le tsepamisitse mo kitsisong, letlha le le kwa morago.

Go tswela pele ga tiro e e abetsweng laesense go sa kgathalasege tshekego kgotsa phediso ya laesense

122. (1) Bothati jo bo rwalang maikarabelo jo bo sekegileng kgotsa phimotseng laesense bo ka, ka kitsiso go moabelwalaesense, go ya ka mabaka a a tsepamisitsweng mo laesenseng, dumelela moabelwalaesense go tsewelela ka ditiro tse di abetsweng laesense go fitlha, le ka paka e e tsepamisitsweng mo kitsisong, go noloafatsa kemiso e e rulaganeng kgotsa khutlisisi ya tiro.

(2) Mabaka go ya ka karolotlaleletso (1) a tshwanetse go lebiswa mo go—
   (a) netefatseng gore barekedi ba dišišelete ba moabelwalaesense ba tshwarwa ka tolamo; kgotsa
   (b) kemiso e e rulaganeng kgotsa khutlisisi ya tiro e e abetsweng laesense.

(3) Go dira tiro e e abetsweng laesense go tsamaela le ditlholego tsisa kitsiso go ya ka karolotlaleletso (1) ga se tloyo ka karolo 111 kgotsa 162.

Tsamaiso Mapapi le go farologanya, go sekega le go fedisa dilaesense

123. (1) (a) Pele bothati jo bo rwalang maikarabelo bo farologanya, sekega kgotsa phimola laesense, bo tshwanetse go—
   (i) naya moabelwalaesense kitsiso ya kgato e e tshitsintsweng le polelo ya mabaka a yona; le
   (ii) laletsa moabelwalaesense go dira ditlhagiso ka ga nlha eno, le go mo naya nako e e lekaneng go dira jalo.

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

(c) Bothati jo bo rwalang maikarabelo ga bo tlothe go ikamanya le temana (a) fa moabelwalaesense a dirile kopo ya kgato e e tshitsintsweng gore e tsewe.

(2) Mgo swetseng ka go farologanya, sekega kgotsa phimola laesense, bothati jo bo rwalang maikarabelo bo tshwanetse go tsaya tsisa ditlhagiso tsothle tse di dirilweng mo pakeng e e tsepamisitsweng mo kitsisong go ya ka karolotlaleletso (1)(a)(ii).

(3) Fa tiego e e tsaamela e le go ikamanya, kgotsa go ikamanya ka gothle, le karolotlaleletso (1)(a) mabapi le kgato e e tshitsintsweng e na le bokgomi jwa go gobelela barekedi ba dišišelete, ya ama thhomamo ya dišišelete ka kgobelela kgotsa ya fenya maikaelelo a kgato, bothati jo bo rwalang maikarabelo bo ka tsaya kgato nte le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso eo.

(4) (a) Fa bothati jo bo rwalang maikarabelo bo tsaya kgato nte le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso (1)(a) go ya ka mabaka a a kaileweng mo karolotlaleletsong (3), moabelwalaesense o tshwanetse go abelwa polelo e e kwetsweng ya mabaka a gore goreng go sa ikamangwana le karolotlaleletso eo.

   (b) Moabelwalaesense o ka dira ditlhagiso go bothati jo bo rwalang maikarabelo mo kgweding e e esi morago ga go abelwa polelo.
(c) The responsible authority must consider the submissions, and notify the licensee, as soon as practicable, whether the responsible authority proposes to amend or revoke the variation, suspension or revocation.

Applications for licences

124. (1) The responsible authority may, in writing, determine procedures and requirements for applications.

(2) Requirements determined in terms of subsection (1) may include requirements with respect to—

(a) the institutional form of an applicant;  
(b) an applicant’s business activities;  
(c) an applicant’s financial capacity;  
(d) fit and proper person requirements; and  
(e) an applicant’s operational, management, governance and risk management arrangements.

(3) An application to the responsible authority for the purposes of this Part must be made in accordance with the relevant procedures in terms of subsection (1).

(4) The responsible authority must publish requirements determined in terms of subsection (1).

Part 3

Provisions relating to all licences under financial sector laws

Application

125. This Part applies in relation to licences in terms of all financial sector laws.

Concurrence of financial sector regulators on licensing matters

126. (1) The responsible authority may not take any of the actions specified in subsection (2) unless—

(a) the other financial sector regulator has concurred; and  
(b) if the action relates to or affects a systemically important financial institution, the Reserve Bank has also concurred.

(2) The actions are—

(a) issuing a licence;  
(b) varying, suspending or revoking a licence, however these are described in the relevant financial sector law; and  
(c) granting an exemption in terms of section 281.

Compulsory disclosure of licences

127. (1) A licensed financial institution must comply with the applicable requirements of a prudential standard, a conduct standard and a joint standard in relation to the identification of relevant licences under financial sector laws in business documentation, including advertisements and other promotional material.

(2) A licensed financial institution must make its licence or a copy of its licence available at no cost to any person on request.

Publication

128. (1) Each licence must be published by the responsible authority that issues it.

(2) Each variation, suspension and revocation of a licence must be published by the responsible authority that takes the action.
(c) Bothati jo bo rwalang maikarabelo bo tshwanetse go sekaseka ditlhagiso, le go itise moabhelelaesense, ka bonako jo bo kgonagalan, fa bothati jo bo rwalang maikarabelo bo tshitsinya go tlh Bolola kgotsa phimola pharologanyo, tshegeo kgotsa phimola.

Go dira kopo ya dilaesense

124. (1) Bothati jo bo rwalang maikarabelo bo ka, ka go kwa la, tlhomamisa ditsamaaiso le ditlhokgogo tsa dikopo.
(2) Ditlhokego tse di tlhomamisitsweng go ya ka karolotlaleletso (1) di ka akaretsa ditlhokgogo mabapi le—
   (a) foromo ya setheo ya modirakopo;  
   (b) ditiro tsa kgwebo tsa modirakopo;  
   (c) maemo a ditshелеte a modirakopo;  
   (d) ditlhokgogo tsa motho yo o itekanetseng le e bile a siame; le  
   (e) ditlhulaganyo tsa modirakopo tsa puso le taolo ya dikotsi.
(3) Kopo go bothati jo bo rwalang maikarabelo mabapi le mathlhomo a Karolo eno e tshwanetse go dirwa go tsamaelana le ditsamaaiso tse di maleba go ya ka karolotlaleletso (1).
(4) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa ditlhokgogo tse di tlhomamisitsweng go ya ka karolotlaleletso (1).

Karolo 3

Dikabelo tse di amanang le dilaesense tsothe tse di ka fa tlase ga melao ya lephata la ditšelele

Tiragatso

125. Karolo eno e diriswa mababi le dilaesense go ya ka melao yotlhe ya lephata la ditšelele.

Tumalano ya balaodi ba lephata la ditšelele ka ga meroro ya kaboyalaesense

126. (1) Bothati jo bo rwalang maikarabelo bo ka se tseye epe ya dikgato tse di tsepmamisitsweng mo karolotlaleletsong (2) ntle le fa—
   (a) bothati jo bongwe jwa ditšelele bo dumetse; le  
   (b) kgato e amana le kgotsa e ama setheo sa ditšelele se se botlhokwa mo thulaganyo, Banka ya Resefe le yona e dumetse.
(2) Dikgato tseo ke—
   (a) go aba laesense;  
   (b) go farologanyo, emisa kgotsa fedisa laesense (mme fela di tlhalositswe mo molaong o o maleba wa lephata la ditšelele); le  
   (c) go neelana ka kgo lole go ya ka karolo 281.

Tshenolo ya pateletso ya dilaesense

127. (1) Setheo sa ditšelele se se abetsweng laesense se tshwanetse go ikamanya le ditlhokgogo tse di diriswang tsa maemo a tlhokomelo, maemo a bontshwara maemo a a kopanetsweng mabapi le tshupo ya dilaesense tse di maleba ka fa tlase ga melao ya lephata la ditšelele mo makwalong a kgwebo, go akaretsa le dipapatsa le materiale o mongwe wa tswelele.
(2) Setheo se se abetsweng laesense sa ditšelele se tshwanetse go dira gore laesense ya sona kgotsa kgatiso ya laesense ya sona e fitlhelege ntle le tuelelo epe go mongwe le mongwe ka kopo .

Phasalatso

128. (1) Laesense ngwe le ngwe e tshwanetse go phasalatswa ke bothati jo bo rwalang maikarabelo jo bo e rebotseng.
(2) Pharologanyo, tshegeo kgotsa phimolo ngwe le ngwe ya laesense e tshwanetse go phasalatswa ke bothati jo bo rwalang maikarabelo jo bo tsayang kgato.
CHAPTER 9
INFORMATION GATHERING, SUPERVISORY ON-SITE INSPECTIONS
AND INVESTIGATIONS

Part 1
Application and interpretation

129. (1) This Chapter applies to information gathering, supervisory on-site inspections and investigations by the Prudential Authority or the Financial Sector Conduct Authority.

(2) The Council for Medical Schemes may exercise powers in terms of this Chapter in respect of powers and functions set out in the Medical Schemes Act, and powers and functions granted to it in this Act.

(3) In relation to the exercise of the powers in terms of this Chapter by the Council for Medical Schemes in respect of a medical scheme, a reference in this Chapter to—

(a) a financial sector regulator or the responsible authority must be read as including a reference to the Council for Medical Schemes;

(b) the head of a financial sector regulator must be read as including a reference to the Registrar of Medical Schemes appointed in terms of section 18 of the Medical Schemes Act;

(c) a financial sector law must be read as including a reference to regulatory instruments and to the Medical Schemes Act; and

(d) a licensed financial institution must be read as including a reference to a medical scheme registered in terms of the Medical Schemes Act or an administrator of a medical scheme approved in terms of the Medical Schemes Act.

Legal professional privilege

130. (1) (a) A person does not have to answer a question asked, or comply with a requirement to produce a document or information, in terms of this Chapter to the extent that the person is entitled to claim legal professional privilege in relation to the answer, contents of the document or the information.

(b) If the person contemplated in paragraph (a) is a legal practitioner, the person is entitled or required to claim that privilege on behalf of a client of the person.

(2) Subsection (1) does not limit any right of a person.

Part 2
Information gathering

131. (1) (a) The responsible authority for a financial sector law may, by written notice to any person, request the person to provide specified information or a specified document in the possession of, or under the control of, the person that is relevant to assisting the responsible authority to perform its functions in terms of a financial sector law.

(b) A supervised entity that has been given a notice in terms of paragraph (a) must comply with the requirements in the notice.

(2) (a) The responsible authority for a financial sector law may, by written notice to a supervised entity, require the supervised entity to provide specified information or a specified document in the possession of, or under the control of, the entity that is relevant to the responsible authority’s assessment of compliance by a supervised entity with, or risk of contraventions by a supervised entity of—

(i) a financial sector law;
KGAOLO 9

KGOBOKANYO YA TSHEDIMOSETSO, DITLHATLHOOBO TSA BOTLHOKOMEDI TSA KWA TIRONG LE DIPATLISISO

Karolo 1

Tiragietso le tlhaloso

129. (1) Kgao lo eno e diriswa mo kgobokanyong ya tshedimosetso, ditlhatlhhobo tsa botlhokomedi tsa kwa tirong le dipatlisiso ke Bothathi jwa Thokomelo kgotsa Bothathi jwa Botshwaro jwa Lephata la Ditšhelele.

(2) Khansele ya Di kemsa ta Kalafi e ka diragatsa dithata go ya ka Kgao lo eno mabapi le dithata le di tiro tse di tlhagisitsweng mo Medical Schemes Act, le dithata le di tiro tse e di abetsweng mo Molaong ono.

(3) Mabapi le tiragatso ya dithata go ya ka Kgao lo eno ka Khansele ya Di kemsa ta Kalafi mabapi le sekema sa kalafi, tshe tseputso mo Kgao long eno go—

(a) molaodi wa lephata la ditšhelele kgotsa bothathi jo bo rwalang maikarabelo bo tshwanetse go buiswa jaaka bo akaretso tshupetsgo kgotsa Khansele ya Di kemsa tsa Kalafi;

(b) tlhogo ya molao wa lephata la ditšhelele e tshwanetse go tseelwa gore o akaretso tshupetsgo mo Mokwadisi wa Sekema sa Kalafi yo o thapilweng go latela karolo 18 ya Medical Schemes Act;

(c) molao wa lephata la ditšhelele e tshwanetse go tseelwa gore o akaretso tshupetsgo go didirisisa tsa taolo le go Medical Schemes Act; le

(d) setheo sa ditšhelele se se abetsweng laesense se tshwanetse go buiswa jaaka se akaretso tshupetsgo go sekema sa kalafi se se kwadisitsweng go ya ka Medical Schemes Act kgotsa motsama nasi wa sekema sa kalafi se se rebotsweng go ya ka Medical Schemes Act.

Tshwanelo ya badiredi ba Semolao

130. (1) (a) Mothoga a tshwanela go araba potso e e boditsweng, kgotsa go ikamanya le tlhokoge ya no tlhagisa lokwalo kgotsa tshedimosetso, go ya ka Kgao lo eno go ya ka moo motho a tshwanetsweng ke go teleima tshwanelo ya boithutelo jwa molao mabapi le karabo, diteng tsa lokwalo kgotsa tshedimosetso.

(b) Fa motho yo o kailweng mo temaneng (a) e le modirakamolao, motho o na le tshwanelo ya go teleima tshwanelo eo mo boemong jwa modirelwa wa motho.

(2) Karolotlaleletso (1) ga e lekanyetse tshwanelo epe ya motho.

Karolo 2

Kgobokanyo ya tshedimosetso

Kgobokanyo ya tshedimosetso

131. (1) (a) Bothathi jo bo rwalang maikarabelo a molao wa lephata la ditšhelele bo ka, ka kitisiiso e e kwetsweng go mongwe le mongwe, kopa motho go tlamela ka tshedimosetso kgotsa lokwalo le le tsepmatisitsweng le le tshotsweng ke, kgotsa le le ka fa tlase ga taolo ya, motho yo o leng maleba mo go thuseng bothathi jo bo rwalang maikarabelo go dira ditiro tsa jona go ya ka molao wa lephata la ditšhelele.

(b) Setheo se se tlhokometsweng se se nei lweng kitisiiso go ya ka temana (a) se tshwanetse go ikamanya le ditlho kego tse di mo kitisi song.

(2) (a) Bothathi jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelele bo ka, ka kitisiiso e e kwaletsweng setheo se se tlhokometsweng, kopa setheo se se tlhokometsweng go tlamela ka tshedimosetso e e tsepmatisitsweng kgotsa lokwalo le le tsepmatisitsweng le e le tlhokometsweng le e le tlhokometsweng le e le tlhokometsweng le e le tlhokometsweng le e le tlhokometsweng le e le tlhokometsweng le e le tlhokometsweng;

(i) molao wa lephata la ditšhelele;
Part 3

Supervisory on-site inspections

Powers to conduct supervisory on-site inspections

132. (1) A financial sector regulator may conduct a supervisory on-site inspection at the business premises of a supervised entity with prior notification to the supervised entity and, if the business premises of a supervised entity is a private residence, with the prior agreement of—

(a) the person apparently in control of the business reasonably believed to be conducted at the private residence; and

(b) the occupant of the private residence or the part of the private residence to be inspected.

(2) The purpose for which a financial sector regulator may conduct a supervisory on-site inspection of a supervised entity is to—

(a) check compliance by the entity with a financial sector law for which the financial sector regulator is the responsible authority, a regulator’s directive issued by the financial sector regulator or an enforceable undertaking accepted by the financial sector regulator;

(b) determine the extent of the risk posed by the entity of contraventions of a financial sector law for which the financial sector regulator is the responsible authority; and

(c) assist the financial sector regulator in supervising the relevant financial institution.

(3) (a) A financial sector regulator may determine the time and place of a supervisory on-site inspection, provided that the supervisory on-site inspection must be done at a reasonable time within ordinary business hours.

(b) A financial sector regulator must conduct a supervisory on-site inspection with strict regard to—

(i) an affected person’s right to—

(aa) dignity;

(bb) freedom and security;

(cc) privacy; and

(dd) other constitutional rights; and

(ii) decency and good order as the circumstances require, in particular by—

(aa) conducting the supervisory on-site inspection discreetly and with due decorum;

(bb) causing as little disturbance as possible; and

(cc) concluding the supervisory on-site inspection as soon as possible.

(4) (a) An official of a financial sector regulator, when conducting a supervisory on-site inspection, may do any of the following:

(i) Request any person who has a specified business document that is relevant to the inspection in his, her or its possession or under his, her or its control to produce that document and examine, make extracts from and copy any business document on the premises;

(ii) question any person on the premises to find out information relevant to the inspection;

(iii) give the supervised entity a written directive to produce to the financial sector regulator, at a time and place and in a manner specified in the directive, a regulator’s directive issued by the responsible authority; or

(iv) an enforceable undertaking accepted by the responsible authority.

(b) The responsible authority may require the information or document to be verified as specified in the notice, including by an auditor approved by the responsible authority.

(c) A supervised entity that has been given a notice in terms of paragraph (a) or (b) must comply with the requirements in the notice.

(3) The responsible authority for a financial sector law may, for the purpose of gathering information relevant to its functions, engage in the activity commonly called “mystery shopping” in respect of financial products or financial services, and similar activities.
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(ii) taelo ya molaodi wa lephata la dišišelete e e rebotswang ke bothati jwa lephata la dišišelete; kgotsa
(iii) tumalano e e gatelelwang e e amogetsweng ke bothati jo bo maleba.
(b) Bothati jo bo rwalang maikarabelo bo ka kopa tshedinomsetso kgotsa lokwalo go netefatswa jaaka go tsepamisitswe mo kitsisong, go akaretsa le ka moruni yo o rebotsweng ke bothati jo bo rwalang maikarabelo.
(c) Setheo se se tlhokometsweng se se neestsengweng kitsisgo yo ya temana (a) kgotsa
(b) se tshwanetsete go ikamanya le tlholokego tse di mo kitsisong.

(3) Bothati jo bo rwalang maikarabelo jwa lephata la dišišelete bo ka, mabapi le maïlilhomo a go kgobokanya tshedinomsetso e e malebana le ditiro ts a jona, tsaya karolo mo tirong e e itsegeng ka “theko e e makatsang” mabapi le dikuno tsa dišišelete kgotsa ditirelo tsa dišišelete, le ditiro tse di tshwanang.

Karolo 3

Ditlhatlhobo tsa bothlhokomedi tsa tirong

132. (1) Bolaodi jwa lephata la dišišelete bo ka dira ditlhatlhobo tsa bothlhokomedi kwa tirong kwa mafelong a kgwebo a setheo se se tlhokometsweng ka kitsisgo e e dirilweng pele kwa setheong se se tlhokometsweng e e bile, fa mafelo a kgwebo a setheo se se tlhokometsweng e le a poraefete, ka tumalano ya pele le—

(a) motho yo go tsewang gore o mo taalong ya kgwebo e e mabaka go dumelwang gore e dirwa kwa lefelong la poraefete; le
(b) badirisi ba lefelo leo la poraefete kgotsa karolo ya lefelol la poraefete le le tla tlholobiwang.

(2) Maitlhomo a bolaodi jwa lephata la dišišelete a go ka dira tlhatlhobo ya bothlhokomedi kwa tirong ya setheo se se tlhokometsweng ke go—

(a) tlhola go ikamanya ga setheo le molaol wa lephata la dišišelete o molaodi wa lephata la dišišelete a rwalang maikarabelo a ona kgotsa tumalano e e gatelelwang e e amogetsweng ke molaodi wa lephata la dišišelete;
(b) tlhomamisa ka moo kotsi e e tlisitsweng wa setheo ka ditlolo tsa molaol wa lephata la dišišelete o molaodi wa lephata la dišišelete a rwalang maikarabelo a ona; le
(c) thusa molaodi wa lephata la dišišelete mo go tlhokomeleng setheo sa dišišelete se se maleba.

(3) (a) Molaodi wa lephata la dišišelete o ka tlhomamisa nako le lefelo la tlhatlhobo ya bothlhokomedi kwa tirong, fa fela tlhatlhobo ya bothlhokomedi kwa tirong e e dirwa ka nako e e maleba e e welang fa ka tlase gako e e e tlaelegieng la tiro.
(b) Molaodi ya lephata la dišišelete o tshwanetse go dira tlhatlhobo ya bothlhokomedi kwa tirong ka keletlhoko e kgolo go—

(i) tshwanelo ya motho yo o amegang ya—

(aa) seriti;
(bb) kgoioloseg o le tshireletseg o;
(cc) sephiri; le
(dd) ditshwanelo tse dingwe tsa semolaatheo; le
(ii) tlholeng le tolamo jaaka maemo a tlhoka, segolosegolo ka go—

(aa) dira tlhatlhobo ya bothlhokomedi kwa tirong ka bofitlha le ka manontlhotlhoo;
(bb) dira gore go se nne le kgoreletseg o e kgolo; le
(cc) konosetsa tlhatlhobo ya bothlhokomedi ka tirong ka bonako jo bo kgonegang.

(4) (a) Mothankedwa wa bolaodi jwa lephata la dišišelete, fa a dira tlhatlhobo ya bothlhokomedi kwa tirong, o ka dira ngwele le ngwele ya tse di latelang:

(i) Kopa motho mongwele le mongwe yo o tsotseng kgotsa yo o neng a tshotse lokwalo la kgwebo le le tsepamisitswele le le leng malebana le tlhatlhobo go tlhagisa lokwalo leo le go le sekaseka, go dira ditiswa le go dira khopi go tswa mo lokwalong lengwe le lengwe la kgwebo mo lefelong; le
(ii) botsa motho mongwele le mongwe mo lefelong go batla tshedinomsetso e e malebana le tlhatlhobo;
(iii) naya setheo se se tlhokometsweng kgotsa motho yo o mo lefelong taelo e e kwetsweng ya go tlhagisa go bolaodi jwa lephata la dišišelete, ka nako, kwa

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specified business document that is relevant to the inspection and is in the possession or under the control of the supervised entity;

(iv) when a business document is produced as required by a directive in terms of subparagraph (iii), examine, make extracts from and copy the document;

(v) if, as a result of the inspection, the official or the financial sector regulator suspects on reasonable grounds that a contravention of a financial sector law has occurred or is likely to occur—

(aa) give a written directive to the supervised entity or the person apparently in control of the premises to ensure that no person removes from the premises, or conceals, destroys or otherwise interferes with, any business document; or

(bb) take possession of, and remove from the premises, a business document for the purpose of preventing another person from removing, concealing, destroying or otherwise interfering with the document.

(b) A directive in terms of paragraph (a)(iii) or (v)(aa) is effective if given to a person apparently in control of the premises.

(c) The financial sector regulator must ensure that the person apparently in control of the premises is given a written receipt for the business documents taken as mentioned in paragraph (a)(v)(bb).

(d) The financial sector regulator must ensure that any business document removed as contemplated in paragraph (a)(v)(bb) is returned to the supervised entity when retention of the business document is no longer necessary to achieve the object of a financial sector law.

(e) The supervised entity from whose premises a document was removed as contemplated in paragraph (a)(v)(bb), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document.

Interference with supervisory on-site inspections

A person may not intentionally or negligently interfere with or hinder the conduct of a supervisory on-site inspection.

Part 4

Investigations

A financial sector regulator may, in writing, appoint a person as an investigator and may appoint any person to assist the investigator in carrying out an investigation.

(2) A person appointed as an investigator must —

(a) not be a disqualified person;

(b) not have any conflict of interest in respect of the subject matter of the investigation; and

(c) have appropriate skills and expertise.

(3) The financial sector regulator must issue an investigator appointed in terms of subsection (1) with a certificate of appointment, which must be in the possession of the investigator when an investigator exercises any power or performs any duty in terms of this Act, and such investigator must produce the certificate of appointment at the request of any person in respect of whom such power is being exercised.

Powers to conduct investigations

A financial sector regulator may instruct an investigator appointed by it to conduct an investigation in terms of this Part in respect of any person, if the financial sector regulator—

(a) reasonably suspects that a person may have contravened, may be contravening or may be about to contravene, a financial sector law for which the financial sector regulator is the responsible authority; or
lefelong le ka mokgw a o o tse p a m i s i t s w e n g mo ta elo ng, lokwalo le ka kgwe bo le le tse p a m i s i t s w e n g le le malebana le tlhat hlo bo e bile le mo diatleng tsa kgotsa ka fa tla se ga taolo ya setheo se se tlhokomo tseweng;

(iv) fa lokwalo le ka kgwe bo le tlhagi s i t s w e jaaka go kopilwe ka taelo go ya ka temanatlaleletso (iii), tlhatlhoba, dira ditiswa go tswa go lona le go gatisa lokwalo;

(v) fa, go ya ka ditlamorago tsa tlhat hlo bo, motlhankedi kgotsa molaodi wa lephata la di tšhe let e a b e laela ka mabaka a a utlw an g gore tlo lo ya mola o wa lephata la di tšhe le te e e dir agetse kgotsa e ka di ra gala—

(aa) neela taelo e e kwetsweng go setheo se se tlhokometsweng kgotsa mo tho yo o o la o lang lef elo gore a se ntshe mo lefelong, kgotsa filtha, senya kgotsa ka gongwe go tshwenyana le, lokwalo le le tse p a m i s i t s w e n g la kgwe bo; kgotsa

(bb) go itsela, le go tlo s o m o lefelo ng, lokwalo le ka kgwe bo mabapi le ma itlthomo a go thibela mo tho yo mo ngwe go tlo s o, filtha, senya kgotsa ka gongwe go tshwenyane le lokwalo.

(b) Taelo go ya ka temana (a)(iii) kgotsa (v)(aa) e tsemngwa mo tirisong fa e neilwe mo tho yo a o ka tswang a laola lefelo.

(c) Molaodi wa lepha la di tšhe let e o tshawan tse gore netefatsa gore mo tho yo o o ka tswang a laola lefelo o newa rasiti e e kwetsweng mabapi lelokwalo lengwe le lengwe la kgwe bo le le tlo isiweng jaaka go ka ilwe mo temaneng (a)(v)(bb).

(d) Bolaila jwa lephata la di tšhe let e bo tshawan tse gore netefatsa gore lokwalo lengwe le lengwe la kgwe bo le le tlo isiweng jaaka go thalo sisiweng mo temaneng (a)(v)(bb) le busestwa kwa se tse khwentye ngweng se se tlhokometsweng fa pusetso ya lokwalo la kgwe bo e sa tlo hele e tlhake go fitlhelela ma itlhomo a mola o wa lephata la di tšhe let e.

(e) Setheo se se tlhokometsweng se kwa lefelo ng la sona go tlo isiweng lokwalo jaaka go ka ilwe mo temaneng (a)(v)(bb), kgotsa moemedi wa sona yo o leletsetsweng, se ka, ka nako e e tlwaelegi leng ya diura tsu tiro le ka fa tla se ga tlhokomelo ya molaodi wa lephata la di tšhe let e, tlhatlhoba, gatisa le go dira ditswana go tswe go lokwalo.

Go Ltshunyatshunya mo di tšhlahthobong tsa b o t h o kom e di tsa tirong

133. Mo tho o ka se tshwenyane le kgotsa kgorele tse go dirwa ga tlhatlhobo ya kwa tirong ya b o t h o kom e di kwa ma ke mis e t s o kgotsa b o t h a s wa.

Karolo 4

Dipatlisiso

Babatlisisi

134. (1) Molaodi wa lephata la di tšhe let e o ka, ka go kwala, tha p ho mo tho jaaka mma t lisisi le go ka tha p a mo tho mo ngwe le mongwe go thusa mmatlisisi mo go direng patlisiso.

(2) Mo tho yo o o tha p i lweng jaaka mo tthathi bo o tshwanetse—

(a) gore a bo a se mo tho yo o ile ditlweng;

(b) gore a bo a sena kgotlhang ya dikga tilha gho mabapi le morero o o o batlisisweng; e bile

(c) go nna le bokgoni jo bo maleba le boitseanape.

(3) Molaodi wa lephata la di tšhe let e o tshwanetse go abela mmatlisisi yo o tha pilweng go ya ka karolotlaletso (1) setfikeite sa go thapiwa, se o se tshawanetseng go tsholwa le mmatlisisi fa mmatlisisi a diragatsa thata ngwe le ngwe ngwe kgotsa a dira tiro ngwe go ya ka Molao ono, e bile mmatlisisi yoo o tshwanetse go tlhagisa setfikeite sa go thapiwa ka kopo ya mo tho mongwe le mongwe mabapi le yoo thata e diragatsweng mo go ena.

Dithata tsa go dira dipatlisiso

135. (1) Molaodi wa lephata la di tšhe let e o ka laela mmatlisisi yo o a mo tha pileng go dira patlisiso go ya ka Karolo eno mabapi le mo tho mongwe le mongwe, fa molaodi wa lephata la di tšhe let e —

(a) ka lebaka, a bela ela gore mo tho oka tswe a tlo te, kgotsa o tlo la kgotsa o ka tswe a le gaufi le go tlola, molao wa lephata la di tšhe let e o molaodi wa lephata la di tšhe let e a rwa lan g ma ikarabelo a ona; kgotsa
(b) reasonably believes that an investigation is necessary to achieve the objects referred to in section 251(3)(e) pursuant to a request by a designated authority in terms of a bilateral or multilateral agreement or memorandum of understanding contemplated in that section.

(2) The responsible authority may investigate any matter relating to an offence or contravention referred to in sections 78, 80 and 81 of the Financial Markets Act, including insider trading in terms of the Insider Trading Act, 1998 (Act No. 135 of 1998), and the offences referred to in Chapter VIII of the Securities Services Act, 2004 (Act No. 36 of 2004), committed before the repeal of those Acts.

Powers of investigators to question and require production of documents or other items

136. (1) (a) An investigator may, for the purposes of conducting an investigation, do any of the following:

(i) By written notice, require any person who the investigator reasonably believes may be able to provide information relevant to the investigation to appear before the investigator, at a time and place specified in the notice, to be questioned by an investigator;

(ii) by written notice, require any person who the investigator reasonably believes may be able to produce a document or item relevant to the investigation, to—

(aa) produce the document or item to an investigator, at a time and place specified in the notice;
or

(bb) produce the document or item to an investigator, at a time and place specified in the notice, to be questioned by an investigator about the document or item;

(iii) question a person who is complying with a notice in terms of subparagraph (i) or (ii)(bb);

(iv) require a person being questioned as mentioned in subparagraph (i) or (ii)(bb) to make an oath or affirmation, and administer such an oath or affirmation;

(v) examine, copy or make extracts from any document or item produced to an investigator as required in terms of this paragraph;

(vi) take possession of, and retain, any document or item produced to an investigator as required in terms of this paragraph; and

(vii) give a directive to a person present while the investigator is exercising powers in terms of this section, to facilitate the exercise of such powers.

(b) An investigator who takes a document or item in terms of paragraph (a)(vi) must give the person producing it a written receipt.

(c) Subject to paragraph (d), the investigator must ensure that a document or item taken in terms of paragraph (a)(vi) is returned to the person who produced it when—

(i) retention of the document or item is no longer necessary to achieve the object of the investigation; or

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

(d) A document or item need not be returned to the person who produced it if—

(i) the document or item has been handed over to a designated authority; or

(ii) it is not in the best interest of the public or any member or members of the public for the document or item to be returned.

(e) A person otherwise entitled to possession of a document or item taken in terms of paragraph (a)(vi), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document, or inspect the item.

(2) A person being questioned in terms of this section is entitled to have a legal practitioner present at the questioning to assist the person.
(b) a dumela ka mabaka gore patlisiso e tlhokega go fitlhelela maikaelelo a a kailweng mo karolong 253(3)(e) go ikamanye le kopo ya bothati jo bo kopang go ya ka tumalamo ya sebedi kgotsa bontsi kgotsa memorandum wa tumalano o o tlhalositsweng mo karolong eo.

(2) Bolaodi jo bo rwalang maikarabelo bo ka batliisisa morero mongwe o o amaran le molato kgotsa tlolomoloae e e kailweng mo dikarolong 78, 80 le 81 tsa Financial Markets Act, go akaretsa le go gweba go go seng mo molaong ga motho yo o nang le tshedimoseto e e bofihla go ya ka Insider Trading Act, 1998 (Molao 135 wa 1998), le melato e e kailweng mo Kgaolong VIII ya Securities Services Act, 2004 (Molao 36 wa 2004), e e dirilweng pele ga go phimolwa ga Melao eo.

Dithata tsa babatliisisi tsa botsolotsa le go kopa go thlagiswa ga makwalo kgotsa dilo dingwe

136. (1) (a) Mmatlisisi o ka, ka maitlhomo a go dira patlisiso, dira ngwele le ngwe ya tse ti latelang:

(i) Ka kitsiso e e kwetsweng, kopa motho mongwe le mongwe yo mmatisisisi a dumelang ntle le pelaelo gore o ka kgona go lamela ka tshedimoseto e e maleba go patlisiso go tlahagisa fa pele ga mmatisisisi, ka nako le kwa lefelson le le le tsepamisitsweng mo kitsisong, go botsolotswa ke mmatisisisi;

(ii) ka kitsiso e e kwetsweng, kopa motho mongwe le mongwe yo mmatisisisi a dumelang ntle le pelaelo gore o ka kgona go tlahagisa lokwalo kgotsa sengwe se se maleba go patlisiso, go—

(aa) tlahagisa lokwalo kgotsa ntlha go mmatisisisi, ka nako le kwa lefelson le le tsepamisitsweng mo kitsisong; kgotsa

(bb) tlahagisa lokwalo kgotsa sero go mmatisisisi, ka nako le kwa lefelson le le tsepamisitsweng mo kitsisong, go botsolotswa ke mmatisisisi ga ka lokwalo kgotsa sengwe;

(iii) botsa motho yo o ikamanyang le kitsiso go ya ka temanatlaletseto (i) kgotsa (ii)(bb);

(iv) kopa motho yo o botswang dipotso jaaka go kailwe mo temanatlaletsetsong (i) kgotsa (ii)(bb) go dira maikano kgotsa thhomamiso, le go tsumaiwa maikano ao kgotsa thhomamiso eo;

(v) tlahithoba, gatisa kgotsa dira ditswa go tswa mo lokwalong lengwe le lengwe kgotsa selong se se tlaHagisitsweng go mmatisisisi jaaka go tlhokega go ya ka temana eno (a);

(vi) go itsela, le go tlosa mo lefelson, lokwalo lengwe le lengwe kgotsa sengwe selo se se tlaHagisitsweng go mmatisisisi jaaka go tlhokega go ya ka temana eno (a); le

(vii) neela taelo go motho yo o leng teng fa mmatisisisi a diragatsa dithata go ya ka karolo eno, go nolofatsa tiragatso ya dithata tseo.

(b) Mmatlisisis o o tsaang lokwalo kgotsa sero go ya ka temana (aj)(vi) o tshawnetse go naya motho yo o le tlhagisang rasiti e e kwetsweng.

(c) Go latela temana (d), mmatisisisi o tshawnetse go netafatsa gore lokwalo kgotsa sengwe se se tserweng go ya ka temana (aj)(vi) se busetswa kwa mothong yo o se tlaHagisitseng fa—

(i) pusetso ya lokwalong kgotsa sengwe e sa thole e tlhokela go fitlhelela maitlhomo a patlisiso; kgotsa

(ii) ditsamaiso tothle tse di tlhageletseng go tswa mo patlisisong di latlhilwe kwa bokhutlong.

(d) Lokwalo kgotsa sengwe se tshawnetse go busetswa kwa mothong yo o se tlaHagisitseng f—a—

(i) lokwalo kgotsa sengwe se gorobitsweng kwa bothathing jo bo tlhohiliweng; kgotsa

(ii) ka mogopo loa Khomiisenara, go se mo kgatlhegong ya setšhaba kgotsa leloko lengwe le lengwe kgotsa maloko a setšhaba gore dikwalo kgotsa dingwe di buswe.

(e) Motho yo ka gongwe a tshawnetsego o mma mong wa lokwalo kgotsa sengwe se se tserweng go ya ka temana (aj)(vi), kgotsa moemedi yo o leletseletseng, o ka, ka nako ya diura tsa tiro e e tlwaelegileng le ka fa tlaSe ga thlokomelo ya bolaodi jwa lephana la ditšhelete, tlhithoba, gatisa le go dira ditswa go tswa mo lokwalong, kgotsa go tlahithoba sero.

(2) Motho yo o botswang go ya ka karolo eno o tshawnetse ke go emelwa ke moitseanape wa semolao yo o leng teng kwa botsolotsotsa go mo thusa.
Powers of investigators to enter and search premises

137. (1) An investigator may, for the purposes of conducting an investigation, do any of the following:

(a) Enter any premises—

(i) with the prior consent of—

(aa) in the case of a private residence, the person apparently in control of the business reasonably believed to be conducted at the private residence, and the occupant of the private residence or the part of the private residence to be entered; or

(bb) in the case of any other premises, the person apparently in control of the premises,

after informing that person that—

(AA) granting consent will enable the investigator to enter the premises and for the investigator to subsequently search the premises as referred to in paragraph (b) or (c), and to do anything contemplated in subsection (6); and

(BB) he or she is under no obligation to admit the investigator in the absence of a warrant; or

(ii) without prior consent and without prior notice to any person—

(aa) if the entry is authorised by a warrant; or

(bb) with the prior authority of the head of a financial sector regulator or a senior staff member of the financial sector regulator delegated to perform the function, if the head of a financial sector regulator or senior staff member on reasonable grounds believes that—

(AA) a warrant will be issued under section 138(1) if applied for;

(BB) the delay in obtaining the warrant is likely to defeat the purpose for which entry of the premises is sought; and

(CC) it is necessary to enter the premises to conduct the investigation and search the premises as referred to in paragraph (b) or (c), and to do anything contemplated in subsection (6);

(b) if the investigation is one referred to in section 135(1)(a), search the premises for evidence of a contravention of a financial sector law; or

(c) if the investigation is one referred to in section 135(1)(b), search the premises pursuant to the request, subject to section 251.

(2) The authority of an investigator in terms of subsection (1)(a) to enter a premises also provides authority for the investigator to subsequently search the premises as referred to in subsection (1)(a)(ii)(bb), if the investigator on reasonable grounds believes that the purpose for which the entry and search is sought, is likely to be defeated by a delay, as close to ordinary business hours as the circumstances reasonably permit.

(3) An investigator exercising powers in terms of this section must do so with strict regard to—

(a) an affected person’s right to—

(i) dignity;

(ii) freedom and security;

(iii) privacy; and

(iv) other constitutional rights; and

(b) decency and good order as the circumstances require, in particular by—

(i) entering and searching only such areas or objects as are reasonably required for the purposes of the investigation;

(ii) conducting the search discreetly and with due decorum;

(iii) causing as little disturbance as possible; and

(iv) concluding the search as soon as possible.

(4) An entry or search of premises in terms of this Part must be done, at a reasonable time within ordinary business hours,—

(a) unless the warrant authorising it expressly authorises entry at night; or

(b) in the case of a search contemplated in subsection (1)(a)(ii)(bb), if the investigator on reasonable grounds believes that the purpose for which the entry and search is sought, is likely to be defeated by a delay, as close to ordinary business hours as the circumstances reasonably permit.
Dithata tsa babatlisisi tsa go tsena le go batla mo mafelong

137. (1) Mmatlisisi o ka, ka maitlhomo a go dira patlisiso, dira ngwwe ya tse di latelang:
   (a) Go tsena mo lefelong lengwe le lengwe—
      (i) ka tumelelo ya pele ya—
         (aa) mabapi le tulo ya poraefete, motho yo omang mo tulung ya poraefete kgotsa karolo ya tulo ya poraefete e go tla tsenwang mo go yona; kgotsa
         (bb) mo lebakeng la ditulo dingwe le dingwe, motho yo o ka tswang a le mo taolong ya ditulo, morago ga go itsise motho yoo gore—
      (AA) go abelana ka tumelelo go tla kgontsha mmatlisisi go tsena mo tulung le gore mmatlisisi a phuruphutse ditulo jaaka go kailwe mo temanatlaileletsong (b) kgotsa (c), le go dira sengwe le sengwe se thalositsweng mo karolotlaileletsong (6); le
      (BB) ga a patelesse go amogela mmatlisisi fa thebolo e seyo; kgotsa
   (ii) ntle le tumelelo eo le ntle le tumelelo ya pele go moto mongwe le mongwe—
      (aa) fa go tsena go letleletsigoyakakarolotlaleletso
      (bb) ka taolo ya pele ya tlhogo ya balaodi jwa lephata la ditšhelete kgotsa modirimmogo yo mogolo wa balaodi jwa lephata la ditšhelete yo o romilweng go dira tiro, fa tlhogo ya balaodi jwa lephata la lephata la ditšhelete kgotsa modirimmogo yo mogolo a dumela ka mabaka a a utwalang gore—
      (AA) thebolo e tla rebolwa ka fa tlaae ga karolo 138(1) fa e diretswe kopo;
      (BB) tiego mo go fitlheleling thebolo e ka ama maitlhomo a kopo e e dirilweng mabapi le go tsena mo ditulong; le
      (CC) go bothhokwa go tsena mo ditulong go dira dipatlisiso le diphuruphutso jaaka go kailwe mo temaneng (b) kgotsa (c), le go dira sengwe le sengwe se se thalositsweng mo karolotlaileletsong (6);
   (b) fa patlisiso le e e kailweng mo karolong 135(1)(a), go phuruphutsa lefelo go batla sengwe le sengwe se se ka thusang ka bosupi jwa tlolo ya molao wa lephata la ditšhelete; kgotsa
   (c) fa patlisiso le e e kailweng mo karolong 135(1)(b), go phuruphutsa lefelo go latela kopo, go latela karolo 251.

(2) Taolo ya mmatlisisi go ya ka karolotlaileletso (1)(a) go tsena mo lefelong e lamela gape ka taolo ya mmatlisisi ya go phuruphutsa mo mafelong jaaka go thalositsweng mo karolotlaileletsong (1)(b) kgotsa (c), le go dira sengwe le sengwe se se kailweng mo karolotlaileletsong (6).

(3) Mmatlisisi yo o dirisang dithata go ya ka karolo eno o tsheanetse go dira seno ka keletlhoko e kgo lo go—
   (a) tswanaelo ya mouamegi ya—
      (i) seriti;
      (ii) kgololosego le tshireletsego;
      (iii) bosephiri jwa bowena; le
      (iv) ditswanaelo tse dingwe tsa semoloa theo; le
   (b) tshiiamo le tolamo jaaka maemo a lela, segologoselo ka—
      (i) go tsena le go phuruphutsa felo mo mafelong ao le maikaelelo ao jaaka go tlhokega ka mabaka mabapi le maitlhomo a patlisiso;
      (ii) go phuruphutsa ka tidimalo le ka nepagalo e e maleba;
      (iii) go dira gore go se nne le kgoreletsego e kgo lo; le
      (iv) go konosetsa patlisiso ka bonako jo bo kgonegang.

(4) Tseno kgotsa phuruphutso mo lefelong go ya ka Karolo eno e tsheanetse go dirwa ka nako e e maleba mo dinakong tse di tlwaelegile kgotsa tse tiro—
   (a) ntle le fa thebolo e e nayang teta e letlelela gore go tsene wo bosigo; kgotsa
   (b) mo lebakeng la phuruphutso e e thalositsweng mo karolotlaileletsong (1)(a)(ii)(bb), fa mmatlisisi ka mabaka a a utwalang a dumela gore maitlhomo a tsena kgotsa phuruphutso e a diretsweng, a ka angwa ke tiego, mo nakong e e gau le dinako tse di tlwaelegile kgotsa tse tiro jaaka maemo a lela go ya ka mabaka.
(5) An investigator may be accompanied and assisted during the entry and search of any premises for an investigation by a police officer or a person appointed in terms of section 134.

(6) (a) While on the premises in terms of this section, an investigator, for the purpose of conducting the investigation, has the right of access to any part of the premises and to any document or item on the premises, and may do any of the following:

(i) Open or cause to be opened any strongroom, safe, cabinet or other container in which the investigator reasonably suspects there is a document or item that may afford evidence of the contravention concerned or be relevant to the request;

(ii) examine, make extracts from and copy any document on the premises;

(iii) question any person on the premises to find out information relevant to the investigation;

(iv) require a person on the premises to produce to the investigator any document or item that is relevant to the investigation and is in the possession or under the control of the person;

(v) require a person on the premises to operate any computer or similar system on or available through the premises to—

(aa) search any information in or available through that system; and

(bb) produce a record of that information in any media that the investigator reasonably requires;

(vi) if it is not practicable or appropriate to make a requirement in terms of subparagraph (v), operate any computer or similar system on or available through the premises for a purpose set out in that subparagraph; and

(vii) take possession of, and take from the premises, a document or item that may afford evidence of the contravention concerned or be relevant to the request.

(b) An investigator must give the person apparently in charge of the premises a written receipt for documents or items taken as mentioned in paragraph (a)(vii).

(c) Subject to paragraph (d), the investigator must ensure that any document or item taken by the investigator as mentioned in paragraph (a)(vii) is returned to the person when—

(i) retention of the document or item is no longer necessary to achieve the object of the investigation; or

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

(d) A document or item need not be returned to the person who produced it if —

(i) the document or item has been handed over to a designated authority; or

(ii) it is not in the best interest of the public or any member or members of the public for the documents or items to be returned.

(e) A person from whose premises a document or item was taken as mentioned in paragraph (a)(vii), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document or item.

(7) An investigator, and any person assisting an investigator as mentioned in subsection (5), may use reasonable force to exercise any power in terms of this section.

Warrants

138. (1) (a) A judge or magistrate who has jurisdiction may issue a warrant for the purposes of this Part on application by an investigator.

(b) The judge or magistrate may issue a warrant in terms of this section—

(i) on written application by the investigator setting out under oath or affirmation why it is necessary to enter and investigate the premises; and

(ii) if it appears to the magistrate or judge from the information under oath or affirmation that—

(aa) in the case of an investigation under section 135(1)(a), that—

(AA) there are reasonable grounds for suspecting that a contravention of a financial sector law has occurred, may be occurring or may be about to occur;
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(5) Mmatlisisi o ka patwa le go thuswa ka nako ya tseno le patlo ya lefelo lengwe le lengwe go ya go dira patlisiso ke mothlankedwa wa sepodisi kgotsa motho yo thapilweng go ya ka karolo 134.

(6) (a) Fa a le kwa lefelo long go ya ka karolo eno mmatlisisi, ka matlhomo a go dira patlisiso, o na le tshelelwe ya go isena mo karologong ngwe le ngwe le lefelo le go lokwalo lengwe le lengwe kgotsa sengwe le sengwe e bile o ka dira ngwe le ngwe ya tse di latelang:

(i) Bula kgotsa a dira gore go bulwe kamore ya polokelo, polokelo, kobotlo kgotsa setshelo sengwe se mmatlisisi a ka belaclang a mabaka a a utlwangan gore se na le lokwalo kgotsa sengwe se se ka nnang bopaki jwa tlolo e e amegang;

(ii) tlhathloba, dira ditswa le go gatisa lokwalo lengwe le lengwe mo lefelo;

(iii) botsa motho mongwe le mongwe mo lefelong go batlisisa tshedimosetso e e malebana le patlisiso;

(iv) kopa motho mo lefelong go thagisetsa mmatlisisi lokwalo lengwe le lengwe kgotsa sengwe se se malebana le patlisisi e bile se tsbotswe kgotsa se le le tla se ga taolo ya motho;

(v) kopa motho yo o mo lefelong go dirisa khomputara ngwe le ngwe kgotsa thulaganyo e e tshwanang le e e leng teng mo lefelong go—

(aa) batla tshedimosetso ngwe le ngwe e eleng teng ka tiriso ya thulaganyo e e le;

(bb) tlahisungo rekoto ya tshedimosetso e e tshwanele tlokweng ke mmatlisisi;

(vi) fa go sa kgonege kgotsa go le matshwandedi go dira tlhokego ya ga ka temanatlaletso (v), dirisa khomputara ngwe le ngwe kgotsa thulaganyo e e tshwanang le e e kgotsa e e kgotsa e e leng teng mo lefelong ka matlhomo a a kwaikeng le le tla se le le bokhutlong;

(vii) itseela, le go go tsaya go tswa mo lefelo, lokwalo kgotsa sengwe seo se ka nnang bopaki jwa tlolo e e amegang kgotsa se se ka naang maleba mo kopong.

(b) Mmatlisisi o tshwane tse ya nayo motho ya ka ponalo a rwalang maikarabelo a lefelo Rasiti e e kwetsweng ya lokwalo lengwe le lengwe kgotsa sengwe se se tserweng ke mmatlisisi jaaka go kaikwe mo temaneng (a)(vii).

(7) Mmatlisisi, le motho mongwe le motho yo o thusang mmatlisisi jaaka go thalositswe mo karolotlaletsetso (5), o ka dirisa kgatelelo go diragatsa thata ngwe le ngwe go ya ka karolo eno.

Ditboselelo

138. (1) (a) Moatlhodi kgotsa magiseterata yo o nang le taolo o ka rebola thebolo mabapi le matlhomo a Karolo eno mo Kopong ya Mmatlisisi.  

(b) Moatlhodi kgotsa magiseterata o ka rebola thebolo go ya ka karolo eno—

(i) go tsholwa ga lokwalo kgotsa sengwe go sa tlhole go tlhokego ka fihilelela matlhomo a patlisiso; kgotsa

(ii) ditsemaiso tothle tse di tlhageletseng go tswe mo patlisisong di latlhilwe kwa bokhutlong.

(d) Lokwalo kgotsa sengwe se tshwane tse go busetswe kwa mothong yo o se tlhagisetseng fa—

(i) lokwalo kgotsa sengwe se sena go ne wa botha jo bo tlhomiweng; kgotsa

(ii) go se mo kgatleheong go setshi kgotsa leloko kgotsa maloko a setshi kgotsa dikwalo kgotsa dinngwe di buswe.

(e) Motho yo lokwalo kgotsa sengwe se tserweng kwa lefelope le gagwe jaaka go kaikwe mo temaneng (a)(vii), kgotsa kemedi ya gagwe e e dumeletsweng, o, ka, ka dinako tse ti se di tlwaelegieng tsa tiro le ka fa tla se ga thokomelo ya molaodi wa lephata la dithelele, tlhathloba, gatisa le go dira ditswa go tswe mo lokwalo long kgotsa sengwe.

(7) Mmatlisisi, le motho mongwe le mongwe yo o thusang mmatlisisi jaaka go thalositswe mo karolotlaletsetso (5), o ka dirisa kgatelelo go diragatsa thata ngwe le ngwe go ya ka karolo eno.
(BB) entry and investigation of the premises are likely to yield information pertaining to the contravention; and

(CC) entry and investigation of those premises is reasonably necessary for the purposes of the investigation;

(bb) in the case of an investigation under section 135(1)(b), that there are reasonable grounds to believe that the investigation is necessary to comply with a request referred to in that section.

(2) A warrant issued in terms of this section must be signed by the judge or magistrate issuing it.

(3) An investigator who enters premises under the authority of a warrant must—

(a) if there is apparently no one in charge of the premises when the warrant is executed, fix a copy of the warrant on a prominent and accessible place on the premises; and

(b) on reasonable demand by any person on the premises, produce the warrant or a copy of the warrant.

Interference with investigations

139. (1) A person may not intentionally or negligently interfere with or hinder the conduct of an investigation.

(2) Subject to section 140, a person who is given a notice or directive in terms of this Part must comply with the requirements in the notice or directive, as the case may be.

(3) Subject to section 140, a person who is asked a question in terms of this Part must answer the question fully and truthfully, to the best of the person’s knowledge.

(4) A person may not, except with a lawful excuse, refuse or fail to comply with any reasonable request by an investigator in connection with the conduct of an investigation.

(5) A person may not give an investigator any information that is false or misleading, including by omission, and is relevant to an investigation, if the person knew that the information was false or misleading, including by omission.

Part 5

Protections

140. (1) (a) A person who is questioned, or required to produce a document or information, during a supervisory on-site inspection contemplated in section 132, or by an investigator in terms of Part 4 of this Chapter, whether in response to a notice contemplated in section 136, or when an investigator is exercising the powers contemplated in section 137(6)(a)(iii) to (v), may object to answering the question or to producing the document or the information on the grounds that the answer, the contents of the document or the information may tend to incriminate the person.

(b) On such an objection, the official of the financial sector regulator conducting the supervisory on-site inspection or the investigator may require the question to be answered or the document or information to be produced, in which case the person must answer the question or produce the document.

(c) An incriminating answer given, and an incriminating document or information produced, as required in terms of paragraph (b), is not admissible in evidence against the person in any criminal proceedings, except in criminal proceedings for perjury or in which that person is tried for a contravention of section 273 based on the false or misleading nature of the answer.

(2) An official of the financial sector regulator conducting a supervisory on-site inspection or an investigator must inform the person of the right to object in terms of this section at the commencement of the supervisory on-site inspection or the investigation.
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(BB) tsen le patlisiso mo mafelong e ka tisa tshedimosotse e e mabapi le tlolo;

(CC) tsen le patlisiso mo mafelong ao e tlhokega ka mahaka mabapi le maiithlomo a patlisiso;

(bb) mo lebakeng la patlisiso e e ka fa tlase ga karolo 135(1)(b), go na le mabaka a a utlwalang go dumela gore patlisiso e a tlhoka go ikamanya le kopo e e kailweng mo karolong eo.

(2) Thebolo e e rebotsweng go ya ka karolo eno e tshwanetse go saenwa ke moatlhodi kgotsa magiseretata yo o e rebolang.

(3) Mmatlisisi yo o tsenang kwa lefelong ka fa tlase ga tumelelo ya thebolo o tshwanetse—

(a) fa ka ponalo go se ope yo o rwalang maikarabelo a lefelo fa thebolo e diragatswa, go baya kgatiso ya thebolo mo lefelong le le bonalang e bie le fitlhelega; le

(b) ka topo e e utlwalang ya motho mongwe le mongwe mo lefelong, go tlhagisa thebolo kgotsa kgatiso ya thebolo.

Go ithunyatsunya no dipatlisisong

139, (1) Motho o ka se ithunyane ka maikaelelo kgotsa boatla mo kgotsa o ka se thibele go darwa ga patlisiso.

(2) Go ya ka karolo 140, motho yo o neetsweng kitsiso kgotsa taelo go ya ka Karolo eno o tshwanetse go ikamanya le ditlhokego tse di mo kitsisong kgotsa taelong, jaaka go le maleba.

(3) Go ya ka karolo 140, motho yo o boditsweng potso go ya ka Karolo eno o tshwanetse go araba potso ka botlalo le ka bonnete, go ya ka kitso ya gagwe.

(4) Motho o ka se, ntle le lebaka la semolao, gane kgotsa palelwse ke go ikamanya le kopo e e utlwalang ya mmatlisisi mabapi le go dirwa ga patlisiso.

(5) Motho o ka se neye mmatlisisi tshedimosetso e e fosagetseng kgotsa e e timetsang, go akaretsa le ka tlogetlo, e bie e le maleba mo patlisison, fa motho a ne a itse gore tshedimosetso e fosagetseng kgotsa e e timetsang, go akaretsa le ka tlogetlo.

**Karolo 5**

Ditshireletso

140. (1) (a) Motho yo o botsolotswang kgotsa yo o tlhokegang go tlhagisa lokwalo kgotsa tshedimosetso, ka nako ya tlhatlhobo y o bothokomedi kwa tirong e e tlhalositsweng mo karolong 132, kgotsa ka mmatlisisi kwa ya Karolo 4 ya Kgaolo eno, e ka tswa e le ka tsibogelo ya kitsiso e e tlhalositsweng mo karolong 136, kgotsa fa mmatlisisi a diragatsa dithata tse di tlhalositsweng mo karolong 137(6)(a)(iii) go fitlha go (v), o ka ema kgatlhanong le go araba dipotso kgotsa go tlhagisa lokwalo kgotsa tshedimosetso ka mabaka a gore karabo, diteng tsa lokwalo kgotsa tshedimosetso e ka baya motho molato.

(b) Mo kemokgatlhanong eo, motlhankedi wa bolaedi jwa lepatha la ditshilete yo o dirang tlhatlhobo ya bothokomedi kwa lefelong kgotsa mmatlisisi o ka kopa gore potso e earibwe kgotsa lokwalo kgotsa tshedimosetso e tlhagisiwe, e mo lebakeng le motho a tshwanetseg go araba potso kgotsa go tlhagisa lokwalo.

(c) Karabo e e bofelelang e e nei, le lokwalo le le bofelelang kgotsa tshedimosetso e e tlhagisiwe, jaaka go tlhokega go ya ka temana (b), ga e amogelesego mo bopaking kgatlhanong le motho mo tsamaisong ngwe le ngwe ya bosenyi, ntle le fa mo tsamaisong ya bosenyi mabapi le maikan e maa ka kgotsa e e go yona motho a sekisetsweng go tlola karolo 273 go ikaegile go mofuteng wa karabo e e fosagetseng kgotsa e e timetsang.

(2) Motlhankedi wa bolaedi jwa lepatha la ditshilete yo o dirang tlhatlhobo ya bothokomedi kwa tirong kgotsa mmatlisisi o tshwanetse go itische motho ka tshwanelo ya go ema kgatlhanong go ya ka karolo eno kwa tshimologong ya tlhatlhobo ya bothokomedi kwa lefelong kgotsa patlisiso.
CHAPTER 10

ENFORCEMENT

Part 1

Guidance notices and interpretation rulings

141. (1) The responsible authority for a financial sector law may publish guidance notices on the application of the financial sector law.
(2) Guidance notices are for information, and are not binding.

Interpretation rulings

142. (1) The responsible authority for a financial sector law may publish a statement (an “interpretation ruling”) regarding the interpretation or application of a specified provision of that law, in circumstances specified in the statement.
(2) The purpose of an interpretation ruling is to promote clarity, consistency and certainty in the interpretation and application of financial sector laws.
(3) The responsible authority must interpret and apply the provision of the financial sector law to which the interpretation ruling relates in accordance with the interpretation ruling.
(4) An interpretation ruling ceases to be effective if—
   (a) a provision of the financial sector law that was the subject of the interpretation ruling is repealed or amended in a manner that materially affects the interpretation ruling, in which case the interpretation ruling will cease to be effective from the date that the repeal or amendment is effective; or
   (b) a court overturns or modifies an interpretation of the financial sector law on which the interpretation ruling is based, in which case the interpretation ruling will cease to be effective from the date of judgment unless—
      (i) the decision is under appeal;
      (ii) the decision is fact-specific and the general interpretation upon which the interpretation ruling was based is unaffected; or
      (iii) the reference to the interpretation upon which the interpretation ruling was based did not form a part of the reasoning on which the judgment of the court was based.
(5) The responsible authority that issues an interpretation ruling may amend or revoke the interpretation ruling if it is necessary to do so because of a judicial decision or a change in the law.
(6) An interpretation ruling ceases to be effective upon the occurrence of any of the circumstances described in subsection (4), whether or not the responsible authority publishes a notice of withdrawal or modification of the interpretation ruling.
(7) Before the responsible authority issues an interpretation ruling, it must publish—
   (a) a draft of the proposed interpretation ruling; and
   (b) a notice calling for written public comments within a period specified in the notice, which period must be at least one month from the date of publication of the notice.
(8) The responsible authority is not obliged to comply with subsection (7) in relation to an amendment to, or a revocation of, an interpretation ruling.
(9) The responsible authority that issues an interpretation ruling must publish it.
Dikitsiso tsu kaelo le ditshwetso tsu thaloso

141. (1) Bothati jo bo rwalang maikaarabelo mo molaong wa lephata la ditšhelete bo ka phasalatsa dikitsiso tsu kaelo mo tirisong ya molaow le lephata la ditšhelete. (2) Dikitsiso tsu kaelo ke tsu tshekimo setso, e bile ga di tlame.

Ditshwetso tsa thaloso

142. (1) Bothati jo bo rwalang maikaarabelo mo molaong wa lephata la ditšhelete bo ka phasalatsa polelo (“tslwetso ya thaloso”) mabapi le thaloso kgotsa tiriso kabelo e e tspamisitsweng ya molaow oo, mo mabakeng a a tspamisitsweng mo polelung. (2) Maflhomo a thaloso ya tshwetso ya thaloso ke go nthetsa pele thalosetso, tsepamo le tlhomamomo mo go t泸halseng le tirisong ya molaow ya lephata la ditšhelete. (3) Bothati jo bo rwalang maikaarabelo bo tshwanetse go thalosal le go dirisa kabelo ya molaow wa lephata la ditšhelete e e amanang le tshwetso ya thaloso go tsamaelana le tshwetso ya thaloso. (4) Thaloso e e tlamanang e khutla go diriswa fa— (a) kabelo ya molaow wa lephata la ditšhelete e e neng e le yona morero wa tshwetso ya thaloso e phimolwa kgotsa e lehlabolola ka mokgwa o o amang segolo tshwetso ya thaloso, fa go le jalo tshwetso ya thaloso e tla khutisa go dira go tloga ka letla la go tsengwla tirisong ga phimolwa kgotsa tlabololo; kgotsa (b) kgotlatshhekela e phimola kgotsa fetola thaloso ya molaow wa lephata la ditšhelete o tshwetso ya thaloso e tlelweng mo go ona, fa go le jalo tshwetso ya thaloso e tla khutla go dira go tloga ka letsatsi ka katlholo ntle le fa— (i) tshwetso e le ka fa tlase ga boikuelo; (ii) tshwetso e tspamisitswe mo ntšheng e e bile thaloso ya kakaretso e o tshwetso ya thaloso e tlelweng mo go yona ga e a amega; kgotsa (iii) tshupetso go tlahlosa go tshwetso ya thaloso e e neng e tlelweng mo go yona e ne e se karolo ya neo ya mabaka eo katlholo ya kgotlatshhekela e neng e tlelweng mo go yona. (5) Bothati jo bo rwalang maikaarabelo jo bo rebolang tshwetso yatlahlosa bo ka tlahbolola kgotsa phimola tshwetso ya thaloso fa go thokega gore go dirwe jalo ka nthla ya phetogo mo molaong kgotsa tshwetso ya boatlhodi. (6) Tlahlosa e e tlamanang e khutla go diriswa fa go diragala nangwe ya mabaka a a tlaholositsweng mo karolotlaletso (4), fa bothati jo bo rwalang maikaarabelo bo phasaladitse kgotsa bo sa phasalatsa kitsiso ya kgogelomorogo kgotsa phetolo ya tlahlosa e e tlamanang. (7) Pele bothati jo bo rwalang maikaarabelo bo rebola tshwetso ya thaloso, bo tshwanetse go phasalatsa— (a) thalo ya tshwetso ya thaloso e e tshitsitsweng; le (b) kitsiso e e latelaang ditshwaelo tsu setšhaba tse di kwetseng mo pakeng e e tspamisitsweng mo kitsisong, paka eo e tshwanetse go nna bonnye kgwedi e le esi go tloga ka letla la phasalatsa ya kitsiso. (8) Bothati jo bo rwalang maikaarabelo ga bo patelese go ikamanya le karolotlaletso (7) mabapi le tlabololo go, kgotsa phimola ya, tshwetso ya tlahoso. (9) Bothati jo bo rwalang maikaarabelo jo bo rebolang tshwetso ya tlahoso bo tshwanetse go e phasalatsa.
Directives by Prudential Authority

143. (1) The Prudential Authority may issue to either of the following persons:
   (a) A financial institution that provides a financial product or securities services, or that is a market infrastructure; and
   (b) a key person of a financial institution,
   a written directive requiring the person to take action specified in the directive if—
   (i) the financial institution is conducting its business in an improper or financially unsound way and, as a result, there is a risk that the financial institution may not be able to comply with its obligations; or
   (ii) the financial institution or key person of a financial institution—
      (aa) has contravened or is likely to contravene a financial sector law for which the Prudential Authority is the responsible authority;
      (bb) has not complied with an enforceable undertaking accepted by the Prudential Authority;
      (cc) is involved or is likely to be involved in financial crime; or
      (dd) is causing or contributing to instability in the financial system, or is likely to do so.

(2) The Prudential Authority may issue to a holding company of a financial conglomerate a written directive requiring the holding company to take action specified in the directive, if the holding company or another company in the financial conglomerate concerned—
   (a) is conducting its business in an improper or financially unsound way and, as a result, there is a risk that an eligible financial institution in the conglomerate will not be able to comply with its obligations under a financial sector law or in relation to a financial product or financial service that it provides or offers to provide;
   (b) has not complied with an enforceable undertaking accepted by the Prudential Authority;
   (c) has contravened or is likely to contravene a financial sector law;
   (d) is involved or is likely to be involved in financial crime; or
   (e) is causing or contributing to instability in the financial system, or is likely to do so.

(3) A directive in terms of subsection (1) or (2) must be aimed at achieving the objective of the Prudential Authority set out in section 33 and—
   (a) reducing any risks referred to in subsection (1)(b)(i) or (2)(a);
   (b) ensuring that the financial institution or the directed person complies with the enforceable undertaking that was accepted by the Prudential Authority;
   (c) stopping the financial institution or company from contravening applicable financial sector laws, or reducing the risk of such contraventions;
   (d) stopping the financial institution or company from being involved in financial crime, and reducing the risk that it may be so involved;
   (e) reducing the risk that a systemic event may occur; or
   (f) remedying the effects of a contravention of a financial sector law or the person’s involvement in financial crime.

(4) The Prudential Authority may not issue a directive to a financial institution on the basis set out in subsection (1)(b)(ii)(dd) unless it has been directed in terms of section 18 to do so or with the concurrence of the Reserve Bank.

(5) Action that may be specified in a directive in terms of subsection (1) includes the following:
   (a) The financial institution ceasing offering or providing a specific financial product;
**Karolo 2**

*Ditaelo tsaloaodi ba lephata la ditšhelete*

*Ditaelo ka Bothati jwa Tlhokomelo*

143. (1) Bothati jwa Tlhokomelo bo ka rebola go mongwe wa batho ba ba latelang:

(a) setheo sa ditšhelete se se tlamelelang ka kuno ya ditšhelete kgotsa ditirelo tsa ditšoto, kgotsa ba e leng thulaganyeto ya popegotheo; le

(b) motho yo o bothokwa wa setheo sa ditšhelete;

taelo e e kwetsweng e e tlhokang motho go tsaya kgato e e tsepmisitsweng mo taelong fa—

(i) setheo sa ditšhelete se dira tiro ya sona ka mokgwa o o sa siamang kgotsa wa tsa maisyo ya ditšhelete e e sokameng le, ka nthla ya seo, go na le kotsi ya gore setheo sa ditšhelete se ka se kgone go ikamany a le ditlamego tsa sona; kgotsa

(ii) setheo sa ditšhelete kgotsa motho wa bothokwa wa setheo sa ditšhelete—

(aa) a tlotse kgotsa a ka tlole molao wa lephata la ditšhelete o Bothati jwa Tlhokomelo bo tsayang maikarabelo a ona; kgotsa

(bb) a sa ikamany a le tulumano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(cc) yo o amanang kgotsa o o ka amanang le bosenyi jwa ditšhelete; kgotsa

(dd) o dira kgotsa o na le seabe mo go sa tsepmang ga thulaganyo ya ditšhelete, kgotsa go na le kira jalo.

(2) Bothati jwa Tlhokomelo bo ka rebolela kgwebo e e okameng tse dingwe taelo e e kwetsweng e e lopang kgwebo e e okameng tse dingwe go tsaya kgato e e tsepmisitsweng mo taelong fa kgwebo e e okameng tse dingwe kgotsa setlamo se sengwe mo dikgwebong tša ditšhelete tse di tlhakaneng—

(a) se dira tiro ya sona ka mokgwa o o sa siamang kgotsa wa tsa maisyo ya ditšhelete e e sokameng le, ka nthla ya seo, go na le kotsi ya gore setheo sa ditšhelete se se mo ditheong tse di tlhakaneng se ka se kgone go ikamany a le ditlamego tsa jona;

(b) se sa ikamany a le tulumano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(c) se tlotse kgotsa se ka tlole molao wa lephata la ditšhelete;

(d) se amega kgotsa se ka amega mo bosenyi jwa ditšhelete; kgotsa

(e) se tlisa kgotsa se na le seabe mo go sa tsepmang ga thulaganyo ya ditšhelete, kgotsa se ka kira jalo.

(3) Taelo go ya ka karolotlalelesto (1) kgotsa (2) e tshwanetse go lebiswa mo go filtheleleng maikaelelo a Bothati jwa Tlhokomelo a a tlhagisitsweng mo karolong 33 le—

(a) go fokotsa dikotsi dingwe le dingwe tse di kailweng mo karolotlaleletsong (1)(b)(i) kgotsa (2)(a);

(b) go netefatseng gore setheo sa ditšhelete kgotsa motho yo o laetsweng o ikamany a le tulumano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(c) go thibela setheo tsa ditšhelete kgotsa setheo se se tloleng melao e e dirisiang; ya lephata la ditšhelete, kgotsa go fokotsa kotsi ya ditlolo tse;

(d) go thibela setheo sa ditšhelete kgotsa setlamo mo go amegeng mo bosenyi jwa ditšhelete, le go fokotsa kotsi ya gore se ka amega jalo;

(e) go fokotsa kotsi ya gore tiragalo e e rulagantsweng e ka diragal; kgotsa

(f) go namola ditlamorago tsa tlolo ya molao wa ditšhelete kgotsa botsayakarolo jwa motho mo bosenyi jwa ditšhelete.

(4) Bothati jwa Tlhokomelo bo ka se rebole taelo go setheo sa ditšhelete go ya ka mabaka a a tlhalositsweng mo karolotlaleletsong (1)(b)(ii)(dd) ntle le fa bo laetswe jalo go ya ka karolo 18 kgotsa go ya ka tulumano ya Banka ya Resefe.

(5) Tiro e e ka tsepmisweng mo taelong go ya ka karolotlalelesto (1) e akaretsa tse di latelang;

(a) setheo sa ditšhelete se se khutlisang go neelana kgotsa go tlamela ka kuno e e tsepmang ya ditšhelete;
(b) the financial institution modifying a specific financial product or the terms on which it is provided;
(c) removing a person from a specified position or function in or in relation to the financial institution;
(d) the financial institution not paying a dividend or a specified bonus or performance payment;
(e) the financial institution not entering into a specific transaction or undertaking a specific obligation, contingent or otherwise;
(f) the financial institution remediying the effects of a contravention of a financial sector law.

(6) In addition to its powers to issue regulator’s directives, if a person is engaging, or is proposing to engage, in conduct that contravenes a financial sector law for which the Prudential Authority is the responsible authority, the Prudential Authority may issue a written directive to the person requiring the person to cease engaging, or not to engage, in the conduct.

Directives by Financial Sector Conduct Authority

144. (1) The Financial Sector Conduct Authority may issue to a financial institution a written directive requiring the financial institution to take action specified in the directive if—

(a) the financial institution is conducting its business in a way that poses a material risk to the efficiency and integrity of financial markets;
(b) the financial institution’s treatment of its financial customers is such that the institution will not be able to comply with its obligations in relation to the fair treatment of financial customers;
(c) the financial institution is providing financial education in a manner that is not in accordance with relevant conduct standards;
(d) the financial institution or a key person, representative or contractor of the financial institution—
   (i) has contravened or is likely to contravene a financial sector law for which the Financial Sector Conduct Authority is the responsible authority;
   (ii) has not complied with an enforceable undertaking accepted by the Financial Sector Conduct Authority;
   (iii) is involved or is likely to be involved in financial crime; or
   (iv) is causing or contributing to instability in the financial system, or is likely to do so.

(2) The Financial Sector Conduct Authority may issue to a key person, a representative or a contractor of a financial institution (in this section, a “directed person”) a written directive requiring the directed person to take action specified in the directive if the financial institution or the directed person—

(a) has contravened or is likely to contravene a financial sector law for which the Financial Sector Conduct Authority is the responsible authority;
(b) has not complied with an enforceable undertaking accepted by the Financial Sector Conduct Authority;
(c) is involved or is likely to be involved in financial crime; or
(d) is causing or contributing to instability in the financial system, or is likely to do so.

(3) A directive in terms of subsection (1) or (2) must be aimed at achieving the objective of the Financial Sector Conduct Authority set out in section 57 and—

(a) stopping the financial institution or the directed person from contravening applicable financial sector laws, or reducing the risk of such contraventions;
(b) ensuring that the financial institution or the directed person complies with the enforceable undertaking that was accepted by the Financial Sector Conduct Authority;
(c) stopping the financial institution or the directed person from being involved in financial crime, and reducing the risk that it may be so involved;
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(b) setheo sa ditšhelete se se fetolang kuno e e tsepameng ya ditšhelete kgotsa dipelo tse o tlametsweng ka tsona;

(c) go tšha motho mo maemong a a tsepamisitsweng kgotsa tiro mo kgotsa mabapi le setheo sa ditšhelete;

(d) setheo sa ditšhelete se se sa dueleng karolelo kgotsa bonase e e tsepamisitsweng kgotsa tuelo ya tiro;

(e) setheo sa ditšhelete se se sa tseneng mo tirišanong e e tsepameng kgotsa se se sa direng tulumano ya tlamego e e tsepameng, ya tshoganyetso kgotsa ka mokgwa mongwe;

(f) setheo sa ditšhelete se se namolog ditšamorago tsa tlolo ya mola wo lephatlana wa la ditšhelete.

(6) Mo godimo ga dithata tsa jona tsa go rebola ditaelo tsa molaodi, fa motho a dira, kgotsa a tshitšineng ya dira, tlolo ya maitsholo jwa mola wo lephatlana la ditšhelete o Bothati jwa Tlhokomelo e lo bo bothati bo bu rwalang maikarabelo a ona, Bothati ba Tlhokomelo bo ka rebolela motho taelo e e kwetsweng e e lopang motho go emisa go dira kgotsa go se direng, maitsholo ao.

Ditaelo ka Bothati jwa Boitshwaro jwa Lephata la Dišshelete

144. (1) Bothati jwa Boitshwaro jwa Lephata la Dišshelete bo ka rebolela setheo sa ditšhelete taelo e e kwetsweng e e lopang gore setheo sa ditšhelete se tseye kgato e e tsepamisitsweng mo taelong fa—

(a) setheo sa ditšhelete se dira ditiro tsa sona ka mokgwa o o bayang bokgoni le tshiomo ya mabaraka ya ditšhelete mo kotsing;

(b) tsholo ya setheo sa ditšhelete ya barekedi ba ditšhelete ba sona e ka mokgwa o e leng gore setheo se ka se kgone go ikamanyana le ditlamego tsa sona mabapi le tsholo e e lolameng ya barekedi ba ditšhelete;

(c) setheo sa ditšhelete se palelwa ka go tlamela ka mananeo a a malebana a thu to tsa ditšhelete le ditiro tse dingwe go tselelatsa kitso ya tsa ditšhelete;

(d) setheo sa ditšhelete kgotsa motho yo o botlhokwa, kemedi kgotsa mokonteraka wa setheo sa ditšhelete—

(i) se tlotse kgotsa se ka tlola mola bo la lephatlana la ditšhelete o Bothati jwa Bitshwaro jwa Lephata la Dišshelete e leng bothati bo bu rwalang maikarabelo a ona;

(ii) se sa ikamanyang le tulumano e e gatelelweng e e amogetsweng ke Bothati jwa Boitshwaro jwa Lephata la Dišshelete;

(iii) se amegang kgotsa se ka amega mo bosenyeng jwa ditšhelete; kgotsa

(iv) se tšišang kgotsa se nang le seabe mo go sa tsepamang ga thulaganyo ya ditšhelete, kgotsa se ka dira jalo.

(2) Bothati jwa Boitshwaro jwa Lephata la Dišshelete bo ka rebolela motho yo o botlhokwa, kemedi kgotsa mokonteraka wa setheo sa ditšhelete (mo karolong eno, **motho yo o laelweng**) taelo e e kwetsweng e e lopang motho yo o laelweng go tsaya kgato e e tsepamisitsweng mo taelon fa setheo sa ditšhelete kgotsa motho yo o laelweng—

(a) se tlotse kgotsa se ka tlola mola bo la lephatlana la ditšhelete o Bothati jwa Boitshwaro jwa Lephata la Dišshelete e leng jona bothati bo bu rwalang maikarabelo a ona;

(b) ga se a ikamanyana le tulumano e e gatelelweng e e amogetsweng ke Bothati jwa Boitshwaro jwa Lephata la Dišshelete;

(c) se amega kgotsa se ka amega mo bosenyeng jwa ditšhelete; kgotsa

(d) se dira kgotsa se dira kgotsa se na le seabe mo go sa thlomamang mo thulaganyo ya ditšhelete, kgotsa se ka dira jalo.

(3) Taelo go yo ka karolotlaleletso (1) kgotsa (2) e tšhwanetse go lebiswa mo go fitlheloeng maitsholo a Bothati jwa Boitshwaro jwa Lephata la Dišshelete a a thlagisitsweng mo karolong 57 le—

(a) go tšhabela setheo sa ditšhelete kgotsa motho yo o laelweng mo go tlolelo mela o e diragatsweng ya lephatlana la ditšhelete, kgotsa fo fokotsa kotsi ya ditlolo tse o;

(b) go netefatsa gore setheo sa ditšhelete kgotsa motho yo o laelweng o ikamanyana le tulumano e e gatelelweng e e amogetsweng ke Bothati jwaBoitshwaro jwa Dišshelete;

(c) go tšhabela setheo sa ditšhelete kgotsa motho yo o laelweng mo go amegeng mo bosenyeng jwa ditšhelete, le go fokotsa kotsi yo o amega mo jona;

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(d) reducing the risk that a systemic event may occur; or
(e) remedying the effects of a contravention of a financial sector law or the person’s involvement in financial crime.

(4) The Financial Sector Conduct Authority may not issue a directive on the basis set out in subsection (1)(d)(iv) unless it has been directed in terms of section 18 to do so or with the concurrence of the Reserve Bank.

(5) Action that may be specified in a directive in terms of subsection (1) includes the following:
(a) The financial institution ceasing offering or providing a specific financial product or financial service;
(b) the financial institution modifying a specific financial product or financial service or the terms on which it is provided;
(c) removing a person from a specified position or function in or in relation to the financial institution;
(d) the financial institution not paying a specified bonus or performance payment; and
(e) the financial institution remediying the effects of a contravention of a financial sector law.

(6) The Financial Sector Conduct Authority may not issue a directive in terms of subsection (5)(a) or (b) to a systemically important financial institution without the concurrence of the Prudential Authority.

(7) Action that may be specified in a directive in terms of subsection (2) must be aimed at achieving the objective of the Financial Sector Conduct Authority and ensuring that the key person, representative or contractor performs its function in compliance with the applicable financial sector laws.

(8) In addition to its powers to issue regulator’s directives, if a person is engaging, or is proposing to engage, in conduct that contravenes a financial sector law for which the Financial Sector Conduct Authority is the responsible authority, the Financial Sector Conduct Authority may issue a written directive to the person requiring the person to cease engaging, or not to engage, in the conduct.

Removal of person from position

145. A financial sector regulator may not issue a directive in terms of this Part that requires the removal of a person from a specified position or function in or in relation to the financial institution unless the person—
(a) has contravened a financial sector law;
(b) has been involved in financial crime;
(c) is responsible for, or in any way participated in, or failed to take steps open to him or her aimed at preventing—
(i) a contravention of a financial sector law by the financial institution; or
(ii) the financial institution being involved in financial crime; or
(d) no longer complies with applicable fit and proper person requirements.

Consultation requirements

146. (1) Before issuing a regulator’s directive in terms of this Part, the financial sector regulator must—
(a) give the financial institution or person to whom it is proposed to issue the directive a draft of the proposed directive and a statement of the reasons why it is proposed to issue it, including a statement of the relevant facts and circumstances; and
(b) invite the financial institution or person to make submissions on the matter, and give it a specified period, which must be reasonable, to do so.

(2) If the directive requires removing a person from a specified position or function in or in relation to the financial institution, the financial sector regulator must also—
(a) give the person a draft of the proposed directive and a statement of the reasons why it is proposed to issue it, including a statement of the relevant facts and circumstances; and
(b) invite the person to make submissions on the matter within the period specified in terms of subsection (1)(b).
(d) go fokotsa kotsi ya go diragala ga tiragala e e rulagantsweng; kgotsa
(e) go namola ditlamorago ts a tlolo ya molao wa lephata la ditšhelete kgotsa kamego ya motho mo bosenyeng jwa ditšhelete.
(4) Bothathi jwa Botishwaro jwa Lephata la Ditšhelete bo ka se rebole taelo go ya ka mabaka a a tlhulositsweng me karolotlaleleletso (1)(d)(iv) ntle le fa go laetswe gore go dirwe jalo go ya ka karolo 18 kgotsa ka tulumano ya Banka ya Resefec.
(5) Tiro e e ka tsepamiswangmo taelong go ya ka karolotlaleletso (1) e akaretsa tse di latelang:
(a) Setheo sa ditšhelete se se khutlisang go neelana kgotsa go llamela ka kuno e e tsepameng ya ditšhelete kgotsa tirelo ya ditšhelete;
(b) setheo sa ditšhelete se se fetolong kuno e e tsepameng ya ditšhelete kgotsa tirelo ya ditšhelete kgotsa dipeelo tseo e tlametsweng ka tsona;
(c) go ntsha motho mo maemong a a tsepameng kgotsa tirong mo kgotsa mabapi le setheo sa ditšhelete;
(d) setheo sa ditšhelete se se sa dueleng bonase e e tsepamisitsweng kgota tsuolo ya tiro; le
(e) setlamo sa ditšhelete se se namolang ditlamorago ts a tlolo ya molao wa lephata la ditšhelete.
(6) Bothathi jwa Botishwaro jwa Lephata la Ditšhelete bo ka se rebole taelo go ya ka karolotlaleleletso (5)(a) kgotsa (b) go se theo sa thulaganyo ya bothokwa ntle le tulumano ya Bothathi Jwa Thlokomeletso.
(7) Tiro e e ka tsepamiswang mo taelong go ya ka karolotlaleleletso (2) e tshwanetse go lebiswa mo go fitlheleleng maikaelelo a Bothathi jwa Botishwaro jwa Lephata la Ditšhelete le go netefatsa gore motho yo o bothokwa, moemedi kgotsa mokonteraka o dira tiro ya gagwe go tsaamelana le melao e ediragatswang ya lephata la ditšhelete.
(8) Mo go tlatseng ditathama tsa jona tsa go rebola ditaelo ts a molao, fa motho a dira, kgotsa a tshitsinya go dira, botishwaro jo bo tlonang molao wa lephata la ditšhelete jo Bothathi jwa Botishwaro jwa Lephata la Ditšhelete e leng bothathi jo bo rwalang maikaarabelo, Bothathi jwa Botishwaro jwa Lephata la Ditšhelete bo ka rebolela motho taelo e e kwetsweng e e laelang motho go emisa go dira, kgotsa go se dire, botishwaro.

Go ntshiwa ga batho mo maemong

145. Bolaodi jwa lephata la ditšhelete bo ka se rebole taelo go ya ka Karolo eno e e lopang go tloswa ga motho mo maemong a a tsepamisitsweng kgotsa tiro mo kgotsa mabapi le setheo sa ditšhelete ntle le fa motho—
(a) a tlotsel moalao wa lephata la ditšhelete;
(b) a amegile mo bosenyeng jwa ditšhelete;
(c) a rwa maikaarabelo a, kgotsa a mokgwewa mongwe a tsere karolo mo, kgotsa a paletswe ke, go tsaya dikgato tse di leng tse di ikateletseng go thibela—
(i) tlolo ya molao wa lephata la ditšhelete ka setheo sa ditšhelete; kgotsa
(ii) setheo sa ditšhelete se amega mo bosenyeng jwa ditšhelete; kgotsa
(d) a sa tlholo a ikamanya le ditlhokego tsa go itekanelela tiro le tshiamo.

Dithokego tsa dithorisano

146. (1) Pele go rebolwa taelo ya bolaodi go ya ka Karolo eno, molaoedi wa lephata la ditšhelete o tshwanetse go—
(a) naya setheo sa ditšhelete kgotsa motho yo o tshitsinyang go mo naya taelo thalo ya taelo e e tshitsintswe ng le polole ya mabaka a gore greng e e nthla e e tshitsintswe, go akaretsa le polole ya dintlha tse di maleba le mabaka; le
(b) laletsa setheo sa ditšhelete kgotsa motho go dira ditlhago ka ga morero, le go se naya nako e e e tsepamisitsweng, e e amogelesegang, go dira jalo.
(2) Fa taelo e lael a gore motho a tloswe mo maemong a a tsepamisitsweng kgotsa mo tirong ya kgotsa e e mabapi le se theo sa ditšhelete, molaoedi wa lephata la ditšhelete o tshwanetse gape go—
(a) naya motho thalo ya taelo e e tshitsintswe ng le polole ya mabaka a gore greng go tshitsintswe gore e e rebolwe, le go akaretsa le polole ya dintlha tse di maleba le mabaka; le
(b) laletsa motho go dira ditlhago ka ga morero mo pakeng e e tsepamisitsweng go ya ka karolotlaleleletso (1)(b).
(3) In deciding whether to issue the directive, the financial sector regulator must take into account all submissions received by the end of the period referred to in subsection (1)(b) or (2)(b).

(4) If the delay involved in complying, or complying fully, with subsections (1) and (2) in respect of a proposed directive is likely to lead to prejudice to financial customers, prejudicially affect financial stability or defeat the object of the directive, the financial sector regulator may issue the directive without having complied, or complied fully, with those subsections.

(5) (a) If a financial sector regulator issues a directive without having complied, or complied fully, with subsections (1) and (2), the person to whom it was issued, and, where subsection (2) applies, the person referred to in that subsection must be given a written statement of the reasons why those subsections were not complied with.

(b) A person to whom the statement was given may make submissions to the financial sector regulator within one month after being provided with the statement.

(c) The financial sector regulator must consider the submissions, and notify the person, as soon as practicable, whether the financial sector regulator proposes to revoke the directive.

Period for compliance

147. A regulator’s directive must specify a reasonable period for compliance, where applicable.

Revoking directives

148. A financial sector regulator may at any time revoke a regulator’s directive it has issued by written notice to the person to whom it was issued.

Compliance with directives

149. (1) A financial institution, key person, representative or contractor to which a regulator’s directive in terms of this Part has been issued must comply with the directive.

(2) The High Court may, on application by a party to a contract with a financial institution, other than the financial institution, make an order relating to the effect of a directive in terms of this Part on the contract.

(3) (a) Without limiting what the order may do, the order may require the financial institution to—

(i) perform its obligations under the contract; or

(ii) compensate the applicant, as specified in the order.

(b) An order in terms of paragraph (a) may not require a person to take action that would contravene the directive of a financial sector regulator.

Application and interpretation

150. This Part applies in addition to any power in a specific financial sector law that relates to the issuing of directives by a financial sector regulator.

Part 3

Enforceable undertakings

151. (1) A person may give a written undertaking to the responsible authority concerning that person’s future conduct in relation to a matter regulated by a financial sector law, and that undertaking, upon its acceptance by the responsible authority, becomes enforceable by the responsible authority as contemplated in this Act.

(2) A written undertaking referred to in subsection (1) may include an undertaking to provide specified redress to financial customers.
(3) Mo go swetseng ka ga go rebola kgotsa go se rebole taelo, molaodi wa lephata la ditšhelete o tshwanetse go tsaya tsia ditlhagiso tsothle tse di amogetswe ngwa bokhutlo jwa paka e e kailweng mo karolotlaleletsong (1) e kgotsa (2)(b).

(4) Fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletsosoe (1) le (2) mabapi le taelo e e tshitsintsweng e ka isa kwa kgobelelong ya barekedi ba ditšhelete, ya ama thomamoso ya ditšhelete setlhego kgotsa ya feny maikaelelo a taelo, molaodi wa lephata la ditšhelete o ka rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletsosoe.  

(5) (a) Fa molaodi wa lephata la ditšhelete a rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletsosoe (1) le (2), motho yo a e reboletswe, le mo karolotlaleletsosoe (2) e dirisitsweng, motho yo o kailweng mo karolotlaleletsosoe eo o tshwanetse go newa polelo e e kwetsweng ya nabaka a gore gore go sa ikamanangwa le dikarolotlaleletsosoe.

(b) Motho yo o neiuling polelo o ka dira ditlhagiso go molaodi wa lephata la ditšhelete mo kgweding e le es morago ga go tlamelwa ka polelo.

(c) Molaodi wa lephata la ditšhelete o tshwanetse go sekaseka ditlhagiso, le go itsise motho, ka bonako jo bo kgonegagag, fa e le gore molaodi wa lephata la ditšhelete o tshitsinya go goela morago taelo.

Paka ya go ikamanya

147. Taelo ya molaodi e tshwanetse go tsepamisa paka e e amogelelseengwa ya go ikamanya, fa go kgonega.

Kgogelomorago ya ditaelo

148. Molaodi wa lephata la ditšhelete o ka, ka nako ngwe le ngwe, phimola taelo e a e rebotseng ka kitsiso e e kwetsweng go motho yo o neng a e reboletswe.

Boikomanyo le ditaelo

149. (1) Setheo sa ditšhelete, motho yo o botlhokwa, moemedi kgotsa mokonteraka yo o reboletswe taelo go ya ka Karolo eno o tshwanetse go ikamanya le taelo.  

(2) Kgolatshekelelekgolo e ka, ka kopopo ya moamegi mo konterakenga le setheo sa ditšhelete, ntle le setheo sa ditšhelete, dira taelo e e amanang le ditlamaragoro tsao taelo go ya ka Karolo eno mo konterakeng.  

(3) (a) Go sa lekanyetswe se taelo e ka se dirang, taelo e ka lopa setheo sa ditšhelete go—  
(i) dira ditlamego tsao sa ka fa tlase ga konteraka; kgotsa  
(ii) duela modirakopo, jaaka go tsepamisitswe mo taelong.

(b) Taelo go ya temana (a) e ka se lepo motho go tsaya kgato e e tla tloang taelo ya molaodi wa lephata la ditšhelete.

Tiragatso le tlhaloso

150. Karolo eno e dirisiwo mo godimo ga thata ngwe le ngwe mo molaong o o tsepameng wa lephata la ditšhelete o o amanang le thebolo ya ditaelo ka molaodi wa lephata la ditšhelete.

Karolo 3

Ditumalano tse di gatelelwang

Ditumalano tse di gatelelwang

151. (1) Motho o ka neclana ka tumalano e e kwetsweng go bothati jo bo rwalang maikarabelo mabapi le bothishwaro jwa nako e e tlaeng jwa motho mabapi le nthla e e laolweng ke mola o lephata la ditšhelete, le tumalano eo, fa e amogelwa ke bothati jo bo maleba, e nna sediriso sa mola o se e gatelelwang ke bothati jo bo rwalang maikarabelo jaaka go kailweng mo Molaong ono.  

(2) Tumalano e e kwetsweng e e kailweng mo karolotlaleletsong (1) e ka akaretse tumalano go tlamel a pusetso e e tsepamisitsweng ya maemo kwa tlwaelong go barekedi ba ditšhelete.
(3) The person who gave an enforceable undertaking may, with the consent of the responsible authority, vary or withdraw the undertaking at any time, except if the undertaking is already a subject of enforcement.

(4) If a financial institution licensed under a specific financial sector law that gave an enforceable undertaking breaches a term of the undertaking, the responsible authority may suspend or withdraw the licence.

(5) The responsible authority must publish each enforceable undertaking that it accepts, and each variation or withdrawal of an enforceable undertaking.

(6) If the Tribunal is satisfied, on application by the responsible authority, that a person has contravened an enforceable undertaking, the Tribunal may make any one or more of the following orders:

(a) An order directing the person to comply with the undertaking;

(b) if the undertaking relates to a past contravention of the financial sector law, an order directing the person to perform a specified act, or refrain from performing a specified act, for one or both of the following purposes:

(i) to remedy the effects of the contravention;

(ii) to ensure that the person does not contravene the undertaking again;

(c) any other incidental or relevant order.

(7) The responsible authority may file with the registrar of a competent court a certified copy of an order in terms of subsection (6), if—

(a) the order has not been complied with; and

(b) either—

(i) no proceedings in a court in relation to the making of the order have been commenced by the end of the period for lodging such appeals; or

(ii) if such proceedings have been commenced, they have been finally disposed of.

(8) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

Part 4

Court orders

Compliance with financial sector laws

152. (1) The responsible authority for a financial sector law may commence proceedings against a person in the High Court for an order to ensure compliance with the financial sector law.

(2) The High Court may make an order in terms of subsection (1)—

(a) if it appears to the High Court that the person is engaging, or proposes to engage, in conduct contravening a financial sector law;

(b) if the person has previously engaged in such conduct;

(c) if there is a danger of substantial or irreparable damage, prejudice or harm if the person engages in conduct contravening a financial sector law; or

(d) even if another remedy is available.

(3) The High Court may not require the responsible authority to give any undertaking as to damages in connection with the application for an order in terms of this section.

(4) The responsible authority must publish each court order, other than interlocutory orders, that it obtains in terms of this section.

Part 5

Debarment

153. (1) The responsible authority for a financial sector law may make a debarment order in respect of a natural person if the person has—

(a) contravened a financial sector law in a material way;
(3) Motho yo o neetseng tumalano e e gatelelwang o ka, ka tumelelo ya bothathi jo bo rwalang maikarabelo, farologantsha kgotsa gogela morago tumalano ka nako ngwé le ngwé, ntle le fa tumalano e setse e le nlhá e e gatelelwang.

(4) Fa setho sa ditšelete se abestwe laesense ka fa tlase ga molao o o tsetameng wa lephata la ditšelete o o neetseng tumalano e e gatelelwang se tlola peelo ya tumalano, bothathi jo bo rwalang maikarabelo bo ka emisa kgotsa gogela morago laesense.

(5) Bothathi jo bo rwalang maikarabelo bo tšhwanetse go phasalatsa tumalano ngwé le ngwé e e gatelelwang e bo bo e amogelang, le farologantsho ngwé le ngwé kgotsa kgogelomorago ya tumalano e e gatelelwang.

(6) Fa Lekgotla le kgotsofetse, mo tirisong ka bothathi jo bo rwalang maikarabelo, gore motho o tlotse tumalano e e gatelelwang, Lekgotla le ka dira e le ngwé kgotsa go feta ya ditaelo tse di latelang:

(a) Taelo e e laelang motho go ikamanya le tumalano;
(b) fá tumalano e amana le tlolo e e fetileng ya molao wa lephata la ditšelete, taelo e e laelang motho go dira tiro e e tsepmarisitsweng, ka e le ngwé ya kgotsa ka bobedi jwa maifihlomo a a latelang:
   (i) go nomala ditlamorago tsa tlolo;
   (ii) go netefatsa gore motho ga a tlole tumalano gape;
(c) taelo e ngwé e e welwanga kgotsa e e maleba.

(7) Bothathi jo bo rwalang maikarabelo bo ka faela le mokwadisi wa kgotlatshekelo e e nang le bokgongi kgatso e e kanetsweng ya taelo go ya ka karolotlatlaleletso (6), fa—

(a) go sa ikamanngwa le taelo; le
(b) ka gongwé—
   (i) go se ditsamaiso tse di dirilweng kwa kgotlatshekelong tsa boikuelo kgathanong le tiragatso ya taelo mo bokhutlong jwa paka e e neitweng mabapi le go dira boikuelo jo; kgotsa
   (ii) fa boikuelo jo bo setse bo dirilwe, kwa bokhutlong boikuelo bo diragaditswe.

(8) Taelo, mo go faelweng, e na le poelo mo katlhologo ya selegae, e bile e ka gatelelwa jaaka e kete e neitweng semolao kwa kgotlatshekelong eo.

Karo 4

Ditaelo tsa Kgotlatshekelo

Go ikamanyo le molao ya lephata la ditšelete

152. (1) Bothathi jo bo rwalang maikarabelo a molao wa lephata la ditšelete bo ka simolola ditsamaiso kgathanong le motho kwa Kgotlatshekelokgolo mabapi le taelo ya go netefatsa ikamanyo le molao wa lephata la ditšelete.

(2) Kgotlatshekelokgolo e ka dira taelo go ya ka karolotlatlaleletso (1)—

(a) fa Kgotlatshekelo e lemoga gore motho o dira, kgotsa o tshitsinya go dira, boitshwario jo bo tloang molao wa lephata la ditšelete;
(b) fa motho a kile a dira boitshwario joo mo nakong e e fetileng;
(c) fa go na le kotsi kgotsa tshenyego e kgolo kgotsa e e sa baakaneyegeng, kgbeto kgotsa e ka tlhola kotsi fa motho a dira boitshwario jwa tloang ya molao wa lephata la ditšelete; kgotsa
(d) le fa namolo e ngwé e e teng.

(3) Kgotlatshekelokgolo e ka se tlhoke bothathi jo bo rwalang maikarabelo go dira tumalano ka ga ditshenyegelo tse di mabapi le kopo ya taelo go ya ka karolo eno.

(4) Bothathi jo bo rwalang maikarabelo bo tšhwanetse go phasalatsa taelo ngwé le ngwé ya kgotlatshekelo, ntle le ditaelo tsa puisano, tseo bo di fitlhelelang go ya ka karolo eno.

Karo 5

Kganelo

153. (1) Bothathi jo bo rwalang maikarabelo a molao wa lephata la ditšelete bo ka dira taelo ya kganelo mabapi le motho ka esi fa motho ka esi a—

(a) tlotse molao wa lephata la ditšelete ka tselelelo e kgolo;
(b) contravened in a material way an enforceable undertaking that was accepted by the responsible authority in terms of section 151(1);
(c) attempted, or conspired with, aided, abetted, induced, incited or procured another person to contravene a financial sector law in a material way; or
(d) contravened in a material way a law of a foreign country that corresponds to a financial sector law.

(2) A debarment order prohibits the natural person, for the period specified in the debarment order, from—
(a) providing, or being involved in the provision of, specified financial products or financial services, generally or in circumstances specified in the order;
(b) acting as a key person of a financial institution; or
(c) providing specified services to a financial institution, whether under outsourcing arrangements or otherwise.

(3) A debarment order in respect of a natural person takes effect from—
(a) the date on which it is served on the person; or
(b) if the order specifies a later date, the later date.

(4) (a) A natural person who is subject to a debarment order may not engage in conduct that, directly or indirectly, contravenes the debarment order.
(b) Without limiting paragraph (a), a natural person who is subject to a debarment order contravenes that paragraph if the natural person enters into an arrangement with another person to engage in the conduct that directly or indirectly contravenes a debarment order on behalf of, or in accordance with the directions, instructions or wishes of, the natural person who is subject to the debarment order.

(5) A licensed financial institution that becomes aware that a debarment order has been made in respect of a natural person employed or engaged by the financial institution must take all reasonable steps to ensure that the debarment order is given effect to.

(6) The responsible authority that made a debarment order may, by order and on application by the debarred natural person—
(a) reduce the period of the debarment order; or
(b) revoke the debarment order.

(7) The responsible authority must publish each debarment order, and each order under subsection (6), that it makes.

Consultation requirements

154. (1) Before making a debarment order in respect of a natural person, the responsible authority must—
(a) give a draft of the debarment order to the person and to the other financial sector regulator, along with reasons for and other relevant information about the proposed debarment; and
(b) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(2) The period contemplated in terms of subsection (1)(b) must be at least one month.

(3) In deciding whether or not to make a debarment order in respect of a natural person, the responsible authority must take into account at least—
(a) any submission made by, or on behalf of, the person; and
(b) any advice from the other financial sector regulator.

Where person cannot be located

155. If a responsible authority after taking all reasonable steps, including through electronic means, cannot locate a person to be given a document or information under section 154 or a debarment order, delivering the document or information to the person’s last known e-mail or physical business or residential address will be sufficient.
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(b) tlotse ka tselelelo e kゴ lゴ o tumalano e e gatelelwang e e neng e a amoge tse ke bothati jo bo rwalang maikarabelo go ya ka karolo 151(1);

c) lekile, logile maano a boseny le, thusitse, ritsitse, potlakitsite, thlholheleditsite kgotsa fithilelelo motho yo mongwe go tlola molaow la lephata la ditšihele ke tselelelo e kゴ lゴ o; kgotsa

d) tlotse ka tselelelo e kゴ lゴ o molaow na naga e sele o o tsamela nang le molaow wa lephata la ditšihele.

(2) Taelo ya kganelo e tibela motho ka esi, mo nakeng e e tsepatsetsiwseng, jaaka go tsepatsetsiwseng mo taelong ya kganelo, mo go—

(a) tlameleng, kgotsa mo go tseyeng karolo mo kabelong ya, dikuso tse di tsepatsetsiwseng tsa ditšihelele kgotsa ditirelo tsa ditšihele, ka kakaretso kgotsa mo mabakeng a a tsepatsetsiwseng mo taelong;

(b) direng jaaka motho wa bothokwa wa setheo sa ditšihele; kgotsa

(c) tlameleng ditirelo tse di tsepatsetsiwseng go setheo sa ditšihele, ka gongwe ka fa tlae ga ditshulaganyo tsa go bona tirolo go tswa kwa ntle kgotsa ka mokgwa mongwe.

(3) Taelo ya kganelo mabapi le motho ka esi e simolola go dira—

(a) ka lethla leo e neetsweng motho ka esi; kgotsa

(b) fa taelo e tsepatse lethla la morago, lethla la morago.

(4) (a) Motho ka esi yo o neetsweng taelo ya kganelo o ka se ameg e mo boithshwaring jo bo, ka thlmalalalo kgotsa e seng ka thlmalalalo, tlolang taelo ya kganelo

(b) Go sa lekaneyetswe temana (a), motho ka esi o tlola temana eo fa motho ka esi e a dira tumalano le motho yo mongwe ya go amega mo boithshwaring jo ka thlmalalalo kgotsa e seng ka thlmalalalo bo tlolang taelo ya kganelo, mo boemong jwa, kgotsa go tsaumela le dintši, ditaelo kgotsa diketelelo tsa, motho ka esi.

(5) Setheo sa ditšihele se se abetsweng laesense se se lemogang gore taelo ya kganelo e ditshelela mabapi le motho e se o dira—

(a) ka lethla leo e neetsweng motho ka esi; kgotsa

(b) ka lethla leo e neetsweng motho ka esi.

(6) Bothati jo bo rwalang maikarabelo jo bo dirileng taelo ya kganelo bo ka, ka taelo le ka tiriso ka motho ka esi—

(a) fokotsa paka ya taelo ya kganelo; kgotsa

(b) gogela morago taelo ya kganelo.

(7) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa taelo ngwe le ngwe ya kganelo, le taelo ngwe le ngwe ka fa tlae ga karolo (6), e bo e dirang.

Ditlhokego tsa therisano

154. (1) Pele go dirwa taelo ya kganelo mabapi le motho ka esi, bothati jo bo rwalang maikarabelo bo tshwanetse go—

(a) naya motho ka esi thalo ya taelo ya kganelo le go molaodi yo mongwe wa lephata la ditšihele, mmogo le mabaka a le tshedi mosetso e ngwe e e maleba ka ga, kganelo e e tshitsintsweng; le

(b) laletsa motho ka esi go dira ditlhagiso ka ga ntlha eo, le go mo naya nako e e lekaneng go dira jalo.

(2) Nako e e kailweng go ya ka karolotlaleletso (1)(b) e tshwanetse go nna bonnye kgwedi e le esi.

(3) Mo go swetseng ka ga go dira kgotsa go se dire taelo ya kganelo mabapi le motho ka esi, bothati jo bo rwalang maikarabelo bo tshwanetse go tsya isia bonnye—

(a) tlhagiso ngwe le ngwe e e dirilweng ke, kgotsa mo boemong jwa, motho ka esi; le

(b) kgakololo ngwe le ngwe go tswa kwa molaoding yo mongwe wa lephata la ditšihele.

Fa motho a sa kgone go filihlelelwa

155. Fa bothati jo bo rwalang maikarabelo morago ga go tsya dikgado tse di maleba, go akaretsa le ka mokgwa wa seelekeroniki, bo sa kgone go fililhilela motho gore a newe lokwalo kgotsa tshedi mosetso ka fa tlae ga karolo 154 kgotsa taelo ya kganelo, thomelo ya lokwalo kgotsa tshedi mosetso kwa atereseng ya motho e e itsengeng ya bofelo ya imele kgotsa ya kgwebo kgotsa ya bodulo e tla lekana.
Leniency agreements

156. (1) The responsible authority for a financial sector law may, in exchange for a person’s co-operation in an investigation or in proceedings in relation to conduct that contravenes or may contravene that law, enter into a leniency agreement with the person, which may provide that the responsible authority undertakes not to impose an administrative penalty on the person in respect of the conduct.

(2) A leniency agreement with a person may provide that the agreement also applies to—

(a) specified persons in the service of, or acting on behalf of, the person; or
(b) specified partners and associates of the person.

(3) The responsible authority may not enter into a leniency agreement with a person unless it is satisfied that it is appropriate to do so, having regard, among other matters, to—

(a) the nature and effect of the contravention concerned;
(b) the nature and extent of the person’s involvement in the contravention; and
(c) the extent of the person’s co-operation.

(4) The responsible authority that enters into a leniency agreement must publish it, unless the responsible authority determines that the publication may—

(a) create an unjustifiable risk to the safety of a person; or
(b) prejudice an investigation into a contravention of a law.

(5) The responsible authority that enters into a leniency agreement may, by notice to the person with whom it entered into the agreement, terminate the agreement—

(a) if the person agrees;
(b) if the person gave the responsible authority false or misleading information in relation to entering into the agreement;
(c) if the person has failed to comply with the agreement; or
(d) in circumstances specified in the agreement.

CHAPTER 11

SIGNIFICANT OWNERS

Part 1

Significant owners

157. (1) Subject to subsections (3) and (4), a person is a significant owner of a financial institution if the person, directly or indirectly, alone or together with a related or inter-related person, has the ability to control or influence materially the business or strategy of the financial institution.

(2) Without limiting subsection (1), a person has the ability referred to in that subsection if—

(a) the person, directly or indirectly, alone or together with a related or inter-related person, has the power to appoint 15% of the members of the governing body of the financial institution;
(b) the consent of the person, alone or together with a related or inter-related person, is required for the appointment of 15% of the members of a governing body of the financial institution; or
(c) the person, directly or indirectly, alone or together with a related or inter-related person, holds a qualifying stake in the financial institution.
**Ditumalano tsa kutlwelobotlhoko**

**156.** (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka, mo kananyong ya tirisanommogo ya motho mo patlisison kgotsa mo ditsamaisong tse di amanang le boitshwaro jo bo tlolang kgotsa jo bo ka tlolang molao oo, bo tsena mo tumalanong ya kutlwelobotlhoko le motho, e e ka tlamelang ka gore bothati jo bo rwalang maikarabelo bo ikana go se pateletse kothlao ya tsamaiso mo mothong mabapi le boitshwaro.  

(2) Tumalano ya kutlwelobotlhoko le motho e ka tlamel a ka gore tumalano e diragatswa gape go—

(a) batho ba ba tsepamisitsweng mo tirelong ya, kgotsa go direng mo boemong jwa, motho; kgotsa

(b) badirisani ba ba tsepamisitsweng le batalane ba motho.

(3) Bothati jo bo rwalang maikarabelo bo ka se tsene mo tumalanong ya kutlwelobotlhoko le motho ntle le fa bo kgotsotse gore go matshwanedi go dira jalo, ka go ela thhoko, magareng ga merero e mengwe—

(a) tlhologo le ditlamorago tsu tlolo e e kaiwang;

(b) tlhologo le bogolo jwa botsayakarolo jwa motho mo tlolong; le

(c) bogolo jwa tirisanommogo ya motho.

(4) Bothati jo bo rwalang maikarabelo bo jo bo tsenang mo tumalanong bo tshwanetse go e phasalatsa ntle le fa bothati jo bo rwalang maikarabelo bo thlamamisela gore phasalatse e ka—

(a) tlhola kotsi e e sa siamang mo tshireletsegong ya motho; kgotsa

(b) gobelela patlisiso go tlolo ya molao.

(5) Bothati jo bo rwalang maikarabelo jo bo tsenang mo tumalanong ya kutlwelobotlhoko bo ka, ka kitisiso go motho yo bo dirileng tumalanong nae, khutlisa tumalano—

(a) fa motho a dumela;

(b) fa motho a neetse bothati jo bo rwalang maikarabelo tshedimoseto e e fosagetseng kgotsa e e timelela mang mabapi le go tsena mo tumalanong; kgotsa

(c) fa motho a paletswe kgotsa e a fa motho a a tsepamisitsweng mo tumalanong.

**KGAOLO II**

**BENG BA BA BOTLHOKWA**

**Beng ba ba botlhokwa**

**157.** (1) Go latela dikarolotlaleleletso (3) le (4), motho ke mong yo o bolthokwa wa setheosa ditšhelete fa motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka nosi kgotsa mmogo le motho yo a amanang kgotsa ka kamano ya segareng le motho, a na le bokgoni jwa go laola le go tlhotlheletsa segolo kgwebo kgotsa leana la setheo sa ditšhelete.  

(2) Ntle le go lekanyetsa karolotlaleletso (1), motho o na le bokgoni jo bo ka bokweng mo karolotlaleleletseng eo fa—

(a) motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka nosi kgotsa mmogo le motho yo a amanang kgotsa ka kamano ya segareng le motho, a na le bokgoni jo bo ka bokweng mo karolotlaleleleetseng eo fa—

(b) tumelelo ya motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa ka kamano ya segareng le motho, e a tlhokega mo go thapiweng ga 15% ya maloko a mokgalitho o o busang wa setheo sa ditšhelete; kgotsa

(c) motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka nosi kgotsa mmogo le motho yo o amanang kgotsa ka kamano ya segareng le motho, o fithelela ditlhokego tsa go naa karolo ya setheo sa ditšhelete.
(3) The Minister, the Reserve Bank and a financial sector regulator are not, in those capacities, significant owners of a financial institution.

(4) (a) A financial sector regulator may, with the concurrence of the other financial sector regulator and on application, declare a person not to be a significant owner of—
(i) an eligible financial institution;
(ii) the manager of a collective investment scheme; or
(iii) a financial institution prescribed in terms of Regulations made for the purposes of this paragraph.

(b) A financial sector regulator may not make a declaration or give its concurrence to a declaration in terms of paragraph (a), unless the financial sector regulator is satisfied that—
(i) the declaration will not prejudice the achievement of the financial sector regulator’s objective as set out in either section 33 or 57; and
(ii) it is not necessary to apply the requirements of this Chapter to the person.

(c) A financial sector regulator may, with the concurrence of the other financial sector regulator, revoke a declaration that it made in terms of paragraph (a).

(d) Before a financial sector regulator revokes a declaration that was made in terms of paragraph (a), the financial sector regulator must—
(i) give the person who has been declared not to be a significant owner a notice of the proposed action and a statement of the reasons for it; and
(ii) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(e) The period referred to in paragraph (d)(ii) must be at least one month.

(f) In deciding whether to revoke a declaration, the financial sector regulators must take into account all submissions made within the period specified in the notice in terms of paragraph (d)(ii).

(g) If the delay involved in complying, or complying fully, with paragraph (d) in respect of a proposed revocation is likely to prejudice financial customers, prejudicially affect financial stability or defeat the object of the revocation, the financial sector regulators may revoke the declaration without having complied, or complied fully, with that paragraph.

(h) If the financial sector regulators revoke a declaration in terms of paragraph (a) without having complied, or complied fully, with paragraph (d) for the reason set out in paragraph (g), they must give the person a written statement of the reasons why paragraph (d) was not complied with.

(i) The person may make submissions to the financial sector regulator within one month after being provided with the statement.

(j) The financial sector regulators must consider the submissions, and notify the person, as soon as practicable, whether they propose to make another declaration in terms of paragraph (a) in relation to the person and the financial institution.

(k) A declaration, and a revocation of a declaration, in terms of this subsection must be published.

**Approvals and notifications relating to significant owners**

**158.** (1) For the purposes of this section, a financial institution refers only to—
(a) an eligible financial institution;
(b) a manager of a collective investment scheme; and
(c) a financial institution prescribed in Regulations made for the purposes of this section.

(2) A person may not effect any arrangement that will result in the person, alone or together with a related or inter-related person, becoming a significant owner of a financial institution, without the prior written approval of the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed.

(3) A significant owner of a financial institution—
(a) which has been designated as a systemically important financial institution, may not, without having obtained the prior written approval of the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed, effect any arrangement that will result in the person,
Dithebolo le dikitsiso tse di amanang le beng ba ba botlhokwa  

158. (1) Mabapi le matlhomlo a karolo eno, setheo sa ditšelete se kaya fela— 
   (a) setheo sa ditšelete se se matshwanedi; 
   (b) molaodi wa sekema sa tsadisommogo; le 
   (c) setheo sa ditšelete se se neetsweng mo Melawaneng e e dirilweng mabapi le 
       matlhomlo a karolo eno. 

   (2) Motho o ka se le re ditlamorago mo thulaganyo tse di ka dirang gore, motho, ka 
       nosi kgotsa mmogo le motho yo o amanang kgotsa ka kamano ya segareng, e nne 
       mong yo o botlhokwa wa setheo sa ditšelete, ntle le thebolo e e kwetsweng ya 
       pele ya bothati jo bo rwalang maikarabelo mabapi le molaow a lephata la ditšelete 
       o go ya ka ona setheo sa ditšelete se tlhagisitswe ya abelwa laesense. 

   (3) Mong yo o botlhokwa wa setheo sa ditšelete— 
      (a) se se sa tlhongwang jaak se setheo sa thulaganyo tse ya bothokwa, se ka se, ntle 
          le go fitlholela thebolo e e kwetsweng ya pele ya bothati jo bo rwalang 
          maikarabelo mabapi le molaow a lephata la ditšelete o ka ona ditheo tsa 
          ditšelete di tshwaneng go abelwa lilaesense, diragase thulaganyo epe e 
          ka nnang le ditlamorago tsa, motho, ka nosi kgotsa mmogo le motho yo o
alone or together with a related or inter-related person, ceasing to be a significant owner of the financial institution; and

(b) which has not been designated as a systemically important financial institution, may not, without prior notification to the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed, effect any arrangement that will result in the person, alone or together with a related or inter-related person, ceasing to be a significant owner of the financial institution.

(4) A person may not effect any arrangement that will result in the person, alone or together with a related or inter-related person, increasing or decreasing the extent of the ability of the person, alone or together with a related or inter-related person, to control or influence materially the business or strategy of the financial institution—

(a) without having obtained the prior written approval of the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed, if the responsible authority on granting of an approval referred to in subsection (2), required its prior written approval of any such increase or decrease; or

(b) without the prior notification to the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed, if the responsible authority on granting of an approval referred to in subsection (2), did not require its prior written approval of any such increase or decrease.

(5) An arrangement referred to in subsection (2), (3) or (4) need not involve the acquisition of, or disposition of, shares or other interests or property.

(6) If a person enters into an arrangement in contravention of subsection (2), (3) or (4), the arrangement, in so far as it has an effect mentioned in the relevant subsection, is void.

(7) An approval in terms of subsection (2), (3) or (4) may not be given unless the responsible authority is satisfied that—

(a) the person becoming a significant owner, or the arrangement, or any increase or decrease in the extent of the ability of the significant owner to control or influence the business or strategy of the financial institution will not prejudicially affect or is not likely to affect the prudent management and the financial soundness of the financial institution; and

(b) the person meets and is reasonably likely to continue to meet applicable fit and proper person requirements.

(8) The Financial Sector Conduct Authority may not give approval in terms of subsection (2) or (4) in respect of an eligible financial institution that is a market infrastructure without the concurrence of the Prudential Authority and the Reserve Bank.

(9) A prudential standard, a conduct standard or a joint standard may prescribe procedures in respect of applications for approvals and notifications in terms of this section.

(10) This section does not affect any other requirement in terms of a financial sector law to obtain approval or consent in respect of an acquisition or disposal.

Standards in respect of, and regulator’s directives to, significant owners

159. (1) In addition to the powers in Part 2 of Chapter 7 to make standards,—

(a) a financial sector regulator must make standards, that must be complied with by significant owners of financial institutions, with respect to fit and proper person requirements, including in relation to—

(i) personal character qualities of honesty and integrity;

(ii) competence, including experience, qualifications and knowledge; and

(iii) financial standing; and

(b) the financial sector regulators must make joint standards specifying what constitutes, “an increase or a decrease in the extent of the ability of the person, alone or together with a related or inter-related person, to control or influence
amanang kgotsa motho wa kamano ya segareng, a emisang go nna mong yo o bothlokwa wo setheo sa ditšhelete; le

(b) se se sa tlhongwang jaaka setheo sa thulaganyetsyo sa bothlokwa, se ka se, ntle le go itsise pele bothathi jo bo ronalag maikarabelo mabapi le molao wa lephata la ditšhelete o ka ona ditheo tsa ditšhelete di tshwanetseng go abelwa dlae, disiragatse thulaganyo epe e ka nnang le ditlamorago tso, motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kamano ya segareng, a emisang go nna mong yo o bothlokwa wa setheo sa ditšhelete.

(4) Motho o ka se diragatse thulaganyo epe e e ka nnang le ditlamorago tse mo go tsona motho, ka nosi ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kamano ya segareng, a fotsotsang kgotsa godisang bogolo jwa bokgoni jwa motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kamano ya segareng, jwa go go laola kgotsa go thloitlheletsa ka maatla kgwebo kgotsa leano la setheo sa ditšhelete—

(a) ntle le go fitšhelela thebolo e e kwetsweng ya yele ya bothathi jo bo ronalag maikarabelo mabapi le molao wa lephata la ditšhelete o go ya ka ona setheo sa ditšshelete se thlokag go abelwa laesense, fa bothathi jo bo ronalag maikarabelo fa o abelana ka thebolo e e kailweng mo karoletlaleletsetong (2), bo thloka thebolo e e kwetsweng ya yele ya koketso kgotsa phokotso ngwe le ngwe eo; kgotsa

(b) ntle le thebolo e e kwetsweng ya yele ya bothathi jo bo ronalag maikarabelo mabapi le molao wa lephata la ditšhelete o go ya ka ona setheo sa ditšshelete se thlokag go abelwa laesense, fa bothathi jo bo ronalag maikarabelo fa o abelana ka thebolo e e kailweng mo karoletlaleletsetong (2), ga bo thloke thebolo e e kwetsweng ya yele ya koketso kgotsa phokotso ngwe le ngwe eo.

(5) Thulaganyo e e kailweng mo dikarolotlaleletsetong (2), (3) kgotsa (4) ga di thloke go akaretsa phitšhelelelo ya, kgotsa thulaganyo ya dišere kgotsa merokotso e mengwe kgotsa thoto

(6) Fa motho a dira thulaganyo e e tolwang dikarolotlaleletsetong (2), (3) kgotsa (4), thulaganyo, jaaka go thhalositswe gore e nna le ditlamorago mo dikarolotlaleletsetong tse di maleba, ga e dire.

(7) Thelo bo go ya ka dikarolotlaleletseto (2), (3) kgotsa (4) e ka disiwe ntle le fa bothathi jo bo ronalag maikarabelo bo netefadietse gore—

(a) motho yo o nnaas mong yo o botlhokwa, kgotsa thulaganyo, kgotsa kokoettego kgotsa phokotsego mo bogolong jwa bokgoni jwa mong yo o bothlokwa jwa go laola kgotsa go thloitlheletsa kgwebo kgotsa leano la setheo sa ditšshelete e o ka se ame ka kgbelelo kgotsa o ka ama taolo ya bothlokwa le thlomamo ya ditšhelete ya setheo; le

(b) motho o fitšhelele e bitle o ka tswelela go fitšhelela ditšhekeke tse di maleba tsa motho yo o itekeanetseng ka nepagalo.

(8) Bothathi jwa Boitshwarlo jwa Lephata la Ditšhelete bo ka se bolele go ya ka karoletlaleletso (2) kgotsa (4) mabapi le sethele sa ditšhelete se se matshwane se o e leng thulaganyetsyo ya popegotheo ya mmaraka ntle le tumelelo ya Bothathi jwa Thlokomelo le Banka ya Reseše.

(9) Maemo a Thlokomelo, maemo boitshwarlo kgotsa maemo a kopanelo a ka nelana ditšamaitsi mabapi le dikopo mabapi le dithebolo e dikitsiso go ya ka karolo eno.

(10) Karolo eno ga e ame thlokeke epe go ga ya ka molao wa lephata la ditšhelete ya go fitšhelela thebolo kgotsa tumelelo mabapi le phitšhelelo kgotsa thulaganyo.

**Maemo mabapi le, le ditlaeło tsa balaodi go beng ba ba bothlokwa**

159. (1) Mo tlaleletsong ya ditoha mo Karolong 2 ya Kgaolo 7 tsa go dira maemo—

(a) molaodi wa lephata la ditšhelete o tshwanetseng go dira maemo, ao beng ba ba bothlokwa ba ba ditheo tsa ditšhelete ba tshwanetseng go ikamanya le ona, mabapi le dithekeka tsa batho ba ba itekeanetseng ka nepagalo, go akaretsa le mabapi le—

(i) dinonofo tsa botho jwa motho tsa boikanye le shiamo;
(ii) bokgoni, go akaretsa le nonofo, boithutelo le kitso; le
(iii) kemo ya tsa ditšhelete; le

(b) balaodi ba lephata la ditšhelete ba tshwanetseng go dira maemo a a kopantsweng a a tsepmisang popego ya, “koketsego kgotsa phokotsego mo bogolong jwa bokgoni jwa motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa wa
materially the business or strategy of the financial institution”, as referred to in section 157(1) and section 158(4).

(2) (a) A financial sector regulator may issue to a significant owner of a financial institution a written directive requiring the significant owner to take action specified in the directive if the institution has contravened or is likely to contravene a financial sector law for which the financial sector regulator is the responsible authority.

(b) A directive in terms of paragraph (a) must be aimed at stopping the institution from contravening the financial sector law, or reducing the risk of such a contravention.

(3) In addition to subsection (2), a financial sector regulator may issue a directive to a significant owner of a financial institution, and to the financial institution, requiring them—

(a) to prepare and submit to the financial sector regulator a plan that is satisfactory to the financial sector regulator, under which the significant owner will, within a period that is acceptable to the financial sector regulator, cease to be a significant owner of the financial institution; and

(b) on the financial sector regulator’s approval of the plan, to implement the plan.

CHAPTER 12

FINANCIAL CONGLOMERATES

Designation of financial conglomerates

160. (1) The Prudential Authority may designate members of a group of companies as a financial conglomerate.

(2) A financial conglomerate designated in terms of subsection (1) must include both an eligible financial institution and a holding company of the eligible financial institution, but need not include all the members of the group of companies.

(3) Without detracting from section 3(3) and (4) of the Promotion of Administrative Justice Act, and despite section 3(5) of that Act, before designating members of a group of companies as a financial conglomerate in terms of subsection (1), the Prudential Authority must—

(a) give the holding company of the eligible financial institution notice of the proposed designation and a statement of the purpose of and the reasons why the designation is proposed; and

(b) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(4) The Prudential Authority must consult the Financial Sector Conduct Authority in connection with any designation in terms of subsection (1).

(5) A designation in terms of subsection (1) must be for the purpose of facilitating the prudential supervision of the eligible financial institution.

(6) In deciding whether to designate members of a group of companies as a financial conglomerate in terms of subsection (1), the Prudential Authority must take into account all relevant considerations, including at least the following:

(a) The risk to effective prudential supervision of the eligible financial institution from the structure of the group of companies;

(b) submissions made by or for the holding company; and

(c) any other matters that may be prescribed by Regulation.

(7) The Prudential Authority may designate members of a group of companies as a financial conglomerate in terms of subsection (1) without having complied, or complied fully, with subsection (3) if it is reasonable and justifiable in the circumstances as contemplated in section 3(4)(a) and (b) of the Promotion of Administrative Justice Act and the delay involved in complying, or complying fully, with that subsection in respect of a proposed action is likely to lead to material prejudice to financial customers, prejudicially affect financial stability or defeat the object of the designation.
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kamano ya segareng, go laola kgotsa go tlhotlheletsa segolo kgwebo kgotsa leano la setheo sa ditšeletse"; jaaka go kailwe mo karolong 157(1) le mo karolong 158(4).

(2) (a) Molao di lephata la ditšeletse o ka rebolela mong yo o bolthokwa wa setheo sa ditšeletse taelo e e kwetsweng e e laelang mong yo o bolthokwa go tsaya kgato e e tsepatmisitsweng mo taelong fa setheo se tloetsa kgotsa se ka tlola molao wa lephata la ditšeletse o molao di lephata la ditšeletse e leng botho di jo bo rwaZang maikarabelo.

(b) Taelo go ya ka temana (a) e tshwanetse go lebiswa kwa go thibeng setheo sa ditšeletse mo go tloeng molao wa lephata la ditšeletse, kgotsa go fokotsa kotsi ya tloilo eo.

(3) Mo go tlatseng karolotlalelelele (2), molao di lephata la ditšeletse o ka rebola taelo go mong yo o bolthokwa go setheo sa ditšeletse, le kwa setheong sa ditšeletse, a kopa gore di—

(a) baakanye le go romela molao di lephata la ditšeletse leano le le kgotsofatsang molao di lephata la ditšeletse, leo ka fa tla gle la lona mong yo o bolthokwa a tla, mo nakong e e amogelesegang go ya ka molao di lephata la ditšeletse, khutlisa go nna mong yo o bolthokwa wa setheo sa ditšeletse; le

(b) ka tlebo ya molao ya leano, go tsenya leano mo tirisong.

KGAOLO 12

DITHEO TSA DI KOPANTSWENG TSA DITŠELETE

Go thapiwa ga ditheo tsa ditšeletse tse di

160. (1) Bothathi jwa Thlhokomelo bo ka supa maloko a setlhophsa sa ditlamo jaaka setheo se se kopantsweng sa ditšeletse.

(2) Setheo se se kopantsweng sa ditšeletse se se supilweng go ya ka karolotlalelele le (1) se tshwanetse go akaretsa ka bobedi setheo se se matshwanedi sa ditšeletse le setlamo se se laelang sa setheo se se matshwanedi sa ditšeletse, mme ga se tlhoke go akaretsa maloko otlhe a setlhophsa sa ditlamo.

(3) Ntle le go fapoga mo karolong 3(3) le (4) ya Molao wa Tsweletso ya Tshiamo ya Tsamaiso, le ntle le karol 3(5) ya Molao, pele go supiwa maloko a setlhophsa sa ditlamo jaaka setheo se se kopantsweng sa ditšeletse go ya karolotlalelele (1), Bothathi jwa Thlhokomelo bo tshwanetse go—

(a) naya setlamo se se okameng tse dingwe sa setheo se se matshwanedi sa ditšeletse kitsiso ya tsupe e e tsitsintsweng go tsepolo go maithlomo a le mabaka a gore goreng tsupe e e tsitsintsweng; le

(b) laletsa setlamo se se okameng tse dingwe go dira ditlhagiso ga ga morero, le go neelana ka naka e e lekaneng go dira jalo.

(4) Bothathi jwa Thlhokomelo bo tshwanetse go rerisan le Bolaadi jwa Boitswana jwa Lephathe la Ditšeletse mabapi le tshupo ngwe le ngwe go ya ka karolotlalelele (1).

(5) Tshupo go ya ka karolotlalele (1) e tshwanetse go nna ya maithlomo a go nolo fatsa thlhokomelo e e manontlholo ya setheo se se matshwanedi sa ditšeletse.

(6) Mo go swetseng ka ga go supa maloko a setlhophsa sa ditlamo jaaka ditheo tse di kopantsweng tsatditšeletse go ya ka karolotlalelele (1), Bothathi jwa Thlhokomelo bo tshwanetse go ela tloko ditlebokatsehoko tosele, go akaretsa le bonnye tse di latelelang:

(a) Kotsi ya thlahlobelo e e nonofileng ya setheo se se matshwanedi sa ditšeletse go tswa mo popegong ya setlhophsa sa ditlamo;

(b) ditlhagiso tse di dirilweng ke kgotsa mabapi le setlamo se se okameng tse dingwe; le

(c) merero mengwe le mengwe e e ka neelwang ke Molawana.

(7) Bothathi jwa Thlhokomelo bo ka supa maloko a setlhophsa sa ditlamo jaaka setheo se se kopantsweng sa ditšeletse go ya ka karolotlalelele (1) ntle le go ikamana, kgotsa go ikamana ka botlalo, le karolotlalelele (3) fa go utlwaqala kgotsa ka mabaka mo maemong jaaka go ithlwositsweng mo karolong 3(4)(a) le (b) ya Molao wa Tsweletso ya Tshiamo ya Tsamaiso le tiego e e nnileleng teng mo go ikamanyeng, kgotsa mo go ikamanyeng ka botlalo, le karolotlalelele ecomabapi le kgato e e tsitsintsweng e e lele kgobelelo e e tsepalengetse mo barekeding ba ditšeletse, ya ama ka kgobelelo tsepamo ya ditšeletse kgotsa maithlomo a tshupo.

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(8) (a) If the Prudential Authority designates members of a group of companies as a financial conglomerate in terms of subsection (1) without having complied, or complied fully, with subsection (3), the holding company of the designated financial conglomerate must be given a written statement of the reasons why that subsection was not complied with.

(b) The holding company may make submissions to the Prudential Authority within one month after being provided with the statement.

(c) The Prudential Authority must have regard to the submissions, and notify the holding company, as soon as practicable, whether the Prudential Authority proposes to amend or revoke the designation.

(9) The Prudential Authority must continually reassess designations made, or any decision not to make a designation, in terms of subsection (1), and consider making a designation or reconsider the terms of any designation made if the Prudential Authority becomes aware of a change in the risk profile of the members of a group of companies or a designated financial conglomerate.

(10) (a) Without detracting from section 3(3) and (4) of the Promotion of Administrative Justice Act, and despite section 3(5) of that Act, the Prudential Authority may amend or revoke a designation in terms of subsection (1) by notice to—

(i) the holding company of a financial conglomerate; and

(ii) any companies that are not currently designated as part of a financial conglomerate, but which it is proposed to include as part of a currently designated financial conglomerate.

(b) A notice referred to in paragraph (a) must—

(i) include a statement of the purpose of and the reasons why the amendment to or revocation of the designation is proposed; and

(ii) invite the entities referred to in paragraph (a) to make submissions on the matter, and give a reasonable period to do so.

(11) The Prudential Authority must publish each designation made in terms of this section, and each amendment and revocation of a designation.

Notification by eligible financial institution

161. (1) An eligible financial institution must, within 30 days of becoming part of a group of companies, notify the Prudential Authority of that event.

(2) A notification in terms of subsection (1) must be in the form determined by the Prudential Authority, completed in accordance with the instructions on the form, and be accompanied by any information that the Prudential Authority may determine.

(3) If an eligible financial institution contravenes subsection (1), the holding company of the financial institution commits the same contravention.

Licensing requirements for holding companies of financial conglomerates

162. (1) (a) The Prudential Authority may, by notice to a holding company of a financial conglomerate, require the holding company to be licensed in terms of this Act.

(b) A notice referred to in paragraph (a) must—

(i) include a statement of the purpose of and the reasons why the requirement for the holding company to be licensed is proposed; and

(ii) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(2) Subsection (1) does not apply to a holding company that is licensed in terms of a financial sector law.

(3) A requirement in terms of subsection (1) must be for the purpose of enabling the Prudential Authority to exercise its powers with respect to the financial conglomerate, to enhance the safety and soundness of the eligible financial institution.

(4) A holding company given a notice in terms of subsection (1) must comply with the requirements of the notice.
Molao wa Taolo ya Lephata la Ditlhelele, 2017

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(8) (a) Fa Bothati jwa Tlhokomelo bo supa maloko a setlhophsa sa ditlamo jaaka setheo se se kopantsweng go ya ka karolotlaleletso (1) tle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso (3), setlamo se se okameng sa setheo se se kopantsweng sa ditšhelete se se supilweng se tshwanetse go abelwa polelo e e kwetsweng ya mabaka a gore goreng go sa ikamanangwa le karolotlaleletso eo.

(b) Setlamo se se okameng tse dingwe se ka direla Bothati jwa Tlhokomelo ditlhogiso mo kgweding e le esi morago ga go abelwa polelo.

(c) Bothati jwa Tlhokomelo bo tshwanetse gotsaya ditlhogiso tsia, le go itise setlamo se se okameng tse dingwe, ka bonako jo bo kgonegeng, gore a Bothati jwa Tlhokomelo bo tshitsinya go tlahobola kgotsa go gogela morago tshupo.

(9) Bothati jwa Tlhokomelo bo tshwanetse go sekasekagape nako le nako ditshupo tse di dirilweng, kgotsa tshwetsos ngwe le ngwe ya go se dire tshupo, go ya ka karolotlaleletso (1), le go akanya ka go dira tshupo kgotsa go sekasekagape dipeelo tsa tshupo e e dirilweng fa Bothati jwa Tlhokomelo bo lemoga ka phetogo mo poroafaeleng ya kotsi ya ditokololo tsa setlhophsa sa ditlamo kgotsa ditheo tse di kopantsweng tsa ditšhelete tse di supilweng.

(10) (a) Ntle le go fapoga mo karolong 3(3) le(4) ya Molao wa Tsweletso ya Tsiamo ya Tsaomaiso, le ntle le karolo 3(5) ya Molao, Bothati jwa Tlhokomelo bo i tlaabolola kgotsa gogela morago tshupo go ya ka karololaleletso (1) ka kitsiso go—

(i) setlamo se se okameng sa setheo se se kopantsweng sa ditšhelete; le

(ii) ditlamo dingwe le dingwe tse ga jaana di sa supiwang jaaka karolo ya setheo se se kopantsweng sa ditšhelete, mme tse go tshitsintseng gore di ka akaretswa jaaka karolo ya setheo se se kopantsweng sa ditšhelete sa ga jaana.

(b) Kitsiso e e kailweng mo temaneng (a) e tshwanetse go—

(i) akaretse polelo ya maitlhomo a mabaka a goreng tlahobolo kgotsa kgogelomorago e tshitsintswe; le

(ii) laletseng di theo e e tse di kailweng mo temaneng (a) go dira ditlhogiso ga ka morero, le go neelana ka nako e e lekaneng go dira jalo.

(11) Bothati jwa Tlhokomelo bo tshwanetse go phasalatsa tshupo ngwe le ngwe e e dirilweng fa ka karolo eno, le tlahobolo ngwe le ngwe le kgogelomorago ya tshupo.

Kitsiso ka setheo sa ditšhelete se se matshwanedi

161. (1) Setheo se se matshwanedi sa ditšhelete se tshwanetse, mo matsatsing a le 30 a go mma karolong ya setlhophsa di ditlamo, go itise Bothati jwa Tlhokomelo ka ga tiragalo eo.

(2) Kitsiso go ya ka karolotlaleletso (1) e tshwanetse go nna mo foromong e e thomamisitsweng ke Bothati jwa Tlhokomelo, e tladitswe go tsamaelana le ditaelo tse tse bo foromong, le go romela le tshedimosetso ngwe le ngwe e e le thomamisweng ke Bothati jwa Tlhokomelo.

(3) Fa setheo se se matshwanedi sa ditšhelete se tlola karolotlaleletso (1), setlamo se se okameng tse dingwe se sa setheo sa ditšhelete se dira tlolo e e tshwanang le eo.

Tlhokego ya kaboe ya laenesene go dikwebo tse di omang tse dinge tsa ditheo tsa ditšhelete tse dikopaneng

162. (1) Bothati jwa Tlhokomelo bo ka, ka kitiso go setlamo se se laolong sa setheo se se kopantsweng sa ditšhelete, lopa gore setlamo se se laolong sa abelwe laesene go ya ka Molao ono.

(b) Kitsiso e e kailweng mo temaneng (a) e tshwanetse go—

(i) akaretse polelo ya maitlhomo a mabaka a goreng tlahobolo kgotsa kgogelomorago e tshitsintswe; le

(ii) laletseng di theo e e tse di kailweng mo temaneng (a) go dira ditlhogiso ga ka morero, le go neelana ka nako e e lekaneng go dira jalo.

(2) Karolotlaleletso (1) ga e e tse di omang se se laolong se se abetsweng laesene go ya ka Molao wa lephata la ditšhelete.

(3) Tlhokego go ya ka karolotlaleletso (1) e tshwanetse go nna mo maitlhomo a go dire gore Bothati jwa Tlhokomelo bo diragatse dithata tsa jona mabapi le setheo se se kopantsweng sa ditšhelete, go oketsa polokoego le itekanelo ya setheo se se matshwanedi sa ditšhelete.

(4) Setlamo se se laolong se se neilweng kitsiso go ya ka karolotlaleletso (1) se tshwanetse go ikamanya le ditlhogiso tsa kitiso.
(5) (a) If—
(i) the Prudential Authority gives a holding company a notice in terms of subsection (1); or
(ii) a holding company is licensed in terms of a financial sector law,
each other member of the group of companies in the financial conglomerate, including
the eligible financial institution, must, on demand by the holding company, provide any
information to the holding company that is needed to enable the holding company to
comply with its obligations in terms of this Act or a specific financial sector law.

(b) To give effect to paragraph (a), a holding company of a financial conglomerate
must impose binding corporate rules on, or enter into a binding agreement with,
members of the conglomerate, that includes terms regarding the processing of
information, including personal information, within the financial conglomerate.

Non-operating holding companies of financial conglomerates

163. (1) (a) The Prudential Authority may, by notice to a holding company of a
financial conglomerate, require that the holding company be a non-operating company.

(b) A notice referred to in paragraph (a) must—
(i) include a statement of the purpose of and the reasons why the requirement for the
holding company to be a non-operating company is proposed; and
(ii) invite the holding company to make submissions on the matter, and give a
reasonable period to do so.

(2) A requirement in terms of subsection (1) must be for the purpose of managing
more effectively risks to the safety and soundness of the eligible financial institution
arising from the other members of the financial conglomerate.

(3) In deciding whether to impose a requirement that a holding company be a
non-operating company in terms of subsection (1), the Prudential Authority must take
into account all relevant considerations, including at least the following:

(a) The risks to the safety and soundness of the eligible financial institution
arising from the other members of the financial conglomerate;
(b) submissions made by or for the holding company; and
(c) any other matters that may be prescribed by Regulation.

(4) A holding company that is given a notice in terms of subsection (1) must comply
with the requirements of the notice.

Standards for financial conglomerates

164. (1) The power of the Prudential Authority to make prudential standards extends
to making prudential standards that must be complied with by holding companies of
financial conglomerates.

(2) In addition to the matters referred to in sections 105 and 108, a prudential standard
contemplated in subsection (1) may include requirements with respect to—

(a) financial or other exposures of companies within financial conglomerates;
(b) the governance and management arrangements for holding companies of
financial conglomerates;
(c) reporting of information about companies within financial conglomerates that
are not financial institutions; and
(d) reducing or managing risks to the safety and soundness of an eligible financial
institution arising from the other members of the financial conglomerate.

(3) The power of the Financial Sector Conduct Authority to make conduct standards
extends to making such standards to be complied with by holding companies of financial
conglomerates.
Molao wa Taolo ya Lephata la Ditshelete , 2017

GOVERNMENT GAZETTE, 22 AUGUST 2017 No. 41060
Nmr 9 ya 2017

(5) (a) Fa—
(i) Bothati jwa Tlhokomelo bo ka, ka kitsiso go setlamo se se laolang kitsiso go ya ka karololaleletso (1); kgotsa
(ii) setlamo se se laolang se abetswe laesense go ya ka molao wa lephata la ditišëlethe,

leloko lengwe le lengwe la setlhopha sa ditišëlethe mo setheo se se kopantsweng sa ditišëlethe, (go akaretsa le setheo sa ditišëlethe se se matshwanedi) le tshwanetse, ka pateletso ka setlamo se se laolang, go tlamela setlamo se se laolang ka tshedimosetso ngwe le ngwe e e tlhokegay go gkontsha setlamo se se laolang ga ikamanya le le ditalamego tla sona ya ka Molao ono kgotsa molao o o tsepameng wa lephata la ditišëlethe.

(b) Go tseny a mo tirisorong temana (a), setlamo se se laolang sa setheo se se kopantsweng sa ditišëlethe setheo se setheo se laolang se nne setheo sa direng.

Dikgwebo tse di okameng tse dingwe tse di sa direng tsa ditehoe tsa ditšëlethe tse di kopaneng

163. (1) (a) Bothati jwa Tlhokomelo bo ka, ka kitsiso go setlamo se se laolang sa setheo se se laolang sa ditišëlethe, lopa setheo se se laolang go nna setheo se se sa direng.
(b) Kitsiso e e kailweng mo temaneng (a) e tshwanetse go—
(i) akaretsa polelo ya maithlhomo a le mabaka go gdiriwe tsitsinya ya gore setlamo se se laolang se nne setheo se se sa direng; le
(ii) laletsa setlamo se se laolang gore se dire ditlhagiso ka ga morero oo, le go tlamela ka nako e e lekaneng go dira jalo.
(2) Tlhokego ya ya ka karololaleletso (1) e tshwanetse go nna ya maithlhomo a go laola dikotsi go poloko le itekanelo ya setheo se se matshwanedi sa ditišëlethe go tswa go maloko a mangwe a setheo se se kopantsweng sa ditišëlethe, ka nonofo.
(3) Mo go swetseng ka go pateletse kgotsa go se pateletse tlhokego ya gore se omangwe se nne setheo se se sa direng go ya ka karololaleletso (1), Bothati jwa Tlhokomelo bo tshwanetse go eli tlhoko ditshekatsheko tshothe tse di maleba, go akaretsa le bonnye tse di latelang:
(a) dikotsi go pabalesego le tshiamo ya ditheo tsa ditišëlethe tse di matshwanedi tse di tswang mo ditokololong tse dingwe tsa ditheo tse di kopantsweng tsa ditišëlethe;
(b) ditlhagiso tse di diriwe tse ke kgotsa tse di diretseng setheo se se omangweng;
(c) merero mengwe le mengwe e e ka neelwang ka Molawana.
(4) Setheo se se laolang sa ditišëlethe se se neiwe tse sa ditehoe tse sa laolang go ya ka karololaleletso (1) se tshwanetse go ikamanya le ditlholego tsa kنمو.

Maemo a ditheo tse di kopaneng tsa ditšëlethe

164. (1) Thata ya Bothati jwa Tlhokomelo ya go dira maemo a a manontlhotlho e atologoetswa mo go direng maemo a tlhokomelo a go tshwanetseng go ikamangweng le ona ka ditlam go laolang tsa ditheo tse di kopantsweng tsa ditišëlethe.
(2) Mo go tleleletseng ditlhi tse di kailweng mo karololong 105, maemo a tlhokomelo a a kailweng mo karololaleleletso (1) a ka akaretsa ditlhokego mabapi le—
(a) ditišëlethe kgotsa dipoe mo ponsheeng tse dingwe tsa ditlam go laolang ga ditheo tse di ditlam ga ditheo tse di ditišëlethe;
(b) ditlhalaganyo tse puso le tlaolo tse di tshiyo tse di laolang kgotsa ditheo tse di kopantsweng tsa ditišëlethe;
(c) go bega tshedimosetso ka ga ditlam tse di mo teng ga ditheo tse di kopantsweng tsa ditišëlethe tse o e seng ditheo tsa ditišëlethe; le
(d) go fokotsa kgotsa go laola dikotsi go poloko le itekanelo ya setheo se se matshwanedi sa ditišëlethe go tswa go maloko a mangwe a setheo se se kopantsweng sa ditišëlethe.
(3) Thata ya Bothati jwa Boitshwaro jwa Lephata la Ditišëlethe ya go dira maemo a boitshwaro e atologoetswa mo go direng maemo a gore go ikamangweng le ona ka ditlam go laolang tsa ditheo tse di kopantsweng tsa ditišëlethe.
Directives to holding companies

165. (1) The power of the Prudential Authority to issue a directive in terms of section 143 extends to issuing a directive to the holding company of a financial conglomerate imposing requirements on the holding company to manage and otherwise mitigate risks to the prudent management or financial soundness of an eligible financial institution in the conglomerate arising from other members of the conglomerate.

(2) (a) Requirements that a directive contemplated in subsection (1) may impose, include requirements with respect to restructuring the financial conglomerate in accordance with a plan submitted to the Prudential Authority by the holding company, and approved by the Prudential Authority within a period agreed by the Prudential Authority.

(b) The Prudential Authority may only issue a directive imposing requirements with respect to restructuring the financial conglomerate if the Authority is objectively satisfied that another type of directive will not achieve the result sought to be attained by requiring restructuring of the financial conglomerate.

(c) In deciding whether to issue a directive imposing requirements with respect to restructuring the financial conglomerate, the Prudential Authority must take into account all relevant considerations, including at least the following:

(i) The extent to which the existing structure of the financial conglomerate is hindering or is likely to hinder the effective supervision of the financial conglomerate concerned;

(ii) whether the restructuring of the financial conglomerate is reasonably necessary and appropriate to remedy impediments to the effective supervision of the financial conglomerate; and

(iii) submissions made by or for the holding company.

(3) The power of the Financial Sector Conduct Authority to issue a directive in terms of section 144 extends to issuing a directive to the holding company of a financial conglomerate requiring the holding company to ensure that a financial institution in the conglomerate complies with a financial sector law for which the Financial Sector Conduct Authority is the responsible authority.

Approval and prior notification of acquisitions and disposals

166. (1) (a) A holding company of a financial conglomerate may not acquire or dispose of a material asset as defined in prudential standards made for this section, without the approval of the Prudential Authority.

(b) A prudential standard made under this subsection must clearly identify what constitutes a material asset.

(2) The Prudential Authority may not give an approval in terms of subsection (1), unless the Authority is satisfied that the acquisition or disposal will not prejudicially affect—

(a) the prudent management and the financial soundness of an eligible financial institution within the financial conglomerate;

(b) the ability of the Prudential Authority to determine —

(i) how the different types of business of the financial conglomerate are conducted;

(ii) the risks of the financial conglomerate and each person that is part of that financial conglomerate; or

(iii) the manner in which the governance framework is organised and conducted for the financial conglomerate.

(3) (a) If the Prudential Authority contemplates refusing to grant approval of an acquisition or disposal referred to in subsection (1), prior to taking a decision, the Prudential Authority must notify the holding company of the proposed refusal to grant approval.

(b) A notice referred to in paragraph (a) must—

(i) include a statement of the reasons for the refusal to grant approval; and
Ditaelo go ditlamo tse di laolang

165. (1) Thata ya Bothati jwa Tlhokomelo ya go ntsha taelo go ya ka karolo 143 e atolosetswa mo go reboleng taelo eo go setlamo se se laolang sa setheo se se copantsweng sa ditšhelete se se diragatsang ditlhokego mo setheong se se laolang go laola le ka mokgwa mongwe go fokotsa dikotsi go bolaodi jwa thlokomo w kgotsa thlomamo ya ditšhelete ya setheo se se matshwanedi sa ditšhelete mo setheong se se copantsweng go tswa go malokong a mangwe a setheo se se copantsweng.

(2) (a) Ditlhokego tsa gore taelo e kaailweng mo karolotlaleleletsong (1) e ka pateletsa go ya ka karolotlaleletso (1) e akaretsa ditlhokego mabapi le go baakanya sešwa setheo se se copantsweng go tsamaelana le leano le le neetsweng Bothati jwa Tlhokomelo ke setlamo se se okameng, le go rebolwa ke Bothati jwa Tlhokomelo mo pakeng e go dumalanweng ya yona ke Bothati jwa Tlhokomelo, le go rebolwa ke Bothati jwa Tlhokomelo.

(b) Bothati jwa Tlhokomelo bo ka rebola fela taelo e e pateletsang ditlhokego mabapi le go rulagangwga sešwa ga Date ho tse di copantsweng tsa ditšhelete fa Bothati bo kgotsofadi tse ka maikaelelo ke gore mo futa o mongwe wa taelo o ka se fihilele ditlamorago tse di ikaelwengweng ke go tlhoka gore setheo se se copantsweng sa ditšhelete se se ganele.

(c) Mo go swetseng gore go rebolweng kgotsa go se rebolweng taelo e e pateletsang ditlhokego mabapi le go rulagangwga sešwa ga setheo se se copantsweng sa ditšhelete, Bothati jwa Tlhokomelo bo tshwanetse go elai thlhoke ditšhekatsheko sotlhe tse di maleba, go akaretsa le bonny tse di latelang:

(i) Bogolo jo popego ya gajaana ya setheo sa ditšhelete e kgoreletsang kgotsa e ka kgoreletsang thlomamo e e nonofileng ya setheo se se kopantsweng sa ditšhelete se se amegang;

(ii) gore a thulaganyosešwa ya setheo se se copantsweng sa ditšhelete e a tlhokega ka mabaka le gore a e siametse go ka namola dikgoreletsi tsa thlokomo w e e nonofileng ya setheo se se kopantsweng sa ditšhelete; le

(iii) ditlhagiso tse di dirilweng ke kgotsa mabapi le setlamo se se omang.

(3) Thata ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelele ya go neelana ka taelo go ya ka karolo 144 e atolosetswa mo go reboleng taelo go setlamo se se laolang sa setheo se se copantsweng sa ditšhelete e e lopang setlamo se se laolang go netefatsa gore setheo sa ditšhelete mo setheong se se kopantsweng se ikamangyana le mo laola wa lephata la ditšhelele o Bothati jwa Boitshwaro jwa Lephata la Ditšhelele e leng bolaodi jo bo ralang maikarabelo a ona.

Thebolo le kitsiso ya pele ya diphithelele le dilatlhwa

166. (1) (a) Setlamo se se laolang sa setheo se se copantsweng sa ditšhelete se ka se fihilelele kgotsa phimole ditlho tse di botlhokwa jaaka go tlhalositswa mo maemong a tlhokomelo a a dirilweng karolo eno, ntle le thebolo ya Bothati jwa Tlhokomelo.

(b) Maemo a botlhokwa a a dirilweng ka fa tlase ga karolotlaleletso eno a tshwanetse go tlhagisa ka botlalotse di thamang theho e e botlhokwa.

(2) Bothati jwa Tlhokomelo bo ka se neelana le thebolo go ya ka karolotlaleletso (1), ntle le fa Bothati bo kgotsofetse gore phithelelo kgota phimolo e e kame ka kgobelelo—

(a) bolaodi jwa thlokomo le itekanelo ya ditšhelete ya setheo se se matshwanedi sa ditšhelete mo teng ga setheo se se kopantsweng sa ditšhelete;

(b) bokgoni jwa Bothati jwa Tlhokomelo jwa go thamamisa—

(i) ka moo mofuta e e farologantse ya dikgewe e tshamaiswong e teng;

(ii) dikotsi tsa setheo se se kopantsweng sa ditšhelete le motho mongwe le mongwe yo e leng karolo ya setheo se se kopantsweng se sa ditšhelete; kgotsa

(iii) mokgwao le dithlou mase luswa rulagansweng le go tshamaiswong e teng mabapi le setheo se se kopantsweng sa ditšhelete.

(3) (a) Fa Bothati jwa Tlhokomelo bo akanya go se letle thebolo ya phithelelelo kgota phimolo e e kaailweng mo karolotlaleleletsong (1), pele ga go tsaya tshwetsi, Bothati jwa Tlhokomelo bo tshwanetse go itsiselamo se se okameng ka ga go se letle go go tshitsitsweng ga thebolo.

(b) Kitsiso e e kaailweng mo temaneng (a) e tshwanetse go—

(i) akaretsa polelo ya mabaka a gore goreng thebolo e e letla; le
(ii) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(4) In deciding whether to grant or refuse a request for approval in terms of subsection (1), the Prudential Authority must take into account all relevant considerations, including at least the following:

(a) Whether the acquisition or disposal will not prejudicially affect the matters referred to in subsection (2); and

(b) submissions made in relation to the application for approval, including any submissions made in response to a request for submissions referred to in subsection (3).

(5) An acquisition or disposal in contravention of subsection (1) is void.

CHAPTER 13

ADMINISTRATIVE PENALTIES

Administrative penalties

167. (1) The responsible authority for a financial sector law may, by order served on a person, impose on the person an appropriate administrative penalty, that must be paid to the financial sector regulator, if the person—

(a) has contravened a financial sector law; or

(b) has contravened an enforceable undertaking accepted by the responsible authority.

(2) In determining an appropriate administrative penalty for particular conduct—

(a) the matters that the responsible authority must have regard to include the following:

(i) The need to deter such conduct;

(ii) the degree to which the person has co-operated with a financial sector regulator in relation to the contravention; and

(iii) any submissions by, or on behalf of, the person that is relevant to the matter, including mitigating factors referred to in those submissions; and

(b) without limiting paragraph (a), the matters that the responsible authority may have regard to include the following:

(i) The nature, duration, seriousness and extent of the contravention;

(ii) any loss or damage suffered by any person as a result of the conduct;

(iii) the extent of any financial or commercial benefit to the person, or a juristic person related to the person, arising from the conduct;

(iv) whether the person has previously contravened a financial sector law;

(v) the effect of the conduct on the financial system and financial stability;

(vi) the effect of the proposed penalty on financial stability;

(vii) the extent to which the conduct was deliberate or reckless.

(3) An administrative penalty may include an amount to reimburse the responsible authority for reasonable costs incurred by the responsible authority in connection with the contravention.

(4) The responsible authority may not impose an administrative penalty on a person if a prosecution of the person for an offence arising out of the same set of facts has been commenced.

(5) An administrative penalty order is not a previous conviction as contemplated in Chapter 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(6) The responsible authority that makes an administrative penalty order must publish the order.
(ii) laletsa setlamo se se okameng go dira ditlhagiso ka ga morero, le go neelana ka nako e e lekaneng ya go dira jalo.

(4) Mo go swetseng ka go letla kgotsa kgotsa go se lete kopo ya thebolo go ya ka karolotlaleletso (1), Bothati jwa Thokomelo bo tshwanetse go ela tlhoko ditshékatshekointlhe, go akaretsa bonnye tse di latelang:

(a) Gore a phitlhelelo kgotsa phimolo e ka se ame ka kgobelelo merero e e kailweng mo karolotlaleleletsong (2); le
(b) ditlhagiso tse di dirilweng mabapi le kopo ya thebolo, go akaretsa le ditlhagiso dingwe le dingwe tse di dirilweng ka tshibogelo go kopo ya ditlhagiso e e kailweng mo karolotlaleleletsong (3).

(5) Phitlhelelo kgotsa phimolo e e tlolang karolotlaleletso (1) ga e na ditlamorogo tsa semolao.

KGAOLO 13

DIKOTLHAO TSA TSAMAIKO

Dikotlhao tsa tsamaiso 15

167. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka, ka taelo e e neetsweng mootho, diragatsa mo mothong kotlhao ya tsamaiso e e maleba, eo e tshwanetseng go duela go molaodi wa lephata la ditšhelete mo pakeng e e tsepatsemiSweng mo taelong, fa mootho—

(a) a tlotse molao wa lephata la ditšhelete; kgotsa
(b) a tlotse tumalano e e gatelelwang e e amogetsweng ke bothati jo bo rwalang maikarabelo.

(2) Mo go tšhomaiseng kotlhao e e maleba ya tsamaiso ya boithshwaro jo bo rile.—

(a) merero e bothati jo bo rwalang maikarabelo bo tshwanetseng go e ela tlhoko e akaretsa tse di latelang:

(i) Tlhokoego ya go ñõhela boithshwaro joo;
(ii) ka moo mootho a dirisaneng mmogo le molaodi wa lephata la ditšhelete ka gona mabapi le tlolo; le
(iii) ditlhagiso dingwe le dingwe ka, kgotsa mo boemong jwa, mootho yo o maleba go morero, go akaretsa le mabaka a phokotso a a kailweng mo ditlhagisong tseo; le

(b) ntle le go lekaneyetsa temana (a), merero e bothati jo bo rwalang maikarabelo bo tshwanetseng go e ela tlhoko e akaretsa tse di latelang:

(i) Tlhago, nako, bomasisis le bogolo jwa tlolo;
(ii) tatlhegelo kgotsa tšhenyegelo nngwe le nngwe e mootho mongwe le mongwe a e itemogetsweng ka ntlha ya boithshwaro;
(iii) bogolo jwa kunomolemo ya ditšhelete kgotsa kgwebo mo mothong, kgotsa setheo se se amangang le mootho, go tswa mo boithshwaro;
(iv) ka gongwe mootho o kile a tlola molao wa lephata la ditšhelete mo malobeng;
(v) ditlamorogo tsa boithshwaro mo thulaganyong ya ditšhelete le tšhomamong ya ditšhelete;
(vi) ditlamorogo tsa kotlhao e e tšhitsintsweng mo tšhomamong mo ditšhelete;
(vii) bogolo jo boithshwaro bo neng bo le jwa ka bomo kgotsa jwa boithshwara.

(3) Taelo ya kotlhao ya tsamaiso e ka akaretsa taelo ya go busetsa bothati jo bo rwalang maikarabelo madi a ditšhenyegelo tse di utlwagalang tse di bonweng ke bothati jo bo rwalang maikarabelo mabapi le go batlisisa tlolo.

(4) Bothati jo bo rwalang maikarabelo bo ka se diedise mootho kotlhao ya tsamaiso fa kathlolo ya mootho mabapi le molato o o tswang mo seteng e e tshwanang ya dintlha e setse e simolotswe.

(5) Taelo ya kotlhao ya tsamaiso ga se ponomolato ya pele jaka go kailw mo Kgaolong 27 ya Criminal Procedure Act, 1977 (Molao 51 wa 1977).

(6) Bothati jo bo rwalang maikarabelo jo bo dirang taelo ya kotlhao ya tsamaiso bo tshwanetse go phasalatsa taelo.
Payment

168. An amount payable in terms of an administrative penalty order is due and payable as set out in Regulations made for this Chapter.

Interest

169. Interest, at the rate prescribed for the time being in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), is payable in respect of the unpaid portion of the amount payable as an administrative penalty until it is fully paid.

Enforcement

170. (1) The responsible authority that makes an administrative penalty order may file with the registrar of a competent court a certified copy of the order if—

(a) the amount payable in terms of the order has not been paid as required by the order; and

(b) either—

(i) no application for reconsideration of the order in terms of a financial sector law, or for judicial review in terms of the Promotion of Administrative Justice Act of the Tribunal’s decision, has been lodged by the end of the period for making such applications; or

(ii) if such an application has been made, proceedings on the application have been finally disposed of.

(2) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

Application of amounts paid as administrative penalties

171. All amounts recovered by a responsible authority as administrative penalties must be applied—

(a) first, to reimburse the responsible authority for its costs and expenses reasonably and properly incurred in connection with the relevant contravention, making the order and enforcing it; and

(b) then, the balance after applying the amount in accordance with paragraph (a) must be paid into the National Revenue Fund.

Administrative penalty taken into account in sentencing

172. When determining the sentence to impose on a person convicted of an offence in terms of a financial sector law, a court must take into account any administrative penalty order made in respect of the same set of facts.

Remission of administrative penalties

173. The responsible authority that imposed an administrative penalty on a person may, on application by the person, by order, remit all or some of the administrative penalty, and all or some of the interest payable in terms of section 169.

Prohibition of indemnity for administrative penalties

174. (1) Except in circumstances prescribed by a joint standard, a person may not undertake to indemnify or compensate another person, directly or indirectly, wholly or partly, in respect of a payment made or liability incurred by the other person in connection with an administrative penalty order imposed on the other person.

(2) An undertaking in terms of subsection (1) is void.
Tuelo

168. Madi a a duelwang go ya ka taelo ya kotlhao ya tsamaiso a a tshwanetseng go duelwa le go duediswa jaaka go tlhalositse go Melawaneng e e diretsweng Kgaolo eno.

Morokotso

169. Morokotso, ka kelo e e neetsweng nakwana go ya ka Prescribed Rate of Interest Act, 1975 (Molao 55 wa 1975), o duelwa mabapi le karolo e e sa duelwang ya tlohlhwa e e duelwang jaaka kotlhao ya tsamaiso go fichela o duetswe ka botlalo.

Kgatelelo

170. (1) Bothi jo bo rwalang maikarabelo jo bo dirang taelo ya kotlhao ya tsamaiso bo ka faela kgatiso e e kanaetsang ya taelo le mokwadisi wa kgotlatshekelo e e nang le bokgoni fa—
   (a) madi a a duelwang go ya ka taelo a sa duelwa jaaka go tlhokega go ya ka taelo; le
   (b) gongwe—
      (i) go se kopo ya tshekatsheko morago mabapi le molao wa lephata la ditšelete kgatlhanong le go dirwa ga taelo e e dirilweng ka nako ya bokhutlo jwa paka ya go dira dikopo tseo; kgotsa
      (ii) fa kopo eo e dirilwe, tshekatsheko morago e fedisitswe kwa bofelong.
   (2) Taelo, fa e faelwa, e na le ditlamorago tsa kathllo ya selegae, e bile e ka gatelelewa jaaka e kete go neiwe semolao kwa kgotlatshekelong eo.

Tiriso ya madi a a duetsweng jaaka dikotlhao tsa tsamaiso

171. Madi otlha a a bonweng ke bothi jo bo rwalang maikarabelo jaaka dikotlhao tsa tsamaiso a tshwanetseng go diriswa—
   (a) pele, go busetsa bothi jo bo rwalang maikarabelo madi a jona a dituelo le ditšenyegelo tseo bo di iponetseng ka mabaka le tshiamo mo go batlisiseng tlolo e e maleba, go dira taelo le go e gatelela; le
   (b) mme morago, tshalelo nngwe le nngwe morago ga tiriso ya madi go tsa maelana le temana (a) e tshwanetseng go duelwa mo Letloleng la Lotseno la Bosetshaba.

Kotlhao ya tsamaiso e e tserweng mo katholong

172. Fa go tlhomamiswa katlhlo e e ka newang motho yo o bonweng molato go ya ka molao wa lephata la ditšelete, kgotlatshekelo e tshwanetseng go ela tlhoko taelo ya kotlhao nngwe le nngwe ya tsamaiso e e dirilweng mabapi le sete e e tshwanang ya dintla.

Tebalelo melato ya dikotlhao tsa tsamaiso

173. Bothi jo bo rwalang maikarabelo jo bo duedisang motho kathlho ya tsamaiso bo ka, mo kopong ka motho, ka taelo, phimola dikotlhao tsothle kgotsa dingwe tsa dikotlhao tsa tsamaiso, le morokotso otlhe kgotsa nngwe ya morokotso o o duelwang go ya ka karolo 169.

Thibelo ya polokego mabapi dikotlhao tsa tsamaiso

174. (1) Ntle le mo mabakeng a a neetsweng ke maemo a a kopantsweng, motho o ka se dumalane go se tseye maikarabelo kgotsa go duela motho yo mongwe, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka botlalo kgotsa e seng ka botlalo, mabapi le taelo e e dirilweng kgotsa molato o o iponetsweng ke motho yo mongwe mabapi le taelo ya kotlhao ya tsamaiso e e pateleditsweng motho yo mongwe.
   (2) Tumalano go ya ka karolotlaleletso (1) ga e na ditlamorago dipé.
CHAPTER 14
OMBUDS

Part 1

Ombud Council

175. (1) The Ombud Council is hereby established.
(2) The Ombud Council is a juristic person.
(3) The Ombud Council is a national public entity for the purposes of the Public Finance Management Act, and notwithstanding section 49(2) of the Public Finance Management Act, the Chairperson of the Ombud Council is the accounting authority of the Ombud Council for the purposes of that Act.

Objective

176. The objective of the Ombud Council is to assist in ensuring that financial customers have access to, and are able to use, affordable, effective, independent and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products, financial services, and services provided by market infrastructures.

Functions of Ombud Council

177. (1) In order to achieve its objective, the Ombud Council must—
(a) recognise, in accordance with this Chapter, industry ombud schemes;
(b) promote co-operation between, and co-ordination of, the activities of ombuds;
(c) strive to protect the independence and impartiality of ombuds;
(d) promote public awareness of ombuds and ombud schemes and the services they provide;
(e) take steps to facilitate access by financial customers to appropriate ombuds;
(f) publicise ombud schemes, including publicising the kinds of complaints that different ombud schemes deal with;
(g) resolve, in accordance with this Act, overlaps of the jurisdictional coverage of different ombud schemes;
(h) monitor the performance of ombud schemes, including the extent to which they comply with the requirements of this Chapter and specific financial sector laws; and
(i) support financial inclusion.
(2) The Ombud Council must also perform any other function conferred on it in terms of any other provision of this Act or other applicable legislation.
(3) The Ombud Council may do anything else reasonably necessary to achieve its objective.
(4) The Ombud Council must perform its functions without fear, favour or prejudice.

Overall governance objective

178. The Ombud Council must—
(a) manage its affairs in an efficient and effective way; and
(b) establish and implement appropriate and effective governance systems and processes.

Board of Ombud Council

179. (1) A Board for the Ombud Council is hereby established.
(2) The Board consists of—
(a) the Chief Ombud;
Khansele ya Ombud

175. (1) Khansele ya Ombud e a tlhongwa.
(2) Khansele ya Ombud ke setheo se se mo molaong.
(3) Khansele ya Ombud ke setheo sa setšhaba sa bosetšhaba mabapi le maitlhomo a Public Finance Management Act le, go sa nyatswe karolo 49(2) ya Public Finance Management Act, Modulasetilo wa Khansele ya Ombud ke molaodi yo o rwalang maikarabelo wa Khansele ya Ombud mabapi le maitlhomo a Molao ono.

Maithlomo

176. Maikaelelo a Khansele ya Ombud ke go thusa mo go netefatseng gore badirisi ba ditšhelebe ba kgona go fitlhelela, le go kgona go dirisa, dikgato tse dingwe tsa tharabololo ya dithulano tse di tuelo tlase, nonofileng, ikemetseng le lolameng mo dingongoregong tse di ka ga ditheo tsa ditšhelebe mabapi le dikuno tsa ditšhelebe, ditirelo tsa ditšhelebe, le ditirelo tse di tlamelwang ke dithulaganyeto tsa popego ya mmarakaa.

Ditiro tsa Khansele ya Ombud

177. (1) Gore e fitlhelele maikaelelo a yona, Khansele ya Ombud e tshwanetse go—
(a) amogela, go tsamaisana le Karolo eno, dikema tsa ombud tsa bodirelo;
(b) tsweletsa pele tirisanomnomogo magareng, le thulaganyo ya di tiro tsa ombuds;
(c) leka go sireletsa go ikemela le go sa tseyeng letlhakore ga ombuds;
(d) tsweletsa pele temosoa ya setšhaba ka ga a ombuds le dikema tsa ombud le ditirelo tse ba di tlamelang;
(e) tsaya dikgato go nolofatsa phitlhelelo ya barekedi ditšheleke go ombuds tse di maleba;
(f) itsise setšhaba ka ga sekema sa ombud, go akaretsa go bega ka mafuta ya dingongorego tse diongempeng di samaganeng le tsoma;
(g) raborololo, go tsamaelana le Molao ono, ditšekelepo ka phitlhelelo ya lefelo tla dikema tse di samaganeng tsa ombud;
(h) tlhokomela tiro ya dikema tsa ombud, go akaretsa le bogolo jo di ikamanyang le ditlhekoego tsa Kgaoelo eno ka jona le melao e e tsepmang ya lephata la ditšhelebe e le ditšhelebe; le
t(i) tsweletsa pele tsenyeletso ya ditšhelebe.
(2) Khansele ya Ombud e tshwanetse go di tiro ngwe e e e roletsweng go ya ka kabelo ngwe le ngwe ya Molao ono kgotsa molawana mongwe le mongwe o o maleba.
(3) Khansele ya Ombud e ka tiro sengwe le sengwe go se se tihkegeng ka mabaka go fithlelela maikaelelo a yona.
(4) Khansele ya Ombud e tshwane tse go di tiro ya yona tle le letshogo, 40 le sekaletshake kgotsa kgobelelo.

Maithlomo ka kakaretsa puso

178. Khansele ya Ombud e tshwane tse go—
(a) laola merero ya yona ka bogositsa le; le
(b) thloma le go diragatsa ditšama tsa puso le dikgato tse di maleba e bile di na le bogositsa.

Boto ya Khansele ya Ombud

179. (1) Boto ya Khansele ya Ombud e a tlhongwa.
(2) Boto e bopilwe ka—
(a) Ombud yo Mogolo;
(b) the Commissioner; and
(c) at least four, but not more than six, other members.

(3) The Commissioner does not have a vote on a question being considered by the Board.

Appointment of Board members

180. (1) The members of the Board are appointed by the Minister.
(2) (a) The Minister must appoint a member as Chairperson and another member as Deputy Chairperson.
(b) The Commissioner and the Chief Ombud may not be appointed as Chairperson or Deputy Chairperson.
(3) The Deputy Chairperson acts as Chairperson when the Chairperson is absent from office or is otherwise unable to perform his or her functions.
(4) A person may not be appointed to, or hold office as, a member of the Board if the person is—
(a) an ombud;
(b) a member of the governing body or staff of an ombud scheme;
(c) a member of the staff of the Ombud Council;
(d) a disqualified person;
(e) not ordinarily resident in the Republic; or
(f) engaged in—
   (i) the business of a financial institution; or
   (ii) the provision of financial products or financial services to financial customers.

Terms of office of Board members

181. (1) A person appointed as a member of the Board—
(a) holds office for a term of no longer than five years, as the Minister may determine;
(b) is, at the expiry of that term of office, eligible for re-appointment for one further term; and
(c) must vacate office before the expiry of a term of office if that person—
   (i) resigns by giving at least three months written notice to the Minister, or a shorter period that the Minister may accept; or
   (ii) is removed from office.
(2) The Minister must, at least three months before the end of a person’s first term of office, inform the person whether or not the Minister intends to re-appoint the person as a member of the Board.

Service conditions of Board members

182. A member of the Board holds office on the terms and conditions, including terms and conditions relating to remuneration, that are determined by the Minister.

Removal of Board members

183. (1) The Minister must, subject to due process, remove a member of the Board from office if the member becomes a disqualified person.
(2) The Minister may remove a member of the Board from office if an independent inquiry established by the Minister has found that the member—
(a) is unable to perform the duties of office for health or other reasons;
(b) has failed in a material way to discharge any of the responsibilities of office; or
(c) has acted in a way that is inconsistent with continuing to hold the office.
(3) Without limiting subsection (2)(b), a member of the Board must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the Board without the leave of the Board.
Go thapiwai ga maloko a Boto

180. (1) Maloko a Boto a athapiwai ke Tona.  
(2) (a) Tona o tshwanetse go thapa leloko jaaka Modulasetilo le leloko le lengwe jaaka Motlatsamodulasetilo.  
(b) Khomišenara le Ombud yo Mogolo baka se thapiwe jaaka Modulasetilo kgotsa Motlatsamodulasetilo.  
(3) Motlatsamodulasetilo o tshwara marapo jaaka Modulasetilo fa Modulasetilo a seyo kwa tirong kgotsa ka gongwe a sa kgone go dira tiro ya gagwe.  
(4) Motho o ka se thapiwe go nna, kgotsa gosethwa maemoe a, Modulasetilo, Motlatsamodulasetilo kgotsa leloko la Boto fa motho yoo—
   (a) e le ombud;  
   (b) e le leloko la mokgatlho o o busang kgotsa badirimmogo mo sekemeng sa ombud;  
   (c) e le leloko la badirimmogo ba Khansele ya Ombud;  
   (d) a ileditswe;  
   (e) se ka tlwaelo moagi mo Rephaboliking; kgotsa  
   (f) a samagane le—
      (i) kgwebo ya setheo sa ditšhelete; kgotsa  
      (ii) kabelo ya dikuno tsitšhelete kgotsa ditirelo tsitšhelete go barekedi ba ditšhelete.

Para ya ofisi ya maloko a Boto

181. (1) Motho yo o thapilweng jaaka leloko la Boto—
   (a) o nna mo tirong sebaka sa paka e sa feteng dingwaga tse tlhano, jaaka Tona a ka thomamisa;  
   (b) o, ka go fitlha bokhutlong ga paka ya tiro, na le tshwanelo ya go ka thapiwa gape sebaka sa paka e le nngwe; le  
   (c) o tshwanetse go tswa mo ofising pele ga paka ya tiro e ya bokhutlong fa motho yoo—
      (i) a rola tiro ka go naya Tona kitsiso e e kwetsweng ya bonnye dikgwedi tse tharo, kgotsa nako e khitshwane e Tona a ka e amogelang; kgotsa  
      (ii) a ntsitswe mo ofising.  
(2) Tona o tshwanetse, bonnye dikgwedi di le tharo pele ga bokhutlo jwa paka ya motho ya nthla ya ofisi, go itisise motho fa e le gore Tona o ikaelela go thapa motho yoo gape jaaka leloko la Boto.

Mabaka a tirelo ya maloko a Boto

182. Leloko la Boto le thapiwa ka dipeelo le mabaka, go akaretse le dipeelo le mabaka tse di amanang le mogolo, tse di thomamisitsweng ke Tona.

Go tloswa ga maloko a Boto

183. (1) Tona o tshwanetse, go ya ka dikgato tse di maleba, go tlosa leloko la Boto mo ofising fa leloko le nna motho yo o ileditsweng.  
(2) Tona o ka tlosa leloko la Boto mo ofising fa patlisiso e e ikemetse e e thomamisitsweng ke Tona e fillheletse gore leloko—
   (a) ga le kgone go dira ditiro tsu ofisi ka nthla ya mabaka a boitkanelo kgotsa a mangwe;  
   (b) le paletswe ka gotlhe go diragatsa epe ya maikarabelo a ofisi; kgotsa  
   (c) le dirile ka mokgwà o o sa tsamaelaneng le diitlhokego tsa go tswelela go nna mo tirong.  
(3) Ntle le go lekanyetsa karololatlaleletso (2)(b), leloko la Boto le tshwanetse go tseelwa gore le paletswe ka mokgwà o o bonagalong go diragatsa maikarabelo a ofisi fa a sa mme teng mo dikopanong tse pedi tse di letelanang tsu Boto ntle le khunologo ya Boto.
(4) If an independent inquiry has been established in terms of subsection (2), the Minister may suspend the member of the Board from office pending a decision on that person’s removal from office.

(5) If a member of the Board is removed from office in terms of subsection (2), the Minister must submit the report and findings of the independent inquiry to the National Assembly.

**Role of Board**

184. The Board must—

(a) generally oversee the management and administration of the Ombud Council in order to ensure that it is efficient and effective;

(b) appoint members of committees of the Ombud Council required or permitted by a law, and give directions regarding the conduct of the work of any committee;

(c) make determinations of fees in terms of a financial sector law;

(d) keep the Minister informed of—

(i) compliance by ombud schemes with the financial sector laws in so far as they relate to ombud schemes;

(ii) trends in the nature of complaints and issues raised in complaints that ombud schemes are dealing with, and how those types of issues and complaints are being dealt with; and

(iii) the conduct of financial institutions that is giving rise to complaints to ombud schemes;

(e) keep the financial sector regulators informed of the conduct of financial institutions that is giving rise to complaints to ombud schemes; and

(f) address any other matter assigned in terms of a financial sector law to the Board.

**Meetings of Board**

185. (1) (a) The Board must meet on a quarterly basis or as often as necessary for the performance of its functions.

(b) An audio or audio-visual conference among a majority of the members of the Board, which enables each participating member to hear and be heard by each of the other participating members, must be regarded to be a meeting of the Board, and each participating member must be regarded as being present at such a meeting.

(2) Meetings of the Board are to be at times and, except where subsection (1) applies, at places determined by the Chairperson.

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

(4) (a) The Chairperson chairs the meetings of the Board at which the Chairperson is present.

(b) If the Chairperson is not present at a meeting, the Deputy Chairperson chairs the meeting.

(5) The person chairing a meeting of the Board may invite or allow any other person to attend a meeting of the Board, but a person who is invited has no right to vote at the meeting.

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

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

**Decisions of Board**

186. (1) (a) A proposal before a meeting of the Board becomes a decision of the Board if a majority of the members who are present or regarded as being present, and who may vote, vote for the proposal.

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

(2) The Board may, in accordance with procedures determined by the Board, make a decision on a proposal outside a meeting of the Board.
Botsayakarolo jwa Boto

184. Boto e tshwanetse—
   (a) ka kakaretso, go tlhokomela taolo le tsamaiso ya Khasanele ya Bolaodi ya Ombud go netefatsa gore e na le bokgoni e bile e nonofile;  
   (b) gothapa maloko a komiti ya Khasanele ya Bolaodi ya Ombud a a tlhokegang kgotsa letleletsweng ke molao, le go naya dikaelo mabapi le boitshwaro jwa tiro ya komiti e ngwe le e ngwe;  
   (c) go dira ditlhomamiso tsa dituelo go ya ka molao wa lephata la ditshelete;  
   (d) go baya Tona mo leseding ka ga—  
      (i) ikamanyoyadikematsa ombudlemelaoyalephataladitsheletegoyaka  
      (ii) dingongorego tse dikema tsa ombud di samaganeng le tsosa, le ka moo  
      (iii) boitshwaro jwa ditheo tsa ditlhomamiso tse di dirang gore go nne le  
      (e) go baya balaodi ba lephata la ditshelete mo leseding ka ga boitshwaro jwa ditheo tsa ditlhomamiso tse di dirang gore go nne le dingongorego tse ditlhomamiso tsa ditlhomamiso; le  
   (f) go sekaseka mororo mongwe le mongwe o o neilweng Boto go ya ka molao wa lephata la ditshelete.

Dikopano tsa Boto

185. (1) (a) Boto e tshwanetse go kopana kotare ngwe le ngwe kgotsa kgapetsakgapetsa jaaka go tlhokega go dira ditiro tsa yona.  
   (b) Khonferenseya ya kuto kgotsa kutopono magareneng ga bontsi jwa maloko a Boto, e  
   (c) gothapaga la maloko le, ntle le moo karolotlaleletseng (2), Tona o  
   (d) go baya Tona mo leseding ka ga—  
      (i) ikamanyo ya dikema tsa ombud le melao ya lephata la ditshelete go ya ka  
      (ii) dingongorego tse dikema tsa ombud di samaganeng le tsosa, le ka moo  
      (iii) boitshwaro jwa ditheo tsa ditlhomamiso tse di dirang gore go nne le  
      (e) go baya balaodi ba lephata la ditshelete mo leseding ka ga boitshwaro jwa ditheo tsa ditlhomamiso tse di dirang gore go nne le dingongorego tse ditlhomamiso tsa ditlhomamiso; le  
   (f) go sekaseka mororo mongwe le mongwe o o neilweng Boto go ya ka molao wa lephata la ditshelete.

Ditshwetso tsa Boto

186. (1) (a) Tshitsinyo e e fa pele ga kopano ya Boto e nna tshwetso ya Boto fa bontsi jwa maloko a a leng teng kgotsa a a tsewang gore a teng, le ba ba ka boutang, ba boutela tshitsinyo.  
   (b) Mo lebukeng la tekatekano ya diboutu mo tshitsinyony, motho yo o okameng kopano o ka dira boutu ya makgaolakgang mo godimo ga boutu ya tiwaelo.  
   (2) Boto e ka, go tsamaelana le ditsamaiso tse di tlhomamisitsweng ke Boto, tsaya tshwetso mo tshitsinyony kwa ntle ga kopano ya Boto.
(3) A decision of the Board is not invalid merely because—
   (a) there was a vacancy in the office of a member when the decision was taken; or
   (b) a person who was not a member participated in the decision, but did not vote.

Governance and other committees of Ombud Council

187. (1) The Board must establish—
   (a) a committee to review, monitor and advise the Board on the remuneration policy of the Ombud Council; and
   (b) a committee to review, monitor and advise the Board on the risks faced by the Ombud Council and plans for managing those risks.

(2) (a) The Board may establish one or more other committees for the Ombud Council, with membership and functions as determined by the Board.
   (b) A committee may include persons who are not members of the Board.
   (3) A disqualified person may not be, or remain, a member of a committee.
   (4) A member of a committee holds office for the period, and on the terms and conditions, including, in the case of a person who is not in the service of an organ of state, terms regarding remuneration, determined by the Board.
   (5) (a) A committee established in terms of subsection (1) or section 51(1)(a)(ii) of the Public Finance Management Act must be chaired by a person who is not the Chairperson, the Deputy Chairperson or a staff member of the Ombud Council.
   (b) The majority of the members of that committee may not be staff members of the Ombud Council.
   (6) A committee determines its procedure, subject to any directions that may be issued by the Board.
   (7) The Chief Ombud must ensure that minutes of each meeting of a committee are kept in a manner determined by the Board.

Chief Ombud

188. (1) The Minister must appoint a Chief Ombud, and the person appointed as such must agree with the Minister, in writing, on—
   (a) the performance measures that must be used to assess the person’s performance; and
   (b) the level of performance to be achieved against those measures.

(2) Subject to this Act, the Chief Ombud holds office on the terms and conditions, including terms and conditions relating to remuneration, pension, leave and other benefits, that are determined by the Board and specified in an employment contract between the Chief Ombud and the Ombud Council.

(3) The Chief Ombud—
   (a) is responsible for the day-to-day management and administration of the Ombud Council; and
   (b) must perform the functions of the Ombud Council, except those mentioned in section 184(b) and (c), including exercising the powers and carrying out the duties associated with those functions.

(4) (a) The Chief Ombud must convene meetings of the ombuds on a regular basis, but at least four times a year, to discuss the effective operation of the ombuds system.
   (b) The Chief Ombud, or, in the absence of the Chief Ombud, a person appointed by the Chief Ombud, chairs meetings of the ombuds;
   (c) If three ombuds request the Chief Ombud in writing to convene a meeting of the Ombud Council, a meeting of the ombuds must be convened.

(5) When acting in terms of subsection (3), the Chief Ombud must implement the policies and strategies adopted by the Board.

Duties of Board members

189. (1) A member of the Board must—
   (a) act honestly in all matters relating to the Ombud Council; and
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(3) Tshwetso ya Boto ga e tlhoko go amogolesega fela ka ntlha ya gore—

(a) go ne go na le phatlatiro kwa ofising ya leloko fa go ne go tšwetso; kgotša
(b) motho yo e neng e se leloko o tsere karolo mo tšwetsong.

Puso le dikomiti tse dingwe tsa le Khansele ya Ombud

187. (1) Boto e tšhwanetse go tlhoma—

(a) komiti go gakolola Boto ka pholisi ya mogolo ya Khansele ya Ombud; le
(b) komiti go sekaseka, tlhokomela le go gakolola Boto ka ga dikotsi tse Khansele ya Ombud e lebaganeng le tsota le maano a go laola dikotsi tseo.

(2) (a) Boto e ka tlhoma komiti kgotsa tse dingwe tse dintsi mabapi le Khansele ya Ombud, ka botokololo le diitiro jaaka di tlhomamisitswe ke Boto.
(b) Komiti e ka akaretsa batho bao e seng maloko a Boto.

(3) Motho yo o leedi tšweng o ka se nne, kgotsa o ka se tswelele go nna, leloko la komiti.

(4) Leloko la komiti le dira sebaka sa paka, le go ya ka dipeelo le mabaka, go akaretsa, mo lebakeng la motho yo o seng mo tširelo la lekala la puso, dipeelo mabapi le mogolo, di tlhomamiswa ke Boto.

(5) (a) Komiti e e tlhomilweng go ya ka karolotlaleletso (1) kgotsa karolo 51(1)(a)(ii) ya Public Finance Management Act e tšwetsetse go okamelwa ke motho yo e seng Modulasetilo kgotsa leloko la badirimmogo la Khansele ya Ombud.
(b) Bontsi jwa maloko a komiti eo bo ka se nne maloko a badirimmogo ba Khansele ya Ombud.

(6) Komiti e tlhomamisa tsamaiso ya yona, go ya ka dikaelo tse di ka rebolwang ke Boto.

(7) Ombud yo Mogolo o tšwetsetse go netefatsa gore metsotso ya kopano ngwe le ngwe e tšholwa go ya ka mokgwao o o tlhomamisitsweng ke Boto.

Ombud yo mogolo

188. (1) Tona o tšwetsetse go thapa Ombud yo Mogolo e bie motho yo o tšapitlweng jalo o tšwetsetse go dumela, ka go kwala, ka ga—

(a) ditekenyetsitiro tse di tšwetsetse go diriswa go lekanyetsa tiro ya motho yo o umakilweng; le
(b) boemo jwa tširelo jo bo tšwetsetse go fitlelelewa kgatlhanong le ditekenyetsi tseo.

(2) Go tšamaletla le Molao ono, Ombud yo Mogolo o dira go ya ka dipeelo le mabaka, go akaretsa le dipeelo le mabaka tse di amanang le mogolo, phensene, khunolo le dikunomolemo le dingwe tse di amanang le hlopelo le diwe, tse di tlhomamisitsweng ke Boto le go tsepamiswa mo konterakeng ya tiro magareng ga Ombud yo Mogolo le Khansele ya Ombud.

(3) Ombud yo Mogolo wa Khansele ya Ombud—

(a) o rwalwa maikarabelo a bolaodi le tsamaiso tsa letsatsi le letsatsi tsa Khansele ya Bolaodi ya Ombud; le
(b) o tšwetsetse go dira ditiro tsa Khansele ya Ombud, tle le tse di kailweng mo karolong 184(b) le (c), go akaretsa le go diragatsa ditsho le go dira ditiro tse di amanang le ditiro tseo.

(4) (a) Ombud yo Mogolo o tšwetsetse go bitsa kopano le go okamela dikopano tsa ombuds kgapetsagapetsa, mme fela bonnye makgetlo a le mane ka ngwaga, go sekaseka tsamaiso e e nonofileng ya dithulaganyo tsa ombuds.
(b) Ombud yo Mogolo, kgotsa, fa Ombud yo Mogolo a se teng, motho yo o tšapitlweng ke Ombud yo Mogolo, o okamela dikopano tsa ombuds.
(c) Fa boomuds ba bararo ba kwalela Ombud yo Mogolo go mo kopa go bitsa kopano ya Khansele ya Ombud, kopano ya boomuds e tšwetsetse go tšhwarwa.

(5) Fa a dira go ya ka karolotlaleletso (3), Ombud yo Mogolo o tšwetsetse go tsena dipholisi le maano tse di amogetsweng ke Boto mo tirsong.

Ditiro tsamaiso ya Boto

189. (1) Leloko la Boto le tšwetsetse go—

(a) dira ka boikanyego mo mererong yotlhe e e amanang le Khansele ya Ombud; le
perform his or her functions as a member—
(i) in good faith;
(ii) for a proper purpose; and
(iii) with the degree of care and diligence that a reasonable person in the
member’s position would exercise.

(2) A person who is or was a member of the Board may not use that position, or any
information obtained as a member of the Board, to—
(a) improperly benefit himself, herself or another person;
(b) impede the Ombud Council’s ability to perform its functions; or
(c) cause improper detriment to another person.

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

Delegations

190. (1) The Chief Ombud may, in writing—
(a) delegate any of his or her powers or duties in terms of a financial sector law,
except the power to delegate contained in this subsection, to a staff member of
the Ombud Council; and
(b) at any time, amend or revoke a delegation made in terms of paragraph (a),
subject to any rights that may have accrued.

(2) A delegation in terms of subsection (1) may be to a specific person or to a person
holding a specific position.

(3) A delegation in terms this section—
(a) is subject to the limitations and conditions specified in the delegation; and
(b) does not divest the Chief Ombud of responsibility in respect of the delegated
power or duty.

(4) Anything done by a delegate in terms of the delegation must be regarded as having
been done by the Ombud Council.

Staff and resources

191. (1) The Ombud Council may, in accordance with applicable law—
(a) engage persons as employees;
(b) enter into secondment arrangements;
(c) engage persons on contract otherwise than as employees;
(d) enter into contracts;
(e) acquire and dispose of property;
(f) insure itself against any loss, damage, risk or liability that it may suffer or
incur; and
(g) do anything else necessary for the performance of its functions.

(2) The Ombud Council may not enter into a secondment arrangement in respect of a
person, or engage persons as employees or on contract, unless the person and the Ombud
Council have agreed in writing, on—
(a) the performance measures that must be used to assess that person’s
performance; and
(b) the level of performance to be achieved against those measures.

Duties of staff members

192. (1) A person who is or was a staff member of the Ombud Council may not use
that position or any information obtained as a staff member to—
(a) improperly benefit himself, herself or another person;
(b) impede the Ombud Council’s ability to perform its functions; or
(c) cause improper detriment to another person.

(2) For the purposes of this section, “benefit” and “detriment” are not limited to
financial benefit or detriment.
(b) dira diitiro tsa gagwe jaaka leloko—
   (i) ka maikaelelo a a nepagetseng;
   (ii) ka maitlhomo a nnete; le
   (iii) ka maemo a tlhokomelo le kelotlhoko ao motho yo o siameng yo o mo
        maemong a leloko a ka a dirgatsang.

(2) Motho yo e leng kgotsa yo e neng e le leloko la Boto o ka se dirise maemo ao,
    kgotsa tshedinometsotso nngwe le ngwe e e filheletseng jaaka leloko la Boto, go—
    (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka
        tsela e e sa siamang;
    (b) kgoreletsa Khansele ya Ombud go dira tiro ya yona; kgotsa
    (c) thatatafeltsa motho yo mongwe.

(3) Mabapi le maitlhomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a
    lekanyetswa go kunomolemo ya ditšhelete kgotsa thatatafeltsa ya ditšhelete.

Ditholelo

190. (1) Ombud yo Mogolo o ka, ka go kwala—
    (a) rolela nngwe le ngwe ya dithata kgotsa ditiro go ya ka molao wa lephata la
        ditšhelete, ntle le tha ta ya go rolela e e filhelewang mo karolotlaleletsong eno,
        go leloko la badirimimgo la Khansele ya Ombud; le
    (b) ka nako ngwe le ngwe, tlhabololola kgotsa phimola tholelo e e dirilweng go
        ya ka temana (a), go tsaamelana le ditshwanelo tse di filheletseng.

(2) Tholelo go ya ka karolotlaleletso (1) e ka direlwla motho yo o rileng kgotsa motho
    yo o tshwengeng maemo a a rileng.

(3) Tholelo go ya ka kgaoelo eno—
    (a) e go ya ka ditekanyetsa le mabaka tse di tsepmamitsweng mo tholelong; le
    (b) ga e amoge Ombud yo Mogolo maikarabelo mabapi le thata kgotsa tiro e e
        rolelsweng.

(4) Sengwe le sengwe se se dirilweng ke boemedi mabapi le tholelo se tshwanetse go
    tsewa jaaka se dirilwe ke Khansele ya Ombud.

Badiri le ditlamelwana

191. (1) Khansele ya Ombud e ka, go tsaamelana le molao o o diriswang—
    (a) dirisana le batho jaaka badiri; kgotsa
    (b) dira thulaganyo ya tsutshiso ya nakwana ya modiri;
    (c) buisana le batho ka ga konteraka go na le jaaka e le badiri;
    (d) dira dikonteraka;
    (e) phitlhelelo le phetiso ya thoto;
    (f) mšora kgatlhanong le tatlhegelo, tshenyegelo, kotsi kgotsa molato tse e ka di
        itemogelang kgotsa ya nna ka fa tlase ga tsona; le
    (g) dira sengwe le sengwe se se tlhokegang gore e kgone go dira tiro ya yona.

(2) Khansele ya Ombud e ka, go le se dire thulaganyo ya tsutshiso ya nakwana ya modiri
    mabapi le motho, kgotsa ya dirisana le batho jaaka badiri kgotsa mo konterakeng, ntle
    le fa motho le Bothati jwa Boitshwarlo jwa Lephata la Ditišhelete ba dumalane ka go
    kwala mabapi le—
    (a) ditekanyetsitso tse di tshwanetseng go diriswa go lekanyetsa tiro ya motho;
       le
    (b) boemo jwa tiro jo bo tshwanetseng go filhelelwla kgatlhanong le ditekanyetsa
       tsew.

Ditiro tsa maloko a badiri

192. (1) Motho yo e leng kgotsa yo e neng e le leloko la badirimimgo ba Khansele ya
    Ombud o ka se dirise maemo ao kgotsa tshedinometsotso nngwe le ngwe e a e boneng
    jaaka leloko la badirimimgo go—
    (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka
        tsela e e sa siamang;
    (b) kgoreletsa Khansele ya Ombud go dira ditiro tsa yona; kgotsa
    (c) thatatafeltsa motho yo mongwe.

(2) Mabapi le maitlhomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a
    lekanyetswa go kunomolemo ya ditšhelete kgotsa thatatafeltsa ya ditšhelete.
Disclosure of interests

193. (1) A member of the Board must disclose, at a meeting of the Board, or in writing to each of the other members, any interest in a matter that is being or will be considered by him or her, whether or not at a meeting of the Board, being an interest that—
   (a) the member has; or
   (b) a person who is a related party to the member has.
(2) A disclosure in terms of subsection (1) must be given as soon as practicable after the member concerned becomes aware of the interest.
(3) A member referred to in subsection (1) may not perform a function in relation to the matter concerned unless—
   (a) the member has disclosed the interest in accordance with subsection (1); and
   (b) the other members of the Board have decided that the interest cannot be seen as affecting the member’s proper execution of his or her functions in relation to the matter.
(4) A member of a committee of the Ombud Council established in terms of section 51(1)(a)(iii) of the Public Finance Management Act or section 187(1) of this Act must disclose, at a meeting of the committee, or in writing to each of the other members of that committee, any interest in a matter that is being or is intended to be considered by that committee, being an interest that—
   (a) the member has; or
   (b) a person who is a related party to the member has.
(5) A disclosure in terms of subsection (4) must be given as soon as practicable after the member concerned becomes aware of the interest.
(6) A person referred to in subsection (1) or (4) may not participate in the consideration of, or decision on, that matter by the Board or the committee, as the case may be, unless—
   (a) the person has disclosed the interest in accordance with subsection (1) or (4); and
   (b) the other members of the Board or that committee have decided that the interest cannot be seen as affecting the member’s proper execution of his or her functions in relation to the matter.
(7) (a) Each member of the Ombud Council’s staff and each other person involved in the performance of the functions or the exercise of the powers of the Ombud Council must make timely, proper and adequate disclosure of their interests, including the interests of a related party, that could reasonably be seen as interests that may affect the proper execution of their functions of office or a delegated power.
   (b) The Chief Ombud must ensure that paragraph (a) is complied with.
(8) For the purposes of this section, it does not matter—
   (a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or
   (b) when the interest was acquired.
(9) For the purposes of this section, a person does not have to disclose—
   (a) the fact that that person, or a person who is a related party to that person, is—
      (i) an official or employee of the Ombud Council; or
      (ii) a financial customer of a financial institution; or
   (b) an interest that is not material.
(10) The Chief Ombud must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.

Part 2

Recognition of industry ombud schemes

Recognition of industry ombud schemes

194. (1) The Ombud Council may, on application by an industry ombud scheme, recognise the industry ombud scheme for the purposes of this Act.
(2) An application in terms of subsection (1) must—
   (a) be in writing, in a form approved or accepted by the Ombud Council; and
   (b) include or be accompanied by—
      (i) a copy of the governing rules of the industry ombud scheme;
Tshenolo ya dikgatlhegelo

193. (1) Leloko la Bote le tshwanetse go senola, kwa kapanong ya Bote, kgotsa ka go kwalela mongwe le mongwe wa maloko a mangwe, kgatlhegelo ngwe le ngwe mo morerong o o kgotsa o o tla sekasekwang ke ena, e ka nna kgotsa e se kwa kwa kapanong ya Bote, e le kgatlhego e—
   (a) leloko le nang le yona; kgotsa
   (b) motho yo o amanang le leloko a nang le yona.

(2) Tshenolo go ya ka karolotlaleletso (1) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhego eo.

(3) Leloko le le kailweng mo karolotlaleletsong (1) le ka se dire tiro e e mabapi le morero o o amegang ntle le fa—
   (a) leloko le senotse kgatlhegelo go tsamaelana le karolotlaleletso (1); le
   (b) maloko a mangwe a Bote a sweditse gore kgatlhegelo e ka se tseelwe e gore e ama go dira ka manontlholtho ga leloko mabapi le mero.

(4) Leloko la komiti ya Khansele ya Ombud e e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhegelo.

(5) Leloko le le kailweng mo karolotlaleletsong (4) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhegelo.

(6) Leloko le le kailweng mo karolotlaleletsong (4) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhegelo.

(7) Leloko le le kailweng mo karolotlaleletsong (4) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhegelo.

(8) Mabapi le maitlhomo a karolo eno, ga go kgathalese—
   (a) gore kgatlhegelo e tilhamalete, ga e a tilhamalala, ke ya tshelete kgotsa ga se ya tshelete; kgotsa
   (b) gore kgatlhegelo e fitlheletswe leng.

(9) Mabapi le maitlhomo a karolo eno, motho o ka nna a se senole—
   (a) nthla ya gore motho yoo, kgotsa motho yo o amanang le ena, ke—
      (i) mothankedi kgotsa modiri wa Khansele ya Ombud; kgotsa
      (ii) modirisi wa ditshelete wa sethuphe sa ditshelete; kgotsa
   (b) kgatlhegelo e e se ng ya botlhokwa.

(10) Ombud yo Mogolo o tshwanetse go tshola rejisetara ya ditshenolo tsothi tse di dirilweng go ya ka karolo eno le ditshwetsosothi tse di dirilweng go ya ka karolo eno.

Karolo 2

Kamogelo ya dikema tsu ombud wa madirelo

194. (1) Khansele ya Ombud e ka, ka kopo ka sekema sa bodirelo sa ombud, amogela sekema sa bodirelo sa ombud mabapi le maitlhomo a Molao ono.

(2) Kopo go ya ka karolotlaleletso (1) e tshwanetse—
   (a) go kwalwa, ka mokgwao o rebotsweng kgotsa amogetsweng ke Khansele ya Bolaodi ya Ombud; le
   (b) go akaretsa le kgotsa go romelwa le—
      (i) kgatiso ya melawana ya go busa ya sekema sa ombud sa bodirelo;
(ii) a list of financial institutions that shall be members of the industry ombud scheme should it be recognised; and
(iii) any other information required in the form.

Requirement for further information or documents by Ombud Council

195. (1) The Ombud Council may, by notice in writing, require an applicant for recognition—
(a) to give the Ombud Council additional information or documents specified by the Ombud Council; and
(b) to verify any information given by the applicant in connection with the application in a manner specified by the Ombud Council.
(2) The Ombud Council need not deal further with the application until the applicant has complied with the notice contemplated in subsection (1).

Determination of applications

196. (1) The Ombud Council must determine an application for recognition in terms of section 194 by—
(a) granting the application and notifying the applicant accordingly; or
(b) refusing the application and notifying the applicant accordingly.
(2) The Ombud Council may grant an application for recognition subject to conditions specified by the Ombud Council.
(3) The Ombud Council must not recognise an industry ombud scheme unless satisfied that—
(a) a significant number of relevant financial institutions shall be members of the industry ombud scheme, should it be recognised;
(b) the governing rules of the industry ombud scheme—
   (i) identify the financial products or financial services to which the industry ombud scheme relates, or in the case of a market infrastructure, the services that it provides;
   (ii) require the members of the industry ombud scheme to inform financial customers about the scheme and how to contact and complain to the scheme, at the frequency agreed by the scheme for its members;
   (iii) make adequate and appropriate provision for making complaints;
   (iv) are legally binding on the members of the industry ombud scheme, and enforceable by the governing body of the industry ombud scheme;
   (v) require each member of the industry ombud scheme to comply with, and give effect to, any determination of the ombud made in terms of the industry ombud scheme;
   (vi) make adequate provision for monitoring and oversight of the operation of the industry ombud scheme, including in respect of the terms and conditions of the engagement of the ombud, including remuneration and other benefits, and any action to terminate that engagement;
   (vii) require the ombud to apply, where appropriate, principles of equity when dealing with a complaint; and
   (viii) otherwise comply with applicable Ombud Council rules;
(c) the ombud scheme has or has available to it sufficient resources and capacity to ensure that it is able to comply with the requirements of financial sector laws in relation to ombud schemes and any conditions that may be specified in terms of subsection (2); and
(d) recognising the industry ombud scheme will not be contrary to the interests of financial customers, the financial sector or the public interest.
(4) (a) The Ombud Council must determine an application as contemplated in subsection (1) within three months after it is made.
(b) In working out when the period mentioned in paragraph (a) expires, any period between the Ombud Council giving the applicant a notice in terms of section 195 and the requirements in the notice being satisfied is not to be counted.
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(ii) lenane la ditheo tsa ditšhelete tse di kgotsa tse di tla nang maloko a sekema sa ombud sa bodirelo fa se ka amogelwa; le tshedimosetso ngwe le ngwe e e tlhokeang mo foromong.

Ditlhokego tsa tshedimosetso ya tlaleletso kgotsa dikwalo ka Khanele ya Ombud

195. (1) Khanele ya Ombud e ka, ka kitsiso e e kwetsweng, lopa modirako yo ka kamogelo—
(a) go naya Khanele ya Ombud tshedimosetso ya tlaleletso kgotsa dikwalo tse di tsepamisitsweng ke Khanele ya Ombud; le
(b) go netefatsa tshedimosetso e e neetsweng ke modirako ka mokgwa o o tsepamisitsweng ke Khanele ya Ombud.

(2) Khanele ya Ombud ga e tlhoke go tswelelela go dira ka kopo go fitlhela modirako a ikamantse le kitsiso, e e tlhalositsweng mo karolotlaleletsong (1).

Tlhomamiso ya ditšiiso

196. (1) Khanele ya Ombud e tshwanetse go tlhomamisa kopo ya kamogelo go ya ka karol 194 ka go—
(a) amogela kopo le go itsise modirako ka nepagalo; kgotsa
(b) gana kopo le go itsise modirako ka nepagalo.

(2) Khanele ya Ombud e ka amogela kopo ya go amogelwa go latela mabaka a a neetsweng ke Khanele ya Ombud.

(3) Khanele ya Ombud ga e a tshwanela go amogela sekema sa ombud sa bodirelo ntle le fa e kgotsofetse gore—
(a) palo e e bonalang ya ditheo tsa ditšhelete e tla ma maloko a sekema sa ombud sa bodirelo, fa e ka amogelwa;
(b) melawana ya go busa ya sekema sa ombud sa bodirelo—
(i) e supa dikumo tsa ditšhelete kgotsa ditirelo tsa ditšhelete tse di amanang le sekema sa ombud sa bodirelo kgotsa mo lebakeng la tlulaganyetso tsa popegotheo ya mmaraka, ditirelo tse di e ltlamele; 
(ii) se lopa maloko a sekema sa bodirelo jwa ombud go itsise barekedi ba ditšhelete ka ga sekema le ka moo b aka ikogolaganyang le go nngongoregela kwa sekemeng, ka seelo se se demetsweng ke sekema mabapi le maloko a sona;
(iii) e dira kabelo e e lekaneng e bile e le maleba ya go dira dingongorego;
(iv) e tlhela semolao maloko a sekema sa ombud sa bodirelo; le go gatelelwa ke mokgatlho o o busang wa sekema sa ombud sa bodirelo;
(v) e tlhoka lnelo lengwe le lengwe la sekema sa ombud sa bodirelo go ikamanya le, le go diragatsa, tlhomamiso ngwe le ngwe ya ombud e e dirilweng go ya ka sekema sa ombud sa bodirelo;
(vi) e dira kabelo e e lekaneng ya go tlhokomelwa le go elwa tlhoko ga tiro ya sekema sa ombud sa bodirelo, dipeelo le mabaka, go akaretsa le mogolo le dikunomolemo tse dingwe, tsa go dira ga ombud, le tiro ngwe le ngwe go khutlisa tiro eo;
(vii) e lopa ombud go dirisa, fa go leng maleba, meono ya tekatekano fa e sekaseka nngongorego; le
(viii) e ikamanya ka mokgwa mongwe le melawana e e maleba ya Khanele ya Ombud;
(c) sekema se na le kgotsa ga se na ditlamelo tse di lekaneng le bokgoni jwa go netefatsa gore se ikamanya le ditlhokego tsa melao ya lephata la ditšhelete mabapi le dikema tsa ombuds le mabaka mangwe le mangwe a a ka tsepamisitsweng go ya ka karolotlaleletsong (2); le
(d) e amogela gore sekema sa ombud sa bodirelo se ka se nne kgatlhanong le dikgathleho tsa barekedi ba ditšhelete kgotsa lephata la ditšhelete kgotsa kgatlhego ya setšhaha.

(4) (a) Khanele ya Ombud e tshwanetse go tlhomamisa kopo jaaka go tlhalositsweng mo karolotlaleletsong (1) mo dikgweding tse tharo morago fa e seena go dirwa.
(b) Mo go batleng go its e gore paka e e kailweng mo temaneng (a) e fela leng, paka ngwe le ngwe magareng ga go naya modirako kipsito go ya ka karol 195 ke Khanele ya Ombud le go kgotsofatswa ga ditlhokego ga e balelw.
Varying conditions

197. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, remove or vary a condition of recognition, or add a condition.

(2) A variation takes effect on the date of the notice in terms of subsection (1) or, if the notice specifies a later date, the later date.

Suspension of recognition

198. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, suspend the recognition of the scheme if—

(a) the industry ombud scheme applies for suspension;

(b) a condition of recognition has been contravened or not been complied with in a material way;

(c) the industry ombud scheme, an ombud for the industry ombud scheme, or a significant number of the financial institutions that are members of the industry ombud scheme, have contravened in a material way the governing rules of the industry ombud scheme, a provision of a financial sector law relating to ombuds or Ombud Council rules;

(d) information provided in, or in relation to, an application to the Ombud Council in relation to the industry ombud scheme was false or misleading, including by omission, in a material way;

(e) the industry ombud scheme is not complying with a requirement of this Act;

(f) the suspension is necessary to prevent—

(i) a serious contravention of a financial sector law; or

(ii) financial customers of the members of the industry ombud scheme from suffering material prejudice; or

(g) a fee, a levy or an administrative penalty payable by the industry ombud scheme, including any interest, is unpaid and has been unpaid for at least 30 days after it is due.

(2) The Ombud Council may at any time revoke the suspension.

(3) A suspension takes effect on the date of the notice in terms of subsection (1), or a later date specified in the notice.

(4) A suspension does not affect an obligation of the industry ombud scheme that it has in terms of a financial sector law, including an obligation to report a matter to the Ombud Council.

Revocation of recognition

199. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, revoke the recognition of an industry ombud scheme—

(a) if the industry ombud scheme applies for revocation;

(b) on any of the bases on which it may suspend recognition, as set out in section 198(1)(b) to (g); or

(c) if the scheme has ceased to function.

(2) Revocation of recognition takes effect on the date of the notice in terms of subsection (1) or, if the notice specifies a later date, the later date.

Procedure for varying, suspending and revoking recognition

200. (1) (a) Before the Ombud Council varies a condition of, or suspends or revokes, the recognition of a recognised industry ombud scheme, it must—

(i) give the industry ombud scheme notice of the proposed action and a statement of the reasons for it; and

(ii) invite the industry ombud scheme to make submissions on the matter, and give it a reasonable period to do so.

(b) The period referred to in paragraph (a)(ii) must be at least one month.

(2) The Ombud Council need not comply with subsection (1) if the industry ombud scheme has applied for the proposed action to be taken.
Mabaka a a forologanang

197. (1) Khansele ya Bolaodi ya Ombud e ka, ka kitsiso go sekema se se amogetsweng sa ombud, tosa kgotsa fetola lebaka la kamogelo, kgotsa tlatsa lebaka.
(2) Phetolo e tsengwa mo tirisorong ka letlha la kitsiso go ya ka karoletlaleletso (1) kgotsa, fa kitsiso e tsapimisa letlha le lengwe la moragonyana, letlha la moragonyana.

Kemiso ya kamogelo

198. (1) Khansele ya Ombud e ka, ka kitsiso go sekema sa ombud se se amogetsweng sa bodirelo, sekega go amogelwa ga sekema sa ombud sa bodirelo fa—
(a) sekema sa ombud sa bodirelo se dira kopo ya kemiso;
(b) lebaka la kamogelo le tlotse kgotsa le sa obamelwa ka mokgw a o o tse neletse ng;
(c) sekema sa ombud sa bodirelo, ombuds wa sekema sa ombud sa bodirelo kgotsa palo e e bonalong ya ditheo tse ditshielete tse e leng maloko a sekema sa ombud sa bodirelo a tlotse ka tse nelelo e kgolo melawana ya go busa ya sekema sa ombud sa bodirelo kgotsa kabelo ya molao wa lepha la ditshielete, kgotsa melawana ya Khasanele ya Ombud, e e amanang le ombuds;
(d) tshedimosetso e e tlametsweng mo, kgotsa mabapi le, kopo mabapi le Khansele ya Ombud sa mabapi le sekema sa ombud sa bodirelo e ne e fosagets e kgotsa e timetsa, go akaretsa le ka tlogelo, ka tse nelelo e kgolo;
(e) sekema sa ombud sa bodirelo se sa ikamanye le tlhoko e ya Molao ono; 20
(f) tshekego e bothokw a go thibela—
(i) tlolo e e masisi ya molao wa lepha la ditshielete; kgotsa
(ii) barekedi ba ditshielete ba baabelwadile a seso gore ba se go belele kw a tse nelelo e kgolo;
(g) tshekego e e tlametsweng mo, kgotsa sekgotla le kgotsa mo, kgotsa e tshwenega le tshwenega ya le tlokologelo ya Molao, se tse le tsepamisitsweng mo kitsiso.

(2) Khansele ya Ombud e ka phimola kemiso ka nako nngwe le nngwe.
(3) Tshekegoetsenngwamotirisongkaletlhalakitsisogoyakakarolotlaleletso (1), kgotsa letlha le le kwa moragonyana le le tsepamisitsweng mo kitsiso.

Kgogelomorago ya kamogelo

199. (1) Khansele ya Bolaodi ya Ombud e ka, ka kitsiso go sekema sa ombud se se amogetsweng sa bodirelo, phimola kamogelo ya sekema sa ombud sa bodirelo—
(a) fa sekema sa ombud sa bodirelo se dira kopo ya phimolo;
(b) mo go nngwe le nngwe ya mabaka ao e ka emisang kamogelo, jaaka go tshalositswe mo karoletlong 198(1)(b) go fithla go (g); kgotsa
(c) fa sekema se khutlisits e go dira.
(2) Phimolo ya kamogelo e tsengwa mo tirisorong ka letlha la kitsiso go ya ka karoletlaleletso (1) kgotsa, fa kitsiso e tshwa tsima letlha la moragonyana, letlha la moragonyana.

Tsamaiso ya phorologantsho, tshekego le kgogelomorago ya kamogelo

200. (1) (a) Pele Khansele ya Ombud e fetola lebaka la, kgotsa e sekega kgotsa e phimola, kamogelo ya sekema sa ombud sa bodirelo, e tshwanets e—
(i) go naya sekema sa ombud sa bodirelo kitsiso ya tiro e e tsitsintsweng le polelo ya mabaka a yona; le
(ii) go laletsa sekema sa ombud sa bodirelo go dira ditshiagos go ga morero, le go se naya nako e e lekaneng go dira jalo.
(b) Nako e e kailweng mo temaneng (a)(ii) e tshwanets e go nna bonnye kgwedi e le esi.
(2) Khansele ya Ombud e tlhoka go ikamanye le karoletlaleletso (1) fa sekema sa ombud sa bodirelo se dirile kopo ya gore tiro e dirwe.
(3) In deciding whether to vary a condition of, or suspend or revoke, recognition, the Ombud Council must have regard to all submissions made within the period specified in the notice in terms of subsection (1)(a)(ii).

(4) The Ombud Council may take the action without having complied, or complied fully, with subsection (1) if the delay involved in complying, or complying fully, with that subsection in respect of a proposed action is likely to lead to material prejudice to financial customers or defeat the object of the action.

(5) (a) If the Ombud Council takes action without having complied, or complied fully, with subsection (1) for the reason set out in subsection (4), the industry ombud scheme must be given a written statement of the reasons why that subsection was not complied with.

(b) The industry ombud scheme may make submissions to the Ombud Council within one month after being provided with the statement.

(c) The Ombud Council must have regard to the submissions, and notify the industry ombud scheme, as soon as practicable, whether the Ombud Council proposes to amend or revoke the variation, suspension or revocation.

Part 3

Powers of Ombud Council

Ombud Council rules

201. (1) The Ombud Council may make rules for, or in respect of, ombuds and ombud schemes, aimed at ensuring that financial customers have access to, and are able to use affordable and effective, independent and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products, financial services, and services provided by market infrastructures.

(2) Ombud Council rules in terms of subsection (1) may be made on any of the following matters:

(a) Governing rules of ombud schemes;

(b) governance of ombud schemes, including in relation to—
   (i) the composition, membership and operation of governing bodies and of
   substructures of ombud schemes; and
   (ii) the roles and responsibilities of governing bodies and their substructures;

(c) the qualifications and experience of ombuds, including fit and proper person requirements for ombuds and for members of governing bodies of industry ombud schemes;

(d) the definition and type of complaints to be dealt with by specified ombud schemes;

(e) dispute resolution processes;

(f) any matters on which a regulatory instrument may be issued by the Ombud Council in terms of a specific financial sector law in so far as it relates to ombud schemes and ombuds;

(g) matters that may in terms of any other provision of this Act be regulated by rules of the Ombud Council; and

(h) any other matter that is appropriate and necessary for achieving the aim set out in subsection (1).

(3) An Ombud Council rule must not be inconsistent with relevant financial sector laws.

(4) An Ombud Council rule must not interfere with the independence of an ombud or the investigation or determination of a specific complaint.

(5) The Ombud Council must, in developing Ombud Council rules—

(a) seek to provide for a consistent approach and consistent requirements for all ombud schemes, promote the efficiency and cost-effectiveness of ombud schemes, and promote co-ordination and co-operation between ombud schemes; and

(b) take into account differences in the nature and complexity of complaints heard by different ombud schemes.
(3) Mo go swetseng ka go fetola lebaka la, kgotsa emisa kgotsa phimola, kamogelo, Khansele ya Ombud e tshwanetse go ela tlhokot ditlhagiso tsothle tse di diriweng mo nakong e e tsepmisitsweng mo kitsisong go ya karolotlaleletsong (1)/(ii).

(4) Khansele ya Ombud e ka dira tiro ntle le go ikamanywa, kgotsa go ikamanywa ka botlala, le karolotlaleletsong (1) fa tiego e e amanang le go ikamanywa, kgotsa go ikamanywa ka botlala, le karolotlaleletsong (1) e mabapi le tiro e e tshitsintseng e ka tšisla ditlamorago tša kgobelelo e e tseletse tša go barekedi ba ditšheleke, ya ama ka kgobelelo tlhomamo ya ditšheleke kgotsa ya fenya maikaelelo a tiro.

(5) (a) Fa Khansele ya Ombud e ka dira tiro ntle le go ikamanywa, kgotsa go ikamanywa ka botlalo, le karolotlaleletsong (1) ka mabaka a a tšhalotsitsweng mo karolotlaleletsong (4), sekema sa ombud sa bodirelo se tshwanetse go newa polelo e e kwetsweng ya mabaka a gore georeng go sa ikamangwa le karolotlaleletsong eo.

(b) Sekema sa ombud sa bodirelo se ka dira ditlhagiso go Khansele ya Ombud mo kgweding e le esi morageng go sa tlamelwa ka polelo.

(c) Khansele ya Ombud e tshwanetse go ela tlhoko ditlhagiso, le go itsise sekema sa ombud sa bodirelo, ka bonako jo bo kgonagangaleng, le fa ka gongwe Khansele ya Ombud e tshitsintseng go tlhahologa kgota phimola phetolo, sekega kgotsa phimola.

Karolo 3

Dithata tsa Khansele ya Ombud

Melao ya Khansele ya Ombud

201. (1) Khansele ya Ombud e ka dira melawana go, kgotsa mabapi le, ombuds le dikema tsa ombuds, tse di ikakelelang go netefatsa gore badirisa ba ditšheleba ba fitlhelela, gape ba kgona go, dirisa kgato e ngwe ya tharabololo ya thulano e e duelegang, nonofleng, ikemetseng le go lolama go dingongorego tse di ka ga ditheo ba ditšhelele mabapi le dikuno tša ditšhelele le ditirelo tša ditšhelele le ditirelo tša ditšhelele tša ditšhelele tša ditšhelele.

(2) Melawana ya ombuds mabapi le karolotlaleletsong (1) ka dirwa mabapi le nngwe la nngwe ya merero e e laletlang:

(a) Melawana ya go busa ya dikema tsa ombud;

(b) puso ya dikema tsa ombud, go akaretsa le mabapi le—

(i) sebopego, botokololo le tiro ya mekgatlho e e busang le ya mekgatlhotlaleletsong ya dikema tsa ombud; le

(ii) ditiro le maikarabelo a mekgatlho e e busang le mekgatlhotlaleletsong ya yona;

(c) borutegi le maitemogelo a ombuds;

(d) tšhalosoa le mofuta wa dingongorego tse di tshwanetseng go sekasekwa ka sekema sa ombuds se se tsepmisitsweng;

(e) dikgato tša go raborolola dikgotlheng;

(f) merero mengwe le mengwe e sediriso ba bolaodi se ba dirisweng mo go yona e ka rebolwa ka Khansele ya Ombud ya go la ke ka mola o o tsepmang wa lephata la ditšhelele go ya jaaka e amana le dikema tsa ombud le ombuds; le

(g) merero e go ya ka kabelo ngwe le ngwe ya Mola o o laolwaneng ka melawana ya Khansele ya Ombud, le

(h) morero mongwe le mongwe o o maleba e bile o thakego a fitlhelela maikaelelo a a tšhalotsitsweng mo karolotlaleletsong (1).

(3) Molawana wa Khansele ya Ombud o tšwanetse go tsamaelana le melao e e maleba ya lephata la ditšhelele.

(4) Molawana wa Khansele ya Ombud ga o a tshwanele go kgoletetsa le go ikemela ga ombud kgotsa patlisiso kgota tlhomamiso ya ngongorego e e tsepmang.

(5) Khansele ya Ombud e tshwanetse, mo go tlhahololeng melawana ya Khansele ya Ombud—

(a) go batla go tlamela mabapi le mokgwagw o o tšhomameng le ditlhokego tse di tšhalotsitsweng go dikema tsothle tša ombud, go tseletsa bogoni e poloko ya ditshenyegelo ya dikema tsa ombud, le go tsweletsa kopano le tširanommmogo magareng ga dikema tsa ombud; le

(b) go tsya a tsipa dipharologano mo tšholelogong le tharaaong ya dingongorego tse di reeditsweng ke dikema tsa ombud tse di farologaneng.
(6) Different Ombud Council rules may be made for, or in respect of—
   (a) different categories of ombuds and ombud schemes; and
   (b) different circumstances.
(7) (a) The Ombud Council may, on application from an ombud scheme, exempt that
   ombud scheme from an Ombud Council rule for a specified period of time, provided that
   the Ombud Council is satisfied that the intended outcome of the rule will still be met.
   (b) Any such exemption may be subject to conditions set by the Ombud Council.
(8) An Ombud Council rule may amend or revoke another Ombud Council rule.

Directives of Ombud Council

202. (1) The Ombud Council may issue to a person who is an ombud, or to an ombud
   scheme, a written directive requiring the person to take action specified in the directive
   if the person has contravened or is likely to contravene a financial sector law in so far as
   it relates to ombud schemes.
   (2) A directive issued in terms of subsection (1) must be aimed at achieving the
   objective of the Ombud Council set out in section 176 and stopping the ombud or ombud
   scheme from contravening applicable financial sector laws in so far as they relate to
   ombud schemes, or reducing the risk of such contraventions.
   (3) The Ombud Council may not issue a directive that requires a specified person to
   be removed from a position or function in relation to an ombud scheme unless the
   person—
      (a) has contravened a provision of a financial sector law or an Ombud Council
          rule;
      (b) has become a disqualified person; or
      (c) no longer complies with applicable fit and proper person requirements.
   (4) Before issuing a directive in terms of this section, the Ombud Council must—
      (a) give the person to whom it is proposed to issue the directive a draft of the
          proposed directive and a statement of the reasons why the Ombud Council
          proposes issuing it, including a statement of the relevant facts and
          circumstances; and
      (b) invite the person to make submissions on the matter, and give the person a
          specified period, which must be reasonable, to do so.
   (5) If the directive requires a person to be removed from the person’s position or
   function in relation to an ombud scheme, the Ombud Council must also—
      (a) give the person a draft of the proposed directive and a statement of the reasons
          why the Ombud Council proposes issuing it, including a statement of the
          relevant facts and circumstances; and
      (b) invite the person to make submissions on the matter within the period
          specified in terms of subsection (4)(b).
   (6) In deciding whether to issue the directive, the Ombud Council must take into
   account all submissions received by the end of the period referred to in subsection
   (4)(b).
   (7) If the delay involved in complying, or complying fully, with subsections (4) and
   (5) in respect of a proposed directive is likely to lead to prejudice to financial customers
   or defeat the object of the directive, the Ombud Council may issue the directive without
   having complied, or complied fully, with those subsections.
   (8) (a) If the Ombud Council issues a directive without having complied, or complied
      fully, with subsection (4) or (5), the person to whom it was issued, and, where subsection
      (5) applies, the person referred to in that subsection, must be given a written statement
      of the reasons why those subsections were not complied with.
      (b) A person to whom the statement was given in terms of paragraph (a) may make
      submissions to the Ombud Council within one month after being given the statement.
      (c) The Ombud Council must consider the submissions, and notify the person, as soon
      as practicable, whether the Ombud Council proposes to revoke the directive.
   (9) A directive in terms of this section must specify a reasonable period for compliance.
(6) Melawana e e farologaneng ya Khasele ya Ombud e ka direlwa, kgotsa mabapi le—
   (a) dithlopha tse di farologaneng tsa dikema tsa ombuds le ombud; le
   (b) mabaka a a farologaneng.

(7) (a) Khasele ya Ombud e ka, ka kopo go tswa kwa sekemeng sa ombud, golo-la sekema seo sa ombud go tswa mo molawaneng wa Khasele ya Ombud sebaka sa nako e e tsepamisitsweng, fa fela Khasele ya Ombud e kgotsofetse gore tlamarago e e ikaletsweng ya molawana e santse e tla filhlelwa.
   (b) Kgololo nngwe le nngwe eo e ka dirwa go ya ka mabaka a a beiweng ke Khasele ya Ombud.

(8) Molawana wa Khasele ya Ombud o ka tlhabelo losa kgotsa phimola molawan o mongwe wa Khasele ya Ombud.

Ditaelo tsa Khasele ya Ombud

202. (1) Khasele ya Ombud e ka rebolela motho yo e e e leng ombud, kgotsa go sekema sa ombud, taelo e e kwetsweng e e lo pang motho go tsaya kgato e e tsepamisitsweng mo taelong fa motho a tlotse kgotsa go na le kgonego ya go tlola molao wa lephata la ditšhelete jaaka o amana le dikema tsa ombud.

(2) Taelo e e rebotsweng go ya ka karolotlaleletso (1) e tshwanetse go nna ya go filhlelwa maikaelelo a Khasele ya Ombud a a tlhalositsweng mo karolong 176 le go tibela ombud sekema sa ombud mo go tiolenq melao ya lephata la ditšhelete e e dirisweng jaaka e amana le dikema tsa ombud, kgotsa go fokotsa dikotsi tsa ditlolo tseo.

(3) Khasele ya Ombud e ka se rebole taelo e e tlhokang motho yo o tsepamisitsweng go tloswa mo maemong kgotsa mo tirong mabapi le sekema sa ombud ntle le fa motho—
   (a) a tlotse kabelo ya molao wa lephata la ditšhelete kgotsa molawan wa Khasele ya Ombud;
   (b) e le motho yo o ileditsweng; kgotsa
   (c) a sa tlhole a ikamanya le nngwe le nngwe ya ditlhokego tsa motho yo o mitshwanedi e bile a nepagetse.

(4) Pele ga thebolo ya taelo go ya ka karolo eno, Khasele ya Ombud e tshwanetse go—
   (a) naya motho yo o mo tshitsintsweng go mo rebolela taelo thalo ya taelo le polelo ya mabaka a gore goreng Khasele ya Ombud e tshitsiny a go e rebola, go akaretse le polelo ya ditlha tse di maleba le mabaka; le
   (b) laletsa batho gore ba dire ditlhagiso ka ga morero, le go e naya nako e e tsepamisitsweng, e e tshwanetseng go nna e e lekaneng, go/dir a jalo.

(5) Fa taelo e tlhoka gore motho a tloswe mo maemong a motho mabapi le sekema sa ombud, Khasele ya Ombud e tshwanetse go—
   (a) naya motho thalo ya taelo e e tshitsintsweng le polelo ya mabaka a gore goreng Khasele ya Ombud e tshitsiny a go e rebola, go akaretse le polelo ya ditlha tse di maleba le mabaka; le
   (b) laletsa motho go dira ditlhagiso ka ga morero mo nakong e e tsepamisitsweng go ya ka karolotlaleletso (4)(b).

(6) Mo go swetsweng ka go rebola kgotsa ga se rebole taelo, Khasele ya Ombud e tshwanetse go tsa ya tsa ya ditlhagiso tsothle tse di amogetsweng kwa bokhutulong jwa nako e e kwetsweng mo karolotlaleletso (4)(b).

(7) Fa tiego e e amangang le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso (4) le (5) mabapi le taelo e e tshitsintsweng e ka tlisa kgobelelo mo barekeding ba ditšhelete kgotsa ya fenya maikaelelo a taelo, Khasele ya Ombud e ka rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso tseo.

(8) (a) Fa Khasele ya Ombud e rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso (4) le (5), motho yo o e reboletseng, le, mo karolotlaleletso (5) e dirisweng, motho yo o e kwetsweng mo karolotlaleletso e e tshwanetse go nna polelo e e kwetsweng ya mabaka a gore goreng dikarolotlaleletso tseo di sa obamelwa.
   (b) Motho yo o neetsweng polelo go latela temana (a) o ka dira ditlhagiso go Khasele ya Ombud mo kgwedeng le e esimorago ga go tlamelewa ka polelo.
   (c) Khasele ya Ombud e tshwanetse go tsa ya tsa ya ditlhagiso, le go itsise motho, ka bonako bo kgogang, fa e le gore Khasele ya Ombud e tshitsiny o go phimola taelo.

(9) Taelo go ya ka kalolo eno e tshwanetse go totobatsa nako e e le kaneng ya go ikamanya.
Act No. 9 of 2017
Financial Sector Regulation Act, 2017

203. (1) An ombud scheme may give the Ombud Council, and the Ombud Council may accept, a written undertaking concerning the ombud scheme’s future conduct in relation to a financial sector law in so far as it relates to ombud schemes.

(2) Section 151 applies, with necessary changes required by the context, in relation to an undertaking contemplated in subsection (1), as if the references in that section to “responsible authority” were references to the Ombud Council.

204. (1) The Ombud Council may commence proceedings against an ombud scheme in the High Court for an order to ensure compliance with the financial sector law in so far as it relates to ombud schemes.

(2) Section 152 applies, with necessary changes required by the context, in relation to the proceeding, as if the references in that section “responsible authority” were references to the Ombud Council.

205. (1) The Ombud Council may make a debarment order in respect of a natural person if the person has—

(a) contravened a financial sector law in so far as it relates to ombud schemes, or an Ombud Council rule;
(b) attempted, or conspired with, aided, abetted, induced, incited or procured another person to contravene a financial sector law in so far as it relates to ombud schemes.

(2) A debarment order prohibits the person, for a specified period, as specified in the order, from performing a specified role in relation to an ombud scheme.

(3) Before making a debarment order in respect of a person, the Ombud Council must—

(a) give a draft of the order to the person and to the financial sector regulators, along with reasons for and other relevant information about, the proposed debarment; and
(b) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(4) The period in terms of subsection (3)(b) must be at least one month.

(5) In deciding whether or not to make a debarment order in respect of a person, the Ombud Council must take into account at least—

(a) any submission made by, or made for, the person; and
(b) any advice from a financial sector regulator.

(6) A debarment order takes effect from—

(a) the date on which it is served on the person; or
(b) if the order specifies a later date, the later date.

(7) A copy of a debarment order in respect of a person must also be given to each ombud scheme.

(8) (a) A person who is subject to a debarment order may not engage in conduct that directly, or indirectly, contravenes the order.

(b) Without limiting paragraph (a), a person contravenes that paragraph if the person enters into an arrangement with another person to engage in the conduct for or on behalf of, or in accordance with the directions, instructions or wishes of, the person.

(9) An ombud scheme that becomes aware that a debarment order has been made in respect of a person employed or engaged by the ombud scheme must take all reasonable steps to ensure that the order is given effect to.
(10) Khansele ya Ombud ka nako ngwe le ngwe e ka phimola taelo go ya ka karolo eno ka kitsiso e e kwetsweng go motho yo o e reboletsweng.
(11) Motho yo o reboletsweng taelo go ya ka karolo eno o tshwanetse go ikamanya le taelo.

Ditumalano tse di gatelelwang

203. (1) Motho o ka naya Khansele ya Ombud, le Khansele ya Ombud e ka amogela, tumalano e e kwetsweng e e mabapi le boitshwara jwa nako e e tlhlangabapi le molao wa lephata la ditšhelete jaaka ga ga amana le dikema tsa ombud.
(2) Karolo 151 e a diriswa, ka diphetogo tse di tlhokekang go ya ka maemo, mabapi le tumalano e e tshalositsweng mo karolotlaletsetong (1), jaaka e kete dikae ko karolo o e go “bothati jo bo rwalang maikarabelo” e ne o e dikae ko Khansele ya Ombud.

Boikamanyo le melao ya lephata la ditšhelete

204. (1) Khansele ya Ombud e ka simolola ditšamaisa kgatlhanong le sekema sa ombud kwa Kgotlatshekelongkgolo mabapi lelaeto go netefatsa go ikamanya le molao wa lephata la ditšhelete ga jaaka o amana le dikema tsa ombud.
(2) Karolo 152 e diriswa, le diphetogo tse di bothlokwa go ya ka maemo, mabapi le tsamaiso, jaaka e kete ditshupetse mo karolong eo “bothati jo bo rwalang maikarabelo” e ne e le dikae ko Khansele ya Ombud.

Kganelo

205. (1) Khansele ya Ombud e ka dira taelo ya kganelo mabapi le motho ka esi fa motho ka esi a—
(a) tlotse molao wa lephata la ditšhelete kgotsa boemo jaaka ga ga amana le dikema tsa ombud, kgotsa molawana wa Khansele ya Ombud;
(b) lekile, kgotsa logile maano a bosenyi le, thusitse, rotloeditsike, potlakisetse, tshotloleditsike kgotsa fitšheletelelelelelelele le motho yo mongwe go tlola wa lephata la ditšhelete jaaka ga o amana le dikema tsa ombud.
(2) Taelo ya kganelo e tšibela motho ka esi, mo nakong e e tsepmasitsweng, jaaka go tshalositswwe mo taelong, mo go direng tiro e e rile eno e amanang le sekema sa ombud.
(3) Pele go dirwa taelo ya kganelo mabapi le motho ka esi, Khansele ya Ombud e tšwanetse—
(a) naya motho ka esi le boloa di jwa lephata la ditšhelete thalo ya taelo, mmogo le mabapo a le tshedinomosetsa e ngwe e e maleba na ga, kganelo e e tshotloleditswe; le
(b) laletsa motho go dira ditšagisiga ka ga morero, go le naya motho nako e le lekaneng go dira jalo.
(4) Nako go ya ka karolotlaletseto (3)(b) e tshwanetse go nna bonnye kwedi e e esi.
(5) Mo go swetseng ka go dira kgotsa go se dire kganelo mabapi le motho, Khansele ya Ombud e tshwanetse go ela tlhoko bonnye—
(a) tshotloleditswe e ngwe e e dirilweng ke, kgotsa e e diretsweng, motho; le
(b) kgakololo ngwe le ngwe go tswa go molao di lephata la ditšhelete.
(6) Taelo ya kganelo e simolola go dira—
(a) ka letšiši le e neetsweng motho ka esi ka laona; kgotsa
(b) fa taelo e tsepmisa letšiši le le kwa moragonyana, letšiši le le kwa moragonyana.
(7) Kgatiso ya taelo ya kganelo mabapi le motho ka esi e tshwanetse go newa sekema sengwe le sengwe sa ombud.
(8) (a) Motho ka esi yo o lebanweng ke taelo ya kganelo o ka se dire boitshwara jo bo tlola lang taelo ka tlhamala, kgotsa e seng ka tlhamalalo.
(b) Ntle le tekanyetse ya temana (a), motho ka esi o tlola temana eo fa motho ka esi a tsena mo thulaganyong le motho yo mongwe go dira boitshwara jwa, kgotsa mo boemong jwa, kgotsa go tsamaela le dikae ko, ditaelo kgotsa dikete le tsa, motho ka esi.
(9) Setheo sa ditšhelete se se abetsweng laesense se se lemogang gore taelo ya kganelo e dirilwe mabapi le motho ka esi yo o thapilweng kgotsa yo o dirisanang le setheoa ditšhelete se tshwanetse go tsaya dikgato tsoilhe tse di maleba go netefatsa gore taelo e a diragatswa.
Administrative penalties

206. (1) Chapter 13 applies in relation to the Ombud Council as if references in that Chapter—
   (a) to a financial sector law were references to a financial sector law in so far as it relates to ombud schemes; and
   (b) to a financial sector regulator were references to the Ombud Council.
(2) Despite subsection (1), the Ombud Council may impose an administrative penalty only on an ombud scheme, a member of the governing body of an ombud scheme, or an ombud.

Requests for information

207. (1) (a) The Ombud Council may, by written notice, require an ombud scheme or an ombud to provide specified information or a specified document in the possession or under the control of the person to whom the notice is given, being information or a document which is relevant to the Ombud Council’s assessment of compliance by an ombud scheme or an ombud with—
   (i) a financial sector law in so far as it relates to ombuds;
   (ii) an Ombud Council rule;
   (iii) a directive issued by the Ombud Council in terms of section 202; or
   (iv) an enforceable undertaking accepted by the Ombud Council.
(b) The Ombud Council may require the information or document to be verified as specified in the notice, including by an auditor approved by the Ombud Council.
(2) A person that has been given a notice in terms of subsection (1) must comply with the requirements in the notice.

Supervisory on-site inspections and investigations

208. (1) Part 3 of Chapter 9 applies in relation to the Ombud Council as if—
   (a) references in that Chapter to a financial sector law were references to a financial sector law in so far as it relates to ombud schemes;
   (b) references to a financial sector regulator were references to the Ombud Council; and
   (c) references to a supervised entity were references to an ombud scheme or an ombud.
(2) Despite section 132(2), the purpose of a supervisory on-site inspection of an ombud scheme or an ombud in terms of this section is to check compliance by the ombud scheme or ombud with a financial sector law in so far as it relates to ombuds.
(3) Part 4 of Chapter 9 applies in relation to the Ombud Council as if—
   (a) references in that Chapter to a financial sector law were references to a financial sector law in so far as it relates to ombud schemes;
   (b) section 135(1)(b) were omitted; and
   (c) references to a financial sector regulator were references to the Ombud Council.
(4) Section 140 applies in relation to the Ombud Council exercising powers in terms of this section as it applies in relation to the financial sector regulators.

Part 4

General provisions

Access to ombud schemes

209. (1) The Ombud Council must, as soon as practicable after this Part comes into effect, establish and operate one or more centres to facilitate financial customers’ access to appropriate ombuds.
(2) A centre may incorporate a call centre.
(3) The purpose of a centre is to provide a place, and staff and facilities, to assist financial customers to formulate complaints and to identify for them the ombud appropriate to deal with their complaints.
Dikotlhao tsa tsamaiso

206. (1) Kgaolo 13 e diriswa mabapi le Khansele ya Ombud jaaka e kete dikaelo mo Kgaolong co—
   (a) go molao wa lephata la ditšhelete e ne e le dikaelo go molao wa lephata la ditšhelete jaaka ga di amana le dikema tsa ombud; le
   (b) go molaodi wa lephata la ditšhelete e ne e le dikaelo go Khansele ya Ombud.  

(2) Go sa nyatswe karolotlaleletso (1), Khansele ya Ombud e ka patelets khotlha ya tsamaiso mo sekemeng sa ombud, leloko la mokgatlhlo o o busang wa sekema sa ombud kgotsa ombud.

Dikopo tsa tshedimosetso

207. (1) (a) Khansele ya Ombud, ka kitsiso e e kwetsweng, e ka lopa sekema sa ombud kgotsa ombud go tlamaela ka tshedimosetso e e tsepamisitsweng kgotsa lokwalo le le tsepamisitsweng le le mo taolong ya motho yo o neilweng kitsiso, e ka nna tshedimosetso kgotsa lokwalo le le malebana le tshekatsheko ya boikamanyo ya Khansele ya Ombud ka sekema sa ombud kgotsa ombud le—
   (i) molao wa lephata la ditšhelete jaaka ga o amana le ombuds;
   (ii) molawana wa Khansele ya Ombud;
   (iii) taelo e e rebotsweng ke Khansele ya Ombud ya ya ka karolo 202; kgotsa
   (iv) tumalano e e gatelelwang e e amogetsweng ke Khansele ya Ombud.

(b) Khansele ya Ombud e ka kopa tshedimosetso kgotsa lokwalo go netefatswa jaaka go kalwe mo kitsisong, go akaretsa le ke moruni yo o rebotsweng ke Khansele ya Ombud.  

(2) Motho yo o neilweng kitsiso go ya ka karolotlaleletso (1) o tshwanetse go ikamanya le ditlhokego tse di mo kitsisong.

Ditlhatlhobo tsa bothokomedi tsa kwa tirong le dipatlisiso

208. (1) Karolo 3 ya Kgaolo 9 e diriswa mabapi le Khansele ya Ombud jaaka e kete—
   (a) dikaelo mo Kgaolong co go molao wa lephata la ditšhelete e ne e le dikaelo go molao wa lephata la ditšhelete jaaka fa di amana le dikema tsa ombuds;
   (b) dikaelo go molaodi wa lephata la ditšhelete e ne e le dikaelo go Khansele ya Ombud; le
   (c) dikaelo go setheo se se tlhokometsweng e ne e le dikaelo go sekema sa ombud kgotsa, ombud.  

(2) Go sa nyatswe karolo 132(2), maithlomo a ditlhathlho tsa bothokomedi tsa kwa tirong le sekema sa ombud kgotsa ombud go ya ka karolo eno ke go tlhatlhoba gore sekema sa ombud kgotsa, ombud, se ikamanya le molao wa lephata la ditšhelete jaaka ga o amana le ombuds.  

(3) Karolo 4 ya Kgaolo 9 e diriswa mabapi le Khansele ya Ombud jaaka e kete—
   (a) dikaelo mo Kgaolong co go molao wa lephata la ditšhelete e ne e le dikaelo go molao wa lephata la ditšhelete jaaka fa di amana le dikema tsa ombud;
   (b) karolo 135(1)(b) e ne e tlogetswe; le
   (c) dikaelo go molaodi wa lephata la ditšhelete e ne e le dikaelo go Khansele ya Ombud.  

(4) Karolo 140 e diriswa mabapi le Khansele ya Ombud e e diragatsang ditlhata go ya ka karolo eno jaaka ga e diriswa mabapi le balaodi ba lephata la ditšhelete.  

Karlo 4

Dikabelo ka kakaretso

Phitlhelelo go dikema tsa ombud

209. (1) Khansele ya Ombud e tshwanetse, ka bonako jo bo kgonagalang morago ga go tsengwga tirisong ga Karolo eno, tlhoma le go dirisa senthara e le esi kgotsa go feta go nolofatsa phitlhelelo go ombuds e e malebisa ya barekedi ba ditšhelete.

(2) Senthara e ka tseenyeletsa senthara ya go letsa.

(3) Maithlomo a senthara ke go tlamaela ka lefeloe, badiri le didiriso, go thusa barekedi ba ditšhelete go tlhama dingongorego le go di supela ombud yo o maleba go samagana le dingongorego tsa bona.
Restrictions on financial institutions in relation to ombud schemes

210. (1) A financial institution may not describe any internal procedure it has for dealing with or resolving complaints made to it by financial customers as an ombud scheme, or a person that deals with or resolves such complaints as an ombud.

(2) A financial institution must disclose to its financial customers applicable ombud schemes, and how to contact and submit complaints to those schemes, in accordance with Ombud Council rules that may be issued in this regard.

(3) (a) A financial institution may not require or invite a financial customer to make a complaint to an—

(i) ombud, unless the person so charged with this function is part of a recognised industry ombud scheme or a statutory ombud scheme; or

(ii) ombud scheme, unless the ombud scheme concerned is a recognised industry ombud scheme or a statutory ombud scheme.

(b) A requirement or invitation contrary to paragraph (a) is void.

(4) An ombud scheme may not describe or hold itself out as being a recognised industry ombud scheme in terms of this Part unless it is so recognised.

(5) An ombud scheme may not permit another person to identify it as a recognised industry ombud scheme in terms of this Part, unless it is so recognised.

(6) For the purposes of subsections (3), (4) and (5), an ombud scheme whose recognition has been suspended or revoked is not recognised.

Applicable ombud schemes

211. (1) (a) If there is no recognised industry ombud scheme or statutory ombud scheme that makes provision for the resolution of complaints about financial products or financial services of a particular kind, the Ombud Council may, after consulting relevant ombud schemes, designate an ombud scheme, or two or more ombud schemes, to deal with and resolve complaints about products or services of that kind.

(b) If the Ombud Council designates two or more ombud schemes in terms of paragraph (a), it must also determine the elements of the complaint to be dealt with and resolved by each of the designated schemes.

(c) The Ombud Council may so designate an ombud scheme on its own initiative or on application by the scheme or a financial institution that provides or proposes to provide financial products or financial services of that kind.

(2) If the Ombud Council designates an ombud scheme in terms of subsection (1) to deal with and resolve complaints about financial products or financial services of a particular kind—

(a) each ombud for the designated ombud scheme—

(i) has the power and the duty, despite anything in any Act or the governing rules of the ombud scheme, to deal with and resolve complaints about the products or services, in accordance with the designation; and

(ii) must deal with and resolve those complaints in the same way as it deals with and resolves other complaints to which the ombud scheme relates; and

(b) the governing rules of the ombud scheme must be read as including an obligation on the financial institution to comply with the determination of the ombud on those complaints.

(3) If a financial institution provides financial products and financial services and there is a recognised industry ombud scheme that provides for the resolution of complaints about financial products or financial services of that kind, the financial institution must be a member of that industry ombud scheme.
Dithibelo mo ditheong tsa ditšhelete mabapi le dikema tsa ombud

210. (1) Setheo sa ditšhelete se ka se neclane ka tsamaiso epe ya ka fā gare e e nang le yona mabapi le go samagana le kgotsa go rarabolola dingongorego tse di dirlweng go sona ke barekedi ba ditšhelete jaaka sekema sa ombud, kgotsa motho yo o samagana le kgotsa yo o rarabololang dingongorego tseo jaaka ombud.

(2) Setheo sa ditšhelete se tshwanetse go senolela barekedi ba sona ba ditšhelete dikema tsa ombud tse di diriswang, le ka moo go ka ikgolagangwngwng le go romela dingongorego go dikema tseo, go tsamaelana le melawana ya khansele ya ombud e e ka rebolwang mabapi le seno.

(3) (a) Setheo sa ditšhelete se ka se lope kgotsa laletse morekedi wa ditšhelete go ngongoregela go—
   (i) ombud, ntle le fa motho yo o neetsweng maikarabelo a tiro eno e le karolo ya sekema sa ombud sa bodirelo se se amoetsweng kgotsa sekema sa ombud sa semolao; kgotsa
   (ii) sekema sa ombud, ntle le fa sekema sa ombud se se amegang e le sekema sa ombud sa bodirelo se se amoetsweng kgotsa sekema sa ombud sa semolao.

   (b) Tlhokego kgotsa tuletse e e farologaneng le temana (a) ga e amogelesenge.

(4) Sekema sa ombud se ka se tšhalose kgotsa se itsele gore ke sekema sa ombud sa bodirelo se se amoetsweng go ya ka Karolo eno ntle le fa se amoetswesw jalo.

(5) Sekema sa ombud se ka se lele motho yo mongwe go se supa jaaka sekema sa ombud sa bodirelo se se amoetsweng go ya ka Karolo eno, ntle le fa se amoetswesw jalo.

(6) Mabapi le mailihomo a dikarolotlaleletso (3), (4) le (5), sekema sa ombud se kamogelo ya sona e sekegilweng kgotsa e phimotsweng ga se amogelesenge.

Dikema tsa ombud tse di diriswang

211. (1) (a) Fa go sena sekema sa ombud sa bodirelo kgotsa sekema sa ombud sa semolao se se amoetsweng se se dirang kabelo mabapi le tharabolola ya dingongorego ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta o o rileng, Khansele ya Ombud e e ka, morgo ga go rerisana le dikema tsa ombud tse di maleba, thapak sekema se ombud, kgotsa dikema sa ombud tse pedi kgotsa go feta, go samagana le le go rabolola dingongorego ka ga dikuno kgotsa ditirelo tsa mofuta oo.

   (b) Fa Khansele ya Ombud e thapasekema sa ombud ka maiteko a boyona kgotsa ka kopo ya sekema kgotsa setheo sa ditšhelete se se tlamelang kgotsa tsithitsinyang go tlamelang ka dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta oo.

(2) Fa Khansele ya Ombud e thapasekema sa ombud ga ga karolotlaleletso (1) go sekaseka le go rarabolola dingongorego tse di ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta oo—
   (a) ombud mongwe le mongwe wa sekema sa ombud se se supilweng—
      (i) o na le thata le tiro, ntle le sengwe le sengwe se se mo Molaeng kgotsa melawaneng ya go busa ya sekema sa ombud, ya go samagana le go rarabolola dingongorego tse di ka ga dikuno kgotsa ditirelo, go tsamaelana le thap; le
      (ii) o tshwanetse go samagana le go rarabolola dingongorego tseo ka mokgwa o o tshwanang le wa fā a samagana le go rarabolola dingongorego tse dingwe tse sekema sa ombud di amanang le tsona; le
   (b) melawaneng ya go busa ya sekema sa ombud e tshwanetse go tswa jaaka e kete e akaretse tlamego mo setheoeng sa ditšhelete go ikamany a le tlhomamisa go dikeno ya ombud mo dingongoregong tseo.

(3) Fa setheo sa ditšhelete se tlamelang ka dikuno tsa ditšhelete le ditirelo tsa ditšhelete e biele ga na le sekema sa ombud sa bodirelo se se amoetsweng se se tlamelang mabapi le tharabolola ya dingongorego tse di ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta oo, setheo sa ditšhelete se tshwanetse go nna leloko la sekema se o mabapi sa bodirelo.
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Overlaps between ombud schemes

212. (1) An industry ombud scheme may not deal with a complaint to which a statutory ombud scheme applies, but must refer the complaint to the appropriate statutory ombud scheme unless the statutory ombud scheme has declined to deal with the complaint.

(2) An ombud scheme may not deal with a complaint that has been dealt with by another ombud scheme unless—

(a) the complaint is referred to it by the other ombud scheme; or

(b) the Ombud Council has designated both schemes in terms of section 211(1) to deal with and resolve complaints of the relevant kind and each scheme is dealing with the elements of the complaint in accordance with the applicable determination in terms of section 211(1)(b).

Collaboration between ombuds and ombud schemes

213. The ombud schemes, and the ombuds, must cooperate and collaborate with each other regarding complaints about financial institutions in relation to financial products and financial services, including by developing processes and procedures to jointly hear and determine complaints, on their own initiative or as may be required by Ombud Council rules.

Governing rules of recognised industry ombud scheme

214. (1) Before the Ombud Council can recognise an industry ombud scheme in terms of section 194, the Ombud Council must—

(a) publish—

(i) a draft of the governing rules or amendments to the governing rules;

(ii) a statement explaining the need for and the intended operation of the governing rules or the amendment to the governing rules;

(iii) a statement of the expected impact of the governing rules or the amendment to the governing rules; and

(iv) a notice inviting submissions in relation to the rules or amendment to the governing rules and stating where, how and by when submissions are to be made; and

(b) submit the draft governing rules to the Financial Sector Conduct Authority.

(2) The period allowed for making submissions on the governing rules or amendments to the governing rules in terms of subsection (1) must be at least 30 days.

(3) (a) The governing rules of a recognised industry ombud scheme must be approved by and may not be amended without the approval of the Ombud Council.

(b) Governing rules or amendments to governing rules that are adopted by a recognised industry ombud scheme without the approval by the Ombud Council are void.

(4) The Ombud Council must not approve governing rules or an amendment to governing rules unless it is satisfied that to do so assists in achieving the object of this Act as set out in section 7.

Obligation to comply with governing rules of recognised industry ombud schemes

215. (1) A financial institution that is a member of a recognised industry ombud scheme must comply with the governing rules of the scheme.

(2) Without limiting any other right that a financial customer of a financial institution that is a member of a recognised industry ombud scheme may have, the financial customer may enforce the obligation in subsection (1) in relation to a financial product or a financial service as if the obligation were a provision of the contract in terms of which the financial product or financial service was provided to the financial customer.
**Ditshelepano magareng ga le direma tsa ombud**

212. (1) Ombud wa sekema sa ombud sa bodirelo o ka se samagane le ngongorego eo sekema sa ombud sa molao se diriswang, mme o tshwanetse go romela ngongorego go sekema sa ombud sa molao se se maleba ntle le fa sekema sa ombud sa molao se ganne go samagana le ngongorego.

(2) Sekema sa ombud se ka se samagane le ngongorego e e setseeng e rarabolotswwe ke sekema sa ombud se sengwe ntle le fa—

(a) ngongorego e rometswe kwa go sona ke sekema sa ombud se sengwe; kgotsa

(b) Khansele ya Ombud e tshwane dikgato le tshwanetse go rometswe kgotsa go sengwe se sekaseka le dipopi tsa ngongorego go tsamaelana le thlohamimo e e diriswang go ya ka karolo 211(1)(b).

**Tirisanommogo magareng ga ombuds le dikema tsa ombuds**

213. Dikema tsa ombud, le ombuds, ba tshwanetse go dirisana mmogo le go kopana mabapi le diriseng ombud tse di ka ga ditheo tsa diriseng mabapi le dikunou tsa diriseng go ditirelo tsa diriseng, ga akaretse le ka go tshlaboletse dikgato le dibamangtse tsa goro reetsa le go thalotse li lama se dirisang ombud ka kopano, ka mateko a tsong kgotsa jaaka go tla be go thokgakw a ya ka melwana ya Khansele ya Ombud.

**Melawana e e laolang ya sekema se se amogelesegang sa bodirelo jwa ombud sa bodirelo se se amogetsweng**

214. (1) Pele Khansele ya Ombud e ka amogela sekema sa ombud sa bodirelo go ya ka karolo 194, Khansele ya Ombud e tshwanetse go—

(a) phasalatsa—

(i) thalo ya melawana ya go busa kgotsa ditlhabololo tsa melawana ya go busa;

(ii) polelo e e tshlaboletse thlho ke le tsamaiso e e tshlaboletse ya melawana ya go busa kgotsa ditlhabololo ya melawana e e busang;

(iii) polelo ya kutlwalo e e setseeng e e tshlaboletse ya melawana ya go busa kgotsa ditlhabololo ya melawana ya go busa le;

(iv) kitsiso e ka yona go laetse tsa hlosetse go diriseng mabapi le melawana kgotsa ditlhabololo ya melawana ya go busa e e busang; kgotsa
dirwa ke, jang le gore leng; le

(b) romela thalo ya melawana ya go busa kwa Bothathing jwa Botishwara jwa Lephata la Ditselethe.

(2) Nako e e dumeletse tsa go dira ditlhabololo ya melawana ya go busa kgotsa ditlhabololo ya melawana ya go busa ya ka karolong 30.

(3) (a) Melawana ya go busa ya sekema sa ombud sa bodirelo se se amogetsweng e tshwanetse go rebola ke e e busang e e thlaboletse ntle le thlabolo ya Khansele ya Ombud.

(b) Melawana ya go busa kgotsa ditlhabololo go melawana ya go busa kgotsa ditlhabololo ya melawana ya go busa kgotsa ditlhabololo ya melawana ya go busa e e busang e e amogetsweng e se melawana ya sekema sa ombud sa bodirelo se se amogetsweng ntle le thlabolo ya Khansele ya Ombud ga e amogelese e.

(4) Khansele ya Ombud ga a e tshwanetse go rebola melawana ya go busa kgotsa ditlhabololo ya melawana ya gobusang ntle le fa e kgotsatse gore go dira jal go thusa go filhlela laitlhaloletse a Molao ona a e tshlaboletse o ka karolong 7.

**Tlamego ya go ikamanya le melawana e e laolang ya dikema tse di a moge se gang tsa bodirelo jwa Ombud**

215. (1) Setheo sa Ditselethe se e leng leloko la sekema sa ombud sa bodirelo se se amogetsweng e tshwanetse go rebola melawana ya go busa ya sekema.

(2) Ntle le go lekanyetsa tshwanetse go rebola melawana ya go busa e e busang e e thlaboletse se le abotswwe la tseke sa bodirelo se se amogetsweng e a ka mma le yona, morekedi wa ditselethe o ka tshlaboletse tla lelo a mo karolotlaletse (1) mabapi le kuno ya ditselethe kgotsa tirelo ya ditselethe jaaka e ketlamego e ne le le kabelo ya ona ya karolo 194 profitse gore go dira jalo go thusa go filhlela laitlhaloletse a Molao ona a e tshelfakweng mo karolong 7.
Suspension of time barring terms

216. Receipt of a complaint by a financial sector regulator, the Ombud Council or an ombud suspends any applicable time barring terms, whether in terms of an agreement or any law, or the running of prescription in terms of the Prescription Act, 1969 (Act No. 68 of 1969), for the period from the receipt of the complaint until the complaint has either been withdrawn or finally determined.

Reporting

217. (1) An ombud scheme must—

(a) within six months after the end of each financial year, submit to the Ombud Council, in the form and with the content required by the Ombud Council, a report on the operation of the ombud scheme during the financial year, including in relation to—

(i) compliance with the financial sector laws in so far as they relate to ombud schemes;

(ii) the complaints that the ombud scheme is dealing with, and how they are being dealt with; and

(iii) the conduct of financial institutions that is giving rise to complaints; and

(b) comply with any request by the Ombud Council at any time for information about the operation of the ombud scheme, trends in and implications of the conduct of financial institutions observed by the ombud scheme, and any other relevant information.

(2) Each of the following must, on request by the Financial Sector Conduct Authority, and may at any time, provide information and reports to the Financial Sector Conduct Authority about the operation of ombud schemes and trends in and implications of the conduct of financial institutions observed by it:

(a) The Ombud Council;

(b) a statutory ombud scheme;

(c) a recognised industry ombud scheme.

(3) If, in dealing with a complaint, an ombud becomes aware that there has or may have been—

(a) a contravention of a financial sector law in a material way by a financial institution; or

(b) an activity or action by a financial institution that has an effect on financial customers other than the complainant,

the ombud must report the details of the matter, including the identity of the financial institution concerned, to the Financial Sector Conduct Authority.

(4) (a) The Ombud Council must provide the Minister of Finance and the National Treasury with information, returns, documents, explanations and motivations that may be prescribed by Regulation for this section or information that the Minister of Finance or the National Treasury may request.

(b) Paragraph (a) does not require or permit the provision of information about persons identifiable from the information.

CHAPTER 15

FINANCIAL SERVICES TRIBUNAL

Part 1

Interpretation

Definitions

218. For the purposes of this Chapter—

“decision” means each of the following:

(a) A decision by a financial sector regulator or the Ombud Council in terms of a financial sector law in relation to a specific person;
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Tshekego ya dipeelo tse di beilweng tsa nako

216. Kamogelo ya ngongorego ka molaodi wa lephata la ditšhelete, Khansele ya Ombud kgotsa ombud se sekega dipeelo tshibelo ya nako, e ka nna go ya ka tumalano kgotsa molao mongwe le mongwe, kgotsa go diragatswa ga taelo go ya ka ra Prescription Act, 1969 (Molao 68 wa 1969), mo nakong ya go simolola ka kamogelo ya ngongorego go fitlhela ngongorego e gogelwa morago, kgotsa e tlhomamiswa kwa bokhutlong.

Go bega

217. (1) Sekema sa Ombud se tshwanetse—
   (a) mo dikgweding tse thataro morago ga go ya bokhutlong ga ngwaga ngwle le
   ngwwe ya ditšhelete, romela go Khansele ya Ombud, mo foromong le ka
   diteng tse di tlhokwang ke Khansele ya Ombud, pegelo ka ga tiro ya sekema
   sa ombud le lephata la ditšhelete ka nako ya ngwaga wa ditšhelete, go
   akaretsa mabapi le—
      (i) ikamanyo le melao ya lephata la ditšhelete jaaka ga e amana le dikema
         tsa ombud;
      (ii) dingongoregotsesekemasaombudsesamaganengle tsona, le ka moo di
         rarabololwang ka teng; le
      (iii) boitshwara jwa ditheo tsa ditšhelete jo bo tlisang dingongorego tse
         dintsi; le
   (b) go ikamanyla le kopo ya Khansele ya Ombud ka nako ngwwe le ngwwe mabapi
      le tshedimosetso e e ka ga tsamaiso ya sekema sa ombud, tse di diriswarg
      sešweng le bokao jwa maitsholo a ditheo tsa ditšhelete a a elwang tlhoko ke
      sekema sa ombud le tshedimosetso ngwwe le ngwwe e e maleba.

(2) Ngwwe le ngwwe ya tse di latelang e tshwanetse, ka kopo ya Bothati jwa
   Boitshwara jwa Lephata la Ditšhelete, gape le ka nako ngwwe le ngwwe, tlamelga
   le tshedimosetso le dipegeolo ka ga tiro ya dikema tsa ombud le tseo di diriswarg mo
   sešweng le bokao jwa maitsholo a ditheo tsa ditšhelete tse bo di elang tlhoko:
   (a) Khansele ya Ombud;
   (b) sekema sa ombud sa semolao;
   (c) sekema sa ombud sa bodirelo se se amogetsweng.

(3) Fa, ka ga samagana le ngongorego, ombud a lemoga gore go na le kgotsa go ka
   mma le—
   (a) tlolo ya molao wa lephata la ditšhelete ka tse nelelelo e kgolo ke setheo sa
      ditšhelete; kgotsa
   (b) tirwana kgotsa tiro ka setheo sa ditšhelete e e nang le tlamorago mo
      barekeding ba ditšhelete bao e seng bangongoregi,
   ombud o tshwanetse go itsise Bothati jwa Boitshwara jwa Lephata la Ditšhelete ka ga
   morero oo, go akaretsa le tshupo ya setheo sa ditšhelete se se amegang.

(4) (a) Khansele ya Ombud e tshwanetse go tlamelga Tona ya Matlole le Matlotlo a
   Botšhaba ka tshedimosetso, dipeelo, dikwalo, ditšhaloso le ditšhegetso tse di ka
   neelwang ka Molawana mabapi le karolo eno kgotsa tshedimosetso e e ka lopiwang ke
   Tona ya Matlole le Matlotlo a Botšhaba.
   (b) Temana (a) ga e tlhoke kgotsa ga e letle kabelo ya tshedimosetso ka ga batho ba
      ba ka supiwang go tswa mo tshedimosetsong.

KGAOLO 15

LEKGOTLA LA DITIRELO TSA DITŠHELETE

Karolo 1

Tlhaloso

Ditšhaloso

218. Mabapi le maitlhomo a Kgalo eno—
   “tsheweto” e kaya ngwwe le ngwwe ya tse di latelang:
   (a) tsheweto e e tserseng ke molaodi wa lephata la ditšhelete kgotsa Khansele ya
      Ombud go ya ka molao wa lephata la ditšhelete mabapi le motho yo o rileng;
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(b) a decision by an authorised financial services provider, as defined in section 1 of the Financial Advisory and Intermediary Services Act, in terms of section 14 of that Act in relation to a specific person;

(c) a decision in relation to a specific person by a market infrastructure, being a decision in terms of rules of the market infrastructure contemplated by the Financial Markets Act, or a decision contemplated in section 105 of the Financial Markets Act;

(d) a decision of a statutory ombud in terms of a financial sector law in relation to a specific complaint by a person;

(e) a decision of a kind prescribed by Regulation for the purposes of this paragraph,

and includes—

(f) an omission to take such a decision within the period prescribed or specified in a financial sector law, rules, or other requirements pertaining to the decision-maker;

(g) an omission to take such a decision within a reasonable period, if the applicable financial sector law, or rules of, or other requirements pertaining to, the decision-maker require the decision to be taken but without prescribing or specifying a period;

(h) an action taken as a result of such a decision; and

(i) an omission to take action as a result of such a decision within the prescribed or a reasonable period, if the applicable financial sector law requires the action to be taken but does not prescribe a period,

but does not include—

(j) a decision of a financial sector regulator that the financial sector regulator is directed to take in terms of section 18(2) or 30(1);

(k) a decision to conduct a supervisory on-site inspection or an investigation;

(l) an assessment of a levy issued to a specific person; or

(m) a decision prescribed by Regulations made for this paragraph;

“decision-maker” means—

(a) in relation to a decision by a financial sector regulator, the financial sector regulator;

(b) in relation to a decision by the Ombud Council, the Ombud Council;

(c) in relation to a decision referred to in paragraph (b) of the definition of “decision” in this section, the authorised financial services provider;

(d) in relation to a decision referred to in paragraph (c) of the definition of “decision” in this section, the market infrastructure;

(e) in relation to a decision by a statutory ombud, the statutory ombud; and

(f) in relation to a decision referred to in paragraph (e) of the definition of “decision” in this section, the person identified in the Regulations as the decision-maker.

Part 2

Financial Services Tribunal

Establishment and function of Financial Services Tribunal

219. (1) The Financial Services Tribunal is hereby established to reconsider, in terms of this Chapter, decisions as defined in section 218 and to perform the other functions conferred on it by this Act and specific financial sector laws.

(2) The Tribunal—

(a) is independent;

(b) must be impartial and exercise its powers without fear, favour or prejudice;

(c) is a tribunal of record; and

(d) must perform its function in accordance with this Act and the specific financial sector laws.
(b) tshwetsos ka motlamedis wa ditirelo tsa dišišele. tse di amogotsweng, jaaka go thulaloisitswe mo karolong 1 ya Financial Advisory and Intermediary Services Act, go ya ka karolelo 14 ya Molao oo mabapi le motho yo o rileng;

c) tshwetsos e e mabapi le motho yo o rileng ka thulaganyetso ya popegotheo ya mmaraka, eo e leng tshwetsos go ya ka melawana ya thulaganyetso ya popegotheo ya mmaraka e e thulaloisitsweng ke Financial Markets Act, kgotsa tshwetsos e e thulaloisitsweng mo karolong 105 ya Financial Markets Act;

d) tshwetsos ya ombud wa semolao go ya ka molao wa lephata la dišišele mabapi le ngongorego e e rileng ka motho;

e) tshwetsos ya mofuta o o rileng e e neetsweng ke Molawana mabapi le maililhomo a temana eno,

ebile e akaretsa—

(f) tlhologo go tsaya tshwetsos e maboleng kgotsa tse tsepameng tse di amanang le motho yo o tsereng tshwetsos;

(g) tlhologo ya go tsaya tshwetsos e maboleng kgotsa tse tsepameng tse di amanang le motho yo o tsereng tshwetsos di tlhoka gore go tswee tshwetsos fela ntlhe go baya kgotsa go tsepamisa nako;

(h) kgotsa e e tsepameng ka nthla ya tshwetsos e o; le

(i) tlhologo ya go tsaya tshwetsos ka nthla ya tshwetsos e maboleng kgotsa e e lekaneng, fa molao wa lephata la dišišele o o amogotsweng o tlhoka gore kgotsa e e tsewe mme o sa neelane ka nako,

mme ga o akaretse—

(j) tshwetsos e molaodi wa lephata la dišišele a kaletswa go e tsaya go ya ka karolo 18(2) kgotsa 30(1);

(k) tshwetsos ya go diragatsa kelotlhoko ya botlhokomedis jwa kwa setsheng kgotsa patlisiso;

(l) tshekatsheko ya lekgethwana le le boletsweng motho yo o rileng; kgotsa tshwetsos e e tsepameng ke Melawana e e diritsweng temana eno;

“motho yo o tsayang tshwetsos” o kaya—

(a) mabapi le tshwetsos ka molaodi wa lephata la dišišele, molaodi wa lephata la dišišele;

(b) mabapi le tshwetsos ka Khanele ya Ombud, Khanele ya Ombud;

(c) mabapi le tshwetsos e e kailweng mo temaneng (b) ya tlahaloseng “tshwetsos” ya tlahaloseng mo karolong eno, motlamedis wa ditirelo tsa dišišele, motho yo o amogotsweng;

(d) mabapi le tshwetsos e e kailweng mo karolong (c) ya tlahaloseng ya “tshwetsos” ya tlahaloseng mo karolong eno, thulaganyetso ya popegotheo ya mmaraka;

(e) mabapi le tshwetsos ka ombud wa semolao, ombud wa semolao;

(f) mabapi le tshwetsos e e kailweng mo temaneng (e) ya tlahaloseng ya “tshwetsos” ya tlahaloseng mo karolong eno, motho yo o supilweng mo Melawana jaaka motho yo o tsayang tshwetsos.

Karolo 2

Lekgotla la Ditirelo tsa Dišišele

Go tlhongwa le tiro ya Lekgotla la Ditirelo tsa Dišišele

219. (1) Lekgotla la Ditirelo tsa Dišišele le a tlhongwa go sekasekagape, go ya ka Kgalo elo eno, ditshwetsos jaaka di thulaloisitswe mo karolong 218 le go dira ditiro tse dingwe tse le bo di abetsweng ke Molao ono le melao ya lephata la dišišele e e rileng.

(2) Lekgotla—

(a) le ikemetse;

(b) le tshwanetsos go se tseye letlhakore le go diragatsa dithata tsa lona ntle le lešhogo, kgotsolelo kgotsa kgobelelo;

(c) ke lekgotla la rekoto; le

(d) le tshwanetsos go dira ditiro tsa lona go tsamaelana le Molao ono le melao e e tsepameng ya lephata la dišišele.

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Members of Tribunal

220. (1) The Tribunal consists of as many members, appointed by the Minister, as the Minister may determine.
   (2) The Tribunal members must include—
      (a) at least two persons who are retired judges, or are persons with suitable expertise and experience in law; and
      (b) at least two other persons with experience or expert knowledge of financial products, financial services, financial instruments, market infrastructures or the financial system.
   (3) A person may not be appointed to, or hold office as, a Tribunal member if the person—
      (a) is a disqualified person; or
      (b) is not a citizen of the Republic or is not ordinarily resident in the Republic.
   (4) The Minister must appoint a Tribunal member referred to in subsection (2)(a) as the Chairperson, and may appoint another Tribunal member as Deputy Chairperson.
   (5) The Chairperson—
      (a) must preside at meetings of the Tribunal; and
      (b) is responsible for managing the work of the Tribunal effectively.
   (6) The Deputy Chairperson performs the functions of the Chairperson on delegation by the Chairperson, or in the absence of the Chairperson, or if for any reason the office of the Chairperson is vacant.

Term of office and termination of membership

221. (1) A Tribunal member holds office for—
      (a) three years from the date of the member’s appointment; or
      (b) if a shorter period is specified in the appointment of the Tribunal member, that shorter period.
   (2) A Tribunal member may be re-appointed at the expiry of a term.
   (3) A person may resign as a Tribunal member by giving at least three months written notice to the Minister, or a shorter period of notice that the Minister may accept.
   (4) The Minister must terminate a person’s appointment as a Tribunal member if the member becomes a disqualified person.
   (5) The Minister may terminate a person’s appointment as a Tribunal member if—
      (a) the member is unable to perform the functions of office for health or other reasons; or
      (b) an independent inquiry established by the Minister has found that the member—
          (i) has failed in a material way to discharge any of the responsibilities of office; or
          (ii) has acted in a way that is inconsistent with continuing to hold the office.
   (6) If an independent inquiry has been established in terms of subsection (5)(b) in relation to a member, the Minister may suspend the member from office pending a decision on the removal of the member.
   (7) A Tribunal member holds office on terms and conditions, including as to remuneration, not inconsistent with this Act, determined by the Minister.

Staff and resources

222. (1) The Chairperson may, in accordance with applicable law—
      (a) for the work of the Tribunal—
          (i) appoint persons as employees;
          (ii) enter into secondment arrangements; or
          (iii) engage persons on contract otherwise than as employees;
      (b) enter into contracts;
      (c) acquire and dispose of property;
      (d) insure the Tribunal against any loss, damage, risk or liability that it may suffer or incur; and
Maloko a Lekgotla

220. (1) Lekgotla le na le maloko a le manetsi, a a thapilweng ke Tona, jaaka Tona a ka thomamisa.
(2) Maloko a Lekgotla a shwanetse go akaretsa—
   (a) bonnye batho ba le babedi bao e leng baatlhodi ba ba rotseng tiro, kgotsa ke batho ba nang le kitso e kgolo e e maleba le maitemegolo mo molaong; le
   (b) bonnye batho ba bangwe ba babedi bao ba nang le maitemegolo kgotsa kitso e e kwa godimo ya dikuno tsa ditšelele, ditirelo tsa ditšelele, didiriso tsa ditšelele, ditulaganyetsa tsa popegotheo ya mmaraka kgotsa ditulaganyo tsa ditšelele.
(3) Motho o ka se thapelwe go, kgotsa go dira jaaka, leloko la Lekgotla fa motho—
   (a) a ileditse; kgotsa
   (b) e se moagi wa Rephaboliki kgotsa e se moagi ka tlwaele mo Rephaboliking.
(4) Tona o tshwanetse go thapa leloko la Lekgotla le le ka tšwaele mo karotolaleletsong (2)(a) jaaka Modulasetilo, e bile o ka thapa leloko le lenglwe la Lekgotla jaaka Motlatsamodulasetilo.
(5) Modulasetilo—
   (a) o tshwanetse go okamelwa kwa dikopenang tsa Lekgotla; le
   (b) o rwala maikarabelo a go laola tiro ya Lekgotla ka nonoho.
(6) Motlatsamodulasetilo o dira ditiro tsa Modulasetilo ka thololo ya Modulasetilo, kgotsa fa Modulasetilo a seyo, kgotsa fa ka lebaka lenglwe go na le phatlanti ira ya modulasetilo.

Paka ya tiro le khutliso ya boloko

221. (1) Leloko la Lekgotla le dira—
   (a) sebaka sa dingwaga tse tharo go simolola ka lethla la go thapiwa ga leloko; kgotsa
   (b) fá paka e e khutshwane e tsepamisitswe mo go thapiweng ga leloko la Lekgotla, paka eo e e khutshwane.
(2) Leloko la Lekgotla le ka thapiwa gape kwa bokhutlong jwa paka.
(3) Motho o ka rola tiro jaaka leloko la Lekgotla ka go romela Tona kitsiso ya bonnye dikgwedi di le tharo, kgotsa nako e e khutshwane ya kitsiso e Tona o ka e amogelang.
(4) Tona o tshwanetse go khutlisa go thapiwa ga motho jaaka leloko Lekgotla fa motho a ileditse.
(5) Tona o ka khutlisa go thapiwa ga motho jaaka leloko la Lekgotla fa—
   (a) leloko le sa kgone go dira ditiro tse le di thapetsweng ka ntlha ya mabaka a boitekanelo kgotsa mabaka a mangwe; kgotsa
   (b) fá patlisiso e e ikemetseng e e tholimiweng ke Tona e filheletse gore leloko—
      (i) le palesetswe ka gotlh e diragatsa ngwe le ngwe ya maikarabelo a lona a tiro; kgotsa
      (ii) le dirile ka mokgwga o o sa tsamelaeneng le ditlho ke go tsewelela ple le go dira.
(6) Fapatlisiso e e ikemetseng e e tholimiw e go ya ka karolotlaletso (5)(b) mabapi le leloko, Tona o ka emisa leloko mo tirong go sa letilwe tshwetsa ka ga go tloswa ga leloko.
(7) Leloko la Lekgotla le dira go ya ka dipelco le mabaka, go akaretsa le ka ga go duelwa, go go tsamelaenang le Molao ono, tse di tholimamisitsweng ke Tona.

Badiri le ditlamelo

222. (1) Modulasetilo o ka, go tsamelaenana le molao o o maleba—
   (a) mabapi le tiro ya Lekgotla—
      (i) thapa batho jaaka badiri;
      (ii) dira ditulaganyo tsa go tlatsa go thapiwa ga motho; kgotsa
      (iii) dirisana le batho ka konteraka ka pharologano le bona jaaka badiri;
   (b) dira dikonteraka;
   (c) filhelela le go lattha photo;
   (d) inšo Lekgotla kgatlanang le tatlhegolelele ngwe le ngwe, tshenyegelo, kotsi kgotsa molato eo le ka le ka iphitlhelang le lebagane nao; le
(e) do anything else necessary for the performance of the Tribunal’s functions.

(2) The Chairperson may not enter into a secondment arrangement in respect of a person, or engage persons as employees or on contract, unless the person and the Chairperson have agreed in writing on—

(a) the performance measures that must be used to assess that person’s performance; and

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

Duties of staff members

223. (1) A person who is or was a staff member under section 222 may not use that position or any information obtained as a staff member to—

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

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

(c) cause improper detriment to another person.

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

Panels of Tribunal

224. (1) The Chairperson must constitute a panel of the Tribunal for each application for reconsideration of a decision.

(2) The panel constituted to consider an application for the reconsideration of a decision is the decision-making body of the Tribunal, and the panel exercises any of the powers of the Tribunal relating to the reconsideration of the decision.

(3) The decision of the panel is the decision of the Tribunal as referred to in sections 234, 235 and 236 in respect of an application for the reconsideration of a decision.

(4) A panel consists of—

(a) a person to preside over the panel, who must be a person referred to in section 220(2)(a) or 225(2)(a)(i); and

(b) two or more persons who are Tribunal members or persons on the panel list.

(5) If, for any reason, a panel member is unable to complete proceedings for a reconsideration of a decision, the Chairperson may—

(a) replace that member with a person referred to in subsection (4);

(b) direct that the proceedings continue before the remaining panel members; or

(c) constitute a new panel and direct the new panel to either continue the proceedings, or start new proceedings.

Panel list

225. (1) The Minister must establish and maintain a list of persons who are willing to serve as members of panels of the Tribunal.

(2) The persons included in the panel list must—

(a) have relevant experience in or expert knowledge—

(i) of law; or

(ii) of financial products, financial services, financial instruments, market infrastructures or the financial system; and

(b) be a fit and proper person to be included in the panel list.

(3) A person may not be included in the panel list if the person is a disqualified person.

(4) The Minister may, every five years, publicly invite persons to apply for inclusion in the panel list.

(5) The Chairperson must ensure that the persons included in the panel list have an equal opportunity to be appointed to serve on a panel of the Tribunal.
(e) dira sengwe le sengwe se se tlhokegang mabapi le tiragatso ya ditiro tsa Lekgotla.
(2) Modulasetilo o ka se dire thulaganyo ya go tlatsa go thapiwa ga motho, kgotsa go dirisa motho jaaka modiri kgotsa modiri wa koneraka, ntle le fa fela motho le Modulasetilo ba dumalane ka go kwala ka ga—
(a) ditekanyetso tsa tiro tse di tshwanetseng go diriswa go lekanyetsa tiragatso ya motho; le
(b) boemo jwa tiro jo bo tshwanetseng go fithelelewa kgatlhanong le ditekanyetso tseo.

Ditiro tsa badiri

223. (1) Motho yo e leng kgotsa yo e neng e le leloko la badirimmogo ka fa tlase ga karolo 222 o ka se dirise maemo ao kgotsa tshedimoseto ngwe le ngwe e a e fitheleletse jaaka leloko le badiri go—
(a) una molemo e seng ka tshwanelo kgotsa go dira gore motho yo mongwe a une molemo;
(b) kgoeletsa bokgongi jwa Lekgotla jwa go dira ditiro tsa jona; kgotsa
(c) thatafeletsa motho yo mongwe.
(2) Mabapi le maithlomena a karolo eno, “kunomolemo” le “thatafiletso” ga di a lekanyetswa ga kunomolemo kgotsa thatafiletso ya ditselele.

Dipanele tsa Lekgotla

224. (1) Modulasetilo o tshwanetse go tlhama panele ya Lekgotla mabapi le kopo ngwe le ngwe ya tshekatshekogape ya tshwetso.
(2) Panele e thlometse go sekaseka kopo mabapi le mokgatlho o o dirang ditshwetso wa Lekgotla, e bile panele e diragatsa ngwe le ngwe ya dithaa tsa Lekgotla tse di amanang le tshekatshekogape ya tshwetso.
(3) Tshwetso ya panele ke tshwetso ya Lekgotla jaaka go kailwe mo dikarolong 223, 235 le 236 mabapi le kopo ya tshekatshekogape ya tshwetso.
(4) Panele e bopilwe ka—
(a) motho yo e tla omang panele, yo e tshwanetseng go nna motho yo o kailweng mo karolong 234(2)(a) kgotsa 225(2)(a); le
(b) batho ba le babedi kgotsa go feta ba e leng maloko a Lekgotla kgotsa batho ba ba leng mo lenaneng la panele.
(5) Fa ka lebaka lefe, leloko la panele le sa kgone go feleletseng ditsamaosi tsa tshekatshekogape ya tshwetso, Modulasetilo o ka—
(a) tsenya mo boemong jwa leloko leo motho yo o kailweng mo karolotlaleletsong (4);
(b) laela gore ditsamaosi di tswelele pele fa pele ga maloko a a setseng a panele; kgotsa
(c) tlhoma panele e ntšha le go laela panele e ntšha go tswelela pele ka ditsamaosi, kgotsa go simolola ditsamaosi tse dintšhwa.

Lenane la panele

225. (1) Tona o tshwanetse go tlhoma le go tlamelae lenane la batho ba ba ikemiseditseng go dira jaaka maloko a dipanele tsa Lekgotla.
(2) Batho ba ba akaretditseng mo lenaneng la panele ba tshwanetse—
(a) go nna le maitemogelo mo kgotsa kitso ya boitseanape—
(i) ya molao; kgotsa
(ii) ya dikuno tsa ditšhelete, ditirelo tsa ditšhelete, didiriso tsa ditšhelete, ditšheletse, diitšheletse, le
(b) go nna motho yo o itekanetsang e bile a le matshwandedi go ka akaretswa mo lenaneng la panele.
(3) Motho o ka se akaretswe mo lenaneng la panele fa e le motho yo o ileditstweng.
(4) Tona o ka, dingwaga dingwe le dingwe tse tlhano, laletsa mo phatlatseng batho go dira kopo ya go akaretswe mo lenaneng la panele.
(5) Modulasetilo o tshwanetse go netefatsa gore batho ba ba akaretditseng mo lenaneng la panele ba newa tšhono e e lekanang ya go thapiwa go dira mo paneleng ya Lekgotla.
(6) The Minister—
   (a) must remove a person from the panel list—
       (i) if the person so requests; or
       (ii) if the person becomes a disqualified person; and
   (b) may, on recommendation of the Chairperson, remove a person from the panel
       list if the person—
       (i) is unable to act as a panel member for health or other reasons;
       (ii) has failed in a material way to discharge any of the responsibilities of a
            panel member; or
       (iii) has acted in a way that is inconsistent with acting as a panel member.

Disclosure of interests

226. (1) (a) If before or during proceedings in which a panel member is participating,
       it becomes apparent that the panel member or a person who is a related party to the
       panel member has an interest in the decision that the panel has been constituted to reconsider,
       the panel member must—
       (i) immediately and fully disclose this interest to the other members of the panel;
           and
       (ii) withdraw from any further involvement in the hearing.
       (b) A disclosure in terms of paragraph (a) by the Chairperson must, in addition, be
           made to the Minister.
       (c) A disclosure in terms of paragraph (a) by another panel member must, in addition,
           be made to the Chairperson.
       (2) For the purposes of this section, it does not matter—
           (a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or
           (b) when the interest was acquired.
       (3) In this section, “interest” does not include an interest that is not material.
       (4) The Chairperson must maintain a register of all disclosures made in terms of this
           section, and must maintain a system for the annual disclosure of interests by members
           of the Tribunal.

Tribunal rules

227. (1) The Chairperson may make rules, not inconsistent with this Act, in respect of
       the procedure to be followed in connection with proceedings on applications for
       reconsideration of decisions in terms of this Chapter, and the conduct of those
       proceedings, and may at any time amend or revoke those rules.
       (2) Tribunal rules, and amendments and revocations of Tribunal rules, must be
           published.

Part 3

Right to reasons for decisions

Right to be informed

228. An obligation in a financial sector law to notify a person of a decision taken in
       relation to that person must be read as including an obligation to notify the person of that
       person’s right—
       (a) to request reasons for the decision in terms of section 229; and
       (b) to have the decision reconsidered in terms of Part 4.

Right to reasons for decisions

229. (1) A person who has not already been given the reasons for the decision may,
       within 30 days after the person was notified of the decision, request a statement of the
       reasons for the decision from the decision-maker.
       (2) The decision-maker must, within one month after receiving a request in terms of
           subsection (1), give the person a statement of the reasons for the decision, which must
           include a statement of the material facts on which the decision was based.
(6) Tona—
   (a) o tshwanetse go tlosa motho mo lenaneng la panele—
      (i) fa motho a kopa jalo; kgotsa
      (ii) fa motho a nna motho yo o ileditsweng; le
   (b) o ka, ka tsitsinyo ya Modulasetilo, tlosa motho mo lenaneng la panele fa
      motho—
      (i) a sa kgone go dira jaaka leloko la panele ka ntlha ya mabaka a
         boitekanelo kgotsa a mangwe;
      (ii) a paletswe ka gotlhe go diragatsa nngwe le nngwe ya maikarabelo a
         leloko la panele; kgotsa
      (iii) a dirile ka mokgwá o o sa tsamaelaneng le go dira jaaka leloko la panele.

Tshenolo ya dikgatlhgo

226. (1) (a) Fa pele kgotsa ka nako ya ditsamaiso tse mo go tsona leloko la panele le
      tsayang karolo, go lebeega e kete leloko la panele, kgotsa motho yo o amanang le
      leloko la panele, a na le kgatlhhego mo tshwetseng e panele e e thlametsweng go e sekaseka
      gape, leloko la panele le tshwanetse go—
      (i) senolela maloko a mangwe a panele kgatlhhego eo ea bonako le ka botlalo; le
      (ii) ikogela morago mo go nneng karolo ya theetso.
   (b) Tshenolo go ya ka temana (a) ka Modulasetilo e tshwanetse, ka tlaleletso, go dirwa
go Tona.
   (c) Tshenolo go ya ka temana (a) ka leloko le lengwe la panele e tshwanetse, ka
      tlaleletso, go dirwa go Modulasetilo.
(2) Mabapi le mailhomo a karolo eno, ga go kgathalesege—
   (a) gore kgatlhhego e thlamale, ge a e thlamaala, ke ya tšhelete kgotsa ga se
      ya tšhelete; kgotsa
   (b) gore kgatlhhego e fihleletswe leng.
(3) Mo karolong eno “kgatlhhego” ga e akaretse kgatlhhego e e seng ya boleng.
(4) Modulasetilo o tshwanetse go tsbola reisetara ya ditshenolo tsotlhe tse di
    diri lweng go ya ka karolo eno, le go tsbola thulaganyo ya ditshenolo tsa kgatlhhego ka
    maloko a Lekgotla ngwaga le ngwaga.

Melawana ya Lekgotla

227. (1) Modulasetilo o ka dira melawana, e e tsamaelanang le Molao ono, mabapi le
      tsamaiso e e tshwanetseng go latelewa mabapi le ditsamaiso tsa dikopo tsa
      tshekatshekogape ya tshwets o go ya ka Kgaoelo eno, le maithsho a ditsamaiso tseo, e
      bile e e thlabolola kgotsa phimola melao eo nako nngwe le nngwe.
   (2) Melawana ya Lekgotla, le ditlhabololo le diphimolo tsa Melawana ya Lekgotla, di
      tshwanetse go phasalatswa.

Karlo 3

Tshwanelo ya mabaka a dishwets o itsisiwe

228. Tlamego mo molaeng wa lepaha la ditšeletse ya go itsise motho ka ga tshwets o e e
      tserweng mabapi le motho yoo e tshwanetse go tseelwa gore e akaretse tlamego ya go
      itsise motho ka ga tshwanelo ya motho yoo—
   (a) ya go lopa mabaka a tshwets o go ya ka karolo 229; le
   (b) ya go dira kopo ya gore tshwets o e sekasekwe gape go ya ka Karolo 4.

Tshwanelo ya mabaka a dishwets o

229. (1) Motho yo o ise ng a newe mabaka a tshwets o o ka, mo matsatsing a le 30
      morago ga fa motho a sena go itsisiwe ka ga tshwets o, lopa polelo ya mabaka mabapi le
      tshwets o go tswa gomotho yo o dirileng tshwets o.
   (2) Motho yo o dirileng tshwets o o tshwanetse, mo kgweding e e esi morago ga go
      amogela kopo e e kailweng mo karolotleletseong (1), naya motho polelo ya mabaka a
      tshwets o, e e tshwanetseng go akaretse polelo ya ditlha ts o bothokwa tse tshwets o e
      ikaegileng ka tsona.
Applications for reconsideration of decisions

230. (1) (a) A person aggrieved by a decision may apply to the Tribunal for a reconsideration of the decision by the Tribunal in accordance with this Part.

(b) A reconsideration of a decision in terms of this Part constitutes an internal remedy as contemplated in section 7(2) of the Promotion of Administrative Justice Act.

(2) The application must be made—

(a) if the applicant requested reasons in terms of section 229, within 30 days after the statement of reasons was given to the person; or

(b) in all other cases, within 60 days after the applicant was notified of the decision, or such longer period as may on good cause be allowed.

(3) An application in terms of subsection (1) must be made in accordance with the Tribunal rules.

Decision of Tribunal not suspended

231. Neither an application for a reconsideration of a decision, nor the proceedings on the application, suspends the decision of the decision-maker unless the Tribunal so orders.

Proceedings for reconsideration of decisions

232. (1) In proceedings for reconsideration of a decision—

(a) the procedure is, subject to the financial sector laws and the Tribunal rules, determined by the Chairperson;

(b) the proceedings are to be conducted with as little formality and technicality, and as expeditiously, as the requirements of the financial sector laws and a proper consideration of the matter permit; and

(c) any party may be represented by a legal representative.

(2) The person chairing a panel may give directions to facilitate the conduct of proceedings for reconsideration of a decision before the panel.

(3) A panel must conduct any hearing it holds in public, but the person presiding over the panel may direct that a person be excluded from a hearing on any ground on which it would be proper to exclude a person from civil proceedings before the High Court.

(4) In proceedings for reconsideration of a decision, the panel is not bound by the rules of evidence, but may, subject to this section, inform itself on any relevant matter in any appropriate way.

(5) The person presiding over a panel—

(a) may, on good cause shown, by order, direct a specified person to appear before the panel at a time and place specified in the order to give evidence, to be questioned or to produce any document; and

(b) must administer an oath to or accept an affirmation from any person called to give evidence.

(6) A person giving evidence or information, or producing documents, has the protections and liabilities of a witness giving evidence in proceedings before the High Court.

Decisions of panels

233. If the panel constituted for an application for reconsideration of a decision is divided in opinion as to an order to be made, the opinion of the majority of the panel members prevails, but if they are equally divided in opinion, the opinion of the member presiding over the panel prevails.
Karolo 4

Tshekatsheko poeleto ya ditshwetso

Dikopo mabapi le tshekatshekopoletso ya ditshwetso

230. (1) (a) Motho yo o ngongoregelang tshwetso o ka dira kopa kwa Lekgotleng mabapi le tshekatshekogape ya tshwetso ke Lekgotla go tsamaelana le Karolo eno.
(b) Tshekatshekogape ya tshwetso go ya ka Karolo eno e tshwanetswe ke namolo ya ka fa gare jaaka go thalositswa mo karolong 7(2) ya Promotion of Administrative Justice Act.

(2) Kopo e tshwanetse go dirwa—
(a) fa modirakopo a kopile mabaka go ya ka karolo 229, mo malatsing a le 30 morago ga fa polelo ya mabaka e sena go newa motho; kgotsa
(b) mo mabakeng otlhe a mangwe, mo malatsing a le 60 morago ga fa modirakopo a sena go itisisiwe ka tshwetso. kgotsa nako eo e telele e e ka letlwang ka mowa o montle.

(3) Kopo go ya ka karolotlaleletso (1) e tshwanetse go dirwa go tsamaelana le Melawana ya Lekgotla.

Tshwetso ya Lekgotla e e sa sekgwagwagweng

231. Kopo ya tshekatshekogape ya tshwetso, kgotsa ditsamaiso mo kopong, ga di sekege tshwetso ya motha yo o dirileng tshwetso ntle le fa Lekgotla le laela jalo.

Ditsamaiso tsu tshekatshekopoletso ya ditshwetso

232. (1) Mo ditsamaisong mabapi le tshekatshekogape ya tshwetso—
(a) tsamaiso e, go larlela melao ya lephata la ditshwetle le Melawana ya Lekgotla, thlomamiswa ke Modulasetilo;
(b) ditsamaiso di tshwanetse go dirwa e seng ka tsemelelo e kgolo le ka nofatso, mme ka bonako, jaaka go thokega go ya ka melao ya lephata la ditshwetle le keolothoko e kgolo; le
(c) moamegi mongwe le mongwe o ka emelegwana moemedi wa semolao.

(2) Motho yo o okameng panele o ka neelana ka dikaeo go nofatsa tsamiso ya ditsamaiso tsu tshekatshekogape ya tshwanelo e e fa pele ga panele.

(3) Panele e tshwanetse go tshwara theetseng ngwe e e nnang le yona mo phatlalatseng, mme motho yo o okamang panele o ka laela gore motho a se akaretse mo tsamaisong ka nthla ya lebaka lengwe le lengwe leoa ka laona go tla nnang matswaneadi go se akaretse motho mo ditsamaisong tse di fa pele ga Kgotlatshekelokgolo.

(4) Mo ditsamaisong mabapi le tshekatshekogape ya tshwetso, panele ga e pateletswe ke melawana ya bopaki, mme e ka, go latela karolo eno, ikitsese ka ga merero mengwe le mengwe e e maleba ka mokgwa o o siameng.

(5) Motho yo o okameng panele—
(a) o ka, ka lebaka le le utlwagalaang, ka taelo, laela motho yo o tsepamisitsweng go thlaga lela fa pele ga Panele ka nako le kwa lefelo e le lepamisitsweng mo taelong go neelana ka bopaki, go botsolotswa kgotsa go thagiso lokwalo lengwe le lengwe; le
(b) o tshwanetse go tsamaiso kano ya kgotsa go amogela neteletso go tsawa mo mothong mongwe le mengwe yo o biditsweng go neelana ka bopaki.

(6) Motho yo o neelana ka bopaki kgotsa tshedimoseto, kgotsa yo o thagisang dikwalo, mabapi le ditsamaiso tse di ka ga tshekatshekogape ya tshwetso o na le ditshireletso le melato ya pakie e e neelanang ka bopaki mo ditsamaisong tse di fa pele ga Kgotlatshekelokgolo.

Ditshwetso tsu panele

233. Fa panele e e thomotsweng malebana le kopo ya tshekatshekogape ya tshwetso e sa dumalane ka gore taelo e dirwe, kakanyo ya bontsi jwa maloko a panele e a diragatswa, mme fa ba lekana ka pharologano ya dikakanyo, kakanyo ya leloko le le okamang panele e a diragatswa.
Tribunal orders

234. (1) In proceedings on an application for reconsideration of a decision the Tribunal may, by order—
   (a) set the decision aside and remit the matter to the decision-maker for further consideration;
   (b) in the case of a decision of any of the following kinds, also make an order setting aside the decision and substituting the decision of the Tribunal:
      (i) a decision in terms of Chapter 13;
      (ii) a decision referred to in paragraph (b) or (c) of the definition of “decision” in section 218; and
      (iii) a decision of a kind prescribed by Regulation for the purposes of this section; or
   (c) dismiss the application.

(2) The Tribunal may, in exceptional circumstances, make an order that a party to proceedings on an application for reconsideration of a decision pay some or all of the costs reasonably and properly incurred by the other party in connection with the proceedings.

(3) Subsections (1) and (2) are subject to any provision of a financial sector law that excludes, restricts or qualifies the orders that the Tribunal may make in proceedings for reconsideration of a decision.

(4) The Tribunal may, by order, summarily dismiss an application for reconsideration of a decision if the application is frivolous, vexatious or trivial.

(5) This section does not affect any other right that a person may have.

Judicial review of Tribunal orders

235. Any party to proceedings on an application for reconsideration of a decision who is dissatisfied with an order of the Tribunal may institute proceedings for a judicial review of the order in terms of the Promotion of Administrative Justice Act or any applicable law.

Enforcement of Tribunal orders

236. (1) A party to proceedings on an application for reconsideration of a decision may file with the registrar of a competent court a certified copy of an order made in terms of section 234 if—
   (a) no proceedings in relation to the making of the order have been commenced in a court by the end of the period for commencing such proceedings; or
   (b) if such proceedings have been commenced, the proceedings have been finally disposed of.

(2) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

CHAPTER 16

FEES, LEVIES AND FINANCES

Part 1

Fees and Levies

Fees and levies

237. (1) (a) Fees may be charged by a financial sector body in accordance with this Part to fund the performance of specific functions under this Act and the relevant financial sector laws.
   (b) Levies may be imposed by a financial sector body in accordance with this Part, read with legislation that empowers the imposition of levies, to fund the operations of the financial sector body.
Molao wa Taolo ya Lephata la Ditshelete, 2017

**Ditaelo tsa Lekgotla**

**234.** (1) Mo ditsamaisong tsa kopo e e mabapi le tshekatshekogape ya tshwetso, Lekgotla le ka, ka taelo—
   (a) beela tshwetso kwa thoko le go romela morero kwa mothing yo o tsayang tshwetso gore o sekasekwe go ya pele;
   (b) mabapi le tshwetso ya mefuta e e latelang, dira gape taelo e e beelang kwa thoko tshwetso le go emisetsa tshwetso ya Lekgotla:
      (i) Tshwetso go ya ka Kgaolo 13;
      (ii) tshwetso e e kailweng mo temaneng (b) kgotsa (c) ya tlhaloso ya “tshwetso” mo karolong 218; le
      (iii) tshwetso ya mofuta o o rileng e e neetsweng ke melawana mabapi, le maitlhomo a karolo eno; kgotsa
   (c) se amogele kopo.
   (2) Lekgotla le ka, mo mabakeng a a kgethegileng, dira taelo ya gore moamegi mo ditsamaisong tsa kopo mabapi le tshekatshekogape ya tshwetso duelela bontlhabongwe jwaditshenyegelokgotsaditshenyegelotsotlhetsedibonwengkamabakalekatshiamo ke moamegi yo mongwe mabapi le ditsamaiso.
   (3) Dikarolotlaleletso (1) le (2) di go ya ka kabelo nngwe le nngwe ya molao wa lephata la ditsheletees aakaretseng, thibeleng kgotsa tlhaoleng ditaelo tse di ka dirwang ke Lekgotla mo ditsamaisong mabapi le tshekatshekogape ya tshwetso.
   (4) Lekgotla le ka, ka taelo, kgapela kwa thoko ka tshosobanyo kopo mabapi le tshekatshekogape ya tshwetso fa kopo e le ya lefela, thumulano kgotsa e e seng bothlokwa.
   (5) Karolo eno ga e ame thswanao ngwe le ngwe e motho a ka tswang a na le yona.

**Tshekatsheko ya katlholo ya ditaelo tsa Lekgotla**

**235.** Moamegi mongwe le mongwe mo kopong mabapi le tshekatshekogape ya tshwetso yo o sa kgotsofatswang ke taelo ya Lekgotla o ka dira ditsamaiso mabapi le thadiso ya bothlodi ya taelo go ya ka Promotion of Administrative Justice Act kgotsa molao mongwe le mongwe o o maleba.

**Kgatelelo ya ditaelo tsa Lekgotla**

**236.** (1) Moamegi mongwe le mongwe mo ditsamaisong mabapi le kopo ya tshekatsheko ya tshwetso o ka faela go mokwadisi kgatiso e e kanetsweng ya taelo e e dirilweng go ya ka karolo 234 fa—
   (a) ditsamaiso mabapi le go dirwa ga taelo di ise di somololwe kwa kgotlatshekelo kwa bokhutlong jwa paka ya tshimololo ya ditsamaiso tseo; kgotsa
   (b) ditsamaiso tseo di simolotse, ditsamaiso kwa bokhutlong di a dirwa.
   (2) Taelo, fa e factswe, e na le llamagoroy ka katlholo ya selegage, e bile e ka gatelelwa jaaka e kete e dirilwe semolao ke kgotlatshekelo eo.

**KGAOLO 16**

**MATLOTLO, MAKGETHWANA, LE DITŠHELETE**

**Karolo 1**

**Dituediso le Makgethwana**

**237.** (1) (a) Mokgatlho wa lephata la ditšhelete o ka duedisa tuelo go tsamaelana le Karolo eno go duelela tiragatso ya ditiro tse di rileng ka fa fise ga Molao ono le melao ya lephata la ditšhelete e e maleba.
   (b) Makgethwana a ka duediswa ke mokgatlho wa lephata la ditšhelete go tsamaelana le Karolo eno, ka puismommogoe le molawana o o nayang maatla a go duedisa lekgethwana, go duelela ditiro tsa mokgatlho wa lephata la ditšhelete.
(2) A financial sector body must publish fees that have been determined and levies that have been imposed in the Register and on its website.

(3) Fees and levies are payable to the financial sector body at the time specified by the financial sector body, or at a time agreed to by the financial sector body.

(4) Different fees may be determined and different levies may be imposed for different types or categories of persons or supervised entities.

Fees and levies to be debts

238. (1) A fee or levy payable to a financial sector body in terms of section 237 is a debt due to the financial sector body.

(2) A financial sector body may recover the amount of a debt due in terms of this section by way of a judicial process in a competent court.

Budget, fees and levies proposals

239. (1) For each financial year, each financial sector body must prepare and adopt—

(a) a budget in accordance with section 248 that includes an estimate of its expenditure;

(b) a proposal for the fees that will be charged and levies that will be imposed by the financial sector body; and

(c) projected estimates of its expenditure for next 2 financial years.

(2) A proposal for levies may include a proposal for one or more special levies, and in that case, the estimate of expenditure must include an estimate for the special expenditure in relation to a special levy proposal.

(3) An estimate of expenditure for a financial year may include provision for one or more reserves, but the total accumulated reserves included in the estimate of expenditure may not exceed 15% of the total estimated expenditure, excluding the reserves.

(4) The financial sector body must take into account submissions made in respect of the budget as well as the fees and levies proposals, which it receives in terms of section 240.

(5) The financial sector body must submit the finalised budget, together with the fees and levies proposals, to the Minister.

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

(7) In respect of the fees and levies proposals for the first financial year following the commencement of this section, the Minister must approve the proposals for all the financial sector bodies.

(8) In respect of the Tribunal, the Minister must approve the fees and levies proposals for any financial year following the commencement of this section.

(9) (a) In respect of financial sector bodies other than the Tribunal, for any financial year other than when subsection (7) applies, the Minister must approve the fees or levies proposals, if the fees or levies proposals are based on an estimate of expenditure in excess of the amount calculated as—

\[
\text{previous year basis } \times 1.025 \times \frac{\text{current index}}{\text{previous index}}.
\]

(b) For the purposes of paragraph (a)—

“current index” means the value of the index at the date the amount is to be indexed, or if the value is not available, the latest available value for the purposes of the preparation of fees and levies proposals for the current financial year;

“index” means the Consumer Price Index, as published by Statistics South Africa;

“previous index” means the value of the index that was used for the value of the “current index” in the fees and levies proposals prepared for the previous financial year; and
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No. 41060
Nmr 9 ya 2017

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(2) Mokgatlho wa lephata la ditšhelete o tšhwanetse go phasalatsa dituelo tse di tlhomamisitsweng le makgethswana a a duediswang mo Rejisetareng le mo webesaeteng ya ona.

(3) Dituelo le makgethswana di duelwa kwa mokgatlhong wa lephata la ditšhelete kgotsa ka nako e e dumetsweng ke mokgatlho wa lephata la ditšhelete.

(4) Dituelo tse di faroloenganeng di ka tlhomamiswa le makgethswana a ka duediswa mabapi le mefuta e e faroloenganeng kgotsa ditlhopha tsa batho kgotsa ditheo tse di tlholokometsweng.

Dituediso le makgethswana tse di nnang molato

238. (1) Tuelokgotsalekgethwanatsediduelwang mokgatlhowalephataladitshelete go ya ka karolo 237 ke molato o o duelwang go mokgatlho wa lephata la ditšhelete.

(2) Mokgatlho wa lephata la ditšhelete o ka fithihelela madi a molato a a tšhwanetseng go duelwa go ya ka karolo eno go ya ka mokgwa wa tsamaiso ya molao kwa kgotlatshkelong e e nang le bokgoni.

Ditshitsinyo tsa tekanyetsokabo, dituediso le makgethswana

239. (1) Mabapi le ngwaga mongwe le mongwe wa ditšhelete, mokgatlho mongwe le mongwe wa lephata la ditšhelete o tšhwanetse go baakanya le go amogela—

(a) tekanyetsokabo go tsamaelana le karolo 248 e e akaretsang tekanyetso ya ditšhenyegelo tsa ona;

(b) tshitsinyo mabapi le dituelo tse di tla duediswang le makgethswana a a tla pateletswang ke mokgatlho wa lephata la ditšhelete; le

(c) tekanyetso e e bonelewang pele ya ditšhenyegelo tsa ona mo dingwageng tse pedi tse di tlang tsa ditšhelete.

(2) Tshitsinyo mabapi le makgethswana e ka akaretsa tshitsinyo mabapi le lekgethswana le le kgethegileleng le le esi kgotsa go feta, e bile mo lebakeng leoleng, tekanyetso ya ditšhenyegelo e tšhwanetse go akaretsa tekanyetso ya tšhenyegelo e e lekgethegileleng mabapi le tshitsinyo ya lekgethswana le le kgethegileleng.

(3) Tekanyetso ya tšhenyegelo mabapi le ngwaga wa ditšhelete e ka akaretsa kabelo ya matlolepelelothoko a le esi kgotsa go feta, mme palogotlhe ya matlolepelelothoko a a bonweng a a akaretdisweng mo tekanyetsong ya ditšhenyegelo e ka se fete 15% ya tšhenyegelo yothle e e lekanedisweng , go sa akaretswe matlolepelelothoko.

(4) Mokgatlho wa lephata la ditšhelete o tšhwanetse go tsaya tsia ditlhagaiso tse di dirilweng mabapi le tekanyetsokabo gape le ditshitsinyo tsa dituelo le makgethswana, ao a a amogelang go ya ka karolo 240.

(5) Mokgatlho wa lephata la ditšhelete o tšhwanetse go romela tekanyetsokabo ya ona e e feeleditsweng, mmogo le ditshitsinyo tsa dituelo le makgethswana, kwa go Tona.

(6) Tona o tšhwanetse go dumelelwana paka ya bonnye malatsi a le 30 go sekaseka ditshitsinyo le go tlamelang ka ditshwaelo, fa di le teng.

(7) Mabapi le ditshitsinyo tsa dituelo le makgethswana tsa ngwaga wa ntlha wa ditšhelete go latea tšhimolo ya karolo eno, Tona o tšhwanetseng go rebola ditshitsinyo tsa mokgatlho yothle ya ditheo tsa ditšhelete.

(8) Mabapi le Lekgotla, Tona o tšhwanetse go rebola ditshitsinyo tsa dituelo le makgethswana a ngwaga mongwe le mongwe wa ditšhelete go laleta tšhimololo ya karolo eno.

(9) (a) Mabapi le mokgatlho ya lephata la ditšhelete e mengwe ntle le Lekgotla, mabapi le ngwaga mongwe le mongwe wa ditšhelete ntle fa karolo (7) e diriswa, Tona o tšhwanetse go rebola ditshitsinyo tsa dituelo kgotsa makgethswana, fa ditshitsinyo tsa dituelo kgotsa makgethswana di ikaelegile ka tekanyetso ya ditšhenyegelo tsa tšalelele go tšholo tla e e badilweng jaaka—

motheo wa ngwagatloola × 1.025 × (tšupanekelo ya gajaana ÷ tšupanekelo e e fetileng).

(b) Mabapi le maitlhomo a temana (a)—

“tšupanekelo ya gajaana” e kaya bologe lebog waphane ne ka lethla le tšholo tla e e elweng tšhloko, kgotsa fa boleng bo seyo, boleng jwa gajaana jo bo leoleng mabapi le maitlhomo a go baakanya ditshitsinyo tsa dituelo le makgethswana tsa ngwaga wa gajaana wa ditšhelete;

“tšupanekelo” e kaya Tshupane ya Tšhotlhwa ya Badirisi, jaaka e phasaladitswe le Statistics South Africa; le
“previous year basis”, for a financial year, means the estimate of operating expenditure adopted in terms of this section for the financial year before the year for which the calculation is being done.

Consultation requirements

240. (1) Part 1 of Chapter 7, with the exception of section 100, applies with the necessary changes, to the adoption of the budget, the estimates of expenditure as well as the fees and levies proposals as provided for in section 239.

(2) The documents that must be published under section 98 include—

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

(b) an explanation by the financial sector body of the budget, estimates of expenditure and fees and levies proposals, and of the variation of the budget, estimates of expenditure and the fees and levies proposals against the budget, estimates of expenditure and the fees and levies proposals adopted for the previous financial year.

Determinations of information required for assessment of levy

241. (1) A financial sector body may, in writing, require a supervised entity to provide it with information relevant to any assessment of the supervised entity’s liability for any levy as specified in the requirement.

(2) A requirement in terms of subsection (1) may be published in the Register or provided to the supervised entity from whom information is required, and must specify the manner in which, and the date by when, the information must be provided.

(3) If—

(a) the supervised entity fails or refuses to comply with the requirement issued in terms of subsection (1); or

(b) the information provided by the supervised entity is incomplete, incorrect or misleading,

the supervised entity, and each director or member of the governing body of the supervised entity, are liable to an administrative penalty under Chapter 13.

Assessments of levy

242. (1) A financial sector body must issue to each supervised entity that is liable to pay a levy for the financial year, an assessment of a levy payable by the supervised entity.

(2) The assessment notice issued to a supervised entity must state the date on which the levy is due and must be paid, which period must not be less than 30 days from the date of receipt of the notice of assessment by the supervised entity.

Payment of fee or levy by instalments

243. (1) A person who has been charged a fee, or a supervised entity who has been charged a levy, may offer to pay the fee or levy by specified instalments, and if an offer is made, the financial sector body must—

(a) accept the offer;

(b) accept a modified offer; or

(c) reject the offer,

and must notify the person who made the offer accordingly.
“tshupanekelo e e fetileng” e kaya boleng jwa tshupane jo bo dirisitsweng mabapi le boleng jwa “tshupanekelo ya ga jaana” mo ditshitsinonya tsa dituelo le magkethwana tse di baakanyeditsweng ngwagatlola wa ditšhelete; le “motheo wa ngwagatlola”, mabapi le ngwaga wa ditšhelete, o kaya tekanyetsa ya ditšhenyegelo tsa tiro tse di amogetsweng go ya ka karolo eno mabapi le ngwaga wa ditšhelete pele ga ngwaga o palelo e diriwang ka ona.

Ditlhokego tsa therisano

240. (1) Karolo 1 ya Kgolo 7, ntle le karolo 100, e diriswa le diphetogo tse di tlhokeng, mo kamogelo ya tekanyetsokabo, ditekanyetsa tsa ditšhenyegelo gape le ditšhitshinyo tsa dituelo le magkethwana jaaka di tlametswe mo karolong 239. (2) Dikwalotse di phasalatswe ka fa tlae ga karolo 98 di akaretsa—
   (a) tekanyetsokabo, tekanyetsa ya ditšhenyegelo le ditšhitshinyo tsa dituelo le magkethwana tse di tlametswe mo karolong 239 mabapi le ngwaga wa ditšhelete o o maleba; le
   (b) tlhalosoa ka mokgatlhlo wa lephata la ditšhelete ya tekanyetsokabo, tekanyetsa ya ditšhenyegelo le ditšhitshinyo tsa dituelo le magkethwana, le ya phaapana ya tekanyetsokabo, tekanyetsa ya ditšhenyegelo le ditšhitshinyo tsa dituelo le magkethwana kgathanong le tekanyetsokabo, tekanyetsa ya ditšhenyegelo le ditšhitshinyo tsa dituelo le magkethwana tse di amogetsweng mabapi le ngwagatlola wa ditšhelete.

Ditlhomamiso tsa tshedimosetso e e tlhokegang mabapi le tshekatsheko ya lekgethswana

241. (1) Mokgatlhlo wa lephata la ditšhelete o ka, ka go kwala, lopa setheo se se tlhokometsweng go o tlamel a ka tshedimosetso e e malebana le tekanyetsa ngwe le ngwe ya go rwala maikarabelo ga setheo se se tlhokometsweng mabapi le lekgethswana lengwe le lengwe jaaka go tsepamisitswe mo ditlhokegong. (2) Tlhokego go ya ka karolotlaleletso (1) e ka phasalatswe mo Rojisetareng kgotsa ya tlamelwa go setheo se se tlhokometsweng se tshedimosetso e tlhokwang mo go sona, e bile e tshwaneso e gape se tsepamisa mokgwa o ka ona, tshedimosetso e tshwanetseng go tloka mo ditlhokegong. (3) Fa—
   (a) setheo se se tlhokometsweng se palelwa kgotsa se gana ga ikamanya le ditlhokego tse di phasaladitsweng go ya ka karolotlaleletso (1); kgotsa
   (b) tshedimosetso e e tlametsweng ke setheo se se tlhokometsweng e sa felela, e fosagetsa kgotsa e timetsa,
   Setheo se se tlhokometsweng, le mokaedi mongwe e mongwe kgotsa leloko la mokgatlhlo o o busang wa setheo se se tlhokometsweng, ba tshwaneso ke kothlao ya tsamaiso ka fa tlae ga Kgolo 13.

Tshekatsheko ya lekgethswana

242. (1) Mokgatlhlo wa lephata la ditšhelete o tshwaneso go rebolela setheo sengwe le sengwe se se tlhokometsweng se se tshwaneso se duela lekgethswana la ngwaga wa ditšhelete tekanyetsa ya lekgethswana e e duelwang ke setheo se se tlhokometsweng. (2) Kitsiso ya tekanyetsa e e rebolela tshwaneso go se se tlhokometsweng e tshwaneso go tlhagisa letlha le lekgethswana le tshwaneso go duela ka lona, leo paka ya lona e sa tshwanelang go nna malatsi a le kwa tlae ga a le 30 go tloka ka letlha la kamogelo ya kitsiso ya tekanyetsa ka setheo se se tlhokometsweng.

Tuela e tuediso kgotsa lekgethswana ka dikarolotluelo

243. (1) Motho yo o dua di swang tuela, kgotsa setheo se se tlhokometsweng se se dua di swang lekgethswana, o ka ipo ga duela tuela kgotsa lekgethswana ka dikarolotluelo tse di tsepamisitsweng, e bile fa neelo e dirilwe, setheo sa lephata la ditšhelete se tshwaneso go—
   (a) amogela neelo;
   (b) amogela neelo e e fetotsweng; kgotsa
   (c) go se amogele neelo,
   ebile se tshwaneso go itise motho yo o dirileng neelo, ka tshwanelo.
(2) A person who wishes to make an offer to pay a fee or levy by instalments must make an offer—
   (a) immediately after being notified of the fee or levy charged, if the fee or levy must be paid within 14 days after the date on which notification is received; or
   (b) at least 14 days before the date on which the fee or levy must be paid, if paragraph (a) does not apply.

(3) The financial sector body must notify the person who made an offer in terms of subsection (1) of its decision—
   (a) immediately after receipt of the offer, in respect of an offer referred to in subsection (2)(a); or
   (b) within seven days after the receipt of the offer, in respect of an offer referred to in subsection (2)(b).

Interest on late or non-payment of fees and levies

244. (1) If a fee or levy is not paid, or not paid in full, within the period specified for payment, and an offer to pay the fee or levy by instalments has not been accepted as referred to in section 243(1)(a) or (b), the person liable to pay the fee or levy in question must pay interest at the rate referred to in subsection (2), on the amount of the fee or levy that remains unpaid 30 days after the due date.

(2) Interest due and payable on an outstanding fee or levy amount must be calculated based on the interest rate prescribed for the time being in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

(3) Interest charged is a debt due to the financial sector body, and may be recovered by a judicial process in a competent court.

Exemption from fee

245. (1) A financial sector body may, on application by a person who is liable to pay a fee, exempt the person from the payment of a fee, or a part of a fee, to the extent and subject to conditions determined by the financial sector body.

(2) An application referred to in subsection (1) must include the particulars determined by the financial sector body.

(3) A financial sector body may only grant an exemption from the payment of a fee, or a part of a fee, for sound reasons.

Management of fees and levies

246. (1) Fees determined in accordance with section 237(1)(a), and interest accrued on fees in terms of section 244 must be collected by the financial sector body and paid into a bank account designated for that purpose, which is in the name and control of the financial sector body.

(2) Levies imposed in accordance with section 237(1)(b), and interest accrued on levies in term of section 244 must be collected by the Financial Sector Conduct Authority and paid into a bank account designated for that purpose, which is in the name and control of the Financial Sector Conduct Authority.

(3) Each financial sector body’s allocation of the levies collected contemplated in subsection (2) must be transferred to the financial sector body’s designated account in accordance with a payment schedule agreed between the financial sector body and the Financial Sector Conduct Authority.

(4) The designated bank accounts referred to in subsections (1) to (3) must be approved by the National Treasury.
(2) Motho yo o batlang go dira thulaganyo ya go duela tuelo kgotsa lekgethwana ka dikarolotulelo o tshwanetse go rulaganya—
   (a) ka bonako morago ga go itsiisiwe ka ga tuelo kgotsa lekgethwana le le tshwanetseg go duela, fa tuelo kgotsa lekgethwana le tshwanetse go duela wa mo matsatsing a le 14 morago ga letilha le kitsiso e amogetsweng ka lona; kgotsa
   (b) bonnye matsatsi a le 14 pele ga letilha le tuelo kgotsa lekgethwana le tshwanetseg go duela ka lona, fa temana (a) e sa diragatswe.

(3) Mokgatlho wa lephata la ditšhelete o tshwanetse go itsise motho yo o dirileng neelo go ya ka karolotlanelele (1) ka ga tshwetsyo ya ona—
   (a) ka bonako morago ga go amogela neelo, mabapi le neelo e e kaiweng mo karolotlanelelelele (2)(a); kgotsa
   (b) mo malatsing a le supa morago ga go amogela neelo, mabapi le neelo e e kaiweng mo karolotlanelelelelele (2)(b).

Morokotso mo tueloeng e e thari kgotsa e e sa dirwang le makgethwana

244. (1) Fa tuelo kgotsa lekgethwana le sa duela, kgotsa le sa duela ka botlalo, mo nakong e e tsepamisitseweng mabapi le tuelo, mme neelo ya go duelela tuelo kgotsa lekgetho ka dikarolotulelo e sa amogela jaaka go kaiwle mo karolong 243(1)(a) kgotsa (b), motho yo o tshwanetseg go duela tuelo kgotsa lekgethwana le le umakwang o tshwanetse go duela morokotso ka kelo e e kaiweng mo karolotlanelelelelele (2), mo tlholihweng ya tuelo kgotsa lekgethwana le le sa duelela malatsi a le 30 morago ga letilha la bofelo.

(2) Morokotso o o tshwanetseg go duelela le go duela mo tlholihweng ya tuelo kgotsa lekgethwana e e tshwanetseg go duela o tshwanetse go bulwa go tswa mo kelong ya morokotso e e neetsweng nakwana go ya ka Prescribed Rate of Interest Act, 1975 (Molao 55 wa 1975).

(3) Morokotso o o dueleisang se sekololo se se tshwanetseg go duela kwa mokgathlhong wa lephata la ditšhelete, e bile o ka busetswa ka disetswahlelela lelele e e kgotlatshekeleng e e nang le bokgoni.

Kgololo mo go dueleung

245. (1) Mokgatlho wa lephata la ditšhelete o ka, ka kopo ka motho yo o tshwanetseg go duela tuelo, golola motho mo go dueleung tuelo, kgotsa karolo ya tuelo, ka bogolo le go ya ka mabaka a a thomamisitseweng ke mokgatlho wa lephata la ditšhelete.

(2) Kopo e e kaiweng mo karolotlanelelelele (1) e tshwanetse go akaretsa dintlha tse di thomamisitseweng ke mokgatlho wa lephata la ditšhelete.

(3) Mokgatlho wa lephata la ditšhelete o ka neelana fela ka kgololo mo go dueleung tuelo, kgotsa karolo ya tuelo, ka mabaka a a utlwagagang.

Taolo ya dituediso le makgethwana

246. (1) Dituelo tse di thomamisitseweng go tsamaelana le karolo 237(1)(a), le morokotso o o bonweng go tswa mo ditueloeng go ya ka karolo 244 di tshwanetse go kgobokanngwe ka mokgatlho wa lephata la ditšhelete le go duela mo akaontong ya banka e e thometsweng maithlhomo ao, eo e leng mo leineng le mo taolong ya mokgatlho wa lephata la ditšhelete.

(2) Makgethwana a a dueleisang go tsamaelana le karolo 237(1)(b), le morokotso o o bonweng mo makgethwang en go ya ka karolo 244 a tshwanetse go kgobokanngwe ka Bothati jwa Boitslwabo jwa Lephata la Ditšhelete le go duela mo akaontong e e thometsweng maithlhomo ao, e e mo leineng le mo taolong ya Bothati jwa Boitslwabo jwa Lephata la Ditšhelete.

(3) Kabo ya makgethwana a a kgobokantsweng go latela karolotlanelele (2) a mokgatlho mongwe le mongwe wa lephata la ditšhelete e e tshwanetse go sutietswawga ka akaontong e e thometsweng mokgatlho wa lephata la ditšhelete go tsamaelana le thulaganyo ya tuelo e go dumafanweng ka yona magareng ga mokgatlho wa lephata la ditšhelete le Bothati jwa Boitslwabo jwa Lephata la Ditšhelete.

(4) Diakhaonto tsa banka tse di kaiweng mo dikarolotlanelelelelelele (1) go filha go (3) di tshwanetseg go rebolwa ke Matlotlo a Bostšhaba.
Part 2

Finances

Finances of financial sector bodies

247. (1) The money of each financial sector body consists of—
(a) amounts received by the financial sector body as fees and levies;
(b) funds accruing to the financial sector body from any other source; and
(c) interest on amounts standing to the credit of the financial sector body in an account.

(2) The money of a financial sector body may be applied only as follows:
(a) to the general administrative and operating costs of the financial sector body;
(b) to exercise the powers, perform the functions, and fulfil the duties of the financial sector body in terms of the financial sector laws; and
(c) to repay amounts paid to it in error.

Part 3

Budgeting, accounting, auditing and financial reporting

248. (1) The accounting authority of the Financial Sector Conduct Authority, the Ombud Council, the Office of the Pension Funds Adjudicator, and the Office for the Ombud for Financial Services Providers is the accounting authority for the designated bank account referred to in section 246(1), and has the duties referred to in Part 2 of Chapter 6 of the Public Finance Management Act.

(2) The accounting authority of the Financial Sector Conduct Authority is the accounting authority for the designated bank account referred to in section 246(2), and has the duties referred to in Part 2 of Chapter 6 of the Public Finance Management Act.

(3) In respect of the Prudential Authority, the Chief Executive Officer is responsible for accounting for the designated bank account referred to in section 246(1).

(4) (a) The Financial Sector Conduct Authority, the Ombud Council, the Office of the Pension Funds Adjudicator, and the Office of the Ombud for Financial Services Providers must—
(i) prepare an annual budget in accordance with section 53 of the Public Finance Management Act and section 239 of this Act;
(ii) prepare an annual report and financial statements in accordance with section 55 of the Public Finance Management Act;
(iii) submit information as required in terms of section 54 of the Public Finance Management Act; and
(iv) comply with Treasury Regulations, circulars, guidelines and practice notes in terms of the Public Finance Management Act.

(b) The Tribunal, although it is not a public entity in terms of the Public Finance Management Act, must also comply with the requirements in paragraph (a).

(5) (a) The Prudential Authority must prepare an annual budget and estimates of expenditure for the financial year in accordance with section 239, and an annual report and financial accounts in accordance with section 55.

(b) The Chief Executive Officer is responsible for ensuring that the expenditure of the Prudential Authority is in accordance with its approved budget.

(6) The Prudential Authority, the Tribunal, the Ombud Council, the Office of the Pension Funds Adjudicator, and the Office of the Ombud for Financial Services Providers must provide the Financial Sector Conduct Authority with its levies that will
Karolo 2

Matlotlo

Matlotlo a mokgatlho ya lephata la dišèlete

247. (1) Madi a mokgatlho mongwe le mongwe wa lephata la dišèlete a na le—
   (a) madi a a amogetsweng ke mokgatlho wa lephata la dišèlete jaaka dituelelo le makgethwana;
   (b) matlole a a bonwang ke mokgatlho wa lephata la dišèlete go tswa kwa motsweding mongwe le mongwe; le
   (c) morokotsotso mo dišèlethweng tse di leng mo dikoloto tsa mokgatlho wa lephata la dišèlete mo akhaontong.

(2) Madi a mokgatlho wa lephata la dišèlete a ka diriswa fela jaana:
   (a) Mo tsamaisongkakakaretsolemoditshenyegelongtsatirotsamokgatlhowa lephata la dišèleteo;
   (b) go diragatsa dithata, go dira ditiro, le go diragatsa ditiro tsa mokgatlho wa lephata la dišèlete go ya ka melao ya lephata la dišèlete; le
   (c) go duela madi a o a duetsweng ka phoso.

Kgaolo 3

Go dira tekanyetsokabo, tshupo ya matlotlo, boruni le pegelo ya tsa dišèlete

Go dira tekanyetsokabo, tshupo ya matlotlo, boruni le pegelo ya tsa dišèlete

248. (1) Botthi jo bo rwalang maikarabelo Bothati jwa Boitshwaro jwa Lephata la Dišèlete, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phensêne, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Dišèlete ke bothati jo bo rwalang maikarabelo mabapi le akhaontong ya banka e e tlhomilweng e e kailweng mo karolong 246(1), e bile bo dira ditiro se di kailweng mo karolong 2 ya Kgaolo 6 ya Public Finance Management Act.

(2) Bothati jo bo rwalang maikarabelo a Bothati jwa Boitshwaro jwa Lephata la Dišèlete ke bothati jo bo rwalang maikarabelo mabapi le akhaontong e e tlhomilweng ya banka e e kailweng mo karolong 246(2), e bile bo dira ditiro se di kailweng mo karolong 2 ya Kgaolo 6 ya Public Finance Management Act.

(3) Mabapi le Bothati jwa Thikomelo, Mofhlickedimogolo wa Khuduthamaga o rwla maikarabelo mabapi le go arabela mabapi le akhaontong ya banka e e kailweng mo karolong 246(1).

(4) (a) Botthi jwa Boitshwaro jwa Lephata la Dišèlete, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phensêne, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Dišèlete ba tshwanetse go—
   (i) baakanya tekanyetsokabo ya ngwaga go tsamaelana le karolo 53 ya Public Finance Management Act le karolo 239 ya Molao ono;
   (ii) baakanya pegelo ya ngwaga le dikakeng go tsamaelana le karolo 55 ya Public Finance Management Act;
   (iii) romela tshedimosetso jaaka e tlhokwa go ya ka karolo 54 ya Public Finance Management Act, le
   (iv) ikamanya le Melaqawana ya Matlotlo, makwalotikoto, dikaelo le dintilha tsa tiragats go ya ka Public Finance Management Act.
   (b) Lekgotla, le fa e se setheo sa setšhaba go ya ka Public Finance Management Act, le tshwanetse go ikamanya le dišèlethweng tse di mo temaneng (a).

(5) (a) Botthi jwa Thikomelo bo tshwanetse go baakanya tekanyetsokabo ya ngwaga le ditekanyetso tsa tshenyegele o ngwaga wa dišèlete go tsamaelana le karolo 239, le pegelo ya ngwaga le dikolato tsa dišèlete go tshamaelana le karolo 55.
   (b) Mofhlickedimogolo wa Khuduthamaga o rwla maikarabelo go netefatsa gore tshenyegele ya Bothati jwa Thikomelo e go ya ka tekanyetsokabo ya jona e e rebotsweng.

(6) Bothati jwa Thikomelo, Lekgotla, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phensêne, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Dišèlete ba tshwanetse go tlamela Bothati jwa Boitshwaro jwa Lephata la Dišèlete ka makgethwana a ona a a tla dudiswang mabapi le tiro ya mokgatlho wa lephata la...
be imposed for the operation of the financial sector body two months prior to the start of a financial year in respect of which the levies will be imposed.

(7) In addition to the matters which must be included in the annual report and financial statements of the Financial Sector Conduct Authority referred to in section 55 of the Public Finance Management Act, the annual report must set out and contain a statement showing—

(a) the total number of supervised entities who paid levies imposed in accordance with section 237(1)(b);
(b) the total funds distributed from the designated bank account referred to in section 246(2) to the designated bank account of each financial sector body referred to in section 246(1); and
(c) any other matter determined by the Minister.

(8) In addition to the matters which must be included in the annual reports and financial statements or financial accounts of a financial sector body referred to in subsections (4) and (5), the annual report of a financial sector body must contain a statement showing—

(a) the total number of persons who paid fees determined by that financial sector body in the financial year;
(b) the total number of supervised entities who paid levies imposed by that financial sector body in that financial year;
(c) the total fees collected by the financial sector body;
(d) the total levies collected on behalf of and received by the financial sector body; and
(e) any other matter determined by the Minister.

(9) A financial sector body must publish its annual budget on their website, and must publish its determined fees and imposed levies in the Register and on its website.

Part 4

Application of Chapter to Tribunal

Application of Chapter to Tribunal

249. The Chairperson of the Tribunal is responsible to ensure that the functions and duties of the Tribunal in terms of this Chapter are performed.

CHAPTER 17

MISCELLANEOUS

Part 1

Information sharing and reporting

Designated authority

250. In this Part, “designated authority” means—

(a) the Reserve Bank;
(b) a financial sector regulator;
(c) the National Credit Regulator;
(d) the Council for Medical Schemes;
(e) a market infrastructure, but only in relation to its regulatory or supervisory functions in terms of a financial sector law;
(f) an organ of state responsible for the regulation, supervision or enforcement of any law;
(g) a body similar to an organ of state referred to in paragraph (f) that is designated in terms of the laws of a foreign country as being responsible for the regulation, supervision or enforcement of legislation;
ditšhelete dikgwedi di le pedi pele ga tshimololo ya ngwaga wa ditšhelete ao bo tla a dugwisang.

(7) Mo godimo ga mereo e e tshwaneseng go akaretswa mo pegelo ya ngwaga le dikaneong tsa ditšhelete tsa Bothati jwa Boitshwara jwa Lephata la Ditšhelete tse di ka'ilweng mo karolong 55 ya Public Finance Management Act, pegelo ya ngwaga e tshwanetse go thagisa le go nna le kanego e e bontshang—

(a) palogotlhle ya ditheo tse di tlhokometsweng tse di duetseng makgethswana a a duedisitsweng go tsa'maelana le karolo 237(1)(b);

(b) palogotlhle ya matlole a a phatlaladitsweng go tswa mo akhaontong ya banka e e tlhomilweng e e ka'ilweng mo karolong 246(2) go ya kwa akhaontong ya banka e e tlhomilweng ya mokgatliho mongwe le mongwe wa lephata la ditšhelete o o ka'ilweng mo karolong 246(1); le

(c) mōrogo mongwe le mongwe o o tlhomamisitsweng ke Tona.

(8) Mo godimo ga mereo e e tshwaneseng go akaretswa mo dipegelong tsa ngwaga le dikaneong tsa ditšhelete kgotsa mo dikarabelong tsa ditšhelete tsa mokgatlho wa lephata la ditšhelete tse di ka'ilweng mo dikarolotlaletseong (4) le (5), pegelo ya ngwaga ya mokgatlho ya lephata la ditšhelete e tshwanetse go nna le kanego e e bontshang—

(a) palogotlhle ya batho ba ba duetseng dituelelo tse di tlhomamisitsweng ke mokgatlho oo wa lephata la ditšhelete mo ngwageng wa ditšhelete;

(b) palogotlhle ya ditheo tse di tlhokometsweng tse di duetseng makgethswana a a duedisitsweng ke mokgatlho oo wa lephata la ditšhelete mo ngwageng oo wa ditšhelete;

(c) palogotlhle ya dituelelo tse di kgobokantsweng ke mokgatlho wa lephata la ditšhelete;

(d) palogotlhle ya makgethswana a a kgobokantsweng mo boemeng jwa le go amogelwa ke mokgatlho wa lephata la ditšhelete; le

(e) mōrogo mongwe le mongwe o o tlhomamisitsweng ke Tona.

(9) Mokgatlho ya lephata la ditšhelete o tshwanetse go phasalatsa tekanetsokobo ya ona ya ngwaga mo webesaeteng ya ona, e bile o tshwanetseng go phasalatsa dituelelo tse di tlhomamisitsweng tsa ona le makgethswana a a dugwisang mo Rejisetareng le mo webesaeteng ya ona.

Karolo 4

Tiragatso ya Kgaolo mo Lekgotleng

Tiragatso ya Kgaolo mo Lekgotleng

249. Modulaletelo wa Lekgotla o rwala maikarabelo a go netefatsa gore ditiro tsa Lekgotla go ya ka Kgaolo eno di e dirwa.

KGAOLO 17

TSELE LE TSELE

Karolo 1

Karogano ya tshedimosetso le go bega

Bothati jo bo thapilweng

250. Mo Karolong eno, “bothati jo bo thapilweng” bo kay—

(a) Banka ya Resefe;

(b) bolaodi jwa lephata la ditšhelete;

(c) Bolaodi jwa Bosethaba jwa Sekoloto;

(d) Khansele ya Dikema tsa Kalafi;

(e) thulaganyetso ya popegotheo ya mmarako, mme fela mabapi le dirito tsa yona tsa bolaodi le bothhokomedi go ya ka molao wa lephata la ditšhelete;

(f) setheo sa puso se se rwalan maikarabelo a taolo, tlhokomelo kgotsa kgatelelo ya molao mongwe le mongwe;

(g) Mokgatliho o o tshwanang le setheo sa puso se se ka'ilweng mo temaneng (f) o o thapilweng go ya ka melao ya dinaga disele jaaka o rwala maikarabelo a taolo, tlhokomelo kgotsa kgatelelo ya peomolao;
(h) the Ombud Council;
(i) an ombud; or
(j) a payment system management body recognised in terms of section 3(1) of the National Payment System Act.

Information sharing

251. (1) (a) A financial sector regulator or the Reserve Bank has an obligation and a duty to—
(i) achieve its objective as set out in this Act;
(ii) achieve the objects of financial sector laws;
(iii) perform its functions, including its supervisory functions, in terms of financial sector laws and the Financial Intelligence Centre Act.

(b) A financial sector regulator or the Reserve Bank must collect and use information, including personal information as defined in the Protection of Personal Information Act, to the extent that the financial sector regulator or the Reserve Bank determines is necessary to properly perform the obligations and duties referred to in paragraph (a).

(c) A financial sector regulator or the Reserve Bank may only share or disclose information in order to fulfil its obligations and duties in terms of this subsection and subsection (2), and the disclosure or sharing of information for any other purposes constitutes the sharing or disclosure of information for a purpose that is not authorised, as referred to in section 272.

(2) (a) A financial sector regulator or the Reserve Bank must disclose information referred to in subsection (1)(b) if the financial sector regulator or the Reserve Bank determines it is necessary to comply with its obligations—
(i) to perform functions in terms of, or as enabled by, the financial sector laws or the Financial Intelligence Centre Act;
(ii) relating to legal proceedings or other proceedings;
(iii) to warn financial customers against conducting business with a financial institution or other person conducting activities in contravention of the financial sector laws or the Financial Intelligence Centre Act;
(iv) to inform financial customers of actions taken against a financial institution in terms of the financial sector laws or the Financial Intelligence Centre Act;
(v) to alert financial customers to activities carried out by a financial institution that a financial sector regulator or the Reserve Bank believes to constitute a risk to financial customers;
(vi) to protect the public interest;
(vii) to deter, prevent, detect, report and remedy fraud or other criminal activity in relation to financial products or financial services; or
(viii) relating to anti-money laundering and combating the financing of terrorism.

(b) Information obtained in terms of the Financial Intelligence Centre Act, other than in terms of sections 45 and 45B of that Act, may only be utilised or disclosed in accordance with sections 29, 40 and 41 of that Act.

(3) A financial sector regulator or the Reserve Bank, in pursuing the obligations and duties referred to in subsections (1)(a) and (2)(a), may—
(a) liaise with any designated authority on matters of common interest;
(b) participate in the proceedings of any designated authority;
(c) advise or receive advice from any designated authority;
(d) prior to taking regulatory action which a financial sector regulator or the Reserve Bank considers material against a financial institution, inform any designated authority that the financial sector regulator or the Reserve Bank, as the case may be, of the pending regulatory action or, where this is not possible, inform the designated authority as soon as possible after taking the regulatory action; and
(h) Khansele ya Ombud;
(i) ombud; kgotsa
(j) mokgailho wa taolo ya tsamaiso ya tuelo e e amogetsweng go ya ka National Payment System Act.

Karogano ya tshedimosetso

251. (1) (a) Molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe o na le tlamego le tiro ya go—

(i) fitlhelela maikaalelo a yona jaaka go tlhagitswe mo Molaong ono;
(ii) fitlhelela maikaaleleoa melao ya lephata la ditšeletse;
(iii) dira ditiro tsq gagwe, go akaretsa ditiro tsq gagwe tsq botlhokomedi, go ya ka melao ya lephata la ditšeletse le Financial Intelligence Centre Act.

(b) Molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe o tshwanetese go kgobokanya loe go dirisa tshedimosetso, go akaretsa le tshedimosetso ya bowena jaaka e tlhagitswe mo Protection of Personal Information Act,

gofitlhelamolaodiwalephata la ditšeletse kgotsa Banka ya Resefe a thlomamisa gore go bothokwa go dia ka nepagalo ditlamego le ditiro tse kiailweng mo temaneng a.

(c) Molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe o ka arogana kgotsa a senola tshedimosetso gore a diragatse ditlamego le ditiro tsq gagwe go ya ka karolotlaneletsong (2), e biele ditnenolo kgotsa karogano ya tshedimosetso mabapi le maiithlomo mangwe le mangwe di na le karogano kgotsa tshenolo ya tshedimosetso mabapi le maiithlomo a a sa dumelelwang, jaaka go kaile mo karolog 272.

(2) (a) Molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe o tshwanetse go senola tshedimosetso e e kaileweng mo karololaleletsong (1) (b) fa molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe e thlomamisa gore go bothokwa ka ikamanya le ditlamego tsa yona—

(i) go dira ditiro tsq gagwe go ya ka, kgotsa jaaka a kgontshitswe ke, melao ya lephata la ditšeletse kgotsa Financial Intelligence Centre Act;
(ii) tse di amanang le ditlamego tsa semola kgotsa ditlamego tse dingwe;
(iii) go tsibosa barekedi ba ditšeletse kgatlhanong le go dira kgwebo le setheo sa ditšeletse kgotsa motho yo mongwe yo o dirang ditiro tse di kgatlhanong le melao ya lephata la ditšeletse kgotsa Financial Intelligence Centre Act;
(iv) go itsise barekedi ba ditšeletse ka ga dikgato tse di tserweng kgatlhanong le setheo sa ditšeletse go ya ka melao ya lephata la ditšeletse kgotsa Financial Intelligence Centre Act;
(v) go lemosa barekedi ba ditšeletse ka ga ditiro tse di dirilweng ke setheo sa ditšeletse se molaodi wa ditšeletse kgotsa Banka ya Resefe a dumelang gore di ka lere kotsi mo barekeding ba ditšeletse;
(vi) go sireletsa dikgatlhego tssetsenakena go tsibosa barekedi ba ditšeletse kgatlhanong le go dira kgwebo le setheo sa ditšeletse kgotsa Financial Intelligence Centre Act.

(b) Tshedimosetso e e bonweng go ya ka Financial Intelligence Centre Act, ntle le go ya ka dikarolo 45 le 45B tsq Molaoo, ka diriswa fela kgotsa senolwa go tsaemelana le dikarolo 29, 40 le 41 tsq Molaoo.

(3) Molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe, mo go fitlheleleng maithlomo a a kaileweng mo karololaleletsong (1) (a) le (2) (a), e ka—

(a) ilkgolaganya le bothati bongwe le bongwe jo bo thapilweng mabapi le merero ya kgatlhego e e tshwanang;
(b) tsaya karolo mo ditlamegosa tsq bothati bongwe le bongwe jo bo thapilweng;
(c) gakolola kgotsa amogela kagakololo go tsowa go bothati bongwe le bongwe jo bo thapilweng;
(d) pele ga go dia tiro ya bolaodi e molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe bo tsvelang gore e bothokwa kgatlhanong le setheo sa ditšeletse, itsise bothati bongwe le bongwe jo bo thapilweng gore molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe, jaaka mabaka a nse, wa tiro e e lefetlweng ya bolaodi kgotsa, fa seno se ka se kgonagale, itsise bothati jo bo thapilweng ka bonako jo bo kgonegag morago ga go dia tiro ya bolaodi; le...
(e) negotiate and enter into bilateral or multilateral co-operation agreements, including memoranda of understanding, with designated authorities, including designated authorities in whose countries a subsidiary or holding company of a financial institution is incorporated or a branch is situated, to, among other matters—

(i) co-ordinate and harmonise the reporting and other obligations of financial institutions;

(ii) provide mechanisms for the exchange of information, including provisions requiring or permitting a financial sector regulator, the Reserve Bank or a designated authority—

(aa) to be informed of adverse assessments in respect of financial institutions; or

(bb) to provide or receive information regarding significant problems that are being experienced within a financial institution;

(iii) provide procedures for the co-ordination of supervisory activities to facilitate the monitoring of financial institutions, including on an on-going basis; and

(iv) assist any designated authority in regulating and enforcing any laws that the designated authority is responsible for supervising and enforcing, that are similar to a financial sector law or which have an impact on the regulation of the financial sector and financial institutions.

4 (a) Information may only be disclosed by a financial sector regulator or the Reserve Bank to a designated authority if, before disclosing the information, the financial sector regulator or the Reserve Bank is satisfied that the designated authority that receives the information has proper and effective safeguards in place to protect the information, which safeguards are similar to those provided for in this section.

(b) A financial sector regulator or the Reserve Bank may only consent to information that is provided to a designated authority being made available to third parties if it is satisfied that the third parties have proper safeguards in place to protect the information received, which safeguards are similar to those provided for in this section.

(c) A financial sector regulator or the Reserve Bank may only request information from a designated authority in connection with the performance of obligations and duties in terms of the laws referred to in subsections (1) and (2).

(d) Information provided on request to a designated authority in terms of this section—

(i) must only be used by the designated authority for the purpose for which it was requested;

(ii) may not be disclosed to a third party without the consent of the designated authority that provided the information; and

(iii) must retain its integrity and confidentiality, and the designated authority that receives the information must take appropriate, reasonable technical and organisational measures to prevent loss of, damage to, or unauthorised destruction of the information, and unlawful access to or processing of the information.

(e) If, despite paragraph (d), a designated authority is compelled by law to disclose information provided by another designated authority to a third party, the first designated authority must—

(i) inform that designated authority of the event and the circumstances in which the information shall be made available; and

(ii) use all reasonable means to oppose the compulsion to disclose, and otherwise to protect the information.

(5) When sharing or disclosing information in terms of subsection (3) or (4), a financial sector regulator or the Reserve Bank must comply with the requirements in those subsections, and a contravention of those requirements constitutes the sharing or disclosure of information in a manner that is not authorised, as referred to in section 272.

(6) (a) A financial sector regulator or the Reserve Bank must have in place written processes and procedures that—

(i) clearly specify which officials and employees in the financial sector regulator or the Reserve Bank are authorised to share or disclose information in terms of this section; and
rerisana le go tsena mo ditumalanong tsa sebedi kgotsa bontsi, go akaretsa le memorantamo wa tumalano, le bothati jo bo thapilweng, go akaretsa bothati jo bo thapilweng joo mo dinageng tsa jona kgwebo e e okangweng kgotsa e e okameng tse dingwe ya sethelo sa ditšeletse e kopantsweng kgotsa lekala le thomilweng, go, magareng ga tse dingwe—

(i) golaganya le go kopanya go bega le ditlamego tse dingwe tsa ditšeletse;

(ii) tlameka ka mekgwa ya thefonsano ya tshedimosetso, go akaretsa le kabelo e e thlokang kgotsa letloga molaodi wa lephata la ditšeletse, Banka ya Resefe kgotsa bologadi jo bo thapilweng—

(aa) go sedimosetswa ka tekanyeto e e kgatlanang mabapi le ditheo tsa ditšeletse; kgotsa

(bb) go tlameka kgotsa amogela tshedimosetso e e mabapi le mathata a a bothlhowa a a itemogelweng mo setheong sa ditšeletse;

(iii) tlameka ka ditsamaise tsa go golaganya ditiro tsa tlhokomelo go nolofatsa thlokomelo ya ditheo tsa ditšeletse, go akaretsa ka nako le nako; le

(iv) thu bothati bongwe le bongwe jo bo thapilweng mo go laoleng le go gateleleng melanelo mengwe le mengwe ya gore bothati jo bo thapilweng bo rula maikarabelo a go tlhokomela le go gatelela, e e tshwanang le mola wa lephata la ditšeletse kgotsa e e nang le seabe mo go laoleng lephata la ditšeletse ditheo tsa ditšeletse.

(4) (a) Tshedimosetso e ka senolwa fela ke molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe go bothati jo bo thapilweng fa, pele tshedimosetso e senolwa, molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe e kgotsofetse gore bothati jo bo thapilweng jo bo amogelang tshedimosetso bo na le mekgwa e e maleba e e nonofiling ya go sireletsa tshedimosetso, mekgwa eo e e tshwanang le e e tlametsweng mo karolong eno.

(b) Molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe o ka dumelela fela gore tshedimosetso e e tlametsweng bothati jo bo thapilweng e abelwe mekgatlho ya boraro fa fela a kgotsofetse gore mekgatlho ya boraro e na le mekgwa ya go sireletsa tshedimosetso e e amogetsweng, mekgwa e e e tshwanang le e e tlametsweng mo karolong eno.

(c) Molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe o ka kopa fela tshedimosetso mo bothating jo bo thapilweng mabapi le tiro ya ditiro le go diragatswa ga ditłata go ya ka melao e e kailweng mo dikarolotlaleletsong (1) le (2).

(d) Tshedimosetso e e tlametsweng go ya ka kopo go bothati jo bo thapilweng go ya ka karolo eno—

(i) e thwanetsetso go diriswa fela ke bothati jo bo thapilweng mabapi le matiithomo ao e a kopetsweng;

(ii) e ka se senolelwé mkagatlho wa boraro ntle le tumelela ya bothati jo bo thapilweng jo bo tlametsweng ka tshedimosetso; le

(iii) e thwanetsetso go busetsa tshiame le boitshepo jwa jona, e e bōthati jo bo thapilweng jo bo amogelang tshedimosetso bo tshwanetsetso go tsaya dikgato tse di maleba, ka mabakā a a utwagalang a a rulaganeng go tihela tathhelega ya, tshenyegeo go kgotsa tshenyo e e sa dumelelweng ya tshedimosetso, le phitiilelelo e e e seng mo molaang ya kgotsa tsamaise ya tshedimosetso.

(e) Fa, ntle le temana (d), bothati jo bo thapilweng bo patelela le mola go senola tshedimosetso e e tlametsweng ke bothati fela ke bongwe jo bo thapilweng go mokgatlho ya boraro, bothati jo bo thapilweng jwa nthla bo tshwanetsetso—

(i) go itise gore bothati jo bo thapilweng jwa tirагalo le mabaká ao tshedimosetso e e tla dirwang gore e e nne teng ka ona; le

(ii) dirisa mekgwa yotlhe e e maleba go ganetsa kgapeletso ya go senola, le go sireletsa tshedimosetso.

(5) Fa go aragana kgotsa senolwa tshedimosetso go ya ka karolotlaleletsong (3) kgotsa

(4), molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe e tshwanetsetso go ikamanya le ditlhekego tse di mo dikarolotlaleletsong tseoa, e e bōthiolo ya ditlhekego tseoa e na le ditlamorago tsa karogano kgotsa tšenolo ya tshedimosetso ka mekgwa o o sa dumelelweng, jaaka go kailwe mo karolong 272.

(6) (a) Molaodi wa lephata la ditšeletse kgotsa Banka ya Resefe o tshwanetsetso go tshola dikgato tse di kwetsweng le ditšamaise tse di—

(i) tlhlagang sa thamalalolo gore ke batlhankedi le badi le bale boloaing jwa lephata la ditšeletse kgotsa Banka ya Resefe ba ba dumelelweng go aragana kgotsa senola tshedimosetso go ya ka karolo eno; le
(ii) provide for the sharing or disclosure of information in a manner that is consistent with the requirements of this section and the Protection of Personal Information Act.

(b) The processes and procedures referred to in paragraph (a) must grant authority to share or disclose information only to officials and employees who have an appropriate degree of seniority in the institution.

(c) Only an official or employee of a financial sector regulator or the Reserve Bank who is authorised by the policy and procedures of the financial sector regulator or the Reserve Bank may share or disclose information on behalf of the financial sector regulator or the Reserve Bank.

(7) For the purposes of this section, “information” does not include aggregate statistical data or information that does not disclose the identity of a person.

**Reporting by auditors to financial sector regulators**

252. (1) (a) An auditor of a licensed financial institution, or of a holding company of a financial conglomerate must, without delay, submit a detailed written report to the Prudential Authority, the governing body of the financial institution and, in the case of a financial conglomerate, the holding company of the financial institution, about any matter relating to the business of the financial institution or a company within the conglomerate, being a matter—

(i) which the auditor becomes aware of in the course of performing functions and duties as auditor; and

(ii) that the auditor considers—

(aa) is causing or is likely to cause the financial institution to be financially unsound;

(bb) is contravening or may contravene a financial sector law; or

(cc) may result in an audit not being completed or may result in a qualified or adverse opinion on accounts.

(b) An auditor must also submit any report or other document or particulars about the matter contemplated in section 45(1)(a) and (3)(c) of the Auditing Profession Act, 2005 (Act No. 26 of 2005), to the Prudential Authority.

(2) An auditor of a licensed financial institution or of a holding company of a financial conglomerate who resigns or whose appointment is terminated must submit to the Prudential Authority—

(a) a written statement on the reasons for resignation or the reasons that the auditor believes are the reasons for the termination; and

(b) any report contemplated in section 45(1)(a) and (3)(c) of the Auditing Profession Act, 2005 (Act No. 26 of 2005), that the auditor would, but for the resignation or termination, have had reason to submit.

(3) (a) The furnishing, in good faith, by an auditor of a report or information under subsection (1) or (2) is not a contravention of a law, a breach of a contract or a breach of a code of professional conduct.

(b) A failure, in good faith, by an auditor to comply with this section does not confer upon any person a right of action against the auditor.

**Reporting to financial sector regulators**

253. (1) A person may report to a financial sector regulator—

(a) financial difficulties or suspected financial difficulties in a financial institution;

(b) a contravention or suspected contravention of a financial sector law in relation to a financial institution; or

(c) the involvement or the suspected involvement of a financial institution in financial crime.

(2) Unless the report was made in bad faith, a person who makes a report in terms of subsection (1) is not—

(a) criminally liable for making the report; or

(b) liable to pay compensation or damages to any person in relation to a loss caused by the report.
(ii) tlamelang mabapi le karogano kgotsa tshenolo ya tshedimosetso ka mokgwa o o thomame nga go ya ka ditlhokego tsa karolo eno le Protection of Personal Information Act.

(b) Dikgato le ditsamaiso tse di kailweng mo temaneng (a) di tshwanetse go neelana ka tumelelo ya go arogana kgotsa senoa tshedimosetso fela kwa balthankeding le badiring ba ba nang le bogolo jwa maemo a a releng a a nepagetseng mo setheong.

(c) Ke fela mothlhankedi kgotsa modiri wa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe yo o dumeletseng ke pholisi le ditsamaiso tsa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe a ka aroganang kgotsa senoleng tschedimosetso mo boemong jwa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe.

(7) Mabapi le matlhomo a karolo eno, “tshedimosetso” ga e akaretse dintlhla tsa dipalopalo kgotsa tshedimosetso e e sa senoleng boitshupo jwa motho.

Pegelo ka baruni go balaodi ba lephata la ditšhelete

252. (1) (a) Moruni wa setheo sa ditšhelete se se abetsweng laesense, kgotsa wa kgwebo e e okameng tse dingwe ya ditheo tse di kopantsweng tsa ditšhelete o tshwanetse, ntle le tshenyo ya nako, go romela pegelo ya dinilha ka botlalo e e kwetsweng kgwebo go Bothati jwa Tlhokomelo, mokgalitho o o busang wa setheo sa ditšhelete le, mo lebakeng la ditheo tse di kopantsweng tsa setheo sa ditšhelete, kgwebo e e okameng tse dingwe ya setheo sa ditšhelete, ka ga morero mongwe le mongwe o o amangane le kgwebo ya setheo sa ditšhelete kgotsa setlamo se se mo gare ga ditheo tse di kopantsweng, e le morero—

(i) o e leng gore moruni o lemoga ka ona mo go direng ditiro jaaka monayaboleng kgotsa moruni; le

(ii) moruni o tsaya gore—

(aa) o o dira kgotsa o ka dira gore setheo sa ditšhelete se se thomame mo ditšheleteng;

(bb) o o tlola kgotsa o ka tlola molao wa lephata la ditšhelete; kgotsa

(cc) o o ka nang le ditlamorago tsa thathlobo e e sa konosetsweng kgotsa o ka tšisa ditlamorago tsa ntlakomo e e nonofleng kgotsa e e kgatlhanong mo diakhaontaong.

(b) Moruni o tshwanetse go romela pegelo nwewe le nwewe kgotsa lokwalo le lengwe kgotsa dinilha ka ga morero o o tlhalositsweng mo karolo 45(1)(a) le (3)(c) ya Auditing Profession Act, 2005 (Molao 26 wa 2005), go Bothati jwa Tlhokomelo.

(2) Moruni wa setheo sa ditšhelete se se abetsweng laesense kgotsa di ditheo tse di kopantsweng tsa ditšhelete yo o rolang tiro kgotsa yo go thapiwa ga gagwe go khutlisweng o tshwanetse go romela go Bothati jwa Tlhokomelo—

(a) polelo e e kwetsweng ya mabaka a go rola tiro kgotsa mabaka a moruni a dumelan gore ke ona mabaka a khutliso; le

(b) pegelo nwewe le nwewe e e tlhalositsweng mo karolo 45(1)(a) le (3)(c) ya Auditing Profession Act, 2005 (Molao 26 wa 2005), ya gore moruni o tla, mme mabapi le go rola kgotsa go khutlisa tiro, mma le mabaka a go romela.

(3) (a) Thomelo, ka mowa o mointle, ka moruni ya pegelo kgotsa tshedimosetso e e ka fa tlase ga dikarolotlaletseto (1) kgotsa (2) ga se tlolo ya molao, tlolo ya tulumano kgotsa tlolo ya khoutu ya boitshwaro jwa seporofoselela.

(b) Go palelwa, ka mowa o mointle, ga moruni go ikamanya le karolo eno ga go neye motho ope tswanelo ya go dira kgatlhanong le moruni.

Pegelo go balaodi ba lephata la ditšhelete

253. (1) Motho o ka begeg balaodi ba lephata la ditšhelete—

(a) mathata a ditšhelete kgotsa mathata a ditšhelete a a belaelweng mo setheong sa ditšhelete;

(b) tlolo kgotsa tlolo e e belaelweng ya molao wa lephata la ditšhelete mabapi le setheo sa ditšhelete; kgotsa

(c) botsayakarolo kgotsa botsayakarolo jo bo belaelweng jwa setheo sa ditšhelete mo bosenyeng jwa ditšhelete.

(2) Ntle le fa pegelo e dirilwe ka mowa o o maswe, motho yo o dirang pegelo go ya ka karolotlaletso (1) ga a—

(a) bonwe molato wa bosenyi mabapi le go dira pegelo; kgotsa

(b) rwale maikarabelo a go duela pusetso kgotsa ditshenyegelo go motho mongwe le mongwe mabapi le tatlhegelo e e tlhodilweng ke motho.
Prohibition of victimisation

254. A person may not subject another person to any prejudice in employment, or penalise another person in any way, on the ground that the other person—
(a) made a report in terms of section 252; or
(b) made a report in terms of section 253, even if the report was not required by law.

Protected disclosures

255. Sections 252 and 253 apply in addition to, and do not limit, any other law that provides protection for persons who properly report contraventions of the law.

Part 2

Financial Sector Information Register

Establishment and operation of Financial Sector Information Register

256. The National Treasury must establish and maintain the Financial Sector Information Register in accordance with this Part.

Purpose of Register

257. The purpose of the Register is to provide reliable access to accurate, authoritative and up to date information relating to financial sector laws, Regulations, regulatory instruments and their implementation.

Content of Register

258. (1) The Register is a database of the documents listed in Schedule 3.
(2) The Register may include other documents that are relevant to the regulation and supervision of the financial sector and the Director-General determines which other documents may be included in the Register.

Keeping of Register

259. (1) The Register must be kept in an electronic form.
(2) The Register must be kept in a way that facilitates access and searching of the Register by members of the public.

Requirements for registered documents

260. The Director-General may make a written determination—
(a) specifying requirements for documents that must be, or may be, included in the Register, including requiring persons lodging a document for registration to provide information about the document, to ensure that the Register is useful for persons accessing the Register; and
(b) specifying procedures for transmitting documents to the National Treasury for registration.

Status of Register and judicial notice

261. (1) The Register is, for all purposes, taken to be a complete and accurate record of all financial sector laws and all regulatory instruments that are included in the Register.
(2) A compilation of a law or a regulatory instrument that is included in the Register is, unless the contrary is established, taken to be a complete and accurate record of that law or regulatory instrument as amended and in force at the date specified in the compilation.
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Thibelo ya tirisobotlhaswa

254. Motho o ka se gobelele motho yo mongwe mo tirong, kgotsa o ka se atlhole motho yo mongwe ka mokgwangwe le mongwe, ka lebaka la gore motho yo mongwe o—
   (a) dirile pegelo go ya ka karolo 252; kgotsa
   (b) dirile pegelo go ya ka karolo 253, le fa pegelo e ne e sa tlhokwe ke molao.

 Ditshenolo tse di sireleditsweng

255. Dikarolo 252 le 253 di diriswa mo godimo ga, e bile ga di lekanyetswe, molao mongwe le mongwe o o tlamelang ka tshiireletso mo bathong ba ba begang ka nepagalo ditlolomolao.

Karolo 2

Rejisetara ya Tshedimosetso ya Lephata la Ditšhelete

Go tlhongwa le tiro ya Rejisetara ya Tshedimosetso ya Lephata la Ditšhelete

256. Matlole a Bosetšhaba a tshwanetse go tlhoma le go tsehegotsa Rejisetara ya Tshedimosetso ya Lephata la Ditšhelete go tsamaelana le Karolo eno.

Maithlomo a Rejisetara

257. Maithlomo a Rejisetara ke go tlamelang ka phitlhelele e e tsehegalang go tshedimosetso e e nepagetseng, e e maatla e bile e le mo nakong e e ananang le melao ya lephata la ditšhelete, Melawana, didiriso tsa bolaodi le go tsemengwa mo tirisong ga tsona.

Ditshenolo tse di sireleditsweng

258. (1) Rejisetara ke deithabeisi ya dikwalo tse di neetsweng mo Sejuleng 3.
   (2) Rejisetara e ka akaretsa dikwalo tse dingwe tse di maleba go taolo le tlhokomelo ya lephata la ditšhelete le Mokaedikakaretso o tlhomamisa gore ke dikwalo dife tse dingwe tse di ka akaretswang mo Rejisetareng.

Go tsholwa Rejisetera

259. (1) Rejisetara e, mabapi le maithlomo otlhe, tseelwa gore ke rekoto e e tshiditsweng e lephata la ditšheleteledidirisotsotlhe tsa bolaodi tse di akareditsweng mo Rejisetareng.
   (2) Tlhamoyamolaokgotsase diriso sa bolaodi jaaka e tlhabolotswe le go diriswa ka letlha le le tsepamisitsweng mo tlhamong.

Dithlhokego tsa makwalo kwadisitsweng

260. Mokaedikakaretso o ka dira tlhomamiso e e kwetsweng—
   (a) e e tsepamisang dithlhokego tsa dikwalo tse di tshwanetseng go, kgotsa tse di ka, akaretswang mo Rejisetareng, go akaretsa le go kopa motho yo o kwadiseng lokwalo gore a tlanele ka tshedimosetso ya lokwalo, go netefatsa gore Rejisetara e mosola mo bathong ba ba fitlhelelang Rejisetara; le
   (b) e e tsepamisang ditsamaiso tsa go fetisetsa dikwalo go Matlole a Bosetšhaba gore di kwadiseng.

Boemo jwa Rejisetera le kitsiso ya boatlhodi

261. (1) Rejisetara e, mabapi le maithlomo otlhe, tseelwa gore ke rekoto e e tshiditsweng e lephata la ditšheleteledidirisotsotlhe tsa bolaodi tse di akareditsweng mo Rejisetareng.
   (2) Tlhamo ya molao kgotsa sediriso sa bolaodi se e akareditsweng mo Rejisetareng e, ntle le fa go lemodoga kganutsano, tseelwa gore ke rekoto e e feletseng e bile e e nepagetseng ya molao oo kgotsa sediriso sa bolaodi jaaka e tlhabolotswe le go diriswa ka lethla le le tsepamisitsweng mo tlhamong.
(3) (a) In any proceedings, proof is not required about the provisions and coming into effect, in whole or in part, of a law or regulatory instrument as it appears in the Register.
(b) A court or tribunal may inform itself about those matters in any way it deems fit.
(4) It is presumed, unless the contrary is established—
(a) that a document that purports to be an extract from the Register is what it purports to be; and
(b) that a regulatory instrument, a copy of which is produced from the Register, was registered on the day and at the time stated in the copy.

Extracts from Register regarding licence status

262. An extract from the Register, in the form determined by, and authenticated as determined by, the Director-General, that shows that, at a specified date, after this Part comes into effect—
(a) a person was or was not licensed under a financial sector law;
(b) a specified licence was or was not subject to specified conditions;
(c) a specified licence was, at a specified time, suspended, cancelled or revoked;
or
(d) a specified financial institution was at a specified time a systemically important financial institution,
is admissible as evidence of the facts and matters stated in it and, unless the contrary is established, is conclusive.

Rectification of Register

263. (1) The Director-General may arrange for the Register to be corrected to rectify errors.
(2) If the Register is corrected, the Director-General must annotate relevant records in the Register to explain the nature of the rectification and specify the date and time the rectification was made and the reason for the rectification.

Delegations by Director-General

264. (1) The Director-General may, in writing, delegate any power or duty of the Director-General in relation to the Register, except the power of delegation, to a staff member of the National Treasury or any other suitable person, and the Director-General may, at any time, amend or revoke a delegation.
(2) A delegation may be to a specified person or to the person holding a specified position.
(3) A delegation is subject to the limitations and conditions specified in the delegation.
(4) A delegation does not divest the Director-General of responsibility in respect of the delegated power or duty.
(5) Anything done by a delegate in accordance with the delegation is taken to be done by the Director-General.

Part 3

Offences and penalties

Duties of members and staff of certain bodies

265. A person who contravenes sections 46(1) or (2), 52, 69(1) or (2) or 74 commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.
(3) (a) Mo ditsamaisong dingwe le dingwe, bosupi ga bo tlhokege ka ga dikabelo le go tsemngwa mo tirisong go diragatsa, ka gothle kgotsa ka karolo, ga molao kgotsa sediriso sa bolaodi jaaka se tlhagelela mo Rejisetareng.
(b) Kgotalatshikeklo kgotsa lekgotla le ka ikitsise ka ga merero eo le ka mokgw a o le boneng go le matshwanedi.
(4) Go bonagala e kete, ntle le fa go ka nna le kganetso—
(a) lokwalo le le ikayang e le sentshwa Rejisetareng ke se o le ikayang go nna sona; le
(b) sediriso sa bolaodi seo kgatiso ya sona e tlhagisitsweng go tswa mo Rejisetareng se kwadisitswe ka letsatsi le nako e e kailweng mo kgatisong.

Dintshwa Rejisetareng mabapi le maemo a laesense

262. Sentshwa Rejisetareng, ka sebopego se se tlhomamisitsweng ke, Mokaedikakaretso, se se bonishang gore, ka lethla le le rileng, morago ga go tsemngwa tirisong ga Karolo eno—
(a) motho o abetswe kgotsa o ne a sa abelwa laesense ka fa tlase ga molao wa lephata la ditshelete;
(b) laesense e e tsepamisitsweng e kgotsa e e se go ya ka mabaka a a tsepamisitsweng;
(c) laesense e e tsepamisitsweng e ne e, ka nako e e rileng, sekegiliwe, phimotswe kgotsa gogetsewe morago; kgotsa
(d) setheo sa ditshelete se se tsepamisitsweng se ne ka nako e e rileng e le setheo sa ditshelete sa thulaganyo ya botlhokwa, se amogelesega jaaka bosupi jwa dintlha le merero e e kailweng mo go sona e e bile ntle le fa go na le kganetso, se a konotelela.

Paakanyo ya Rejisetara

263. (1) Mokaedikakaretso o ka rulaganya gore Rejisetara e siamisiwe go baakanya diphosoro.
(2) Fa Rejisetara e siamisitswe, Mokaedikakaretso o tshwanetse go tshiwela ya direkoto tse di maleba mo Rejisetareng go tshiamo mokgw a wa tshiamiso le go tsepamisa lethla le nako e tshiamiso e dirilweng ka yona le lebaka la tshiamiso.

Ditholelo ka Mokaedikakaretso

264. (1) Mokaedikakaretso o ka, ka go kwala, rolela thata ngwe le ngwe kgotsa tiro ya Mokaedikakaretso mabapi le Rejisetara, ntle le thata ya go romela, go leloko la badirimmogo ba Matlole a Bosetšhaba kgotsa motho mongwe le mongwe yo o maleba, e bile Mokaedikakaretso o ka, ka nako ngwe le ngwe, thabolola kgotsa gogela morago tholelo.
(2) Tholelo e ka nna go motho yo o rileng kgotsa go motho yo o tshwereng maemo a a rileng.
(3) Tholelo e go ya ka ditekanyetso le mabaka a a thalositsweng mo tholeleng.
(4) Tholelo e e motho e Mokaedikakaretso maikarabelo mabapi le thuta e e roletseng kgotsa tiro.
(5) Sengwe le sengwe se se dirilweng ke morolelwa go tsamaelana le tholelo se tseelwa gore se dirilwe ke Mokaedikakaretso.

Karolo 3

Melato le dikotlhao

Ditiro tsa maloko le badiri ba mekgatlho e e rileng

265. Motho yo tšolang dikarolo 46(1) kgotsa (2), 52, 69(1) kgotsa (2) kgotsa 74 o tlhano molao e bile fa a bonwe molato o tshwanetse ke tšotšhla ya tudiso e e sa feteng R5 000 000 kgotsa go tswana wla kgolelogeleng sebaka se sa feteng dingwaga tse tlhano, kgotsa go duediswa le go tshwarwa goo ka bobedi.
Licensing

266. (1) A person who contravenes section 111(1), (2), (3), (4) or (5) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(2) A licensee who contravenes section 117 is liable to an administrative penalty not exceeding R5 000 for each day during which the offence continues.

(3) A licensee who contravenes section 127 is liable to an administrative penalty not exceeding R50 000.

Requests for information, supervisory on-site inspections and investigations

267. (1) A supervised entity that contravenes section 131(1)(b) commits an offence and is liable on conviction to a fine not exceeding R1 000 for each day during which the offence continues.

(2) A supervised entity that or person who contravenes section 132(4)(a)(iii) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(3) If—

(a) a financial sector regulator gives a supervised entity a directive in terms of section 132(4)(a)(iii); and

(b) without reasonable excuse, a business document to which the directive relates is removed from the premises, or concealed, destroyed or otherwise interfered with, contrary to the directive,

the supervised entity or person on whom the directive was served commits an offence and is liable on conviction to a fine not exceeding R2 500 000.

(4) A person who contravenes section 133 commits an offence and is liable on conviction to a fine not exceeding R1 000 000 or imprisonment for a period not exceeding 12 months, or to both a fine and such imprisonment.

(5) A person who contravenes section 139 commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or imprisonment for a period not exceeding two years, or to both a fine and such imprisonment.

Enforcement

268 (1) A person that contravenes section 149(1) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(2) A person who contravenes section 153(4)(a) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(3) If—

(a) a person who is subject to a debarment order contravenes section 153(4)(a) by entering into an arrangement referred to in section 153(4)(b); and

(b) the other party to the arrangement knew or should reasonably have known that entering into the arrangement contravened that section,

the other party to the arrangement also commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(4) A person who contravenes section 153(5) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
Kabo ya dilaesense

266. (1) Motho yo o tlolang karolo 111(1), (2), (3), (4) kgotsa (5) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R15 000 000 kgotsa go tswelela kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka Bobedi.
(2) Moabelwalaesense yo o tlolang karolo 117 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000.
(3) Moabelwalaesense yo o tlolang karolo 127 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.

Dikopo tsa tshedimoseto, tlhatlhobo ya bothokomedi kwa tirong le dipatlisiso

267. (1) Setheo se se tlhokometsweng se se tlolang karolo 131(1)(b) se tlola molao e bile fa se bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R1 000 mabapi le Letsatsi lengwe le lengwe le tlolomolao e tswelelang ka lona.
(2) Setheo se se tlhokometsweng se se kgotsa motho yo o tlolang dikarolo 132(4)(a)(ii) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.
(3) Fa—
(a) boloedi jwa lephata bo naya setheo se se tlhokometsweng taelo go ya ka karolo 132(4)(a)(iii); le
(b) ntle le leba le le utwaling, lokwalo la kgwebo le taelo e amanang nalo le tloswa mo lefelong, kgotsa le fitlhwi, kgotsa le senngwa kgotsa ka mokgwa mongwe le kgoreletswa, ka pharologano go taelo, setheo se se tlhokometsweng kgotsa motho yo o nei lweng taelo o tlola molao e bile o tshwanetsa ke go bonwa molato ke kothlao ya tuediso e e sa feteng R2 500 000.
(4) Motho yo o tlolang karolo 133 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R1 000 000 kgotsa go tshirtlhelo kwa kgolegelong sebaka se sa feteng dikgwedi tse 12, kgotsa ka Bobedi tuediso kgotsa tswalelo kwa kgolegelong.
(5) Motho yo o tlolang karolo 139 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000 kgotsa go tshirtlhelo kwa kgolegelong sebaka se sa feteng dingwaga tse pedi, kgotsa ka Bobedi tuediso kgotsa tswalelo kwa kgolegelong.

Kgatelelo

268. (1) Motho yo o tlolang karolo 149(1) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R15 000 000 kgotsa go tswelela kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka Bobedi.
(2) Motho yo o tlolang karolotlaletseo 153(4)(a) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R15 000 000 kgotsa go tswelela kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka Bobedi.
(3) Fa—
(a) moamegi yo mongwe mo tumalanong a ne a itse kgotsa a ka tswa a ne a itse sentle gore go tsena mo tumalanong ke tlolo ya karolo eo, moamegi yo mongwe mo tumalanong le ena o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R15 000 000 kgotsa go tswelela kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka Bobedi.
(4) Motho yo o tlolang karolotlaletseo 153(5) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.
Administrative penalties

269. A person who contravenes section 174 by giving an undertaking commits an offence and is liable on conviction to a fine not exceeding twice the maximum amount that would have been payable under the undertaking.

Ombud schemes

270. (1) A person who contravenes section 189(1) or (2) or section 192 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(2) A person who contravenes section 202(11) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(3) A natural person who contravenes section 205(8) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(4) If—
(a) a natural person who is subject to a debarment order in terms of section 205, contravenes section 205(8)(a) by entering into an arrangement referred to in section 205(8)(b); and
(b) the other party to the arrangement knew or should reasonably have known that entering into the arrangement contravened that section;
the other party to the arrangement also commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(5) A person who contravenes section 207(2) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.
(6) A licensed financial institution that contravenes section 210 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(7) A financial institution that contravenes section 215(1) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(8) A person who contravenes section 217 commits an offence and is liable on conviction to a fine not exceeding R5 000 for each day during which the offence continues.

Proceedings in Tribunal

271. A person who contravenes a direction in terms of section 232(5)(a), or refuses, without reasonable excuse, to take an oath or make an affirmation when required to do so as contemplated in section 232(5)(b), commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

Miscellaneous

272. (1) (a) A financial sector regulator or the Reserve Bank commits an offence if information is disclosed or shared for a purpose that is not authorised in terms of section 251(1) or (2), or in a manner that is not authorised as referred to in section 251(5).
(b) Both an official or employee who shares or discloses information, and the financial sector regulator or the Reserve Bank on whose behalf the information is shared or disclosed, commit an offence if an official or employee—
(i) who is not authorised to share or disclose information shares or discloses information in contravention of section 251(6)(c);
(ii) who is authorised to share or disclose information shares or discloses information for a purpose that is not authorised in terms of section 251(1) or (2), or in a manner that contravenes section 251(3) or (4).
(2) (a) If a financial sector regulator or the Reserve Bank commits an offence referred to in subsection (1), it is liable on conviction to a fine not exceeding R5 000 000.
Dikotlhao tsasamaiso

269. Motho yo o tolang karolo 174 ka go dira kano o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng tlhotlhwa ya makisimamo e e ka tswang e duelwa ka fa tlase ga kano.

Dikema tsa ombud

270. (1) Motho yo o tolang karolo 189(1) kgotsa (2) kgotsa karolo 192 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(2) Motho yo o tolang karolo 202(11) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(3) Motho ka esi yo o tolang karolo 205(8) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(4) Fa—
(a) motho ka esi yo o lebanweng ke taelo ya kganelo go ya ka karolo 205 a tlola karolotlaleleseto 205(8)(a) ka go dira thulaganyo e e ka kailweng mo karolong 205(8)/b; le;
(b) moamegi yo mongwe mo tumalanong a ne a itse kgotsa a ka tswa a ne a itse sentle gore go tsena mo tumalanong ke tlolo ya karolo eo, mokgatlho o mongwe o o mo thulaganyong le ona o tlola molao e bile fa o bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.
(5) Motho yo o tolang karolotlaleleseto 207(2) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R15 000 000 kgotsa go tsawelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goa ka bobedi.
(6) Setheo sa ditšhelete se se abetsweng laesensese se tlola karolotlaleleseto 210 se tlola molao e bile fa se bonwe molato se tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.
(7) Setheo sa dišeše se se tlola karolo 215(1) se tlola molao e bile fa se bonwe molato se tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(8) Motho yo o tolang karolotlaleleseto 217 o tlola molao e bile fa o bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000 mabapi le lesatsa lengwe le lengwe leo ka lona molato o tswelelang.

Ditsamaiso tsa Lekgotla

271. Motho yo o tolang kaelo go ya ka karolo 232(5)(a), kgotsa yo o ganang, ntle le lebaka le le ufwtwagang, go tsaya kano kgotsa tlhomamiso fa a kopiwa go dira jalo jaaka go tlahlositswe mo karolong 232(5)(b), o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000 kgotsa go tsawelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goa ka bobedi.

Tsele le tsele

272. (a) Bolaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe e tlola molao fa tshedinenceso e senotswe kgotsa e aroganwe mabapi le maitlhomo a sa dumelweng go ya ka karolo 251(1) kgotsa (2), kgotsa ka mokgwaa o o sa dumelweng jaaka go ka kailweng mo karolong 251(5).
(b) Ka bobedi motlhankedi kgotsa modiri yo o aroganang kgotsa yo o senolang tshedinenceso, le bolaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe e boemong jwa yona tshedinenceso e aroganwe kgotsa e senotsweng, ba tlola molao fa motlhankedi kgotsa modiri—
(i) yo o sa dumelweng go aroana kgotsa go senola tshedinenceso a aroana kgotsa a senola tshedinenceso ka tlola ya karolo 251(6)(c);
(ii) yo o dumeletswe ng go aroana kgotsa go senola a aroana kgotsa senola tshedinenceso mabapi le maitlhomo a a sa dumelweng go ya ka karolo 251(1) kgotsa (2), kgotsa ka mokgwaa o o tloang karolo 251(3) kgotsa (4).
(2) (a) Fa bolaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe bo tlola molao o o ka kailweng mo karolotlaleleseong (1), bo bonwe molato bo tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(b) An official or employee who commits an offence referred to in subsection (1)(b) is liable on conviction to a fine not exceeding R5 000 000, or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

(3) An auditor who contravenes section 252 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(4) A person who contravenes section 254 commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

(5) A person who contravenes a condition imposed in terms of section 280 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

False or misleading information

273. A person who provides to a financial sector regulator or the Reserve Bank, information in connection with the operation of a financial sector law, that the person knew or believed, or ought reasonably to have known or believed, to be false or misleading, including by omission, commits an offence and is liable on conviction to a fine not exceeding R10 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

Accounts and records

274. A person who is required in terms of a financial sector law to keep accounts or records commits an offence if—

(a) the accounts or records do not correctly record and explain the matters, transactions, acts or operations to which they relate; and

(b) the person—

(i) knew that, or was reckless whether, the accounts or records correctly recorded and explained the matters, transactions, acts or operations to which they relate; or

(ii) intended to deceive or mislead a financial sector regulator or an investigator; or

(iii) intended to hinder or obstruct a financial sector regulator, or an investigator in performing his or her duties in terms of a financial sector law,

and is liable on conviction to a fine not exceeding R10 000 000, or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

False assertion of connection with financial sector regulator

275. A person who, without the consent of the financial sector regulator, applies to a company, body, business or undertaking a name or description that reasonably signifies or implies some connection between the company, body, business or undertaking and a financial sector regulator commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

Liability in relation to juristic persons

276. (1) If—

(a) a financial institution commits an offence in terms of a financial sector law; and

(b) a member of the governing body of the financial institution failed to take all reasonably practicable steps to prevent the commission of the offence,

the member of the governing body commits the like offence, and is liable on conviction to a penalty not exceeding the penalty that may be imposed on the financial institution for the offence.

(2) If—

(a) a key person of a financial institution engages in conduct that amounts to a contravention of a financial sector law; and
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(b) Motlhankedikgotsamodiriyootlolangmolaoookaiwengmokarolotlaleletsong
(1)(b) Fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000,
kgos ta go ts walelw a kwa kgo le gelong sebaka se sa feteng dingwaga tse tlhano, kgotsa
go duediswa le go tshwarwa goo ka bobedi.
(3) Moruni yo o tlolang karolo 252 o tlola molao e bile fa a bonwe molato o
tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(4) Motho yo o tlolang karolo 254 o tlola molao e bile fa a bonwe molato o
tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000, kgotsa go ts walelw a kwa
go le gelong sebaka se sa feteng dingwaga tse tlhano, kgotsa go duediswa le go
tshwarwa goo ka bobedi.
(5) Motho yo o tlolang peelo e e neetsweng go ya ka karolo 280 o tlola molao e bile
da bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.

Tshedimosetso e e fosagetseng kgotsa e e timetsang

273. Motho yo o tlamelang molao la wa lephata la ditšhelete kgotsa Banka ya Resefe,
ka tshedimosetso mabapi le tiro ya molao wa lephata la ditšhelete, e motho a itseng
kgotsa a dumelang, kgotsa e aka mabaka a neng a itse kgotsa a dumela, gore e fosagetseng
kgotsa e e timetsa, go akaretse le ka tlogetlo, o tlola molao e bile fa a bonwe molato o
tshwanetswe ke kothlao ya tuelo e e sa feteng R10 000 000, kgotsa go ts walelw a kwa
kgogeleleng sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa
goo ka bobedi.

Diakhaonto le direkoto

274. Motho yo o tlhokegang go ya ka molao wa lephata la ditšhelete go tshola
diakhaonto le direkoto o tlola molao fa—
  (a) diakhaonto kgotsa direkoto di sa rekote le go tlhalosa dintlha, ditsamaiso,
ditiro kgotsa dikgato tseo di amanang le tsона, e bile
  (b) motho—
      (i) a ne a itse, kgotsa a ne a sa kgatholicole gore, diakhaonto kgotsa direkoto
di gatsetise le go tlhalosa dintlha, ditsamaiso, ditiro kgotsa dikgato tse di
amanang le tsона;
      (ii) a ne a ikaelsetse go tsietsa kgotsa go faposa bolaodi jwa lephata
la ditšhelete kgotsa mmatlisisi; kgotsa
      (iii) a ne a ikaelsetse go kgoreletseng kgotsa go thibela bolaodi jwa
lephata la ditšhelete, kgotsa mmatlisisi mo go direng ditiro tsa
gagwe go ya ka
mola la lephata la ditšhelete,
ebile o tshwanetswe ke kothlao ya tuelo e e sa feteng R10 000 000, kgotsa go ts walelw
kwa kgogeleleng sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go
tshwarwa goo ka bobedi.

Tlnagiso e e fosagetseng ya kamano le bolaodi jwa lephata la ditšhelete

275. Motho yo, ntle le tunelelo ya molao la wa lephata la ditšhelete, o dirisang go
selam, makgathlo, kgwebo kgotsa kano leina kgotsa tlhaloso e e kayang kgotsa
bonshang kamano e e rileng magareng ga setlamo, makgathlo, kgwebo kgotsa kano le
molaodi wa lephata la ditšhelete o tlola molao e bile fa a bonwe molato o tshwanetswe
ke katlholo ya tuediso e e sa feteng R5 000 000.

Melato mo kamanong le ditheo

276. (1) Fa—
  (a) setheo sa ditšhelete se dira molato go ya ka molao wa lephata la ditšhelete; le
  (b) leloko lengwe le lengwe la makgathlo o o busang wa setheo sa ditšhelete le le
pateleswe ke go tseka dikgato tsothle tse di maleba tse di kgogene ga tibela
tirego ya molato,
leloko la makgathlo o busang le tlola molato oo, e bile fa le bonwe molato le
tshwanetswe ke kothlao e e sa feteng kothlao e e ka pateleswang setheo sa ditšhelete
mabapi le tlolomolao.
  (2) Fa—
  (a) motho yo o bolthokwa wa setheo sa ditšhelete a dira boitshwaro jo bo lereng
tiolo ya molao wa lephata la ditšhelete; le
(b) the financial institution failed to take all reasonably practicable steps to prevent the conduct, the financial institution must be taken also to have engaged in the conduct.

Part 4

Complaints

277. A financial sector regulator must, if asked, assist a person to make a complaint to the appropriate ombud about the actions or practices in terms of a financial sector law, of a person in connection with providing financial products or financial services.

Compensation for contraventions of financial sector laws

278. A person, including a financial sector regulator, who suffers loss because of a contravention of a financial sector law by another person, may recover the amount of the loss by action in a court of competent jurisdiction against—

(a) the other person; and

(b) any person who was knowingly involved in the contravention.

Extension of period for compliance

279. (1) A financial sector regulator may, for a valid reason, extend any period for compliance with, or a period prescribed by, a provision of a financial sector law, other than a provision that the financial sector regulator must comply with.

(2) A financial sector regulator may grant an extension in terms of subsection (1) more than once, and may do so either before or after the time for compliance has passed or the period prescribed has ended.

Conditions of licences

280. (1) A licence may be given subject to conditions specified in the licence or in the notice of the grant or issue of the licence given to the licensee.

(2) A suspension, cancellation or revocation of a licence in terms of a financial sector law may be subject to conditions specified in the notice of the suspension, cancellation or revocation given to the licensee.

(3) Contravention of a condition in terms of subsection (2) does not affect the suspension, cancellation or revocation of the licence.

(4) In this section, a reference to a licence must be read as including a reference to a consent, agreement, approval or permission of any kind in terms of a financial sector law.

Exemptions

281. (1) The responsible authority for a financial sector law may, in writing and with the concurrence of the other financial sector regulator, exempt any person or class of persons from a specified provision of the financial sector law, unless it considers that granting the exemption—

(a) will be contrary to the public interest; or

(b) may prejudice the achievement of the objects of a financial sector law.

(2) Subsection (1) applies to the granting of exemptions if a financial sector law does not provide a power to grant exemptions.

(3) If a financial sector law provides a power to grant exemptions, the responsible authority must—

(a) grant the exemption in terms of the relevant provisions of the financial sector law; and
(b) setheo sa ditšhelete se palelwa ke go tsaya dikgato tsotlhe tse di maleba go thibela boitshwaro joo, setheo sa ditšhelete se tšwanetse go tsewa gore le sona se dirile tlolo ya molao.

**Karolo 4**

**Merero ya kakaretso**

**Dingongorego**

277. Molaodi wa lephata la ditšhelete o tšwanetse, fa a kopiilwe, go thusa motho go dira ngongorego go ombud yo o maleba ka ga ditiro kgotsa ditiragats o go ya ka molao wa lephata la ditšhelete, tsu motho mabapi le go tlamela ka dikuno tsa ditšhelete kgotsa ditrelo tsa ditšhelete.

**Tuelo ya ditlolo melao tsa lephata la ditšhelete**

278. Motho, go akaretsa le molaodi wa lephata la ditšhelete, yo o itemogelang tatlhegelo ka nthla ya tlolo ya molao wa lephata la ditšhelete ka motho yo mongwe o ka busetsa madi a tatlhegelo ka tiro kwa kgotlatshhekelong ya kathlolo e e nonofileng kgathlanong le—

(a) motho yo mongwe; le
(b) motho mongwe le mongwe yo o neng a amega ka go itse mo tlolong.

**Katoloso ya paka ya go ikamanyo**

279. (1) Molaodi wa lephata la ditšhelete o ka, ka lebaka le le utlwalang, katolosa paka ngwe le ngwe ya go ikamanyana le, kgotsa paka e e neetsweng ke, kabelo ya molao wa lephata la ditšhelete, ntle le kabelo e molaodi wa lephata la ditšhelete a tšwanetseng go ikamanyana le yona.  
(2) Molaodi wa lephata la ditšhelete o ka dumelela katoloso go ya ka karolotlaleletso (1) go feta gangve, go ka dira jalo pele ga kgotsa morago ga nako ya ikamanyo e sena go feta kgotsa paka e e neetsweng e sena go fela.

**Mabaka a dilaesense**

280. (1) Laesense e ka abelwa go ya ka mabaka a a tsepamisitsweng mo laesenseng kgotsa mo kitsisong ya kabelo kgotsa thebolo ya laesense e e neetsweng moabelwalaesense.  
(2) Tshekego, phimolo kgotsa phediso ya laesense go ya ka molao wa lephata la ditšhelete e ka nna go ya ka mabaka a a tsepamisitsweng mo kitsisong ya tshekego, phimolo kgotsa phediso e e neetsweng moabelwalaesense.  
(3) Tiolo ya lebaka go ya ka karolotlaleletso (2) ga e ame kemiso, phimolo kgotsa phediso ya laesense.
(4) Mo karolong eno, kaelo go laesense e tšwanetse go tseelwa gore e akaretsa kaelo go tumelelo, tumalano, thebolo kgotsa tetelelelo ya mo futa mongwe le mongwe go ya ka molao wa lephata la ditšhelete.

**Dikgololo**

281. (1) Bothathi jo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka, ka go kwala le ka tumalano ya molaodi yo mongwe wa lephata la ditšhelete, golola motho mongwe le mongwe kgotsa maemo a batho mo kabelong e e tsepamisitsweng ya molao wa lephata la ditšhelete ntle le le fa bo tseela gore go abelana ka kgololo—
(a) go tla nna kgathlanong le dikgatlhgo tsa setšhaba; kgotsa
(b) go ka gobelela phitlhlelelo ya maikaelo a molao wa lephata la ditšhelete.
(2) Karolotlaleletso (1) e diriswa mo go abeleng dikgololo fa molao wa lephata la ditšhelete o sa tlemele ka thata ya go neelana ka dikgololo.  
(3) Fa molao wa lephata la ditšhelete o tlamel la thata ya go neelana ka dikgololo, bothathi jo bo rwalang maikarabelo bo tšwanetse—
(a) go neelana ka kgololo go ya ka dikabelo tse dí maleba tsa molao wa lephata la ditšhelete; le

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(b) when deciding whether to grant an exemption, comply with the requirements of subsection (1) in addition to any requirements specified in the financial sector law.

(4) The responsible authority must publish each exemption.

Requirements for notification and concurrence

282. (1) If this Act provides that a financial sector regulator must notify the other financial sector regulator of a particular matter, the notification is not required if the other regulator has agreed, in a section 77 memorandum of understanding or otherwise, that—
   (a) failure to provide the notice does not prejudice the achievement of its objective; and
   (b) the notification is unnecessary.

(2) If this Act provides that a financial sector regulator may not take a particular action without the concurrence of the other financial sector regulator, the concurrence is not required if the other regulator has agreed, in a section 77 memorandum of understanding or otherwise, that—
   (a) action of the relevant kind does not prejudice the achievement of its objective; and
   (b) its concurrence is unnecessary.

(3) If this Act provides that a financial sector regulator may not take a particular action without the concurrence of the Reserve Bank, the concurrence is not required if the Reserve Bank has agreed, in a memorandum of understanding or otherwise, that the concurrence is unnecessary.

Arrangements for engagements with stakeholders

283. Each of the financial sector regulators and the Ombud Council must establish and give effect to arrangements to facilitate consultation and the exchange of information with financial institutions, financial customers, and prospective financial customers on matters of mutual interest.

Records and entries in books of account admissible in evidence

284. In any proceedings in terms of, or in relation to, a financial sector law, the records and books of account of a financial institution, and of a person who is engaged by a financial institution to perform a control function, are admissible as evidence of the matters, transactions and accounts recorded therein.

Immunities

285. The State, the Minister, the Reserve Bank, the Governor and Deputy Governors, a financial sector regulator, a member of the Executive Committee, the Prudential Committee, a member of a subcommittee of the Prudential Authority or the Financial Sector Conduct Authority, a member of the Tribunal, the Ombud Council, a member of the Ombud Board, an employee of the State, a board member or officer of the Reserve Bank, a staff member of a financial sector regulator, a staff member of the Reserve Bank, a person appointed by a financial sector regulator or the Reserve Bank to exercise a power or perform a function or duty in terms of a financial sector law is not liable for, or in respect of, any loss or damage suffered or incurred by any person arising from a decision taken or action performed in good faith in the exercise of a function, power or duty in terms of a financial sector law.

Notices to licensees

286. (1) A notice in terms of, or relating to, a financial sector law to a person who is or was licensed in terms of a financial sector law must be served on, or given to—
   (a) the person; or
   (b) if the person cannot be found after reasonable inquiry, some other person apparently involved in the management or control of a place where the person carries or carried on the licensed activities.
(b) fa bo swetsa ka go neelana ka kgalagali, go ikamanya le dithlokgoe tsa karolotlaleletso (1) mo godimo ga dithlokgoe dingwe le dingwe tse di tsepamitsiwe ngweng mo molaong wa lephata la ditšhelete.  

(4) Bothati jo bo rwalang maikarabelo bo tshwetsetse go phasalatsa kgalagali ngweng le ngweng.  

Dithlokgoe tsa kitsiso le tumalano  

282. (1) Fa Molao ono o tlamelale gore molaodi wa lephata la ditšhelete o tshwetsetse go itise molaodi yo mongwe wa lephata la ditšhelete ka ga morero o o riLEng, kitsiso ga e tlokoje fa molaodi yo mongwe a dumetse, mo karolong 77 ya torchantamo wa tumalano kgotsa ka gongwe, gore—  

(a) go palelwa ke go tlamera ka kitsiso ga go gobelele phitlhelelo ya maikaelelo a ona; le  

(b) kitsiso ga e tlhokagale.  

(2) Fa Molao ono o tlamera gore molaodi wa lephata la ditšhelete o ka se dire tiro epe ntle le tumalano ya molaodi yo mongwe wa lephata la ditšhelete, tumalano ga e tlokoje fa molaodi yo mongwe a dumetse, mo karolong 77 ya torchantamo wa tumalano kgotsa ka gongwe, gore—  

(a) tiro ya mofuta o o maleba ga e gobelele phitlhelelo ya maikaelelo a bona; le  

(b) tumalano ya bona ga e tlhokagale.  

(3) Fa Molao ono o tlamera ka gore molaodi wa lephata la ditšhelete o ka se dire tiro epe ntle le tumalano ya Banka ya Resefe, tumalano ga e tlhokagale fa Banka ya Resefe e dumetse, mo torchantamo wa tumalano kgotsa ka gongwe, gore tumalano ga e tlhokagale.  

Dithulaganyo mabapi le dithirisano le batsayakarolo  

283. Mongwe le mongwe wa balaodi be lephata la ditšhelete le Khansele ya Ombud o tshwetsetse go tlhoma le go tsenya mo tirisoang dithulaganyo tsa go nolofatsa dithirisano le, le tshibanang o tshediwesetseng le, batsayakarolo le kgatlethe le kgatla ngweng.  

Direkoto le dikwadiso mo dibukeng tsa go rwala maikarabelo a a amogelweng khaonto tse di amogelesegang jaaka bosupi  

284. Mo ditsemaisoing dingwe le dingwe go ya ka, kgotsa mabapi le, molaodi wa lephata la ditšhelete, direkoto le dibuka tsa akhaonto tsa setheo sa ditšhelete, le tsa motho yo o diriswankwel e setheo sa ditšhelete go dira tiro ya ga laola, di amogeleseganga jaaka bosupi jwa dintlha, ditiro le diakhao tse di rekotilweng ka fa gare.  

Dikgololo  

285. Puso, Tona, Banka ya Resefe, Mmusisi le Batlatsamamusi, molaodi wa lephata la ditšhelete, leloko la Komiti Khuduthama, Komiti la Tlhokomelo, leloko la komiti ya Bolaodi jwa Tlhokomelo, Bolaodi jwa Botlhokomelo jwa Lephata la Ditšhelete, leloko la Lekgotla, Khansele ya Ombud, leloko la Boto ya Ombud, modireli wa Puso, Banka ya Resefe, leloko la bolo kgotsa motlhankedi wa Banka ya Resefe, leloko la badiirmoggo ba Banka ya Resefe, ga ba rwala maikarabelo a, kgotsa mabapi le, talhegelo ngweng le ngweng kgotsa kgobolo e e bonweng kgotsa itemetseng e motho mongwe le mongwe ka ntlha ya tshwetso e e tserweng kgotsa tiro e e dirilweng ka mowa o montle mo ga diragatsang tiro kgotsa thatsang go ya ka molaodi wa lephata la ditšhelete.  

Kitsiso go baabelwadilase  

286. (1) Kitsiso go ya ka, kgotsa e e amanang le, molaodi wa lephata la ditšhelete go motho yo o kgotsa yo o neng a abetswe laesense go ya ka molaodi wa lephata la ditšhelete e tshwetsetse go neelwa go, kgotsa go newa—  

(a) motho; kgotsa  

(b) fa motho a sa kgone go fitlhlelewa morago ga patlisiso e e tseleletseng, motho mongwe yo o kileng a omegna mosumaisong kgotsa taolong ya lefelo leo motho a dirang kgotsa a dirileng ditiro tsa laesense.
(2) For the purposes of a financial sector law, service in terms of subsection (1)(b) is effective service.

Publication requirements in financial sector laws

287. (1) A requirement in terms of a financial sector law to publish a document or information, including a requirement to publish it in the Gazette, must be read as a requirement also to publish the document or information in the Register.

(2) The document or information may also be published on the website of the person required to publish it, or in other effective ways.

(3) This section does not require publication of a draft of a document in the Register.

Part 5

Regulations and Guidelines

Regulations and guidelines

288. (1) The Minister may make Regulations to facilitate the implementation of this Act, including Regulations:

(a) that must or may be prescribed in terms of this Act;

(b) to provide for other procedural or administrative matters that are necessary to implement the provisions of this Act.

(2) A requirement in terms of a financial sector law or the Interpretation Act (Act No. 33 of 1957), to publish Regulations in the Gazette must be read as a requirement to publish the Regulations also in the Register.

(3) (a) The Minister may issue guidelines for the disclosure of material interests contemplated in sections 49, 72, 193 and 226 to provide guidance to persons who are required to disclose material interests in terms of those sections.

(b) Guidelines issued in terms of paragraph (a) do not divest persons who are required to disclose a material interest in terms of sections 49, 72, 193 and 226 from their duty to properly apply their minds and disclose all material interests.

(4) The Minister may not make a Regulation unless the Minister—

(a) has published—

(i) a draft of the Regulation;

(ii) a statement explaining the need for and the intended operation of the Regulation;

(iii) a statement of the expected impact of the Regulation;

(iv) a notice inviting submissions in relation to the Regulation and stating where, how and by when submissions are to be made; and

(b) has, once submissions referred to in paragraph (a)(iv) have been received and considered, submitted to Parliament, while it is in session,—

(i) the documents mentioned in paragraph (a)(i) to (iv); and

(ii) a report of the consultation process, which report must include—

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

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

(5) (a) The period allowed for making submissions referred to in subsection (4)(a) must be at least six weeks.

(b) The period allowed for Parliamentary scrutiny referred to in subsection (4)(b) must be at least 30 days while Parliament is in session.

(6) If a Minister intends, whether or not as a result of a consultation process, to make a Regulation in a materially different form from the draft Regulation published in terms of subsection (4), the Minister must, before making the Regulation, repeat the process referred to in subsection (4).

(7) If complying with subsection (4) or (6), in the opinion of the Minister, is likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed Regulation, the Minister must, before making the Regulation—

(a) publish—

(i) a draft of the Regulation and a statement explaining the need for and the intended operation of the Regulation;
(2) Mabapi le mailhomo a molao wa lephata la ditšhelete, tirelo go ya ka karolotlaleletso (1)/(b) ke tirelo e e nonofileng.

**Ditlhokego tsq phasalatlo mo melaong ya lephata la ditšhelete**

287. (1) Tlhokego go ya ka molao wa lephata la ditšhelete ya go phasalatsa lokwalo kgotsa tshedimosetso, go akaretsa le thlhokego ya go e phasalatsa mo Lokvalodigkannyaeng la Puso, go tshwanetsa go tseelwa jaaka thlhokego ya go phasalatsa lokwalo kgotsa tshedimosetso mo Rejisetareng.

(2) Lokwalo kgotsa tshedimosetso e ka phasalatswa mo webesaeteng ya motho yo o thlokang go e phasalatsa, kgotsa ka mekgwa mengwe e e nonofileng.

(3) Karolo eno ga e tlhoke phasalatlo ya thalo ya lokwalo mo Rejisetareng.

**Karolo 5**

**Melawana le dikaelo**

288. (1) Tona o ka dira Melawana go nolofatsa go tseenngwa mo tirisong ga Molao ono, go akaretsa le Melawana—

(a) e e tshwanetseng kgotsa e e ka neelwang go ya ka Molao ono;

(b) go tlamela mabapi le merero e mengwe ya tsamaiso le taolo e e botlhokwa go tsenya mo tirisong dikabelo tsa Molao ono.

(2) Thlhokego go ya ka molao wa lephata la ditšhelete kgotsa Interpretation Act (Molao 33 wa 1957), ya go phasalatsa Melawana mo Lokvalodigkannyaeng la Puso e tshwanetsa go tseelwa jaaka thlhokego ya go phasalatsa Melawana mo Rejisetareng.

(3) (a) Tona o ka rebola dikaelo tsa go senola dikgatlhhegelo tse di botlhokwa tse di thhalositsweng mo dikarolong 49, 72, 193 le 226, go tlamela ka kaelo go batho bao ba kopilweng go senola dikgatlhhegelo tsa botlhokwa go ya ka dikarolo tseo.

(b) Dikaelo tse di rebotseng go ya ka temana (a) ga di amoge batho ba ba kopilweng go senola kgathhegelo e e botlhokwa go ya ka dikarolo 49, 72, 193 le 226 ditiro tsa bona tsa go dirisa menagano ya bona ka nepagalo le go senola dikgatlhhegelo tsothle tse di ka mang botlhokwa.

(4) Tona o ka se dire Melawana ntle le fa Tona—

(a) a phasaladits-—

(i) melawana e e thadii lweng;

(ii) polelo e e thalosang thlhokego ya le tiro e e ikaeletsweng ya Melawana;

(iii) polelo ya kutlwalo e e solofetsweng ya Melawana;

(iv) kitiso e e laletsang ditlhagiso mabapi le Melawana le go itsise gore ditlhagiso di ka dirwa kae, jaeng le leng; le

(b) a, morago ga fa ditlhagiso tse di kailweng mo temaneng (a)/(iv) di sena go amogelwa le go sekasekwa, romelele Palamente, fa e kokoane—

(i) dikwalo tse di kailweng mo temaneng (a)/(i) go filtha go (iv); le

(ii) pegelo ya dikagato tsa ditherisano, e e tla akaretsang—

((aa) maikarabelo ka kakaretso a dintilha tse di thhalositsweng mo ditlhagiso; le

((bb) tsibogelo go dintilha tse di thhalositsweng mo ditlhagiso.

(5) (a) Paka e e dumeletsengweng ya go dira ditlhagiso tse di kailweng mo temaneng (4)/(a) e tshwanetse go nna bonnye dibeko tse thataro.

(b) Paka e e letleletsengweng mabapi le tshekatsheko e e kailweng mo karolotlaleletsong (4)/(b) e tshwanetse go nna bonnye matatsi a a le 30 fa Palamente e kokoane.

(6) Fa Tona a ikaelela, ka nthla ya kgotsa eseng ka nthla ya ditlamoraggo tsa kgato ya ditherisano, go dira Melawana ka mokgwa wa pharologano e kgolo go tswa go thalo ya Melawana e e phasaladitsweng go ya ka karolotlaleletso (4), Tona o tshwanetse, pele a dira Melawana, go boelleta tsamaiso e e kailweng mo karolotlaleletsong (4).

(7) Fa go ikamanangwa le karolotlaleletso (4) kgotsa (6), go ya ka mogopololo wa Tona, go ka lere kgobelelo mo barekeding ba ditšhelete kgotsa kotsi mo thulaganyong ya ditšhelete, kgotsa go fenya maikaelelo a Melawana o o tshitsintseng, Tona o tshwanetse, pele a dira Molawana—

(a) go phasalatsa—

(i) Melawana o o thadii lweng le polelo e e thalosang thlhokego ya le tiro e e ikaeletsweng ya Melawana;
It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

Act No. 9 of 2017: Financial Sector Regulation Act, 2017
(ii) a notice inviting submissions in relation to the Regulation and stating where, how and by when submissions are to be made; and

(iii) a statement of the reasons why the delay involved in complying with subsections (4) and (6) is considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed Regulation; and

(b) submit to Parliament the documents mentioned in paragraph (a).

(8) (a) The period allowed for making submissions referred to in subsection (7)(a)(ii) must be at least seven days.

(b) The period allowed for submission to Parliament referred to in subsection (7)(b) must be at least seven days, whether Parliament is in session or not.

(c) The period referred to in paragraph (b) may run concurrently with the period referred to in paragraph (a).

(9) The Minister must, after making a Regulation pursuant to subsections (7) and (8), within 30 days of making the Regulation, submit to Parliament a report of the consultation process referred to in subsections (13) to (15).

(10) This section does not prevent the Minister from engaging in consultations in addition to those required in terms of this section.

(11) In deciding whether to make a Regulation, the Minister must take into account all submissions received by the expiry of the period referred to in subsection (5)(a) or (8)(a) and any deliberations of Parliament.

(12) A Regulation comes into effect—

(a) on the date that it is published in the Register; or

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

(13) With each Regulation, the Minister must publish a consultation report.

(14) A consultation report must include—

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

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

(15) If the Minister did not comply with subsection (4) or (6) for the reason stated in subsection (7), the consultation report must be published 30 days after the instrument was made and the report must include a statement of the reasons why the delay involved in complying, or complying fully, with subsection (4) or (6) was considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the Regulation.

Part 6

Amendments, repeals, transitional and saving provisions

Interpretation

289. In this Part—

“Appeal Board” means the Appeal Board established by section 26A of the Financial Services Board Act;

“Directorate of Market Abuse” means the Directorate of Market Abuse established by section 12 of the Insider Trading Act, 1998 (Act No. 135 of 1998) and continued in terms of the Securities Services Act, 2004 (Act No. 36 of 2004) and then the Financial Markets Act;

“Enforcement Committee” means the Enforcement Committee established in terms of section 10A of the Financial Services Board Act or section 97 of the Securities Services Act, 2004 (Act No. 36 of 2004);

“Financial Services Board” means the Financial Services Board as defined in the Financial Services Board Act; and

(ii) kitsiso e e laletsang ditlhagiso mabapi le Molawana e bile e tlhagisa gore ditlhagiso di ka dirwa kae, jang le gore leng; le
(iii) polelo ya mabaka a gore goreng tiego yago ikamanyeng le dikarolotlaleletsong (4) le (6) e tseelwa gore eka tlisa kgobelelo mo barekeding ba ditšhelete kgotsa kotsi mo thulaganyang ya ditšhelete, kgotsa ya fenya maikaelelo a Molawana o o tshitsintsweng; le
(b) go ромelela Palamente dikwalo tse di kailweng mo temaneng (a).
(8) (a) Nako e e letleletsengw ya go dira ditlhagiso tse di kailweng mo karolotlaleletsong (7)(a)(ii) e tshwanetse go nna bonnye malatsi e le supa.
(b) Nako e e letleletsengw ya go romela ditlhagiso kwal ePalamenteng jaaka go kailwe mo karolotlaleletsong (7)(b) e tshwanetse go nna bonnye malatsi a le supa, Palamente e ka tswa e kokoane kgotsa e sa kokoana.
(c) Nako e e kailweng mo temaneng (b) e ka tsamaya ka nako e le ngwe le nako e e kailweng mo temaneng (a).
(9) Tona o tshwanetse, morago ga go dira Molawana o o tsamaelanang le dikarolotlaleletsong (7) le (8), mo malatising a le 30 a go dira Molawana, go romelela Palamente pegelo ya kgato ya ditherisano e e kailweng mo dikarolotlaleletsong (13) go filtha go (15).
(10) Karolo eno ga e thibele Tona mo go direng ditherisano mo godimo ga tse di tlhokegang go ya ka karolo eno.
(11) Mo go swetseng ka ga go dira Molawana, Tona o tshwanetse go tsaya tsia ditlhagiso tsothle tse di amogetsengw ka letlha la bofelo la nako e e kailweng mo karolotlaleletsong (5)(a) kgotsa (8)(a) le dipuisano tsa Palamete. 
(12) Molawana o tsengwga mo tirisong——
(a) ka letlha le o phasaladitsweng mo Rejisetareng ka lona; kgotsa
(b) fa Molawana o tlamela gore o tla tsengwga mo tirisong ka letlha le le kwa moragonyana, ka letlha le le kwa moragonyana.
(13) Mabapi le Molawana mongwe le mongwe, Tona o tshwanetse go phasalatsa pegelo ya ditherisano.
(14) Pegelo ya ditherisano e e tshwanetse go akaretsa——
(a) boikarabelo ka kakaretso jwa dintilha tse di tlhagisitsweng mo ditlhagisong tse di dirilweng ka nako ya ditherisano; le
(b) tsibogelo go dintilha tse di tlhagisitsweng mo ditlhagisong.
(15) Fa Tona a sa ikamanyle le karolotlaleletsong (4) kgotsa (6) mabapi le mabaka a mabotsweng mo karolotlaleletsong (7), pegelo ya ditherisano e e tshwanetse go phasalatsa mo malatising a le 30 morago ga ga dirwa ga sediriso e bile pegelo e e tshwanetse go akaretsa polelo ya mabaka a gore goreng tiego e e mnileng teng mo go ikamanyeng, kgotsa mo go igamanyeng ka botlalo, le karolotlaleletsong (4) kgotsa (6) e tseetswe gore e bakile kgobelelo mo barekeding ba ditšhelete kgotsa kotsi mo thulaganyang ya ditšhelete, kgotsa e fentse maikaelelo a Molawana.  

Karolo 6

Ditlhabololo, dipediso, dikabelo tsagabaganyo le tshomarello

Thhaloso

289. Mo Karolong eno——
“Boto ya Boikuolo” e kaya Boto ya Boikuolo e e tshomilweng ke karolo 26A ya Financial Services Board Act;
“Komiti ya Kgatelelo” e kaya Komiti ya Kgatelelo e e tshomilweng go ya ka karolo 10A ya Financial Services Board Act Advisory Council 10A ya Securities Services Act, 2004 (Molao 36 wa 2004);
“Boto ya Ditirelo tsa Ditšhelete” e kaya Boto ya Ditirelo tsa Ditšhelete jaaka e e tshomilweng ke karolo 97 ya Securities Services Act, 2004 (Molao 36 wa 2004);
Amendments and repeals

290. The Acts listed in Schedule 4 are amended or repealed as set out in that Schedule.

Transitional provision in relation to medical schemes

291. (1) The functions of the Prudential Authority in relation to medical schemes and the associated powers and duties of the Prudential Authority are, to the extent determined by, and subject to any conditions determined by, the Minister, to be exercised by the Council for Medical Schemes instead of the Prudential Authority, but with the concurrence of the Prudential Authority.

(2) The functions of the Financial Sector Conduct Authority in relation to medical schemes and the associated powers and duties of the Financial Sector Conduct Authority are, to the extent determined by, and subject to any conditions determined by, the Minister, to be exercised by the Council for Medical Schemes instead of the Financial Sector Conduct Authority, but with the concurrence of the Financial Sector Conduct Authority.

(3) A determination in terms of subsection (1) or (2) must be published.

(4) The concurrence of a financial sector regulator in terms of subsection (1) or (2) to the exercise of a particular power or the performance of a particular function or duty is not required if the financial sector regulator has agreed in writing that—

(a) the exercise of the power or the performance of the function or duty does not prejudice the achievement of its objective; and

(b) its concurrence is unnecessary.

Transitional prudential powers of Financial Sector Conduct Authority

292. (1) This section applies for the period of three years from the date on which this section comes into effect but the Minister may, by notice in the Gazette, determine a shorter or longer period.

(2) The power of the Prudential Authority to make prudential standards, to be complied with by the following financial institutions, with respect to the safety and soundness of those financial institutions and otherwise to achieve the objectives of the Prudential Authority, is to be exercised by the Financial Sector Conduct Authority:

(a) Collective investment schemes as defined in section 1(1) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

(b) pension funds as defined in section 1(1) of the Pension Funds Act;

(c) friendly societies as defined in section 1(1) of the Friendly Societies Act.

(3) A prudential standard in terms of subsection (2) may only impose requirements that may be imposed under the specific financial sector law relevant to the financial institution concerned.

(4) The Financial Sector Conduct Authority may exercise its other powers in terms of financial sector laws with respect to the financial institutions referred to in subsection (2) to achieve the objective of the Prudential Authority.

(5) Subsection (3) does not affect the powers of the Financial Sector Conduct Authority in respect of a financial institution.

Transfer of assets and liabilities of Financial Services Board

293. (1) At the date on which this section comes into effect, the assets and liabilities of the Financial Services Board cease to be assets and liabilities of the Board and become assets and liabilities of the Financial Sector Conduct Authority without any conveyance, transfer or assignment.

(2) A person or authority who, in terms of a law or of a trust instrument or in any other way is required to keep or maintain a database in relation to assets or liabilities must, and may without any application or otherwise, record in the database the transfer of the asset or liability in terms of subsection (1).
Ditlhabololo le diphediso

290. Molao e e neetsweng mo Sejuleng 4 e a tlhabololwa kgotsa phimolwa jaaka go thhalositswe mo Sejuleng eo.

Kabelo ya kgabaganyo mabapi le dikema tsa kalafo

291. (1) Ditiro tsa Bothati jwa Tlhokomelo mabapi le dikema tsa kalafi le dithata tse di di patileng le ditiro tsa Bothati jwa Tlhokomelo, ka bogolo jo bo thhomamisisweng ke, le go ya ka mabaka mangwe le mangwe a a thhomamisisweng ke, Tona, di tshwanetse go diragatswa ke Khansele ya Dikema tsa Kalafi e seng Bothati jwa Tlhokomelo, mme fela ka tumalano le Bothati jwa Tlhokomelo.

(2) Ditiro tsa Bothati jwa Boitshwara jwa Lehlapa la Dišhelete mabapi le dikema tsa kalafi le maatla le ditiro tse di di patileng tsa Bothati jwa Boitshwara jwa Lehlapa la Dišhelete, ka bogolo jo bo thhomamisisweng ke, le go ya ka mabaka mangwe le mangwe a a thhomamisisweng ke, Tona, di tshwanetse go diragatswa ke Khansele ya Dikema tsa Kalafi e seng Bothati jwa Boitshwara jwa Lehlapa la Dišhelete, mme fela ka tumalano le Bothati jwa Boitshwara jwa Lehlapa la Dišhelete.

(3) Tlhomamiso go ya ka karolotlaletle tsa (1) kgotsa (2) e tshwanetse go phasalatse tsa.

(4) Tumalano ya boaladi ja lehlapa la dišhelete go ya ka karolotlaletle tsa (1) kgotsa (2) ya tiragatso ya thata e e rileng kgotsa go dirwa ga tiro e e rileng ga go tlhoeke fa bolaodi jwa lehlapa la dišhelete bo dumetse ka go kwala gore—

(a) tiragatso ya thata kgotsa go dirwa ga tiro ga go gobelele phitlhelelo ya maikaelelo a jona; le
(b) tumalano ya jona ga e tlhoeke.

Dithata tsa kgaba ganyo tsa tlhokomelo ya Bothati jwa Boitshwara jwa Lehlapa la Dišhelete

292. (1) Karolo eno e diriswa mo pakeng ya dingwaga tse tharo go simolola ka letlha la go tsengwag mo tirisiong ga karolo eno mme Tona o ka, ka kisiso mo Lokwalodikangnyang la Puso, thhomamisa paka e khotshwana kgotsa e telele.

(2) Thata ya Bothati jwa Tlhokomelo ya go dira maemo a tlhokomelo, eo ditheo tsa dišhelete tse di latelele di tshwanetse go ikamanya le yona, mabapi le thiselelese tsa le tlhomamisa ya ditheo tse o tlhokomelo la karolotele tse la go filhela maikaelelo a Bothati jwa Tlhokomelo, e tshwanetse go diragatsa ke Bothati jwa Boitshwara jwa Lehlapa la Dišhelete:

(a) Dikema tsa peeletsommoso jaaka di tlhalositswe mo karolong 1(1) ya Collective Investment Schemes Control Act, 2002 (Molao 45 wa 2002);
(b) matlole a penšene jaaka a tlhalositswe mo karolong 1(1) ya Pension Funds Act;
(c) mekgatlho ya botsalano jaaka e tlhalositswe mo karolong 1(1) ya Friendly Societies Act.

(3) Maemo a tlhokomelo go ya ka karolotlaletse tse di ka pateletsang ka fa tlae ga molao wa lehlapa la dišhelete o o rileng o o maleba go sethoo sa dišhelete se se amegang.

(4) Bothati jwa Boitshwara jwa Lehlapa la Dišhelete bo ka diragatsa dithata tsa jona tse dingwe go ya ka melao ya lehlapa la dišhelete mabapi le ditheo tsa dišhelete tse di ka iliweang mo karolotlaletsong (2) go filhela maikaelelo a Bothati jwa Tlhokomelo.

(5) Karolotlaletse (3) ga e ame dithata tsa Bothati jwa Boitshwara jwa Lehlapa la Dišhelete mabapi le sethoo sa dišhelete.

Tshutiso ya dithoto le melato ya Boto ya Ditirelo tsa Dišhelete

293. (1) Ka letlha lebo karolo eno e tse ngwag mo tirisiong ka lona, dithoto le melato ya Boto ya Ditirelo tsa Dišhelete di khutla go mma dithoto le melato ya Boto mme di mma dithoto le melato ya Bothati jwa Boitshwara jwa Lehlapa la Dišhelete ntle le thebolelo, tshutiso kgotsa kabo.

(2) Motho kgotsa bothati jo, go ya ka molao kgotsa sedirisa sa terasete kgotsa ka mokgw ona bo tlhokang go thola kgotsa tsegetsa deithabeise mabapi le dithoto kgotsa melato bo tshwanetse, e bile bo ka ntle le tiriso kgotsa ka mokgw mongwe, rekota mo deithabeise tshutiso ya dithoto kgotsa melato go ya ka karolotlaletse (1).
(3) A transfer of an asset in terms of subsection (1) does not give rise to any liability to duty or tax.

(4) (a) The Minister or a person authorised by the Minister for the purposes of this section may certify in writing that a specified asset or liability of the Financial Services Board became an asset or liability of the Financial Sector Conduct Authority on the date on which this section came into effect.

(b) A certificate in terms of paragraph (a) is conclusive proof that a specified asset or liability of the Financial Services Board is an asset or liability of the Financial Sector Conduct Authority.

Transfer of staff of Financial Services Board

294. (1) (a) At the date on which this section comes into effect, the staff of the Financial Services Board must be transferred to the Financial Sector Conduct Authority and the South African Reserve Bank, respectively, in accordance with section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995).

(b) Any reference in section 197 of the Labour Relations Act, 1995, to—

(i) the “old employer” must be read as a reference to the Financial Services Board; and

(ii) the “new employer” must be read as a reference to the Financial Sector Conduct Authority or the South African Reserve Bank, as the case may be, in respect of the staff to be transferred to either of these entities.

(c) The agreements referred to in section 197 of the Labour Relations Act, 1995, must address the transfer of the staff of the Financial Services Board to the pension fund of the South African Reserve Bank, where applicable.

(2) The Financial Sector Conduct Authority, at the date on which this section comes into effect, becomes liable for the liability of the Financial Services Board to subsidise the cost of the contributions payable to a medical scheme registered under the Medical Schemes Act by—

(a) a person who was employed by the Financial Services Board as at 1 January 1998 and remained continuously so employed until he or she retired from the Financial Services Board; or

(b) a person who was the spouse or dependant of a person contemplated in paragraph (a) at the time of the person’s retirement from the Financial Services Board, or the person’s death while employed by the Financial Services Board.

(3) If the benefit payable to a member in terms of the rules of the Financial Services Board Pension Fund on retirement would have been subject to special tax treatment, the benefit payable to that employee on his or her retirement by the pension fund of the Financial Sector Conduct Authority and the South African Reserve Bank, if applicable, must be subject to the same tax treatment.

(4) At the date on which this section comes into effect, the pension fund of the Financial Services Board becomes the pension fund of the Financial Sector Conduct Authority.

Annual reports

295. (1) The Prudential Authority must prepare each annual report of a financial sector regulator required by a financial sector law for which it is the responsible authority, for the reporting period during which this section comes into effect.

(2) The Financial Sector Conduct Authority must prepare each annual report of the Financial Services Board or another financial sector regulator required by a financial sector law for which it is the responsible authority, for the reporting period during which this section comes into effect.

(3) A report in terms of subsection (1) or (2) may be published as part of the first annual report of the Prudential Authority or the Financial Sector Conduct Authority, as the case may be.
(3) Tshutiso ya photo go ya ka karolotlaleletso (1) ga e bake koketsego go molato mongwe le mongwe go tiro kgotsa lekgetho.

(4) (a) Tona kgotsa motho yo o lelelelelweng ke Tona mabapi le maitlhomo a karolo eno o ka kanela ka go kwala gore photo e e tsekismetisweng kgotsa molato ya Boto ya Ditirelo tsa Ditšhelete e nnila photo kgotsa molato wa Bothati jwa Boitsibhoro jwa Lephata la Ditšhelete ka letlha le karolo eno e tsentsweng mo tirisong ka lona.

(b) Setifikeiti go ya ka temana (a) ke bosupi jo bo konotelelang jwa gore photo kgotsa molato o o tsekismetisweng wa Boto ya Ditirelo tsa Ditšhelete ke photo kgotsa molato wa Bothati jwa Boitsibhoro jwa Lephata la Ditšhelete.

**Tshutiso ya badiri ba Boto ya Ditirelo tsa Ditšhelete**


(b) Keaanga kgotsa motho yo o letleletsweng ke Tona mabapi le maitlhomo a karolo eno o ka temana na keaanga kgotsa molato wa Boitshwano jwa Lephata la Ditšhelete ka diphatsi setrile, le mo karolong 197 ya *Labour Relations Act*, 1995, go—

(i) “mothapi wa kgale” e tshwanetse go tsewa jaaka kaelo ya Boto ya Ditirelo tsa Ditšhelete; le

(ii) “mothapi yo moiba” e tshwanetse go tsewa jaaka kaelo ya Bothati jwa Boitsibhoro jwa Lephata la Ditšhelete le Banka ya Reseafe, go ya ka mabaka, mabapi le badiri ba ba tla sutesetsweng go ngwengi ya diteo tsenoe.

(c) Ditumalano tse di kaile mehlwa mo karolong 197 ya *Labour Relations Act*, 1995, di tshwanetse go sekaseka tshutiso ya badiri ba Boto ya Ditirelo tsa Ditšhelete go matloseng nang a phensene a Banka ya Reseafe ya Aforikaborwa, mo go thogekegang.

(2) Bothati jwa Boitsibhoro jwa Lephata la Ditšhelete, ka letlha leo karolo eno e tsenang mo tirisong ka lona, bo rwa maikarabelo, mabapi le maikarabelo a Boto ya Ditirelo tsa Ditšhelete a go etleetsa tshenyegelo ya dikabelo tse di duelang go sekema sa kalahi se se kwadisitsweng ka fa thase ga *Medical Schemes Act* ke—

(a) motho yo o neng a thapilwe ke Boto ya Ditirelo tsa Ditšhelete go simolola ka 1 Ferikgong 1997 a be a tsewelea go thapiwa jalo go fihela a rola tiro mo Botong ya Ditirelo tsa Ditšhelete; kgotsa

(b) motho yo o neng e le mogatsa kgotsa moikaegi wa motho yo o tihlakolositsweng mo temaneng (a) ka nako ya go rola tiro mo Botong ya Ditirelo tsa Ditšhelete, kgotsa go tlhokafala ga motho fa a ne e le modiri wa Boto ya Ditirelo tsa Ditšhelete.

(3) Fa dikunomolemo tse di duelang leloko go ya ka melawana ya Letlola la Pensene la Boto ya Ditirelo tsa Ditšhelete ka nako ya go rola tiro di ne di tla nna go ya ka tsholo ya lekgetho le le kgotsegileleng, dikunomolemo tse di duelang modiri yoo ka nako ya go rola tiro ga gawe ke Bothati jwa Boitsibhoro jwa Lephata la Ditšhelete le Banka ya Reseafe ya Aforikaborwa, fa go kgonega, di tshwanetse go dirwa go ya ka tsholo ya lekgetho e etshwanang le eo.

(4) Ka letlha le karolo eno e tsenngwang mo tirisong ka lona, lelola la pensene la Boto ya Ditirelo tsa Ditšhelete e nna lelola la pensene la Bothati jwa Boitsibhoro jwa Lephata la Ditšhelete.

**Dipegelo tsa ngwaga**

295. (1) Bothati jwa Thlokomelo bo tshwanetse go baakanya pegelo ngwengi go ngwengi ya ngwaga ya boladi jwa lephata la Ditšhelete e e tlhokweng ke molao wa lephata la Ditšhelete oo e leng broken bou go tsoa watong maikarabelo a yona mabapi le paka ya go bega e mo go yona letlha le karolo eno e tshwanetse go tsenngwa mo tirisong ka lona.

(2) Bothati jwa Boitsibhoro jwa Lephata la Ditšhelete bo tshwanetse go baakanya pegelo ngwengi go ngwengi ya ngwaga ya Boto ya Ditirelo tsa Ditšhelete kgotsa boladi bongwe jwa lephata la Ditšhelete e e tlhokweng ke molao wa lephata la Ditšhelete oo e leng ona bothati jo bo rwa lang maikarabelo mabapi le paka ya go bega e mo go yona karolo eno e tsenngwang mo tirisong ka yona.

(3) Pegelo go ya ka karolotlaleletso (1) kgotsa (2) e ka phasalatswa jaaka karolo ya pegelo ya nthla ya ngwaga ya Bothati jwa Thlokomelo kgotsa Bothati jwa Boitsibhoro jwa Lephata la Ditšhelete, go ya ka mabaka.
Inspections and investigations

296. (1) An inspection or investigation in terms of the Banks Act, the Reserve Bank Act, the Mutual Banks Act, 1993 (Act No. 124 of 1993), the Co-operative Banks Act, 2007 (Act No. 40 of 2007), the Short-term Insurance Act or the Long-term Insurance Act that is pending and not concluded immediately before the date on which this section comes into effect may be continued and concluded by the Prudential Authority in terms of the relevant provisions of this Act, or by the Financial Sector Conduct Authority in relation to an inspection or investigation in terms of the Short-term Insurance Act or the Long-term Insurance Act.

(2) An inspection or investigation in terms of a financial sector law or legislation referred to in the definition of “Financial Services Board legislation” in section 1 of the Financial Services Board Act, other than those referred to in subsection (1), that is pending but not concluded immediately before the date on which this Chapter comes into effect may be continued and concluded by the Financial Sector Conduct Authority in terms of the relevant provisions of this Act.

Co-operation agreements with foreign agencies

297. An arrangement in terms of a financial sector law between a registrar, supervisor or other financial sector regulator and a foreign government agency that is in force on the date on which this section comes into effect continues in effect as with the substitution of the relevant financial sector regulator for the registrar, supervisor or the other financial sector regulator, but may be amended or terminated in accordance with the terms of the arrangement.

Enforcement Committee and Appeal Board

298. (1) (a) Despite the repeals effected in the terms of this Part—

(i) the Enforcement Committee is to continue to deal with any matter that it was dealing with immediately before the date on which this Part comes into effect; and

(ii) a panel of the Appeal Board is to continue to deal with any matter that it was dealing with immediately before that date.

(b) The Enforcement Committee and the panels referred to in paragraph (a)(ii) continue in existence for the purposes of paragraph (a) only.

(2) The Financial Sector Conduct Authority must provide administrative and other support to the Enforcement Committee and the panels.

(3) For the purposes of this section, proceedings are instituted if—

(a) in the case of the Enforcement Committee established in terms of section 97 of the Securities Services Act, 2004 (Act No. 36 of 2004), the pleadings envisaged in section 102(1) of that Act have been referred to the Enforcement Committee;

(b) in the case of the Enforcement Committee established in terms of section 10A of the Financial Services Board Act, the pleadings envisaged in section 6B(1) of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001) have been delivered in terms of section 6B(2)(a) of that Act.

Right of appeal of Financial Services Board decisions

299. Despite the repeals effected in terms of section 290, section 26 of the Financial Services Board Act continues in effect in respect of decisions made before the date those repeals come into effect, but the appeal contemplated by that section is made to the Tribunal.

Pending proceedings

300. (1) Despite the repeal of section 9 of the Banks Act in terms of Schedule 4, an application for a review made in terms of that section but not finally determined before the date on which this section comes into effect may be continued before the board of review, which is to exercise the powers of the Tribunal in relation to the application.
Ditlhatlhobo le dipatlisiso


(2) Ditlhatlhobo kgotsa patlisiso go ya ka molao wa lephata la ditšhelete kgotsa molawana o o kai lweng mo thalosong ya”molawana wa Boto ya Ditirelo tsa Ditšhelete “mo karolong 1 ya Financial Services Board Act, ntle le eo e kai lweng mo karollolaletsetsong (1), e e leti lweng mme e sa konosetswa ka bonako pele ga letlha la go tse ngwa mo tiris nga ga Kgaolo eno e ka tsweletswa le go knosetswa ke Bothati jwa Boitshwaro jwa Le phata la Ditšhelete go ya ka dikabelo tse di maleba tsa Molao ono.

Ditumalano tsa tirisannomogo le diejensi tsa kwa ntle

297. Thulaganyo mabapi le molao wa lephata la ditšhelete magareng ga mokwadisi, molthokomedi kgotsa molaodi yo mongwe wa lephata la ditšhelete le ejensi ya puso ya bodišhaba e e diriswng ka lethla leo karolo eno e tse ngwa mo tiris nga ga lona e tswelela go diriswa jaaka le ka kemisetsa ya molaoedi wa lephata la ditšhelete yo o maleba mabapi le mokwadisi, molthokomedi kgotsa molaodi yo mongwe wa lephata la ditšhelete, mme e ka tlhabololwga kgotsa khutliswa go tsamaelana le dipeelo tsa thulaganyo eo.

Komiti ya Kgatelelo le Boto ya Boikuelo

298. (1) (a) Go sa nyatswe phediso e e dirilweng go ya ka Karolo eno—

(i) Komiti ya Kgatelelo e tla tswelela go samagana le morero mongwe le mongwe o e neng e samagane le ona ka bonako pele ga letlha la go tsengwa tirisong ga Karolo eno; le

(ii) panele ya Boto ya Boikuelo e tla tswelela go samagana le morero mongwe le mongwe o e neng e samagane le ona ka bonako pele ga lethla leo.

(b) Komiti ya Kgatelelo le dipanele tse di kai lweng mo temaneng (a)(ii) di tswelela go mma teng mabapi le ma tlhomlo a temana (a) fela.

(2) Bothati jwa Boitshwaro jwa Le phata la Ditšhelete bo tshwanetse go tlamel a Komiti ya Kgatelelo le dipanele tse dingwe ka tshegetso ya tsamaise le e nngwe.

(3) Mabapi le ma tlhomlo a karolo eno, ditsamaiso di a diragatsa fa—

(a) mo lebakeng la Komiti ya Kgatelelo e e tlhomilweng go ya ka karolo 97 ya Securities Services Act, 2004 (Molao 36 wa 2004), boikuelo jo bo bonetsweng pele mo karolong 102(1) ya Molao oo bo rometswe kwa Komiting ya Kgatelelo;

(b) mo lebakeng la Komiti ya Kgatelelo e e tlhomilweng go ya ka karolo 10A ya Financial Services Board Act, boikuelo jo bo bonetsweng pele mo karolong 6B(1) ya Financial Institutions (Protection of Funds) Act, 2001 (Molao 28 wa 2001) bo diragaditswe go ya ka karolo 6B(2)(a) ya Molao oo.

Tshwanelo ya boikuelo jwa ditshwets o tsa Boto ya Ditirelo tsa Ditšhelete

299. Go sa nyatswe dipimolo tse di dirisitsweng go ya ka karolo 290, karolo 26 ya Financial Services Board Act e tswelela go diriswa mabapi le ditshwets o tse di dirilweng pele ga letlha leo boikuelo bo tse ngwa mo tirisong ka lona, mme boikuelo jo bo thalositsweng mo karolong eo bo dirwa go Lekgotla.

Ditsamaiso tse di letetsweng

300. (1) Go sa nyatswe phimolo ya karolo 9 ya Banks Act go ya ka Šejule 4, kopo ya tshekatsheko e e dirilweng go ya ka karolo eo mme e ise e ilehomi wa konotelelo pele ga lethla leo karolo eno e tse ngwa mo tirisong ka lona e ka tswelela wa fa pele ga boto ya tshekatsheko, eo e tshwanetseng go diragatsa dithata tsa Lekgotla mabapi le kopo.
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(2) The Prudential Authority must be substituted as a party in any pending proceedings, whether in a court, tribunal or before an arbitrator or any other person or body, that have been commenced but not finally determined immediately before the date on which this section comes into effect, for the Reserve Bank or a registrar in terms of the Banks Act, the Mutual Banks Act, 1993 (Act No. 124 of 1993), the Co-operative Banks Act, 2007 (Act No. 40 of 2007), the Short-term Insurance Act or the Long-term Insurance Act.

(3) The Financial Sector Conduct Authority must be substituted as a party in any pending proceedings, whether in a court, tribunal or before an arbitrator or any other person or body, that have been commenced but not finally determined immediately before the date on which this section comes into effect, for the Financial Services Board, the Directorate of Market Abuse, where applicable, or a registrar in terms of a financial sector law other than the Banks Act.

Savings of approvals, consents, registrations and other acts

301. (1) A licence, authorisation, approval, registration, consent or similar permission given in terms of a financial sector law and in force immediately before the date on which this section comes into effect remains in force for the purposes of the financial sector law, but may be amended or revoked by the responsible authority for the financial sector law, in accordance with the provisions of that financial sector law.

(2) Rules made in terms of section 26 of the Financial Advisory and Intermediary Services Act and in force immediately before the date on which this section come into effect have effect as Ombud Council rules, and may be amended or revoked by Ombud Council rules in accordance with this Act.

(3) A regulatory instrument or Regulation made or issued in terms of a financial sector law and in force immediately before the date on which this section comes into effect remains in force for the purposes of the financial sector law but may be amended or revoked by a regulatory instrument made by the responsible authority for the financial sector law in accordance with the relevant financial sector law.

(4) Consultations undertaken before the date on which Part 1 of Chapter 7 comes into effect in relation to a regulatory instrument proposed to be made under a specific financial sector law or a proposed financial sector law after that Part came into effect are taken to meet the requirements of this Act for consultation to the extent that they—

(a) meet the requirements of the specific financial sector law for consultation prior to the amendment of that law in accordance with Schedule 4; or

(b) substantially meet the requirements of this Act for consultation on the proposed regulatory instrument.

(5) Regulations made in terms of section 5 of the Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993), and in force on the date on which this section comes into effect continue in force, but may be amended or repealed by Regulations made in terms of section 5 by the Prudential Authority.

(6) An ombud scheme that, immediately before the repeal of the Financial Services Ombuds Schemes Act, 2004 (Act No. 37 of 2004), came into effect, was recognised in terms of that Act must be taken to be a recognised industry ombud scheme as if it had been recognised under this Act.

(7) Subsection (6) ceases to have effect at the end of 12 months after Chapter 14 takes effect, but the Ombud Council may, on application and for good reason, extend the application of that subsection in a particular case for a further period of not more than 6 months.
(2) Bothati jwa Tlhokomelo bo tshwanetse go emisetswa jaaka mokgatlhlo mo ditsamaisong dingwe le dingwe tse di letetsweng, kwa kgotlatshhekelong, lekgotteng kgotsa fa pele ga motsereganyi kgotsa motho mongwe le mongwe yo mongwe kgotsa mokgatlhlo, tse di neng di simolotswe mme di ise di tlhomamiswe ka konotelelo ka bonako pele ga letlha le ka lona karolo eno e tsengwang mo tirisong, mabapi le Banka ya Resefe kgotsa mokwadisi go ya ka Banks Act, the Mutual Banks Act, 1993 (Molao 124 wa 1993), Co-operative Banks Act, 2007 (Molao 40 wa 2007), Short Term Insurance Act kgotsa Long Term Insurance Act.

(3) Bothati jwa Boitshwaro jwa Lephata la Ditshelete bo tshwanetse go emisetswa jaaka mokgatlhlo mo ditsamaisong dingwe le dingwe tse di letetsweng, kwa kgotlatshhekelong, lekgotteng kgotsa fa pele ga motsereganyi kgotsa motho mongwe le mongwe yo mongwe kgotsa mokgatlhlo, tse di neng di simolotswe mme di ise di tlhomamiswe ka konotelelo ka bonako pele ga letlha le ka lona karolo eno e tsengwang mo tirisong, mabapi le Boto ya Ditirelo tsa Ditshelete, Bokaedi jwa Tirisobothaswa ya Mmaraka kgotsa mokwadisi go ya ka molao wa lephata la ditshelete ntle le Banks Act.

Ditshomarelo tsa dithebolo, ditumelelo, dikwadiso le ditiro tse dingwe

301. (1) Laesense, tetla, thebolo, kwadiso, tumalano kgotsa tumelelo e e tshwanan e e neilweng go ya ka molao wa lephata la ditshelete le go diragatswa ka bonako pele ga letlha le ka lona karolo eno e tsengwang mo tirisong e sala go nna mo tirisong mabapi le maithlomo a molao wa lephata la ditshelete mme e ka tlhabololwa kgotsa phimolwa ke bothati jo bo rwalang maiakarabelo mabapi le molao wa lephata la ditshelete, go tsamaelana le dikabela tsa molao oo wa lephata la ditshelete.

(2) Melawana e e dirilweng go ya ka karolo 26 ya Financial Advisory and Intermediary Services Act le go tsengwa mo tirisong ka bonako pele ga letlha le ka lona karolo eno e tsengwang mo tirisong la lona e na le ditlamorago jaaka melawana ya Khansle ya Ombud, e bile e ka tlhabololwa kgotsa phimolwa ke Khansle ya Ombud go tsamaelana le Molao ono.

(3) Sediriso sa bolaodi se se dirilweng kgotsa rebotsweng go ya ka molao wa lephata la ditshelete le go diriswa le ka bonako pele ga letlha le ka lona karolo eno eno e tsengwang mo tirisong la lona e na le ditlamorago jaaka melawana ya Khansle ya Ombud, e bile e ka tlhabololwa kgotsa phimolwa ke Khansle ya Ombud go tsamaelana le Molao ono.

(4) Ditherisano tse di dirilweng pele ga letlha le Karolo 1 ya Kgaolo 7 e tsengwang mo tirisong ka bonako mabapi le sediriswa sa bolaodi se se tshitsintsweng go dirwa ka fa tlase ga molao wa lephata la ditshelete o o tsamisetswe kgotsa Molaooosetshwanetsegotsewajaakasekemaseseamogetswengsabodirelo sa ombud jaaka e kete se amogetswe ka fa tlase ga Molao ono.

(5) Melawana e e dirilweng go ya ka karolo 5 ya Financial Supervision of the Road Accident Fund Act, 1993 (Molao 8 wa 1993), le go nna mo tirisong ka lethla le ka lona karolo eno e tsengwang mo tirisong la lona e na le ditlamorago jaaka melawana ya Khansle ya Ombud, e bile e ka tlhabololwa kgotsa phimolwa ke Khansle ya Ombud go tsamaelana le Molao ono.

(6) Sekema sa ombud se, ka bonako pele ga go tsengwa mo tirisong kgotsa phimolwa ya Financial Services Ombuds Schemes Act, 2004 (Molao 37 wa 2004), se amogetsweng go ya ka Molao oo se tshwanetse go tsewa jaaka sekema se se amogetsweng sa bodirelo sa ombud jaaka e kete se amogetswe ka fa tlase ga Molao ono.

(7) Karolotlaleletso (6) e kihlutsa go diriswa ka bohutlong jwa dikgwedi tse 12 morago ga go tsengwa tirisong ka Kgaolo 14, mme Khansele ya Ombud e ka, ka kopo le ka lebaka le le utlwalang, atoloetsa tiriso ya karolotlaleletso e o mo morerong o o rileng mo nakong e ngwe gape e e sa feteng dikgwedi tse 6.
Levy

302. (1) Despite the repeal of the Financial Services Board Act in terms of Schedule 4, a levy imposed in terms of section 15A of the Financial Services Board Act continues in force subject to this Act, until a date fixed by the Minister by notice published in the Register.

(2) A levy referred to in subsection (1) is, from the date on which this section takes effect, taken to be a levy for the purposes of this Act.

Chief Actuary

303. A reference in any Act or subordinate legislation to the Chief Actuary is, after the date on which this section comes into effect, to be read as a reference to the Prudential Authority.

Additional transitional arrangements

304. (1) In order to facilitate the coming into effect, appropriate implementation and operation of this Act, the Minister may make Regulations providing for transitional arrangements regarding the exercise of powers, the performance of functions and duties, and other matters that may be necessary in relation to—

(a) the establishment of the financial sector regulators and other bodies in terms of this Act;
(b) the coming into operation of different provisions of this Act; and
(c) the repeal or amendment of different provisions of a law repealed or amended by this Act.

(2) Without limiting subsection (1), Regulations in terms of this section may provide for—

(a) the Reserve Bank to exercise specified powers and to perform specified functions and duties of the Prudential Authority, should it be necessary for powers and functions of the Prudential Authority in terms of this Act to be exercised for a period prior to the Prudential Authority being formally established; and
(b) the Financial Services Board to exercise specified powers and perform specified functions and duties of the Financial Sector Conduct Authority, should it be necessary for the powers and functions of the Financial Sector Conduct Authority in terms of this Act to be exercised prior to the Financial Sector Conduct Authority being formally established.

Part 7

Short title and commencement

305. (1) This Act is called the Financial Sector Regulation Act, 2017, and comes into effect on a date determined by the Minister by notice in the Gazette.

(2) Different dates may be determined by the Minister in respect of the coming into effect of—

(a) different provisions of this Act;
(b) different provisions of this Act in respect of different categories of financial institutions; and
(c) the repeal or amendment of different provisions of a law repealed or amended by this Act.
Lekgethwana

302. (1) Go sa nyatswe go phimolwa ga *Financial Services Board Act* go ya ka Sejule 4, lekgethwana le le duediswang go ya ka karolo 15A ya *Financial Services Board Act* le tswelela go diriswa go ya ka Molao ono, go filthela ka letlha le le beitweng ke Tona ka kitsiso e e phasaladitsweng mo Rejisetareng.

(2) Lekgethwana le le kailweng mo karolotlaletsetsong (1) le, go simolola ka letlha leo karolo eno e tsengweng mo tirisong ka lona, tseelwa gore ke lekgethwana mabapi le maitlhomo a Molao ono.

Mogakolodimogolo

303. Kaelo mo Molaong mongwe le mongwe kgotsa molaotlaletseto go 10 Mogakolodimogolo e, morago ga letlha leo karolo eno e tsengweng mo tirisong ka lona, tsewa jaaka kaelo go Bothati jwa Tlhokomelo.

Dithulaganyetsotse tsakagabaganyo tsatlaleletso

304. (1) Gore go nolofatswe go tsengwga mo tirisong, tsenyotirisong e e maleba le tiro ya Molao ono, Tona o ka dira Melawana e e tlamelang mabapi le dithulaganyetsotse tsa kagabaganyo mabapi le tiragatso ya dithata, go dirwa ga ditiro, le merero e mengwe e e ka tswang e le bolthokwa mabapi le—

(a) go tlhongwa ga balaoedi ba lephata la Ditšhelete le mekgathlo e mengwe go ya ka Molao ono;

(b) go tsengwga mo tirisong ga dikabelo tse di farologaneng tsak Molao ono; le

(c) phimolo le tlahololo ya dikabelo tse di farologaneng tsak Molao tse di phimotsweng kgotsa tlaholotsweng ke Molao ono.

(2) Ntle le go lekanyetsa karolotlaletseto (1), Melawana go ya ka karolo eno e ka tlamelang mabapi le—

(a) Banka ya Resefe gore e diragatsa ditlha ya ditse pse masipsitsweng le go dira ditiro tse di pse masipsitsweng tsak Botadi jwa Tlhokomelo, fa go ka tlhokega gore ditlha le ditiro tsak Bothadi jwa Tlhokomelo go ya ka Molao ono di diragatswe mabapi le nako ya pele ga go tlhongwa semmuso go Botadi jwa Tlhokomelo; le

(b) Boto ya Ditirelo tsak Ditšhelete go diragatsa ditlha ya ditse pse masipsitsweng le go dira ditiro tse di pse masipsitsweng tsak Bothadi jwa Boitshwaro jwa Lephata la Ditšhelete, fa go ka tlhokega gore ditlha le ditiro tsak Bothadi jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka Molao ono di diragatswe pele ga go tlhongwa semmuso ga Bothadi jwa Boitshwaro jwa Lephata la Ditšhelete.

Karolo 7

*Setlhogo se se khutshwane le tshimologo*

Setlhogo se se khutshwane le tshimologo

305. (1) Molao ono o bidwa Molao wa Taolo ya Lephata la Ditšhelete, 2017, e bile o tsengwga mo tirisong ka letlha le le tlhomamisitsweng ke Tona ka kitsiso mo Lokwalodikgang la Puso.

(2) Matlha a a farologaneng a ka tlhomamiswa ke Tona mabapi le go tsengwga tirisong ga—

(a) dikabelo tse di farologaneng tsak Molao ono;

(b) dikabelo tse di farologaneng tsak Molao ono mabapi le ditlhopha tse di farologaneng tsak Ditšhelete; le

(c) phimolo kgotsa tlahololo ya dikabelo tse di farologaneng tsak Molao o o phimotsweng kgotsa tlaholotsweng ke Molao ono.
SCHEDULE 1

FINANCIAL SECTOR LAWS

(Section 1(1))

Pension Funds Act, 1956 (Act No. 24 of 1956)
Friendly Societies Act, 1956 (Act No. 25 of 1956)
Banks Act, 1990 (Act No. 94 of 1990)
Financial Services Board Act, 1990 (Act No. 97 of 1990)
Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993)
Mutual Banks Act, 1993 (Act No. 124 of 1993)
Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001)
Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002)
Co-operative Banks Act, 2007 (Act No. 40 of 2007)
Financial Markets Act, 2012 (Act No. 19 of 2012)
Credit Rating Services Act, 2012 (Act No. 24 of 2012)
MELAO YA LEPHATA LA DITŠHELETE

(Karolo 1(I))

Pension Funds Act, 1956 (Molao 24 wa 1956)
Friendly Societies Act, 1956 (Molao 25 wa 1956)
Banks Act, 1990 (Molao 94 wa 1990)
Financial Services Board Act, 1990 (Molao 97 wa 1990)
Financial Supervision of the Road Accident Fund Act, 1993 (Molao 8 wa 1993)
Mutual Banks Act, 1993 (Molao 124 wa 1993)
Financial Institutions (Protection of Funds) Act, 2001 (Molao 28 wa 2001)
Financial Advisory and Intermediary Services Act, 2002 (Molao 37 wa 2002)
Collective Investment Schemes Control Act, 2002 (Molao 45 wa 2002)
Co-operative Banks Act, 2007 (Molao 40 wa 2007)
Financial Markets Act, 2012 (Molao 19 wa 2012)
Credit Rating Services Act, 2012 (Molao 24 wa 2012)
### SCHEDULE 2

**RESPONSIBLE AUTHORITIES**

(Section 5)

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<tr>
<td>Friendly Societies Act, 1956 (Act No. 25 of 1956)</td>
<td>Financial Sector Conduct Authority</td>
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</tr>
<tr>
<td>Credit Rating Services Act, 2012 (Act No. 24 of 2012)</td>
<td>Financial Sector Conduct Authority</td>
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</tbody>
</table>

The Long-term Insurance Act, 1998 (Act No. 52 of 1998) and the Short-term Insurance Act, 1998 (Act No. 53 of 1998), so far as they relate to matters within the objectives of—

- (a) the Prudential Authority
- (b) the Financial Sector Conduct Authority

A regulatory instrument made by the Prudential Authority

A regulatory instrument made by the Financial Sector Conduct Authority

A joint standard, so far as it relates to matters within the objectives of—

- (a) the Prudential Authority
- (b) the Financial Sector Conduct Authority
### ŠEJULE 2

**BOTHATI JO BO RWALANG MAIKARABELO**

*(Karolo 5)*

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<td>Sediriswa sa bolaodi se se dirilweng ke Bothati jwa Boitshwaro jwa lephata la Ditšhelete</td>
<td>Bothati jwa Boitshwaro jwa lephata la Ditšhelete</td>
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<tr>
<td>Maemo a a kopanetsweng, jaaka ga a amana le merero e e mo maikaelelong a—<em>(a)</em> Bothati jwa Thokomelo <em>(b)</em> Bothati jwa Boitshwaro jwa lephata la Ditšhelete</td>
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SCHEDULE 3

DOCUMENTS TO BE PUBLISHED IN THE REGISTER

(Section 258)

1. This Act
2. Financial sector laws
3. Regulations made in terms of financial sector laws
4. Regulatory instruments made in terms of financial sector laws
5. Administrative action procedures
6. Guidance notes and interpretation rulings issued under Part 1 of Chapter 10
7. Enforceable undertakings
8. Orders of a court under section 152 or 204, other than interlocutory orders
9. Debarment orders
10. Licences (including their terms and the conditions to which they are subject)
11. Notice of variations, suspensions and revocations of licences (including any applicable conditions)
12. Notices in terms of section 122
13. The Panel list
14. Tribunal rules
15. Decisions of the Tribunal
16. Governing rules of recognised industry ombud schemes
17. The terms of recognition of industry ombud schemes and the conditions of recognition
18. Notice of variations, suspensions and revocations of recognition of industry ombud schemes (including any applicable conditions)
19. Determinations of fees in terms of section 237(1)(a)
20. Exemptions under section 281 (including any applicable conditions)
21. Documents that a financial sector law provides are to be published in the Register
22. Amendments to and revocations of documents referred to in items 1 to 21
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**ŠEJULE 3**

**DIKWALO TSE DI PHASALATSWANG MO REJISETARENG**

(Karolo 258)

1. Molao ono
2. Melao ya lephata la ditšhelete
3. Melawana e e dirilweng go ya ka melao ya lephata la ditšhelete
4. Didiriswa tsa boloadi tse di dirilweng go ya ka melao ya lephata la ditšhelete
5. Dikgato tsa tiro ya tsamaiso
6. Dikitsisoa tsa kaelo le ditshwetso tsa tlhalosoa tse di tlamaneng tse di rebotsweng ka fa tlase ga Karolo 1 ya Kgaolo 10
7. Ditualano tse di gatelelwang
8. Ditaelo tsa kgotlatshekelo tse di ka fa tlase ga karolo 152 kgotsa 204, ntle le ditaelo tsa puisano
9. Ditaelo tsa kganelo
10. Dilaesense (go akaretso le dipeelo le mabaka tseo di leng ka fa tlase ga tsona)
11. Kitsiso ya diphetolo, dikemiso le diphimolo tsa dilaesense (go akaretso le mabaka mangwe le mangwe a a diriswang)
12. Dikitsiso go ya ka karolo 122
13. Lenane la Panele
14. Melawana ya Lekgotla
15. Ditshwetso tsa Lekgotla
16. Melawana ya puso ya dikema tsa bodirelo tsa ombud tse di amogetsweng
17. Dipeelo tsa kamogelo ya dikema tsa bodirelo tsa ombud le mabaka a kamogelo
18. Kitsiso ya dipharologano, dikemiso le diphimolo tsa kamogelo ya dikema tsa bodirelo tsa ombud (go akaretso le mabaka mangwe le mangwe a a diriswang)
19. Dithlhomamiso tsa dituediso go ya ka karolo 237(1)(a)
20. Dikgololo ka fa tlase ga karolo 281 (go akaretso le mabaka mangwe le mangwe a a diriswang)
21. Dikwalo tse di tlamelweng ke molao wa lephata la ditšhelete di tshwanetse go phasalatswa mo Rejiisetareng
22. Dithlabololo le diphimolo tsa dikwalo tse di kailweng mo dintlheng 1 go Fitlha go 21
## SCHEDULE 4

### AMENDMENTS AND REPEALS

(Section 290)

<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
</tr>
</thead>
</table>
| Act No. 24 of 1936 | Insolvency Act, 1936 | 1. The addition in section 35A(1) in the definition of “market infrastructure” of the following paragraphs:

```
(d) a central counterparty as defined in section 1 of that Act and licensed under section 49 of that Act; or
(e) a licensed external central counterparty as defined in section 1 of that Act;”.
```

2. The amendment of section 83—

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

```
(2) If such property consists of [a marketable security] securities as defined in section 1(1) of the Financial Markets Act, 2012 (Act No. 19 of 2012), [or] a bill of exchange or a financial instrument or a foreign financial instrument as defined in section 1(1) of the Financial Sector Regulation Act, 2017, the creditor may, after giving the notice mentioned in subsection (1) and before the second meeting of creditors, realise the property in the manner and on the conditions mentioned in subsection (8).”;
```

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

```
(3) If such property does not consist of [a marketable security] securities or a bill of exchange, the trustee may, within seven days as from the receipt of the notice mentioned in subsection (1) or within seven days as from the date which the certificate of appointment issued by the Master in terms of subsection (1) of section eighteen or subsection (2) of section fifty six reached him, whichever be the later, take over the property from the creditor at a value agreed upon between the trustee and the creditor or at the full amount of the creditor’s claim, and if the trustee does not so take over the property the creditor may, after the expiration of the said period but before the said meeting, realise the property in the manner and on the conditions mentioned in subsection (8).”;
```
### ŜEJULE 4

**DITLHABOLOLO LE DIPHIMOLO**

*(Karolo 290)*

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<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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</table>
| Wet No. 24 van 1936       | Insolvensiewet, 1936      | 1. Die omskrywing van “markinfrastruktuur” word by artikel 35A(1) gevoeg en verder gewysig deur paragrawe *(d)* en *(e)* by te voeg:  

   “‘markinfrastruktuur’—  
   *(a)* ’n beurs soos omskryf in artikel 1 en gelisensie kragtens artikel 9 van die  
   *Financial Markets Act*, 2012;  
   *(b)* ’n sentrale sekuriteitebewaarplek soos omskryf in artikel 1 en kragtens artikel 29 van daardie  
   Wet gelisensie; of  
   *(c)* ’n verrekeningshuis soos omskryf in artikel 1 van daardie Wet en kragtens artikel 49 van die  
   *Financial Markets Act*, 2012;  
   gelisensie;  
   *(d)* ’n sentrale teenparty soos in artikel 1 van daardie Wet as ’n ‘central counter party’ omskryf en kragtens  
   artikel 49 van daardie Wet gelisensie; of  
   *(e)* ’n gelisensieerde eksterne sentrale  
   teenparty soos in artikel 1 van  
   daardie Wet omskryf as ’n  
   ‘external central counter party;’.”.  

2. Artikel 83 word gewysig—  
   *(a)* deur subartikels *(2)* deur die volgende subartikel te vervang:  
   “(2) As daardie goed bestaan uit  
   effekte soos omskryf in artikel 1(1) van die  
   *Financial Markets Act*, 2012 (Wet No. 19 van 2012, ’n  
   wissel [of], ’n finansiële instrument  
   of ’n buitelandse finansiële  
   instrument soos omskryf in artikel  
   1(1) van die [Wet op Beheer van  
   Finansiële Markte, 1989 (Wet  
   No. 55 van 1989)] Finsierings- 
   en Regulering Act”, 2017, dan  
   kan die skuldeiser, nadat hy kennis  
   gegee het soos bepaal in subartikel  
   *(1)* en voor die tweede byeenkoms  
   van skuldeisers, die goed te gelde  
   maak op die wyse en voorwaardes  
   bepaal in subartikel *(8).*”;  
   *(b)* deur in subartikel *(8)* paragraaf *(a)*  
   deur die volgende paragraaf te vervang:  
   “*(a)* as dit bestaan[—  
   *(b)*] uit goed van ’n soort wat  
   gewoonlik deur ’n
(c) by the substitution in subsection (8) for paragraph (a) of the following para-
graph:

“(a) if it is [—

(i) any property of a class
ordinarily sold through [a
stockbroker as defined in
section 1 of the Stock
Exchanges Control Act,
1985 (Act No. 1 of
1985)] an authorised user
or an external authorised
user, on an exchange or an
external exchange, each
defined in section 1(1) of
the Financial Markets Act,
2012 (Act No. 19 of 2012)
or, where applicable, a
person prescribed by the
Minister of Finance as a
regulated person in terms
of section 5 of that Act,
the creditor may, subject to
the provisions of [the
said] that Act and
[(where applicable)
the] standards and
rules [referred to in sec-
tion 12 thereof, forth-
with] in terms of that Act,
immediately sell it
through [a stock-
broker] an authorised
user, external authorised
user or such regulated per-
son, or if the creditor is [a
stockbroker] an
authorised user, external
authorised user or regu-
lated person, also to an-
other [stockbroker]
authorised user, external
authorised user or regu-
lated person; [or

(ii) a financial instrument
referred to in subsection
(2) the creditor may, sub-
ject to the provisions of
the Financial Markets
Control Act, 1989, and
rules referred to in sec-
tions 17 thereof, forth-
with sell it through a fi-
nancial instrument trader
as defined in section 1 of
the said Act, or, if the
creditor is a financial in-
strument trader or financi-
al instrument principal
as defined in section 1 of

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|                  |             | (c) by the substitution in subsection (8) for paragraph (a) of the following para-
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“(a) if it is [—

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lated person, also to an-
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(ii) a financial instrument
referred to in subsection
(2) the creditor may, sub-
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with sell it through a fi-
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strument trader or financi-
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|                  |             | (c) by the substitution in subsection (8) for paragraph (a) of the following para-
graph: |

“(a) if it is [—

(i) any property of a class
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stockbroker as defined in
section 1 of the Stock
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1985 (Act No. 1 of
1985)] an authorised user
or an external authorised
user, on an exchange or an
external exchange, each
defined in section 1(1) of
the Financial Markets Act,
2012 (Act No. 19 of 2012)
or, where applicable, a
person prescribed by the
Minister of Finance as a
regulated person in terms
of section 5 of that Act,
the creditor may, subject to
the provisions of [the
said] that Act and
[(where applicable)
the] standards and
rules [referred to in sec-
tion 12 thereof, forth-
with] in terms of that Act,
immediately sell it
through [a stock-
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user, external authorised
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son, or if the creditor is [a
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<tr>
<td></td>
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<td>**<a href="genoemde">effektemakelaar soos omskryf in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985)</a> gemagtigde gebruiker of 'n eksterne gemagtigde gebruiker, op 'n beurs of 'n eksterne beurs, elk omskryf in artikel 1(1) van die 'Financial Markets Act', 2012 (Wet No. 19 van 2012) omskryf, of, waar van toepassing, iemand deur die Minister van Finansies voorgeskryf as 'n geregelde persoon ingevolge artikel 5 van daardie Wet, verkoop word, kan die skuldeiser dit, behoudens die bepalings van [genoemde] daardie Wet en [(waar van toepassing) die] toepaslike standaarde en reëls [bedoel in artikel 12 daarvan, onverwyld] ingevolge daardie Wet, onmiddellik verkoop deur 'n [effektemakelaar] in gemagtigde gebruiker, eksterne gemagtigde gebruiker of sodanige geregelde persoon, of, indien die skuldeiser 'n [effektemakelaar] in gemagtigde gebruiker, eksterne gemagtigde gebruiker of geregelde persoon is, ook aan 'n ander [effektemakelaar] gemagtigde gebruiker, eksterne gemagtigde gebruiker of geregelde persoon; of</td>
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<td>(ii) 'n finansiële instrument bedoel in subartikel (2), kan die skuldeiser dit, behoudens die bepalings van die Wet op Beheer van Finansiële Markte, 1989, en reëls bedoel in artikel 17 daarvan, onverwyld verkoop deur 'n finansiële instrument-handelaar soos omskryf in artikel 1 van genoemde Wet, of, indien die skuldeiser 'n</td>
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<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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</table>
| Act No. 24 of 1956 | Pension Funds Act, 1956 | 1. The amendment of section 1—
(a) by the insertion in subsection (1) after the definition of “audit-exempt fund” of the following definition:
   “‘Authority’ means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;
(b) by the insertion in subsection (1) after the definition of “complaint” of the following definition:
   “‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(c) by the insertion in subsection (1) after the definition of “fair value” of the following definition:
   “‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;
(d) by the deletion in subsection (1) of the definitions of “Financial Services Board” and “prescribed”;
(e) by the insertion in subsection (1) after the definition of “investment reserve account” of the following definition:
   “‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(f) by the insertion in subsection (1) after the definition of “provident preservation fund” of the following definition:
   “‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(g) by the insertion in subsection (1) after the definition of “publish” of the following definition:
   “‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
(h) by the deletion in subsection (1) of the definition of “registrar”;

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</thead>
<tbody>
<tr>
<td>Wet No. 24 van 1956</td>
<td>Wet op Pensioenfondse, 1956</td>
<td>1. Artikel 1 word gewysig—</td>
</tr>
</tbody>
</table>
|                           |                          | (a) deur in subartikel (1) na die omskrywing van “eggenoot” die volgende omskrywing in te voeg: “‘Financial Sector Regulation Act’ beteken die ‘Financial Sector Regulation Act’, 2016’;”;
|                           |                          | (b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gebeurlikheidsreservering” in te voeg: “‘gedragstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘conduct standard’ toegeskryf word;”;
|                           |                          | (c) deur in subartikel (1) die volgende omskrywing na die omskrywing van “geregistreerde kantoor” in te voeg: “‘gesamentlike standaard’ dit wat ingevolge artikel 1(1) aan die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf word;”;
|                           |                          | (d) deur in subartikel (1) na die omskrywing van “ontslag weens personeelinkorting” die volgende omskrywing in te voeg: “‘Owerheid’ die Gedragsowerheid op die Finansiële Sektor ingestel ingevolge artikel 56 van die ‘Financial Sector Regulation Act’;”;
|                           |                          | (e) deur in subartikel (1) die omskrywing van “Raad op Finansiële Dienste” te skrap;       |
|                           |                          | (f) deur in subartikel (1) die volgende omskrywing na die omskrywing van “raadslid” in te voeg: “‘Register’ die Register van Finansiële Sektorentligting bedoel in artikel 256 van die ‘Financial Sector Regulation Act’;”;
|                           |                          | (g) deur in subartikel (1) die omskrywing van “registrator” te skrap;                   |
|                           |                          | (h) deur in subartikel (1) na die omskrywing van “surplustoedelingsdatum” die volgende omskrywing in te voeg: “‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;”;}
2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the registrar or the Financial Services Board must be read as a reference to the Authority.

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly otherwise provided in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being prescribed must be read as—

(a) a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.
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<tr>
<td>(i)</td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van &quot;voorsorgbewaringsfonds&quot; in te voeg: &quot;&quot;voorsorgstandaard&quot; dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf word;&quot;;</td>
<td></td>
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<tr>
<td>(j)</td>
<td>deur in subartikel (1) die omskrywing van &quot;voorgeskryf&quot; te skrap; en</td>
<td></td>
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<tr>
<td>(k)</td>
<td>deur die volgende subartikel by te voeg: &quot;(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis wat ingevolge die 'Financial Sector Regulation Act' daaraan toegeskryf is.&quot;.</td>
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2. Die volgende artikels word na artikel 1 ingevoeg:

"Verhouding tussen Wet en 'Financial Sector Regulation Act'"

1A. (1) 'n Verwysing in hierdie Wet na die Raad op Finansiële Dienste, moet as 'n verwysing na die Owerheid geënt word.

(2) Buiten soos anders deur hierdie Wet of die 'Financial Sector Regulation Act' bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die 'Financial Sector Regulation Act' het.

(3) 'n Verwysing in hierdie Wet na die Owerheid wat besluit oor 'n aangeleentheid en dit by kennisgewing in die Staatskoerant publiseer, moet gelees word as 'n verwysing na die Owerheid wat die aangeleentheid bepaal of publiseer by kennisgewing in die Register.

(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat 'n aangeleentheid by regulasie voorgeskryf word, moet 'n verwysing in hierdie Wet na die voorskrif van 'n aangeleentheid gelees word as—

(a) 'n verwysing daarna dat die aangeleentheid in 'n voorsorgstandaard, 'n gedragstandaard of 'n gesamentlike standaard voorgeskryf word, of
(b) 'n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.
Act No. and year | Short Title | Extent of repeal or amendment
--- | --- | ---
| | | (5) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.
| | | (b) The Authority may also publish the information or document on its web site.
| | | (6) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.
| | | (7) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

**Regulatory instruments**

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument.

3. The repeal of section 2(5).

4. The repeal of section 3.

5. The amendment of section 18—
   (a) by the substitution for subsection (1) of the following subsection:
   "(1) [The registrar may prescribe criteria for financial soundness, and when] If any return under this Act indicates that a registered fund is not in a sound financial condition as determined in accordance with prudential standards, the [registrar] Authority may, save as provided in section 29, direct the fund to submit a scheme setting out the arrangements which have been made, or which it intends to make, to bring the fund into a financially sound condition within such period, and subject to such conditions, as determined by the [registrar] Authority."; and
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<td>(5) (a) ’n Verwysing in hierdie Wet na die Owerheid wat inligting of ’n dokument op ’n webwerf publiseer, moet gelees word as ’n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.</td>
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<tr>
<td>(b) Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer.</td>
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<tr>
<td>(6) ’n Verwysing in hierdie Wet na vasgestelde of voorgeskrewe gelde moet gelees word as ’n verwysing na die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’ vasgestel.</td>
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<tr>
<td>(7) ’n Verwysing in hierdie Wet na ’n appel teen ’n besluit van die Owerheid moet gelees word as ’n verwysing na ’n heroorweging van die besluit deur die Tribunaal in engagement die ‘Financial Sector Regulation Act’.</td>
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**Reguleringsinstrumente**

1B. By die toepassing van die omskrywing van ’reguleringsinstrument’ (‘regulatory instrument’) in artikel 1(1) van die ‘Financial Sector Regulation Act’, is enige aangeleentheid deur die Owerheid voorgeskryf ten opsigte waarvan kennisgewing in die *Staatskoerant* spesifiek deur hierdie Wet vereis word, ’n reguleringsinstrument.’’.

3. Artikel 2(5) word herroep.

4. Artikel 3 word herroep.

5. Artikel 18 word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

‘‘(1) [Die registrateur kan maatstawwe voorskryf vir finansiële gesondheid, en wanneer] Indien ’n opgawe ingevolge hierdie Wet aantoon dat ’n geregistreerde fonds nie in ’n gesonde finansiële toestand, soos ooreenkomstig voorsorgstandaarde bepaal, is nie, kan die [registrateur] Owerheid, behouens die bepalings van artikel 29, gelas dat die fonds ’n skema voorlê waarin uiteengesit word die reëlings wat getref is, of wat die fonds van plan is om te tref om die fonds binne sodanige tydperk in ’n finansiële gesonde toestand te bring, en onderworpe aan sodanige voorwaardes, soos deur die [registrateur] Owerheid bepaal.’’; en
Act No. and year | Short Title | Extent of repeal or amendment
--- | --- | ---

|  |  | (b) by the substitution in subsection (5) for paragraph (a) of the following paragraph:

```
“(a) The [Registrar] Authority may at any time, [following an inspection carried out or investigation conducted under section 25, or for any other reason which the registrar may consider] if it is necessary in the interests of the members of a fund, direct that an investigation in terms of section 16 or an audit or both an audit and such investigation be conducted into the financial position of a fund generally or with reference to any financial aspect of the fund.”
```

6. The amendment of section 19—
   (a) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:

```
“A registered fund may, if its rules so permit and subject to [the regulations] prudential standards, grant a loan to a member by way of investment of its funds or furnish a guarantee in favour of a person other than the fund in respect of a loan granted or to be granted by such other person to a member to enable the member—”;
```

(b) by the deletion of subsection (7).

7. The repeal of section 25.

8. The substitution in section 26 for subsection (1) of the following subsection:

```
“(1) [The registrar may, after considering the interests of the members of a fund (or of the several categories of members if there is more than one such category)—

(a) declare that a specific practice or method of conducting business is unacceptable, irregular or undesirable and that such fund, administrator or person must refrain from conducting such practice or method of conducting business; or

(b) Without limiting what a directive of a financial sector regulator may include, the Authority may, through a directive, direct that the rules of [the] a fund, including rules relating to the appointment, powers,
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</table>
| (b) deur in subartikel (5) paragraaf (a) deur die volgende paragraaf te vervang:  
"(a) Die [registrateur] Owerheid kan te eniger tyd, [nadat 'n inspeksie of ondersoek uitgevoer is kragtens artikel 25, of vir enige ander rede wat die registrateur] indien dit nodig [ag] is in die belang van die lede van 'n fonds, opdrag gee dat 'n ondersoek ingevolge artikel 16 uitgevoer word, of 'n oudit of beide 'n oudit en sodanige ondersoek uitgevoer word na die finansiële posisie van 'n fonds oor die algemeen of met vergelyking na enige finansiële aspek van die fonds.". |  
6. Artikel 19 word gewysig—  
(a) deur in subartikel (5) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: "'n Geregistreerde fonds kan, indien sy statute dit toelaat en behoudens [die regulasies] voorsorgstandaarde, by wyse van belegging van sy fondse 'n lening aan 'n lid toestaan of 'n waarborg verstrek ten gunste van 'n ander persoon as die fonds ten opsigte van 'n lening toegestaan of toegestaan te word deur so 'n ander persoon aan 'n lid ten einde die lid in staat te stel—"; en  
(b) deur subartikel (7) te skrap. |
| 7. Artikel 25 word herroep. |  |  |
| 8. Subartikel (1) in artikel 26 word deur die volgende subartikel vervang:  
"(1) [Die registrateur kan, nadat die belange van die lede van 'n fonds (of van die verskeie kategorieë van lede indien daar meer as een sodanige kategorie is) in oënskou geneem is—  
(a) verklaar dat 'n bepaalde praktyk of metode van sake bedryf onaanvaarbaar, onreëlmatig of ongewens is en dat sodanige fonds, administrateur of persoon moet ophou om sodanige praktyk of metode van sake bedryf, te beoefen; of  
(b) Sonder om te beperk wat 'n lasgewing van 'n reguleerder van die finansiële sektor kan insluit, kan die Owerheid, deur 'n lasgewing, opdrag gee dat die statute van [die] 'n fonds, insluitend statute betreffende die aans延,; |
9. The insertion in Chapter VA before section 30A of the following section:

"Ombud scheme

30AA. The ombud scheme in relation to complaints regulated in terms of this Chapter is declared to be a statutory ombud scheme for the purposes of the Financial Sector Regulation Act.".

10. The substitution in section 30C(1) for the words preceding paragraph (a) of the following words:

"The Minister shall[, after consultation with the Financial Services Board,] appoint—".

11. The substitution for section 30D of the following section:

"Main object of Adjudicator

30D. (1) The main object of the Adjudicator shall be to dispose of complaints lodged in terms of section 30A(3) of this Act and complaints for which the Adjudicator is designated in terms of section 211 of the Financial Sector Regulation Act [in a procedurally fair, economical and expeditious manner].

(2) In disposing of complaints in terms of subsection (1) the Adjudicator must—

(a) apply, where appropriate, principles of equity;
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| 9                        | Die volgende artikel word in Hoofstuk VA voor artikel 30A ingevoeg: | "Ombudskema"

30AA. Die ombudskema in verband met die klagtes ingevolge hierdie Hoofstuk gereguileer, word verklar 'n statutêre ombudskema by die toepassing van die 'Financial Sector Regulation Act', te wees.'.

10. In artikel 30C(1) word die woorde wat paragraaf (a) voorafgaan deur die volgende woorde vervang: "Die Minister stel, na oorleg met die Raad op Finansiële Dienste aan—".

11. Artikel 30D word deur die volgende artikel vervang:

"Hoofooogmerk van Beregter"

30D. (1) Die hoofooogmerk van die Beregter is om [op 'n prosedureel regverdige, ekonomiese en spoedige wyse] oor klagtes, ingedien ingevolge artikel 30A(3) van hierdie Wet, en klagtes waarvoor die Beregter ingevolge artikel 211 van die 'Financial Sector Regulation Act' aangestel is, te beskik.

(2) By beskikking oor klagtes ingevolge subartikel (1), moet die Beregter—
(a) waar, gepas, gelykheidsbeginsels toepas;
290  No. 41060  GOVERNMENT GAZETTE, 22 AUGUST 2017

Act No. 9 of 2017

Financial Sector Regulation Act, 2017

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<td>(b)</td>
<td>have regard to the contractual arrangement or other legal relationship between the complainant and any financial institution;</td>
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<td>(c)</td>
<td>have regard to the provisions of this Act; and</td>
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<tr>
<td>(d)</td>
<td>act in a procedurally fair, economical and expeditious manner.”</td>
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12. The substitution in section 30Q for the words preceding paragraph (a) of the following words:

“The Adjudicator may [with the concurrence of the Financial Services Board]—”.

13. The substitution in section 30R(1) for paragraph (a) of the following paragraph:

“(a) funds [provided by the Financial Services Board] accruing to the Adjudicator in terms of legislation on the grounds of a budget submitted to, and approved [of] by, the [Financial Services Board] Minister; and”.

14. The substitution in section 30S for the expression “Financial Services Board”, wherever occurring in the section, of the expression “Minister”.

15. The substitution in section 30T for subsection (1) of the following subsection:

“(1) [Despite the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the board of the Financial Services Board as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990),] The Adjudicator is the accounting authority of the Office of the Adjudicator.”.

16. The repeal of sections 33, 33A and 34.

17. The deletion in section 36 of subsections (1)(bA) and (3).

18. The deletion in section 37 of subsections (2) to (5).

19. The amendment of the arrangement of sections—

(a) by the insertion after item 1 of the following items:

“1A. Relationship between Act and Financial Sector Regulation Act

1B. Regulatory Instruments”; and

(b) by the insertion before item 30A of the following item:

“30AA. Ombud scheme”.

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### Molao wa Taolo ya Lephata la Ditshelete , 2017

Nmr 9 ya 2017

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<td>(b)</td>
<td>let op die kontraktuele reëling of ander regsverhouding tussen die klaer en enige finansiële instelling;</td>
</tr>
<tr>
<td>(c)</td>
<td>op die bepalings van hierdie Wet let; en</td>
</tr>
<tr>
<td>(d)</td>
<td>procedureel regverdig, ekonomies en vinnig handel.&quot;.</td>
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12. Die woorde wat paragraaf (a) in artikel 30Q voorafgaan word deur die volgende woorde vervang: "Die Beregter kan [met die instemming van die Raad op Finansiële Dienste]—".

13. Paragraaf (a) in artikel 30R(1) word deur die volgende paragraaf vervang: "(a) fondse [voorsien deur die Raad op Finansiële Dienste] wat ingevolge wetgewing aan die Beregter toeval op grond van ’n begroting voorgelê aan, en goedgekeur deur, die [Raad op Finansiële Dienste] Minister; en".

14. Die uitdrukking "Raad op Finansiële Dienste" word in artikel 30S vervang deur die uitdrukking "Minister".

15. Subartikel (1) van artikel 30T word deur die volgende subartikel vervang: "(1) [Ondanks die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is die raad van die Raad op Finansiële Dienste soos in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), omskryf,] Die Beregter is die rekenpligtige gesag van die kantoor van die Beregter.".

16. Artikel 33, 33A en 34 word herroep.

17. Subartikels (1)(b)(A) en (3) van artikel 36 word geskrap.

18. Subartikels (2) tot (5) van artikel 37 word geskrap.

19. Die indeling van artikels word gewysig—
   (a) deur die volgende item na item 1 in te voeg: "1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’ 1B. Reguleringsinstrumente”; en
   (b) deur die volgende item na item 30A in te voeg: "30AA. Ombudskema".
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| Act No. 25 of 1956 | Friendly Societies Act, 1956 | 1. The amendment of section 1—

(a) by the insertion in subsection (1) after the definition of “assets” of the following definition:

“‘Authority’ means the Financial Sector Conduct Authority established by section 56 of the Financial Sector Regulation Act;”;

(b) by the insertion in subsection (1) after the definition of “assets” of the following definition:

“‘conduit standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;

(c) by the insertion in subsection (1) after the definition of “court” of the following definition:

“‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;

(d) by the insertion in subsection (1) after the definition of “Insurance Act” of the following definition:

“‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;

(e) by the deletion in subsection (1) of the definition of “prescribed”;

(f) by the insertion in subsection (1) after the definition of “principal officer” of the following definition:

“‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;

(g) by the insertion in subsection (1) after the definition of “principal officer” of the following definition:

“‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;

(h) by the deletion in subsection (1) of the definition of “registrar”; and

(i) by the addition of the following subsection:

“(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”. |
### Molao wa Taolo ya Lephata la Ditshelete, 2017  
Nmr 9 ya 2017

| Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlobolo tla 
|---------------------------|---------------------------|------------------------------------------|
| Wet No. 25 van 1956       | Wet op Onderlinge Hulpverenigings, 1956 | 1. Artikel 1 word gewysig—
  
  (a) deur in subartikel (1) die volgende omskrywings na die omskrywing van "boekjaar" in te voeg:
  "'Financial Sector Regulation Act' die 'Financial Sector Regulation Act', 2017; 'gedragstandaard' dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'conduct standard' toegeskryf word;"
  
  (b) deur in subartikel (1) na die omskrywing van “geregistreerde kantoor” die volgende omskrywing in te voeg:
  "'gesamentlike standaard' dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'joint standard' toegeskryf word;"
  
  (c) deur in subartikel (1) na die omskrywing van “onderlinge hulpvereniging” die volgende omskrywing in te voeg:
  "'Owerheid' die Owerheid op Gedrag in die Finansiële Sektor ingestel by artikel 56 van die 'Financial Sector Regulation Act';"
  
  (d) deur in subartikel (1) na die omskrywing van “persoon” die volgende omskrywing in te voeg:
  "'Register' die Inligtingsregister op die Finansiële Sektor bedoel in artikel 256 van die 'Financial Sector Regulation Act';"
  
  (e) deur in subartikel (1) die omskrywing van “registrateur” te skrap;
  
  (f) deur in subartikel (1) die omskrywing van “voorgeskryf” te skrap;
  
  (g) deur in subartikel (1) na die omskrywing van “voorgeskryf” die volgende omskrywing in te voeg:
  "'voorsorgstandaard' dit wat in artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf word;" en
  
  (h) deur die volgende subartikel by te voeg:
  "(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, dieselfde betekenis wat ingevolge die 'Financial Sector Regulation Act' daaraan toegeskryf is."
### Extent of repeal or amendment

2. The insertion after section 1 of the following sections:

"Relationship between Act and Financial Sector Regulation Act"

1A. (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(2) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(3) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.

(b) The Authority may also publish the information or document on its web site.

(4) A reference in this Act to a fee prescribed by regulation must be read as a reference to the relevant fee being determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.

(5) The Authority must publish the following on the Register:

(a) the registration of a society in terms of this Act and each cancellation of a registration;

(b) any exemption or any withdrawal of an exemption referred to in sections 3(2) and (3), 25(1) or section 47(1)(b)(C); and

(c) the rules of each registered friendly society, and each amendment of those rules.

### Regulatory instruments

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act...
Die volgende artikel word na artikel 1ingevoeg:

"Verhouding tussen Wet en ‘Financial Sector Regulation Act,"

1A. (1) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(2) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ‘n aangeleentheid by regulasie voorgeskryf word, moet ‘n verwysing in hierdie Wet dat ‘n aangeleentheid—

(a) voorgeskryf word, gelees word as ‘n verwysing daarna dat die aangeleentheid in ‘n voorsorgstandaard, ‘n gedragestandaard of ‘n gesamentlike standaard voorgeskryf is; of
(b) bepaal word, gelees word as ‘n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register regstreer.

(3) (a) ‘n Verwysing in hierdie Wet na die Owerheid wat inligting of ‘n dokument op ‘n webwerf publiseer, moet gelees word as ‘n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.

(b) Die Owerheid kan ook die inligting of dokument op sy webwerf publiseer.

(4) ‘n Verwysing in hierdie Wet na gelde wat by regulasie voorgeskryf is, moet gelees word as ‘n verwysing daarna dat die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’, vasgestel word.

(5) Die Owerheid moet die volgende in die Register publiseer:

(a) die registrasie van ‘n vereniging ingevolge hierdie Wet en elke kansellasie van ‘n registrasie;
(b) enige vrystelling of enige intrekking van ‘n vywarng bedoel in artikels 3(2) en (3), 25(1) of artikel 47(1)(bC); en
(c) die reëls van elke geregistreerde hulpvereniging, en elke wysiging van daardie reëls.

Reguleringsinstrumente

1B. By die toepassing van die onskrywing van ‘reguleringsinstrument’ (‘regulatory instrument’) in artikel 1(1)
### Act No. and year | Short Title | Extent of repeal or amendment
--- | --- | ---
 |  | Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument.”.

3. The substitution in section 3(1) for paragraph (a) of the following paragraph: “(a) which has been established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995. However, such a friendly society shall from time to time furnish the [registrar] Authority with such statistical information as may be requested by the [Minister] Authority:”.

4. The repeal of sections 4 and 32.

5. The substitution in section 33 for subsection (1) of the following subsection: “(1) The [registrar] Authority may, [with the consent of the Minister,] in regard to any registered society, apply to the court for an order in terms of paragraph (c), (d) or (e) of subsection (3), and a registered society may, in regard to itself, apply to the court for an order in terms of paragraph (b), (d) or (e) of that subsection, if the [registrar] Authority or the society is of the opinion that it is desirable, because the society is not in a sound financial condition or for any other reason, that such an order be made in regard to the society: Provided that a society shall not make such an application except by leave of the court, and the court shall not grant such leave unless the society has given security to an amount specified by the court for the payment of the costs of the application and of any opposition thereto, and has established prima facie the desirability of the order for which it wished to apply.”.

6. The repeal of sections 44 and 45.

7. The deletion in section 47(1) of paragraphs (bA) and (bC).

8. The deletion in section 48 of subsections (2), (3), (4) and (5).
3. Paragraaf (a) in artikel 3(1) word deur die volgende paragraaf vervang:

"(a) wat ingestel of voortgesit is ingevolge 'n kollektiewe ooreenkoms in 'n raad ingevolge die Wet op Arbeidsverhoudinge, 1995, gesluit of voortgesit. So 'n onderlinge hulpvereniging moet egter van tyd tot tyd die [registrateur] Owerheid van die statistiese inligting voorsien wat deur die [Minister] Owerheid versoek mag word;".

4. Artikels 4 en 32 word herroep.

5. Subartikel (1) van artikel 33 word deur die volgende subartikel vervang:

"(1) [Met toestemming van die Minister kan die registrateur] Die Owerheid kan met betrekking tot 'n geregistreerde vereniging by die hof aansoek doen om 'n bevel ooreenkomstig paragraaf (c), (d) of (e) van subartikel (3), en 'n geregistreerde vereniging kan met betrekking tot homself by die hof aansoek doen om 'n bevel ooreenkomstig paragraaf (b), (d) of (e) van daardie sub-artikel, indien die [registrateur] Owerheid of die vereniging van oordeel is dat dit wenslik is, omdat die vereniging nie in 'n gesonde geldelike toestand is nie, of om 'n ander rede, dat so 'n bevel ten aansien van die vereniging uitgevaardig word: Met dien verstande dat 'n vereniging nie so 'n aansoek doen nie, dan alleen met verlof van die hof en dat die hof nie sodanige verlof verleen nie, tensy die vereniging sekerheid gestel het tot 'n bedrag deur die hof vasgestel ten opsigte van betaling van die koste van die aansoek en van enige opposisie daarteen, en prima facie bewys gelewer het van die wenslikheid van die bevel waarom hy aansoek wil doen.".

6. Artikels 44 en 45 word herroep.

7. Paragrawe (bA) en (bC) in artikel 47(1) word geskrap.

8. Subartikels (2), (3), (4) en (5) in artikel 48 word geskrap.
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9. The substitution for the expression “registrar”, wherever it occurs, of the expression “Authority”.

10. The amendment of the arrangement of sections by the insertion after item 1 of the following items:

1A. Relationship between Act and Financial Sector Regulation Act

1B. Regulatory instruments

Act No. 90 of 1989 South African Reserve Bank Act, 1989

1. The amendment of section 3 by the addition of the following subsection, the existing section becoming subsection (1):

“(2) In addition, the Bank is responsible for protecting and maintaining financial stability as envisaged in the Financial Sector Regulation Act, 2017.”.

2. The substitution in section 10(1) for paragraph (v) of the following paragraph:

“(v) perform the functions assigned to the Bank by the Banks Act, 1990 (Act No. 94 of 1990), [and] the Mutual Banks Act, 1993 (Act No. 124 of 1993), the Financial Sector Regulation Act, 2017 and other financial sector laws as defined in section 1(1) of the Financial Sector Regulation Act, 2017.”.

3. The substitution in section 11 for subsection (2) of the following subsection:

“(2) (a) The provisions of [the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984),] Part 4 of Chapter 9 of the Financial Sector Regulation Act, 2017 except [sections 2 and 7] section 134 [thereof], shall [mutatis mutandis] apply with the changes necessary in the context in respect of an inspection carried out in terms of subsection (1).

(b) Section 130 of the Financial Sector Regulation Act, 2017 does not apply in respect of an inspection carried out in terms of subsection (1). ”.

4. The substitution in section 12 for subsection (2) of the following subsection:

“(2) The provisions of [sections 4, 5, 8 and 9 of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984),] Part 4 of Chapter 9 of the Financial Sector Regulation Act shall apply [mutatis mutandis] with the necessary
### Molao wa Taolo ya Lephata la Ditshelte, 2017

**Nomoro ya Molao le ngwaga** | **Setlhogo se se khutshwane** | **Bogolo jwa phimolo kgotsa tlhabololo**
---|---|---


10. Die indeling van artikels word gewysig deur die volgende items na item 1 in te voeg:

   “1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’

   1B. Reguleringsinstrumente”.

| Wet No. 90 van 1989 | Wet op die Suid-Afrikaanse Reserwebank, 1989 | 1. Artikel 3 word gewysig deur die volgende subartikel by te voeg, sodat die bestaande artikel subartikel (1) word:

   “(2) Daarbenewens is die Bank verantwoordelik vir die beskerming en onderhoud van finansiële bestendigheid soos in die ‘Financial Sector Regulation Act’, 2017, beoog.”.

2. Paragraaf (v) in artikel 10(1) word deur die volgende subparagraaf vervang:

   “(v) die werksaamhede verrig wat deur die Bankwet, 1990 (Wet No. 94 van 1990), [en] die Wet op Onderlinge Banke, 1993 (Wet No. 124 van 1993), die ‘Financial Sector Regulation Act’, 2017 en ander wette oor die finansiële sektor soos omskryf in artikel 1(1) van die ‘Financial Sector Regulation Act’, 2017, aan die Bank opgedra word.”.

3. Subartikel (2) in artikel 11 word deur die volgende subartikel vervang:

   “(2) (a) Die bepaling van [die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet No. 38 van 1984),] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’, 2017 behalwe [artikels 2 en 7 daarvan] artikel 134, is [mutatis mutandis] van toepassing met die veranderinge deur die samehang vereis ten opsigte van ’n inspeksie wat ingevolge subartikel (1) uitgevoer word.

   (b) Artikel 130 van die ‘Financial Sector Regulation Act’, 2017, is nie ten opsigte van ’n inspeksie inegvolge sub-artikel (1) gedoen, van toepassing nie.”.

4. Subartikel (2) van artikel 12 word deur die volgende subartikel vervang:

   “(2) Die bepaling van [artikels 4, 5, 8 en 9 van die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet No. 38 van 1984),] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ is [mutatis mutandis] met die veranderinge deur die samehang
### Act No. and year | Short Title | Extent of repeal or amendment
--- | --- | ---
Act No. 94 of 1990 | Banks Act, 1990 | 1. The amendment of section 1—
(a) by the insertion in subsection (1) after the definition of “allocated capital and reserve funds” of the following definition:

```
‘Authority’ means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;”;
```

(b) by the deletion in subsection (1) of the definition of “board of review”;

(c) by the insertion in subsection (1) after the definition of “company” of the following definition:

```
‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
```

(d) by the insertion in subsection (1) after the definition of “fellow subsidiary” of the following definition:

```
‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;
```

(e) by the deletion in subsection (1) of the definition of “prescribed”;

(f) by the insertion in subsection (1) after the definition of “person” of the following definition:

```
‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
```

(g) by the insertion in subsection (1) after the definition of “qualifying capital and reserve funds” of the following definition:

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‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
```

(h) by the deletion in subsection (1) of the definition of “Registrar”;

(i) by the insertion in subsection (1) after the definition of “tier 2 unimpaired reserve funds” of the following definition:

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‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”;
```

(j) by the addition of the following subsection:

```
(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”.
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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</thead>
<tbody>
<tr>
<td>Bankwet No. 94 van 1990</td>
<td>Bankwet, 1990</td>
<td>vereis van toepassing ten opsigte van ’n inspekse wat ingevolge subartikel (1) uitgevoer word.&quot;.</td>
</tr>
</tbody>
</table>

1. Artikel 1 word gewysig—

(a) deur in subartikel (1) na die omskrywing van “filiaal” die volgende omskrywing in te voeg:

```
Financial Sector Regulation Act' die 'Financial Sector Regulation Act', 2017;'';
```

(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “finansiële state” in te voeg:

```
'gedragstandaard' dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan "conduct standard" toegeskryf word;'';
```

(c) deur in subartikel (1) die omskrywing van “hersieningsraad” te skrap;

(d) deur in subartikel (1) na die omskrywing van “openbare maatskappy” die volgende omskrywing in te voeg:

```
Owerheid die Voorsorgowerheid ingestel ingevolge artikel 32 van die 'Financial Sector Regulation Act';;
```

(e) deur in subartikel (1) die volgende omskrywing na die omskrywing van “publick” in te voeg:

```
'Register' die Inligtingsregister vir die Finansiële Sektor in artikel 256 van die 'Financial Sector Regulation Act' bedoel;'';
```

(f) deur in subartikel (1) die omskrywing van “Registrator” te skrap;

(g) deur in subartikel (1) na die omskrywing van “toegewysde kapitaal en reserwefondse” die volgende omskrywing in te voeg:

```
Tribunaal die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die 'Financial Sector Regulation Act';'';
```

(h) deur in subartikel (1) die omskrywing van “voorgeskryf” te skrap;

(i) deur in subartikel (1) na die omskrywing van “voorgeskryf” die volgende omskrywing in te voeg:

```
'veoorsorgstandaard' dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf is;''; en
```

(j) deur die volgende subartikel by te voeg:

```
"(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis wat ingevolge die 'Financial Sector Regulation Act' daarop toegeskryf is.".
```
<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<tbody>
<tr>
<td>2.</td>
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<td>2. The insertion after section 1 of the following section:</td>
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<td>&quot;Relationship between Act and Financial Sector Regulation Act</td>
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<td></td>
<td></td>
<td>1A. (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.</td>
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<tr>
<td></td>
<td></td>
<td>(2) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.</td>
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<td>(3) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 90, a reference in this Act to a matter being—</td>
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<td>(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard or a conduct standard; or</td>
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<td>(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.</td>
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<td>(4) (a) Matters in respect of which regulations relating to banks may be prescribed in terms of this Act may also be made in prudential standards or conduct standards.</td>
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<td>(b) Regulations prescribed in terms of this Act that are in force immediately before the commencement of this subsection continue to be in force, but may be repealed by the Minister to allow for prudential or conduct standards to be made in terms of the Financial Sector Regulation Act, in respect of the subject matter of those regulations.</td>
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<td>(c) Paragraph (b) does not limit the powers of the Minister in terms of this Act to prescribe regulations.</td>
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<td>(5) A reference in this Act to an inspection or an investigation in terms of section 6 of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act, but not a reference to an inspection in terms of section 83 or 84 of this Act.</td>
</tr>
</tbody>
</table>
2. Die volgende artikel word na artikel 1 ingevoeg:

"Verhouding tussen Wet en Financial Sector Regulation Act"

1A. (1) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(2) ’n Verwysing in hierdie Wet na die Owerheid wat ’n aangeleentheid by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word as ’n verwysing na die Owerheid wat die aangeleentheid bepaal of publiseer by kennisgewing in die Register gepubliseer.

(3) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid by regulasie ingevolge artikel 90 voorgeskryf word, moet ’n verwysing in hierdie Wet na ’n aangeleentheid wat—

(a) voorgeskryf word, gelees word as’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard of ’n gedragstandaard voorgeskryf word; of
(b) bepaal word, gelees word as ’n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.

(4) (a) Aangeleenthede ten opsigte waarvan regulasies ten aansien van banke wat ingevolge hierdie Wet gemaak kan word, kan ook in voorsorgstandaarde of gedragstandaarde voorgeskryf word wat ingevolge die ‘Financial Sector Regulation Act’ voorgeskryf is.

(b) Regulasies ingevolge hierdie Wet voorgeskryf wat onmiddellik voor die inwerkingtreding van hierdie subartikel van krag is, is steeds van krag, maar die Minister kan regulasies herroep sodat voorsorg- of gedragstandaarde ingevolge die ‘Financial Sector Regulation Act’ oor die onderwerp van daardie regulasies, gemaak kan word.

(c) Paragraaf (b) beperk nie die bevoegdhede van die Minister ingevolge hierdie Wet om regulasies voor te skryf nie.

(5) ’n Verwysing in hierdie Wet na ’n inspeksie of ondersoek ingevolge artikel 6 van hierdie Wet, moet gelees word as
(6) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.

(b) The Authority may also publish the information or document on its web site.

(7) A reference in this Act to a prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.

(8) A reference in this Act to a review of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

(9) (a) If any requirement in the Financial Sector Regulation Act is inconsistent with any provision of this Act, the requirement in the Financial Sector Regulation Act prevails.

(b) If any requirement in a regulatory instrument made in terms of the Financial Sector Regulation Act is inconsistent with any provision of a regulatory instrument made in terms of this Act, the requirement in the regulatory instrument made in terms of the Financial Sector Regulation Act prevails.''

3. The repeal of section 3.

4. The deletion in section 4 of subsections (1) and (2).

5. The substitution in section 5 for subsection (2) of the following subsection:

“(2) Any delegation under subsection (1) (a) shall not prevent the exercise of the relevant power by the [Registrar personally] Authority.”.

6. The deletion in section 6 of subsections (1) and (2).

7. The repeal of sections 8, 9 and 10.

8. The amendment of section 23—

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

“(1) The Registrar may subject to the provisions of section 24, in the case of a bank registered as such, [with the consent of the Governor and after consultation with the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if the institution has not con-
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
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<td>'n verwysing na ’n inspeksie of onder-</td>
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<td>soek ingevolge die ‘Financial Sector</td>
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<td>Regulation Act’, maar nie ’n verwysing</td>
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<td>na ’n inspeksie ingevolge artikel 83 of</td>
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<td>84 van hierdie Wet nie.</td>
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<td>(6) (a) ’n Verwysing in hierdie Wet na</td>
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<td>(b) Die Owerheid kan ook die inligting</td>
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<td>(7) ’n Verwysing in hierdie Wet na</td>
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<td>’n verwysing na die tersaaklike gelde</td>
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<td>ingevolge artikel 237 en Hoofstuk 16</td>
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<td>Act’, bepaal.</td>
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<td>(8) ’n Verwysing in hierdie Wet na ’n</td>
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<td>hersiening van ’n besluit van die</td>
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<td>Owerheid moet gelees word as ’n</td>
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<td>verwysing na ’n heroorweging van die</td>
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<td>besluit deur die Tribunaal ingevolge die</td>
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<td>‘Financial Sector Regulation Act’.</td>
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<td>(9) (a) Indien enige vereiste in die</td>
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<td>(b) Indien enige vereiste in ’n</td>
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<td>hierdie Wet gemaak, geld die vereiste in</td>
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<td>die reguleringsinstrument ingevolge die</td>
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<td>gemaak.’.</td>
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<td>3. Artikel 3 word herroep.</td>
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<td>4. Subartikels (1) en (2) in artikel 4</td>
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<td></td>
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<td>word geskrap.</td>
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<td>5. Subartikel (2) in artikel 5 word deur</td>
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<td>die volgende subartikel vervang:</td>
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<td>&quot;'(2) ’n Delegering kragtens subartikel</td>
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<td></td>
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<td>(1)(a) belet nie die uitoefening van die</td>
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<td>betrokke bevoegdheid deur die</td>
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<td>[Registrateur persoonlik] Owerheid</td>
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<td>nie.’.</td>
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<td>6. Subartikels (1) en (2) in artikel 6</td>
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<td>word geskrap.</td>
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<td>7. Artikels 8, 9 en 10 word geskrap.</td>
</tr>
<tr>
<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td>dducted any business as a bank during</td>
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<td>the period of six months commenc-</td>
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<td>ing on the date on which the institu-</td>
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<td>tion was registered as a bank.”’’;</td>
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<td>(b) by the substitution in subsection (2) for</td>
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<td>the words preceding paragraph (a) of</td>
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<td>the following words:</td>
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<td>“The Registrar may, subject to the</td>
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<td>provisions of section 24, in the case</td>
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<td>of a bank registered as such, [after</td>
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<td>consultation with the Minister</td>
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<td>and] by notice in writing to the in-</td>
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<td>stitution concerned cancel, or sus-</td>
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<td>pend on such conditions as the Reg-</td>
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<td>istrar may deem fit, such registration</td>
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<td>if—”’’; and</td>
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<td>(c) by the substitution for subsection (3) of</td>
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<td>the following subsection:</td>
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<td>‘‘(3) The Registrar may, subject to the</td>
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<td>provisions of section 24, in the case</td>
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<td>of a bank registered as such,</td>
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<td>[after consultation with the Minis-</td>
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<td>ter and] by notice in writing to the</td>
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<td>institution concerned cancel such</td>
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<td>registration if the institution has</td>
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<td>ceased to conduct the business of a</td>
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<td>bank or is no longer in operation.”’’.</td>
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<td>9. The substitution in section 52 for sub-</td>
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<td>section (1A) of the following subsection:</td>
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<td>‘‘(1A) Notwithstanding subsection (1),</td>
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<td>the Registrar may, by [means of a circu-</td>
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<td>lar contemplated in section 6(4)] notice</td>
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<td>published in the Register, determine cir-</td>
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<td>cumstances and conditions in terms</td>
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<td>whereof an application contemplated in</td>
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<td>subsection (1) is not required.”’’.</td>
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<td>10. The amendment of section 69A—</td>
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<td>(a) by the substitution for subsection (4) of</td>
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<td>the following subsection:</td>
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<td>‘‘(4) A commissioner appointed</td>
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<td>under subsection (1) and any person</td>
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<td>or persons appointed under subsec-</td>
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<td>tion (2) shall for the purpose of their</td>
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<td>functions in terms of this section</td>
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<td>have powers and duties in all re-</td>
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<td>spects corresponding to the powers</td>
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<td>and duties conferred or imposed [by</td>
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<td>sections 4 and 5 of the Inspection</td>
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<td>of Financial Institutions Act, 1998</td>
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<td>(Act No. 80 of 1998), upon a regis-</td>
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<td>trar or an inspector contemplated</td>
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<td>in the Inspection of Financial In-</td>
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<td>stitutions Act, 1998) or an investi-</td>
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<td>gator in terms of the Financial Sec-</td>
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<td>tor Regulation Act: Provided that for</td>
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<td>the purposes of this section, those</td>
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<td>powers extend to the associates of</td>
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<td>the bank.</td>
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<td>[(a) any reference to an “institu-</td>
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<td>tion” or a “financial institu-</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kgotsa tloabologo</td>
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<td>8. Artikel 23 word gewysig—</td>
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<td>(a) deur subartikel (1) deur die volgende subartikel te vervang:</td>
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<td>“(1) Registrateur kan, behoudens die bepalings van artikel 24, in die geval van ‘n bank wat as sodanig geregistreer is, [met die instemming van die President en na oorleg met die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of onderworpe aan die voorwaardes wat die Registrateur goedvind, ops kort indien die instelling nie gedurende die tydperk van ses maande vanaf die datum waarop die instelling as ‘n bank geregistreer is, enige sake as ‘n bank gedoen het nie.”;</td>
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<td>(b) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:</td>
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<tr>
<td>“Die Registrateur kan, behoudens die bepalings van artikel 24, in die geval van ‘n bank wat as sodanig geregistreer is, [na oorleg met die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of, onderworpe aan die voorwaardes wat die Registrateur goedvind, ops kort indien—””; en</td>
<td></td>
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<tr>
<td>(c) deur subartikel (3) deur die volgende subartikel te vervang:</td>
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<td>“(3) Die Registrateur kan, behoudens die bepalings van artikel 24, in die geval van ‘n bank wat as sodanig geregistreer is, [na oorleg met die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek indien die instelling opgehou het om die bedryf van ‘n bank uit te oefen of nie langer in werking is nie.”.</td>
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<td>9. Subartikel (1A) in artikel 52 word deur die volgende subartikel vervang:</td>
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<tr>
<td>“(1A) Ondanks subartikel (1) kan die Registrateur deur [middel van ‘n omsendbrief in artikel 6(4) beoog] kennisgewing in die Register gepubliseer, omstandighede en voorwaardes bepaal ingevolge waarvan ‘n aansoek in subartikel (1) beoog, nie vereis word nie.”.</td>
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<td>10. Artikel 69A word gewysig—</td>
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<tr>
<td>(a) deur subartikels (4) en (5) deur die volgende subartikel te vervang:</td>
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| “(4) ‘n Kommissaris aangestel kragtens subartikel (1) en enige
### Act No. and year | Short Title | Extent of repeal or amendment
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|  |  | ``tion” in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998, shall be deemed to be a reference to a bank under curatorship or any of its associates; and (b) any reference to “the registrar” and “an inspector” in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998, shall be deemed to be a reference to the commissioner and any person appointed under subsection (2), respectively.]’’; and (b) by the substitution for subsections (4) and (5) with the following subsections: “(4) A commissioner appointed under subsection (1) and any person or persons appointed under subsection (2) shall for the purpose of their functions in terms of this section have powers and duties in all respects corresponding to the powers and duties conferred or imposed by [sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), upon a registrar or an inspector contemplated in the Inspection of Financial Institutions Act, 1998] Part 4 of Chapter 9 of the Financial Sector Regulation Act: Provided that for the purposes of this section— (a) any reference to [an “institution” or a “financial institution” in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998] Part 4 of Chapter 9 of the Financial Sector Regulation Act shall be deemed to be a reference to a bank under curatorship or any of its associates; and (b) any reference to [“the registrar”] “a financial sector regulator” and “an inspector investigator” in [sections 4 and 5 of the Inspection of Financial Institutions Act, 1998] Part 4 of Chapter 9 of the Financial Sector Regulation Act shall be deemed to be a reference to the commissioner and any person appointed under subsection (2), respectively.

(5) When an investigation is made under this section and [section 4 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998).] Part 4 of Chapter 9 of the Financial Sector Regulation Act applies, [subsection (1)(a) of that]
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
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|                           |                         | persoon of persone aangestel kragtens subartikel (2) het, vir die doeleindes van hul werksaamhede ingevolge hierdie artikel, bevoegdhede en pligte wat in alle opsigte ooreenstem met die bevoegdhede en pligte deur [artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998), aan 'n registrateur of 'n inspekteur bedoel in die Wet op Inspeksie van Finansiële Instellings, 1998.] Deel 4 van Hoofstuk 9 van die 'Financial Sector Regulation Act' verleen of opgelê: Met dien verstande dat by die toepassing van hierdie artikel-

(a) 'n verwysing na ['n 'instelling' of 'n 'finansiële instelling' in artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998.] Deel 4 van Hoofstuk 9 van die 'Financial Sector Regulation Act' geag word 'n verwysing te wees na 'n bank onder kuratele of enige van sy geassosieerdes; en

(b) 'n verwysing na ['die registrateur' 'n finansiële-sektorreguleerder ('financial sector regulator') en 'n inspekteur ondersoeker ('investigator') in [artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998.] Deel 4 van Hoofstuk 9 van die 'Financial Sector Regulation Act' geag word 'n verwysing te wees na, onderskeidelik, die kommissaris en enige persoon kragtens subartikel (2) aangestel.

(5) Wanneer 'n ondersoek kragtens hierdie artikel uitgevoer word en [artikel 4 van die Wet op Inspeksie van Finansiële Instellings, 1998.] Deel 4 van Hoofstuk 9 van die 'Financial Sector Regulation Act' van toepassing is, [word subartikel (1)(a) van daardie artikel 136(1) van daardie Wet geag gewysig te wees om soos volg te lui:

‘(1) Wanneer 'n kommissaris 'n onderzoek van die besigheid, handel, transaksies, sake of bates en laste van 'n bank onder kuratele uitoer, kan die kommissaris—

(a) 'n persoon wat 'n direkteur, dienaar, werknemer, vennoot, lid of aandeelhouer van die
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<th>Act No. and year</th>
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<td></td>
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<td>section 136(1) of that Act shall [be deemed to have been amended as follows:</td>
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<td>‘(1) In carrying out an investigation into the business, trade, dealings, affairs or assets and liabilities of a bank under curatorship, a commissioner may —</td>
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<td>(a) administer an oath or affirmation or otherwise examine any person who is, or formerly was, a director, servant, employee, partner, member or shareholder of the institution: Provided that the person examined, whether under oath or not, may have his or her legal adviser present at the examination: Provided further that on good cause shown the commissioner may direct that the proceedings under this paragraph shall be held in camera and not be accessible to the public;’’; and</td>
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<td>(c) by the repeal of subsection (5A).</td>
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<td>11. The substitution in section 84 for subsection (5) of the following subsection:</td>
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<td>‘(5) For the purposes of the performance of the duties as set out in subsection (4), the repayment administrator shall, in relation to the person subject to the relevant direction and in relation to the affairs of that person, have the powers conferred by [sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998)] sections 136 to 138 of the Financial Sector Regulation Act, upon an [inspector] investigator contemplated in those sections, as if the repayment administrator were an [inspector] investigator and the person subject to the direction were a financial institution contemplated in those sections.”.</td>
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<td>12. The deletion in section 90 of subsection (1)(e) and (g).</td>
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<td>instelling is of voorheen was onder eed of bevestiging of andersins ondervra: Met dien verstande dat die persoon wat ondervra word, hetsy onder eed of nie, sy of haar regsverteenwoordiger by die ondervraging teenwoordig mag hê: Met dien verstande, voorts, dat by aanvoering van gegronde redes die kommissaris kan gelas dat die verrigtinge kragtens hierdie paragraaf in camera moet plaasvind en nie vir die publiek toeganklik is nie;] van toepassing met die veranderinge deur die samehang vereis ten opsigte van 'n inspeksie in gevolge subartikel (1) uitvoer en die kommissaris kan by die aanvoer van goeie gronde gelas dat die verrigtinge kragtens hierdie paragraaf in camera gehou word en toeganklik vir die publiek is nie;], en (b) deur subartikel (5A) te herroep.</td>
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<td>11. Subartikel (5) in artikel 84 word deur die volgende subartikel vervang: “(5) Vir die doeleindes van die verrigting van die pligte soos in subartikel (4) uiteengesit, het die terugbetalingsadministrateur, met betrekking tot die persoon wat aan die tersaaklike lasgewing onderworpe is en met betrekking tot die sake van daardie persoon, die bevoegdhede wat by [artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998)] artikel 136 tot 138 van die ‘Financial Sector Regulation Act’, aan ‘n [inspekteur] ondersoeker beoog in daardie artikels verleen word, asof die terugbetalingsadministrateur ‘n [inspekteur] ondersoeker en die persoon wat aan die lasgewing onderworpe is ‘n finansiële instelling was soos in daardie artikels beoog.”.</td>
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<td>12. Subartikel (1)(e) en (g) in artikel 90 word geskrap.</td>
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### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

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<thead>
<tr>
<th>Act No. and year</th>
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<th>Extent of repeal or amendment</th>
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<tbody>
<tr>
<td>Act No. 8 of 1993</td>
<td>Financial Supervision of the Road Accident Fund Act, 1993</td>
<td>1. The amendment of section 1—&lt;br&gt; (a) by the insertion before the definition of “executive officer” of the following definition: “Authority” means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act, 2017;”; and&lt;br&gt; (b) by the deletion of the definitions of “executive officer” and “Financial Services Board”.</td>
</tr>
<tr>
<td>Act No. 124 of 1993</td>
<td>Mutual Banks Act, 1994</td>
<td>1. The amendment of section 1—&lt;br&gt; (a) by the insertion in subsection (1) after the definition of “associate” of the following definition: “Authority” means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;”;&lt;br&gt; (b) by the deletion in subsection (1) of the definition of “board of appeal”;</td>
</tr>
</tbody>
</table>
### Article 91

13. Artikel 91 word gewysig—

(a) deur in subartikel (1) paragraaf (b)
deur die volgende paragraaf te vervang:

''(b) 'n bepaling van artikel 7(3), (4)
of (5), 34, 35, [37(1), 38(1),
39, 41, 42(1), 52(1) of (4), 53,
55, 58, 59, 60(5)(a), 60(5)(b),
61(2), 65, 66, 67, 70(2), (2A)
of (2B), 70A, 72, 73, 75, 76,
77, 78(1) of (3), 79, 80, 84(1A)
of 84(2) oortree of versuim om
daaraan te voldoen,''

(b) deur paragraaf (c) in subartikel (4) te skrap; en

(c) deur subartikels (6), (6A) en (7) te skrap.


15. Die uitdrukking “Registrateur”,
waar dit ook al voorkom, word deur die uitdrukking “Owerheid” vervang.

16. Die indeling van artikels word gewysig—

(a) deur die volgende item na item 1 in te voeg:

```
1A. Verhouding tussen Wet en ‘Financial Sector Regulation
Act’ ’’, en
```

(b) deur item 4 deur die volgende item te vervang:

```
4. Owerheid’’
```

### Wet No. 97 van 1990

Wet op die Raad
op Finansiële
Dienste,1990

Die hele Wet word herroep.

### Wet No. 8 van 1993

Wet op Finansiële
Toesig houding
oor die Pad-
ongelukfonds,
1993

Artikel 1 word gewysig—

(a) deur die volgende omskrywing na die
omskrywing van “Minister” in te voeg:

```
‘Owerheid’ die Gedragsowerheid
vir die Finansiële Sektor soos
ingestel ingevolge artikel 32 van die
‘Financial Sector Regulation Act’,
2017; ’’, en
```

(b) deur die omskrywings van “Raad op
Finansiële Dienste” en “uitvoerende
beampte” te skrap.

### Wet No. 124 van 1993

Wet op Onderlinge
Banke, 1993

1. Artikel 1 word gewysig—

(a) deur in subartikel (1) die omskrywing
van “appèlraad” te skrap;

(b) deur in subartikel (1) die volgende
omskrywing na die omskrywing van
“filiaal” in te voeg:

```
‘Financial Sector Regulation
Act’ die ‘Financial Sector Regulation Act’, 2017; ’’
```
### Act No. 9 of 2017

#### Financial Sector Regulation Act, 2017

<table>
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<th>Act No. and year</th>
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<th>Extent of repeal or amendment</th>
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<tr>
<td>(c)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “company” of the following definition:</td>
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<td></td>
<td></td>
<td>“‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act”;</td>
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<td>(d)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “executive officer” of the following definition:</td>
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<td>“‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017”;</td>
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<td>(e)</td>
<td></td>
<td>by the deletion in subsection (1) of the definition of “prescribed”;</td>
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<td>(f)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “person” of the following definition:</td>
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<td>“‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act”;</td>
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<td>(g)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “public” of the following definition:</td>
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<td>“‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act”;</td>
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<tr>
<td>(h)</td>
<td></td>
<td>by the deletion in subsection (1) of the definition of “Registrar”;</td>
</tr>
<tr>
<td>(i)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “subsidiary” of the following definition:</td>
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<td></td>
<td>“‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act”; and</td>
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<td>(j)</td>
<td></td>
<td>by the addition of the following subsection:</td>
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<td></td>
<td></td>
<td>“(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”</td>
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</table>

2. The insertion after section 1 of the following section:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the Registrar must be read as a reference to the Authority.

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in
(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van "finansiële state" in te voeg:
   "'gedragstandaard' dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'conduct standard' toegeskryf is;";

(d) deur in subartikel (1) die volgende omskrywing na die omskrywing van "opbetaalde aandeel" in te voeg:
   "'Owerheid' die Voorsorgowerheid ingestel ingevolge artikel 32 van die 'Financial Sector Regulation Act';";

(e) deur in subartikel (1) die volgende omskrywing na die omskrywing van "raad" in te voeg:
   "'Register' die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die 'Financial Sector Regulation Act';";

(f) deur in subartikel (1) die omskrywing van "Registrateur" te skrap;

(g) deur in subartikel (1) die volgende omskrywing na die omskrywing van "subskripsie-aandeel" in te voeg:
   "'Tribunaal' die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die 'Financial Sector Regulation Act';";

(h) deur in subartikel (1) die omskrywing van "voorgeskryf" te skrap;

(i) deur in subartikel (1) die volgende omskrywing na die omskrywing van "voorgeskryf" in te voeg:
   "'voorsorgstandaard' dit wat in artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf is;";

(j) deur die volgende subartikel by te voeg:
   "'(3) Tensy die samehang anders aandui, het woorde en uitdrukking wat nie in subartikel (1) omskryf is nie, dieselfde betekenis as wat in die 'Financial Sector Regulation Act' daaras toegeskryf is.".

2. Die volgende artikels word na artikel 1 ingevoeg:

   "Verhouding tussen Wet en 'Financial Sector Regulation Act'

   1A. (1) 'n Verwyting in hierdie Wet na die Registrateur moet as 'n verwysing na die Owerheid gelees word.

   (2) Buiten soos anders deur hierdie Wet of die 'Financial Sector Regulation Act' bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie
Act No. and year | Short Title | Extent of repeal or amendment
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<p>| | addition to the powers and duties that it has in terms of the Financial Sector Regulation Act. |
| | (3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register. |
| | (4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 91, a reference in this Act to a matter being— |
| | (a) prescribed must be read as a reference to the matter being prescribed in a prudential standard or a conduct standard; or |
| | (b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register. |
| | (5) (a) Matters in respect of which regulations relating to banks may be prescribed in terms of this Act may also be made in prudential standards or conduct standards. |
| | (b) Regulations prescribed in terms of this Act that are in force immediately before the commencement of this subsection continue to be in force, but may be repealed by the Minister to allow for prudential or conduct standards to be made in terms of the Financial Sector Regulation Act, in respect of the subject-matter of those regulations. |
| | (c) Paragraph (b) does not limit the powers of the Minister in terms of this Act to prescribe regulations. |
| | (6) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register. |
| | (b) The Authority may also publish the information or document on its web site. |
| | (7) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act. |</p>
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<td>Wet benewens die bevoegdhood en pligte wat die Owerheid ingevolge die 'Financial Sector Regulation Act' het.</td>
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<td>(3) 'n Verwysing in hierdie Wet na die Owerheid wat 'n aangeleentheth by kennisgewing in die Staatsoerant bepaal of publiseer, moet gelees word dat dit 'n verwysing insluit na die Owerheid wat die aangeleentheth bepaal of publiseer by kennisgewing in die Register gepubliseer.</td>
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<td>(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat 'n aangeleentheth by regulasie ingevolge artikel 91 voorgeskryf word, moet 'n verwysing in hierdie Wet na 'n aangeleentheth wat—</td>
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<td>(a) voorgeskryf word, gelees word as 'n verwysing daarna dat die aangeleentheth in 'n voorsorgstandaard of 'n gedragstandaard voorgeskryf word, of</td>
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<td></td>
<td>(b) bepaal word, gelees word as 'n verwysing daarna dat die Owerheid die aangeleentheth skriftelik bepaal en die bepaling in die Register registreer.</td>
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<tr>
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<td>(5) (a) Aangeleenthethde ten opsigte waarvan regulasies ten aansien van banke ingevolge hierdie Wet gemaak kan word, kan ook in voorsorgstandaarde of gedragstandaarde voorgeskryf word.</td>
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<td></td>
<td>(b) Regulasies ingevolge hierdie Wet voorgeskryf wat van krag is onmiddellik voor die inwerkingtreding van hierdie subartikel, bly van krag, maar kan deur die Minister herroep word sodat voorsorgstandaarde of gedragstandaarde ingevolge die 'Financial Sector Regulation Act' gemaak kan word, ten opsigte van die onderwerp van daardie regulasies.</td>
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<td></td>
<td>(c) Paragraaf (b) beperk nie die Minister se bevoegdhood ingevolge hierdie Wet om regulasies uit te vaardig nie.</td>
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<tr>
<td>(6) (a)'n Verwysing in hierdie Wet dat die Owerheid inligting of 'n dokument op 'n webwerf aankondig of publiseer, moet gelees word as 'n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.</td>
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<tr>
<td></td>
<td>(b) Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer.</td>
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<tr>
<td>(7) 'n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as 'n verwysing na die tersaaklike gelde vasgestel ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act'.</td>
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<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td>(8) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</td>
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<td></td>
<td></td>
<td>(9) (a) If any requirement in the Financial Sector Regulation Act is inconsistent with any provision of this Act, the requirement in the Financial Sector Regulation Act prevails.</td>
</tr>
<tr>
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<td></td>
<td>(b) If any requirement in a regulatory instrument made in terms of the Financial Sector Regulation Act is inconsistent with any provision of a regulatory instrument made in terms of this Act, the requirement in the regulatory instrument made in terms of the Financial Sector Regulation Act prevails.</td>
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<tr>
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<td>3. The repeal of section 2.</td>
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<td>4. The substitution in section 3 for subsection (2) of the following subsection: “(2) Any delegation under subsection (1) (a) shall not prevent the exercise of the relevant power by the [Registrar personally] Authority.”.</td>
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<td>5. The deletion in section 4 of subsections (1) and (2).</td>
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<td>6. The repeal of sections 6, 7 and 8.</td>
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<td>7. The amendment of section 21— (a) by the substitution for subsection (1) of the following subsection: “(1) The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, [with the consent of the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if the institution has not conducted any business as a mutual bank during the period of six months commencing on the date on which the institution was registered as a mutual bank.”;</td>
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<td>(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: “The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, [with the consent of the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if— “; and</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kgotsa tshabololo</td>
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<tr>
<td>(8)</td>
<td>’n Verwyising in hierdie Wet na ’n appel teen ’n besluit van die Owerheid moet gelees word as ’n verwyising na ’n heroorweging van die besluit deur die Tribunaal ingevolge die ’Financial Sector Regulation Act’.</td>
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<tr>
<td>(9) (a)</td>
<td>Indien enige vereiste in die ’Financial Sector Regulation Act’ strydig is met enige bepaling van hierdie Wet, geld die vereiste in die ’Financial Sector Regulation Act’.</td>
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<td>(b) Indien enige vereiste in ’n reguleringsinstrument gemaak ingevolge die ’Financial Sector Regulation Act’ strydig is met enige bepaling van ’n reguleringsinstrument gemaak in die Wet van die reguleringsinstrument gemaak in die ’Financial Sector Regulation Act’ gemaak.”.</td>
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<td>3.</td>
<td>Artikel 2 word herroep.</td>
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<td>4.</td>
<td>Subartikel (2) in artikel 3 word deur die volgende subartikel vervang: “(2) ’n Delegering kragtens subartikel (1)(a) belet nie die uitoefening van die betrokke bevoegdheid deur die Registrateur self Owerheid nie.”.</td>
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<td>5.</td>
<td>Subartikels (1) en (2) in artikel 4 word geskrap.</td>
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<td>6.</td>
<td>Artikels 6, 7 en 8 word herroep.</td>
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<td>7.</td>
<td>Artikel 21 word gewysig—</td>
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<tr>
<td>(a)</td>
<td>deur subartikel (1) deur die volgende subartikel te vervang: “(1) Die Registrateur kan, behoudens die bepalings van artikel 22, in die geval van ’n onderlinge bank wat as sodanig geregistreer is, [met die instemming van die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien die instelling nie gedurende die tydperk van ses maande vanaf die datum waarop die instelling as ’n onderlinge bank geregistreer is, enige sake as ’n onderlinge bank gedoen het nie.”;</td>
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| (b)                       | deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “Die Registrateur kan, behoudens die bepaling van artikel 22, in die geval van ’n onderlinge bank wat as sodanig geregistreer is, [met die
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</thead>
<tbody>
<tr>
<td>Act No. 9 of 2017</td>
<td>Financial Sector Regulation Act, 2017</td>
<td>(c) by the substitution for subsection (3) of the following subsection: “(3) The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, [with the consent of the Minister and] by notice in writing to the institution concerned cancel such registration if the institution has ceased to conduct business as a mutual bank or is no longer in operation.”.</td>
</tr>
<tr>
<td>Act No. 52 of 1998</td>
<td>Long-term Insurance Act, 1998</td>
<td>1. The amendment of section 1— (a) by the insertion in subsection (1) after the definition of “auditor” of the following definition: “‘Authority’ means— (a) in the case of sections 7, 9 to 17, 19 to 21, 23 to 35 and 37 to 43, the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act; and (b) in the case of section 8 and sections 44 to 65, the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act; and (c) in the case of sections 3, 4, 18, 22 and 36, either the Prudential Authority or the Financial Sector Conduct Authority, subject to consultation and co-ordination requirements set out in the Financial Sector Regulation Act;”. (b) by the deletion in subsection (1) of the definition of “Board”; (c) by the insertion in subsection (1) after the definition of “company” of the following definition: “‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”.</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
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<td>instemming van die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of, onderworpe aan die voorwaardes wat die Registrateur goevind, opskort indien—”; en (c) deur subartikel (3) deur die volgende subartikel te vervang: “(3) Die Registrateur kan, behoudens die bepalings van artikel 22, in die geval van ’n onderlinge bank wat as sodanig geregistreer is, [met die instemming van die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek indien die instelling opgehou het om die bedryf van ’n onderlinge bank uit te oefen of nie langer in werking is nie.”.</td>
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<td>8. Subartikel (1)(e) en (g) in artikel 91 word geskrap.</td>
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<td>9. Subartikels (6) en (7) in artikel 92 word geskrap.</td>
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<td>10. Die indeling van artikels word gewysig deur die volgende item na item 1 in te voeg: ”1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’.”.</td>
</tr>
</tbody>
</table>

Wet No. 141 van 1993

| Wet Op die Beleidsraad vir Finansiële Dienste en Regulering, 1993 | Die hele Wet word herroep. |

Wet No. 52 van 1998

| Langtermyn-versekeringswet, 1998 | 1. Artikel 1 word gewysig— (a) deur in subartikel (1) na die omskrywing van “filiaal” die volgende omskrywing in te voeg: “‘Financial Sector Regulation Act’ die ‘Financial Sector Regulation Act’, 2017;” “(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “fondspolis” in te voeg: “‘gedragstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘conduct standard’ toegeskryf is;” “(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gekoppelde polis” in te voeg: “‘gesamentlike standaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf is;” “|
### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

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<tr>
<th>Act No. and year</th>
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<tr>
<td>(d)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “financial reporting standards” of the following definition:</td>
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<td></td>
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<td>“‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”</td>
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<td>(e)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “holding company” of the following definition:</td>
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<td>“‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”</td>
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<td>(f)</td>
<td></td>
<td>by the deletion in subsection (1) of the definition of “prescribe”;</td>
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<td>(g)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “premium” of the following definition:</td>
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<td>“‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”</td>
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<td>(h)</td>
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<td>by the insertion in subsection (1) after the definition of “publish” of the following definition:</td>
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<td>“‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”</td>
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<td>(i)</td>
<td></td>
<td>by the deletion in subsection (1) of the definition of “Registrar”;</td>
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<td>(j)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “this Act” of the following definition:</td>
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<td>“‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”</td>
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<td>(k)</td>
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<td>by the addition of the following subsection:</td>
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<td></td>
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<td>“(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td><strong>(d)</strong> deur in subartikel (1) die volgende omskrywing na die omskrywing van “oaditeur” in te voeg: “‘Owerheid’” in te voeg:</td>
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<tr>
<td><strong>(a)</strong> in die geval van artikels 7, 9 tot 17, 19 tot 21, 23 tot 35 en 37 tot 43, die Voorsorgowerheid ingestel ingevolge artikel 32 van die ‘Financial Sector Regulation Act’;</td>
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<td><strong>(b)</strong> in die geval van artikel 8 en artikels 44 tot 65, die Gedragsowerheid vir die Finansiële Sektor ingestel ingevolge artikel 36 van die ‘Financial Sector Regulation Act’; en</td>
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<tr>
<td><strong>(c)</strong> in die geval van artikels 3, 4, 18, 22 en 36, of die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, behoudens ooreenkoms- en koördineringsvereistes soos in die ‘Financial Sector Regulation Act’, uiteengesit;”</td>
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<td><strong>(e)</strong> deur in subartikel (1) die omskrywing van “Raad” te skrap;</td>
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<tr>
<td><strong>(f)</strong> deur in subartikel (1) die volgende omskrywing na die omskrywing van “Raad” in te voeg: “‘Register’ die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die ‘Financial Sector Regulation Act’;”</td>
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<td><strong>(g)</strong> deur in subartikel (1) die omskrywing van “RegISTRateur” te skrap;</td>
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<td><strong>(h)</strong> deur in subartikel (1) na die omskrywing van “statutêre aktuaris” die volgende omskrywing in te voeg: “‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;”</td>
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<td></td>
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<tr>
<td><strong>(i)</strong> deur in subartikel (1) die omskrywing van “voorskrif” te skrap;</td>
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<tr>
<td><strong>(j)</strong> deur in subartikel (1) na die omskrywing van “voorskrif” die volgende omskrywing in te voeg: “‘voorsorgstandaard’ dit wat ingevolge die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf word;”</td>
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<tr>
<td><strong>(k)</strong> deur die volgende subartikel by te voeg: “(3) Tensy die samehang anders aandui, het woorde en uitdrukking wat nie in subartikel (1) omskryf is nie, die betekenis in die ‘Financial Sector Regulation Act’ daaraan toegeskryf.”</td>
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Act No. and year | Short Title | Extent of repeal or amendment
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| | | 2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the Registrar (but not to the Registrar of Medical Schemes) or a reference to the Board must be read as a reference to the Authority.

(2) Except as otherwise provided for in this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(5) (a) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.

(b) A reference to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.

(6) The references in sections 3(3) and 22(3) to an appeal to the board of appeal established by section 26 of the Financial Services Board Act must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.
2. Die volgende artikels word na artikel 1 ingevoeg:

"Verhouding tussen Wet en ‘Financial Sector Regulation Act’"

1A. (1) ’n Verwysing in hierdie Wet na die Registrateur (maar nie na die Registrateur van Mediese Skemas nie) of ’n verwysing na die Raad moet as ’n verwysing na die Owerheid gelees word.

(2) Behalwe waar anders in hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdheede en pligte ingevolge hierdie Wet benewens die bevoegdheede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(3) ’n Verwysing in hierdie Wet na die Owerheid wat ’n aangeleentheid by kennisgewing in die Register bepaal of publiseer, moet gelees word dat dit ’n verwysing insluit na die Owerheid wat die aangeleentheid by kennisgewing in die Register bepaal of publiseer het.

(4) Tensy uitdruklik anders in die Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid by regulasie voorgeskryf word, moet ’n verwysing in hierdie Wet dat ’n aangeleentheid—

(a) voorgeskryf word, gelees word as ’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard of ’n gedragstandaard voorgeskryf word; of

(b) bepaal word, gelees word as ’n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.

(5) (a) ’n Verwysing in hierdie Wet na ’n ter plaatse besoek ingevolge ’n bepaling van hierdie Wet moet gelees word as ’n verwysing na ’n ter plaatse toesighoudende inspeksie of ’n onderzoek ingevolge die ‘Financial Sector Regulation Act’.

(b) ’n Verwysing na ’n onderzoek ingevolge ’n bepaling van hierdie Wet, moet gelees word as ’n verwysing na ’n heroorweging van die besluit van die Tribunaal ingevolge die ‘Financial Sector Regulation Act’.

(6) Die verwysings in artikels 3(3) en 22(3) na ’n appèl aan die appèlraad ingevolge artikel 26 van die Wet op die Raad op Finansiële Dienste moet gelees word as ’n verwysing na ’n heroorweging van die besluit deur die Tribunaal ingevolge die ‘Financial Sector Regulation Act’.
### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

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<td><em>(7) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.</em></td>
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**Regulatory instruments**

1B. For the purposes of the definition of “regulatory instrument” in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the *Gazette* is specifically required by this Act is a regulatory instrument.”

3. The substitution for section 2 of the following section:

“Exercise of powers and performance of duties by Authority

2. (1) The Authority, in fulfilling its responsibility for implementing this Act, must exercise its powers and perform its duties in terms of this Act subject to the Financial Sector Regulation Act,

(2) The Prudential Authority, in respect of sections 9 to 15, 26 and 37 to 43, must act with the concurrence of the Financial Sector Conduct Authority,

(3) The Prudential Authority or the Financial Sector Conduct Authority, as the case may be, in respect of sections 18 and 22, must act with the concurrence of the other Authority.”

4. The deletion in section 4 of subsections (2), (4) and (8).

5. The repeal of section 5.

6. The amendment of section 9—

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

“(b) unless the applicant demonstrates to the satisfaction of the Authority that—

(i) it complies and has taken appropriate measures to continue to comply with the governance and risk management framework and financial soundness requirements of this Act;
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<td>(7) ’n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as ’n verwysing na die tersaaklike gelde bepaal in navolging artikel 237 en Hooftstuk 16 van die ‘Financial Sector Regulation Act’.</td>
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**Reguleringsinstrumente**

1B. By die toepassing van die omskrywing van ’reguleringsinstrument’ (’regulatory instrument’) in artikel 1(1) van die ‘Financial Sector Regulation Act’, is enige aangeleentheid deur die Owerheid voorgeskryf ten opsigte waarvan kennis in die Staatskoerant spesifiek deur hierdie Wet vereis word, ’n reguleringsinstrument.’’

3. Artikel 2 word deur die volgende artikel vervang:

‘’Uitoefening van bevoegdhede en verrigting van pligte deur Owerheid‘’

2. (1) Die Owerheid, by die vervulling van sy verantwoordelijkheid om hierdie Wet in werking te stel, moet sy bevoegdhede uitoefen en sy pligte verrig in navolging hierdie Wet behoudens die ‘Financial Sector Regulation Act’.

(2) Die Voorsorgowerheid, ten opsigte van artikels 9 tot 15, 26 en 37 tot 43, moet met die instemming van die Gedragsowerheid vir die Finansiële Sektor handel.

(3) Die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, na gelang van die geval, ten opsigte van artikel 18 en 22, moet met die instemming van die ander Owerheid optree.’’.

4. Subartikels (2), (4) en (8) in artikel 4 word geskrap.

5. Artikel 5 word herroep.

6. Artikel 9 word gewysig—

(a) deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang:

‘’(b) tensy die aanbieder tot bevrediging van die Owerheid demonstreer dat—

(i) die aanbieder voldoen aan, en gepaste stappe gedoen het om voort te gaan om te voldoen aan hierdie Wet se vereistes vir ’n beheer- en risiko-bestuurraamwerk en"
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<th>Act No. and year</th>
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<td>(ii)</td>
<td>its directors and managing executives meet the fit and proper requirements; and</td>
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<td>(iii)</td>
<td>any persons that directly or indirectly control or own that applicant within the meaning of section 25 of this Act, meet the fit and proper requirements;’’; and</td>
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<td>(b)</td>
<td>by the addition in subsection (3) of the following paragraph: ‘‘(cA) if the registration will be contrary to the interests of prospective policyholders or the public interest.’’.</td>
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<td>7.</td>
<td>The amendment of section 10 by the insertion after paragraph (f) of the following paragraph: ‘‘(fA) relating to the business arrangements of the long-term insurer, including, but not limited to, the outsourcing arrangements that the long-term insurer may enter into.’’.</td>
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<td>8.</td>
<td>The amendment of section 11 by the substitution for subsection (1) of the following subsection: ‘‘(1) The [Registrar] Authority may, by notice to the long-term insurer, amend, delete, replace or impose additional conditions contemplated in section 10, subject to which the long-term insurer is registered or deemed to be registered— (a) upon application of a long-term insurer and having regard, with the necessary changes required by the context, to section 9(3)(b); (aA) when in the public interest or the interests of the policyholders or potential policyholders of the long-term insurer; (b) when acting in accordance with section 12(2) or (3) or when giving an authorisation in accordance with section 35(2)(a); in relation to a long-term insurer; or</td>
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<td>vereistes vir finansiële gesondheid;</td>
<td>(ii) die aanwoeker se direkteure en uitvoerende bestuurders voldoen aan die vereistes vir geskiktheid en gepastheid; en</td>
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<td>(iii) enige persone wat daardie aanwoeker regstreks of onregstreks beheer of best in die betekenis van artikel 25 van hierdie Wet, voldoen aan die vereistes vir geskiktheid en gepastheid;''; en</td>
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<td>(b) deur die volgende paragraaf in subartikel (3) by te voeg:</td>
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<td>‘’(cA) en die registrasie daarvan onbestaanbaar sal wees met die belange van voornemende polisheers of die openbare belang.’’</td>
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<td>7. Artikel 10 word gewysig deur die volgende paragraaf na paragraaf (f) in te voeg:</td>
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<td>(fA) aangaande die besigheidsreëlings van die langtermynversekeraar, met inbegrip van, maar nie beperk nie tot, die uitbestedingsreëlings wat die langtermynversekeraar kan aangaan;’’</td>
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<td>8. Artikel 11 word gewysig deur subartikel (1) deur die volgende subartikel te vervang:</td>
<td></td>
<td>‘’(1) Die [Registrator] Owerheid kan, by kennisgewing aan die langtermynversekeraar, bykomende voorwaardes in artikel 10 beoog, behoudens waaraan die langtermynversekeraar geregistreer is of geag word geregistreer te wees, wysig, skrap, vervang of ople—</td>
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<td>(a) by aansoek van ’n langtermynversekeraar en met inagmeling, met die nodige veranderinge deur die samehang vereis, van artikel 9(3)(b);</td>
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<td>(aA) wanneer dit in die openbare belang of die belang van die polisheers of potensiële polisheers van die langtermynversekeraar is;</td>
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<td>(b) wanneer ooreenkomsstig artikel 12(2) of (3) gehandel word of wanneer magtiging ooreenkomsstig artikel 35(2)(a) 2 met betrekking tot ’n langtermynversekeraar verleen word; of</td>
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### Financial Sector Regulation Act, 2017

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<th>Extent of repeal or amendment</th>
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<td><em>(c)</em> if a long-term insurer has ceased to enter into certain long-term policies determined by the [Registrar] Authority to an extent which no longer justifies its continued registration in respect of those policies, and the long-term insurer has been allowed at least 30 days in which to make representations in respect of the matter [, by notice to the long-term insurer vary a condition, subject to which the long-term insurer is registered or deemed to be registered, by amending or deleting it, or determine a new condition contemplated in section 10].&quot;.</td>
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<td>9. The deletion in section 22 of subsection (3).</td>
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<td>10. The amendment of section 26—</td>
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<td><em>(a)</em> by the substitution for subsection (1) of the following subsection: &quot;(1) Subject to this section, no person shall, directly or indirectly and without the prior approval of the [Registrar] Authority, acquire or hold shares or any other financial interest in a long-term insurer or a related party of that long-term insurer which results in that person, directly or indirectly, alone or with a related party, exercising control within the meaning of section 2(2) of the Companies Act, over that long-term insurer.&quot;;</td>
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<td><em>(b)</em> by the substitution, in subsection (2) for paragraphs <em>(a)</em> and <em>(b)</em> of the following paragraphs: &quot;<em>(a)</em> prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the aggregate nominal value of those shares, by itself or together with the aggregate nominal value of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of the total nominal value of all of the issued shares of the long-term insurer concerned;</td>
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(c) indien ‘n langtermynversekeraar opgehou het om sekere langtermynpolisie deur die [Registrateur] Owerheid bepaal, af te sluit in die mate wat nie langer sy voortgesette registrasie ten opsigte van daardie polisie regverdig nie, en die langtermynversekeraar minstens 30 dae toegelaat is om vertoë ten opsigte van die aangeleentheid te rigl,
by kennisgewing aan die langtermynversekeraar ‘n voorwaarde, behoudens waaraan die langtermynversekeraar geregistreer is of geag word geregistreer te wees, verander deur dit te wysig of te skrap, of ‘n nuwe voorwaarde in artikel 10 beoog, bepaal.

9. Subartikel (3) in artikel 22 word geskrap.

10. Artikel 26 word gewysig—
(a) deur subartikel (1) deur die volgende subartikel te vervang:
“(1) Behoudens hierdie artikel mag geen persoon, regstreeks of onregstreeks en sonder die vooraf goedkeuring van die [Registrateur] Owerheid, aandle of enige ander finansiële belang in ‘n langtermynversekeraar of ‘n verwante party van daardie langtermynversekeraar verkry of hou wat tot gevolg het dat daardie persoon, regstreeks of onregstreeks, alleen of saam met ‘n verwante party, beheer binne die betekenis van artikel 2(2) van die Maatskappywet oor daardie langtermynversekeraar uitoefen nie.”;
(b) deur in subartikel (2) paragrawe (a) en (b) deur die volgende paragrawe te vervang:
“(a) voor die omskepping van aandele uitgereik met ‘n nominale waarde of pariwaarde ooreenkomstig die Maatskappywet, die totale nominale waarde van daardie aandele, opsigself of tesame met die totale nominale waarde van die aandele alreeds deur daardie persoon of daardie persoon en verwante partye besit, [25] 15 persent of meer van die totale nominale waarde van al die uitgereikte aandele van die betrokke langtermynversekeraar sal bedra;
(b) after the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the total number of those shares, by itself or together with the total number of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of all the shares in a specific class of shares issued by the long-term insurer concerned.’’;

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

“The approval referred to in subsection (1) or (2)—’’;

(d) by the insertion in subsection (3) after paragraph (a) of the following paragraph:

“(aA) shall not be given if the person does not meet the fit and proper requirements;’’;

(e) by the substitution in subsection (4)(a) for the words preceding subparagraph (i) of the following words:

“compelling such shareholder to reduce, within a period determined by the Court, that shareholding to a shareholding not exceeding [25] 15 per cent of—’’; and

(f) by the deletion of subsections (5) and (6).

11. The deletion in section 62 of subsections (2)(f) and (4).

12. The substitution in section 66(1) for paragraph (a) of the following paragraph:

“(a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section [4(3), (4) or] (5)(a)(i), 22(2) or 27(2);’’.

13. The substitution in section 67(1) for paragraph (a) of the following paragraph:

“(a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section [4(2),(3) or (4),] 22(1) or (2), 27(1), 31(1), 35(1) or (2)(a) or 36(2);’’.

14. The repeal of section 68.
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<td>(b) na die omskepping van aandele uitgereik met ‘n nominale waarde of pariwaarde ooreenkomstig die Maatskappywet, die totale getal van daardie aandele, opsigself of tesame met die totale getal van die aandele alreeds deur daardie persoon en verwante partye besit, [25] 15 persent of meer van al die aandele in ‘n bepaalde klas aandele uitgereik deur die betrokke langtermyn-versekeraar sal bedra.’’;</td>
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<td>(c) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “Die goedkeuring in subartikel (1) of (2) bedoel—”;</td>
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<td>(d) deur die volgende paragraaf na paragraaf (a) in subartikel (3) in te voeg: “(aA) word nie gegee as die persoon nie aan die vereistes vir geskiktheid en gepastheid voldoen nie;”;</td>
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<td>(e) deur in subartikel (4)(a) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang: “om sodanige aandeelhouer te verplig om, binne ‘n tydperk deur die Hof bepaal, daardie aandeelhouding te verminder tot ‘n aandeelhouding van hoogstens [25] 15 persent van—”; en</td>
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<td>(f) deur subartikels (5) en (6) te skrap.</td>
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<td>12. Deur in artikel 66(1) paragraaf (a) deur die volgende paragraaf te vervang: “(a) ‘n bepaling van ‘n kennisgewing, lasgewing of versoek in artikel [4(3), (4) of (5)(a)(i), 22(2) of 27(2) bedoel oortree of versuim om daaraan te voldoen;’’.”</td>
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<td>13. Paragraaf (a) in artikel 67(1) word deur die volgende paragraaf vervang: “(a) ‘n bepaling van ‘n kennisgewing, lasgewing of versoek in artikel [4(2), (3) of (4),] 22(1) of (2), 27(1), 31(1), 35(1) of (2)(a) of 36(2) bedoel oortree of versuim om daaraan te voldoen;’’.”</td>
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<td>Act No. 9 of 2017</td>
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<td><strong>15.</strong> The amendment of Schedule 1 —</td>
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<td>(a) by the substitution in Item 2(b) for sub-</td>
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<td>paragraph (i) of the following subpara-</td>
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<td>graph:</td>
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<td>&quot;(i) an over-the-counter instrument, it is</td>
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<td>capable of being readily closed out and is</td>
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<td>entered into with a counterparty [for which</td>
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<td>the relevant criteria have been] that complies</td>
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<td>with criteria approved by the [Registrar]</td>
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<td>Authority and any [subject to such] conditions</td>
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<td>as [he or she] the Authority may determine;&quot;;</td>
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<td>and</td>
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<td>(b) by the substitution in Item 2(b) for sub-</td>
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<td>paragraph (iii) of the following sub-</td>
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<td>paragraph:</td>
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<td>&quot;(iii) any other instrument, it is regularly traded</td>
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<td>on a licensed stock exchange in the Repub-</td>
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<td>lic., or on any other financial market in the</td>
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<td>Republic approved by the [Registrar subject to</td>
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<td>such conditions as [he or she] Authority, which</td>
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<td>approval may be subject to conditions deter-</td>
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<td>mined by the Authority.&quot;]</td>
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<td><strong>16.</strong> The amendment of the arrangement of</td>
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<td>sections —</td>
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<td>(a) by the insertion after item 1 of the fol-</td>
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<td>lowing items:</td>
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<td>&quot;<strong>1A.</strong> Relationship between Act and</td>
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<td>Financial Sector Regulation Act</td>
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<td><strong>1B.</strong> Regulatory instruments&quot;; and</td>
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<td>(b) by the substitution for item 2 of the fol-</td>
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<td>&quot;<strong>2.</strong> Exercise of powers and perfor-</td>
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<td>mance of duties by Authority&quot;.</td>
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<td><strong>1.</strong> The amendment of section 1 —</td>
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<td>(a) by the insertion in subsection (1) after</td>
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<td>the definition of &quot;approved reinsurance policy&quot; of</td>
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<td>the following definition:</td>
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<td>&quot;‘Authority’ means—</td>
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<td>(a) in the case of sections 7, 9 to</td>
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<td>17, 19 to 20, 22 to 34, 36 to 42,</td>
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<td>56 and 59 to 62, the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;</td>
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<td>(b) in the case of sections 8, 43 to</td>
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<td>55, the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act; and</td>
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| Act No. 9 of 2017 | Financial Sector Regulation Act | (c) in the case of sections 3, 4, 18, 21, 35, 57, 58 and 63, either the Prudential Authority or the Financial Sector Conduct Authority, subject to consultation and co-ordination requirements set out in the Financial Sector Regulation Act;"
| | | (b) by the deletion in subsection (1) of the definition of “Board”;
| | | (c) by the insertion in subsection (1) after the definition of “company” of the following definition:
| | | ‘‘conduct standard’’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| | | (d) by the insertion in subsection (1) after the definition of “financial reporting standards” of the following definition:
| | | ‘‘Financial Sector Regulation Act’’ means the Financial Sector Regulation Act, 2017;”;
| | | (e) by the deletion in subsection (1) of the definition of “Financial Services Board Act”;
| | | (f) by the insertion in subsection (1) after the definition of “independent intermediary” of the following definition:
| | | ‘‘joint standard’’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| | | (g) by the deletion in subsection (1) of the definition of “prescribe”;
| | | (h) by the insertion in subsection (1) after the definition of “proportional reinsurance” of the following definition:
| | | ‘‘prudential standard’’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| | | (i) by the insertion in subsection (1) after the definition of “publish” of the following definition:
| | | ‘‘Register’’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
| | | (j) by the deletion in subsection (1) of the definition of “Registrar”;

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<td>(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gemengde polis” in te voeg:</td>
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<td>“‘gesamentlike standaard’ dit wat in artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf word;”</td>
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<td>(d) deur in subartikel (1) die volgende omskrywing na die omskrywing van “ouditeur” in te voeg:</td>
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<td>“‘Owerheid’—</td>
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<td>(a) in die geval van artikels 7, 9 tot 17, 19 tot 20, 22 tot 34, 36 tot 42, 56 en 59 tot 62, die Voorsorgowerheid ingestel ingevolge artikel 32 van die ‘Financial Sector Regulation Act’;</td>
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<td>(b) in die geval van artikels 8, 43 tot 55, die Gedragsowerheid vir die Finansiële Sektor ingestel ingevolge artikel 56 van die ‘Financial Sector Regulation Act’; en</td>
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<td>(c) in die geval van artikels 3, 4, 18, 21, 35, 57, 58 en 63, of die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, behoudens vereistes vir oorleg en koördinering in die “Financial Sector Regulation Act” uiteengesit;”</td>
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<td>(e) deur in subartikel (1) die omskrywing van “Raad” te skrap;</td>
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<td>(f) deur in subartikel (1) na die omskrywing van “Raad” die volgende omskrywing in te voeg:</td>
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<td>“‘Register’ die Inligtingsregister vir die Finansiële Sektor in artikel 256 van die ‘Financial Sector Regulation Act’ bedoel;”</td>
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<td>(g) deur in subartikel (1) die omskrywing van “Registrateur” te skrap;</td>
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<td>(h) deur in subartikel (1) na die omskrywing van “statutêre aktuaris” die volgende omskrywing in te voeg:</td>
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<td>“‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;”</td>
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<td>(i) deur in subartikel (1) die omskrywing van “voorskryf” te skrap;</td>
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<td>(j) deur in subartikel (1) na die omskrywing van “voorskryf” die volgende omskrywing in te voeg:</td>
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<td>“‘voorsorgstandaard’ dit wat ingevolge artikel 1(1) van die “Financial Sector Regulation Act” aan “prudential standard” toegeskryf is;”</td>
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(k) by the insertion in subsection (1) after the definition of “transportation policy” of the following definition: “‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”; and

(l) by the addition of the following subsection:

“(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”.

2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the Registrar (but not to the Registrar of Medical Schemes) or a reference to the Board, must be read as a reference to the Authority.

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being:

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(5) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.
### Verhouding tussen Wet en 'Financial Sector Regulation Act'

1A. (1) 'n Verwysing in hierdie Wet na die Registrateur (maar nie na die Registrateur van Mediese Skemas nie) of 'n verwysing na die Raad, moet gelees word as 'n verwysing na die Owerheid.  

(2) Behalwe waar anders deur hierdie Wet of die 'Financial Sector Regulation Act' bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die 'Financial Sector Regulation Act' het.  

(3) 'n Verwysing in hierdie Wet na die Owerheid wat 'n aangeleentheid, by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word dat dit 'n verwysing insluit na die Owerheid wat die aangeleentheid, by kennisgewing in die Register gepubliseer, bepaal of publiseer.  

(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat 'n aangeleentheid by regulasie voorgeskryf word, moet 'n verwysing in hierdie Wet na 'n aangeleentheid—  

(a) wat voorgeskryf word, gelees word as 'n verwysing daarna dat die aangeleentheid in 'n voorsorgstandaard, gedragstandaard of gesamentlike standaard voorgeskryf word; of  

(b) wat bepaal word, gelees word as 'n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.  

(5) 'n Verwysing in hierdie Wet na 'n ter plaatse besoek ingevolge die bepalings van hierdie Wet, moet gelees word as 'n verwysing na 'n toesigshoudende inspeksie ter plaatse of 'n onderzoek ingevolge die ‘Financial Sector Regulation Act’.  

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<tr>
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<tr>
<td>(k)</td>
<td>deur in subartikel (1) die omskrywing van “Wet op die Raad op Finansiële Dienste” te skrap; en</td>
<td>“(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis in die ‘Financial Sector Regulation Act’ daaraan toegeskryf.”.</td>
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<td>(l)</td>
<td>deur die volgende subartikel by te voeg:</td>
<td>“(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis in die ‘Financial Sector Regulation Act’ daaraan toegeskryf.”.</td>
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2. Die volgende artikels word na artikel 1 ingevoeg:

- "Verhouding tussen Wet en ‘Financial Sector Regulation Act’"
- "1A. (1) 'n Verwysing in hierdie Wet na die Registrateur (maar nie na die Registrateur van Mediese Skemas nie) of 'n verwysing na die Raad, moet gelees word as 'n verwysing na die Owerheid.  

(2) Behalwe waar anders deur hierdie Wet of die 'Financial Sector Regulation Act' bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die 'Financial Sector Regulation Act' het.  

(3) 'n Verwysing in hierdie Wet na die Owerheid wat 'n aangeleentheid, by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word dat dit 'n verwysing insluit na die Owerheid wat die aangeleentheid, by kennisgewing in die Register gepubliseer, bepaal of publiseer.  

(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat 'n aangeleentheid by regulasie voorgeskryf word, moet 'n verwysing in hierdie Wet na 'n aangeleentheid—  

(a) wat voorgeskryf word, gelees word as 'n verwysing daarna dat die aangeleentheid in 'n voorsorgstandaard, gedragstandaard of gesamentlike standaard voorgeskryf word; of  

(b) wat bepaal word, gelees word as 'n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.  

(5) 'n Verwysing in hierdie Wet na 'n ter plaatse besoek ingevolge die bepalings van hierdie Wet, moet gelees word as 'n verwysing na 'n toesigshoudende inspeksie ter plaatse of 'n onderzoek ingevolge die ‘Financial Sector Regulation Act’.  

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Financial Sector Regulation Act, 2017

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<tr>
<td>(6)</td>
<td></td>
<td>A reference to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.</td>
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<td>(7)</td>
<td></td>
<td>The reference in sections 3(3) and 21(3) to an appeal to the board of appeal established by section 26 of the Financial Services Board Act must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</td>
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<tr>
<td>(8)</td>
<td></td>
<td>A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.</td>
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Regulatory instruments

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument.

3. The substitution for section 2 of the following section:

"Exercise of powers and performance of duties by Authority"

2. (1) The Authority, in fulfilling its responsibility for implementing this Act, must exercise its powers and perform its duties in terms of this Act subject to the Financial Sector Regulation Act.

(2) The Prudential Authority, in respect of sections 9 to 15, 25 and 36 to 42, must act with the concurrence of the Financial Sector Conduct Authority.

(3) The Prudential Authority or the Financial Sector Conduct Authority, as the case may be, in respect of sections 18, 21 and 57, must act with the concurrence of the other Authority.

4. The deletion in section 4 of subsections (2), (4) and (8).

5. The repeal of section 5.
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#### Nomoro ya Molao le ngwaga Setlhogo se se khutshwane Bogolo jwa phimolo kgotsa lhabololo

| 6 | ’n Verwysing na ’n inspeksie ingevolge ’n bepaling van hierdie Wet moet gelees word as ’n verwysing na ’n ondersoek ingevolge die ’Financial Sector Regulation Act’. |
| 7 | Die verwysing in artikels 3(3) en 21(3) na ’n appel tot die appelraad ingestel by artikel 26 van die Wet op die Raad op Finansiële Dienste, moet gelees word as ’n verwysing na ’n heroorweging van die besluit deur die Tribunaal ingevolge die ’Financial Sector Regulation Act’. |
| 8 | ’n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as ’n verwysing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die ’Financial Sector Regulation Act’. |

### Reguleringsinstrumente

1B. By die toepassing van die omskrywing van ’reguleringsinstrument’ (‘regulatory instrument’) in artikel 1(1) van die ’Financial Sector Regulation Act’, is enige aangeleentheid wat deur die Owerheid voorgeskryf is ten opsigte waarvan kennisgewing in die *Staatskoerant* spesifiek deur hierdie Wet vereis word, ’n reguleringsinstrument.’.  

3. Artikel 2 word deur die volgende artikel vervang:  

‘’Uitoeening van bevoegdhede en verrigting van pligte deur Owerheid’’

2.  (1) Die Owerheid, by die vervulling van sy verantwoordelikheid om hierdie Wet in werking te stel, moet sy bevoegdhede uitoefen en sy pligte verrig ingevolge hierdie Wet behoudens die ’Financial Sector Regulation Act’.  

(2) Die Voorsorgowerheid, ten opsigte van artikels 9 tot 15, 25 en 36 tot 42, moet met die instemming van die Gedragsowerheid vir die Finansiële Sektor optree.  

(3) Die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, na gelang van die geval, ten opsigte van artikels 18, 21 en 37 moet met die instemming van die ander Owerheid optree.’.

4. Subartikels (2), (4) en (8) in artikel 4 word geskrap.  

5. Artikel 5 word herroep.
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<td>6.</td>
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<td>The amendment of section 9—</td>
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<td>subsection (3) for paragraph</td>
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<td>(b) unless the applicant</td>
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<td>of the Authority that—</td>
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<td>(i) it complies and has taken</td>
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<td>requirements of this Act;</td>
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<td>(ii) its directors and</td>
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<td>“(cA) if registration will be</td>
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<td>prospective policyholders or</td>
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<td>the public interest.”.</td>
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<td>“(fA) relating to the business</td>
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<td>term insurer may enter into.”</td>
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<td>The amendment of section 11</td>
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<td>“(1) The [Registrar] Authority</td>
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<td>may, by notice to the short-</td>
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<td>term insurer, amend, delete,</td>
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<td>conditions contemplated in</td>
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<td>section 10, subject to which</td>
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<td>the short-term insurer is</td>
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<td>short-term insurer and having</td>
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<td>context, to section 9(3)(b);</td>
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<td>6. Artikel 9 word gewysig—</td>
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<td>(a) deur in subartikel (3) paragraaf</td>
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<td>(b) deur die volgende paragraaf te</td>
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<td>“(b) tensy die aansoeker tot</td>
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<td>bevreidiging van die Owerheid</td>
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<td>demonstreer dat—</td>
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<td>(i) die aansoeker voldoen</td>
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<td>hierdie Wet se vereistes</td>
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<td>finansiële gesondheid;</td>
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|                           |                          | die vereistes vir gepas-
|                           |                          | heid en geskiktheid; en |
|                           |                          | (iii) enige persone wat daardie |
|                           |                          | aansoeker regstreeks of |
|                           |                          | onregstreeks beheer of |
|                           |                          | besit binne die betekenis |
|                           |                          | van artikel 25, aan die |
|                           |                          | vereistes vir geskiktheid |
|                           |                          | en gepastheid voldoen.”;          |
|                           |                          | en |
|                           |                          | (b) deur die volgende paragraaf in |
|                           |                          | subartikel (3) by te voeg;       |
|                           |                          | “(cA) indien registrasie onbestaan- |
|                           |                          | baar met die belange van |
|                           |                          | voornemende polishesowers of |
|                           |                          | die openbare belang sal |
|                           |                          | wees.”.                          |
|                           |                          | 7. Artikel 10 word gewysig deur |
|                           |                          | die volgende paragraaf na paragraaf |
|                           |                          | (f) in te voeg:                   |
|                           |                          | “(fA) in verband met die besigheids- |
|                           |                          | reëlings van die korttermyn- |
|                           |                          | verskeraar, met inbegrip van, |
|                           |                          | maar nie beperk nie tot, die |
|                           |                          | uitbestedingsreëlings wat die |
|                           |                          | korttermynversekeraar kan |
|                           |                          | aangaan.”.                       |
|                           |                          | 8. Artikel 11 word gewysig deur |
|                           |                          | subartikel (1) deur die volgende |
|                           |                          | subartikel te vervang:            |
|                           |                          | “(1) Die [Registrateur] Owerheid |
|                           |                          | kan, by kennisgewing aan die |
|                           |                          | korttermynversekeraar, voorwaardes in |
|                           |                          | artikel 10 beoog, wysig, skrap, vervang |
|                           |                          | of bykomende voorwaardes oplê; |
|                           |                          | onderworpe waaraan die |
|                           |                          | korttermynversekeraar geregistreer is of |
|                           |                          | geag word geregistreer te wees—    |
|                           |                          | (a) by aansoek van ‘n |
|                           |                          | korttermynversekeraar en met |
|                           |                          | inagneming, met die nodige |
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| | | (aA) when in the public interest or the interests of the policyholders or potential policyholders of the short-term insurer;
| | | (b) when acting in accordance with section 12(2) or (3), or when giving an authorisation in accordance with section 34(2)(a), in relation to a short-term insurer; or
| | | (c) if a short-term insurer has ceased to enter into certain short-term policies determined by the [Registrar] Authority to an extent which no longer justifies its continued registration in respect of those policies, and the short-term insurer has been allowed at least 30 days in which to make representations in respect of the matter [by notice to the short-term insurer vary a condition, subject to which the short-term insurer is registered or deemed to be registered, by amending or deleting it, or determine a new condition contemplated in section 10].”.

9. The deletion in section 21 of subsection (3).

10. The amendment of section 25—
(a) by the substitution for subsection (1) of the following subsection:
“(1) Subject to this section, no person shall, directly or indirectly, and without the prior approval of the [Registrar] Authority, acquire or hold shares or any other financial interest in a short-term insurer or a related party of that short-term insurer which results in that person, directly or indirectly, alone or with a related party, exercising control within the meaning of section 2(2) of the Companies Act over that short-term insurer.”;
(b) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:
“(a) prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act,
Nomoro ya Molao le ngwaga | Setlhogo se se khotshwane | Bogolo jwa phimolo kgotsa tlhalolo
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| | | veranderinge deur die samehang vereis, van artikel 9(3)(b);
(aA) wanneer dit in die openbare belang of die belange van die polishouers of potensiel polishouers van die korttermynversekeraar is;
(b) wanneer ooreenkomstig artikel 12(2) of (3), gehandel word of wanneer magtiging ooreenkomstig artikel 34(2)(a) met betrekking tot 'n korttermynversekeraar verleen word, of
(c) indien 'n korttermynversekeraar opgehou het om sekere korttermynpolisse deur die [Registrateur] Owerheid bepaal, af te sluit in die mate wat nie langer sy voortgesette registrasie ten opsigte van daardie polisse regverdig nie, en die korttermynversekeraar minstens 30 dae toegelaat is om vertoë ten opsigte van die aangeleentheid te rig[, by kennisgewing aan die korttermynversekeraar 'n voorwaarde, behoudens waaraan die korttermynversekeraar geregistreer is of geag word geregistreer te wees, verander deur dit te wysig of te skrap, of 'n nuwe voorwaarde in artikel 10 beoog, bepaal].''.

9. Subartikel (3) in artikel 21 word geskrap.

10. Artikel 25 word gewysig—
(a) deur subartikel (1) deur die volgende subartikel te vervang:
"(1) Behoudens hierdie artikel, mag geen persoon, regstreeks of onregstreeks, en sonder die vooraf goedkeuring van die [Registrateur] Owerheid, aandele of enige ander finansiële belang in 'n korttermynversekeraar of verwante party van daardie korttermynversekeraar verkry of hou wat tot gevolg het dat daardie persoon, regstreeks of onregstreeks, alleen of saam met 'n verwante party, beheer binne die betekenis van artikel 2(2) van die Maatskappywet oor daardie korttermynversekeraar uitoefen nie."
(b) deur in subartikel (2) paragrawe (a) en (b) deur die volgende paragrawe te vervang:
"(a) voor die omskakeling van aandele uitgereik met 'n nominale waarde of pariwaarde
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<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<td></td>
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<td>the aggregate nominal value of those shares, by itself or together with the aggregate nominal value of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of the total nominal value of all of the issued shares of the short-term insurer concerned;</td>
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<td>(b) after the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the total number of those shares, by itself or together with the total number of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of all the shares in a specific class of shares issued by the short-term insurer concerned.”;</td>
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<td></td>
<td>(c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “(3) The approval referred to in subsection (1) or (2)—”;</td>
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</table>
|                 |             | (d) by the insertion in subsection (3) after paragraph (a) of the following paragraph: “(aA) shall not be given if the person does not meet the fit and proper requirements”;
|                 |             | (e) by the substitution in subsection (3) for the words preceding subparagraph (i) of the following words: “compelling such shareholder to reduce, within a period determined by the Court, that shareholding to a shareholding not exceeding [25] 15 per cent of—”; and |
|                 |             | (f) by the deletion of subsections (5) and (6). |
|                 |             | 11. The amendment of section 55 by the deletion of subsections (2)(f) and (4). |
|                 |             | 12. The amendment of section 65 by the substitution in subsection (1) for paragraph (a) of the following paragraph: “(a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section [4(2), (3) or (4),] 21(1) or (2), 26(1), 34(2)(a) or 35(2);”. |
### Molao wa Taolo ya Lephata la Ditshelete, 2017

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<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<td>ooreenkomstig die Maatskappywet, indien die totale nominale waarde van daardie aandele, opsigself of tesame met die totale nominale waarde van die aandele alreeds deur daardie persoon of daardie persoon en verwante partye besit, [25] 15 persent of meer van die totale nominale waarde van al die uitgereikte aandele van die betrokke korttermynversekeraar sal bedra;</td>
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<td>(b) na die omskakeling van aandele met ‘n nominale waarde of pariwaarde uitgereik ooreenkomstig die Maatskappywet, die totale getal van daardie aandele, opsigself of tesame met die aandele wat daardie persoon of daardie persoon en verwante partye reeds besit, meer as [25] 15 persent of meer van al die aandele in ‘n bepaalde klas aandele deur die betrokke korttermynversekeraar uitgereik, sal beloop.”;</td>
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<td>(c) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “(3) Die goedkeuring in subartikel (1) of (2) bedoel—”;</td>
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<td>(d) deur die volgende paragraaf na paragraaf (a) in subartikel (3) in te voeg: “(aA) word nie gegee nie as die persoon nie aan die vereistes vir geskiktheid en gepastheid voldoen nie;”;</td>
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</table>
|                            |                           | (e) deur in subartikel (4)(a) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang: “(i) om so ‘n aandeelhouer te verplig om, binne ‘n tydperk deur die Hof bepaal, daardie aandeelhouding te verminder tot ‘n aandeelhouding van hoogstens [25] 15 persent van—”;
|                            |                           | (f) deur subartikels (5) en (6) te skrap. |
|                            |                           | 11. Artikel 55 word gewysig deur subartikels (2)(f) en (4) te skrap. |
|                            |                           | 12. Artikel 65 word gewysig deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: “(a) ‘n bepaling van ‘n kennisgewing, lasgewing of versoek in artikel
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<tr>
<th>Act No. and year</th>
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<td>14. The amendment of Schedule 1 —</td>
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<td>(a) by the substitution in Item 2(b) for sub-</td>
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<td>paragraph (i) of the following subpar-</td>
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<td>graph:</td>
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<td>“(i) an over-the-counter instrument,</td>
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<td>it is capable of being readily</td>
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<td>closed out and is entered into</td>
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<td>with a counterparty that com-</td>
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<td>plies with criteria [for which</td>
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<td>the relevant criteria have</td>
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<td>been] approved by the [Regis-</td>
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<td>trar] Authority and any [sub-</td>
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<td>ject to such] conditions as [he</td>
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<td>or she] the Authority may de-</td>
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<td>termine;” and</td>
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<td>(b) by the substitution in Item 2(b) for sub-</td>
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<td>paragraph (iii) of the following sub-</td>
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<td>paragraph:</td>
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<td>“(iii) any other instrument, it is</td>
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<td>regularly traded on a licensed</td>
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<td>stock exchange in the Repub-</td>
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<td>lic, or on any other financial</td>
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<td>market in the Republic ap-</td>
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<td>proved by the [Registra-</td>
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<td>tor subject to such] conditions as he</td>
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<td>or she] the Authority, which approval may</td>
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<td>be subject to conditions deter-</td>
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<td>mined by the Authority.”.</td>
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<td>15. The amendment of Schedule 3 by the</td>
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<td>substitution in Item 6(3) for paragraph (c)</td>
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<td>of the following paragraph:</td>
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<td>“(c) subject to the conditions [he or</td>
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<td>she] that the Authority may deter-</td>
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<td>mine.”.</td>
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<td>16. The amendment of the arrangement</td>
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<td>of sections—</td>
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<td>(a) by the insertion after item 1 of the fol-</td>
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<td>lowing items:</td>
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<td>“1A. Relationship between Act and</td>
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<td>Financial Sector Regulation</td>
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<td>Act</td>
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<td>1B. Regulatory instruments”; and</td>
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<td>(b) by the substitution for item 2 of the fol-</td>
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<td>lowing item:</td>
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<td>“2. Exercise of powers and perfor-</td>
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<td>mance of duties by Authority”.</td>
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<p>| Act No. 80 of 1998 | Inspection of Financial Institutions Act, 1998 | The repeal of the whole Act |</p>
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<tr>
<td>14.</td>
<td>Bylae 1 word gewysig—</td>
<td>(a) die volgende subparagraaf te vervang:</td>
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<td>&quot;(i) 'n oor-die-toonbank instrument,</td>
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<td>dit in staat is om geredelik</td>
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<td>gerealiseer te word en dit</td>
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<td>afgesluit word met 'n teenparty</td>
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<td>goedgekeur is deur die</td>
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<td>[Registrateur behoudens die]</td>
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<td>Owerheid en enige</td>
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<td>voorwaardes wat [hy of sy] die</td>
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<td>Owerheid bepaal;&quot; en</td>
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<td>(b) deur in item 2(b) subparagraaf (iii)</td>
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<td>deur die volgende subparagraaf te</td>
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<td>vervang:</td>
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<td>&quot;(iii) enige ander instrument, dit</td>
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<td>gereeld op 'n gelisensieerde</td>
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<td>aandelebeurs in die Republiek,</td>
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<td>of op enige ander finansiële</td>
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<td>mark in die Republiek deur</td>
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<td>die [Registrateur] Owerheid</td>
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<td>goedgekeur [behoudens],</td>
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<td>welke goedkeuring</td>
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<td>onderhewig is aan [die]</td>
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<td>die Owerheid bepaal,</td>
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<td>verhandel word.&quot;.</td>
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<td>15.</td>
<td>Bylae 3 word gewysig deur in Item</td>
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<td>6(3) paragraaf (c) deur die volgende</td>
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<td>paragraaf te vervang:</td>
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<td>&quot;(c) behoudens die voorwaardes wat</td>
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<td>[hy of sy] die Owerheid bepaal.&quot;.</td>
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<td>16.</td>
<td>Die indeling van artikels word</td>
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<td></td>
<td>gewysig—</td>
<td>(a) deur die volgende items na item 1 in te</td>
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<td>voeg:</td>
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<td></td>
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<td>&quot;1A. Verhouding tussen Wet en</td>
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<td>&quot;Financial Sector Regulation</td>
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<td>Act&quot;.</td>
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<td>1B. Reguleringsinstrumente; en&quot;.</td>
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<td>(b) deur item 2 deur die volgende item te</td>
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<td>vervang:</td>
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<td>&quot;2. Uitoefening van bevoegdheid</td>
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<td>en verrigting van pligte deur</td>
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<td></td>
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<td>Owerheid&quot;.</td>
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| Wet No. 80 van 1998      | Wet op Inspeksie van Finansiële Instellings, 1998 | Die hele Wet word herroep. |
### Act No. and year
Act No. 28 of 2001

### Short Title
Financial Institutions (Protection of Funds) Act, 2001

### Extent of repeal or amendment

1. The amendment of section 1—
   (a) by the deletion of the definitions of “administrative sanction” and “applicant”;  
   (b) by the insertion before the definition of “Companies Act” of the following definition:  
     “Authority” means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;
   (c) by the deletion of the definitions of “board”, “determination”, “directorate”, “enforcement committee” and “financial institution”;  
   (d) by the insertion after the definition of “financial institution” of the following definition:  
     “Financial Sector Regulation Act” means the Financial Sector Regulation Act, 2017;”;
   (e) by the substitution for the definition of “institution” of the following definition:  
     “institution”, for the purposes of sections 5[, 6, 9] and 10, means—
     (a) a [financial institution] supervised entity;  
     (b) any person, partnership, company or trust in which, or in the business of which, a [financial institution] supervised entity or an unregistered person has or had a direct or indirect interest;  
     (c) any person, partnership, company or trust which has or had a direct or indirect interest in a [financial institution] supervised entity or unregistered person, or in the business of a [financial institution] supervised entity or an unregistered person;  
     (d) a participating employer in a pension fund organisation;  
     (e) any person, partnership, company or trust that controls, manages or administers the affairs or part of the affairs of a [financial institution] supervised entity or an unregistered person; or  
     (f) any unregistered person;”;
   (f) by the substitution for the definition of “law” of the following definition:  
     “law”, for the purposes of section 5A, means—  
     (a) this Act;  
     (b) the Pension Funds Act, 1956  
       (Act No. 24 of 1956);  
     (c) the Friendly Societies Act, 1956  
       (Act No. 25 of 1956);  
     (d) the Close Corporations Act, 1984 (Act No. 69 of 1984);
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<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlhobololo</th>
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</table>
| Wet No. 28 van 2001       | Wet op Finansiële Instellings (Beskerming van Fondse), 2001 | 1. Artikel 1 word gewysig—
(a) deur die omskrywings van "aanvraag", "administratiewe sanktie" en "afweningkomitee" te skrap;
(b) deur die omskrywings van "direktoraat" en "finansiële instelling" te skrap;
(c) deur die volgende omskrywing na die omskrywing van "finansiële instelling" in te voeg:
"‘Financial Sector Regulation Act’ die ‘Financial Sector Regulation Act’, 2017’;"
(d) deur die omskrywing van "instelling" deur die volgende omskrywing te vervang:
"‘instelling’ by die toepassing van artikels 5[, 6, 9] en 10—
(e) ‘n [finansiële instelling] entiteit onder toezig;
(f) enige persoon, vennootskap, maatskappy of trust waarin, of in die besigheid waarvan, ‘n [finansiële instelling] entiteit onder toezig of ‘n ongeregistreerde persoon ‘n regstreekse of onregstreekse belang het of gehad het;
(g) enige persoon, vennootskap, maatskappy of trust wat ‘n regstreekse of onregstreekse belang in ‘n [finansiële instelling] entiteit onder toezig of ongeregistreerde persoon, of in die besigheid van ‘n [finansiële instelling] entiteit onder toezig of ongeregistreerde persoon het of gehad het;
(h) ‘n deelnemende werkgewer in ‘n pensioenfondsorganisasie;
(i) enige persoon, vennootskap, maatskappy of trust wat die sake of deel van die sake van ‘n [finansiële instelling] entiteit onder toezig of ‘n ongeregistreerde persoon beheer, bestuur of administreer;
(j) enige ongeregistreerde persoon’;
(k) deur die volgende omskrywing voor die omskrywing van ‘persoon’ in te voeg:
"‘Owerheid’ die Gedragsowerheid vir die Finansiële Sektor, ingestel ingevolge artikel 56 van die ‘Financial Sector Regulation Act’;”;
(l) deur die omskrywing van "registrateur" deur die volgende omskrywing te vervang:
"‘registrateur’—
(a) ‘die registrateur soos omskryf in enige van die Wette vermel in paragraaf (a) van die
<table>
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<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<tr>
<td>(e)</td>
<td>the Trust Property Control Act, 1988 (Act No. 57 of 1988);</td>
<td>(e) by the substitution for the definition of “registrar” of the following definition:</td>
</tr>
<tr>
<td>(f)</td>
<td>the Banks Act, 1990 (Act No. 94 of 1990);</td>
<td>“registrar” means—</td>
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<td>(g)</td>
<td>the Mutual Banks Act, 1993 (Act No. 124 of 1993);</td>
<td>(a) the Authority [the registrar as defined in any of the Acts referred to in paragraph (a) of the definition of “financial institution” in section 1 of the Financial Services Board Act, 1990;</td>
</tr>
<tr>
<td>(h)</td>
<td>the Long-term Insurance Act, 1998 (Act No. 52 of 1998);</td>
<td>(b) the executive officer defined in section 1 of the Financial Services Board Act, 1990;</td>
</tr>
<tr>
<td>(i)</td>
<td>the Short-term Insurance Act, 1998 (Act No. 53 of 1998);</td>
<td>[(e)(b) [except for the purposes of sections 6A to 6L] the registrar of medical schemes referred to in section 1 of the Medical Schemes Act, 1998.”;</td>
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<td>(j)</td>
<td>the Medical Schemes Act, 1998 (Act No. 131 of 1998);</td>
<td>(h) by the deletion of the definition of “respondent”; and</td>
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<tr>
<td>(k)</td>
<td>the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);</td>
<td>(i) by the addition in section 1 of the following subsection, the existing section becoming subsection (1):</td>
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<td>(l)</td>
<td>the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);</td>
<td>“(2) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”;</td>
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<td>(m)</td>
<td>the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);</td>
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<td>(n)</td>
<td>the Co-operative Banks Act, 2007 (Act No. 40 of 2007);</td>
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<td>(o)</td>
<td>the Companies Act, 2008 (Act No. 71 of 2008);</td>
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<td>(p)</td>
<td>the Financial Markets Act, 2012 (Act No. 19 of 2012);</td>
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<td>(q)</td>
<td>the Credit Rating Services Act, 2012 (Act No. 24 of 2012);</td>
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<td>(r)</td>
<td>including any subordinate legislation, enactment or regulatory instrument made under these Acts;”</td>
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<td>(s)</td>
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Nomoro ya Molao le ngwaga | Setlhago se se khotshwane | Bogolo jwa phimolo kgotsa thabololo
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| 349 | omskrywing van ‘finansiële instelling’ in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990; die uitvoerende beampte omskryf in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990] die Overheid; of
[(c)(b) [behalwe vir die doeleindes van artikels 6A tot 6L] die registrateur van mediese skemas bedoel in artikel 1 van die Wet op Mediese Skemas, 1998;"
| (m) deur die omskrywing van “raad”, “respondent” en “vasstelling” te skrap; en
| (n) deur die omskrywing van “wet” deur die volgende omskrywing te vervang: "‘wet’ by die toepassing van artikel 5A—
(a) hierdie Wet;
(b) die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);
(c) die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956);
(d) die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984);
(e) die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988);
(f) die Bankwet, 1990 (Wet No. 94 van 1990);
(g) die Wet op Onderlinge Banke, 1993 (Wet No. 124 van 1993);
(h) die Langtermynversekeringswet, 1998 (Wet No. 52 van 1998);
(i) die Korttermynversekeringswet, 1998 (Wet No. 53 van 1998);
(j) die Wet op Mediiese Skemas, 1998 (Wet No. 131 van 1998);
(k) die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001);
(l) Wet op Finansiële Advies- en Tussengadersdienste, 2002 (Wet No. 37 van 2002);
(m) Wet op Beheer van Kollektiewe Beleggingskemas, 2002 (Wet No. 45 van 2002);
(1) die ‘Co-operative Banks Act’, 2007 (Wet No. 40 van 2007);
(o) die Maatskappywet, 2008 (Wet No. 71 van 2008);
(p) die ‘Financial Markets Act’, 2012 (Wet No. 19 van 2012); en
(q) die ‘Credit Rating Services Act’, 2012 (Wet No. 24 van 2012);
Act No. and year | Short Title | Extent of repeal or amendment
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2. | | The repeal of section 4A.
3. | The amendment of section 5—
(a) by the substitution in subsection (5) for paragraph (e) of the following paragraph:

‘‘(e) the costs incurred by the registrar in respect of an inspection of the affairs of the institution [concerned] that was conducted in terms of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998) prior to its repeal, or a supervisory on-site inspection or investigation in terms of the Financial Sector Regulation Act;’’; and

(b) by the substitution for subsection (7) of the following subsection:

‘‘(7) The curator of an institution must furnish the registrar [of the institution concerned] with such reports or information concerning the affairs of that institution as the registrar may require.’’.
4. | The repeal of sections 6, 6A to 6I, 7, 9 and 9A.

| Act No. 38 of 2001 | Financial Intelligence Centre Act, 2001 | 1. The substitution in section 45E for subsections (2) and (3) of the following subsections:

‘‘(2) The members of the Financial Sector Tribunal established in terms of section 219 of the Financial Sector Regulation Act, 2017, and appointed in terms of section 220 of that Act, are the members of the appeal board.

(3) Proceedings before the appeal board are to be conducted and determined in accordance with this Act.’’.

2. | The deletion of section 45E(4) to (11) and (13).
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<tr>
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<td></td>
<td>ook enige ondergeskikte wetgewing, verordening of maatreël gemaak kragtens hierdie Wette;“”</td>
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<tr>
<td>(a) deur die volgende subartikel by die artikel te voeg, sodat die bestaande artikel subartikel (1) word: ““(2) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis wat in die ‘Financial Sector Regulation Act’ daaraan toegeskryf is.’’”</td>
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<tr>
<td>2. Artikel 4A word herroep.</td>
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<td>3. Artikel 5 word gewysig— (a) deur paragraaf (e) in subartikel (5) deur die volgende paragraaf te vervang: ““(e) die koste opgeloop deur die registrateur met betrekking tot ’n inspeksie van die sake van die [betrokke] instelling gedoen ingevolge die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998), voor die herroeping daarvan, of ’n toesighoudende ter plaats inspeksie of ondersoek ingevolge die ’Financial Sector Regulation Act’;” en (b) deur subartikel (7) deur die volgende subartikel te vervang: ““(7) Die kurator van ’n instelling moet aan die betrokke registrateur die [verslae of] inligting verskaf betreffende die sake van die instelling wat die registrateur vereis.”’</td>
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<tr>
<td>4. Artikels 6, 6A tot 6L, 7, 9 en 9A word herroep.</td>
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<tr>
<th>Wet No. 38 van 2001</th>
<th>Wet op Finansiële Intelligenzie-sentrum, 2001</th>
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<tbody>
<tr>
<td>1. Artikel 45E(2) en (3) word onderskeidelik deur die volgende subartikels vervang: ““(2) Die lede van die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ’Financial Sector Regulation Act’, 2017, en aangestel ingevolge artikel 220 van daardie Wet, is die lede van die appelraad. (3) Verrigtinge voor die appelraad moet ooreenkomstig hierdie Wet gehou en beslis word.””</td>
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<td>2. Artikels 45E(4) tot (11) en (13) word geskrap.</td>
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<tr>
<td>Act No. 37 of 2002</td>
<td>Financial Advisory and Intermediary Services Act, 2002</td>
</tr>
</tbody>
</table>

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Wet No. 37 van 2002

Wet op Finansiële Advies- en Tussengangersdienste, 2002

1. Artikel 1 word gewysig—
(a) deur in subartikel (1) die volgende omskrywing voor die omskrywing van "dokument" in te voeg:
"alternatiewe beleggingsfonds" in 'n kollektiewe beleggingsonderneming, met inbegrip van beleggings-kompartemente van 'n kollektiewe beleggingsonderneming, in enige regmatige vorm daargestel, ook ingevolge 'n kontrak, by wyse van 'n trust, of ingevolge 'n statuut, wat—
(a) Kapitaal van een of meer belegger verkry om die deelname of belang in, intekening tot, bydrae tot of verbintenis tot 'n fonds of portefeuile te vergemaklik met die oog daarop om dit ooreenkomstig 'n omskrywe beleggingsbeleid tot voordeel van die beleggers te belê; en
(b) vereis nie goedkeuring as 'n kollektiewe beleggingsskema ingevolge die Wet op Beheer van Kollektiewe Beleggingsskemas, 2002 (Wet No. 45 van 2002), nie;"

(b) deur in subartikel (1) die omskrywings van "amptelike webwerf" en "appèlraad" te skrap;
(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van "dokument" in te voeg:
"Financial Sector Regulation Act" die "Financial Sector Regulation Act", 2017;"

(d) deur in subartikel (1) die volgende paragraaf na paragraaf (g) in die omskrywing van "finansiële produk" in te voeg:
"(gA) 'n belegging, intekening, bydrae, of verbintenis in 'n saamgepotte fonds;"

(e) deur in subartikel (1) in die omskrywing van "finansiële produk" paragraaf (j) deur die volgende paragraaf te vervang:
"(j) enige finansiële produk uitgereik deur enige buitelandse produkverskaffer en bemark in die Republiek en wat na aard en karakter wesenslik soortgelyk is aan of ooreenstemmend is met 'n finansiële produk bedoel in paragrawe (a) tot en met (i);"
### Financial Sector Regulation Act, 2017

<table>
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<th>Act No. and year</th>
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<th>Extent of repeal or amendment</th>
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<tr>
<td>(h)</td>
<td></td>
<td>by the substitution in subsection (1) in the definition of “financial product” for paragraph (j) of the following paragraph: “(j) any financial product issued by any foreign product supplier [and marketed in the Republic] and which in nature and character is essentially similar or corresponding to a financial product referred to in paragraph (a) to (i), inclusive;”;</td>
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<tr>
<td>(i)</td>
<td></td>
<td>by the substitution in subsection (1) for the definition of “fit and proper requirements” of the following definition: “fit and proper requirements’ means the requirements [published under] referred to in section 6A;”;</td>
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<td>(j)</td>
<td></td>
<td>by the substitution in subsection (1) for the definition of “intermediary service” of the following definition: “intermediary service’ means, subject to subsection (3)(b), any act other than the furnishing of advice, performed by a person [for or on behalf of a client or product supplier]— (a) the result of which is that a client may enter into, offers to enter into or enters into any transaction in respect of a financial product [with a product supplier]; or (b) with a view to— (i) buying, selling or otherwise dealing in (whether on a discretionary or non-discretionary basis), managing, administering, keeping in safe custody, maintaining or servicing a financial product [purchased by a client from a product supplier or in which the client has invested]; (ii) collecting or accounting for premiums or other moneys payable by the client [to a product supplier] in respect of a financial product; or (iii) receiving, submitting [or], processing or settling the claims of a client [against a product supplier] in respect of a financial product;”;</td>
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<td>(f)</td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van &quot;gedragstandaard&quot; in te voeg: &quot;&quot;gedragstandaard&quot; dit wat in artikel 1(1) van die 'Financial Sector Regulation Act', aan 'conduct standard' toegeskryf is;&quot;;</td>
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<td>(g)</td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van &quot;gematigde verskaffer van finansiële dienste&quot; die volgende omskrywing in te voeg: &quot;&quot;gesamentlike standaard&quot; het die betekenis ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'joint standard' toegeskryf;&quot;;</td>
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<tr>
<td>(h)</td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van &quot;Ombud&quot; in te voeg: &quot;&quot;Ombudsraad&quot; die raad ingevolge artikel 175 van die 'Financial Sector Regulation Act' ingestel;&quot;;</td>
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<td>(i)</td>
<td>deur in subartikel (1) na die omskrywing van “ouditeur” die volgende omskrywing in te voeg: &quot;&quot;Owerheid&quot; die Gedragsraad op die Finansiële Sektor ingestel ingevolge artikel 56 van die &quot;Financial Sector Regulation Act&quot;;&quot;;</td>
<td></td>
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<td>(j)</td>
<td>deur in subartikel (1) die omskrywing van &quot;Raad&quot; te skrap;</td>
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<td>(k)</td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van &quot;reël&quot; in te voeg: &quot;&quot;Register&quot; die Inligtingsregister op die Finansiële Sektor in artikel 256 van die &quot;Financial Sector Regulation Act&quot; bedoel;&quot;;</td>
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<td>(l)</td>
<td>deur in subartikel (1) die omskrywing van &quot;registrateur&quot; te skrap;</td>
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<td>(m)</td>
<td>deur in subartikel (1) na die omskrywing van &quot;sleutelpersoon&quot; die volgende omskrywing in te voeg: &quot;&quot;Tribunaal&quot; die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die &quot;Financial Sector Regulation Act&quot;;&quot;;</td>
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<td>(n)</td>
<td>deur in subartikel (1) die omskrywing van &quot;tussengangersdiens&quot; deur die volgende omskrywing te vervang: &quot;&quot;tussengangersdiens&quot; behoudens subartikel (3)(b), enige ander handeling as die verskaffing van advies, verryd deur 'n persoon [vir of namens 'n kliënt of produkvoorsiener]—</td>
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|                          | (a) waarvan die gevolg is dat 'n kliënt enige transaksie ten opsigte van 'n finansiële produk [met 'n produkvoorsiener] kan
Act No. and year | Short Title | Extent of repeal or amendment
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| | (k) by the insertion in subsection (1) after the definition of “intermediary service” of the following definition: “joint standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act; |
| | (l) by the deletion in subsection (1) of the definition of “official web site”; |
| | (m) by the insertion in subsection (1) after the definition of “Ombud” of the following definition: “Ombud Council” means the council established in terms of section 175 of the Financial Sector Regulation Act; |
| | (n) by the insertion after the definition of “product supplier” of the following definition: “prudential standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act; |
| | (o) by the insertion in subsection (1) after the definition of “publish” of the following definition: “Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act; |
| | (p) by the deletion in subsection (1) of the definition of “registrar”; |
| | (q) by the insertion in subsection (1) after definition of “this Act” of the following definition: “Tribunal” means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act; |
| | (r) by the deletion of subsection (3)(b)(ii); and |
| | (s) by the addition of the following subsection: “(7) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.” |
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| | | aangaan, aanbied om dit aan te gaan of dit aangaan; of
(b) met die oog daarop om—
(i) 'n finansiële produk [gekoop deur 'n klient van 'n produkvoorsiener of waarin die klient belê het,] te koop, te verkoop of andersins daarin te handel (hetsy op 'n diskresionêre of nie-diskresionêre basis), te bestuur, te administrere, in veilige bewaring te hou, in stand te hou of te diens;
(ii) premies of ander gelde betaalbaar deur die klient [aan 'n produkvoorsiener] ten opsigte van 'n finansiële produk in te vorder of daarvoor rekenpligtigheid te aanvaar; of
(iii) die eise van 'n klient [teen 'n produkvoorsiener] ten opsigte van 'n finansiële produk te ontvang, in te dien of, te prosesseer of te skik;'';
(o) deur in subartikel (1) die omskrywing van "vereistes vir geskiktheid en gepastheid" deur die volgende omskrywing te vervang:
""vereistes vir geskiktheid en gepastheid" die vereistes in artikel 6A [gepubliseer] bedoel;"";
(p) deur in subartikel (1) na die omskrywing van "voorskrif" die volgende omskrywing in te voeg: ""voorsorgstandaard" dit wat ingevolge artikel 1(1) van die 'Financial Sector RegulationAct', 2016, aan "prudential standard" toegeskryf is;"";
(q) deur in subartikel (1) die omskrywing van "Wet op die Raad op Finansiële Dienste" te skrap;
(r) deur subartikel (3)/(b)(ii) te skrap; en
(s) deur die volgende subartikel by te voeg:
""(7) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekens wat in die "Financial Sector RegulationAct" daaraan toegeskryf is."".
### Table: Act No. 9 of 2017

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<th>Act No. and year</th>
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<td>2.</td>
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<td>The insertion after section 1 before Chapter 1 of the following sections:</td>
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"Relationship between Act and Financial Sector Regulation Act

IA. (1) A reference in this Act to the Board or the registrar must be read as a reference to the Authority.

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly otherwise provided in this Act, or this Act requires a matter to be prescribed, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(5) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.

(6) A reference in this Act to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.

(7)(a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.

(b) The Authority may also publish the information or document on its web site.
Die volgende artikel word na artikel 1 voor Hoofstuk 1 ingevoeg:

"Verhouding tussen Wet en 'Financial Sector Regulation Act'

1A. (1) 'n Verwysing in hierdie Wet na die Raad of die registrateur moet as 'n verwysing na die Owerheid gelees word.

(2) Behalwe soos anders deur hierdie Wet of die 'Financial Sector Regulation Act' bepaal, het die Owerheid die bevoegdshede en pligte ingevolge hierdie Wet benewens die bevoegdshede en pligte wat die Owerheid ingevolge die 'Financial Sector Regulation Act' het.

(3) 'n Verwysing in hierdie Wet na die Owerheid wat 'n aangeleentheid by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word dat dit 'n verwysing insluit na die Owerheid wat die aangeleentheid by kennisgewing in die Register gepubliseer, bepaal of publiseer.

(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat 'n aangeleentheid voorgeskryf word, moet 'n verwysing in hierdie Wet na 'n aangeleentheid wat—

(a) voorgeskryf word, gelees word as 'n verwysing daarna dat die aangeleentheid in 'n voorsorgstandaard, 'n gedragstandaard of 'n gesamentlike standaard voorgeskryf word; of

(b) bepaal word, gelees word as 'n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.

(5) 'n Verwysing in hierdie Wet na 'n ter plaatse besoek ingevolge 'n bepaling van hierdie Wet, moet gelees word as 'n verwysing na 'n toesigshoudende ter plaatse inspeksie ingevolge die 'Financial Sector Regulation Act'.

(6) 'n Verwysing in hierdie Wet na 'n inspeksie ingevolge 'n bepaling van hierdie Wet moet gelees word as 'n verwysing na die Owerheid wat onderzoek ingevolge die 'Financial Sector Regulation Act'.

(7) (a) 'n Verwysing in hierdie Wet na die Owerheid wat uitdruk of 'n dokument op 'n webwerf aankondig of publiseer, moet gelees word as 'n verwysing na die Owerheid wat die uitdruk of dokument in die Register publiseer.

(b) Die Owerheid kan ook die uitdruk of dokument op sy webwerf publiseer.
Regulatory instruments

1B. For the purposes of the definition of “regulatory instrument” in section 1 of the Financial Sector Regulation Act, fit and proper requirements determined in terms of section 6A, codes of conduct drafted under section 15 and criteria and guidelines for the approval of compliance officers determined under section 17(2) are regulatory instruments.”

3. The repeal of section 2.

4. The substitution in section 3(2)(b) for subparagraph (i) of the following subparagraph:

“(i) the fee payable [in terms of this Act]; and”.

5. The deletion in section 4 of subsections (1), (5) and (6).

6. The substitution for section 6 of the following section:

“Delegations

6. (1) The Authority may, in writing, delegate to any person a power or duty conferred upon the Authority under this Act in respect of any matter relating to a conduct standard referred to in section 6A(2)(a), (b) and (e).

(2) The Authority must, where the delegation is to a person other than a staff member of the Authority, be satisfied that the person has sufficient financial, management, human resources and experience necessary for performing the delegated power or duty.

(3) A delegation is subject to the limitations and conditions specified in the delegation.
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<td>(8) ’n Verwyings in hierdie Wet na bepaalde of voorgeskrewre gelde moet gelees word as ’n verwyings na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die ’Financial Sector Regulation Act’.</td>
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<td>(9) ’n Verwyings in hierdie Wet na ’n appel van ’n besluit van die Owerheid moet gelees word as ’n verwyings na ’n hersiening van die besluit van die Tribunaal ingevolge die ’Financial Sector Regulation Act’.</td>
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**Reguleringsinstrumente**

1B. By die toepassing van die omskrywing van ’reguleringsinstrument’ (‘regulatory instrument’) in artikel 1 van die ’Financial Sector Regulation Act’, is vereistes vir geskiktheid en gepastheid ingevolge artikel 6A bepaal, gedrags-kodes kragtens artikel 15 opgestel en maatstawwe en riglyne vir die goedkeuring van voldoeningsbeampte kragtens artikel 17(2) bepaal, reguleringsinstrumente.

3. Artikel 2 word herroep.

4. Subparagraaf (i) in artikel 3(2)(b) word deur die volgende subparagraaf vervang:

‘(i) die gelde betaalbaar [ingevolge hierdie Wet]; en’.

5. Subartikels (1), (5) en (6) word uit artikel 4 geskrap.

6. Artikel 6 word deur die volgende artikel vervang:

‘Delegerings

6. (1) Die Owerheid kan ’n bevoegdheid of plig ten opsigte van enige aangeleentheid in verband met ’n gedragstandaard in artikel 6A(2)(a), (b) en (e) bedoel, kragtens hierdie Wet aan die Owerheid opgelê, aan enige persoon delegeer.

(2) Die Owerheid moet, waar die delegering is aan ’n persoon behalwe ’n personeel lid van die Owerheid, tevrede wees dat die persoon die nodige finansies, bestuurskapasiteit, menschulpbronne en ervaring het vir die verrigting van die gedelegeerde bevoegdheid of plig.

(3) ’n Delegering is onderhewig aan die beperkings en voorwaardes in die delegering vermeld.’

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(4) A delegation does not divest the Authority of responsibility in respect of the delegated power or duty and any-thing done by a delegate in accordance with a delegation is deemed to be done by the Authority.

(5) A delegation made under this section may be amended or revoked in writ-ing at any time, but an amendment or revocation does not affect any rights or liabilities accrued because of the acts of the delegate.''.

7. The amendment of section 6A—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"[The registrar, for purposes of this Act, by notice in the Gazette —] A conduct standard may be made on any of the following matters: ''; and

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

"(aA) may classify representatives into different categories; and''.

8. The amendment of section 8 by the substitution for subsections (1) and (1A) of the following subsections:

"'(1) An application for an authorisation referred to in section 7(1), including an application by an applicant not domiciled in the Republic, must be submitted to the registrar Authority in the form and manner determined by the registrar Authority by notice on the registrar Authority’s web site, and be accompanied by information to satisfy the registrar Authority that the appli-cant complies with the fit and proper requirements determined for financial services providers or categories of providers, determined by the registrar by notice in the Gazette, in respect of—

(a) personal character qualities of honesty and integrity;

(b) competence;

(bA) operational ability; and

(c) financial soundness]."
### Nomoro ya Molao le ngwaga

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<td>(4) 'n Delegering ont doen nie die Owerheid van verantwoordelikheid ten opsigte van die gedelegeerde bevoegdheid of plig nie en enigiets wat ooreenkomstig 'n delegering deur 'n gedelegeerde gedoen is, word geag deur die Owerheid gedoen te wees.</td>
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<td>(5) 'n Delegering kragtens hierdie artikel gemaak kan te eniger tyd skriflik gewysig of ingetrek word, maar 'n wysiging of intrekking raak nie enige regte of aanspreeklikhede toegeval weens die gedelegeerde se handelinge nie.''</td>
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<td>7. Artikel 6A word gewysig—</td>
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<td>(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:</td>
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<td>&quot;[Die registrateur, by die toepassing van hierdie Wet, by kennisgewing in die Staatskoerant—] 'n Gedragstandaard kan oor enige van die volgende aangeleenthede gemaak word:''; en</td>
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<td>(b) deur die volgende paragraaf na paragraaf (a) in te voeg:</td>
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<td>&quot;'(aA) kan verteenwoordigers in verschillende kategorieë klassifiseer; en''.</td>
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<td>8. Artikel 8 word gewysig deur subartikels (1) en (1A) deur die volgende subartikels te vervang:</td>
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<td>&quot;'(1) 'n Aansoek om 'n magtiging bedoel in artikel 7(1), met inbegrip van 'n aansoek deur 'n aanbieder wat nie in die Republiek gedomisilieer is nie, moet aan die [registrateur] Owerheid voorgelê word in die vorm en op die wyse deur die [registrateur] Owerheid by kennisgewing op die amptelike webwerf bepaal, en vergesel gaan van die inligting om die [registrateur] Owerheid tevreden te stel dat die aanbieder voldoen aan die vereistes vir geskiktheid en gepastheid [vir verskaffers van finansiële dienste of kategorieë verskaffers, deur die registrateur by kennisgewing in die Staatskoerant bepaal, ten opsigte van—</td>
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<td>(a) persoonlike karaktereienskappe van eerlikheid en integriteit;</td>
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<td>(b) bekwaamheid;</td>
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<td>(bA) bedryfsvermoë; en</td>
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<td>(c) finansiële gesondheid].</td>
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| (1A) If the applicant is a partnership, trust or corporate or unincorporated body, **[the requirements in paragraphs (a) and (b) of subsection (1) do not apply to the applicant, but in such a case]** the application must be accompanied by additional information to satisfy the **[registrar]** Authority that every person who acts as a key individual of the applicant complies with the fit and proper requirements for key individuals in the category of financial services providers applied for, **[in respect of—]**
|                  |             | **(a) personal character qualities of honesty and integrity;** |
|                  |             | **(b) competence; and** |
|                  |             | **(c) operational ability], to the extent required in order for such key individual to fulfill the responsibilities imposed by this Act.”** |

9. The amendment of section 9(1)—

**(a) by the substitution for paragraphs (c) and (d) of the following paragraphs:**

“**(c) has failed to comply with any other provision of this Act or any requirement under the Financial Sector Regulation Act, including a conduct standard, a prudential standard or a joint standard:**

**(d) has failed to pay a levy [under section 15A of the Financial Services Board Act, 1990 (Act No. 91 of 1990), a penalty under section 41(2) and (3) or an administrative sanction under section 6D(2) of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001), and has failed to pay the said levy, penalty or administrative sanction], an administrative penalty, or **[and]** any interest in respect thereof;”’; and

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

“**(f) has failed to comply with a regulator’s [any] directive **[issued under this Act]; or”**.
### Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimoło kgotsa tlhabololo
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1A | Indien die aansoeker ’n vennootskap, trust of regpersoon of oningelyfde liggaam is, is die vereistes in paragrawe (a) en (b) van subartikel (1) nie op die applikant van toepassing nie, maar in so ’n geval moet die aansoek vergesel gaan van bykomende inligting om die registrateur Owerheid te oortuig dat elke persoon wat as ’n sleutelpersoon van die aansoeker optree, voldoen aan die vereistes vir geskiktheid en gepastheid vir sleutelpersone in die kategorie van verskaffers van finansiële dienste waarom aansoek gedoen word [, ten opsigte van—

(a) persoonlike karaktereisingskappe van eerlikheid en integriteit;
(b) bekwaamheid;
(c) bedryfsvermoë; tot die mate vereis vir sodanige sleutel-individu om die verantwoordelikhede deur hierdie Wet opgelê, te vervul.”.

9. Artikel 9(1) word gewysig—

(a) deur paragrawe (c) en (d) deur die volgende paragrawe te vervang:

“(c) versuim het om te voldoen aan enige ander bepaling van hierdie Wet of enige vereiste kragtens die ‘Financial Sector Regulation Act’, met inbegrip van ‘n gedragsstandaard; ‘n voorsorgstandaard of ‘n gesamentlike standaard;

(d) [aanspreklik is vir betaling van] versuim het om ‘n heffing, [kragtens artikel T5A van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), ’n boete kragtens artikel 41(2) en (3) of ’n administratiewe sanksie kragtens artikel 6D(2) van die Wet op Finansiële Instellings (Beskerming van Fondse), 2001 (Wet No. 28 van 2001), en versuim het om genoemde heffing, boete of administratiewe sanksie en ’n administratiewe straf, of enige rente ten opsigte daarvan te betaal;’’; en

(b) deur paragraaf (f) deur die volgende paragraaf te vervang:

“(f) versuim het om aan [enige] ’n reguleerder se lasgewing [kragtens hierdie Wet uitgereik,] te voldoen; of’’.
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| 10.             |             | The substitution in section 13 for subsection (3) of the following subsection: “(3) **[The]** An authorised financial services provider must—
(a) maintain a register of representatives, and key individuals of **[such]** those representatives, which must be regularly updated and be available to the **[registrar]** Authority for reference or inspection purposes[.] and
(b) within five days after being informed by the Authority of the debarment of a representative or key individual by the Authority, remove the name of that representative or key individual from the register referred to in paragraph (a).” |
| 11.             |             | The substitution for section 14 of the following section: |
|                 |             | **“Debarment of representatives”** |
| 14. (1) (a)     |             | An authorised financial services provider must debar a person from rendering financial services who is or was, as the case may be—
(i) a representative of the financial services provider; or
(ii) a key individual of such representative, if the financial services provider is satisfied on the basis of available facts and information that the person—
(iii) does not meet, or no longer complies with, the requirements referred to in section 13(2)(a); or
(iv) has contravened or failed to comply with any provision of this Act in a material manner;
(b) The reasons for a debarment in terms of paragraph (a) must have occurred and become known to the financial services provider while the person was a representative of the provider. |
|                 |             | (2) (a) Before effecting a debarment in terms of subsection (1), the provider must ensure that the debarment process is lawful, reasonable and procedurally fair.
(b) If a provider is unable to locate a person in order to deliver a document or information under subsection (3), after taking all reasonable steps to do so, including dissemination through electronic means where possible, delivering the document or information to the person’s last known e-mail or physical business or residential address will be sufficient.
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<td>10. Subartikel (3) in artikel 13 word deur die volgende subartikel vervang:</td>
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<td>“(3) [Die gemagtigde] 'n Gemagtigde verskaffer van finansiële dienste moet— (a) 'n register van verteenwoordigers, en sleutelpersone van sodanige daardie verteenwoordigers byhou, wat gereeld bygewerk moet word en beskikbaar moet wees vir die [registrateur] Owerheid vir verwysings- of inspeksiedoeleindes[.]; en (b) binne vyf dae nadat hy of sy deur die Owerheid ingelig is van die uitsluiting van 'n verteenwoordiger of sleutelindividu deur die Owerheid, die naam van daardie verteenwoordiger of sleutelindividu verwys met die register in paragraaf (a) bedoel.”.</td>
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<td>11. Artikel 14 word deur die volgende artikel vervang:</td>
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| “Uitsluiting van verteenwoordigers 14. (1) (a) 'n Gemagtigde verskaffer van finansiële dienste moet 'n persoon wat— (i) 'n verteenwoordiger van die verskaffer van finansiële dienste; of (ii) die sleutelindividu van sodanige verteenwoordiger, is of was, na gelang van die geval, uitsluit van die lewering van finansiële dienste indien die verskaffer van finansiële dienste op grond van beskikbare feite en inligting tevrede is dat die persoon— (iii) nie voldoen aan die vereistes in artikel 13(2)(a) bedoel nie of dit nie meer nakom nie; of (iv) enige bepaling van hierdie Wet op 'n wesenlike wyse oortree het of versuim om daaraan te voldoen; en (b) Die redes vir 'n uitsluiting ingevolge paragraaf (a) moes plaasgevind het en tot die wete van die verskaffer van finansiële dienste gekom het terwyl die persoon 'n verteenwoordiger van die verskaffer was. (2) (a) Voordat 'n uitsluiting ingevolge subartikel (1) uitgevoer word, moet die verskaffer verseker dat die uitsluitingsproses wettig, redelik en prosedureel billik is. (b) Indien 'n verskaffer iemand nie kan opspoor om 'n dokument of inligting kragtens subartikel (3) te lever nie, nadat alle redelike stappe gedoen is om...
(3) A financial services provider must—
 (a) before debarring a person—
     (i) give adequate notice in writing to the person stating its intention to debar the person, the grounds and reasons for the debarment, and any terms attached to the debarment, including, in relation to unconcluded business, any measures stipulated for the protection of the interests of clients;
     (ii) provide the person with a copy of the financial services provider’s written policy and procedure governing the debarment process; and
     (iii) give the person a reasonable opportunity to make a submission in response;
 (b) consider any response provided in terms of paragraph (a)(iii), and then take a decision in terms of subsection (1); and
 (c) immediately notify the person in writing of—
     (i) the financial services provider’s decision;
     (ii) the persons’ rights in terms of Chapter 15 of the Financial Sector Regulation Act; and
     (iii) any formal requirements in respect of proceedings for the reconsideration of the decision by the Tribunal.

(4) Where the debarment has been effected as contemplated in subsection (1), the financial services provider must—
 (a) immediately withdraw any authority which may still exist for the person to act on behalf of the financial services provider;
 (b) where applicable, remove the name of the debarred person from the register referred to in section 13(3); and
 (c) immediately take steps to ensure that the debarment does not prejudice the interest of clients of the debarred person, and that any unconcluded business of the debarred person is properly attended to.
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Act No. and year | Short Title | Extent of repeal or amendment
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(d) in the form and manner determined by the Authority, notify the Authority within five days of the debarment; and

e) provide the Authority with the grounds and reasons for the debarment in the format that the Authority may require within 15 days of the debarment.

(5) A debarment in terms of subsection (1) that is undertaken in respect of a person who no longer is a representative of the financial services provider must be commenced not longer than six months from the date that the person ceased to be a representative of the financial services provider.

(6) For the purposes of debarring a person as contemplated in subsection (1), the financial services provider must have regard to information regarding the conduct of the person that is furnished by the Authority, the Ombud or any other interested person.

(7) The Authority may, for the purposes of record keeping, require any information, including the information referred to in subsection (4)(d) and (e), to enable the Authority to maintain and continuously update a central register of all persons debarred in terms of subsection (1), and that register must be published on the web site of the Authority, or by means of any other appropriate public media.

(8) A debarment effected in terms of this section must be dealt with by the Authority as contemplated by this section.

(9) A person debarred in terms of subsection (1) may not render financial services or act as a representative or key individual of a representative of any financial services provider, unless the person has complied with the requirements referred to in section 13(1)(b)(ii) for the reappointment of a debarred person as a representative or key individual of a representative.”.

12. The repeal of section 14A.

13. The amendment of section 20 by the substitution for subsection (3) of the following subsection:

“(3) The objective of the Ombud is to consider and dispose of complaints under this Act, and complaints for which the Adjudicator is designated in terms of section 211 of the Financial Sector Regulation Act, in a procedurally fair, informal, economical and expeditious
10. Artikel 14A word herroep.

11. Artikel 20 word gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Die oogmerk van die Ombud is om klagtes kragtens hierdie Wet, en klagtes waarvoor die Bemiddelaar ingevolge artikel 211 van die ‘Financial Sector Regulation Act’ aangewys is, te hanteer.
manner and by reference to what is equitable in all the circumstances, with due regard to—
(a) the contractual arrangement or other legal relationship between the complainant and any other party to the complaint; and
(b) the provisions of this Act and the Financial Sector Regulation Act.”.

14. The insertion after section 20 of the following section:

“Ombud scheme

20A. The scheme in relation to complaints implemented by this Part is declared to be a statutory ombud scheme for the purposes of the Financial Sector Regulation Act.”.

15. The substitution in section 21 for the expression “Board”, wherever it occurs in the section, of the expression “Minister”.

16. The amendment of section 22(1) by the substitution for paragraph (a) of the following paragraph:

“(a) funds [provided by the Board] accruing to the Ombud in terms of legislation on the basis of a budget submitted by the Ombud to the [Board] Minister and approved by the latter; and”.

17. The amendment of section 23 by the substitution for subsection (1) of the following subsection:

“(1) [Despite the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the board of the Financial Services Board as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990),] The Ombud is the accounting authority of the Office.”.


19. The repeal of section 32.

20. The deletion in section 35(1) of paragraphs (b), (c) and (d).
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| oorweeg en af te handel op 'n prosedureel bilike, informele, ekonomiese en gladde wyse en met verwysing na wat onder al die omstandighede regverdig is, met behoorlike inagneming van—
(a) die kontraktuele reëling of ander regsverhouding tussen die klaer en enige ander party by die klagte; en
(b) die bepalings van hierdie Wet en die "Financial Sector Regulation Act".

14. Die volgende artikel word na artikel 20 ingevoeg:

"Ombudskema"

20A. Die skema oor klagtes deur hierdie Deel ingestel word verklaar 'n statutêre ombudskema by die toepassing van die "Financial Sector Regulation Act", te wees.

15. Die uitdrukking “Raad” word, waar dit ook al in artikel 21 voorkom, deur die uitdrukking "Minister" vervang.

16. Artikel 22(1) word gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

"(a) fondse [voorsien deur die Raad] wat ingevolge wetgewing aan die Ombud toeval op die grondslag van 'n begroting voorgelê deur die Ombud aan die [Raad] Minister en deur laasgenoemde goedgekeur; en"

17. Artikel 23 word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) [Ondanks die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is die raad van die Raad op Finansiële Dienste soos in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), omskryf] Die Ombud is die rekenpligtige gesag van die Kantoor."

18. Artikel 26 word herroep.

19. Artikel 32 word herroep.

20. Paragrawe (b), (c) en (d) in artikel 35(1) word geskrap.
Act No. and year | Short Title | Extent of repeal or amendment
---|---|---
| | **21.** The substitution for section 39 of the following section:

```
"Right to reconsideration of decision

39. Any person aggrieved by a decision of a financial services provider to debar that person in terms of section 14 may apply for the reconsideration of the decision to the Tribunal."
```
| | **22.** The repeal of sections 41 and 44.

| | **23.** The amendment of section 45—

(a) by the deletion in subsection (1) of paragraph (a)(ii); and

(b) by the insertion after subsection (1) of the following subsections:

```
"(1A) The provisions of this Act do not apply to the—

(a) performing of the activities referred to in paragraph (b)(ii) and (iii) of the definition of "intermediary service" by a product supplier—

(i) who is authorised under a particular law to conduct business as a financial institution; and

(ii) where the rendering of such service is regulated under such law; and

(b) rendering of financial services by a manager as defined in section 1 of the Collective Investment Schemes Control Act, 2002, to the extent that the rendering of financial services is regulated under that Act.

(1B) The exemption referred to in—

(a) subsection (1A)(a) does not apply to a person to whom the product supplier has delegated or outsourced the activity, or any part of the activity, contemplated in paragraph (a), and where the person is not an employee of the product supplier; and

(b) subsection (1A)(b) does not apply to an authorised agent as defined in section 1 of the Collective Investment Schemes Control Act, 2002.""

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<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td>21. Artikel 39 word deur die volgende artikel vervang:</td>
<td>&quot;Reg op heroorweging van beslissing&quot;</td>
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<tr>
<td>39. Iemand wat te na gekom voel deur 'n beslissing van 'n verskaffer van finansiële dienste om daardie persoon ingevolge artikel 14 uit te sluit, kan by die Tribunaal aansoek doen om die heroorweging van die beslissing.&quot;</td>
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<td>22. Artikels 41 en 44 word herroep.</td>
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<td>23. Artikel 45 word gewysig— (a) deur die volgende subartikels na subartikel (1) in te voeg:</td>
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<tr>
<td>&quot;(1A) Die bepalings van hierdie Wet is nie van toepassing nie op die— (a) verriging van die aktiwiteite in paragraaf (b)(ii) en (iii) van die omskrywing van 'tussenganger-diens' bedoel deur 'n produkverskaffer— (i) wat kragtens 'n bepaalde wet gemagtig is om besigheid as 'n finansiële instelling te doen; en (ii) waar die levering van so 'n diens kragtens sodanige wet gereguleer word, en (b) finansiële dienste lewer deur 'n bestuURder soos omskryf in artikel 1 van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002, tot die mate wat die levering van finansiële dienste kragtens daardie Wet gereguleer word. (1B) Die vrystelling bedoel in— (a) subartikel (1A)(a) is nie van toepassing nie op 'n persoon aan wie die produkverskaffer die aktiwiteit, of enige deel van die aktiwiteit, in paragraaf (a) beoog, gedelegeer of uitbestee het en waar die persoon nie 'n werknemer van die produkverskaffer is nie; en (b) subartikel (1A)(b) is nie van toepassing nie op 'n gemagtigde agent soos omskryf in artikel 1 van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002.&quot;</td>
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</table>
Act No. and year | Short Title | Extent of repeal or amendment
--- | --- | ---
Act No. 9 of 2017 | Financial Sector Regulation Act, 2017 | 24. The amendment of the arrangement of sections—
(a) by the insertion after item 1 of the following items:
   "1A. Relationship between Act and Financial Sector Regulation Act"
   "1B. Regulatory instruments"; and
(b) by the substitution for item 6 of the following item:
   "6. Delegations";
(c) by the insertion after item 20 of the following item:
   "20A. Ombud scheme"; and
(d) by the substitution for item 39 of the following item:
   "39. Right to reconsideration of decision".

Act No. 45 of 2002 | Collective Investment Schemes Control Act, 2002 | 1. The amendment of section 1—
(a) by the insertion after the definition of "authorised agent" of the following definition:
   "Authority" means the Financial Sector Conduct Authority established by section 56 of the Financial Sector Regulation Act;"
(b) by the deletion of the definition of "Board";
(c) by the insertion after the definition of "company" of the following definition:
   "conduct standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"
(d) by the insertion after the definition of "exchange securities" of the following definition:
   "Financial Sector Regulation Act" means the Financial Sector Regulation Act, 2017;"
(e) by the insertion after the definition of "investor" of the following definition:
   "joint standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"
(f) by the deletion of the definitions of "official web site" and "prescribed";
(g) by the insertion before the definition of "publish" of the following definition:
   "prudential standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"
### Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo
---|---|---
24. Die indeling van artikels word gewysig—  
(a) deur die volgende items na item 1 in te voeg:  
"1A. Verhouding tussen Wet en 'Financial Sector Regulation Act'"  
1B. Reguleringsinstrumente";  
(b) deur item 6 deur die volgende item te vervang:  
"6. Delegerings";  
(c) deur die volgende item na item 20 in te voeg:  
"20A. Ombudskema"; en  
(d) deur item 39 deur die volgende item te vervang:  
"39. Reg op heroorweging van beslissing".

#### Wet No. 45 van 2002 | Wet op Beheer van Kollektiewe Beleggingskemas, 2002

1. Artikel 1 word gewysig—  
(a) deur die omskrywing van “amptelike webwerf” te skrap;  
(b) deur die volgende omskrywings na die omskrywing van “deelnemende belang” in te voeg:  
"‘Financial Sector Regulation Act’ die ‘Financial Sector Regulation Act’, 2017;  
‘gedragstandaard’ dit wat in artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘conduct standard’ toegeskryf is;  
‘gesamentlike standaard’ het die betekenis ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf";  
(c) deur die volgende omskrywing na die omskrywing van “ouditeur” in te voeg:  
"‘Owerheid’ die Gedragsowerheid op die Finansiële Sektor ingestel by artikel 56 van die ‘Financial Sector Regulation Act’;";  
(d) deur die omskrywing van “Raad” te skrap;  
(e) deur die volgende omskrywing na die omskrywing van “reël” in te voeg:  
"‘Register’ die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die ‘Financial Sector Regulation Act’;";  
(f) deur die omskrywing van “registrateur” te skrap;  
(g) deur die volgende omskrywing na die omskrywing van “hierdie Wet” in te voeg:  
"‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingevolge artikel 219 van die ‘Financial Sector Regulation Act’ ingestel;";
Act No. and year | Short Title | Extent of repeal or amendment
--- | --- | ---

(b) by the insertion after the definition of “publish” of the following definition: “ Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;

(i) by the deletion of the definition of “registrar”;

(j) by the insertion after the definition of “this Act” of the following definition: “ Tribunal” means the Financial Sector Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”;

(k) by the addition in section 1 of the following subsection, the existing section becoming subsection (1):

“(2) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”

2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the registrar must be read as a reference to the Authority;

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly provided otherwise in this Act, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

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<td>(h) deur die omskrywing van &quot;voorgeskryf&quot; te skrap;</td>
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<td>(i) deur die volgende omskrywing voor die omskrywing van &quot;werf&quot; in te voeg: &quot;voorsorgstandaard&quot; dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf is; en</td>
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|                           | (i) deur die volgende subartikel by artikel 1 te voeg, die bestaande artikel word subartikel (1): "(2) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf word nie, die betekenis wat ingevolge die 'Financial Sector Regulation Act' daaraan toegeskryf is.
|                           | 2. Die volgende artikels word na artikel 1 ingevoeg: |                                   |
|                           | "Verhouding tussen Wet en 'Financial Sector Regulation Act' |                                   |
|                           | 1A. (1) 'n Verwysing in hierdie Wet na die registrateur moet gelees word as 'n verwysing na die Owerheid. |                                   |
|                           | (2) Behalwe soos anders deur hierdie Wet of die 'Financial Sector Regulation Act' bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die 'Financial Sector Regulation Act' het. |                                   |
|                           | (3) 'n Verwysing in hierdie wet na die Owerheid wat 'n aangeleentheid by kennisgewing in die Staatskoerant publiseer, moet gelees word as dat dit 'n verwysing insluit na die Owerheid wat die aangeleentheid by kennisgewing in die Register bepaal of publiseer. |                                   |
|                           | (4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat 'n aangeleentheid voorgeskryf word, moet 'n verwysing in hierdie Wet na 'n aangeleentheid wat— |                                   |
|                           | (a) voorgeskryf word, gelees word as 'n verwysing daarna dat die aangeleentheid in 'n voorsorgstandaard, 'n gedrugsstandaard of 'n gesamentlike standaard voorgeskryf word; of |                                   |
|                           | (b) bepaal word, gelees word as 'n verwysing daarna dat die Owerheid die aangeleentheid skriflik bepaal en die bepaling in die Register registreer. |                                   |
It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

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

MO-PRESIDENTE

No. 853 22 August 2017

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

Nmr 9 ya 2017: Molao wa Taolo ya Lephata la Ditshelete , 2017
Act No. and year | Short Title | Extent of repeal or amendment
---|---|---

|  |  | (5) A reference in this Act to an on-site visit in terms of a provision in this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act. |
|  |  | (6) A reference in this Act to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act. |
|  |  | (7) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register. |
|  |  | (b) The Authority may also publish the information or document on its web site. |
|  |  | (8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act. |
|  |  | (9) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act. |

**Regulatory instruments**

1B. For the purposes of the definition of “regulatory instrument” in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument.”.

3. The repeal of sections 7 and 14.

4. The amendment of section 15—

   (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

   “If [the registrar, after an on-site visit or inspection under section 14, considers on reasonable grounds that] it is in the interests of the investors of a collective investment scheme or of members of the public [so require], the [registrar] Authority may —”;

This gazette is also available free online at www.gpwonline.co.za
(5) 'n Verwysing in hierdie Wet na 'n ter plaatse besoek ingevolge 'n bepaling van hierdie Wet moet gelees word as 'n verwysing na 'n toesighoudende ter plaatse inspeksie of 'n ondersoek ingevolge die 'Financial Sector Regulation Act'.

(6) 'n Verwysing in hierdie Wet na 'n inspeksie ingevolge 'n bepaling van hierdie Wet, moet gelees word as 'n verwysing na 'n ondersoek ingevolge die 'Financial Sector Regulation Act'.

(7) (a) 'n Verwysing in hierdie Wet na die Owerheid wat inligting of 'n dokument op 'n webwerf aankondig of publiseer, moet gelees word as 'n verwysing daarna dat die Owerheid die inligting of dokument in die Register publiseer.

(b) Die Owerheid kan ook die inligting of dokument op sy webwerf publiseer.

(8) 'n Verwysing in hierdie Wet na bepaalde of voorgeskrewe geldie moet gelees word as 'n verwysing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act'.

(9) 'n Verwysing in hierdie Wet na 'n appel teen 'n beslissing van die Owerheid moet gelees word as 'n verwysing na 'n heroorweging van die beslissing deur die Tribunaal ingevolge die 'Financial Sector Regulation Act'.

### Reguleringsinstrumente

1B. By die toepassing van die omksrywing van 'reguleringsinstrument' ('regulatory instrument') in artikel 1(1) van die 'Financial Sector Regulation Act', is enige aangeleentheid deur die Owerheid voorgeskryf ten opsigte waarvan kennisgewing in die "Staatskoerant" spesifiek deur hierdie Wet vereis word, 'n reguleringsinstrument.'

3. Artikels 7 en 14 word herroep.

4. Artikel 15 word gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

"Indien [die registrateur, na 'n ter plaatse besoek of inspeksie kragtens artikel 14, op redelike gronde van oordeel is dat] dit in die belange van beleggers in 'n kollektiewe beleggingskema of van lede van die publiek [dit vereis] is, kan die [registrateur] Owerheid—";
<table>
<thead>
<tr>
<th>Act No. and year</th>
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<tbody>
<tr>
<td></td>
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<td>(b) by the deletion in subsection (1) of the proviso to paragraph (f); and</td>
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<td>(c) by the substitution in subsection (1) for paragraph (j) of the following paragraph:</td>
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<td></td>
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<td>“(j) if a manager fails to comply with a written request, direction or directive by the [registrar] Authority under this Act or the Financial Sector Regulation Act, do or cause to be done all that a manager was required to do in terms of the request, direction or directive of the [registrar] Authority.”.</td>
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<td>5. The amendment of section 15A—</td>
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<td>(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:</td>
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<td>“(c) if deemed reasonably necessary in the interests of investors, at that time or at any time thereafter, and notwithstanding any steps already taken by the [registrar in accordance with paragraph (a) or (b) or any other provision of this Act, act in accordance with section 15] Authority.”; and</td>
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<td>(b) by the substitution for subsection (3) of the following subsection:</td>
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<td></td>
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<td>“(3) For the purposes of this section, “financial soundness requirement” means any requirement or limitation referred to in sections 85 to 89, inclusive, sections 91 to 96, inclusive, and section 105 and includes any other financial requirements imposed under this Act or by a prudential standard, conduct standard or joint standard.”.</td>
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<td>6. The repeal of sections 15B, 18, 22, 23 and 24.</td>
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<td>7. The substitution in sections 63 and 66 for the expression “Minister”, wherever it occurs, of the expression “Authority”.</td>
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<td>8. The amendment of section 99(1) by the substitution for paragraph (b) of the following paragraph:</td>
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|                 |            | “(b) the [registrar] Authority, granted on such conditions as [he or she] the Authority may impose in writing [may determine].”.

Financial Sector Regulation Act, 2017
### Table 1

<table>
<thead>
<tr>
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<tr>
<td>(b) deur in subartikel (1) die voorbehoudsbepaling tot paragraaf (f) te skrap; en</td>
<td></td>
<td>“(f) indien ’n bestuurder versuim om aan ’n skriftelike versoek, instruksie of lasgewing deur die [registrateur] Owerheid kragtens hierdie Wet of die ‘Financial Sector Regulation Act’ te voldoen, alles wat ingevolge die versoek, instruksie of direk tief van die [registrateur] Owerheid, van die bestuurder vereis is om te doen, of te laat doen.”.</td>
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<td>(c) deur in subartikel (1) paragraaf (j) deur die volgende paragraaf te vervang:</td>
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<td>“(j) indien dit in die belang van beleggers redelik nodig geag word, op daardie tydstip of te eniger tyd daarna, en ondanks enige stappe wat die [registrateur] Owerheid reeds [oorrekomstig paragraaf (a) of (b) of enige ander bepaling van hierdie Wet] geneem het[, ooorrekomstig artikel 15 handel].”; en</td>
</tr>
<tr>
<td>(b) deur subartikel (3) deur die volgende subartikel te vervang:</td>
<td></td>
<td>“(3) By die toepassing van hierdie artikel, beteken ‘vereiste vir finansiële gesondheid’ enige vereiste of beperking in artikels 85 tot 89, inklusief, artikels 91 tot 96, inklusief, en artikel 105 en sluit enige ander finansiële vereistes in wat kragtens hierdie Wet of deur ’n voorsorgstandaard, gedragstandaard of gesamentlike standaard opgeë[is].”.</td>
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<td>5. Artikel 15A word gewysig—</td>
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<tr>
<td>(a) deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang:</td>
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<tr>
<td>“(c) indien dit in die belang van beleggers redelik nodig geag word, op daardie tydstip of te eniger tyd daarna, en ondanks enige stappe wat die [registrateur] Owerheid kragtens hierdie Wet of die ‘Financial Sector Regulation Act’ te voldoen, alles wat ingevolge die versoek, instruksie of direk tief van die [registrateur] Owerheid, van die bestuurder vereis is om te doen, of te laat doen.”.</td>
<td></td>
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<tr>
<td>(b) deur subartikel (3) deur die volgende subartikel te vervang:</td>
<td></td>
<td>“(3) By die toepassing van hierdie artikel, beteken ‘vereiste vir finansiële gesondheid’ enige vereiste of beperking in artikels 85 tot 89, inklusief, artikels 91 tot 96, inklusief, en artikel 105 en sluit enige ander finansiële vereistes in wat kragtens hierdie Wet of deur ’n voorsorgstandaard, gedragstandaard of gesamentlike standaard opgeë[is].”.</td>
</tr>
<tr>
<td>6. Artikels 15B, 18, 22, 23 en 24 word herroep.</td>
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<tr>
<td>7. In artikels 63 en 66 word die uitdrukking “Minister”, waar dit ook al voorkom, deur die uitdrukking “Owerheid” vervang.</td>
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<tr>
<td>8. Artikel 99(1) word gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:</td>
<td></td>
<td>“(b) die [registrateur] Owerheid, verleen op die voorwaardes wat [hy of sy] die Owerheid skriftelik [bepaal] opgê.”.</td>
</tr>
</tbody>
</table>
9. The amendment of section 112—
   (a) by the deletion of subsection (3); and
   (b) by the substitution for subsection (4) of
   the following subsection:
   “(4) Any delegation under subsection (1), (2) or (3) does
   not prohibit the exercise of the power in question by the
   Minister, as the case may be.”.

10. The amendment of section 114 by
   the deletion of subsections (3)(d), (5) and
   (6).

11. The amendment of section 115 by
   the substitution for paragraph (c) of the
   following paragraph:
   “(c) fails to comply with any direc-
   tion, requirement, notice, rule, regulatory
   instrument or regulation under any pro-
   vision of this Act or the Financial Sector
   Regulation Act.”.

12. The amendment of the arrangement
   of sections by the insertion after item 1 of
   the following items:
   “1A. Relationship between Act and Fi-
   nancial Sector Regulation Act
   1B. Regulatory instruments”.

<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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</table>
| Act No. 34 of 2005 | National Credit Act, 2005 | 1. The substitution in section 1 for the definition of “ombud with jurisdiction” of the following definition—
   “ombud with jurisdiction”, in respect of any particular dispute arising out of a credit agreement in terms of which the credit provider is a “financial institution” as defined in the [Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004)] Financial Sector Regulation Act, 2017, means an “ombud”, or the “statutory ombud” “ombud scheme”, as [those terms are respectively] that term is defined in that Act, who that has jurisdiction in terms of that Act to deal with a complaint against that financial institution;”. |
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<tr>
<td>9.</td>
<td>Artikel 112 word gewysig—</td>
<td>(a) deur subartikel (3) te skrap; en</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) deur subartikel (4) deur die volgende</td>
</tr>
<tr>
<td></td>
<td></td>
<td>subartikel te vervang:</td>
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<tr>
<td></td>
<td></td>
<td>‘‘(4) Enige delegasie kragtens</td>
</tr>
<tr>
<td></td>
<td></td>
<td>subartikel (1)[,] of (2)(a) [of (3)(a)]</td>
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<tr>
<td></td>
<td></td>
<td>verhinder nie die uitoefening van</td>
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<td></td>
<td>die betrokke bevoegdheid deur</td>
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<td></td>
<td></td>
<td>die Minister, vereniging of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>[registrateur] Owerheid, na gelang</td>
</tr>
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<td></td>
<td></td>
<td>van die geval, nie.’’.</td>
</tr>
<tr>
<td>10.</td>
<td>Artikel 114 word gewysig deur</td>
<td>subartikels (3)(d), (5) en (6) te skrap.</td>
</tr>
<tr>
<td>11.</td>
<td>Artikel 115 word gewysig deur</td>
<td>paragraaf (c) deur die volgende paragraaf</td>
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<td></td>
<td></td>
<td>te vervang:</td>
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<td></td>
<td></td>
<td>‘‘(c) versuim om te voldoen aan ’n</td>
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<tr>
<td></td>
<td></td>
<td>lasgewing, vereiste, kennisgewing, reël;</td>
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<tr>
<td></td>
<td></td>
<td>reguleringsinstrument of regulasie</td>
</tr>
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<td></td>
<td></td>
<td>kragtens enige bepaling van hierdie Wet</td>
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<tr>
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<td></td>
<td>of die ‘‘Financial Sector Regulation</td>
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<tr>
<td></td>
<td></td>
<td>Act’’.</td>
</tr>
<tr>
<td>12.</td>
<td>Die indeling van artikels word</td>
<td>gewysig deur die volgende item na item 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>in te voeg:</td>
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<td></td>
<td></td>
<td>‘‘1A. Verhouding tussen Wet en</td>
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<tr>
<td></td>
<td></td>
<td>’‘Financial Sector Regulation Act’’</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1B. Reguleringsinstrumente’’.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>UMthetho wama-34 wezi-2005</td>
<td>uMthetho weziKweletu kaZwelonce ka-2005</td>
<td>1. Ukufaka endaweni esigabeni soku-l sencazel o“yesiphathimandla esibheka izikhalo zamakahisimende esinamandla” inacazel o elandelayo—</td>
</tr>
</tbody>
</table>
2. The amendment of section 134—
   (a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs—
   "(a) If the credit provider concerned is a financial institution as defined in the [Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004)] Financial Sector Regulation Act, 2017, the matter—
   (i) may be referred only to the ombud with jurisdiction to resolve a complaint or settle a matter involving that credit provider, as determined in accordance with [sections 13 and 14 of] that Act; and
   (ii) must be procedurally resolved as if it were a complaint in terms of that Act; or
   (b) if the credit provider is not a financial institution, as defined in the [Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004)] Financial Sector Regulation Act, 2017, the matter may be referred to either—
   (i) a consumer court, for resolution in accordance with this Act and the provincial legislation establishing that consumer court; or
   (ii) an alternative dispute resolution agent, for resolution by conciliation, mediation or arbitration."; and

(b) by the substitution in subsection (4)(b) for subparagraph (i) of the following subparagraph—
"(i) to the ombud with jurisdiction, for resolution in accordance with this Act and in terms of the [Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004)] Financial Sector Regulation Act, 2017, if the credit provider concerned is a financial institution [and a participant in a recognised scheme] as defined in that Act; or".
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
</tr>
</thead>
</table>
| 2. | | 2. Ukuchibiyela isigaba se-134—

(a) ngokufaka endaweni esigabeni soku-
(1) yeziqephu (a) kanye (b) izigaba
ezilandelayo—

"(a) uma umhlínzeki wesikweletu
othintekayo kuyi síkhungo
sezimali njengalahlo síchazwe
eMthethweni (Financial Services
Ombud Schemes Act),
2004 (uMthetho No. 37 ka 2004) wokuLawulwa
koMkhakha weziMali, 2017,
udaba—
(i) lungadluliselwa kuphela
esiphathimandleni esibheka
izikhalo zamakhasimende
esinamandla okuxazulu
lsikholo nomu udaba
olubandakanya umhlínzeki
wesikweletu, njengoba
kunguqinswe
ngokuhambisana
[nezigaba 13 no 14
zalowo] nalowo Mthetho; futhi—
(ii) kufanele luxazululwe kube
sengathi lu yisikhungo
uyisimalo, njengalahlo
inekantelo
yamakhasimende, ukuze
luxazululwe ngokwalo
Mthetho kanye nomthetho
wesifundazwe osungule
leyo nkantelo
yamakhasimende; nomu
(ii) kwi-ejenti esebenzisa
ezinye izindlela
zokuxazulu umbango,
ukuba ixazulule
ngokulamula."
; futhi
(b) ngokufaka endaweni yesigatshana se-
(4)(b) indimana (i) indimana
esilandelayo—
"(i) esiphathimandleni esibheka
izikhalo zamakhasimende
esinamandla,
<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
</tr>
</thead>
</table>
| Act No. 40 of 2007 | Co-operative Banks Act, 2007 | 1. The amendment of section 1—
(a) by the deletion of the definition of “appeal board”;
(b) by the insertion after the definition of “Agency” of the following definition: “Authority” means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;”;
(c) by the insertion after the definition of “business plan” of the following definition: “conduct standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(d) by the substitution for the definition of “co-operative bank” of the following definition: “co-operative bank” means a co-operative or a co-operative financial institution registered as a co-operative bank in terms of this Act whose members—
(a) are employed by a common employer or who are employed within the same business district; or
(b) have common membership in an association or organisation, including a religious, social, co-operative, labour or educational group;
(c) reside within the same defined community or geographical area;”;
(e) by the substitution for the definition of “co-operative financial institution” of the following definition: “co-operative financial institution” means a co-operative that takes deposits and chooses to identify itself by use of the name Financial Co-operative, Financial Services Co-operative, Credit Union or Savings and Credit Co-operative;”;}
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
</tr>
</thead>
</table>
| UMthetho 40 ka-2007          | UMthetho weeBhanki zeNtsebenzi swano ka-2007 | 1. Kwenziwa utshintsho kwicandelo 1—
(a) ngokuthi kucinywe inkcazelo yegama elithi "ibhodi yeziyebheno"; 
(b) ngokuthi emva kwenkcazelo yegama elithi "iArhente" kufakelwe inkcazelo elandelayo:
  "'iGunya'! iGunya Lobulumko elsekwe ngokwecandelo 32 leFinancial Sector Regulation Act"; 
(c) ngokuthi emva kwenkcazelo yegama elithi "isciwangciso sosishishino" kufakelwe inkcazelo elandelayo:
  "elithi indlela yokuziphatha" linentsingiselo ekwanyene elinkwe yona kwicandelo 1(1) leFinancial Sector Regulation Act"; 
(d) ngokuthi endaweni yokuchazwa kwegama elithi "ibhanki yentsebenziswano" kufakelwe ukuchazwa kwegama elilandelayo:
  'ibhanki yentsebenziswano'
  ngumfelandawonye okanye iziko lemali elingumfelandawonye elibhali isicwange  njengobhanki yentsebenziswano ngokwalo Mthetho elimalungu alo—
  (a) aqeshwe ngumqeshi omnye okanye aqeshwe kwisithili esinye sosishishino; okanye
  (b) Angamalungu kumbutho omnye, oquka owenkolo, owasentlalweni, owentsebenziswano, owomsebenzi okanye owemfundo; 
  (c) Ahlala kummandla omnye;""; 
(e) ngokuthi endaweni yokuchazwa kwegama elithi "iziko lemali elingumfelandawonye" kufakelwe ukuchazwa kwegama okulandelayo:
  'iziko lemali elingumfelandawonye'
  ngumfelandawonye owamkela ukufakwa kwemali nokhetha ukwaziwa ngokusebenzisa igama elithi uMfelandawonye Wemali, uMfelandawonye Wemenkonzo Zemali, uMbutho Wokukweleta okanye uMfelandawonye Wokulondoloza okanye Wokukweleta;""; |
2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.
Molao wa Taolo ya Lephata la Ditshelete , 2017

Nomoro ya Molao le ngwaga  | Setlhogo se se khetshwane  | Bogolo jwa phimolo kgotsa thlabololo
---|---|---
(f) ngokuthi emva kwenkcazelo yegama elithi “igosa lesiqeqba” kufakelwe inkcazelo elandelayo: “Financial Sector Regulation Act” yiFinancial Sector Regulation Act ka- 2017;”;
(g) ngokuthi emva kwenkcazelo yegama elithi “ingxowa-mali” kufakelwe inkcazelo elandelayo: “elithi umlinganiselo wendibani-selwano” linentsingiselo ekwanye clinikwe yona yiFinancial Sector Regulation Act;”;
(h) ngokuthi kucinywe inkcazelo yegama elithi “ukumisela”;
(i) ngokuthi emva kwenkcazelo yegama elithi “ibhani yentsebenziwano eceetywayo” kufakelwe inkcazelo elandelayo: “elithi umlinganiselo wobulumiko” linentsingiselo ekwanye clinikwe yona kwFinancial Sector Regulation Act;”;
(j) ngokuthi emva kwenkcazelo yegama elithi “uMthetho woLawulo lweMali yoLuntu” kufakelwe inkcazelo elandelayo: elithi “Register” lithetha iFinancial Sector Information Register ekuthethwe ngayo kwicandelo 256 leFinancial Sector Regulation Act; kunye Protection of Personal Information Act;
(k) ngokuthi kucinywe inkcazelo yegama elithi “umphathi”;
(l) ngokuthi emva kwenkcazelo yegama elithi “uMthetho” kufakelwe inkcazelo elandelayo: “elithi Abachopheli-matyala” lithetha Abachopheli-matyala Becandelo Lezimali elisekwe ngokwecandelo 219 leFinancial Sector Regulation Act;”; kunye

(m) ngokuthi kwecandelo 1 kongezwe icandelwana elilandelayo, lize icandelelo elikhoyo libe licandelwana (1):

“(2) Ngaphandle kokuba okunye okubhaliweyo kubonisa ngenye indlela, amagama angachazwanga kwicandelo (1) anentsingiselo ekwanye anikwe yona kwFinancial Sector Regulation Act;”.

2. Emva kwecandelo 1 kufakelwa icandelo elilandelayo:

“Ubudlelane phakathi kwalo Mthetho neFinancial Sector Regulation Act”

(2) A reference in this Act to the Authority or the Agency determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority or the Agency determining or publishing the matter by notice published in the Register.

(3) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 86, or permits a matter to be prescribed by the Agency, including in a rule in terms of section 57, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, conduct standard or joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(4) Matters in respect of which regulations relating to co-operative banks and co-operative financial institutions may be prescribed in terms of this Act may also be prescribed in prudential standards, conduct standards or joint standards in terms of the Financial Sector Regulation Act.

(5) A reference to rules made by the Authority in terms of section 46 must be read as a reference to prudential standards, conduct standards or joint standards.

(6) (a) A reference to an inspection in section 47 must be read as a reference to a supervisory on-site inspection or an investigation in terms of Chapter 9 of the Financial Sector Regulation Act.

(b) A reference to an investigation by the Agency or the Minister in terms of section 73 must not be read as a reference to an investigation in terms of Chapter 9 of the Financial Sector Regulation Act.

(7) (a) A reference in this Act to the Authority or the Agency announcing or publishing information or a document on a web site must be read as a reference to the Authority or the Agency publishing the information or document in the Register.

(b) The Authority or the Agency may also publish the information or document on its web site.
<table>
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khotshwane</th>
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<tbody>
<tr>
<td></td>
<td>amagunya nemisebenzi yeGunya ngokwaló Mihetho yongezelela kumagunya nemisebenzi eliMthetho Financial Sector Regulation Act.</td>
</tr>
<tr>
<td>(2) Xa kulo Mihetho kuthethwa ngeGunya okanye ngeArhente eyenza isiqqibo okanye epapasha udaba ngesihlokomiso kwilaGazethi makuthathwe oko njengokuquka neGunya okanye iArhente eyenza isiqqibo okanye epapasha udaba ngesihlokomiso esipapashwe kwileRejista.</td>
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</tbody>
</table>
| (3) Ngaphandle kokuba kutshiwo ngokacilele kulo Mihetho, okanye ngaphandle kokuba lo Mihetho ufuna ukuba udaba luluwalwe ngummiselo ngokwecandelo 86, okanye ngaphandle kokuba uvmela udaba luluwalwe yiArhente, kuquka ukulawulwe ngumagqo ngokwecandelo 57, xa kulo Mihetho kuthethwa ngokulawulwe kodaba, makuthathwe—
| (a) niengokuthetha ukulawulwe kodaba ngendlela yobulumko; okanye (b) niengokuthetha ukulawulwe kodaba liGunya elenza isiqqibo ngodaba ngokubhala lize lisibhale isiqqibo kwileRejista. |
| (4) Nemicimbi ekunokuthi kwenzwiwe imimiselo ngayo ngeebhanki zentsebenziswano ngokwaló Mihetho kunokuthi kwenzwiwe imimiselo ngayo ngendlela yobulukomo ngokweFinancial Sector Regulation Act. |
| (5) Xa kuthethwa ngemigaqo eyenziwe liGunya ngokwecandelo 46 makuthathwe ngokuthi yimigaqo eyenziwe ngokwendlela yobulukomo. |
| (6) (a) Xa kuthethwa ngokuhlola okukwicandelo 47, makuthathwe ngokuthi ngokwecandelo 46, makuthathwe ngokuhlola okungokweSahluko 9 seFinancial Sector Regulation Act. |
| (b) Xa kuthethwa ngophando olwenziwa yiArhente okanye nguMphathiswa ngokwecandelo 73 makungathathwe ngokuthi kuthethwa ngophando olungokweSahluko 9 seFinancial Sector Regulation Act. |
| (7) (a) Xa kulo Mihetho kuthethwa ngeGunya okanye ngeArhente evakalisa okanye epapasha ingcombolo okanye uxwebhu kwilewebsayithi makuthathwe ngokuthi kuthethwa kubhekiselwa kwilaGunya okanye kwileArhente epapasha ingcombolo okanye uxwebhu kwilewebsayithi yalo. |
| (b) Nalo iGunya okanye iArhente livumelekile ukuba lyipapashe ingcombolo okanye uxwebhu kwilewebsayithi yalo. |
(8) (a) A reference in this Act to a prescribed fee, other than a reference to a fee prescribed by the Agency, must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.

(b) The Agency, when determining a fee in terms of this Act, must comply with the requirements of section 237 and Chapter 16 of the Financial Sector Regulation Act.

(9) A reference in this Act to an appeal of a decision of the Authority or the Agency must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

(10) (a) The Authority must publish the following in the Register—

(i) each registration of a co-operative bank in terms of section 8 and each suspension and de-registration in terms of section 11;

(ii) each conversion of registration in terms of section 28;

(iii) each registration of a co-operative financial institution in terms of section 40C, and each suspension, lapsing and de-registration in terms of section 40D.

(b) The Agency must publish the following in the Register—

(i) each registration of a representative body in terms of section 33, and each cancellation or suspension of registration in terms of section 35; and

(ii) each accreditation of a support organisation in terms of section 38, and each cancellation or suspension of accreditation in terms of section 40.

Regulatory instruments

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, the following are regulatory instruments:

(a) existing rules made in terms of section 46 prior to the date on which this section comes into effect; and

(b) prudential, conduct or joint standards made in terms of section 46 subsequent to the date on which this section comes into effect."
Molao wa Taolo ya Lephata la Ditselele, 2017

Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane |
--- | --- |
(8) (a) | Xa kulo Mthetho kuthethwa ngomrhumo ofunekayo, kodwa kube kungathethwa ngomrhumo ofunwa yaArhente, makuthathwé ngokuthi kuthethwa ngomrhumo ogqitywe ngokwecandelò 237 leFinancial Sector Regulation Act. |
(b) | Xa iArhente isenza isigqibo ngomrhumo ngokwalo Mthetho mayihlangabazane neemfuneko zecandelò 237 nezeSahluko 16 seFinancial Sector Regulation Act. |
(9) | Xa kulo Mthetho kuthethwa ngokubhena kwisigqibo setunya makuthathwe ngokuthi kuthethwa ngokuqwalaselwa ngokutsha kwaso ngaBachopheli-matlala ngokwefinancial Sector Regulation Act. |
(10) (a) | IGunya malipapashe okulandelayo kwiRejista— |
(i) | ubhaliso ngalunye ngokwecandelò 8 nokunquyonyni-swá ngakunye nokurhoxiswa kokuhaliswa ngokwecandelò 11; |
(ii) | nesihlandlo ngasisinye sokugquluwa kubhena kwisigqibo seGunya makuthathwe ngokuqwalaselwa ngokutsha kwaso ngaBachopheli-matlala ngokwefinancial Sector Regulation Act. |
(b) | IArhente mayihlangabazane neemfuneko zeemfululo, nezenzo ezenziwe ngokwecandelò 46 emva kubhena kwisigqibo seGunya makuthathwe ngokuqwalaselwa ngokutsha kwaso ngaBachopheli-matlala ngokwefinancial Sector Regulation Act. |
Izixhobo zokulawula

1B. Ngenjongo yokuchaza elithi ‘izixhobo zokulawula’ elikwicandelò 1(1) leFinancial Sector Regulation Act,oku kulandelayo kuzizixhobo zokulawula:
(a) | imigaqo ekhoyo ngoku eyenziwe ngokwecandelò 46 ngaphambé kumhla wokutshala ukusebenza kweli candelo; |
(b) | nemigaqo yobulumko, nezenzo ezenziwe ngokwecandelò 46 emva kumhla eliyaliso ngawo ukusebenza eli candelo;”
### Act No. and year

<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>3. The amendment of section 2 by the substitution for paragraphs (b) and (c) of the following paragraphs: “(b) promote the development of sustainable and responsible co-operative banks and co-operative financial institutions; and (c) establish an appropriate regulatory framework and regulatory institutions for co-operative banks and co-operative financial institutions that protect the interests of members of co-operative banks, co-operative financial institutions, and the public, by providing for— (i) the registration of deposit-taking financial services co-operatives as co-operative banks or co-operative financial institutions; (ii) the establishment of supervisors to ensure appropriate and effective regulation and supervision of co-operative banks and co-operative financial institutions, and to protect members and the public interest; and (iii) the establishment of a Development Agency for Co-operative Banks to develop and enhance the sustainability of co-operative banks and co-operative financial institutions.”.</td>
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<td>4. The amendment of section 3 by the substitution for the section of the following section: “3. [(1)] This Act applies to all co-operative banks registered under this Act and to any — (a) primary co-operative registered under the Co-operatives Act that takes deposits and — (i) has 200 or more members; and (ii) holds deposits of members to the value of one million rand or more; and (b) secondary or tertiary co-operative registered under the Co-operatives Act, whose members consist of at least — (i) two or more co-operative banks;</td>
</tr>
<tr>
<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khotshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabologo</td>
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<tr>
<td>3.</td>
<td>3. Weniwi utshintsho kwicandelo 2 ngokuthi isiqendu (b) no-(c) zihlahlo-(^l) indawo ziziqendu ezislubanayo: “(b) kukuthazwe ukuphuculwa kwheelwani zentsebenziswano namaziko emali ayimifelandawonye; kananalo (c) kusekwe amaziko afanele kupeleku nomfelandawonye eebhanki ezinyiselo emali entsebenziswano akhusela izinto ezizwedwono zamalungu eebhanki zentsebenziswano, amaziko emali entsebenziswano, noluntu, ngokwenzwa ukuba— (i) kubhaliswe iibhanki ezimkela imali eluntwini zibe zibhanki zentsebenziswano okanye amaziko emali ayimifelandawonye; (ii) [ukumiselwa kwabaphathi] ukulawulwa ukufanele kupeleku nangempumelelo kwehlwani zentsebenziswano namaziko emali entsebenziswano kokuthazwe kwehlwani zentsebenziswano akhusela izinto ezizwedwono zamalungu eebhanki zentsebenziswano, amaziko emali entsebenziswano, noluntu, ngokwenza ukuba— (i) kubhaliswe iibhanki ezimkela imali eluntwini zibe zibhanki zentsebenziswano okanye amaziko emali ayimifelandawonye; (ii) [ukumiselwa kwabaphathi] ukulawulwa ukufanele kupeleku nangempumelelo kwehlwani zentsebenziswano namaziko emali entsebenziswano kokuthazwe kwehlwani zentsebenziswano akhusela izinto ezizwedwono zamalungu eebhanki zentsebenziswano, amaziko emali entsebenziswano, noluntu, ngokwenza ukuba— (i) kubhaliswe iibhanki ezimkela imali eluntwini zibe zibhanki zentsebenziswano okanye amaziko emali ayimifelandawonye; (ii) [ukumiselwa kwabaphathi] ukulawulwa ukufanele kupeleku nangempumelelo kwehlwani zentsebenziswano namaziko emali entsebenziswano kokuthazwe kwehlwani zentsebenziswano akhusela izinto ezizwedwono zamalungu eebhanki zentsebenziswano, amaziko emali entsebenziswano, noluntu, ngokwenza ukuba— (i) kubhaliswe iibhanki ezimkela imali eluntwini zibe zibhanki zentsebenziswano okanye amaziko emali ayimifelandawonye; (ii) [ukumiselwa kwabaphathi] ukulawulwa ukufanele kupeleku nangempumelelo kwehlwani zentsebenziswano namaziko emali entsebenziswano kokuthazwe kwehlwani zentsebenziswano akhusela izinto ezizwedwono zamalungu eebhanki zentsebenziswano, amaziko emali entsebenziswano, noluntu, ngokwenza ukuba—</td>
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| 4. | 4. Weniwi utshintsho kwicandelo 3 ngokuthi elo candelo litaqathwetsho indawo licandelo eliwendelo: “3. [(1)] Lo Mthetho usebenza kuzo zonke iibhanki zentsebenziswano ezibhaliswe phantsi kwalo Mthetho nakuzo naziphi na [— (a) umfelandawonye ophambili obhaliswe phantsi kweCo-operatives Act othatha imali ezifakwayo— (i) onamalungu angama-200 okanye ngaphezulu; (ii) noneemali ezifakwe ngamalungu ezifakwela kwisigidi seerandi okanye ngaphezulu; kwakanye (b) nomfelandawonye weshini okanye wokongeza obhaliswe phantsi kweCo-operatives Act, omalungu awo ubuncinane— (i) aneebhanki ezimbini nangaphezu koko ezingumfelandawonye;
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 |  | (ii) two or more financial services co-operatives that take deposits; or (iii) one co-operative bank and one financial services co-operative that take deposits] co-operative financial institution registered under this Act. [(2) A co-operative referred to in subsection (1) must, subject to section 91, within two months of meeting the criteria referred to in subsection (1) apply for registration as a co-operative bank in terms of this Act.].
5. The amendment of section 4 by the substitution for subsection (1) of the following subsection: “(1) The Co-operatives Act applies to co-operative banks and co-operative financial institutions unless the application of a provision thereof has specifically been excluded or amended in this Act.”
6. The amendment of section 5 by the substitution for paragraphs (c) and (d) for the following paragraphs: “(c) a secondary co-operative bank whose members consist of at least— (i) two or more co-operative banks; (ii) two or more co-operative financial institutions; or (iii) one co-operative bank and one co-operative financial institution; and (b) a tertiary co-operative bank whose members consist of two or more secondary co-operative banks.”
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td>(ii)</td>
<td>anemifelandawonye yeenkonzo zemali emibini nangaphezulu eyamkela imali ebantwini;</td>
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<tr>
<td>(iii)</td>
<td>anebhanki enye yentsebenziswa nomfelandawonye omnye wenkonzo yemali owamkela imali ebantwini iziko lemalile lingumfelandawonye elihaliwe ngokwalo Mthetho.</td>
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<tr>
<td>(2)</td>
<td>Umfelandawonye ekuthethwe ngawo kwicandelo (1) mawuthi, ngokulawulwa licandelo 91, zingekapheli iinyanga ezimbini uthe wahlangabezana neemfuneko ekuthethwe ngazo kwicandelo (1) wenze isicelo sokubhaliswa njengebhanki yentsebenziswa ngokwalo Mthetho.</td>
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5. Kwenziwa utshintsho kwicandelo 4 ngokuthi indawo yeucandelo (1) inthathwe licandelo elilandelayo: “(1) ICo-operatives Act isebenza kwibhanki zentsebenziswa nokumaziko emali entsebenziswa ngaphandle kokuba icaciwile into yokuba okutshiwo yinxalenye ethile yalo Mthetho akusebenzi okanye kwenziwa utshintsho.”

6. Kwenziwa utshintsho kwicandelo 5 ngokuthi indawo yesiqendu (c) no-(d) ithatyathwe ziziqendu ezilandelayo: “(c) ibhanki yesibini yentsebenziswa emalungu ayo ubuncinane—(i) aziibhanki ezimibi nangaphezulu zentsebenziswa; (ii) angamaziko emali entsebenziswa amabini nangaphezulu; okanye (iii) ayibhanki enye yentsebenziswa nezikolo lemalile lentsbenziswa ezinanye; kunye (b) ibhanki ephezulu yentsebenziswa emalungu ayo aziibhanki ezimibi nangaphezulu zentsbenziswa zokuncedisa.”
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7. | The insertion after section 40 in Chapter VII of the following Chapter: | “CHAPTER VIIA
CO-OPERATIVE FINANCIAL INSTITUTIONS

Application for registration as co-operative financial institution

40A. | (1) A co-operative financial institution must apply to the Authority, or to the Agency if this function has been assigned or delegated to the Agency, for registration on the application form as prescribed; | (2) The co-operative financial institution must submit copies of documents and any other information as prescribed, together with the application form referred to in subsection (1).

Requirements for registration

40B. | (1) In order to qualify for registration, or to continue to be registered, a co-operative financial institution must demonstrate, to the satisfaction of the Authority, or to the Agency if this function has been assigned or delegated to the Agency, on an ongoing basis that— | (a) it has the requisite experience, knowledge, qualifications and competence to give effect to its obligations;

(b) it has sufficient human, financial, and operational capacity to function efficiently and competently;

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

(d) it meets any other applicable prescribed requirements.

(2) (a) A co-operative financial institution must, once it has reached a prescribed amount of members’ deposits, apply for registration as a co-operative bank in terms of this Act;

(b) If the responsibility for the registration of a co-operative financial institution has been assigned or delegated to the Agency, the Agency must recommend to the Authority whether the application for registration as a co-operative bank should be approved or declined.

(c) In the event that the application by a co-operative financial institution to register as a co-operative bank is declined—
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7. | 7. Emva kwecandelo 40 kwiSahluko VII kufakelwa iSahluko esilandelayo: |

**‘ISAHLUKO VHA AMAZIKO EMALI ENTSEBENZISWANO**

**Isicelo sokubhaliswa njengeziko lemalientsebenziswa**

40A. (1) Iziko lemalientsebenziswa malenzeni isicelo kwitGunya, okanye kwitArhente ukuba lo msebenzi wabelwe iArhente, ukuze libhali kwifomu yesicelo ngendiela efunekayo.

(2) Iziko lemalientsebenziswa malingene ikopi zamaxwebhu kune nyone enye ingcombolo ngendiela efunekayo, kune nefomu yesicelo ekuthethwe ngayo kwicandelwana (1).

**Iimfuneko zokubhaliswa**

40B. (1) Ukuze lifanelelelele ukubhaliswa, okanye ukuxhubeleka libhaliwse, iziko lemalientsebenziswa kufuneka libonise ngendiela eyanelise iGunya okanye iArhente, ukuba lo msebenzi wabelwe iGunya okanye iArhente, libonise ukuba—

(a) linawo amava afunekayo, nolwazi, nemfundo nokukwazi ukuphumeza iimbopheleleko zalo;

(b) linabasebenzi abaneleyo nemali eyaneleyo ukuze lisebenze ngempumelelo;

(c) linazo iimfuneko-tanci zobulungu, izabelo zobulungu neemali ezifiakweyo;

(d) liyahlangabezana nazo zonke ezinye iimfuneko.

(2) (a) Iziko lemalientsebenziswa malithi, kwaoko lakuba linazo iimali ezilinani elifunekayo ezifakwe ngamalungu, lenze isicelo sokubhaliswa njengebhaniki yentsesebenziswa ngokwalo Mthetho.

(b) Ukuba imbopheleleko yokubhaliswa kweziko lemalientsebenziswa labelwe iArhente, iArhente mayicebise iGunya isicelo sokubhaliswa njengebhaniki yentsesebenziswa masamkelwe okanye sikhatywe kusini na.

(c) Xa isicelo seziko lemalientsebenziswa sokubhaliswa njengebhaniki yentsesebenziswa sikhatywe—

(i) iGunya lisengangqiba kwelokuba iziko lemalientsebenziswa alinakugcina iimali ezifakweyo engaphezu kwesixa esithile; kananja.IsiNdebele to IsiXhosa translation provided by the Department of Justice and Correctional Services, Republic of South Africa. This gazette is also available free online at www.gpwonline.co.za.
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<tr>
<td>(i)</td>
<td></td>
<td>the Authority may determine that the co-operative financial institution concerned may not hold members’ deposits exceeding a specified amount; and</td>
</tr>
<tr>
<td>(ii)</td>
<td></td>
<td>the co-operative financial institution concerned must re-apply for registration as a co-operative bank once the requirements to register as a co-operative bank have been met.</td>
</tr>
<tr>
<td>(d)</td>
<td></td>
<td>An amount determined by the Authority in terms of paragraph (c)(i)—</td>
</tr>
<tr>
<td>(i)</td>
<td></td>
<td>must be based on the nature and size of the co-operative financial institution; and</td>
</tr>
<tr>
<td>(ii)</td>
<td></td>
<td>may not exceed the general maximum limit for holdings of deposits by any co-operative financial institution prescribed by the Authority.</td>
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<tr>
<td>(e)</td>
<td></td>
<td>An application by a co-operative financial institution for registration as a co-operative bank must be accompanied by a letter of recommendation from the Agency, if applicable.</td>
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<tr>
<td>(3)</td>
<td></td>
<td>On the date that this section comes into operation, a co-operative financial institution that qualifies to be registered in terms of this Act—</td>
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<tr>
<td>(a)</td>
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<td>must apply for registration in terms of this Act within 12 months from the date on which this section comes into operation; and</td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td>that holds members’ deposits exceeding a prescribed threshold, but which does not qualify to be registered as a co-operative bank, must not hold members’ deposits exceeding an amount determined by the Authority, based on the nature and size of the co-operative financial institution.</td>
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<td>(4)</td>
<td></td>
<td>If the registration of co-operative financial institutions has been assigned or delegated to the Agency in terms of the Act, the Agency must inform the Authority of the registration of a co-operative financial institution within 14 days of the registration.</td>
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Registration of co-operative financial institution

40C. (1) The Authority may grant an application for registration on payment of the fee, prescribed by the Authority, if the Authority is satisfied that—

(a) the application has been made in accordance with this Act; and

(b) the co-operative financial institution complies with the requirements for registration referred to in section 40B.
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<td></td>
<td>(ii) iziko lemaili lentsebenziswano maliphinde lenze isicelo sokuqhubaliswa njengebhanki yentsebenziswano zakuba imfuneko zokuqhubaliswa njengebhanki yentsebenziswano zifeczekiswe. <em>(d)</em> Isixa-mali esiqingqwe liGunya ngokwesiqendu <em>(c)/(i)</em>— *(i) massisekelwe kubunjani nakubungakanani beziko lemaili lentsebenziswano; kwaye *(ii) utshumekunja ukuhle kwesicelo wena ezezokucinciwe ukuqhubaliswa njengebhanki yentsebenziswano masiphelekwe yincwadi ecebiswa onomakwenzele evela kwArhente, ukuba kuyasebenza oko kule meko. *(3) Ngomhla eliqala ukusitshwa nguwo eli candelu, iziko lemaili lentsebenziswano efanelelela ukubhala lina ngokwalo Mthetho— *(a) malenze isicelo sokubhala lina ngokwalo Mthetho zingekapheli iinyanga ezili-12 ukususela umhla eliqala nguwo eli candelu; kanye *(b) eneemali ezisifakele ngabantu ezingaphaya komlinganisele obekiweyo, kodwa lebe lingaphaneli ukuba liqhubaliswa njengebhanki yentsebenziswano, malingagcini imali ezisifakele ngabantu ezingaphaya komda oqiqgwe liGunya, osekelwe kubunjani nobungakanani beziko lemaili lentsebenziswano. *(4) Ukuba ukubhala likwazimo emali esenzwa lemaili lentsebenziswano kwabelwe okanye kuphathiswe iArhente ngokwalo Mthetho, iArhente mayazise iGunya ngokuqhubaliswa kwenziko lemaili lentsebenziswano zingekapheli iintsuku ezili-14 libhalisiwe. Ukubhala lina kwenziko lemaili lentsebenziswano 40C. *(1) iGunya linokuthi lisivume isicelo sokubhala liqhubala likuphathiswe umrhumo, othunwe liGunya, ukuba iGunya lanelisekelile kwinto yokuba— *(a) isicelo senziwe ngokuvumelana na Mthetho; kwaye *(b) iziko lemaili lentsebenziswano livahlangabela neemfuneko zokuqhubaliswa ekuthelwe ngazo kwicandelo 40B.</td>
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<th>Extent of repeal or amendment</th>
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<tr>
<td>(2)</td>
<td>The Authority must, on registration, issue a certificate of registration to the co-operative financial institution and publish a notice of the registration in the Register.</td>
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**Suspension of registration or de-registration**

40D. The Authority may, subject to subsection (4), de-register or, where appropriate, suspend the registration of a co-operative financial institution where the Authority is satisfied that the co-operative financial institution—

(a) has not commenced operating as a co-operative financial institution six months after the date of its registration as a co-operative financial institution;
(b) has ceased to operate;
(c) obtained registration through fraudulent means;
(d) no longer meets the requirements for registration referred to in section 40B;
(e) is unable to meet or maintain its prudential requirements referred to in section 40B;
(f) has failed to comply with any condition imposed under this Act;
(g) has failed to comply with any directive issued under this Act; or
(h) is de-registered or wound-up under the Co-operatives Act.

(2) Where a co-operative financial institution has requested its de-registration, the Authority may do so subject to any condition to which the Authority may determine.

(3) (a) Where the Authority suspends the registration of a co-operative bank under subsection (1), the Authority may do so subject to any condition that the Authority may determine.

(b) The Authority may revoke any suspension under subsection (1) if the Authority is satisfied that the co-operative financial institution has complied with all the conditions to which the suspension was made subject.

(4) (a) The Authority must publish a notice of such de-registration or suspension in the Register.
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<tr>
<td>(2)</td>
<td>IGunya malithi, lisakuba iziko libhalisitse, likhuphe isiqinisekiso sokubhaliswa siye kwiziko lemalai lentebebenziswano lize lipapashe isihlokomiso sokubhaliswa kwalo kwiRejista.</td>
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**Ukunququnyanyiswa sokubhaliswa okanye ukucinywa**

40D. (1) Ngokulawulwa licandelwana (4), IGunya lfinokulcima iziko lemalai lentebebenziswano eebelhibhalisitse, okanye, xa kufanelelele, likunqumamise ukubhaliswa kwalo, xa IGunya liqinisekile ukuba iziko lemalai lentebebenziswano —

(a) alikaqalisi ukusebenza njengeziko lemalai lentebebenziswano sekuphele iinyanga ezintandathu ukususela kumhla elabhaliswa ngawo njengeziko lemalai lentebebenziswano.

(b) liyekile ukusebenza;

(c) likufumene ukubhaliswa ngokusebenzisa ubuqhetseba;

(d) aliqinisekile ukuba iziko lemalai lentebebenziswano, xa IGunya linokuthi kusakungeniswa isicelo esinjalo, kunye nenye inqombolo efunekayo okanye ecelelweyo, ilicimile ekubhalisweni iziko lemalai lentebebenziswano.

(3) (a) Xa IGunya likunqumamisa ukubhaliswa kwebhanki yentsebenziswano ngokwecandelwana (1), IGunya linokwenza njalo ngokomqathango onokuthi ubekwe iGunya.

(b) IGunya linokukuphelisa ukunququnyanyiswa okwenziwe ngokwecandelwana (1) ukuba IGunya liqinisekile ukuba iziko lemalai lentebebenziswano livifezile yonke imiqathango.

(4) (a) IGunya malipapashe kwirRejista tsa tsazio sokucinywa okanye sôkunququnyanyiswa.
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 | | (b) The de-registration of a co-operative financial institution takes effect on the date specified in the notice referred to in paragraph (a).
 | | (c) Where a co-operative financial institution has applied for reconsideration of the decision of the Authority referred to in subsection (1), the Authority must not publish the notice referred to in paragraph (a) until the application for reconsideration of the decision has been finalised.

**Repayment of deposits on de-registration or lapsing of registration**

**40E.** (1) The Authority may, on the de-registration of a co-operative financial institution, direct the co-operative financial institution to repay any deposits, including interest thereon, held by that co-operative financial institution as at the date of de-registration within the period specified in the directive.

(2) A directive referred to in subsection (1) may—

(a) apply to all deposits generally; or

(b) differentiate between different types, kinds and amounts of deposits.

(3) A co-operative financial institution that fails to comply with a directive under subsection (1) is deemed not to be able to pay its debts.

**Winding-up or judicial management of co-operative financial institution**

**40F.** (1) Despite the provisions of sections 72(1), 73(1) and 77(2) of the Co-operatives Act—

(a) the Authority may—

(i) apply to a court that a co-operative financial institution be wound-up;

(ii) recommend to the Minister responsible for co-operatives that a co-operative financial institution be wound-up; and

(iii) apply to a court for a judicial management order; and

(b) the Minister responsible for co-operatives may not order that a co-operative financial institution be wound-up without the written concurrence of the Authority, or the Agency, if functions of the Authority have been assigned or delegated to the Agency as contemplated in this Act.
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<td>(b) Ukucinywa ekubhalisweni kweziko lemali lentsebenziswa kuqala ukusebenza ngomhla oxelwe kwisaziso ekuthethwe ngaso kwisingqibo (a).</td>
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<td></td>
<td>(c) Xa iziko lemali lentsebenziswa lenze isicelo sokuqwalaselwa ngokutsha kwesigqibo seGunya ekuthethwe ngalo kwicandelwana (1), iGunya malingasipapashi isaziso ekuthethwe ngaso kwisingqibo (a) de kube kugqitywe ukupwaqalaselwa ngokutsha kwesigqibo.</td>
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Ukubuyiswa kweemali ebezi fakiwe lisakucinywa iziko okanye kusakuphela ukubhaliswa kwalo

40E. (1) Xa iziko lemali lentsebenziswa licinywa ekubhalweni, iGunya linokuthi liyalele elo ziko lemali ukuba libuyise imali ezafakawayo kulo, kuquka nenzala yazo, mali ezo ezisekwiziko ekuphelele kombha wokucinywa kwalo ekubhalisweni lingekapheli ixesha elixelwe kumyalelo.

(2) Umyalelo ekuthethwe ngawo kwicandelwana (1) unokuthi—
  (a) usebenze kuko zonke imali ezafakweyo; okanye
  (b) usebenze kuphela kwintlobo ezithile nakwinimle ezithile ezafakweyo;

(3) Iziko lemali lentsebenziswa elingakwenziyo okufunwa ngumyalelo ngingekapheli ixesha elixelwe kumyalelo.

Ukuthinjwa kweziko lemali lentsebenziswa

40E. (1) Kungakhathaliseki ukuba lithini icandelo 72(1), 73(1) nele-77(2) leCo-operatives Act—
  (a) iGunya linokuthi—
    (i) lenz'isicelo enkundleni sokuba iziko lemali lentsebenziswa lithinjwe;
    (ii) licebise uMphathiswa ophathiswa imifelandawonye ukuba iziko lemali lentsebenziswa lithinjwe; kanaanjalo
    (iii) lenz'isicelo enkundleni somyolo lokwaka iziko liphathwe ngabalawuli abamiselwe yinkundla; kanaanjalo
  (b) uMphathiswa ophathiswa imifelandawonye akavumelenkanga ukuba ayalele ukuba iziko lemali lentsebenziswa lithinjwe
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<td>(2) Any application to a court for the winding-up, including the voluntary winding-up, of a co-operative financial institution must be served on the Authority.</td>
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<td>(3) Despite any other law, the Master of the High Court may only appoint a person recommended by the Authority as a provisional liquidator or liquidator of a co-operative financial institution, unless the Master is of the opinion that the recommended person is not fit and proper to be appointed as a provisional liquidator or liquidator of the co-operative financial institution concerned.</td>
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<td></td>
<td>(4) A liquidator of a co-operative financial institution that is voluntarily wound-up must submit to the Authority any documents that the co-operative financial institution being wound-up would have been obliged to submit in terms of this Act.”</td>
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<td>8. The repeal of sections 41 and 43.</td>
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<td>9. The amendment of section 44—</td>
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<td>(a) by the substitution for subsection (1) of the following subsection:</td>
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<td>“(1) The [supervisor] Authority may, in writing, delegate or assign any of the powers entrusted to [him or her] the Authority in terms of this Act and assign any of the duties imposed on [him or her] the Authority in terms of this Act to [a deputy supervisor] any person employed by the Authority or the South African Reserve Bank, to the Financial Sector Conduct Authority, or, with the concurrence of the Minister, to the Agency [a deputy supervisor or any other person].”; and</td>
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<td>(b) by the insertion after subsection (3) of the following subsection:</td>
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|                  |             | “(4) (a) To the extent that a power or function relating to the licensing of co-operative financial institutions has been delegated to the Agency, references in Chapter VIIA to “the Authority” must be read as a reference to “the Agency”.

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<td>ngaphandle kwenvume ebhaliweyo yeGunya, okanye iArhente, ukuba imisebenzi yeGunya yabelwe okanye iphathiswe iArhente njengoko kuxelwe kulo Mthetho.</td>
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<td>(2) Isicelo esibhekiswa enkundleni sokuthinjwa, kuquka nokuthinjwa ngokuzithandela kweziko lemalalentebebenziswano malaziswe iGunya ngaso.</td>
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<td>(3) Kungakhathaliseki ukuba uthini na omnye umthetho, uMgcini-Mafa WeNkundla Ephakamileyo unokumisela kuphela umuntu onconywe liGunya njengonothimba wxeshana okanye unothimba weziko lemalalienzebenziswano, ngaphandle kokuba uMgcini-Mafa unolulo lokuba umuntu onconyiweyo akafanelekhanga ukuba amiselwe njengonothimba wxeshana okanye njengonothimba weziko lemalalienzebenziswano.</td>
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<td>(4) Unothimba weziko lemalalienzebenziswano elifunela ngokwalo ukuthinjwa makanike iGunya nawaphi na amaxwebhu ebetywa kunyanzeleka ukuba liwakhuphe elo ziko ngokwalo Mthetho.”</td>
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<td>9. Kwenziwa utshintsho kwicandelo 44—</td>
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<td>(a) ngokuthi indawo yeicandelwana (1) ithatyathwe licandelwana elilandelayo: “(1) [Umphathi] iGunya linokuthi, ngokubhala, liphathise okanye lebela amagunya eliwaphathisweyo liwabele liGunya ngokwalo Mthetho [usekela-umphathi] nawuphi na umuntu oqeshwe liGunya okanye yiSouth African Reserve Bank, kwi[Financial Sector Conduct Authority, okanye ngokuvumelana noMphathiswa, kwiArhente [usekela-umphathi okanye omnye umuntu].”</td>
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| (b) emva kwecandelwana (3) kufakwe icandelwana elilandelayo: “(4) (a) Xa igunya okanye umsebenzi wokukhutshelwa ilayisensë kweziko lemalalienzebenziswano uphathiswe iArhente, xa kwisahluko VIIA kuthethwa nge-"Gunya" okoko makuthathwe njengokubhekisela kwi-"Arhente"."
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<td>(b) A reference in Chapter VIIA to “prescribed” means “prescribed in prudential, conduct or joint standards”.</td>
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<td>(c) To the extent that a power or function relating to the licensing of co-operative financial institutions has been assigned or delegated to the Agency—</td>
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<td>(i) the Agency may make rules in relation to the performance of that power or function; and</td>
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<td></td>
<td>(ii) “prescribed” must be read as referring to “rules made by the Agency”.</td>
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10. The substitution for section 45 of the following section:

“45. The [supervisor] Authority, in addition to other functions conferred on the [supervisor] Authority by or in terms of any other provision of this Act—

(a) must take steps [he or she] that the Authority considers necessary to protect the public in their dealings with co-operative banks and co-operative financial institutions;

(b) may, on the written request of a co-operative bank, co-operative financial institution, representative body, support organisation or auditor, extend any period within which any documentation, information or report must be submitted to [him or her] the Authority;

(c) must determine the form, manner and period, if a period is not specified in this Act, within which any documentation, information or report that a co-operative bank, co-operative financial institution, [a] representative body, support organisation or auditor is required to submit to the [supervisor] Authority under this Act must be submitted;

(d) may, despite the provisions of any law, furnish information acquired by [him or her] the Authority under this Act to any person charged with the performance of a function under any law;

(e) may issue guidelines to co-operative banks, co-operative financial institutions, members, supporting institutions and auditors on the application and interpretation of this Act and provide them with information on market practices or market or industry developments within or outside the Republic;
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<td>(b) Xa kwISahluko VIIA kukho igama elithi “emiselweyo” kuthethwa “emiselweyo kwizenzo zokuziphathha zobulumko okanye ngokwemilinganiselo yendibanelwano”;</td>
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<td>(c) Xa igunya okanye umsebenzi wokukhushelwa ilayiseng kwamaziko emali entsebenziselwano wabelwe okanye uphathiswe iArhente— (i) iArhente inokuthi iqulunqe imigaqo engokwenza loo msebenzi ukusetyenziswa kwegunya; kwaye (ii) elithi “emiselweyo” malithathwe njengelihhekisela “kwimigaqo equlunqwe yiArhente”;</td>
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10. Indawo yecandelo 45 ithatyathwa licandelo elilandelayo:

"45. [Umphathi] IGunya, ukongezelela kweminye imisebenzi enikwe [umphathi] IGunya ngokwalo Mthetho—
(a) malithathetho amanyathelo eliwabona lona liliGunya efaneleklele ukukhusela uluntu ekusebenzelani neebhanki zentsobengiswano namaziko emali entsebenziswano; (b) unokuthi, ngesicelo esibhalweyo sebhanki yentsobengiswano, amaziko enqw entsobengiswano iqumrhu elingummeli, axhase umbutho okanye umphicothi-zincwadi, olule ithuba lokungeniswa koxwebhu oluthile okanye ingombo elo ethile ingeniswa kwiGunya; (c) makenz’ isiqqibo ngozhobo, ngendlela, ngobude bexesha, ukuba ubude bexesha abuxelwanga kuMthetho, ekufuneka lingapheli ibhanki yentsobengiswano, iziko lemagi lentsebenziswano, iqumrhu elingummeli, umbutho wenkxaso okanye umphicothi-zincwadi, ekufuneka angenise ngalo [kumphathi] kwiGunya ngokwalo Mthetho; (d) unokuthi, kungakhalishiki ukuba uthini omnye uMthetho, anikele ngengombobo efunekayo kwiGunya ngokwalo Mthetho eyinika umntu ophathiswe umsebenzi ngokwalo Mthetho; (e) unokuhupha izikhokelo eziya kwibhanki zentsobengiswano, kumaziko emali entsobengiswano, kumalungu, kumaziko enkxaso nakubaphicothi-zincwadi malunga nokusetyenziswa nokuchazwa

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(f) may publish a journal or any other publication, and issue newsletters and circulars containing information relating to co-operative banks and co-operative financial institutions; and

(g) may take any measures [he or she] that the Authority considers necessary for the proper performance and exercise of [his or her] the Authority’s functions or duties or for the implementation of this Act.”

11. The substitution for section 46 of the following section:

“Power to make [rules] standards

46. (1) [The supervisor may prescribe rules with regard to—] A prudential, conduct or joint standard for or in respect of co-operative financial institutions and co-operative banks may be made on any of the following matters:

(a) [any] Any matter that is required or permitted to be prescribed in terms of this Act; and

(b) any other matter for the better implementation of this Act or a function or power provided for in this Act.

(2) [Rules] Standards referred to in subsection (1) may—

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

(b) be limited in 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 in relation to either a type or budgetary size of co-operative bank or co-operative financial institution or to any other matter.

(3) (a) Before the supervisor prescribes any rule under this section, he or she must—

(i) publish a draft of the proposed rule in the Gazette together with a notice calling for public comment in writing within a period stated in the notice, which period may not be less than 30 days from the date of publication of the notice; and
### Molao wa Taolo ya Lephata la Ditshelete, 2017

#### Nomoro ya Molao le ngwaga

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11. Indawo yecandelo 46 ithatyathwa licandelo elilandelayo:

"Igunya lokuqulunqa [imigaqo] imilinganiselō

46. (1) [Umphathi unokuqulunqa imigaqo ngokubhekiselele]- Isenzo sobulumoko okanye umlinganiselo wendibaniselwano weziko lemalii lentsebenziswa sinokwenziwa ngawo nawuphi na kule micimbi ilandelyo:

- (a) [nayiphi na] Nawuphi na umcimbi ekufuneka okanye ekukumelekileyo ukuba kwenziwe imimiselo ngawo; kwakunye

- (b) nawuphi na umcimbi wokusetyenziswa bhetele kwalo Mthetho okanye umsebenzi okanye igunya eliqulethwe kulo Mthetho.

(2) [Imigaqo] Imilinganiselo ekuthethwe ngayo kwicandelo (1) inokuthi—

- (a) isebenze kwihhanki zentsebenzi-swano okanye kumaziko emali entsebenziswa gabalala; okanye

- (b) ekusebenzeni kwayo ipheleleiselewe kwihhanki ethile yentsebenziswa okanye iziko lemalii lentsebenziswa, elingachazwa ngohlolo lwalo okanye ngobungakanani bebhanki yentsebenziswa okanye iziko lemalii lentsebenziswa okanye ngokubhekiselele nakweyiphi na into.

(L3) (a) Ngaphambi kokuba umphathi aqulunqe nawuphi na umthetho ngokweli candelo—

(i) makapapashe umgaqo ocetywayo oseluvavanyo awupapashe kwitGazethi kunye nesihlokomiso esicela ukuba uluntu luvakalise izimvo ngokubhala lingekaphele
(ii) secure the written approval of the Minister.

(b) If the supervisor alters a draft rule because of any comment, he or she need not publish the alteration before prescribing the rule.

(4) The supervisor may, if circumstances necessitate the immediate publication of a rule, publish that rule without the approval as contemplated in subsection (3)(a)(ii).”

The substitution for section 47 of the following section:

“Inspections

47. (1) [(a)] The Authority may at any time of [his or her] the Authority’s own accord, on application by at least 10 per cent of the members of or at the request of the judicial manager of a co-operative bank or a co-operative financial institution, inspect the business of a co-operative bank or a co-operative financial institution if the Authority has reason to believe that the co-operative bank or co-operative financial institution is not conducting its affairs in accordance with the provisions of this Act or is contravening a provision of this Act.

[(b) The supervisor has for the purposes of subsection (2) the powers and duties conferred or imposed upon a registrar by the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), and any reference in that Act to “registrar” must be construed as a reference to “supervisor” and any reference to “financial institution” must be construed as a reference to “co-operative bank”, provided that no warrant is required for search and seizure activities aimed at establishing regulatory compliance.]

(2) The Authority may take any measures and make any recommendation [he or she] that the Authority considers appropriate following an inspection in terms of subsection (1), including a recommendation to—

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<td>(ii) secure the written approval of the Minister.</td>
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<td>(b) If the supervisor alters a draft rule because of any comment, he or she need not publish the alteration before prescribing the rule.</td>
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<td>(4) The supervisor may, if circumstances necessitate the immediate publication of a rule, publish that rule without the approval as contemplated in subsection (3)(a)(ii).”</td>
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12. The substitution for section 47 of the following section:
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<td>ixesha elixelwe kwishlokomiso,</td>
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<td>xesha elo elingenakuba ngaphantsi</td>
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<td>kwentsuku ezingama-30 ukususela u</td>
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<td>kumhla wokupapashwa kweshlokomiso;</td>
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<td>kwaye (ii) makafumane imvume ehhaliweyo yoMphathiswa.</td>
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<td>(b) Ukuba umphathi uyawutshi-</td>
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<td>ntsha umgaqo oseluvavanyo ngenxa</td>
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<td>yoluvo oluvakaliweyo, akukho</td>
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<td>mfuneko yokuba alupapase olo</td>
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<td>(4) Ukuba imeko zifunisa ukuba</td>
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<td>upapapshwe ngoko nangoko umgaqo,</td>
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<td>12. Indawo yecandelo 47 ithatyathwa</td>
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<td>47. (1) [(a)] [Umphathi] iGunya</td>
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<td>okufunwa yimimiselelo.]</td>
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<td>(2) [Umphathi] iGunya linokutha-</td>
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|                            |                            | isiphakamiso esiya—
### Act No. 9 of 2017

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<td>(a) the co-operative bank or the co-operative financial institution; and</td>
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<td>(b) the relevant prosecuting authority if the inspection was done on the authority of a warrant.”.</td>
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13. The amendment of section 48—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
  “The [supervisor] Authority may, in order to ensure the implementation and administration of this Act or to protect members and the public in general, issue a directive to a co-operative bank or a co-operative financial institution—”; and

- (b) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:
  “(a) apply to co-operative banks or co-operative financial institutions generally; or

- (b) be limited in its application to a particular co-operative bank or co-operative financial institution, or kind of co-operative bank or co-operative financial institution, which may be defined either in relation to a type or budgetary size of co-operative bank or co-operative financial institution or to any other matter.”.

14. The amendment of section 49—

- (a) by the substitution for subsection (1) of the following subsection:
  “(1) The [supervisor] Authority may, despite and in addition to taking any step [he or she] that the Authority may take under this Act, impose an administrative penalty on [the] a co-operative bank or co-operative financial institution for any failure to comply with a provision of this Act.”; and

- (b) by the substitution for subsection (4) of the following subsection:
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td>(a)</td>
<td>kwibhanki yentsebenziswano okanye kwiziko lemaili lentsenbenziswa;</td>
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<td>(b)</td>
<td>nakwigunya lotshutshiso elifanelekeleleo ukuba ukuhlola kwenziwa ngesigunya zitisi.</td>
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13. Kwenziwa utshintsho kwicandelo 48—
(a) ngokuthi amazwi awandulela isiqendu (a) kwicandelwana (1) athatyathelw’ indawo ngamazwi alandelayo: 
"[Umphathi] Gunya linokuthi, ukuzekhathathathathwa kwalo Mthetho okanye liqinisekise ukuthathathwa kwalo Mthetho okanye liqinisekise ukukhusela kwamalungu noluntu ngokubanzo, linokuthi likhuphele ibhanki yentsebenziswa okanye iziko lemaili lentsenbenziswa umyalelo—"; nangokuthi
(b) isiqendu (a) no-(b) kwicandelwana (2) zithatyathelw’ indawo ziziqendu ezilandelayo: 
"(a) isebenza kwibhanki zentsenbenziswa okanye kumaziko emali entsebenziswa ngokubanzo; okanye
(b) ekusetyenzisweni kwawo uphelelelele kwibhanki ethile yentsebenziswa okanye kwiziko lemaili lentsenbenziswa elithile, okanye kuqhethe oluthile lwelwelwela kwibhanki yentsebenziswa okanye kwiziko lemaili lentsenbenziswa eloqhubhelo oluthile, enokuthi ichazwe ngokubanzo lwapha okanye ngokubungakanani ibhanki yentsebenziswa okanye ngokubungakanani bezwakile lemaili lentsenbenziswa.

14. Kwenziwa utshintsho kwicandelo 49—
(a) ngokuthi indawo yeicandelwana (1) ithathwe licandelwanda elilandelayo: 
"(1) [Umphathi] Gunya linokuthi, ukongezelela phezu kwennyathelo elithathyathweto elinothathathwa [Gunya] ngokwalo Mthetho, likhuphe isothwawo isothwawo ibhanki yentsebenziswa okanye iziko lemaili lentsenbenziswa ngemxa yokungakwenzi okufunwa nguloMthetho.”; nangokuthi
(b) ngokuthi icandelwana (4) zithatyathelw’ indawo licandelwana elilandelayo:
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<th>Act No. and year</th>
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<td>“(4) If a co-operative bank or co-operative financial institution fails to pay an administrative penalty within the specified period the [supervisor] Authority may by way of civil action in a competent court recover the amount of the administrative penalty from the co-operative bank.”.</td>
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15. The substitution for section 50 of the following section:

“Information and reports

50.[(1)] (a) The [supervisor] Authority may on written notice require a co-operative bank, a co-operative financial institution, a representative body or a support organisation [of a co-operative bank] to submit to [him or her] the Authority—

(i) the information specified in the notice; or
(ii) a report by an auditor or by any other person with appropriate professional skill, designated by the [supervisor] Authority, on any matter specified in the notice.

(b) A report required under [subsection (1)] paragraph (a) must be prepared at the expense of the co-operative bank, representative body or support organisation.”.

16. The amendment of section 55 by the insertion after paragraph (l) of the following paragraph:

“(lA) exercise powers and perform functions in relation to co-operative financial institutions, including regulatory and supervisory functions, as specified in terms of this Act, or which the Authority may, with the concurrence of the Minister, delegate or assign to the Agency;”.

17. The amendment of section 57—

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

“(aA) the matters referred to in section 55(1)(f) to (h) and paragraph (aB) of this subsection, in consultation with the [supervisor] Authority;”;

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15. Icandelo 50 lithatyathelw’indawo licandelo elilandelayo:

"Inkazelo neengxelo

50. [(1) (a) [Umphathi] iGunya linokuthi ngokwenza isaziso esibhaliweyo lifune ukhanka yentsebenziswano, iziko lemali lentsebenziswano, qumrhu elingummeli okanye umbutho wenkxaso [webhanki yentsebenziswano] ingenese kulo iGunya—

(i) inkazelo exelwe kwisaziso; okanye

(ii) ingxelo eyenziwe ngumphicohi- zincwadi okanye ngomnye umntu owufundeleyo umsebenzi wakhe, ochongwe [ngumphathi] iGunya, ngawo nawuphi na umcimbi oxelwe kwisaziso.

(b) Ingxelo efunekayo [ngokwe-
candelwana (1)] ngokwesiqendu (a) mayiqulunqwe ngendleko yevehanka yentsebenziswano, yequmrhu elingummeli okanye yombutho wenkxaso.".

16. Kwenziwa utshintsho kwicandelo 55 ngokuthi emva kwesiqendu (l) kufakelwe isiqendu esilandelayo:

"(2A) lisebenzise amagunya lenze nemisebenzi yamaziko emali entsebenziswano, kuqeka imisebenzi yolawulo neyokuphatha, njengoko ixelwe ngokwalo Mhetho, okanye leyo iGunya elinokuthi, ngemvume yoMphathiswa, liphathise isayile iyabele iArhente;".

17. Kwenziwa utshintsho kwicandelo 57—

(a) ngokuthi kwicandelwana (1) isiqendu (aA) sithayathelw’indawo sisiqendu esilandelayo:

"(aA) imicimbi ekuthethwe ngayo kwicandelo 55(1)(f) ukuya ku-(h) nakwisiqendu (aB) seli candelwana, ngokubonisana [nomphathi] neGunya;".
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<td>(b)</td>
<td>Co-operative financial institutions, in order to perform the Agency’s functions in relation to co-operative financial institutions, including regulatory and supervisory functions, as specified in terms of this Act, or which the Authority may, with the concurrence of the Minister, delegate or assign to the Agency;</td>
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| (c) | by the substitution in subsection (2) of the following subsection: “(2) Rules referred to in subsection (1) may—
(a) apply to co-operative banks, representative bodies, support organisations or co-operative financial institutions generally; or
(b) be limited in application to a particular co-operative bank, representative body, support organisation or co-operative financial institution, which may be defined either in relation to a type or budgetary size of co-operative bank or co-operative financial institution, or to any other matter; and
(c) only apply to co-operative financial institutions, in the case of rules referred to in subsection (1)(A).” |
| 18 | The repeal of sections 75 and 76. |
| 19 | The substitution for section 77 of the following section:

“Unlawful use of word ‘co-operative bank’, ‘co-operative financial institution’ or unlawful conduct of [banking] business of co-operative bank or co-operative financial institution.

77. (1) It is an offence for any person who is not registered as a co-operative bank or a co-operative financial institution under this Act to—
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
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<td>(b) ngokuthi emva kwesiqendo (aA) kufakelwe isiqendu esilandelayo:</td>
<td>“(aB) amaziko emali entsebenziswano, ukuze enze imisebenzi yeArhente emayela namaziko emali entsebenziswano, kuquka imisebenzi yolawulo nokuphatha, njengoko ixele kulo Mthetho, okanye leyo clinokuthi iGunya, ngokuvumelana noMphathiswa, liyiphathe okanye liyabele iArhente;”</td>
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<td>(c) ngokuthi icandlwana (2) lithatyathelw’ indawo icandlwana elilandelayo:</td>
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<td>“(2) Imigaqo ekuthethwe ngayo kwicandlwana (1) inokuthi— (a) isebenze kwibhanki zentsebenziswano, kumaqumrhu angabameli [okanye], kwimibutho yenxaxaso okanye kumaziko emali entsebenziswano ngokubanzi; [okanye]</td>
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<td>(b) ekusetyenzisweni kwayo ipheleleiselwe kwibhanki ethile yentsebenziswano, kwiqumrhu elinguumneli [okanye], kumbutho wenxaxaso okanye kwiziko lemali lentsebenziswano, elinokuchazwa ngohlobo iwalokanye ngobukhulu bebhanki yentsebenziswano okanye beziko lemali lentsebenziswano, okanye enye into; kwaye</td>
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<td>(c) isebenza kuphela kumaziko emali entsebenziswano, xa kuyimigaqo ekuthethwe ngayo kwicandlwana (1)(aB);”</td>
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<td>18. Kutshitshiswa icandelo 75 nelama-76.</td>
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<td>19. Icandelo 77 lithatyathelw’ indawo icandelo elilandelayo:</td>
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|                           |                           | 77. (1) Kusisenzo esikukona ukuba umntu ongabhaliswanga njengebhanki yentsebenziswano okanye njengeziko
428  No. 41060  GOVERNMENT GAZETTE, 22 AUGUST 2017

Act No. 9 of 2017

Financial Sector Regulation Act, 2017

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| (a) in connection with any business conducted by him, her or it— (i) use or refer to himself, herself or itself by any name, description or symbol indicating, or calculated to lead persons to infer, that such person is a co-operative bank or a co-operative financial institution registered as such under this Act; or (ii) in any manner purport to be a co-operative bank or a co-operative financial institution registered as such under this Act; or (b) use in respect of any business a name or description that includes the expression “co-operative bank”, “co-op bank”, “co-operative financial institution” or any derivative thereof. (2) It is an offence for any person to conduct the business of any co-operative bank or co-operative financial institution unless such person is registered as a co-operative bank or a co-operative financial institution in terms of this Act. (3) (a) It is an offence for a co-operative bank to provide, participate in or undertake banking services other than the services authorised in respect of the type of co-operative bank it is registered as in terms of this Act. (b) It is an offence for a co-operative financial institution to provide, participate in or undertake services other than the services that it is authorised to provide as a registered co-operative financial institution in terms of this Act.”.

20. The substitution for section 78 of the following section:

“Untrue information in connection with applications

78. It is an offence for any person in connection with an application for registration as a co-operative bank or a co-operative financial institution to provide any information that to the knowledge of such person is untrue or misleading in any material respect.”.

21. The substitution for section 79 of the following section:

“Criminal liability of director, managing director, executive officer and other persons

79. (1) It is an offence for any director, managing director or executive
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<th>Nomoro ya Molao le ngwaga</th>
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<td>lemali lentebebenziswano ngokwalo Mthetho ukuba—</td>
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<td>(athethe ngaye siqu okanye athethe ngebhanki leyo ngemaga</td>
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<td>okanye ndilela eyenzelwe ukuba yenze abantu bacinge</td>
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<td>ukuba iyibhanki yentebebenziswano</td>
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<td>okanye iliziko lemali lentebebenziswano elibhalisiwayo</td>
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<td>ngokwalo Mthetho; okanye</td>
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<td>nangayiphili na indlela azenze</td>
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<td>okanye iliziko lemali lentebebenziswano</td>
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<td>ngokwalo Mthetho; okanye</td>
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<td>asebenzise kwishishini igama</td>
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<td>okanye inkazelo ekuqha intetho</td>
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<td>“ibhanki yentebebenziswano” “iliziko lemali lentebebenziswano” ngokwalo Mthetho.</td>
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<td>(a) Kusisenzo esikukona ukuba</td>
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<td>ibhanki yentebebenziswano inike inkonzo</td>
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<td>zebhanki ezingezizo ezo zigunyazelwe</td>
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<td>uhlolo lwebhanki yentebebenziswano</td>
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<td>ebhaliselwe ukuba yeye ngokwalo Mthetho.</td>
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<td>(b) Kusisenzo esikukona ukuba iliziko</td>
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<td>lemali lentebebenziswano linike inkonzo</td>
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<td>ezingezizo ezo ligunyazelwe ukuba</td>
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<td>linike zona ngokwalo Mthetho.”.</td>
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<td>20.</td>
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<td>Icandelo 78 lithatyathelw’indawo licandelo elilandelayo:</td>
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<td>‘‘Ingcombolo engeyonyani malungu nezicelo</td>
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<td>78. Kusisenzo esikukona ukuba umntu</td>
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<td>athi xa esenza isicelo sokubhaliswa</td>
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<td>njengebhanki yentebebenziswano okanye</td>
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<td>iliziko lemali lentebebenziswano anike ingcombolo ayaziyo ukuba ayiyonyani</td>
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<td>okanye iyinkohliso.”.</td>
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<td>Icandelo 79 lithatyathelw’indawo licandelo elilandelayo:</td>
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<td>‘‘Ukuba ntyala lolwaphulo-mthetho</td>
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<td>komlawuli, komlawuli ophetheyo,</td>
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<td>lebhanki yentebebenziswano okanye</td>
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<td>leziko lemali lentebebenziswano lthi</td>
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<td>ngqalanga libandakanyeke okanye</td>
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| 22.             |             | Act No. and year Short Title Extent of repeal or amendment officer of a co-operative bank or a co-operative financial institution to, directly or indirectly, be involved in or take part in the management of a co-operative bank or a co-operative financial institution while the business of the co-operative bank or co-operative financial institution is 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.
| (2)             |             | It is an offence for any person other than a director, managing director or executive officer to knowingly, directly or indirectly, benefit from, be involved in or take part in the management of a co-operative bank or a co-operative financial institution while the business of the co-operative bank or co-operative financial institution is 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.”.
| 23.             |             | Act No. and year Short Title Extent of repeal or amendment 82. [Any] Where a decision or other step of an administrative nature taken by the [supervisor,] Authority or the Agency [or appeal board that] affects the rights of another person, the [supervisor,] Authority or the Agency [or appeal board] must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless another fair administrative procedure has been provided for in this Act or in terms of the Financial Sector Regulation Act.”.
| 23.             |             | Act No. and year Short Title Extent of repeal or amendment 85. Neither the [supervisor,] Authority or the Agency [or appeal board], nor any board member or employee or managing director thereof, nor a committee of the Agency or any member thereof incurs any liability in respect of any act or omission performed in good faith under or by virtue of a provision in this Act, unless that performance was grossly negligent.”.

"Fair administrative action"

82. [Any] Where a decision or other step of an administrative nature taken by the [supervisor,] Authority or the Agency [or appeal board that] affects the rights of another person, the [supervisor,] Authority or the Agency [or appeal board] must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless another fair administrative procedure has been provided for in this Act or in terms of the Financial Sector Regulation Act.”.

"Indemnity"

85. Neither the [supervisor,] Authority or the Agency [or appeal board], nor any board member or employee or managing director thereof, nor a committee of the Agency or any member thereof incurs any liability in respect of any act or omission performed in good faith under or by virtue of a provision in this Act, unless that performance was grossly negligent.”.
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<td>lithabath’ inxaxheba ekuphatshweni kwevhubhanki yentshebengwana okanye kweziko lelamli lentsebenziswano ngoxa ishishini lebhanhi yentshebengwana okanye leziko lelamli lentsebenziswano liqhubtywa ngokungwenankathalo, ngenjongo yokuphatho abo libatyalayo. (2) Kusisenzo esikukona ukubalumtu ongenguye umlawuli, umlawuli ophetheyo okanye igosa eliphuzulu eliququzelelayo lithi lisazi, ngokungqala- lifeyo okanye ngokungangqulanga, lizuzo, libandakanyeke okanye lithabath’ inxaxheba ekuphatshweni kwevhubhanki yentshebengwana okanye kweziko lelamli lentsebenziswano ngoxa ishishini lebhanhi yentshebengwana okanye leziko lelamli lentsebenziswano liqhubtywa ngokungwenankathalo, ngenjongo yokuphatho abo libatyalayo.</td>
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<td>22. Icandelo 82 lithatyathelw’indawo licandelo elilandelayo:</td>
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<td>“Ukwenziwa kwezugqibo ngobulungwisa</td>
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<td>23. Icandelo 85 lithatyathelw’indawo licandelo elilandelayo:</td>
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<td>“Ukungabi nabutyala</td>
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<td>85. [Umphathii] lithuba okanye irhente [okanye ibhodi yezibheno], okanye ilungu lebhodi okanye umqeshwa okanye umlawuli ophetheyo walo, okanye ikomiti yeArhente okanye ilungu layo, akabekeke tyala ngokwenza okanye ngokusilela ukwenza xa oko bekungenganjongo imbi okanye xa oko bekungenzwa yokho kutshiwio ngulo Mthetho, ngaphandle kokuba okwenzokileyo kube kukungakhathali okukhweniqayo.”</td>
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### Act No. and year | Short Title | Extent of repeal or amendment
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| 24. | The substitution for section 87 of the following section: |
| | **“Powers of Minister****
| 87. | The Minister may delegate any of [his or her] the Minister’s powers in terms of this Act, excluding the power to make regulations and the power to appoint the members of the Agency [or appeal board], to the Director-General or any other official of the National Treasury.”** |

| 25. | The substitution for the long title of the Act for the following: |
| | **“To promote and advance the social and economic welfare of all South Africans by enhancing access to banking services under sustainable conditions; to promote the development of sustainable and responsible co-operative banks and co-operative financial institutions; to establish an appropriate regulatory framework and regulatory institutions for co-operative banks and co-operative financial institutions that protect members of co-operative banks and co-operative financial institutions; to provide for the registration of deposit-taking financial services co-operatives as co-operative banks and co-operative financial institutions; to provide for the regulation and supervision of co-operative banks and co-operative financial institutions; and to provide for the establishment [of co-operative banks supervisors and] a development agency for co-operative banks; and to provide for matters connected therewith”** |

| 26. | The substitution for the expression “supervisor”, wherever it occurs, of the expression “Authority”. |

| 27. | The amendment of the arrangement of sections— |
| (a) | by the insertion after item 1 of the following items: |
| | **1A. Relationship between Act and Financial Sector Regulation Act** |
| | **1B. Regulatory instruments”;** |
| (b) | by the substitution for items 18 and 19 of the following items: |
| | **18. Functions of Auditor in relation to Authority** |
| | **19. Submission of documents to Authority”** |

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### Molao wa Taolo ya Lephata la Ditshelete, 2017

**Nomoro ya Molao le ngwaga** | **Setlhogo se se khutshwane** | **Bogolo jwa phimolo kgotsa tlhabololo**
---|---|---
24. | Icandelo 87 lithatyathelw’ indawo licandelo elilandelayo: | “Amagunya oMphathiswa

87. | UMphathiswa unokuwaphathisa amagunya akhe ngokwalo Mthetho, ngaphandle kwegunya lokwenza imimiselo negunya lokumisela amalungu eArhente [okanye ebhodi yezibheno], awaphathise uMlawuli-Jikelele okanye elinye igosa elsebenza kwimxili Yelizwe.” |

25. | Amazwi achaza injongo yoMthetho athatyathelw’ indawo ngamazwi alandelayo: | “Injongo kukuphucula intlalontle yabo bonke abantu baseMzantsi-Afrika kwicala loqoqosho ngokubafumanisa inkonzo zeebhanki phantsi kweemeko ezintle; kukukhuthaza ukusebenzisana kweebhanki namaziko emali entsebenziswano; kukwenza ukuba zilawulwe ngokufaneleki'leyo iibhanki zentsebenziswano namaziko emali entsebenziswano kuze kukhuseleke amalungu eebhanki zentsebenziswano namaziko emali entsebenziswano; kukwenza ukuba iibhanki zentsebenziswano namaziko emali entsebenziswano; nokwenza ukuba kubelela [abaphathi beebhanki zentsebenziswano] nearhente yophuhliso yeebhanki zentsebenziswano; nokwenzela izinto ezithi leebhanki zentsebenziswano; nokwenzela ukuba kubelela [abaphathi beebhanki zentsebenziswano] nearhente yophuhliso yeebhanki zentsebenziswano; nokwenzela izinto ezithi leebhanki zentsebenziswano; nokwenzela igama elithi “umphathi” indawo yalo ithatyathwa lelithi “iGunya”.

26. | Naphi na kukho igama elithi “umphathi” indawo yalo ithatyathwa lelithi “iGunya”.

27. | Kwenziwa utshintsho kulande-Iwano lwamaca endaweni ka-18 no-19: | 

(a) | emva ko-1 kufakelwa oku kulandelayo: | “1A. Ubudlelane phakathi kwalokwalo Mthetho neFinancial Sector Regulation Act

1B. Izixhobo zonawulo”;

(b) | endaweni ka-18 no-19 kufakelwe oku kulandelayo: | “18. Imisebenzi yomphothi-zincwadi ngokuhlobene neGunya

19. Ukungeniswa kwamaxwebhu kwGunya”;

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Act No. 9 of 2017

Financial Sector Regulation Act, 2017

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<td>40A. Application for registration as co-operative financial institution</td>
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<td>40D. Suspension of registration or de-registration</td>
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<td>40E. Repayment of deposits on de-registration or lapsing of registration</td>
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<td>40F. Winding-up or judicial management of co-operative financial institution</td>
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(c) the insertion after item 40 of the following heading and items:

"CHAPTER VIIA
CO-OPERATIVE FINANCIAL INSTITUTIONS"

(d) the substitution for item 77 of the following item:

"77. Unlawful use of words “co-operative bank”, “co-operative financial institution” or unlawful conduct of business of co-operative bank or co-operative financial institution”.

Act No. 19 of 2012

Financial Markets Act, 2012

1. The amendment of section 1—

(a) by the deletion in subsection (1) of the definition of “appeal board”;

(b) by the insertion in subsection (1) after the definition of “authorised user” of the following definition:

‘Authority’ means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;

(c) by the deletion in subsection (1) of the definition of “board”;

(d) by the insertion in subsection (1) after the definition of “bank” of the following definition:

‘central counterparty’ means a clearing house that—

(a) interposes itself between counterparties to transactions in securities, becoming the buyer to every seller and the seller to every buyer and thereby ensuring the performance of open contracts; and
Molao wa Taolo ya Lephata la Ditshetele, 2017

Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlholololo
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(c) | emva ko-40 kufakelwe umxholo olandelayo namacandelo alandelayo:

"ISAHLUKO VIIA AMAZIKO EMALI ENTSEBENZISWANO"

40A. Ukwenza isicelo sokubhaliswa njengeziko lemalali lentsenbenziswano
40B. limfuneko zokubhaliswa
40C. Ukubhaliswa kweziko lemalali lentsenbenziswano
40D. Ukuquyiyaswa kokubhaliswa okanye ukucinywa kwako
40E. Ububiyiswa kweemali ebezihlawulwe xa kucinywa ukubhaliswa okanye kuphelelw
40F. Ukuthinjwa kweziko lemalali lentsenbenziswano";

(d) | u-77 athayathethi indawo koku kulandelayo:

"77. Ukusetenzi isizwe ngokungakho mthethweni kwamazwazi athathe
"ibhanki yentsebenziswano," "iziko lemalali lentsenbenziswano,"
okungakho mthethweni kweshishini lebhanki yentsebenziswano okanye leziko lemalali lentsenbenziswano".

uMtsetfo Nom. 19 wanga-2012 | Umtsetfo wetiMakethe teMnotfo, 2012

1. Kuchitjiyela kwesigaba 1—
(a) ngokususa inчazelo ye-"ibhodi yetikhalo" esigatjaneni (1);
(b) ngokukafaka kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-"umsebenzisi logunyatiwe";
"Ligatja" kusho litGatja leNchubo yeMkhakha weMali lelisungulwe ngokwemigomo yesigaba 56 se-Financial Sector Regulation Act;
(c) ngokususa inчazelo ye-"ibhodi" esigatjaneni (1);
(d) ngokukafaka kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-"libhange";
"Ligatja lelisemkhatsini letekuhwebo" kusho indlu
leletiMali womagatja etetimali ngentekuhwebo kumasheya, libe ngumtsengi kuye wonkhe lotsengisako phindze libe ngumtsengi kuye

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<tr>
<td>(b)</td>
<td>becomes a counterparty to trades with market participants through novation, an open offer system or through a legally binding agreement;&quot;;</td>
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<td>(e)</td>
<td>by the substitution in subsection (1) for the definition of “clearing house directive” of the following definition: &quot;clearing house directive’ means a directive issued by a licensed independent clearing house or a licensed central counterparty in accordance with its rules;&quot;;</td>
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<td>(f)</td>
<td>by the substitution in subsection (1) for the definition of “clearing house rules” of the following definition: &quot;clearing house rules’ means the rules made by a licensed independent clearing house or a licensed central counterparty in accordance with this Act;&quot;;</td>
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<td>(g)</td>
<td>by the substitution in subsection (1) for paragraph (b) of the definition of “clearing member” of the following paragraph: &quot;(b) in relation to a licensed independent clearing house or a licensed central counterparty, a person authorised by that independent clearing house to perform clearing services or settlement services or both clearing services and settlement services in terms of the clearing house rules;&quot;;</td>
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<td>(h)</td>
<td>by the insertion in subsection (1) after the definition of “Companies Act” of the following definition: &quot;conduct standard’ has the same meaning ascribed to it in terms of the Financial Sector Regulation Act;&quot;;</td>
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<td>(i)</td>
<td>by the deletion in subsection (1) of the definition of “enforcement committee”;</td>
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<td>(a) Nomoro ya Molao le ngwaga</td>
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<td>(b) iba ligatja leletimali</td>
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<td>kuteluhwebo nalabangenelelako</td>
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<td>bemakethe ngekuchibiyela,</td>
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<td>luhlelo iwekuphisa loluvunako</td>
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<td>nobe ngekwisivumelwano</td>
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<td>lesibopho ngekweqiwetsetfo;”</td>
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<td>(c) ngekunjintjwa kwenchazelo ye-</td>
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<td>“tinkambiso tendlu legunyatako”</td>
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<td>ngukuhambisana nemitsetfo yalo;”</td>
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<td>(d) ngekunjintjwa kwenchazelo ye-</td>
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<td>ngukuhambisana naloMsetfelo;”</td>
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<td>(f) ngekwaswa kwenalazelo lelandze-</td>
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<td>lako esigatjaneni (1) ngenuva</td>
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<td>(g) ngekulose lelobengalako leland-</td>
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<td>lefanako naleyo leniketwe yona</td>
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<td>ngkweqiwetsetelo ye-Financial Sector Regulation Act;”</td>
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<td>(h) ngekufakwa kwenalazelo lelandze-</td>
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<td>kwenchazelo ye- “i-Companies Act”;</td>
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<td>ngkweqiwetsetelo ye-Financial Sector Regulation Act;”</td>
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(j) | by the insertion in subsection (1) after the definition of “external authorised user” of the following definition: | “ *external central counterparty*” means a foreign person who is authorised by a supervisory authority to perform a function or functions similar to one or more of the functions of a central counterparty as set out in this Act and who is subject to the laws of a country other than the Republic, which laws—
(a) establish a regulatory framework equivalent to that established by this Act; and
(b) are supervised by a supervisory authority;”;
(k) | by the insertion in subsection (1) after the definition of “external exchange” of the following definition: | “ *external market infrastructure*” means each of the following:
(a) An external central counterparty;
(b) an external central securities depository;
(c) an external clearing house;
(d) an external exchange;
(e) an external trade repository;”;
(l) | by the insertion in subsection (1) after the definition of “Financial Intelligence Centre Act” of the following definitions: | “ *financial sector law*” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;
Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;
(m) | by the deletion in subsection (1) of the definition of “Financial Services Board Act”;
(n) | by the substitution in subsection (1) for the definition of “independent clearing house” of the following definition: | “ *independent clearing house*” means a clearing house that clears transactions in securities on behalf of any person in accordance with its clearing house rules, and authorises and supervises its clearing members in accordance with its clearing house rules;”;

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<td><em>(j)</em></td>
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<td>ngekuvakwa kwalenachazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-“umsebentisi longaphandle logunyatiwe” “ligatja lelisemkhatsini letekuhweba lesisemsetfweni langaphandle” Kushiwo umuntfu wangaphandle legunyatiwe ligatja lelilawulako kutsi ente imisebeni lefanako nayelo yeligatja lelisemkhatsini letekuhweba njengoba kube kwekuloMsetfo futsi lophambisana nemisitsefyo yelive ngaphandle kwalena yeRiphabhu-lkhii. Le kumitteelo— <em>(a)</em> Lesungula sakhiwotsinchanti lesilawulako lelisingana naleseo lesitfoiwe nguloMsetfo; phindze <em>(b)</em> lelawulwe ligatja lelilawulako;</td>
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<td><em>(k)</em></td>
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<td>ngekuvakwa kwale-nchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-“ligatja langaphandle”: “tinsitanchanti tetimakethe tangaphandle” kushiwo ngakunye kwalokolundzelako: <em>(a)</em> Ligatja langaphandle letetimali lelilamulako; <em>(b)</em> libhangane langaphandle lelitimele kumashaya; <em>(c)</em> indlu legunyatako yangaphandle; <em>(d)</em> ligatja langaphandle; <em>(e)</em> libhangane langaphandle lekuhwebalana; “;</td>
</tr>
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<td><em>(l)</em></td>
<td></td>
<td>ngekuvakwa kwenchazelo Lelandzelako “Financial Intelligence Centre Act” esigatjaneni (1) ngemuva kwenchazelo ye-kwaletinchazelo letlilandzelako: “umsetfo wemkhakhwa wetetimali” unenchazelo lefanako nayelo leniketwe yona ngekwemibandzela yesisabaga 1(1) se-Financial Sector Regulation Act; “Financial Sector Regulation Act”, isho i-Financial Sector Regulation Act, 2017; “;</td>
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<td><em>(m)</em></td>
<td></td>
<td>ngekususwa kwenchazelo ye-“Financial Services Board Act” esigatjaneni (1);</td>
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<td><em>(n)</em></td>
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<td>ngekunjintja inchazelo ye-“ligatja lelitimele leligunyatako” ngulenachazelo lelandzelako esigatjaneni (1): “ligatja lelitimele leligunyatako” kushiwo ligatja leligunyatako lelikhipha ematransekshini kumashaya nyalokuhatholele nanoma ngkubani ngkehumbisana nemisitsefyo yendlu yalo legunyatako, ibuye ilawule iphatse emalunga a Lo lagunyatiwe ngekuhambisana neligatja leligunyatako ngekuhambisana nemisitsefyo yeligatja leligunyatako; “;</td>
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<td>(o)</td>
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<td>by the insertion in subsection (1) after the definition of “issuer” of the following definition: “‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”</td>
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<td>(p)</td>
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<td>by the insertion in subsection (1) after the definition of “juristic person” of the following definition: “‘licensed central counterparty’ means a central counterparty licensed under section 49;”</td>
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<td>(q)</td>
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<td>by the insertion in subsection (1) after the definition of “licensed exchange” of the following definitions: “‘licensed external central counterparty’ means an external central counterparty licensed under section 49A;”</td>
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<td>(r)</td>
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<td>by the substitution in subsection (1) for the definition of “market infrastructure” of the following definition: “‘market infrastructure’ means each of the following—(a) a licensed central counterparty; [(a)][(b)] a licensed central securities depository; [(b)][(c)] a licensed clearing house; [(c)][(d)] a licensed exchange; [(d)][(e)] a licensed trade repository;”;</td>
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<td>(s)</td>
<td></td>
<td>by the deletion in subsection (1) of the definition of “official website”;</td>
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<td>(t)</td>
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<td>by the substitution in subsection (1) for the definition of “participant” of the following definition: “‘participant’ means a person authorised by a licensed central securities depository to perform custody and administration services or settlement services or both, in terms of the [central securities] depository rules, and includes an external participant, where appropriate;”;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khushtshwane</td>
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<td>(o) ngekufakwa kwalenchazelo lelandzelako ngemuva kwenchazelo ye-“loniketako” esigatjaneni se(1):</td>
<td>&quot;'umtsetfo wekuhlanganyela'&quot;</td>
<td>&quot;umtsetfo wekuhlanganyela&quot; lefanako nulena laniketwe yona ngekwemibandzela yesigaba 1(1) se-Financial Sector Regulation Act;&quot;;</td>
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<td>(p) ngekufakwa kwalenchazelo lelandzelako ngemuva kwenchazelo ye-“umtsengisi longumlamuli esigatjaneni (1):&quot;</td>
<td>&quot;‘ligatja lelisemkhatsini letekuhweba leligunyatiwe’&quot;</td>
<td>&quot;ligatja lelisemkhatsini letekuhweba leligunyatiwe&quot; kushiwo ligatja lelisemkhathini letekuhweba ngaphasi kwenchazelo kusengi lekechisa le-49;&quot;;</td>
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<td>(q) ngekufakwa kwalenchazelo lelandzelako ngemuva kwenchazelo ye-“ligatja lelibhalisiwe” esigatjaneni (1):&quot;</td>
<td>&quot;‘ligatja lelisemkhatsini letekuhweba leligunyatiwe langaphandle’&quot;</td>
<td>&quot;ligatja lelisemkhatsini letekuhweba leligunyatiwe langaphandle&quot; kushiwo ligatja lelibhalisiwe langaphandle ngaphasi kwenchazelo kusengi lekechisa le-49A;&quot;;</td>
</tr>
<tr>
<td>(r) ngekususwa kwenchazelo ye-“sakhiwoncanti semakethe” ngalenchazelo lelandzelako:</td>
<td>&quot;‘sakhiwonchanti semakethe’&quot;</td>
<td>&quot;sakhiwonchanti semakethe&quot; kushiwo ngakunye kwalo lokulandzelako—</td>
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<td></td>
<td>(a) Ligatja langaphandle letetimali lehlanganikala</td>
<td>Ligatja langaphandle leletimali lehlanganikala;</td>
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<td></td>
<td>(b) Libhange lelingaphandle lelembelana kusengi lekechisa le-49A;&quot;;</td>
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<td></td>
<td>(c) Indlu legunyatiwe yangaphandle;</td>
<td>Indlu legunyatiwe yangaphandle;</td>
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<td>(d) Libhange langaphandle;</td>
<td>Libhange langaphandle;</td>
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<td>(e) Libhange langaphandle lelandzelako.</td>
<td>Libhange langaphandle lelandzelako.</td>
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<tr>
<td>(s) ngekususwa kwenchazelo ye-“iwebhusayithi lesemsetfweni” esigatjaneni (1);</td>
<td></td>
<td>&quot;iwebhusayithi lesemsetfweni&quot; kushiwo ngakunye kwalo lokulandzelako—</td>
</tr>
<tr>
<td>(t) ngekususwa kwenchazelo ye-“labangenelelako” ngalenchazelo lelandzelako esigatjaneni (1):&quot;</td>
<td>&quot;labangenelelako&quot; kushiwo imuntfu logunyatiwe silulu semasheya lesemakhatsini lesibhalisiwey kutsi abe libambela kantsi futsi alawule leminye imisebenti noma imisebenti</td>
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| (u) | by the insertion in subsection (1) after the definition of “participant” of the following definition:  

> “prescribed” means prescribed by the Minister by regulations, or by a conduct standard or a joint standard; | |  

| (v) | by the deletion in subsection (1) of the definitions of “prescribed by the Minister” and “prescribed by the registrar”; | |  

| (w) | by the insertion in subsection (1) after the definition of “prescribed” of the following definitions:  

> “Prudential Authority” means the authority established in terms of section 32 of the Financial Sector Regulation Act;  

> “prudential standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;  

> “Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act; | |  

| (x) | by the substitution in subsection (1) for the definition of “registrar” of the following definition:  

> “registrar” means [the person referred to in section 6] the Registrar and Deputy Registrar of Securities Services referred to in section 1A(1); | |  

| (y) | by the substitution in subsection (1) for the definition of “regulated person” of the following definition:  

> “regulated person” means—  

> (a) a licensed central counterparty;  

> [(a)](b) a licensed central securities depository;  

> [(b)](c) a licensed clearing house;  

> [(c)](d) a licensed exchange;  

> [(d)](e) a licensed trade repository;  

> [(e)](f) an authorised user;  

> [(f)](g) a clearing member;  

> [(g)](h) a nominee; | |
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<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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|                           | yekucedzelela noma kokubili ngekuhambisana nemitsetfo yekusisa [yekufakwa kwemashya lasemkhatsini], kantsi kungafaki ekhatzi bangaphandle labangenelelako, lapho kunesidzingo khona;”;
|                           | (u) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye- “labangenelelako”; “’kuncunyiwe’ kushiwo lokuncunywe nguNgcongcoshe ngetimiso temitsetfo, nobe umitsetfo wenchuba, nobe ngemitsetfo wekuhlanganyela”; |
|                           | (v) ngekususwa kwenchazelo ye- “njengoba kubekwe nguNgcongcoshe” kanye neye- “njengoba kubekwe ngunobhala” esigatjaneni (1); |
|                           | (w) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye- “njengoba kubekwe”;
|                           | “’Ligatja lebuNgcweti’ kushiwo ligatja lelisangulwe ngekwesigaba 32 se-Financial Sector Regulation Act;” |
|                           | ‘umitsetfo webudwenqeti’ unenchazelo lefanako lebekwe ngekwembandzela yesigaba 1 se-Financial Sector Regulation Act; |
|                           | ‘iRejista’ kushiwo iRejista yemningwane wemkakhaka wetetimali lekuhlanganywe ngawo esigabeni 256 se-Financial Sector Regulation Act;”;
|                           | (x) ngekuntjintja inchazelo “yanobhala” esigatjaneni (1) ngalenchazelo lelandzelako: “’nobhala’ kushiwo [lomuntfu lekuhlanganywe ngaye kusigaba 6] nobhala nelisekelo lanozlha wetinsita temahlaye lekucondziswe kuye esigabeni 1A(1);”;
|                           | (y) ngekuntjintja inchazelo ye-“umuntfu losemsetfweni” esigatjaneni (1) ngalenchazelo lelandzelako: “’umuntfu losemsetfweni’ kushiwo—
|                           | (a) igatja letetimali lelilamu-loke losemsetfweni;
|                           | [(a)]/(b) silulu semasheya lesemkhatsini lesibhaliisiwe;
|                           | [(b)]/(c) igatja leligunyatiwe lelibhaliisiwe;
|                           | [(c)]/(d) igatja leligunyatiwe lelibhaliisiwe;
|                           | [(d)]/(e) indzawo yekuhwebelana;
|                           | [(e)]/(f) umsebentisi losemsetfweni;
|                           | [(f)]/(g) lilunga leligunyatiwe;
|                           | [(g)]/(h) lophakanyisiwe;
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<tr>
<td></td>
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<td><a href="i">(h)</a> a participant;</td>
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<td>[(i)] [j] except for the</td>
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<td>purposes of section 3(6),</td>
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<td>sections 74 and 75, sections</td>
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<td></td>
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<td>89 to 92, and sections 100 to</td>
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<td></td>
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<td>103, an issuer;</td>
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<td>(k) except for the purposes</td>
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<td></td>
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<td>of sections 89 to 92, and</td>
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<td>sections 100 to 103, a licensed</td>
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<td>external central counterparty</td>
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<td>and a licensed external trade</td>
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<td>repository; or</td>
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<td>[(j)] (l) any other person</td>
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<td>[prescribed by the Minister in</td>
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<td>terms of section 5] specified</td>
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<td>in regulations for this</td>
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<td>purpose;’’;</td>
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<td>(z) by the substitution in</td>
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<td>subsection (1) in paragraph</td>
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<td>(a) of the definition of ‘‘se-</td>
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<td>curities’’ for subparagraph (v)</td>
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<td></td>
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<td>of the following subparagraph:</td>
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<td>‘‘(v) participatory interests in</td>
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<td>a collective investment scheme</td>
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<td>as defined in the Collective</td>
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<td>Investment Schemes Control Act,</td>
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<td>2002 (Act No. 45 of 2002), and</td>
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|                 |            | units or any other form of par-
|                 |            | ticipation in a foreign collec-
|                 |            | tive investment scheme ap-
|                 |            | proved by the [Registrar of|
|                 |            | Collective Investment Schemes]|
|                 |            | Authority in terms of section|
|                 |            | 65 of that Act; and’’;        |
|                 |            | (zA) by the substitution in    |
|                 |            | subsection (1) in paragraph   |
|                 |            | (c) of the definition of ‘‘set-
|                 |            | tle’’ for subparagraph (ii) of|
|                 |            | the following subparagraph:   |
|                 |            | ‘‘(ii) the parties have appointed|
|                 |            | a licensed independent clearing |
|                 |            | house, a licensed central      |
|                 |            | counterparty or a licensed     |
|                 |            | central securities depository  |
|                 |            | to settle a transaction, in    |
|                 |            | which case it has the mean-
|                 |            | ing assigned in paragraph (a); |
|                 |            | (zB) by the insertion in sub-
|                 |            | section (1) after the definition|
|                 |            | of ‘‘transfer’’ of the fol-
|                 |            | lowing definition:             |
|                 |            | ‘‘Tribunal’’ means the Financial|
|                 |            | Services Tribunal established in|
|                 |            | terms of section 219 of the    |
|                 |            | Financial Sector Regulation Act;’’;
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<tr>
<td>(h) (i)</td>
<td>labangenelelako;</td>
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<td>(h) (ii)</td>
<td>ngaphandle kwetizatfu</td>
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<td>tesigaba 3(6), tigaba 74</td>
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<td>kanye na 75, tugaba 89</td>
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<td>kanye na 92 netigaba 100</td>
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<td>kuya ku 103, loniketako;</td>
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<td>(k)</td>
<td>ngaphandle ngekwetinjongo</td>
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<td>tesigaba 89 kuya ku-92,</td>
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<td>kanye nesigaba 100 kuya</td>
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<td>ku-103, ligatja itetimali</td>
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<td>langaphandle lehilamulako</td>
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<td>futsi leligunyatiwe kanye</td>
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<td>nendzawo yekuhubwebela;</td>
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<td>none</td>
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<td>(g) (i)</td>
<td>nama ngabe ngubani</td>
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<td>[lobekwe nguNgcongcoshe</td>
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<td>ngekwesigaba 5]</td>
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<td>lekucondziswe kuye</td>
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<td>kutimiso temsetfo</td>
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<td>ngaletizatfut’;</td>
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<td>(z)</td>
<td>ngekuntjintja inchazelo ye-</td>
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<td></td>
<td>“emasheya” kundzima (v) yesigatjana</td>
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<td>(1)</td>
<td>ngelechazelo lelandzelao:</td>
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<td></td>
<td>“(v) inshisekalo yekungenelela ekusiseni ndzawonye njengenhlangano njengoba kuchazwe ku- ‘Collective Investment Schemes Control Act’, 2002 (Umtsetfo Nom. 45 wanga 2002), kanye nemayunithi nanoma ngayiphi lenye indlela yekungenelela kunhlangano yekusisa ndzawonye yangaphandle levunyelwe [nguNobhala weNhlangano yeKusisa ngeKuhlanganyela] liGatja ngekwesigaba 65 saloMisetfo; kanye”;</td>
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<td>(zA)</td>
<td>ngekuntjintja inchazelo ye-</td>
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<td>“kubhadala konkhe” kundzima (c) nasendzinyaneni (ii) tesigatjana (1) ngaleyalendzinyana lelandzelako:</td>
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<td>“(ii) tinhlangano tibeke sikhungo lesigunyatako lestitumele, ligatja lelisemkhatsini letekuhubweba noma silulu semasheya lesisemkhatsini lesihaliswiwe kutsi bacedzelele itranesekshini, ngaley o ndlela itawuba nenchazelo leniketwe kundzima (a);”</td>
</tr>
<tr>
<td>(zB)</td>
<td>ngekufaka esigatjaneni (1) kwenchazelo lelandzelako ngemuva kwenchazelo ye- “kudululisele”; ”</td>
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<td></td>
<td>“iNkhunda” kushiwono inkantolo yetinSita tetiMali leyasungulwa ngekwemibandzela yesigaba 219 ye-Financial Sector Regulation Act”;</td>
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(zC) | by the substitution for subsection (3) of the following subsection:
“(3) Where in this Act any supervisory authority is required to take a decision in consultation with the [registrar] Authority, such decision requires the concurrence of the [registrar] Authority.”; and
(zD) | by the addition of the following subsection:
“(4) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”.

3. The insertion after section 1 of the following section:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) If the Minister has determined by notice in the Gazette that the amendments of this Act contained in Schedule 4 to the Financial Sector Regulation Act must come into operation before the provisions of the Financial Sector Regulation Act in terms of which the Authority is established come into operation, then until the date on which the Authority is established—

(a) a reference to “Authority” must be read as a reference to the executive officer and a deputy executive officer referred to in section 1 of the Financial Services Board Act, who are the Registrar and the Deputy Registrar of Securities Services, respectively; and

(b) the Registrar and Deputy Registrar of Securities Services exercise the powers and perform the functions of the Authority.

(2) If the Minister has determined by notice in the Gazette that the amendments of this Act contained in Schedule 4 to the Financial Sector Regulation Act must come into operation before the provisions of the Financial Sector Regulation Act in terms of which the Prudential Authority is established come into operation, then until the date on which the Prudential Authority is established—

(a) a reference to “Prudential Authority” must be read as a reference to the Registrar of Banks; and
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(3C) | Kuntjintjwa kwenyana lereto: "(3) lapho khona kuloMtsetfo lonke ligunya lekuvala la libukwe kutsi litsatse sincumo ngekuchumana [namabhala] nelGatja, sincumo lesinjalo sidzinga kuhlanganyela nelGatja."; futsi
(3D) | Ngekungetse kwalesista lereto: "(4) ngaphandle nangabe ingcikisiso isho ngalawo indla, emagama netinkhomba leitingaka-chazwa esigatjaneni (1) kunenechaelo lefana no nalena lekuniketwe yona ngekwe-Financial Sector Regulation Act.".

3. Kufakwa kwalesista lereto ngemva kwesigaba sekucala (1):

"Budlelwane emkhatsini weMtsetfo kanye neMtsetfo weweMlawulwa weMkhakha wetetiMali"


(a) irefurensi "kuliGatja" kufuna ifundwwe njeengerefurensi kusothambisile kanye nasekela lekucondizise kibo esigabeni 1 se-Financial Sector Regulation Act. LekunguNobhala wetiNsita teMasheya kanye nasekela wakhe futsi

(b) Nobhala wetinsita temasheya kanye nasekela wakhe futsi

3. Kufakwa kwalesista lereto ngemva kwesigaba sekucala (1):

"Budlelwane emkhatsini weMtsetfo kanye neMtsetfo weweMlawulwa weMkhakha wetetiMali"


(a) irefurensi "kuliGatja" kufuna ifundwwe njeengerefurensi kusothambisile kanye nasekela lekucondizise kibo esigabeni 1 se-Financial Sector Regulation Act. LekunguNobhala wetiNsita teMasheya kanye nasekela wakhe futsi

(b) Nobhala wetinsita temasheya kanye nasekela wakhe futsi


(a) irefurensi "kuliGatja" lebuNgewethi kufuna ifundwwe njeengerefurensi kunobhala nemabangane; futsi
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(b) | the Registrar of Banks designated under section 4 of the Banks Act, 1990 (Act No. 94 of 1990) exercises the powers and performs the functions of the Prudential Authority. (3) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act. (4) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice in the Register. (5) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being— (a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard, or a joint standard; or (b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register. (6) (a) A reference in this Act to an on-site visit in terms of a provision of this Act, must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act. (b) A reference to an inspection in terms of a provision of this Act other than section 79(b) must be read as a reference to an investigation in terms of the Financial Sector Regulation Act. (7) (a) A reference in this Act to the Authority announcing or publishing information or a document on a website must be read as a reference to the Authority publishing the information or document in the Register. (b) The Authority may also publish the information or document on the Authority’s website. (8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.
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<td>(b) Nobhala wemabhange locokwe ngaphisi kwegisigaba 4 we-<em>Banks Act</em> (Umtsetfo Nom. 94 wanga 1990) usebentisa emandla ente imisebenti yeliTsho jaLeBungcwethi.</td>
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<tr>
<td>(3) Ngaphandle uma ngabe kuniketwe kuMtsetfo nobe i-<em>Financial Sector Regulation Act</em>, emandla nemisebenti yeliTsho ngekgwemibandzela yalomtsetfo angetwa kulawo leselele linaowo ngekgwemibandzela ye-<em>Financial Sector Regulation Act</em>.</td>
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<td>(4) Iriferensi kuloMtsetfo leya kuliTsho lencuma nobe leshicilela loulubhaza ngasatiso kuTsho kufanele ifundvwe njengoba kufaka ekhatshi iriferensi leya kuliTsho lencuma nobe leshicilela loulubhaza ngasatiso kuRejista.</td>
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<tr>
<td>(5) Ngaphandle nangabe kuloMtsetfo kusho loghanyele indlela, nome lomtsetfo udzinga loulubhaza luncunywe ngemtsetfosimiso, iriferensi kulouludaba—</td>
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<tr>
<td>(a) louluncunywe ifundvwe njenge-refurensi kulouludaba louluncunywe kemitsetfo yebungcwethi, imitseto yenchuho, nome imitseto yekuhlanganyela; nama</td>
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<td>(b) nakungabi njalo, iriferensi kuliTsho lencuma loulubhaza ngembhalo kanye nekubhalisa leso suncumo kumBhala.</td>
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<td>(6) (b) Iriferensi kuluhlolo nge-kwezimiso taloMtsetfo ngaphandle kwesigaba ngekwezimiso taloMtsetfo ngaphandle kwesigaba 79(b) kufuna ifundvwe njengereurensi kuluhlanganyela.</td>
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<td>(7) (a) Iriferensi kulomtsetfo kuli-Tsho kulekako nome leshicilela lwatiso nome umcudlwana kuwebhuyisi kufuna ifundvwe njengereurensi kuliTsho leshicilela lwatiso nome umcudlwana.</td>
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<td>(b) liTsho lingaphindze lishicilele lohlanganyona nobe umculo kuwebhuyisi yalo.</td>
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<td>(8) Iriferensi ngemali lefanele luncunywe kuloMtsetfo kumene ifundvwe njengereurensi lefanele kumali luncunywe ngekgwemibandzela wesigaba 237 se-<em>Financial Sector Regulation Act</em>.</td>
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(9) A reference in this Act to an appeal of a decision of the Authority or a market infrastructure to the appeal board must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

(10) For the purposes of the Financial Sector Regulation Act, conduct standards made in terms of section 74 are regulatory instruments.”.

4. The amendment of section 3—
(a) by the substitution for subsection (3) of the following subsection:

“(3) Despite any other law, [other than the Financial Intelligence Centre Act,] if there is an inconsistency between any provision of this Act and a provision of any other national legislation, except the Financial Intelligence Centre Act and the Financial Sector Regulation Act, this Act prevails.”; and

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

“(5) Despite any other law, if other national legislation confers a power on or imposes a duty upon an organ of state, other than the South African Reserve Bank or the Prudential Authority, in respect of a matter regulated under this Act, that power or duty must be exercised or performed in consultation with the [registrar] Authority, and any decision taken in accordance with that power or duty must be taken with the [approval] concurrence of the [registrar] Authority.”.

5. The amendment of section 4—
(a) by the substitution in subsection (1) for paragraph (e) of the following paragraph:

“(e) act as a clearing member unless authorised by a licensed exchange [or], a licensed independent clearing house, a licensed central counterparty, a licensed external central counterparty or an external central counterparty that is exempt from the requirement to be licensed in terms of section 49A, as the case may be;”;

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<td>(9)</td>
<td>IrefiDeri kuloMsetfo ngekubuyeketwa kwsesincumo seliGatja kubhodi yayikhalo kufanele ifundo wwe njenge-riferensi yekubuyeketa leso sincumo yiNkantolo ngekweMibandzela ye-Financial Sector Regulation Act.</td>
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<td>(10)</td>
<td>Ngetizatfu te-Financial Sector Regulation Act, imsetfo wenchubo lowentiwe ngekwegwesigaba 74 iifunkhomba letlalulako.</td>
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4. kuchitjiyelwa kwesigaba 3—
(a) ngekunktjintjwa kwesigatjana (3) ngesigatjana lesilandzelako:

“(3) Ngaphandle kwanoma miphi imsetfo, [kungasiyo i-Financial Intelligence Centre Act,] uma ngabe kune kungcubutana kunoma ngabe nguyiphi imibandzela yaloMsetfo numa imibandzela yanoma ngabe nguwuphi umsetfo lomisiwe velonkhe, ngaphandle kwe-Financial Intelligence Centre Act kanye ne-Financial Sector Regulation Act kutawuma loMsetfo.”; futsi

(b) ngekuntjintjwa kwesigatjana (5) ngesigatjana lesilandzelako:

“(5) Ngaphandle kwanoma miphi imsetfo, uma ngabe umsetfo lomisiwe velonkhe uniketa emandla noma uniketa umsebenti kumtimba wahulumende, kunasilo lBhange Ngodla laseningizimu Afrika nobe ligatja lebungecwethi ngalokupha-tselene neladzaba lolulawulwula ngaphansi kwaloMsetfo, lawo mandla numa umsebenti kufanele kwentiwe numa kusetjentiswe ngekutsintsana [nanobhala] neliGatja, kantsi numa ngabe ngusiphi sincumo lesitsatfwe ngekuhambisana nalawo numbando numa umsebenti kufanele sitatsatfwe ngekuhambisana [tfola imvume] [yanobhala] neliGatja.”;

5. kuchitjiyelwa kwesigaba 4—
(a) ngekuntjintjwa kwendzima (e) esigatjaneni (1) ngalendzima lelandzelako:

“(e) asebente njengelilinga leligunyatiwe ngaphandle kwekuhutsi agunyatwe ligatja lelibhaliwse [nomaj], ligatja leligunyatako lelitiméle noma ligatja lelesemikhatsini lelekuhweba, ligatja letetimali langaphandle lelifumulako noma ligatja lelesemikhatsini lelekuhweba lelifikhululwe kulokudzinekile kute ligunyatiwe ngekwegwesigaba 49A njengoba kungabale kubekekiwe;”;

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(b) | by the substitution in subsection (1) for paragraph (g) of the following paragraph: "'(g) perform the functions of or operate as a trade repository unless that person is licensed under section 56 or section 56A, as the case may be; or’’; (c) by the substitution for subsection (2) of the following subsection: ‘‘(2) A person who is not— (a) licensed as an exchange, a central securities depository, a trade repository [or], a clearing house or a central counterparty; (b) a participant; (c) an authorised user; (d) a clearing member; (e) an approved nominee; [or] (f) an issuer of listed securities[,] (g) licensed as an external central counterparty, or exempt from the requirement to be licensed in terms of section 49A; or (h) licensed as an external trade repository, may not purport to be an exchange, central securities depository, trade repository, clearing house, central counterparty, external central counterparty, external trade repository, participant, authorised user, clearing member, approved nominee or issuer of listed securities, as the case may be, or behave in a manner or use a name or description which suggests, signifies or implies that there is some connection between that person and an exchange, a central securities depository, trade repository, clearing house, central counterparty, external central counterparty, external trade repository, participant, authorised user or clearing member, as the case may be, where in fact no such connection exists.’’; and
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<td>(b) ngekuntjintjwa kwendzima (g) nyesigatjana (1) ngalendzima lelandzelako:</td>
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<td>&quot;&quot;(g) yente imisebenti ye-, nome isebente njengemhwebeli (indzawo yekuhwebelana), ngaphandle nangabe loyo muntfu ugunyatwe ngaphasi kwegisiga 56 nome sigaba 56A njengobe kungabe kubekiwe; nome&quot;&quot;;</td>
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<td>(c) ngekuntjintja sigatjana (2) ngesigatjana lelandzelako:</td>
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<td>&quot;&quot;(2) Umuntfu—</td>
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<td>(a) longenayo imvume njengeliligatja, sikhungo semasheya lesismkhatsini, indzawo yekuhwebelana [noma], sikhungo lesigunyatako noma ligatja lelismkhatsini letelikhweba;</td>
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<td>(b) longangeneleli;</td>
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<td>(c) longasuye umsebentisi losemsetfweni;</td>
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<td>(d) longasilo lilunga leligunyatiwe;</td>
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<td>(e) longakaphakanyiswa; noma</td>
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<td>(f) longanayo imvume yekuniketela ngemasheya labhalisiwe,</td>
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<td>(g) longakagunyatawa njengemlamuli wetetimali wangaphandle nome lokhuluwe kulokudzingekile kuze ugunyatwe ngekwegisiga 49A; noma</td>
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<td>(h) longakagunyatawa njengemhwebeli wangaphandle (indzawo yekuhwebelana yangaphandle) angeke wafaka sicelo sekutsi abe ligatja, sikhungo semasheya lesismkhatsini, indzawo yekuhwebelana, sikhungo lesigunyatako, ligatja lelismkhatsini letelikhweba, laphange lelismkhatsini letelikhweba langaphandle, umhlwebeli wangaphandle (indzawo yekuhwebelana yangaphandle), labangenelelako, umsebentisi losemsetfweni, lilunga leligunyatiwe, laphakanyiswe losemsetfweni noma loniketa f emasheya labhalisiwe, njengoba kungabe kubekiwe, noma kutiphatsa ngendlela noma kusebentisa ligama noma inchezelo lephakamisa kutsi, lekhombisa noma lechaza kutsi kunebudlelwano emkhatsini walowo muntfu neliligatja, sikhungo semasheya lesismkhatsini, indzawo yekuhwebelana, sikhungo lesigunyatako, ligatha letetimali lelimalulako, ligatja lelismkhatsini</td>
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(d) by the substitution for subsection (5) of the following subsection: “(5) (a) A clearing member may only provide the clearing services or settlement services for which it is authorised by a licensed exchange [or], licensed independent clearing house, or a licensed central counterparty, as the case may be, in terms of the exchange rules or clearing house rules, as the case may be. (b) A clearing member may only provide clearing services or settlement services for which it is authorised by a licensed external central counterparty or an external central counterparty that is exempt from the requirement to be licensed in terms of section 49A, with the joint prior written approval of the Authority, the Prudential Authority and the South African Reserve Bank.”

6. The amendment of section 5— (a) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs: “(b) a category of regulated persons, other than those specifically regulated under this Act, if the securities services provided, and the functions and duties exercised, whether in relation to listed or unlisted securities, [provided] by persons in such category, are not already regulated under this Act, and if, in the opinion of the Minister, it would further the objects of the Act in section 2 to regulate persons in such categories;
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| | letekuhweba langaphandle, unhiwebeli wengaphandle (indzawo yokuhwelana) wengaphandle, labangenelelako, tsebentisi lesetsefwe le kudlala leluinga leligunyatiwe, njengoba kungabe kubekiwe, lapo khona akunabudlelwano lobukhona.”; futsi (d) kunjintjiwa kwesigatjana (5) ngesigatjana leselezela:

"(5)(a) Lilinga leligunyatiwe linganiketsa tinsita tekugunyaya noma tekukhokhela ngalokugcwele letiniketwe inyama yekufunza ligatja leligunyatiwe [noma], sikhungo lesitleme leligunyatiwe lesinenvume, noma libhange lesimekhatsi lelethu weleligunyatiwe, njengoba kubekiwe, ngukhambisana nemitsetfo yeligatja noma imitsetfo yesikhungolesigunyata, njengoba kungabe kubekiwe. (b) Lilinga leligunyatiwe linganiketsa tinsita tekugunyaya kusha noma silungana lelefto 49A, ngakekuvumela lokukhulwwe ngokuhlanganyla phambili phakathi kweliGatja, Umtsetfo weBungcwethi kanye neliBhange Ngodla laseNingizimu Afrika.”.

6. kuchitjiyelwa kwesigaba 5—
(a) ngekuntjintja tindzima (b) kanye ne-
(c) ngaletindzima leletilandze leligunyatiwe ngakagatjane (1):

"(b) luha lwebantu
labalawulwenke, ngaphandle
kwalo labalawulwe
ngekwaloMsetfo, uma ngabe
imisebenzi yemasheya
inketiwe futsi kusebentse
nemisebenzi yenitiwe, noma
ngabe kuya ngalubhalisiwe
noma langakhubhaliwe, [uma
ngabe] labo bantfu
basengalawulwe kulowo
mkhakha ngekwaloMsetfo,
uma ngabe umbono
waNgconoshe, utawuchekisina tinjongo
taloMsetfo letikusigaba 2
tekulawula bantfu labanjalo
labakuleyo mikhakha;
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(c) | the securities services that may be provided, and the functions and duties that may be exercised, by an external authorised user, external exchange, external participant, external central securities depository, external clearing house, external clearing member, external central counterparty or external trade repository, as the case may be.”; and (b) | by the substitution for subsection (2) of the following subsection: “(2) An external authorised user, external exchange, external participant, external central securities depository, external clearing house, or external clearing member [or external trade repository] may only provide those securities services or exercise functions or duties, as the case may be, prescribed by the Minister in terms of subsection (1)(c).”.

7. The amendment of section 6: (a) | by the substitution for the heading of the section of following heading: “[Registrar and Deputy Registrar] Authority”;
(b) | by the deletion of subsections (1) and (2); (c) | by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “In performing those its functions in terms of this Act, the Authority—”;
(d) | by the substitution in subsection (3) for paragraph (k) of the following paragraph: “(k) may issue [guidelines] guidance notices on the application and interpretation of this Act;”; (e) | by the substitution in subsection (3) for paragraph (m) of the following paragraph: “(m) may exempt, for a specified period which may be renewed, any person or category of persons from the provisions of a section of this Act if the [Registrar] Authority is satisfied that—"
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<tr>
<td>(c) lemisebenti yemasheya lenganiketwa kanye nemisebenti lengentiwa ngumsebentisi longaphandle, ligatja lelitimele, banguenele labatimele, libhange lemasheya lelitimele langaphandle, indlu yangaphandle legunyatako, lilunga legulunyatako, ligatja lelisemkhatsini letekuhweba langaphandle, lilunga langaphandle leligunyatako noma ligatja langaphandle lekuhwebelana, njengoba kunqala kubekiwe.; futsi</td>
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<td>(b) ngekuntjintja sigatjana (2) ngesigatjana lesilandzelako: &quot;(2) Umsebentisi wangaphandle logunyatiwe, ligatja langaphandle, longenelelako wangaphandle, sikhungo semasheya lelitimele sangaphandle, indlu yangaphandle legunyatako, noma lilunga Langaphandle leligunyatako [noma libhange langaphandle lekuhwebelana] lingalele linikete letso tinsita temashaya noma kusebentisa imisebenti, njengoba kunqala kubekiwe, cubekwe nguNgcongcoshe ngekuya ngalesigatjana (1)(c).&quot;.</td>
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7. Kuchitjiyelwa kwesigaba 6: 
(a) ngekuntjintja sihloko salesigaba ngalesihloko lesilandzelako: "[Nobhala nasekela waNobhala] liGatja"; 
(b) Ngkususwa kwetigatjana (1) kanye na (2); 
(c) ngekuntjintjwa kwemagama langaphambikwendzima (a) ngemagama lalandzelako esigatjaneni (3): "Ekweteni [le]misebenti yalo nekwemibandzela yaloMtsetfo, liGatja—"; 
(d) ngekushintjwa kwendzima (k) ngendzima lelandzelako esigatjaneni sesi-(3): "(k) anganiketa [tinkhombandlela] lwati loluholako ngekusetje-itlisa nekuhunyushwa kwaloMtsetfo;"; 
(e) ngekuntjintja indzima (m) ngalendzima lelandzelako esigatjaneni (3): "(m) ngesikhatsi lesitsite lesingaphindze sivisetelwe [angavumela] angakhulula bantu nome tinholo tsite tebant’u kuletimiso talesigaba saoloMtsetfo [noma bani noma]"
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[(i) the application of said section will cause the applicant or clients of the applicant financial or other hardship or prejudice; and]

[(ii) the granting of the exemption will not—
(aa) conflict with the public interest; or
(bb) frustrate the achievement of the objects of this Act; and

(ii) the application of the section will cause the applicant or clients of the applicant financial or other hardship or prejudice; and

(iii) in relation to an external market infrastructure, and with the concurrence of the South African Reserve Bank and the Prudential Authority, the applicant—

(aa) is based in an equivalent jurisdiction in terms of section 6A and is authorised by the supervisory authority of such jurisdiction;

(bb) complies with any criteria prescribed in joint standards for the exemption of such persons; and

(cc) undertakes to cooperate and share information with the Authority, the South African Reserve Bank and the Prudential Authority to assist with the performance of functions and the exercise of powers in terms of financial sector law;”
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bantfu labatsite kutsi bangatsintswa kwalelo lgatja uMtsetfo uma ngabe nobhala [Gatja [align][tiseka kutsi—

(i) lokusetjentsewa kwaleso sigaba lekukhulunywa ngasotsitawente kutsi lofaka sicelo nomamaklayenti alofaka sicelo ngekwetimali nomalobunye bumatima nomakungalung; kanye]

(ii) kuniketwa kwemvume yekungatsintseki angeke—

(a) kwangcubutana netishinsekelo tahlumende; nomamaklayenti alofaka sicelo ngekwetimali nomalobunye bumatima

(bb) kuhlukumete kuphumelela kwaletinjongo taloMtsetfo; futsi

(iii) ngalekuyamene netakhlwane wonchanti tetimakethe tangaphandle, kanye nangekuhlanganyela kweli Bhangane Ngodla lasiNingizimu Afrika kanye nelibhange lebungcwethi, nomaklayenti emfakisicelo—

(a) ungeluhlelo lwemtsetfo lolulinganako ngekwesigaba 6A phindze futsi unyuyanye ligatja lelilawulako lwemtsetfo lonjalo;

(bb) uhambisana nanone luphi luhlelo lolu-ncunywe kumtsetfo wekuhlanganyela kwentela kukhu-lulwa kw wumuntfu lonjalo; futsi

(cc) utsatsa sibopho sekutibandzakanya aphindze abe ngeliwati kulGitja, liBhangane Ngodla
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<td>(f) by the substitution in subsection (3) for paragraph (n) of the following paragraph: “(n) must inform the Minister and the Governor of any matter that in the opinion of the registrar Authority may pose systemic risk to the financial markets; and];”</td>
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<td>(g) by the deletion in subsection (3) of paragraph (o);</td>
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<td>(h) by the substitution for subsection (5) of the following subsection: “(5) The registrar Authority must, where an exemption or a directive applies to all persons, regulated persons or securities services generally, publish the directive in the Gazette and on the official Authority’s website, and a copy of the published exemption or directive must be tabled in Parliament.”</td>
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<td>(i) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words: “The registrar Authority may, with the concurrence of the Prudential Authority, and in accordance with the requirements prescribed by the Minister under section 5(1)(a), in conduct standards or joint standards for, or in respect of, securities services—”</td>
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<td>(j) by the substitution in subsection (7) for paragraph (b) of the following paragraph: “(b) prescribe conditions and requirements for the provision of securities services in respect of unlisted securities, including, but not limited to, prescribing a code of conduct and imposing reporting requirements;”</td>
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<td>laseNingizimu Afrika kanye neli-bhange lebungcwethi kuncedzisa ngekwe-nitiwa kwemisebenti kanye nekusetje-ntiswa kwemandla ngewcemsetsefo wemkhakha wetetimala’;</td>
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| (f) ngekuntjintjwa kwendzima (n) ngalendzima lelandzelako esigatjaneni (3): |                          | “(n) kufanele kwatiswe Ngcogcoshe kanye neMbisi nganoma ngaluphi ludzaba Le- ngekwembono [wanobhala] weliGatja kungaletsa bungoti [kutinholetetimakethe temnotfo; kanye]”;
| (g) ngekususwa kwendzima (o) esigatjaneni (3); |                          | “(5) [nobhala] liGatja kufanele, lapho kuneuniketwa kungasebenti nomu umyalelo ufaka ekhatshi bonkhe bantfu, bantfu labasemtsetfweni noma temisimisa temasheya ngalo kutayelekile, kukhishwe lomlayelo kuGazuethi kuwebhusayithi yeliGatja [lesetsetfweni], kantsi ikhophi yalo kuvunyelwa noma umyalelo kufanele yefuluwe.euPhalamende.”;
| (i) ngekuntjintjwa kwemagama landvulela indzima (a) ngemagama lelandzelako esigatjaneni (7): |                          | “[nobhala] liGatja ngekuhlanga nyela neliGatja lebuNgcwehi, nangekuhambisana netidzingo letibekwe nguNgcogcoshe ngaphansi kwegisenga 5(1)(a), kuncho lo lesezingeni nemsetseo wekuhlanganyela, noke ngewcemibenti yemasheya—”;
| (j) ngekuntjintjwa kwendzima (b) esigatjaneni (7) ngendzima lelandzelako: |                          | “(b) abeke imibandzela netidzingo mgendela lekufanele kutsi imisebenti yemasheya ngalo kuphatselene nalatsite langakabhaliswa lekufanele aniketwe, kufaka ekhatshi,kutsi kungashi yignaphandle, ngekusho indlela yekuti phatsa] kugunyata nekukho-kheleka kwalawo masheya kufanele kweneteke ngayo;”;}
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<td>(k) by the substitution in subsection (7) for paragraph (d) of the following paragraph: ``(d) prescribe conditions and requirements in terms of which securities services in respect of specified types of unlisted securities may be provided, including[, but not limited to,] the manner in which clearing and settlement of such securities must take place;'';</td>
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<td>(l) by the substitution in subsection (8) for the words preceding paragraph (a) of the following words: ``(In relation to the persons in the category prescribed [by the Minister under] in terms of section 5(1)(b), [the registrar] standards may — '')'';</td>
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<td>(m) by the substitution in subsection (8) for paragraph (b) of the following paragraph: ``(b) prescribe conditions and requirements for the provision of securities services by such persons, including[, but not limited to,] prescribing [a code of conduct] conduct standards and imposing reporting requirements;'';</td>
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<td>(n) by the substitution in subsection (8) for paragraph (d) of the following paragraph: ``(d) prohibit such persons from providing securities services or undertaking any activities which may frustrate the objects of [the] this Act or the Financial Sector Regulation Act.'''; and</td>
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<td>(o) by the addition of the following subsection: ``(9) In relation to the securities services that may be provided, or the functions and duties that may be exercised by an external authorised user, external exchange, external participant, external central securities depository, external clearing house, external central counterparty, external clearing member or external trade repository, as the case may be, joint standards may prescribe additional criteria for the approval, authorisation, licensing or exemption of those persons in the Republic, and for the equivalence recognition of the applicable foreign country.'''</td>
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<td>(k) bgakuntjintjwa kwendzima (d) ngalendzima lelandzelako esigatjaneni (7):</td>
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<td>&quot;(d) abeke imibandzela netidzingo ngendlela lekufanele kutsi imisebenti yemasheya ngalokuphatselene nalatsite langakabhaliswa lekufanele aniketwe, kufaka ekhatshi, [kutsi kungashiyi ngaphandle], indlela kugunyata nekukhokheleka kwalawo masheya kufanele kwenke ngayo;&quot;;</td>
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<td>(l) bgakuntjintjwa kwemagama landvulela indzima (a) esigatjaneni (8) ngalamagama lalandzelako:</td>
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<td>&quot;Ngalokuphatselene nalabantfu lababalwe kolumkhakhaka lobekwe [nguNgcongcoshe ngaphansi] ngekwesigaba 5(1)(b), [nobhala] nchabo yemitsetfo inqaba—&quot;;</td>
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<tr>
<td>(m) bgakuntjintjwa kwendzima (b) ngalendzima lelandzelako esigatjaneni (8):</td>
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<td>&quot;(b) kubeka imibandzela netidzingo talemibandzela yemisebenti yemasheya ngulabo bantfu kufaka ekhatshi, [kungashiyi ngaphandle], kubeka [indlela] umtsetfo wenchubo [Y] wekuhlangatsa nekubeka lokudzingekako uma ngabe kubikwa;&quot;;</td>
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<tr>
<td>(n) bgakuntjintjwa kwendzima (d) ngalendzima lelandzelako esigatjaneni (8):</td>
<td></td>
<td>&quot;(d) kuvimbela bantfu labanjalo ekuniketeni imisebenti yemasheya noma kwenta noma ngabe miphimi imisebenti lengasebentisa kabi tinjongo taloMtssetfo noma ye-Financial Sector Regulation Act;&quot;; iutsi</td>
</tr>
<tr>
<td>(o) bgakungentwa kwalestigatjana lesilandzelako:</td>
<td></td>
<td>&quot;(9) bgakuhambelana nemisebenti yemasheya lengabe inkutwe ku-, kanye nemisebenti lengentiwa ngumsebentisi waphandle logunyatiwe, lusithubo lwangaphandle, longenelelako waphandle, indlu yaphandle yetekuhweya kwemashaya, ligatja celisemkhatsuni letekuhweba langaphandle, njengobe ludzaba lungaba njalo, njengobe kuncunywe ngungcongcoshe ngaphansi kwestigaba 5(1)(c), iGatja kukrathhe sika yemitsetfo wekuhlanganvela, kugunyata, kunaka, kufaka emitsetweni no bantfu yaphandle, kuRiphabhulikhi, kanye nekhutshwane ngakungana kwalestigatjana lelifanele langaphandle.&quot;</td>
</tr>
</tbody>
</table>
8. The insertion after section 6 of the following sections:

"Equivalence recognition of foreign jurisdictions"

6A. (1) On application by an interested party, the Authority, with the concurrence of the South African Reserve Bank and the Prudential Authority, may determine that the regulatory framework of a specified foreign country is equivalent (an "equivalent jurisdiction") to the regulatory framework established in terms of financial sector law, if the legislative and regulatory framework established in that foreign country meets the objectives of the financial sector law.

(2) A recognition in terms of section 6A(1) must be published on the Authority’s website and in the Register.

(3) The Authority must maintain a list of all foreign countries recognised under this section.

(4) When assessing the equivalence of the regulatory framework of a foreign country, the Authority, the South African Reserve Bank and the Prudential Authority must take into account —

(a) the nature and intensity of the supervisory authority’s oversight processes, including direct comparison with the regime applied by the Authority, the Prudential Authority and the South African Reserve Bank, as the case may be;

(b) alignment of the foreign country’s regulatory framework with relevant principles developed by international standard setting bodies applicable to market infrastructures;

(c) observed outcomes of the foreign regulatory framework applicable to market infrastructures relative to those in South Africa; and

(d) the need to prevent regulatory arbitrage.

Withdrawal of recognition

6B. The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, withdraw recognition where the criteria set out in section 6A are no longer met.
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<td>8.</td>
<td>Ngekufakwa kwalesigaba lesilandzelako ngemuna kwesigaba 6:</td>
<td>„Kwatiwa ngalokulinganako kwetinhlelo temsetfo tangaphandle</td>
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<tr>
<td></td>
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<td>6A. (1) ekusetjentisweni lilunga lelidzingile, liGatja, ngekuhlukanganyela neHlange Ngodla laseNingizimu Afrika nemsetfo webungwethi, liGatja lingancuma kutsi sakhiwonchanti leslawulako selive langaphandle lelilinganako (kuqunyanya lokulinganako) kulusitonchanti lwemtsetfotumiseng</td>
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<tr>
<td></td>
<td></td>
<td>(2) Kwatiwa ngewesigaba 6A(1) kufuna kusidiefwe kuwebhusayithi yeligatja kanye nakurejista.</td>
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<td>(3) liGatja kutuna ligcine luhlu lwawo onkhe emave angaphandle latiwako ngaphaseng kwalesigaba.</td>
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<td>(4) Nakuhlolisiswa kulingana kwehlanganatilwe lololawulako lwelive langaphandle, ligatja, lHlange Ngodla laseNingizimu Afrika kanye nemsetfo webungcweti kufuna banake nanaku lokulandzelako—</td>
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<td></td>
<td></td>
<td>(a) luhlobo kanye nemandla eluhlelo lekuhloisi salelila kungana kufaka ekhatsi kucatsanisa lokucondzile neluhlelo lulosetjentiswa ligatja, ligatja lebungcweti kanye nelHlange Ngodla laseNingizimu Afrika;</td>
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<td></td>
<td></td>
<td>(b) kweyamaniswa kwehlanganatilwe lololawulako lwelive langaphandle kanye nemsetfo lefanele lesunguwe mitimba yavelonkhe lamucuma umsetfo losebenta kusakhiwonchanti setimakethe;</td>
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<tr>
<td></td>
<td></td>
<td>(c) imiphumela leboniwe yelusitonchanti lololuwalako lolosebenta kutakhiwonchanti lethiholene naletle leseNingizimu Afrika; futsi</td>
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<td></td>
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<td>(d) sidzingo sekuvimbela luhwebo lwemattfuba.</td>
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Kukhishwa kwekwatiwa

6B. liGatja ngekuhlukanganyela neHlange Ngodla laseNingizimu Afrika kanye neligatja lebungwethi kunganyomula kwatiwa lapho indlela lencunywe kusigaba 6A ingasalandzelwa.
6C. (1) The Authority must enter into a supervisory co-operation arrangement with the relevant supervisory authority from the equivalent jurisdiction for the purpose of performing its functions in terms of this Act.

(2) A supervisory co-operation arrangement referred to in subsection (1) must at least specify—

(a) the mechanism for the exchange of information between the Authority, the South African Reserve Bank, the Prudential Authority, and the relevant supervisory authorities ("the authorities"), including access to all information requested by the Authority regarding a licensed external market infrastructure;

(b) the mechanism for prompt notification to the Authority, the South African Reserve Bank and the Prudential Authority where the supervisory authority deems an external market infrastructure which it is supervising to be in breach of the conditions of its authorisation or of other law to which it is subject, or any other matter which may have an effect on the authorisation of the market infrastructure;

(c) the procedures concerning the coordination of supervisory activities including, where appropriate, for collaboration regarding the timing, scope and role of the authorities with respect to any cross-border supervisory on-site inspections;

(d) the processes the authorities should use if an authority subsequently determines that it needs to use requested supervisory information for law enforcement or disciplinary purposes, such as obtaining the consent of the requested authority and handling such information in accordance with the terms of existing memorandum of understanding for enforcement co-operation;

(e) the procedures for co-operation, including, where applicable, for discussion of relevant examination reports, for assistance in analysing documents or obtaining information from a licensed external market infrastructure and members of the controlling body or senior management; and
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<tr>
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<tr>
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<td>Imitsetfo yekubandzakanyeka</td>
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<tr>
<td>6C. lGatja kufuna lingene ehlelweni lekubambisana ngekatalawula likanye nemagatja lafanele lalawulako ehlelweni lwemsetfo lolulinganako ngetjiongong tekwenta umsebenzi walo ngekwaloMisetfo.</td>
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<td>(2) Luhlelo lokubambisana ngekatalawula lekucondziswe kilo esigatjaneni (1) kufuna lokungenani lufacise—</td>
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<tr>
<td>(a) indiela yekuntjintjana ngemniningwane emkhatsini weligatja, lBhange Ngodla laseNingizimu Afrika, ligatja lebungcwethi kanye nemaGatja ekatalawula, kufaka ekhatsi kufinyelela kuwo wonkhe umniningwane locelwe lekubambisana lekucondziswe kufuna lingene ehlelweni lekucondziswe ekubambisana nelawulako esigatjaneni;</td>
<td></td>
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<tr>
<td>(b) indiela yekukhishwa kwesatiso ngesikhatsi lekubambisana ngekucondzisa kufuna lingene ehlelweni lekucondziswe kufuna lingene ehlelweni lekucondziswe nelawulako kufuna lingene ehlelweni lekucondziswe;</td>
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<tr>
<td>(c) indiela lethuphatselene nekutibandzakanyana kwekatalawula lefaka ekhatsi, lapho kufanele khona, kuhlalanganyela lokuphatselene nekubona ngosikhatsi, umtlamo kanye nelichaza leligatja ngekatalawulisa ngomunye lekubambisana nesikhatsi nesikhatsi kanye nesikhatsi, umtlamo nesikhatsi;</td>
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<tr>
<td>(d) indiela emagatja lekucondzisa kufanele lekucondzisa kufanele lokubambisana lapho kufanele khona, kuhlanganyela lokuphatselene nekubona ngosikhatsi;</td>
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<tr>
<td>(e) indiela yekutibandzakanyana, kufaka ekhatsi, lapho kweloka khona, kucoci yekuphatselene lekucondzisa kufanele, kufanele lekucondzisa kufanele;</td>
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(f) the degree to which a supervisory authority may onward-share to a third party any non-public supervisory information received from another authority, and the processes for doing so.

(3) The Authority and supervisory authorities that have entered into supervisory co-operation arrangements in terms of subsection (1) must—

(a) establish and maintain appropriate confidential safeguards to protect all non-public supervisory information obtained from another supervisory authority;

(b) consult with each other and share risk analysis assessments and information to support the identification, assessment and mitigation of risks to markets and investors;

(c) consult, co-operate and, to the extent possible, share information regarding entities of systemic significance or whose activities could have a systemic impact on markets;

(d) co-operate in the day-to-day and routine oversight of internationally active licensed external market infrastructures;

(e) provide advance notification and consult, where possible and otherwise as soon as practicable, regarding issues that may materially affect the respective regulatory or supervisory interests of another authority;

(f) design mechanisms for supervisory co-operation to provide information both for routine supervisory purposes and during periods of crisis; and

(g) undertake ongoing and ad hoc staff communications regarding internationally active licensed external market infrastructure as well as more formal periodic meetings, particularly as new or complex regulatory issues arise.’’.

9. The amendment of section 7—

(a) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
9. Kuchitjyelwa kwesigaba 7—
(a) ngenkuntjintwa kwendzima (a) ngendzima lelandzelako esigatjaneni esigatjaneni (3):
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| | | “(a) be made in the manner and contain the information prescribed by the [registrar] Authority;”; (b) by the substitution in subsection (3)(c) for subparagraph (v) of the following subparagraph: “(v) the application fee [prescribed by the registrar] determined in terms of the Financial Sector Regulation Act;”; (c) by the substitution in subsection (4) for paragraph (a) of the following paragraph: “(a) The [registrar] Authority must publish a notice of an application for an exchange licence in two national newspapers at the expense of the applicant, and on the [official] Authority’s website.”; (d) by the substitution in subsection (4)(b) for subparagraphs (ii) and (iii) of the following subparagraphs: “(ii) [where] that the proposed exchange rules and listing requirements [may be inspected by] are available on the website of the Authority for comments from members of the public; and (iii) the period within, and the process by, which objections to the application or rules and listing requirements may be lodged with the [registrar] Authority;”; and (e) by the addition in subsection (4) of the following paragraph: “(c) The Authority must publish the proposed exchange rules and listing requirements referred to in paragraph (b)(ii) on the Authority’s website.”.
10. The amendment of section 8— (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: “(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in relevant joint standards are met by the applicant, or the licensed exchange, as the case may be, [its directors] members of its controlling body and senior management;”; and
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Nmr 9 ya 2017

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No. 41060  471

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| | | “(a)” sentiwe ngendlela kanye nekucuketsa lwati lolube kwe [ngunobhala] liGatja;”;
(b) ngekuntjintjwa kwaletindzinyana (v) esigatjaneni (3)(c) ngendzinyana lelandzelako:
“(v)” linani lemali yekufaka sicelo [lebekwe ngunobhala] lenonywe ngekwe-Financial Sector Regulation Act;”;
(c) ngekuntjintjwa kwendzima (a) ngale-
ndzima lelandzelako kusigatjana (4):
“(a)” [noblala] liGatja kufanele [a][likhiphe satiso sesicelo sekuba nelayisensi yeligatja kumaphepadzabana lamabili lafundvwa velonkhe lokuta-
wuba tindleko talona lolafa sicelo, kanye nakuwebhusayithi yeliGatja [lesemsetfweni].”; 
(d) ngekuntjintjwa kwendzinyana (ii) kanye nondzinyana (iii) esigatjaneni (4)(b) ngetindzinyana letilandzelako:
“(ii)” [lapho] kutsi lakufanele kuholwe khome lemitsetfoyeye-
ligatja lephakanyisiwe kanye nalokudzinekaka [kute ubhaliwe ngalokuholwe] kuyatfosakala kwekwehusayithi yeliGatja kute emalunganga emmango abeke imbongo; futsi
(iii) isho lesikhatsi, kanye nenchubo, lapho kungabekwa khome lokuhikisa sicelo nome Lmitsetfo kanye nalokudzinekile kungaletfwa ngaphambi kweliGatja [lesibekwe ngunobhala].”; futsi
(e) ngekungjeta lendzima lelandzelako esigatjanneni (4);
“(c)” liGatja kufanele lishicilele lemitsetfo yeligatja lephakanyisiwe kanye nalokudzinekile lekukhulunywe ngako endzimenye ye-(b)(ii) kuwebhusayithi.”;
10. Kuchitjiyelwa kwesigaba 8—
(a) ngekuntjintjwa kwendzima (c) esigatjaneni (1) ngalendzima lelandzelako:
“(c)” kukhombisa kutsi letidzingo letifanele letibekwe [ngunobhala] kumtsetfo wekuhlanganyela lophanele, lolafak sicelo uyatifeza, nomaligatja lelibhalisiwe, njengoba kungabe kubekwe, [bacondzisi] benalunga entimba lolawulako [halo] kanye nekhaphatsi labasetulu;”;

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(b) | by the addition of the following subsection:

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(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.

(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.

(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).

(d) Requirements prescribed in terms of subsection (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.
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11. The amendment of section 9(4) by the substitution for paragraph (a) of the following paragraph:

```
(a) The [registrar] Authority must publish a notice of an application for an amendment of the terms of an exchange licence or the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the [official] Authority’s website.
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12. The amendment of section 10—

(a) by substitution in subsection (2) for paragraph (f) of the following paragraph:

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(f) must, as soon as it becomes aware [thereof], inform the [registrar] Authority of any matter that it reasonably believes may [pose systemic risk to the financial markets] give rise to, or increase systemic risk;'';
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(b) by the substitution in subsection (2)(i) for subparagraph (ii) of the following subparagraph:

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(ii) may appoint [an associated or independent] a clearing house or central counterparty licensed under Chapter V to clear or settle transactions or both clear and settle transactions on behalf of the exchange;'';
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<td>(b) ngekungetwa kwalesigatjana leasilandzelako:</td>
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<tr>
<td>“(3) (a) Ngekunganakwa kwalesigatjana (1), lokudzingekile lokuncunyywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwe-kucala kwalesigatjana kuchubeka kudzingeke.</td>
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<tr>
<td>(b) Ngekwetimiso temtsetfo letincunyywe ngkwembrandzela wesigatjana (1)(a). Ngcongcoshe angacita timiso temtsetfo, bese kutsi lokudzingekile lokusha kungabese sekuncunyywa emitsetwfeni yekuhlanganye nobe umtsetfo wenchubo.</td>
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<tr>
<td>(c) Indzima (b) ayisikabetsi nobe ivimbele emandla aNgcongcoshe kuncuma nobe kuchibiyela timiso temtsetfo ngkwembrandzela yesigatjana (1)(a).</td>
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<tr>
<td>(d) Lokudzingekile lokuncunyywe ngkwembrandzela yesigatjana (1)(c) nobe (2)(c) ngembikwe-kucala kwalesigatjana kungachitjiyelwa nobe kucitfwe ngkwenchubo nobe umtsetfo wekuhlanganye nobe &quot;</td>
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<tr>
<td>11. Kuchitjiyelwa kwesigaba 9(4) ngekunjintjwa kwendzima (a) ngalendzima lelandzelako:</td>
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<tr>
<td>“(a) kufanele akhiphe satiso sesicelo kwentela kuchibiyela imitsetfo yelayisensi yelitjagta noma imbandzela ngekuya ngekutsi nguyiphi laseyisensi leyanyika kunaphephandzaba avelonkhe lamabili, ngetindleko talona lofako sicelo, kanye nakwwebhusavithi yeliGatja [lesemtsetwfeni].&quot;</td>
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<td>12. Kuchitjiyelwa kwesigaba10 (a) ngekunjintjwa kwendzima (f) esigatjaneni (2) ngalendzima lelandzelako:</td>
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<td>“(f) ngekushesha ngalesikhatsi sebati kufanele batise [noblala] liGatja kanye neMbusi nganoma luphi ludzaba labatsemba ngalokufanele kutsi [lolungabangela bungoti kuluholihelo kutimakethe temnoffo] lungakhulisa nobe lanyuse bungoti betuhlelo;&quot;;</td>
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<tr>
<td>futsi (b) ngekunjintjwa kwendzinyana (ii) ngendzinyana lelandzelako esigatjaneni (2)(i)</td>
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<tr>
<td>“(ii) angabeka ligatja leligunyatiwe lelibhaliisiwe nome ligatja leletimeli leligunyatiwe</td>
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<td>13. The amendment of section 11—</td>
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<tr>
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<td>(a) by the substitution in subsection (2) for paragraph (c) of the following paragraph:</td>
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<td>“(c) an exchange may take into account at a hearing information obtained by the [registrar] Authority in the course of [an] a supervisory on-site [visit or] inspection or investigation conducted [under section 95] in terms of the Financial Sector Regulation Act or obtained by the directorate in an investigation under section 84, read with section 85.”;</td>
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<td>(b) by the substitution in subsection (6) by the substitution for paragraphs (c) and (d) of the following paragraphs:</td>
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<td>“(c) The [registrar] Authority must, as soon as possible after the receipt of a proposed amendment, publish —</td>
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<td>(i) the amendment on the [official] Authority’s website; and</td>
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<td>(ii) a notice in the Gazette that the proposed amendment is available on the [official] Authority’s website, calling upon all interested persons who have any objections to the proposed amendment, to lodge their objections with the [registrar] Authority within a period of 14 days from the date of publication of the notice.</td>
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<td>(d) If there are no such objections, or if the [registrar] Authority has considered the objections and, if necessary, has consulted with the exchange and the persons who raised such objections and has decided to approve or amend the proposed amendment, the [registrar] Authority must publish —</td>
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<td>(i) the amendment and the date on which it comes into operation on the [official] Authority’s website; and</td>
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<td>(ii) a notice in the Gazette, which notice must state—</td>
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<td>(aa) that the amendment of the listing requirements has been approved;</td>
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13. Kuchitjiyelwa kwesigaba 11—

(a) ngekuntjintjwa kwendzima (c)

ngendzima lelandzelako esigatjaneni (2):

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(c) ligatja linganaka ngalesikhatsi kutsanyelwe licala lwatiso [lehelutfolakele]
lelitfokwelenkuphelo
ngaphansi kwesigaba 84
sifulidwe nesigaba 85;'';
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(b) ngekuntjintjwa kwetindzima (c) neye

d) ngaletindzima letifulwlako esigatjaneni (6):

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(c) [inobhala]liGatja, ngemuvwa kwekutfola kwetichibiyelo lethipakanyiswe kufanele lishicilele masisha loku lokulandzelako—

(i) tichibiyelo kuwebhusayithi yeligatja; futsi
(ii) satiso kuGazethi lekufuna sicale ngalo kusebenta yeligatja; futsi

(d) Nangabe tingekho tiphakamiso, nome nangabe liGatja hitisatsa tiphakamiso letikhona, nangabe kudzingekele la luchumana nebekuhweba kanye nebantu labaphakamise leti lebo phakamise labese lincuma kutivumela kusebenta nome kuchibiyela tichibiyelo lebetipakanyiswe, ligatja kufuna lishicilele—

(i) sichibiyelo kuwebhusayithi kanye nelusuku lekuftuna
sicale ngalo kusebenta yeligatja; futsi
(ii) satiso kuGazethi, lekuftuna
siho—

(aa) kutsi tichibiyelo talokudzingekele kwekhuilu tivunyelwe kusebenta.
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<td>(bb)</td>
<td>(bb) that the listing requirements as amended are available on the [official] Authority’s website and the website of the exchange; and (cc) the date on which the amendment of the listing requirements will come into operation.”;</td>
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<tr>
<td>(c)</td>
<td>(c) by the substitution in subsection (7)(a) for the words proceeding subparagraph (i) of the following words: “(a) The [registrar] Authority may, by notice in the Gazette and on the [official] Authority’s website, amend the listing requirements of an exchange—”; and</td>
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<tr>
<td>(d)</td>
<td>(d) by the substitution in subsection (7)(b) for subparagraph (ii) of the following subparagraph: “(ii) publish the reasons for the amendment, and the imperative for such amendment in the Gazette and on the [official] Authority’s website.”.</td>
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14. The amendment of section 12(6) by the substitution for paragraph (b) of the following paragraph: “(b) If the refusal to list securities was due to any fraud or other crime committed by the issuer, or any material misstatement of its financial position or non-disclosure of any material fact, or if the removal of securities was due to a failure to comply with the listing requirements of the exchange, no other exchange in the Republic may, for a period of six months from the date referred to in paragraph (a), grant an application for the inclusion of the securities concerned in the list kept by it, or allow trading in such securities, unless the refusal or removal is withdrawn by the first exchange or set aside on [appeal] reconsideration by the [appeal board in terms of section 105] Tribunal.”.
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<td>(bb) Kutsi lokudzingekako</td>
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<td>(cc) Lusuku lekuyawucala</td>
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<td>(c) Ngekuntjintjwa kwemagama landvulela izinyana (i) ngalamagama lalandzelako kusigatjana 7(a):</td>
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<td>“(a) nobhala” liGatja</td>
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<td>[a] Lingachibiyela</td>
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<td>kubhaliswe ligatja,</td>
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<td>ngekwesatsiso kuGazethi</td>
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<td>nakuwebhusayithi yelитajya</td>
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<td>(d) Ngekuntjintjwa kwendzinyana (ii) ngendzinyana lelandzelako kusigatjana 7(b):</td>
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<td>“(ii) nekukhipha tizatfu</td>
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<td>kuchibiyela kuGazethi kanye</td>
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<td>[lesemsetfeweni]</td>
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14. Kuchitjiyelwa kwesigaba 12(6) ngekuntjintja indzima (b) ngalendzima lelandzelako:

“(b) Uma ngabe lokwala kutsi kufakwe emasheya eluhleni kubangelwe kukhohlakala noma buebengu lobentiwlie ngolonikela ko, noma lenyetyinto letikhipele kah situitmened lesikhuluma ngesimi setimali noma kunqavetwa noma yini lephantselele nemphahla, noma kukhishwa kwemasheya kubangelwe kuhulelaka kuhambisana nalokudzingekako kute ubhaliswe kugatja, alikho lelineye ligatja eRiphabhulihiki lelinga, sikhatinsimesingalinganisilelwana kutinyanga letisifupha kusukela ngalolusuku lolubalwe kundzima (a), anikete sicelo sekutsi kufakwe emasheya latintsingakako kuloluhla lologcinwe ngilo, livumele kutsengiswa kwakwalsawo masheya, ngaphandle kwekutsi lokwala noma lokukhishwa lususwe ligatja lekucale noma kubekelwe ecleleni [ngekufaka] ngekubuyeketwa yinkhundla yetemacala futsi [sikhalo] [lobhodi letikhalo ngekuya ngesigaba 105].”
Act No. and year | Short Title | Extent of repeal or amendment
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15. | The amendment of section 17—  
(a) by the substitution for subsection (1) of the following subsection:  
“(1) The exchange rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.”;  
(b) by the insertion after subsection (2) of the following subsection:  
“(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the exchange rules.”; and  
(c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:  
“(a) Subject to section 5(1)(c) and (2) and the requirements prescribed [by the registrar] in joint standards, the exchange rules may provide for the approval of external authorised users to be authorised users of the exchange.”. |
16. | The amendment of section 25(2) by the substitution for the words preceding paragraph (a) of the following words:  
“The [registrar] Authority may prescribe standards in respect of [a report] reports referred to in subsection (1), prescribing—”.
17. | The amendment of section 27—  
(a) by the substitution in subsection (4) for paragraph (a) of the following paragraph:  
“(a) The [registrar] Authority must publish a notice of an application for a central securities depository licence in two national newspapers, at the expense of the applicant, and on the [official] Authority’s website.”; and  
(b) by the addition in subsection (4) of the following paragraph:  
“(c) The Authority must publish the proposed depository rules referred to in paragraph (b)(ii) on the Authority’s website.”. |
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<td>Kuchitjiyelwa kwesigaba 17—</td>
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<td>(a) ngekuntjintjwa kwesigatjana (1) ngaleseigatjana leslilandzelako:</td>
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<td>“(1) Lemitsetfo yeligatja kufanele ihambisane naloMtsetfo ne-Financial Sector Regulation Act kanye nay o yokhe imitsetfo lecentwe ngsekwalomatsetfo nome i-Financial Sector Regulation Act.”;</td>
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<td>(b) ngekufakwa kwalesigatjana leslilandzelako ngekufakwa kwesigatjana (2):</td>
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<td>“(2A) Umtsetfotimiso nome umitsetfo ungancuma tindzaba letingetiwe kuleto letibaliwe esigatjaneni (2) lekuhambisane lifolokale emitsetfweni yeligatia.”; futsi</td>
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<td>(c) ngekushintja indzima (a) ngalendzima leslilandzelako esigatjaneni (4):</td>
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<td>“(a) Ngekuya ngesigaba 5(1)(c) na na (2) kanye netudzingo [letibekwe ngunobhala] kumsetfo wekuhlanguya - &quot;[nobhala] litafake lekufuna limihambo ngekuhambisane [nembiko] lobalwe kusigatjana (1)[, abeke] lochazisisako—&quot;.</td>
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<td>16.</td>
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<td>Kuchitjiyelwa kwesigaba 25(2) ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama leslilandzelako:</td>
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<td>“[nobhala] litafake lekufuna limihambo ngekuhambisana [nembiko] lobalwe kusigatjana (1)[, abeke] lochazisisako—”.</td>
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<td>Kuchitjiyelwa kwesigaba 27—</td>
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<td>(a) ngekuntjintjwa kwendzima (a) esigatjaneni (4) ngendzima leslilandzelako:</td>
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<td>“(a) [nobhala] liGatja kufanele [akhiphe] lishicilele satiso sesicelo selayisensi yesikhungo semasheya lesemkhatsi; pinkumaphephandzaba lamabili, avelonkhe, ngetindleko letitawukhokhelwa ngulofake sicelo, kanye nakwekhu-sayithi yeliGatja.”; futsi [lesemsetfweni];</td>
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<td>(b) ngekungetwa kwelendzima esigatjaneni (4):</td>
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<td>“(c) liGatja kufuna lishicilele lemitsetfo yekusisa lephakanyisiwe lekuhulanuywe ngayo endzimeni (b)(ii) kuwebhusayithi yeliGatja.”.</td>
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### Act No. and year | Short Title | Extent of repeal or amendment
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18. | The amendment of section 28—
(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:
"(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in the relevant joint standards are met by the applicant, or the central securities depository, as the case may be, [its directors] members of its controlling body and senior management;”; and
(b) by the addition of the following subsection:
"(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.
(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.
(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).
(d) Requirements prescribed in terms of subsection (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.".
19. | The amendment of section 29—
(a) by the substitution for subsection (2) of the following subsection:
"(2) The licence must specify the registered office of the central securities depository in the Republic and the places where the central securities depository may be operated, and that the central securities depository may not be operated at any other place without the joint prior written approval of the [registrar] Authority, the Prudential Authority and the South African Reserve Bank.”; and
18. Kuchitjiyelwa kweggaba 28—
(a) ngentjintjwa kwendzima (c) esigatjaneni (1) ngalendzima lelandzelako:

“(c) kakhombisa lokudzingekako
nalokulungele lokubekwe
[ngunobhala] kunchubo
yemtsetfe lefanele, lofako
sicelo uyafinyelela kulo,
kusilulu semashaya
lesisemkhatsini leshiphalisiwe
njengoba kungabe kubeke,
[bacondzisi] kumalunga
emtimba wabo lolawulako
[habo] kanye nebaphatsi
labaphakeme;”; futi

(b) ngekungethwa kwalesisigatjana
lesilandzelako:

“(3) a) ngakunganganaka
kweggabana (1), lokudzingekile
lokuncunywe ngaphansi kwalesigaba
lokudzingkele masisha
ngembikwekuca la kwalesisigatjana
fuchubeka kudzingekile

(b) Ngekwetimiso temtsetfo
letincunywe ngekwakemibandzela
wesigatjana (1)/(a), Ngcongcoshe
angacita timiso temtsetfo, bese
kutsi lokudzingekile lokusha
kuyancunya liGatja emtsetfo
wekuhlanganyela nobe yekelephane.

(c) Indzima (b) ayitsikabeti nobe
ivimbele emandla aNgcongcoshe
kuncuma nobe kuchibiyela timiso
temtsetfo ngekwakemibandzela
wesigatjana (1)/(a).

(d) Lokudzingekile lokuncunywe
ngkwe sigatjana (1)/(c) nobe (2)/(c)
gembikwekuca la kwalesisigatjana
kungachitjiyelwa nobe kuqifwe
ngebhalweni nobe umtsetfo
wekuhlanganyela.”;

19. Kuchitjiyelwa kweggaba 29—
(a) ngentjintjwa kwesigatjana (2)
ngalesisigatjana lelandzelako:

“(2) Lelayisensi kufanele ibhalwe
lelilhovisi lelibhalisiwe kusikhungo
semasheya lasemkhatsini
eRhiphabhulikhi naphinda
laF Pokuphakathi
kona lesikhungo semasheya
lesisemkhatsini kufanele sibe kha,
nekutsi lesikhungo semasheya
lesisemkhatsini angeke
sasetjentiswa
kunoma ngabe nguyiphi indzawo
ngaphandle kwemvume
ngakunganganaka] liGatja,
liGatja lebuNgcwethi kanye
neliBhange Ngodla laseNingizimu.”;
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<td>(b)</td>
<td>by the substitution in subsection (4) for paragraph (a) of the following paragraph: “(a) The [registrar] Authority must publish a notice of an application for an amendment of the terms of a central securities depository licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the [official] Authority’s website.”.</td>
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<td>20.</td>
<td>The amendment of section 30(2) by the substitution for paragraph (h) of the following paragraph: “(h) must, as soon as it becomes aware [thereof], inform the [registrar] Authority of any matter that it reasonably believes may [pose systemic risk to the financial markets] give rise to, or increase, systemic risk;”</td>
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<td>21.</td>
<td>The amendment of section 33 by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: “An issuer may convert certificated [certificated] securities [may be converted] to uncertificated securities, at the election of the issuer or the holder of certificated securities, and an issuer may, subject to subsection (2), issue uncertificated securities despite any contrary provision in—”.</td>
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<td>22.</td>
<td>The amendment of section 35— (a) by the substitution for subsection (1) of the following subsection: “(1) The depository rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.”; (b) by the insertion after subsection (2) of the following subsection: “(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the depository rules.”;</td>
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<td>(b) Ngekuntjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): “(a) [nobhala] liGatja kufanele [a]lkhiphe satiso ngekuchitjiyelwa kwemigomo yelayisensi yesikhungo semasheya lesismkhatsini nemibandzela lapho khona ilayisensi beyimiketiwe kumaphethandzaba lamabili avelonkhe ngekwenindileko talofake stieclo kanye nakwebhusayithi yelitGatja [lesemtsetfweni].”</td>
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<td>(h) kuchitjiyelwa kwendzima (b) ngenzima lelandzelako: “(h) kufanele ngekushesha uma ngabe bacala kwati, atise [nobhala] liGatja nganoma laphi ludzaba lebalulholwako [lolungabangela lubhelo lunebungo] kutimakethe temnonto] lolungakhulisa nobe lunyuse, bungoti beluhlelo;”</td>
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<td>20.</td>
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<td>20. kuchitjiyelwa kwesigaba 30(2) ngekuntjintjwa kwendzima (h) ngenzima lelandzelako: “(h) kufanele ngekushesha uma ngabe bacala kwati, atise [nobhala] liGatja nganoma laphi ludzaba lebalulholwako [lolungabangela lubhelo lunebungo] kutimakethe temnonto] lolungakhulisa nobe lunyuse, bungoti beluhlelo;”</td>
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<td>21. kuchitjiyelwa kwesigaba 33 ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lelandzelako esigatjaneni (1): “Loniketako angagucula Emasheya [acinisekisiwe] lanestififiketi [Angaguculwa] abe emasheya langekho emtsetfweni, ekucoweni kwaloniketako nome umbambeli wemasheya lasemtsetfweni, futsi loniketako [nemnikieli anoga], ngekuya ngesigatjana (2),] anganiketa e[masheya langekho emtsetfweni nomtha kungahambisani nemibandzela—”</td>
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<td>22. kuchitjiyelwa kwesigaba 35— (a) ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: “(1) imitsetfo yesikhungo kufanele ihambisane naloMtsetfo, i-Financial Sector Regulation Act kanye nemitsetfo leyentiwwe ngekwalomtsetfo nome i-Financial Sector Regulation Act;” (b) ngekunguta lesigatjana lesilandzelaka ngemuva kwesigatjana (2): “(2A) Umtsetfotumiso nome umitsefo kungancuma tindzaba letingetiwe kuleto leselele eile esigatjaneni (2) lekufuna tibe khona kumitsetfo wekugcina.”</td>
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<td>(c)</td>
<td>by the substitution in subsection (4) for paragraph (a) of the following paragraph: &quot;(4) (a) Subject to section 5(1)(c) and (2) and requirements prescribed by the registrar in conduct standards or joint standards, the depository rules may provide for the approval of external participants or external central securities depositories to be participants of the central securities depository.&quot;; and.</td>
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| (d)             | by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph: "(ii) where a central securities depository has approved an external central securities depository as a participant, for the identification of the relevant laws or depository rules that apply to each aspect of the participation, including, but not limited to, the laws regulating effectiveness against third parties and insolvency proceedings.[—
| (aa)            | the identification of the supervisory authority that supervises that external central securities depository; |
| (bb)            | the identification of the relevant laws or depository rules that apply to each aspect of the participation, including, but not limited to, the laws regulating effectiveness against third parties and insolvency proceedings." |

23. The amendment of section 36 by the substitution for subsection (1) of the following subsection: "(1) The registrar Authority may direct determine that any securities held by a central securities depository in its central securities account must, unless they are bearer instruments, money market securities or recorded in a uncertificated securities register in accordance with section 50 of the Companies Act and the depository rules, be registered in the name of that central securities depository or its wholly owned subsidiary, as defined in section 1 of the Companies Act, and approved by the registrar Authority.".
### Nomoro ya Molao le ngwaga & Setlhogo se se khotshwane & Bogolo jwa phimolo kgotsa tlhabololo

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<td>(c) ngekuntjintja indzima (a) ngalendzima lelandzelako esigatjaneni (4):</td>
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<td>“(4) (a) Ngekuya ngesigaba 5(1)(c) na (3) kanye netidzingo letibekwe [ingunobhala] kumisetfo wenchubo nome wekuhlanganyela, imisetfo yesikhungo inga, niketela labangenelele bangaphandle kanye nelihbang lelesemkhatsini langaphandle lemasheya kokutsi babe ngulabangenelelako besikhungo semasheya lesisemkhatsini.”</td>
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<td>(d) ngekuntjintjwa kwenzizinyana (ii) ngalendzinyana lelandzelako esigatjaneni (4)(b):</td>
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<td>“(ii) Lapho [i] sikhungo semasheya lesisemkhatsini sivumele sikhungo semasheya lesisemkhatsini lestimele njengalabangenelelako, ngetinjongo tekuhlanganyela kwemisetfo lefanele nome imisetfo yesikhungo lesebenta kuko konkhe lekuhlanganyela nekungenelela, kufaka ekhatsi imisetfo lelawula kanye nakumalungana lamanye netinchubo letengakaluningsi.”</td>
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<td>(aa) lokubonwa kwalone-ligunya lekuhlanganyela kanye nebaphatsi baleso sikhungo semasheya lesisemkhatsini lestimele;</td>
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<td>(bb) kubona imisetfo lefanele nome imisetfo yesikhungo leebenta kuko konkhe kusebenta, kufaka ekhatsi, ingavimbi lemisetfo lelawula kusebenta kable kwesibhafu netindlela tekuhlanganyela.</td>
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23. kuchitjiyelwa kwesigaba 36 ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandelako:  
“(1) [nobhala] lilatjana [langasho] lincuma kutsi nama waphi emasheya kumabhange lasemkhatsini labanjiwa sikhungo semasheya lesisemkhatsini kufanele, ngaphandle kwekuti amathulusi, emasheya asemakethe yetimali nama barekhode emasheya langekho emsetfweni kurejista ngekuhambisana nesigaba 50 se-Companies Act nemisetfeno yesikhungo, abhaliswe ngaleliligama lalesikhungo"
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| 24. | The amendment of section 39 by the substitution for subsection (3) of the following subsection:  
“(3) An interest in respect of uncertificated securities may be granted under this section, where applicable, and in the manner provided for in the depository rules, and is effective against third parties, in relation to a central securities account or a securities account, where such an interest extends to all uncertificated securities standing to the credit of the relevant central securities account or securities account at the time the pledge is effected.”. |
| 25. | The amendment of the heading in Chapter V preceding section 47 by the substitution for the heading of the following heading:  
“Licensing of clearing house and central counterparty”. |
| 26. | The amendment of section 47—  
(a) by the substitution for the heading of the section of the following heading:  
“Application for clearing house licence and central counterparty licence”;  
(b) by the substitution for subsection (1) of the following subsection:  
“(1) A clearing house and a central counterparty must be licensed under section 49.”;  
(c) by the insertion after subsection (1) of the following subsection:  
“(1A) Subject to section 110(6), a central counterparty must be an independent clearing house.”;  
(d) by the substitution for subsection (2) of the following subsection:  
“(2) A juristic person may apply to the [registrar] Authority for a clearing house licence or a central counterparty licence.”; |
Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo
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24. | Kuchitjiyelwa kwesigaba 39 ngekuntjintjwa kwesigatjana (3) ngalesigaba lesilandzelako: | "(3) Intalo ngalokuphatselene nemasheya langakabalishwa inganiketwa ngaphansi kwalesigaba, uma kufanele, nangendela lekubekwe ngayo kulomsetfo wemabhangwe, kantsi kusebenta ngekumelana nemacembe esitsatsi, ngalokuphatselene ne-akhawunti yemasheya lasemkhatsini nome ne-akhawunti yemasheya, lafho khona lenshisekelo ichubekela kuw[b]o onkhe emasheya langakacinsesikiswa lamele kuba yinzuzo ye-akhawunti yemasheya lasemkhatsini nome yale-akhawunti yalamasheya lafanele ngalesikhtsi lesincumo sentiwa.". |
25. | Kuchitjiyelwa kwesihloko kuSehluko V lesandvulela sigaba 47 ngalesihloko lesilandzelako: | "Ilayisensi yendlu legunyatako neligatja lelisemkhatsini letekuhweta kufakwa emitsetfweni kwendlu legunyatako neligatja lelisemkhatsini letekuhweba"; |
26. | Kuchitjiyelwa kwesigaba 47— (a) ngekuntjintjwa kwesihloko salesigaba nganasi lesilandzelako: | "kufaka siculo selayisensi yendlu legunyatako neyeligatja lelisemkhatsini letekuhweba"; |
(b) ngekuntjintjwa sigatjana (1) ngalesigatjana lesilandzelako: | "(1) Indlu legunyatako kanye neligatja lelisemkhatsini letekuhweba kufanele [i]kuniketwe ilayisensi ngaphansi kwesigaba 49."; |
(c) ngekufaka lesigaba lesilandzelako ngemuvha kwesigatjana (1): | "(1A) ngekuya ngesigaba 110(6), ligenjatja lelisemkhatsini letekuhweba kunine [i]be yindlu legunyata ngakutimela."; |
(d) ngekuntjintjwa sigatjana (2) ngalesigatjana lesilandzelako: | "(2) Umuntfu losemtsetfweni angafaka [kufanele afake] siculo selayisensi yendlu legunyatako nome ligenjatja lelisemkhatsini letekuhweba [kunobhala] kuliGatja [kwentela indlu legunyatako].[i]"; |
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| | (e) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “An application for a clearing house licence or central counterparty licence must—”;
| | (f) by the substitution in subsection (3)(c) for subparagraph (iii) of the following subparagraph:
| | “(iii) the application fee [prescribed by the registrar] determined in terms of the Financial Sector Regulation Act;”;
| | (g) by the substitution in subsection (3)(c) for subparagraph (v) of the following subparagraph:
| | “(v) in relation to an application for an independent clearing house licence or a central counterparty licence, a copy of the proposed clearing house rules that must comply with section 53; and”;
| | (h) by the substitution in subsection (4) for paragraph (a) of the following paragraph:
| | “(a) The [registrar] Authority must publish a notice of an application for a clearing house licence in two national newspapers at the expense of the applicant and on the [official] Authority’s website.”;
| | (i) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:
| | “(ii) in relation to an independent clearing house or a central counterparty, [where] that the proposed clearing house rules [may be inspected by] are available on the Authority’s website for comments from members of the public; and”;
| | (j) by the addition in subsection (4) of the following paragraph:
| | “(c) The Authority must publish the proposed clearing house rules referred to in paragraph (b)(ii) on the Authority’s website.”;
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<th>Nomoro ya Molao le ngwaga</th>
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<td>(e)</td>
<td>ngekuntjintja emagama landvulela sigaba (a) esigatjaneni (3) ngalamagama lalandzelako: &quot;&quot;Sicelo selayisensi yendlu legunyatako nome selayisensi yeligatja lelisemkhatsini letekuhweba kufanele—&quot;&quot;;</td>
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<td>(f)</td>
<td>ngekuntjintjwa kwendzinyana (iii) ngalendzinyana lelandzelako esigatjaneni (3)(c): &quot;&quot;(iii) imali yesicelo [lebekwe ngunobhala] lencunywe ngekwemibandzela ye-Financial Sector Regulation Act&quot;&quot;;</td>
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<td>(g)</td>
<td>ngekuntjintjwa kwendzinyana (v) ngalendzinyana lelandzelako esigatjaneni (3)(c): &quot;&quot;(v) nekuhambisana nesicelo lesiphatselene nelayisensi yendlu legunyatako nobe ilayisensi yeligatja lelisemkhatsini letekuhweba, ikhiphi yemitsetfo yendlu legunyatako lekuweba kuhambisane nesigaba 53; kanye&quot;&quot;;</td>
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<td>(h)</td>
<td>ngekuntjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): &quot;&quot;(a) [nobhala] liGatja kufanele [a]likhiphe satiso sesicelo selayisensi yendlu legunyatako kumaphethandzaba lamabili avelonkhe ngetindleke talofake sicelo kanye nakwwebhuwebusayithi yeliGatja [lesemsetfweni].&quot;&quot;;</td>
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<td>(i)</td>
<td>ngekuntjintjwa kwendzinyana (ii) ngalendzinyana lelandzelako esigatjaneni (4)(b): &quot;&quot;(ii) ngalokuphatselene nendlu legunyatako letimele nobe ligatja lelisemkhatsini letekuhweba, [lapho khona] ngekutsi imitsetfo yendlu legunyatako [ingahlolwa] iyatifolakala kwwebhusayithi yeliGatja kwentela kube kwa kwembibono lephuma kumalunga emmango; kanye;&quot;&quot;; kanye</td>
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<td>(j)</td>
<td>ngekungeta lendzima lelandzelako esigatjaneni (4): &quot;&quot;(c) liGatja kufuna lishicilele kwwebhusayithi yalo imitsetfo lephakanyiswe yendlu legunyatako lekuwebhunywe ngayo kundzima (b)(ii).&quot;&quot;</td>
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<td>27. The amendment of section 48—</td>
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<td>(a) by the substitution for the heading of</td>
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<td>the section of the following heading:</td>
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<td>“Requirements applicable to applicants for clearing house licence, central counterparty licence [and], licensed clearing house and licensed central counterparty”;</td>
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<td>(b) by the substitution for subsection (1) of</td>
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<td>the following subsection:</td>
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<td></td>
<td>“(1) An applicant for a clearing house licence and a licensed clearing house, and an applicant for a central counterparty licence and a licensed central counterparty must—</td>
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<td></td>
<td>(a) subject to the requirements prescribed by the Minister, have sufficient assets and resources, which resources include financial, management and human resources with appropriate experience, to perform its functions as set out in this Act;</td>
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<td></td>
<td>(b) have governance arrangements that are clear and transparent, promote the safety and efficiency of the clearing house or central counterparty, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders;</td>
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<td>(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in the relevant joint standards are met by the applicant [or], the licensed clearing house or the licensed central counterparty, as the case may be, [its directors]members of its controlling body and senior management;</td>
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<td>(d) comply with the requirements prescribed [by the registrar] in the joint standards for the clearing or settlement of transactions in securities, or both;</td>
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</table>
27. kuchtitiwelwa kwesigaba 48—

(a) ngokuntjintjiwa kwesigaba ngalesihloko esigaba ngakhe:

"[Tidzingo letikhona]
lokudzingekile kulabafaka sicelo sekuba nelayisensi [yeligatja] [I] yendlu legunyatakab, yeligatja lelimokkhatso letekukhweva,
yendlu legunyata
ngalokusemtsetweni kanye
yeligatja lelimokkhatso
letekukhweva lelimoksetsetweni"

(b) ngokuntjintjiwa sigatjana (I)
ngalesigatjana lesigatjana:

"(1) Lofaka sicelo selayisensi
yendlu legunyata, kanye
neseligatja lelimo nesigatjana
lelimokkhatso letekukhweva,
yeligatja lelimokkhatso
letekukhweva, kanye
neseligatja lelimokkhatso
lelimoksetsetweni

(a) ngokuyena netidzingo letibhalwe
nguNgcongcosh, sibe
nemathulusi kanye nemitfombo-

(b) kube nekuhlela kwekulawula
ekucacile nalokukhanyako,
kutufukisa kuphepha

(c) kukhombisa kutsi letidzingo
letingenako kalefanele

(d) kuhambisana netidzingo

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<td>(e)</td>
<td>implement an effective and reliable infrastructure to facilitate the clearing of securities cleared by the clearing house or central counterparty;</td>
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<td>(f)</td>
<td>implement effective arrangements to manage the material risks associated with the operation of a clearing house or central counterparty;</td>
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<td>(g)</td>
<td>have made arrangements for security and back-up procedures to ensure the integrity of the records of transactions cleared, settled or cleared and settled through the clearing house or central counterparty; and</td>
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<tr>
<td>(h)</td>
<td>in relation to an applicant for an independent clearing house licence[ or], a central counterparty licence, a licensed independent clearing house or a licensed central counterparty, have made arrangements for the efficient and effective supervision of clearing members so as to ensure compliance with the clearing house rules and clearing house directives and this Act.”;</td>
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<td>(c)</td>
<td>by the insertion after subsection (1) of the following subsection: “(1A) Subject to subsection (1) and the regulations prescribed by the Minister, a central counterparty must—</td>
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<td>(a) implement a margin system that establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and market it serves;</td>
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<td>(b) collect and manage collateral held for the due performance of the obligations of clearing members or clients of clearing members;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khotshwane</td>
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<td>(e) kusebentisa indlela[s] lekahle naletsembekile yetinsita kuhambisana nekugunyatwa kwemasheya lagunyatwe sikhungo lesigunyatako nome ligatja lelisemkhatsini letekuhweba;</td>
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<td>(f) kusebentisa ivumelwano letikahle kulawula lokuyimphahla lenebungoti lehambisana nekusebenta kwendlu legunyatako nome ligatja lelisemkhatsini letekuhweba;</td>
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<td>(g) abe [sewente]sekente emalungiselelo ekuvikela kanye netindlela tekulandzelela kucinisekisa sitfunti semerekhodi ematransekshini lagunyatwe, lakhirhiwe nama lagunyatwe akhokhelwa kulendlu legunyatwako nome ligatja lelisemkhatsini letekuhweba; kanye</td>
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<td>(h) ngekufakwa kwafula sifole selayisendi yendlu legunyatwe letimele [noma], veligatja lelisemkhatsini letekuhweba, yesikhungo lestimele lesigunyatwe lesinemvume nome veligatja lelisemkhatsini letekuhweba lelegunyatwe, abe ente emalungiselelo [kanye ne]nculawula kwelungisa lelegunyatwe kute kutsi kucinisekise kuhambisana nemitsetfoyendlu legunyatako kanye nemihandzela yendlu legunyatako kanyenalo-Mtsetfo.”;</td>
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<td>(c) ngekufakwa kwalesigatjana lesilandzelako ngemva kwesigatjana (1);</td>
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<td>“(1A) ngekuva ngekwaNgcongcoshe, ligatja lelisemkhatsini letekuhweba kufanele—</td>
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<td></td>
<td>(a) isungule luhlelo lekweseke lelimisa kulingana kwemazinga ekwese ka kanye nebungeni kanye netumanelo letisito temkhiitso ngamunye, ema-Phothilifoiyo, kanye netimakethe letisebentalako;</td>
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<td>(b) icokelele iphindze ihpanse lokumele emasheya lokubanielwe kuncunywa kwemsebenti wokutsophielo kwemalunga lagunyatako;</td>
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### Financial Sector Regulation Act, 2017

<table>
<thead>
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<td></td>
<td>(c)</td>
<td>establish and maintain a default fund to mitigate the risk should there be a default by a clearing member and to ensure, where possible, that the obligations of that clearing member continue to be fulfilled;</td>
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<td>(d)</td>
<td>maintain initial capital as prescribed, including an appropriate buffer;</td>
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<td></td>
<td>(e)</td>
<td>have a clearly defined default waterfall where the obligations of the defaulting clearing member, other clearing members and the central counterparty are legally and clearly managed;</td>
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<td>(f)</td>
<td>provide an appropriate segregation and portability regime to protect the positions of clients of a defaulting clearing member; and</td>
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<td>(g)</td>
<td>provide the necessary infrastructure, resources and governance to facilitate its post trade management functions and, in the event of default of one or more of the clearing members—</td>
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<td>(i) ensure that sufficient risk policies, procedures and processes are in place; and</td>
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<td>(ii) have sound internal controls for robust transaction processing and management.”;</td>
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<td></td>
<td>(d)</td>
<td>by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:</td>
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<td>“(2) The [Registrar] Authority may—</td>
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<td>(a) require an applicant[ or], a licensed clearing house or licensed central counterparty to furnish such additional information, or require such information to be verified, as the [Registrar] Authority may deem necessary;</td>
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<td>(b) take into consideration any other information regarding the applicant, a licensed clearing house or licensed central counterparty, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or a licensed clearing house and the latter is given a reasonable opportunity to respond thereto; and”; and</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
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<td>(c) Isungule iphindze igcine sikhwama lesifanele kunciphisa bungoti lapho kungaba khona nekapalambara lokungentiwa lilunga leligunyatako, phindze nekucinisekisa, lapho kukhonakala khona, kutsi sibopho selilinga leligunyatako siyachube a siyagcwaliswa;</td>
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<td>(d) Igcine imali yekucala iphindze ichube njengoba kuncuyiwe, kufaka ekhatsi kulindza lokufanele;</td>
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<td>(e) Yati khole lokungakahanjiswa khole lapho khona lilunga leligunyatako lelente loko, lamanye emalunga lagunyatako kanye neligatja lelisekhatsini letekhuwebsa kuphefwe ngalokusentsetweni futsi ngalokucacako;</td>
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<td>(f) Ivuumele lushintjo nekuhlanisa lokufanele kuvikela indrawo yeatsengi belilunga leligunyata ngendlele lengasiyo; futsi</td>
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<td>(g) Inkete ngetmustichante letifanele, tinsita kanye nekulawulwa kwentela umsebenzi wayo wekuhphatsa tekhuwebsa, nasitimeni lapho khona munye nobe labanyi ntilekhuweba leligunyatako iseṱsivanzi, sibopho.</td>
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(i) Kucinisekisa kutsi imigomo yebungoti, inchubo kanye nemihambu kusendzaweni lefanele; phindze

(ii) Ibe nekulawula, kubukisisa nekuhphatsa umsindvo wamophatsa, "wamophatsa, " futsi

(d) Ngekuntjintjwa kwetindzima (a) kanye na-(b) ngaletindzima letilandzelako esigatjaneni (2):

"(2) [nobhala] liGatja linga—

(a) cela lofake sicelo [noma],
ligatja leligunyatiwe lelibhalisiwe nome ligatja lelisekhatsini letekhuweba lelisekhatseni lekuhweba lofalele kutsi [a]iletse lolwatiso lolungetiwe, noma azinge lolwatiso kutsi lucinisekisiwe, njengoba liGatja [nobhala] [a]lingakubona kufanele; [kanye] futsi

(b) nekunaka noma luxiyo lwaphi lwathiso lulusiselewa kunome wuphi uMfombolo luluphatselene nolofake sicelo, indlu leligunyatako lebhalisiwe nome ligatja lelisekhatsini letekhuweba lelisekhatseni, futsi"
### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

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<td>(e)</td>
<td>by the addition of the following subsection:</td>
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<td>“(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force. (b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards. (c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a). (d) Requirements prescribed in terms of subsection (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.”.</td>
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<td>28.</td>
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<td>The amendment of section 49— (a) by the substitution for the heading of the section of the following heading: “Licensing of clearing house and central counterparty”; (b) by the substitution for subsection (1) of the following subsection: “(1) The [registrar] Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank and after consideration of any objection received as a result of the notice referred to in section 47(4) and subject to the conditions which the [registrar] Authority may consider appropriate, grant a clearing house licence to perform the functions referred to in section 50, if—”.</td>
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Molao wa Taolo ya Lephata la Ditšhele, 2017

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[\(\text{noma ligatja leligunyathiwe lelibhalisiwe, uma ngabe lolo lwatiso luvetiwe kulofoake sicelo, ligatja leligunyathiwe lelibhalisiwe,}\) kufaka ekhatshi lamanye emagatja lalawulako, uma ngabe lolo lwatiso luvetiwe kumfakisi sicelo nome indlu legunyathiwe lebalhiswe futsi nencwadzi iniketwe ifitiobra lelifanele lekuphendvula ngaloko; kanye]

(e) ngekungetwa kwalesigatjana lesilandzelako:

\((3)\) (a) ngekungankanaka kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingekile masisha ngembikwekuca la kwaleni kuchubeka kudzingekile.

(b) Ngekwetimiso temtsetfo letincunywe ngewemibandzela wesigatjana (1)(a), Ngcongcoshe angacitsa umtsetfotimiso, lokudzingekile lokusha kungabese kuyancunywa kumbulano. Ngekwetimiso temtsetfo letincunywe ngewemibandzelayesigatjana (1)(a),

(c) Indzima (b) ayitsikabeti nobe ivimbele emandla aNgcongcoshe kuncuma nobe kuchuhlela timiso temtsetfo ngewemibandzela wesigatjana (1)(a).

(d) Lokudzingekile lokuncunywe ngewemibandzela wesigatjana (1)(c) nobe (2)(c) ngembikwekuca la kwaleni kungachitjiyelwa nobe kucitfwe ngewemtsetfo wenchubo. Ngekwemtsetfo wenchubo nome umtsetfo wekuhlanganyela.

28. Kuchitjiyelwa kwesigaba 49—

(a) ngekuntjiyelwa kwehloko salesigaba ngalesihloko lesilandzelako:

\[\text{“ilayisensi yendlu legunyatako kanye neligatja lelesemkhatsini kutekuhweba”}\]

(b) ngekuntjiyelwa kwehloko salesigaba ngalesihloko lesilandzelako:

\[\text{“(1) [nohbala] liGatja, ngekuhlanganyela kwehloko lelesemkhatsini kutekuhweba”}\]

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

```
(1A) Subject to the regulations or joint standards, the Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, and after consideration of any objection received as a result of the notice referred to in section 47(4) and subject to the conditions which the Authority may consider appropriate, grant a central counterparty licence to perform the functions referred to in section 50, if—

(a) the applicant complies with the relevant requirements of this Act; and

(b) the objects of this Act referred to in section 2 will be furthered by the granting of the licence;
```

(d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

```
“The clearing house licence and the central counterparty licence —”;
```

(e) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

```
“(a) must specify the functions that may be performed by the clearing house and central counterparty, and the securities in respect of which those functions may be performed, any other terms and conditions of the licence, the registered office of the clearing house and central counterparty, and the places where the clearing house and central counterparty may be operated, and stipulate that the clearing house and central counterparty may not be operated at any other place without the joint prior written approval of the [registrar]Authority, the Prudential Authority and the South African Reserve Bank; and
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<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td></td>
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<td>ngemibandzela lapho khona [nothala] [litGatja [a]lingakubona kufanele, [a]limikete ilayisensi yendlu legunyatako kutsi kwenitiwe umsebenti lobalwe kusigaba 50 uma ngabe—&quot;; (c) ngekufakwa kwalesigatjana lesilandzelako ngemuvu kwesigatjana (1): &quot;(1A) ngekuya ngemtsetfotimiso nome umtsetfo wekuhlanganyela, litGatja ngemibanda anyela nelitGatja lehungweti kanye neliBhange Ngodla lasaNingizimuAfrika ngemuvu kwakufakwana ngenome kuphi kuphikisa lokumukelwe ngemiphumela vesatiso lekucondziswe kiso kusigaba sema-47(4) nangekuya ngetimo litGatja lelitibona tifanele, linganiketa ligatja lelisemkhatsini letekuhweba ilayisensi yekwenta imisebenti lekucondziswe kyo kusigaba 50, nangabe— (a) lofaka sicelo uhambisana nako konke lokudzingekile kwamotsetfo; phindzé (b) tinjongo taloMtsetfo lelekuhunywe ngato kusigaba 2 titawuchutjekiswa ngnekuniketwa kwekuyisa; . (d) ngekuntjintjwa kwemagama landvulela indzima (e) ngalamagama lalandzelako esigatjaneni (2): &quot;ilayisensi yendlu legunyatako nelayisensi yeligatja lelisemkhatsini letekuhweba&quot; (e) ngekuntjintjwa kwetindzima (a) na (b) ngaletindzima letilandzelako kusigatjana (2): &quot;(a) kufanele ichaze lemisebenti lekucondziswe yentwé ngulendlu legunyatako neligatja lelisemkhatsini letekuhweba, kanye nalasheya lapho khona lemisebenti ingentiwa khona, noma ngabe nguyiphile imimbizela yalelayisensi, lelihovisi lalendlu lekuhweva lelebhalisisele ngeligatja lelisemkhatsini letekuhweba, kanye nalaletindzimano lapho khona lendlu legunyatako neligatja lelisemkhatsini letekuhweba kufanele ikusebentele khona, nekuchaza kutsi lendlu legunyatako neligatja lelisemkhatsini letekuhweba [H]angeke [H]ikusebentele kusinga ngabe</td>
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### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

<table>
<thead>
<tr>
<th>Act No. and year</th>
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</thead>
<tbody>
<tr>
<td>(b)</td>
<td>(b)</td>
<td>may specify that insurance, a guarantee, compensation fund, or other warranty must be in place to enable the clearing house and central counterparty to provide compensation, subject to the clearing house rules, to clients of clearing members.”;</td>
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<tr>
<td>(f)</td>
<td>(f)</td>
<td>by the substitution in subsection (3) of the following subsection: “(3) A clearing house and a central counterparty, may at any time apply to the [registrar] Authority for an amendment of the terms of the licence and the conditions subject to which the licence was granted.”; and</td>
</tr>
<tr>
<td>(g)</td>
<td>(g)</td>
<td>by the substitution in subsection (4) for paragraph (a) of the following paragraph: “(a) The [registrar] Authority must publish a notice of an application for an amendment of the terms of a clearing house licence and central counterparty licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the [official] Authority’s website.”.</td>
</tr>
</tbody>
</table>

**29.** The insertion after section 49 of the following section:

“**Licensing of external central counterparty**

49A. (1) An external central counterparty must be licensed under this section to perform functions or provide services, unless it is exempt from the requirement to be licensed in terms of section 6(3)(m).

(2) An external central counterparty from an equivalent jurisdiction may apply to the Authority for a licence.
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td></td>
<td>nguyi phi indzawo ngaphandle kwemvume lebalwe phansi yinhlanganyela yeliGatja, Ingatja lebungewethi kanye neliBhange Ngodla laeNingizimu Afrika [yanobhala]; kanye (b) angachaza kutsi umshwalensi, siciniseko, sikhwama sesincepheteliso, noma siphi lesinye sicinisekiso kufanele sibekwe kahle kwentela kutsi imitseto yendlu ndlu legunyatako kanye neligatja lelismekhatsini letekhuweba, kumaklayenti eiliinga leligunyatiwe.”; (f) nekulunjintjiwa kweesigatjana (3) ngalesigatjana lelismekhatsini: “(3) Indlu legunyatiwe neligatja lelismekhatsini letekhuweba, nome nini kungafaka sicelo kuliGatja [ingasebentisa noma ngabe ngasiphi sikhatse ifake sicelo kunobhala kwenjal] sekukhitjivelwa kwembibandzela yelayisesi nemibandzela lekwaniketwa ngaphansi kwayo lelayisensi.”; futsi (g) Ngekushintjiwa kwendzima (a) ngalendzima lelendzima esigatjaneni (4): “(a) [nobhala] liGatja kufanele [al]ikhiphe satiso sesicelo [sekukhuthyiwa] sekukhitjivelwa kwembibandzela yendlu legunyaiako kanye neyelitajla lelismekhatsini letekhuweba, kanjalo [kanye] nemibandzela lekwaniketwa iyayensi ngaphansi kwayo kumaphephandzaba lamabili avelonke ngakwedziko talona lofale sicelo kanye nakwebhuseyithi yeliGatja [lesentsetfweni].”</td>
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29. Kufakwa kweesigaba lelendzima: "Kufakwa entsetfweni kwelagatja lelismekhatsini letekhuweba langaphandle 49A. (1) ligatja lelismekhatsini letekhuweba kufuna lifake entsetfweni ngaphasi kweesigaba kute lente imisebenti nome linikete ngetinsita, ngaphandle nangabe likhulululekile kulokudzinge kile kokufaka entsetfweni ngaphasi kweesigaba b(3)(m), akunobhala kwenjal.

(2) Libhange lelulamlulako letekhuweba langaphandle — ekugunyatweni lokulinganakho lingafaka sicelo selayenseni kuliGatja;"
An application for a licence in terms of this section must—
(a) be made in the manner and contain information determined by the Authority;
(b) be accompanied by a copy of the proposed rules;
(c) be accompanied by the application fee determined in terms of the Financial Sector Regulation Act; and
(d) be supplemented by any additional information that the Authority may reasonably require.

The Authority must publish a notice of an application for a licence in two national newspapers at the expense of the applicant and on the Authority’s website.

The notice must state—
(i) the name of the applicant; and
(ii) the availability of the operating rules of the external central counterparty on the Authority’s website, for members of the public.

An applicant for a licence or a licensed external central counterparty must be either—
(a) a company as defined in section 1(1) of the Companies Act; or
(b) an external company as defined in section 1(1) of the Companies Act that is registered as required by section 23 of that Act.

The Authority may—
(a) require an applicant or a licensed external central counterparty to furnish such information, or require such information to be verified, as the Authority may deem necessary in connection with the application; and
(b) take into consideration any other information regarding the applicant or the external central counterparty, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or the external central counterparty, as the case may be, and the latter is given a reasonable opportunity to respond thereto.

Regulations or joint standards may prescribe additional criteria for the licensing or exemption of an external central counterparty.
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<td>(3) Kufaka siculo selayisensi</td>
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<td>ngkekwaesigaba kufanele—</td>
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<td>(a) kwentiwe ngendlela phindze</td>
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<td>sicukatse lwati lelincunywe lIGatja;</td>
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<td>(b) kuhambisane nakhophi yemitsetfo</td>
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<td>lephakanyisiwe;</td>
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<td>(c) kuphekeletelwe yimali yekufaka</td>
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<td>sicelo ngtekwemibandzela ye-Financ-</td>
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<td>ial Sector Regulation Act; futsi</td>
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<td>(d) kusekwe nanobe nguluphi lolunywe</td>
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<td>(4) lIGatja kufanele lishicicilele</td>
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<td>emaphethandzabani lamabili avelonkhe</td>
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<td>ngetindleko talofaka siculo kanye</td>
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<td>(b) Inothisi kufanele isho—</td>
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<td>(i) ligama talofaka siculo; kanye</td>
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<td>(5) Lofaka siculo selayisensi nome</td>
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<td>(i) yinkapini njengoba kushiwo</td>
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<td>(6) lIGatja linga—</td>
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<td>kabahulekhi ekufrakwen kwesicelo;</td>
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<td>(b) buka futsi nalolunye lwatiso</td>
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<td>loluphatselene nfakale siculo nome</td>
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<td>umtombo, kufaka ekhatsi name</td>
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<td>nangabe loo lwatiso luvete</td>
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<td>kolofaka siculo nome kuligatja</td>
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<td>lelise mhatsini letekuhweba, sekutsi</td>
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<td>incwadzid incetwata lifuba lelifane</td>
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<td>lekuphendvula.</td>
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<td>(7) lImitsetfotimiso nome imitsetfo</td>
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<td>yekuhlanganya ihangcuma tinhibo</td>
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<td>letengetiwe tekufaka emitsetweni nome</td>
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<td>kukhululwa wgelagatja lelise mhatsini</td>
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<td>letekuhweba.</td>
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</table>
Act No. and year | Short Title | Extent of repeal or amendment
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(8) | The Authority may, with the con-currence of the South African Reserve Bank and the Prudential Authority, grant a licence or an exemption, if —
(a) | the applicant or the external central counterparty undertakes to co-operate and share information with the Authority, the Prudential Authority and the South African Reserve Bank to assist with the performance of functions and the exercise of powers in terms of financial sector law; and
(b) | the objects of this Act referred to in section 2 will be furthered by the granting of the licence.
(9) | A licence or exemption may only be granted after the following factors have been taken into consideration:
(a) | Relevant international standards;
(b) | the type and size of external central counterparty;
(c) | the impact of the activities of the external central counterparty on the South African financial system;
(d) | the degree of systemic risk posed by the activities of the external central counterparty; and
(e) | any other factors that the Minister, the Authority, the South African Reserve Bank or the Prudential Authority, as the case may be, deem relevant.
(10) | A licensed external central counterparty must comply with the relevant requirements of this Act and any other terms and conditions of the licence.
(11) | The licence granted in terms of subsection (8) must specify those functions or duties, or services that may be provided by the external central counterparty and the securities in respect of which those functions or duties, or services may be performed.
(12) | A licensed external central counterparty may at any time apply to the Authority for an amendment of the terms of its licence or the conditions subject to which the licence was granted.
(13) (a) | The Authority must publish a notice of an application for an amendment of the terms of a licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the Authority’s website.
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<tr>
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<td>(8) liGatja ngekukhlanganyela neliBhange Ngodla laseNgizimizimu Afrika neliGatja leBungcwethi kunganketika ilayisensi nome kakhulu nangabe—</td>
<td>(a) lofaka sicelo nome ligatja lelesemkhatsini letelukhweba kutsatsa sibopho sekutsatsa lichaza nekwaba ngelwatiso kuliGatja ligatja lebungcwethi kanye neliBhange Ngodla laseNgizimizimu Afrika kuncedzisa ngekwenita misebenti nekusebentisa emandla ngelewafeni-bandzela yemtseteto wemikhakha wetetimali; kanye</td>
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<td>(b) tinjongo talontsefo lekhukuluminywe ngato esigabeni 2 titawuchitwa ngekuniketla ilayisensi;</td>
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<td>(9) ilayisensi nome kakhulu kungeniketwa kuphela ngemuva kwekubukwa kaloku lokulandzelako:</td>
<td>(a) Tinchudo tavelonkhe letifanele;</td>
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<td>(b) luhlobo nekukhulu beligatja lelesemkhatsini letelukhweba;</td>
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<td>(c) umtselela wemisebenti weligatja lelesemkhatsini letelukhweba chelweni lwetetimali laseNgizimizimu Afrika;</td>
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<td>(d) umtsamo weluhlelo lwebungotishicelo lelesemkhatsini letelukhweba; futsi</td>
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<td>(e) nome ngukuphi lokunye lokungabonwa kufanele kunakwa nguNgconcgoshe, liGatja, liBhange Ngodla laseNgizimizimu Afrika nome liGatja lebungcwethi.</td>
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<td>(10) ligatja lelesemkhatsini letelukhweba lelesemisfweni kufuna ilandzlele nome kuphi lokubalulekile lokudzingwa nguloMseteto kanye naleminyie imigomo nemibandzela yalelayisensi.</td>
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<tr>
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<td>(11) lelayisensi leniketwe ngekwesigatjana (8) kufuna isho leyo misebenti nome tinsita letinganiketwa nguLelesemkhatsini leletelukhweba kanye nemashaya lekungentwina ngowo leyo misebenti:</td>
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<td></td>
<td>(12) liGatja lelesemkhatsini letelukhweba langaphandle lelesemisfweni, nome kunini lingafaka sicelo sekuchitiyelwa kwemigomo yelayisensi netimo indlela ilayisensi yaniketwa ngato.</td>
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<td>(a) liGatja kufuna lishicilele satiso sesicelo sekuchitiyelwa kwemigomo yelayisensi netimo indlela ilayisensi yaniketwa ngato kumaphethandzaba lamabili ngetindleko lephuma kumfasiscicelo kanye nakuwebhusayithi yeliGatja.</td>
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### Act No. and year
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<td>(b) The notice must state—</td>
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<tr>
<td>(i) the name of the applicant;</td>
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<td>(ii) the nature of the proposed amendments; and</td>
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<tr>
<td>(iii) the period within which objections to the application may be lodged with the Authority.</td>
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<tr>
<td>(14) The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, amend the terms of a licence or the conditions subject to which the licence was granted.</td>
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<tr>
<td>(15) (a) In respect of regulations that may be prescribed in terms of subsection (7), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</td>
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<tr>
<td>(b) Paragraph (a) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (7).</td>
</tr>
<tr>
<td>(c) Joint standards may be prescribed to address any matters that are not prescribed in regulations, or to provide detail that is additional to, but not inconsistent with, regulations prescribed by the Minister in terms of subsection (7).</td>
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<tr>
<td>30. The amendment of the heading in Chapter V preceding section 50 by the substitution for the heading of the following heading:</td>
</tr>
<tr>
<td>&quot;Functions of licensed clearing house and licensed central counterparty&quot;.</td>
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<tr>
<td>31. The amendment of section 50—</td>
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<tr>
<td>(a) by the substitution for the heading of the section of the following heading:</td>
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<tr>
<td>&quot;Functions of licensed clearing house and licensed central counterparty, and power of Authority to assume responsibility for functions&quot;;</td>
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<tr>
<td>(b) by the substitution for subsection (1) of the following subsection:</td>
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<td>&quot;(1) A licensed clearing house and a licensed central counterparty must conduct its business in a fair and transparent manner with due regard to the rights of clearing members and their clients.&quot;;</td>
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### Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo
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(b) satiso kufuna sisho—
(i) ligama lemfakisicelo;
(ii) luhlobo lwesichibiyelo lesiphakanyiswa;
(iii) sikhatsi lekungaphakanyiswa ngaso imibono kuliGaTjå maeyelana nalesscelo lesifakiwe.
(14) liGaTjå ngekuvumela neNkhekhe Ngalâ lasiNkwenjwe Afrika kanye neliGaTjå lebuNgweti kungachibiyela imigomo yelâyiseni nome timo lâyiseni leyakhetha ngâto.
(15) (a) ngeMsetfotimiso letinganconyana ngakwesigatjana (7), Ngcongcoshe angacitsa imitsetfotimiso, bese kusti lokudzingekile lokusha kuyanchunywa kumtsetfo wekuhlanganyela nome umtsetfo wenchubo.
(b) Indzima (a) ayitsikabeti nome ikhawulise emandla aNgcongcoshe ekuncuma nome achibiyele umtsetfotimiso ngakwesigatjana (7).
(c) umtsetfo wekuhlanganyela ungacuncunyela kulungisa tindzaba letinganconyana kumtsetfotimiso, nome kuniketsa ngemuningwenye longetiwe kodwva ungakagcili kumtsetfotimiso letuncunywe nguNgcongcoshe ngakwesigatjana (7)."

30. Kuchitjiyelwa kwesihloko kuSehluko V lesandvulela sigaba 50 ngekuntjintjwa kwaso ngalesihloko lesilandzelako:
   "Imisebenti yeligatja legunyatako lelijibhalisiwe kanye neligatja lelisemkhatsini letekukhweva lelisemsetfweni";

31. Kuchitjiyelwa kwesigaba 50—
   (a) ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako:
   ""Imisebenti [yeligatja] lelijigunyatiwe lelijibhalisiwe kanye nelyeligatja lelisemkhastini letekukhweva kanjalo nemandla [anobhala] eliGaTjå ekucala Umsebenti";
   (b) ngekuntjintjwa kwesigatjana (1) ngakwesigatjana lesilandzelako:
   "(1) Indlu legunyatako yemasheya kanye neligatja lelisemkhastini letekukhweva kufanele [ly]kwenta umsebenti wa[y]ko ngendlela lengavuni licala nangendlela lekhanyako ngakwesigatjana nangaluhlhume nemalungelo emaalungo lagunyatako nemaklayenti abo."

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(c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

   “A licensed clearing house and a licensed central counterparty—”;

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

   “(b) must, as soon as it becomes aware thereof, inform the [registrar] Authority of any matter that it reasonably believes may pose systemic risk to the financial markets give rise to, or increase, systemic risk;”;

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

   “A licensed independent clearing house and a licensed central counterparty, in addition to the functions referred to in subsection (2)—”;

(f) by the insertion after subsection (3) of the following subsection:

   “(3A) A central counterparty, in addition to the functions referred to in subsections (1), (2) and (3), must—

   (a) interpose itself between counterparties to transactions in securities through the process of novation, legally binding agreement or open offer system;

   (b) manage and process the transactions from the date the central counterparty interposes itself between counterparties to transactions, becoming the buyer to every seller and seller to every buyer, to the date of fulfilment of the legal obligations in respect of such transactions; and

   (c) facilitate its post-trade management functions;”;

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

   “(b) The [registrar] Authority must, before assuming responsibility as contemplated in paragraph (a)—
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<td>(c)</td>
<td>ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako kusigatjana (2):</td>
<td>“Indlu legunyatako lesemsetfweni kanye neligatja lelisemkhatsini letekuhweba—”;</td>
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<td></td>
<td>(d) ngekuntjintjwa kwendzima (b) ngalezindzima lelandzelako esigatjaneni (2):</td>
<td>“(b) kufanele ngalesikhatsi bakwati kutsi, batise [nobhala] lGatja nganoma lufhi ludzaba lek[a]ukholelwa ekutseni lungahle [lubange tingoti teluhlelo kutimakethe temnotfo] lukhulise nome lwembo yibontsi”;</td>
</tr>
<tr>
<td>(e)</td>
<td>ngeshintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (3):</td>
<td>“Indlu legunyatwako le[ng]balisiwe letimele kanye neligatja lelisemkhatsini letekuhweba lelisemsetfweni, [ngekuhambisana] kwelengeta kemisebenti lekucondziswe kyiyo esigatjaneni [hemisebenti ngalokubalwe kusigatjana] (2)—”;</td>
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<tr>
<td>(f)</td>
<td>ngekafaka lesigatjana lesthandzelako ngemuvwa kwesigatjana (3):</td>
<td>“(3A) ligatja lelisemkhatsini letekuhweba, kungeta kemisebenti lekucondziswe ngayo esigatjaneni (1), (2) na-(3) kufanele— (a) litigcushe emkhatsini kwemagatja etetimali kuhwebelana kumasheya ngemihambango yemvilakela, ngesivumelwano lesisibopho semsetfeso nobe luhlelo lwembo yelulwukela lolovulelele wonkhewonkhe; (b) liphatsi liphindze libuyekele luhwebo kusuka ngelusuku libhangale sekhatsi kwetekuhweba kuyi kuhliwebo, ekubeni ngumtsengi kuye wonkhe umtsengisi nekuba ngumtsengisi kuye wonkhe umtsengi esukwini lekucondziswa kwetibopho temsetfeso neluhwebo lolunjalo; futsi (c) lilungiselele kusebenta kwekuqeke kwetekuhwebo lwayo lwangaphambilini, ”; futsi (g) ngekuntjintjwa kwendzima (b) ngalezindzima lelandzelako esigatjaneni (4):</td>
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(i) inform the clearing house or central counterparty of the registrar’s Authority’s intention to assume responsibility;
(ii) give the clearing house or central counterparty the reasons for the intended assumption; and
(iii) call upon the clearing house or central counterparty to show cause within a period specified by the registrar Authority why responsibility should not be assumed by the registrar Authority.”.

32. The amendment of section 51—
(a) by the substitution for subsection (1) of the following subsection:
“(1) An independent clearing house or a central counterparty required under section 49(2)(b) to have insurance, a guarantee, a compensation fund, or other warranty in place, may impose a fee on any person involved in a transaction in listed or unlisted securities cleared or settled or both through the clearing house for the purpose of maintaining that insurance, guarantee, compensation fund or other warranty.”; and
(b) by the substitution for subsection (2) of the following subsection:
“(2) Any funds received or held by an independent clearing house or a central counterparty for the purpose of maintaining the insurance, guarantee, compensation fund or other warranty contemplated in section 49(2)(b), are for all intents and purposes considered to be “trust property” as defined in the Financial Institutions (Protection of Funds) Act and that Act applies to those funds.”.
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<td>(i) latise [le]ndlu legunyatako nome ligatja lelisemkhatsini letekuhweba ngetjinjongo [tanobhala] telGatja tekutsi [a]licale kwenta umsebenti;</td>
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<td>(ii) anikete indlu legunyatako nome ligatja lelisemkhatsini letekuhweba tizatfu talokucaula lokuhlosiwe; kanye</td>
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32. Kuchitjiyelwa kwesigaba 51—

(a) ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako:

“(1) Indlu legunyatako letimele nome ligatja lelisemkhatsini letekuhweba lekudzingeka ngaphansi kwesigaba 49(2)(b) kutsi abe nemshwalensi, siciniseko, sikhwama sesincepheteliso, noma lenye iwaranti lekhona, kungabekwa imali kunoma ngubani umuntfu longenelelaikutransekshini kuluhla noma kumamasheya labhalisiwe lagunyatiwe noma lacedzelelwe noma kokubili ngekusebentisa indlu legunyatako ngetizatfu tekulondza lomshwalensi, siciniseko, sikhwama sesincepheteliso noma lenye iwaranti.”; futsi

(b) ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako:

“(2) Noma tifhi timali lettifolwe noma letibanjwe yindlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba kwentela tizatfu tekucina umshwalensi, siciniseko, sikhwama sekuncphetelisa noma lenye iwaranti lebalwe kusigaba 49(2)(b), [kwentelwa] tizatfu letitsatfwa njengumphahla yebatsenjwa njengoba kuchazwe ku-Financial Institutions (Protection of Funds) Act kantsi lowo Mtsetfo usebenta kuleto timali.”.

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

Act No. 9 of 2017: Financial Sector Regulation Act, 2017
### Act No. and year | Short Title | Extent of repeal or amendment
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33. The amendment of section 52 by the substitution for the section of the following section:

```
"Funds of mutual independent clearing house or central counterparty";
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“A mutual independent clearing house or a central counterparty may require its clearing members to contribute towards the funds of the clearing house for the purpose of carrying on the business of the clearing house.”.

34. The amendment of section 53—

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

```
(1) The clearing house rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act."
```

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

```
(u) for the administration of securities and funds held for own account or on behalf of a client by a clearing member, including the settlement of unsettled transactions, under insolvency proceedings in respect of that clearing member; and"
```

(c) by the substitution in subsection (2) for paragraphs (z) and (aa) of the following paragraphs:

```
(z) for the segregation and portability of funds and securities held as collateral; and

(aa) that clearing members must notify the clearing house as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it; and"
```

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

```
(bb) in the case of a central counterparty, for the default procedures to be followed, including close-out procedures, in the event of a default of a clearing member;"
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<td>33.</td>
<td></td>
<td>Kuchitjiyelwa kwesigaba 52 ngekunjintjiwa kwalesigaba ngalesigaba lesilandzelako:</td>
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<td>“Timali tendlu legunyatako letimele nome ligatja lelisemkhatsini letekhuwebsa”;</td>
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|                          |                          | “Indlu legunyatako letimele nome ligatja lelisemkhatsini letekhuwebsa [l][k][u][n][g][a][d][z][i][n][g][a][k][u][s][i][n][g][a][k][u][c][s][][l][i][e][m][a][l][u][n][g][a][k][o][k][l][e][l][i][l][a][g][u][n][y][a][t][i][w][i][e][k][u][s][][b][a][f][a][k][e][s][a][n][d][l][a][k][u][x][e][t][i][m][a][l][i][t][e][n][d][u][l][u][l][e][g][u][n][y][a][t][a][k][o][l][e][g][a][t][j][a][n][a][a][l][e][s][i][l][e][z][e][l][a][k][o][;]
|                          |                          | “(1) Imitsetfo yendlu legunyatako kufanele ihambisane naloMtsetfo, i-Financial Sector Regulation Act kanye naleminye Imitsetfo leyentiwe ngekwaloMtseto nome i-Financial Sector Regulation Act”; |
|                          |                          | “(u) Kwentela kulawulwa kwemasheya kanye netimali labatibambele yona; nemasheya labanjwe nemawonnye; [kanye] nekutsi emalunga lagunyatako kufanele atise lendlu legunyatako ngekushesha uma ngabe icala inchubo yekuhlakata noma inchubo yekuhlakata ngekumelana nayo[l]; futsi”; |
|                          |                          | “(z) kwentela kuholukanisa nekubentiseka kwetiwini nemasheya labanjwe nemawonnye; [kanye] nekutsi emalunga lagunyatako kufanele atise lendlu legunyatako ngekushesha uma ngabe icala inchubo yekuhlakata noma inchubo yekuhlakata ngekumelana nayo[l]; futsi”; |
|                          |                          | “(aa) kuhlukanisa nekubentiseka kwetiwini nemasheya labanjwe nemawonnye; [kanye] nekutsi emalunga lagunyatako kufanele atise lendlu legunyatako ngekushesha uma ngabe icala inchubo yekuhlakata noma inchubo yekuhlakata ngekumelana nayo[l]; futsi”; |
| 34.                      |                          | Kuchitjiyelwa kwesigaba 53— |
|                          |                          | (a) ngekunjintjiwa kwesigatjana (1) ngalesigatjana lesilandzelako: |
|                          |                          | “(1) Imitsetfo yendlu legunyatako kufanele ihambisane naloMtsetfo, i-Financial Sector Regulation Act kanye naleminye Imitsetfo leyentiwe ngekwaloMtseto nome i-Financial Sector Regulation Act”; |
|                          |                          | (b) Ngekunjintjiwa kwendzima (u) ngalendzima lelandzelako kusigatjana (2): |
|                          |                          | “(u) Kwentela kulawulwa kwemasheya kanye netimali labatibambele yona; nemasheya labanjwe nemawonnye; [kanye] nekutsi emalunga lagunyatako kufanele atise lendlu legunyatako ngekushesha uma ngabe icala inchubo yekuhlakata noma inchubo yekuhlakata ngekumelana nayo[l]; futsi”; |
|                          |                          | (c) ngekunjintjiwa kwetindzima (z) na (aa) ngalendzima letilanadzelako kusigatjana (2): |
|                          |                          | “(z) kwentela kuholukanisa nekubentiseka kwetiwini nemasheya labanjwe nemawonnye; [kanye] nekutsi emalunga lagunyatako kufanele atise lendlu legunyatako ngekushesha uma ngabe icala inchubo yekuhlakata noma inchubo yekuhlakata ngekumelana nayo[l]; futsi”; |
|                          |                          | (aa) kuhlukanisa nekubentiseka kwetiwini nemasheya labanjwe nemawonnye; [kanye] nekutsi emalunga lagunyatako kufanele atise lendlu legunyatako ngekushesha uma ngabe icala inchubo yekuhlakata noma inchubo yekuhlakata ngekumelana nayo[l]; futsi”; |
|                          |                          | (d) ngekunjigeta kwawelendzima lelandzelako esigatjaneni(2): |
|                          |                          | “(bb) eludzabeni lwelihbangile lisemkhatsini letekhuwebsa, kuze kualandzelwe inchubo lejwayelekile; kufaka ekhatsi

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<td></td>
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<td>(e) by the insertion after subsection (2) of the following subsection: “(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the clearing house rules.”; and (f) by the substitution in subsection (4) for paragraph (a) of the following subsection: “(a) Subject to section 5(1)(c) and (2) and the requirements prescribed [by the registrar; the] in joint standards, clearing house rules may provide for the approval of external clearing members to be clearing members of the clearing house.”.</td>
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35. The amendment of section 54— (a) by the substitution for subsection (1) of the following subsection: “(1) [Subject to the regulations prescribed by the Minister, a] A trade repository must be licensed under section 56.”; (b) by the substitution in subsection (3)(c) for subparagraph (iii) of the following subparagraph: “(iii) the application fee [prescribed by the registrar] determined in terms of the Financial Sector Regulation Act;” and (c) by the substitution in subsection (4) for paragraph (a) of the following paragraph: “(a) The [registrar] Authority must publish a notice of an application for a trade repository licence in two national newspapers, at the expense of the applicant, and on the [official] Authority’s website.”. |

36. The amendment of section 55— (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: “(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in the joint standards are met by the applicant; [its directors] members of its controlling body and senior management;”.
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<tr>
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<td></td>
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<td>levalelwetle etimeni tendlu legunyatiwe lejwayelekle:’’;</td>
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<td>(e)</td>
<td>ngekungetwana kwalesigatjana leisilandzelako ngemva kwesigatjana (2):</td>
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<td>‘’(2A) Mitsetfotimiso nome mitsetfo lebekiwe inganumela letinye tindzaba lekuhuna tibe khona kumitsetfo yendlu legunyatako kuleto lesehlutsho tifalwe kusigatjana’’;</td>
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<td>futsi (f) ngekunjintjwa kwendzima (a) ngalendzima leisilandzelako esigatjaneni (4):</td>
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<td>‘’(a) Ngekuya ngesigaba 5(1)(c) na (2) kanye nalso kubongilekile lokuncunywe kumitsetfo wekuhlanganyela, [lem]mitsetfo y[al]endlu legunyatako ingahwe inikete kutsi kuvunyelwe lilinga leligunyatiwe langaphandle kutsi libe lilinga leligunyatiwe leendlu legunyatako.’’;</td>
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35. Kuchitjiyelwa kwesigaba 54 — (a) ngekunjintjwa kwesigatjana leisilandzelako: ‘’(1) [Ngekuya ngelemitsetfo lemisile welebekwe neguNgcogengcoshe] Indzawo yekuhwebelana kufanele inikete alyaiseni ngaphansi kwesigaba 56.’’; (b) ngekunjintjwa kwendzinyana (iii) ngalendzinyana leisilandzelako esigatjaneni (3)(c): ‘’(iii) [Imali yekufaka sicelo lebekwe Ngunobhala] letifalwe ngelemitsetfo Financial Sector Regulation Act;’’; futsi (c) ngekunjintjwa kwendzima (a) ngalendzima leisilandzelako esigatjaneni (4): ‘’(a) [Nobhala] iGatja kufanele akhiphe satiso sesicelo selelyaiseni yendzawo yekuhwebelana kumaphepha- ndzaba lamabili avelonkhe, ngekweni kujita lesicelo, kanye nakwunyebe laysi yeliGatja [lesembsetfweni].’’.

36. Kuchitjiyelwa kwesigaba 55 — (a) ngekunjintjwa kwendzima (c) ngalendzima leisilandzelako esigatjaneni (1): ‘’(c) kukhombisa kutsi [letidzingo lekgungito naletifanako letibhalwe ngunobhala] tidzingo lekgungitona tifanele leticunywe kumitsetfo
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<td>(b) by the substitution for subsection (2) of the following subsection:</td>
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<td>“(2) The [registrar] Authority may [—”</td>
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<td>(a) require an applicant to furnish such additional information, or require such information to be verified, as the registrar may deem necessary;</td>
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<td>(b) take into consideration any other information regarding the applicant, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant and the latter is given a reasonable opportunity to respond thereto; and</td>
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<td>(c) prescribe any of the requirements referred to in subsection (1) in greater detail.”; and</td>
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<td>(c) by the addition of the following subsection:</td>
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<td>“(3)(a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.</td>
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<td>(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</td>
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<td>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</td>
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<td>(d) Requirements prescribed in terms of subsection (1)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.”.</td>
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<td>labasetulu</td>
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<td>(b)</td>
<td>ngekuntjintjwa kwesigatjana (2)</td>
<td>ngalesigatjana lesilandzelako:</td>
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<td></td>
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<td>“(2) [nobhala] liGatja [a]linga[—</td>
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<td>(a) kudzingeka kutsi lofaka sicelo</td>
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<td>kutsi anikete lolwatiso</td>
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<td>lolungetiwe, nama kudzingeka</td>
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<td>lolwatiso kutsi lucinisekiswe,</td>
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<td>angakubona kufanele; kanye</td>
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<td>(b) Kunakisiswa nanoma luphi</td>
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<td>sicelo, lokutfokala kunoma</td>
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<td>baphendvule kuloko[; kanye</td>
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<td>(c) Kubeka noma tiphi taleti-</td>
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<td>dzingo lethabalwe kusigatjana (1)</td>
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<td>ngemininingwane Leyanele[ ]; kantsi</td>
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<td>(c) ngekungetwa kwalesigatjana</td>
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<td>kwesigatjana (1), lokudzingekile</td>
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<td>kucała kwalesigatjana kuchubeka</td>
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<td>(b) ngekühlonishwa kwetimiso</td>
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<td>tenetsefo letincunywe ngewemibi-</td>
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<td>bandzelwa yesigatjana (1)(a),</td>
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<td>Ngecongoshe angacitsa umtsetfo</td>
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<td>lomisiwe, kantsi lokudzinge-</td>
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<td>(c) Indzima (b) ayitsikabeti nobe</td>
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<td>ilamate emandla aNgcongoshe kutsi</td>
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<td>ancume nobe achiñiwele umtsetfo</td>
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<td>lomisiwe ngewemibandzelwa</td>
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<td>yesigatjana (1)(a).</td>
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<td>(d) Lokudzingekile lokuncunyiywe</td>
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<td>ngewemibandzelwa yesigatjana (1)(c)</td>
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<td>nobe kucitfwe yinchubu nome</td>
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<td>umtsetfo wekuhlanganyela.&quot;</td>
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| 37. | The amendment of section 56— (a) by the substitution for subsection (1) of the following subsection: “(1) Subject to subsection (2) [and regulations prescribed by the Minister], the [registrar] Authority may, after consideration of any objection received as a result of the notice referred to in section 54(4), and subject to the conditions which the [registrar] Authority may consider appropriate, grant a trade repository a licence to perform the duties referred to in section 57.”; and (b) by the substitution in subsection (6) for paragraph (a) of the following paragraph: “(a) The [registrar] Authority must publish a notice of an application for an amendment of the terms of a trade repository licence and the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the [official] Authority’s website.”. |  |

<p>| 38. | The insertion after section 56 of the following section: “Licensing of external trade repository 56A. (1) An external trade repository must be licensed under this section to perform duties or provide services, unless it is exempt from the requirement to be licensed in terms of section 6(3)(m). (2) An external trade repository from an equivalent jurisdiction may apply to the Authority for a licence. (3) An application for a licence in terms of this section must— (a) be made in the manner and contain the information determined by the Authority; (b) be accompanied by the application fee determined in terms of the Financial Sector Regulation Act; and (c) be supplemented by any additional information that the Authority may reasonably require. |  |</p>
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<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa thabololo</th>
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<td>37.</td>
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<td>(a) ngekunjinya kwesigatjana (1) ngalesigatjana le silandzelako:</td>
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<td>“(1) Ngekuya ngesigatjana (2) kanye [nemitsetefotimiso lebekwe ngu'Ngcongcoshe] LiGatja, [nobhala anga] lina, ngemunwa kwekutsatsa nomaxhomo kugumelani lokufolakele ngenca yesatiso lesive Worksheet kusigaba 54(4), nangekuhambisana netimo nangakhuza khalanga &quot;khu&quot; LiGatja kufanele [a]likhiphe satiso sesicelo sekujithiile nangakubona kulisahalale nangakukhota kufanele lesiwekeke, &quot;kugumela kwekutsatsa kusigaba 54(4), kugumela nangakhuza khalanga.&quot; kungamubhuleni lokutfola kusigaba 57.&quot; futsi (b) ngakunjinya kwendzima (a) ngalenthini lapho esigatjaneni (6):</td>
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<td>&quot;(a) [nobhala] LiGatja kufanele [a]likhiphe satiso sesicelo sekujithiile nangakubona kulisahalale nangakukhota kufanele lesiwekeke, &quot;kugumela kwekutsatsa kusigaba 54(4), kugumela nangakhuza khalanga.&quot; kungamubhuleni lokutfola kusigaba 57.&quot; futsi</td>
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<td>38.</td>
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<td>Kufakwa kwesigaba lesiwekeke ngemunwa kwesigaba 56:</td>
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<td>&quot;Kwenakwa la libandla langaphandle letekuhweba le lisisisako lebe semitsetfweni.</td>
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<td>56A. (1) LiGatja langaphandle letekuhweba kufanele lebe semitsetfweni leqaphisi kwesigaba kute lele imisebenzi nolelimakhe ngetinsta ngekwesigaba 6(3)(m).</td>
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<td>(2) Lelekuhweba le lisisisako lekekuwina taba lokulingana tiyana lelekuhweba kufanele lebe semitsetfweni leqaphisi kwesigaba 6(3)(m).</td>
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<td>(3) Sicelo sesiwekeke ngekwesigaba kufanele—</td>
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<td>(a) sentiwe ngendlela futsi sicukatse umningwane lobekwe ligatja;</td>
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<td>(b) sibe sikhamba nemali yekufaka sicelo lebe ke nekukwemibangela ye- Financial Sector Regulation Act; phindze</td>
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|                            |                          | (c) sigcwaliswe nganobe ngumuphi lomunye umningwane liGatja lelingahale liwudzinge.
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(4) (a) The Authority must publish a notice of an application for a licence in two national newspapers, at the expense of the applicant, and on the Authority’s website.

(b) The notice referred to in paragraph (a) must state—

(i) the name of the applicant; and

(ii) the period within, and the process by, which objections to the application may be lodged with the Authority.

(5) Regulations or joint standards may prescribe additional criteria for the licensing of an external trade repository.

(6) The Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, grant a licence, if—

(a) the applicant undertakes to co-operate and share information with the Authority, the Prudential Authority and the South African Reserve Bank to assist with the performance of functions and the exercise of powers in terms of financial sector law; and

(b) the objects of this Act referred to in section 2 will be furthered by the granting of the licence.

(7) A licence or exemption may only be granted after the following factors have been taken into consideration:

(a) Relevant international standards;

(b) the type and size of the external trade repository;

(c) the impact of the activities of the external trade repository on the South African financial system;

(d) the degree of systemic risk posed by the activities of the external trade repository; and

(e) any other factors that the Minister, the Authority, the South African Reserve Bank or the Prudential Authority, as the case may be, deem relevant.

(8) A licensed external trade repository must comply with the relevant requirements of this Act and any other terms and conditions of the licence.

(9) The licence granted in terms of subsection (6) must specify the services that may be provided by the external trade repository and the securities in respect of which those services may be provided.
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<th>Nomoro ya Molao le ngwaga</th>
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<td>(4) (a)</td>
<td>liGatja kufanele lishicilele satiso sekufaka sicelo setincwadzi letigunyata kusebenta kwelibandla langaphandle letekuhweba lelisisako ngetindleko talofaka sicelo kumapherhandzaba lamabili avelonkhe, futsi nakuwebhusayithi yeliGatja.</td>
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| (b) | Satiso lekukulunywa ngaso endzimeni (a) kufanele sichaze—
  (i) ligama talofaka sicelo; kanye sikhati kanye nedlela lokungasetjentsiswa kúbeka kuliGatja ngekuphikisana nesicelo. |
| (5) | imitsetifotimiso nole imitsetfo yekuhlanganyela ingancuma tinlhobo letengetiwe tekufaka entsetfweni-kweligiGatja langaphandle letekuhweba. |
| (6) | liGatja ngekuhlanganyela neligatja lebungcwetehi kanye nelilBhangé Ngodla laséNingizimu Afrika, kunganiketa ilayisensi nangabe—
  (a) | kuhlanganyela utubhophelela ngekutini niekanye nekukhululwa ngeliGatja, ligatja lebungcwethi kanye nelilBhangé Ngodla laséNingizimu Afrika kuncedziza ekusebenteni kanye nasekusbentesi emandla ngekwemibandzela yemsetfeto wemkhakhwa wetetimali; futsi tinjongo talomtsetfo lekukhulunywa ngato esigabeni 2 titawuchutjekiswa ngakuniketha kwalamangwepha letigunyatako; |
| (7) | ilayisensi nome kukhululwa kunganiketwa kuphela ngemina kwakubutshwa kwaloko lokuandzelako:
  (i) Tincha kuhlanganyela nje lofaka sicelo utubhophelela ngukuti nje kumapherhandzaba lamabili avelonkhe; |
| (iii) | umtselela wemisebenti yeligatja langaphandle letekuhweba kululhlelotimali lwaseNingizimu Afrika; |
| (iv) | umtsambo webusongotshi lobekwa misenebenti yeligatja langaphandle letekuhweba; futsi nguNgcongcoshe, liBhangé Ngodla laséNingizimu Afrika nome liGatja lebungcwetehi; |
| (v) | nalaBhungcwetehi nguNgcongcoshe, liBhangé Ngodla laséNingizimu Afrika nome liGatja lebungcwetehi |
| (8) | liGatja letekuhweba langaphandle lelisemsetfweni kufuna lente konkhe lokudzingwa ngulomtsetfo naleminye imigomo nemekubonwa lelaNGcongcoshe, liBhangé Ngodla laséNingizimu Afrika nome liGatja lebungcwetehi. |
| (9) | ilayisensi lenikeyisi ngakuniketha (46) kufanele isho ngetinsita letinganiketwa nguleligatja letekuhweba langaphandle kanye nembhonya lekuva Yawentiwa ngawo leto tinsita. |
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<td>(10) A licensed external trade repository may at any time apply to the Authority for an amendment of the terms of its licence or the conditions subject to which the licence was granted.</td>
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<td>(11)(a) The Authority must publish a notice of an application for an amendment of the terms of a licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the Authority’s website.</td>
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<td>(b) The notice must state—</td>
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<td>(i) the name of the applicant;</td>
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<td>(ii) the nature of the proposed amendments; and</td>
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<td>(iii) the period within which objections to the application may be lodged with the Authority.</td>
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<td>(12) The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, amend the terms of a licence or the conditions subject to which the licence was granted.</td>
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<td>(13)(a) In respect of regulations that may be prescribed in terms of subsection (5), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</td>
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<td>(b) Paragraph (a) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (5).</td>
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<td>(c) Joint standards or conduct standards may be prescribed to address any matters that are not prescribed in regulations, or to provide detail that is additional to, but not inconsistent with, regulations prescribed by the Minister in terms of subsection (5).”</td>
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<td>39.</td>
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<td>The amendment of section 57—</td>
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<td>(a) by the substitution in subsection (2) for paragraph (b) of the following paragraph:</td>
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<td>“(b) make [the] information [prescribed by the registrar] prescribed by the Authority in joint standards made with the concurrence of the South African Reserve Bank available to the [registrar] Authority, the Prudential Authority, the South African Reserve Bank, other relevant supervisory authorities and other persons, subject to the requirements prescribed by the [registrar] Authority in joint standards made with the</td>
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<td>(10)</td>
<td>(ligatja langaphandle letekuhweba lelisemsetfweni lingafaka sicelo sekuchitjiyela kwemibandzela yelayisensi yayo nome timo ilayisensi leniketwe ngato.</td>
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<td>(11)</td>
<td>(a) ligatja kufuna lishicilele satiso sekufakwa kwesicelo sekuchitjiyela kwemibandzela yelayisensi kanye netimo lekimikutwe ngato lelaviseni kumaphandzaba lamabili avelonkhe ngetindleko talona lofaka sicelo, phindze futsi nakuwebhusayithi yeliGatja.</td>
<td>(b) Lesatiso kufuna sichaze—</td>
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<td>(i) ligama lolofaka sicelo; kanye</td>
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<td>(ii) neluhlolo letchibiyelo letpakhanyisiwe;</td>
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<td>(iii) sikhatshi lekungaphakanyiswa ngaso sibono kuligaTja mayelana nalesicelo lesifakiwe.</td>
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<td>(12)</td>
<td>ligatja ngekuvumelana neliBhange Ngodla laseNingizimu Afrika kanye neliGatja lebuNgeweti kungachibiyela imigomo yelayisensi nome timo ilayisensi leyaniketwa ngato.</td>
<td>(a)</td>
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<td>(13)</td>
<td>(a) ngeMsetfotimiso letingancunywa ngkekwestigatjana (5), Ngongcoshe angacitsa imitsetfotimiso; bese kusti lokudzingekile lokusha kuyanchunywa kumtsetfo wekuhlanganyela nome umtsetto wenchubelo.</td>
<td>(b)</td>
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<td>(b) Indzima (a) ayitsikabeti nome ikhawulise emandla aNgcongcoshe ekuncuma nome achibiyele umtsetfotimiso ngkekwestigatjana (5).</td>
<td>(c)</td>
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<td>(c) umtsetfo yekuhlanganyela ingancunyela kulungisa tindzaba letingakuncunywa kumtsetfotimiso, nome kumitka ngemningiwane longewe kodywa ungakagcili kumtsetfotimiso letincunywe nguNgcongcoshe ngkekwestigatjana (5).&quot;.&quot;.</td>
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<td>39.</td>
<td>Kuchitjiyela kwesigaba 57— (a) ngekuntjintjwa kwendzima (b) esigatjaneni (2) ngalendzima lelandzela:</td>
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<td>concurrence of the South Afri-</td>
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<td>can Reserve Bank under sec-</td>
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<td>tion 58 [regarding] as to the</td>
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<td>manner, form, and frequency of</td>
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<td>disclosure;’’; and</td>
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<td>(b) by the substitution for subsection (3) of</td>
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<td>the following subsection:</td>
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<td>‘‘(3) [The registrar] Joint stan-</td>
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<td>dards may prescribe [additional]</td>
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<td>duties additional to those referred to</td>
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<td>in subsection (2) [in greater de-</td>
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<td>tail].’’</td>
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40. The amendment of section 58 by the addition of the following subsection, the existing section becoming subsection(1):

‘‘(2) (a) Despite subsection (1), require- |
| ments prescribed under this section that are in force immediately before the |
| commencement of this subsection con- |
| tinue to be in force; |
| (b) In respect of regulations prescribed |
| in terms of subsection (1), the Minister |
| may repeal regulations, and new require- |
| ments may then be prescribed in joint |
| standards or conduct standards. |
| (c) Paragraph (b) does not affect or |
| limit the power of the Minister to pre- |
| scribe or amend regulations in terms of |
| subsection (1). |
| (d) Requirements other than those that |
| were prescribed in regulations referred to |
| in paragraph (b) that were prescribed |
| terms of subsection (1) before the com- |
| mencement of this subsection, may be |
| amended or repealed by conduct stan- |
| dards or joint standards.’’ |

41. The substitution for section 59 of the following section:

‘‘Annual assessment

59. The [registrar] Authority, in con- |
| sultation with the Prudential Authority, |
| must annually assess whether a licensed |
| market infrastructure— |
| (a) complies with this Act, the Financial |
| Sector Regulation Act and the rules |
| of the market infrastructure; |
Molao wa Taolo ya Lephata la Ditshelte , 2017

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<td>wekuhanganyela lowentiwe ngekuhlenganyela [nemtsetfo wehungcwethi nobe] nelithange Ngodla laseNingizimu Afrika ngaphasi kwegasa bema58 njengobo kungakhona, indlela, kanye nekuwetwa kane;&quot;; futsi (b) ngekuntjintjwa kwesigatjana (3) ngalesigatjana lesilandzelako: &quot;(3) [Nobhala] Umtsetfo wekuhlanganyela [a]unjungabeka [leminye] imisebenti lengetiwe kulela lehalwe kusigatjana (2) [nagalokucacile].&quot;.</td>
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40. Kuchitjiyelwa kwesigaba 58 ngekungetwa kwaletigatjana letilandzelako, sigaba besisivele sikhona siba sigatjana (1):

"(2) (a) Ngekunganakwa kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingekile massiba ngembikweczakala kwalesigatjana kuchubeka kudzingekile.
(b) Ngpektimiso temtsetfo letuncunywe ngakwembandzela wesigatjana (1), Ngeongcososhe angacitsa timiso temtsetfo, beke kuti lokudzingekile lokusha kungabese sekuncunywa kumitsetfo yekuhlanganyela nobe yencho. (c) Indzima (b) ayitsikabeti nobe ivimbele emanilanda aNgeongcososhe kuncumana nobe kuchibeka timiso temtsetfo ngakwembandzelayesigatjana (1). (d) Lokunye lokudzingekile ngaphandle kwaloko lokuncunywe etimisweni temtsetfo lekuhlangunywe ngalo endzimeni (b), letuncunywa ngakwembandzela wesigatjana (1) ngaphambili kwekuhlangana kwaletigatjana, tinguachitjiyelwa nobe ticifwe ngemtsetfo wenchubo nome wekuhlanganyela.".

41. Ngekushintjwa kwesigaba 59 ngalesigaba lesilandzelako:

"Kuhloliwa minyaka yonke 59. [Nobhala] LiGatja ngekucocisana neligatja lebungcwethi kufuna njalo ngennanyaka kuhlole kutsi timsitanchantsetimakethe—
(a) tiyabhambisana naloMsetfo [kanye nemtsetfo yeetinsitanchanti temakethe], [Financial Sector Regulation Act] kanye nemtsetfo yesakhiwonchantsetimakthe;"
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<td>(b) where applicable, complies with directives, and with requests, conditions or requirements of the [registrar] Authority in terms of [this Act] a financial sector law; or</td>
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<td>(c) where applicable, gives effect to decisions of the [appeal board in terms of section 105] Tribunal.”.</td>
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42. The amendment of section 60—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The [registrar] Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, cancel or suspend a licence if—”;

(b) by the substitution in subsection (1)(a) for subparagraphs (ii) and (iii) of the following subparagraphs:

“(ii) comply with a directive, request, condition or requirement of the [registrar] Authority in terms of [this Act] a financial sector law; or

(iii) give effect to a decision of the [appeal board in terms of section 105] Tribunal;”; and

(c) by the substitution in subsection (1)(b) for the words preceding subparagraph (i) of the following words:

“(b) after an [inspection in terms of section 95 of the affairs of the market infrastructure] investigation, the [registrar] Authority is satisfied on reasonable grounds that the manner in which it is operated is—”; and

(d) by the substitution in subsection (1)(b) for subparagraph (i) of the following subparagraph:

“(i) not in the best interests of clearing members of independent clearing houses or of central counterparties, authorised users or participants, or users or members of the market infrastructure, as the case may be, and their clients; or”. 
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<th>Nomoro ya Molao le ngwaga</th>
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<td>(b)</td>
<td>lapho kufanele khona, kuhambisana nemiyalelo, ticelo, imibandzela noma tidzingo [tanobhala] teliGatja [ngekwaloMtsetfo] ngekwemibandzela yemtsetfo wemkhakha wetetimali; noma</td>
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| (c)                      | lapho kufanele khona, kuphumele-liswe tincumo [talebhodi yetikhalo ngekwesigaba 105] teNkhundla yemacala.

42. kuchitjiyelwa kwesigaba 60—
(a) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngalamagama lalandzelako:

```
[Nobhala] LiGatja anga, ngemvumo yeliGatja lebungcwethi kanye neLiBhange Ngodla laseNgingizimu Afrika [khanse] susa noma amise ilayisensi uma ngabe—";'
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(b) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a) esigatjaneni (1) ngekunjintjiniwa kwemagama landvulela indzima (a)
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| 43.             |             | (a) by the substitution for subsection (1) of the following subsection:  
                  “(1) A market infrastructure may not conduct any additional business [which may introduce] if to do so would create or increase systemic risk.”; |
|                  |             | (b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:  
                  “The [registrar] Authority may, if [the registrar is of the opinion] it considers that [the] a business, function or service referred to in subsection [(1)](2) may — ”; |
|                  |             | (c) by the substitution for the words following paragraph (b) of the following words:  
                  “[prohibit or lay down requirements in respect of the] after consultation with the Prudential Authority and the South African Reserve Bank, make a determination specifying requirements in relation to the market infrastructure carrying on of such business, function or service.”; |
|                  |             | (d) by the insertion after subsection (3) of the following subsection:  
                  “(3A) The Authority may not make a determination in terms of subsection (3) in respect of a particular market infrastructure unless —  
                  (a) a draft of the determination has been given to the market infrastructure;  
                  (b) the market infrastructure has had a reasonable period of at least 14 days to make submissions to the Authority about the matter; and  
                  (c) the Authority had regard to all submissions made to it in deciding whether or not to make the determination.  
                  (3B) If the Authority considers on reasonable grounds that it is necessary to make the determination urgently, it may do so without having complied, or complied fully, with subsection (3A).”; and |
|                  |             | (e) by the substitution for subsection (4) of the following subsection:  
                  “(4) The Authority must, within 14 days after making a determination in terms of subsection (3), give the market infrastructure a statement of its reasons for making a determination in terms of subsection (3), and a statement of the material facts on which the determination was made.”. |
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| 43. kuchitjiyelwa kwesigaba 61 | (a) ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: "(1) Tsinsitanchanti temakethe angeke tenta lamanye emabhizinisi [langangenisa] nangabe kwenta njalo kutawakha nobe kukhulise bungoti beluhlelo."; (b) ngekuntjintjwa kwemagama landvulela indzima (a) esigatjaneni (3) ngalamagama lalandzelako: "[nobhala] LiGatja [a]ingga, uma ngabe [nobhala analomeondo] iyakubala kwewekutsi le[le]bjhizinisi, [lomsebenzi] kusebenta, nobe lomsebeni lobalwe kusigatjana [(1)(2) unga—"; (c) ngekuntjintjwa kwalamagama lalandze indzima (b) ngalamagama lalandzelako: "[kuvimbela nomu kabeka kuca ce lokudzingekako nglalokuphatse-lene] ngemuva kwekutsinsana netiGatja lebungwehi netiBhange Ngodla laseNingizimu Afrika, kwenta tincumo letchasisisa nglalokudzingekile ngekuhambisana netinsitanchanti tetimakethe nekuhambisa lelo bjhizinisi, umsebeni noma tinsita."; (d) ngekufakwa kwalesigatjana lesilandzelako ngemuva kwesigatjana (3): "(3A) LiGatja angeke lentsi cumo ngekwemibandzela yesigatjana (3) ngekwetinsitanchanti tetimakethe ketitsite ngu ngaphandle uma ngabe— (a) luhlaka lwaletincumo seluniketwe tsinsitanchanti tetimakethe; (b) tsinsitanchanti tetimakethe tibe nesikhatsi lesifanele lesilingana nemalanga la-14 lokungenani ekumikisa kuliGatja ngaloludza; futsi (c) LiGatja ngako konkhe lokumikiswe kile ekwentseni cumo sekutsi liyasitsatsa no be cha cumo. (3B) Uma ngabe LiGatja libala ngeti cumo tekutsi kubalulekile kwenta sicumo ngekushe, lingenta njalo ngaphandle kwekuhambisana nglalokuphele nesigatjana (3A)."; phindze (e) ngekuntjintjwa kwesigatjana (4) ngalesigatjana lesilandzelako: "(4) LiGatja kufanele, ekhatsi kwemalanga la-14 ngemuva kwewekwenta sicumo ng ekwemi-bandzela yesigatjana (3), limikete.
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<tr>
<td>44.</td>
<td>The amendment of section 62 by the substitution for paragraph (b) of the following paragraph:</td>
<td>&quot;(b) an annual assessment, [in the manner prescribed by the registrar] in accordance with conduct standards or joint standards, of the arrangements referred to in [subparagraph] paragraph (a), the results of which must be published.&quot;.</td>
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<td>45.</td>
<td>The amendment of section 63— (a) by the substitution for the heading of the section of the following heading: &quot;Demutualisation of exchange, central securities depository[ or], independent clearing house or central counterparty&quot;; (b) by the substitution for subsection (1) of the following subsection: &quot;(1) An exchange, central securities depository, [or] independent clearing house or central counterparty which is not a public company or a private company as defined in section 1 of the Companies Act, may convert to a public company or private company with the approval of the [registrar] Authority and subject to [the conditions that the registrar may prescribe] requirements imposed by the Authority.&quot;; (c) by the substitution in subsection (2) for paragraphs (a) to (k) of the following paragraphs: &quot;(a) the exchange, central securities depository, [or] independent clearing house or central counterparty referred to in subsection (1) is deemed to be a company incorporated in terms of the Companies Act from a date determined by the [registrar] Authority in consultation with the exchange, central securities depository, [or] independent clearing house or central counterparty in question;&quot;</td>
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44. Kuchitjiyelwa kwesigaba 62 ngukunjintjwa kwendzima (b) ngalandzima lelandzelako:

“(b) kuhlobela ngemndletsha ngokunhlebo nomfune nomzimba
wekuhlanganyela kwalalamulungiselelo labalwe kundzima (a),
imphumela yakhyena kufanele
ikhishwe.”.

45. Kuchitjiyelwa kwesigaba 63—
(a) ngukunjintjwa kwesigaba
ngaleshilo lokunjintjwa

(b) ngaleshilo lokunjintjwa

(c) ngaleshilo lokunjintjwa

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<td>(b) the Companies and Intellectual Property Commission, established by section 185 of the Companies Act, must accept the filed notice of incorporation of the exchange, central securities depository, [or] independent clearing house or central counterparty in terms of section 13 of that Act and register the entity in question as a company in terms of section 14 of that Act on the date referred to in paragraph (a);</td>
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<td>(c) the continued corporate existence of the exchange, central securities depository, [or] independent clearing house or central counterparty from the date on which it was first licensed [by the registrar] in terms of this Act is unaffected and any actions of the exchange, central securities depository, [or] independent clearing house or central counterparty before its conversion remain effectual;</td>
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<td>(d) the terms and conditions of service of employees of the exchange, central securities depository, [or] independent clearing house or central counterparty are not affected;</td>
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<td>(e) all the assets and liabilities of the exchange, central securities depository [or], independent clearing house or central counterparty, including any insurance, guarantee, compensation fund or other warranty owned or maintained by the</td>
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<td>ngelusuku loluncunywe [ngunobhala] liGatja ngekutsintsana nemhlango letilawulako;</td>
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<td>(b) leTinkhapani kanye neNkhomishana Yemphahla Yebuhlakani, lesungulwe ngekwestigaba 185 se-Companies Act, kufanele atatsa lehalo lefula sekhuhlanganisa sale ligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyayaka nome ligatja lelisemkhatsini letekuhweba ngekwestigaba 13 sa-Mfsefo nekubhalisa lenhlangano lekukhulunywa ngayo njengenkaphani ngekwestigaba 14 saloMfsefo ngalolusuku loluwalawe kundzima (a);</td>
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<td>(c) lokuchubeka kube khona kwelihlizinisi leligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyayaka nome ligatja lelisemkhatsini letekuhweba kusukela ngalolusuku leyaniketwa ngalo ilayisensi yekucala [ngunobhala] ngekwalaloMfsefo alikatsintske iimalisebenti yalenhlanganang letilawulako ngembiswe kwedawulwa kuhlala kunemendla;</td>
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<td>(d) [lemibandzela yekusebenta kwebasebenti labatilawulako ayitsintsiki] imogomo nemibandzela yetsinta tebasebenti beligatja letekuhweba, ligatja lelisemkhatsini letekuhweba, indlu legunyaya ngakutimela nome ligatja lelisemkhatsini letekuhweba ayitsikabekhek;</td>
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<td>(e) tonkhile timphahla kanye nemitlalo kwekutja, libhange lelisemkhatsini lemasheya, indlu legunyaya ngakutimela nome libhange lelisemkhatsini, kufaka ekhati nanome yiphi imishwalensi, siciniseko, sikhwama sekunopehetela nome letinye ticintseko letilawulwa ligatja letekuhweba, libhange lelisemkhatsini lemasheya, indlu legunyaya ngakutimela nome ligatja lelisemkhatsini letekuhweba kwentela tibophelelo temsebentisi</td>
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 |  | exchange, central securities depository [or], independent clearing house or central counterparty to cover any liabilities of the clearing members of independent clearing houses or central counterparties, authorised users or participants, as the case may be, to clients, remain vested in and binding upon the company or such other entity acceptable to the [registrar] Authority as the company may designate;

(f) the company has the same rights and is subject to the same obligations as were possessed by or binding upon the exchange, central securities depository, [or] independent clearing house or central counterparty immediately before its conversion;

(g) all agreements, appointments, transactions and documents entered into, made, executed or drawn up by, with or in favour of the exchange, central securities depository [or], independent clearing house or central counterparty and in force immediately before the conversion remain in force and effectual, and are construed for all purposes as if they had been entered into, made, executed or drawn up by, with or in favour of the company, as the case may be;
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<td>emagatja lasemkhatsini</td>
<td>etekuweba, basebentisi</td>
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<td>labagunyatiwe nome</td>
<td>labangenelelako, njengobe</td>
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<td>kungaba njalo, kumaklayenthi</td>
<td>agcinwa phindze asibopho</td>
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<td>kunkapani nome lelinye ligatja</td>
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<td>lelivunywako kuliCattja</td>
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<td>njengoba inkapani ingancuma;</td>
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<td>[tonkhe timphhala kanye nemifwalo yenkhapani letilawulako, kufaka ekhatsi noma muphi umshwalese, siciniseko, sikhwama sekuncepetelisa nama lenye iwaranti lephetfwe nama legcinwe yinhlangano kuvala noma muphi umifwalo yalelilunga leligunyatiwe yendlu legunyatako letimele, basebentisi labagunyatiwe noma Labangenelelako, njengoba kungabe kubekiye, kumaklayenti, kutawuhhala kubekele futsi kusibopho kulenhakapana noma kulelenye sikhungo lesivumelakele kunobhala njengoba inkhapani ingabelbekile];</td>
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<td>(f)</td>
<td>inkhapani inemalungelo</td>
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<td>lafanako kantsi iya</td>
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<td>ngemisebenti lebeyiphetfwe</td>
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<td>noma isibopho kuligatja, libhange les Asheya lelisemkhatsini, [noma] indlu letimele legunyatako nome ligatja lelisemkhatsini lelekuwheba ngekushesha ngekuba konaphela kwekhulungana;</td>
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<td>(g)</td>
<td>tonkhe tivumelwano, kuncuma ngetimsuku, ematraneekshini kanye nemiculu lekuhulunywa ngayo, leyentiwe, lesunguliwe noma ledhvewite, ngekushambisa neligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyatako nome ligatja lelisemkhatsini lelekuwheba nikel[el]okusebenta ngekushesha ngekuba kwalokugucula lokuhlala kukhona nalokunempumelelo, kantsi kwenelwa tonkhe tidzingo njengoba kungabe kuvunyelwene, kventwiwe, kucalsiwe noma kudvvetjwe ngu, ngekumelana nenkhabani, njengoba kungabe kubekiye;</td>
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<td>(h) any bond, pledge, guarantee or other instrument to secure future advances, facilities or services by the exchange, central securities depository, [or] independent clearing house or central counterparty which was in force immediately before the conversion, remains in force, and is construed as a bond, pledge, guarantee or instrument given to or in favour of the company, as the case may be;</td>
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<td>(i) any claim, right, debt, obligation or duty accruing to any person against the exchange, central securities depository, independent clearing house or central counterparty or owing by any person to such exchange, central securities depository, [or] independent clearing house or central counterparty is enforceable against or owing to the company, subject to any law governing prescription;</td>
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<td>(j) any legal proceedings that were pending or could have been instituted against the exchange, central securities depository, [or] independent clearing house or central counterparty before the conversion may be continued or instituted against the company, subject to any law governing prescription; and</td>
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</table>
### Molao wa Taolo ya Lephata la Ditshelete, 2017

**Nomoro ya Molao le ngwaga** | **Setlhogo se se khutshwane** | **Bogolo jwa phimolo kgotsa tlhabololo**  
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(k) |  
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|[nom a yini lehlanganisiwe, sifungo, siciniseko noma lelinye lithulusi kucinisekisa lokungenteka ngalokutako, tindzawo noma imisebenti lekwenitiwa tinhlango leotime lebeyisebenta ngekushesha ngembi kwetingucuko letitawuhlala tikhona, kantsi kutsatfuwa njengebhondi, sifungo, siciniseko noma lithulusileliniketwe ngekuhambisana nenkhapani, njengoba kungabe kubekevi;] noma yini lehlanganisiwe, sifungo, siciniseko noma lelinye lithulusi kucinisekisa lokungenteka ngalokutako, tindzawo noma imisebenti lekwenitiwa ligatja, libhang lemasheya lelisemikhatsini, libhang lelisemikhatsini letukuhweva nome yindlu hekunyata ngekutimelope lebeyisebenta ngekushesha ngembi kwetingucuko letitawuhlala tikhona, kantsi kutsatfuwa njengebhondi, sifungo, siciniseko noma lithulusileliniketwe ngekuhambisana nenkhapani, njengoba kungabe kubekevi; noma yiphi ikleyimu, lilungelo, sikweleti, umtfwalo noma umsebenti lotalela noma bani ngekumelana naligatja, libhang lemasheya lelisemikhatsini, [noma] indlu letimele legunyatako nome ligatja lelisemikhatsini letukuhweva nomakukwetlewa ngunoma ngubani kulweylo nhlangano nome ligatja lelisemikhatsini letukuhweva kutawu cnzethelewa ngokumelana nomakukwetlewa ngunoma ngubani kulekhotse kungabe kubekevi, ngabe nophi inchub setsefowe lebeyingakaphaleli noma ingabe ibekiwe ngokumelana naleligatja, libhang lemasheya lelisemikhatsini, [noma] indlu letimele legunyatako nome ligatja lelisemikhatsini letukuhweva ngembi|
Act No. and year | Short Title | Extent of repeal or amendment
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(k) | the licence of the exchange, central securities depository, [or] independent clearing house or central counterparty, remains vested in the company if the company complies with all the requirements of this Act in respect of an exchange, central securities depository, [or] independent clearing house or central counterparty.”.

46. The amendment of section 64 by the substitution in subsection (5) for paragraph (a) of the following paragraph:

“(a) all the assets and liabilities of the amalgamating entities (or in the case of a transfer of assets and liabilities, of the entity by which the transfer is effected), including any insurance, guarantee, compensation fund or other warranty owned or maintained by any of them to cover any liabilities of clearing members of independent clearing houses or central counterparties, authorised users or participants, as the case may be, to clients, vest in and become binding upon the amalgamated entity or, as the case may be, the entity taking over such assets and liabilities or such other entity acceptable to the [registrar] Authority as the parties to the amalgamation may designate;”.

47. The amendment of section 65 by the substitution for subsection (2) of the following subsection:

“(2) The members of the controlling body of a market infrastructure owe a fiduciary duty and a duty of care and skill to the market infrastructure, in the exercise of the functions as a market infrastructure.”.
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<th>Nomoro ya Molao le ngwaga</th>
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<td>kwaletingcogo kungachu-</td>
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<td>tjekwa noma letiphe ke kgwag</td>
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<td>ngekumelana nenkhapani,</td>
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<td>ngekuya nangoma muphi</td>
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<td>umtsefiso lolawula lokubekwako</td>
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<td>(k) ilayiseni yaleligatjia, libhange</td>
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<td>lemasheya leisemkhatsini,</td>
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<td>[noma] indlu letimele</td>
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<td>legunya taka nobe ligatja</td>
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<td>leisemkhatsini letikulwe leka</td>
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<td>kuyawahlahla kubeke</td>
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<td>emandleni alenkapani uma</td>
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<td>ngabe lenkhapani ihimbisana</td>
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<td>nato tonkhe tidzingo talo-</td>
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<td>Mtsetfe ngekuya nenghlungana</td>
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<td>letilawulako, indlu legunya taka</td>
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<td>letimele nobe libhange</td>
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<td>leisemkhatsini letikulwe leka</td>
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| 46.                      |                          | Kuchitjiyelwa kwesigaba 64         |
|                          |                          | ngekunjtjita kwendzima (a)         |
|                          |                          | ngalendzima lelandzelako esigatjanyi (5): |
|                          |                          | "(a) yonkhe imphahla kanye        |
|                          |                          | nemifwalo yolokuhlanganiswa       |
|                          |                          | kwetinhlangano (noma uma ngabe    |
|                          |                          | kunalokudululisetwako             |
|                          |                          | lkuyimphahla noma umutfwalo,       |
|                          |                          | walenhlungano lapho khona          |
|                          |                          | lokuduliselwa kusetjentjiswa khona, |
|                          |                          | kufaka ekhatsi noma muphi          |
|                          |                          | umshwalense, siciniseko, sikhwama |
|                          |                          | sekuncepthetisa noma iwarantyi    |
|                          |                          | lekungyealomunye wabo noma        |
|                          |                          | loyilawulako kutsi ifake ekhatsi noma |
|                          |                          | miphi imifwalo yelilunga leligunyatiwe |
|                          |                          | [y] lendlu yekugunyata             |
|                          |                          | [le]ngekutimela[e] nome emagatjia |
|                          |                          | lasemkhatsini etekulwe leka        |
|                          |                          | basebentisi labagonyu tshwaie noma |
|                          |                          | Labangenelelako, njengoba kungabe  |
|                          |                          | kubekeke, kunaklayenti,           |
|                          |                          | kutawuhlahla futsi kutawuba sibopho |
|                          |                          | kulislenhlangano lehlanganisiwe noma, |
|                          |                          | njengoba kungabe kubekeke,         |
|                          |                          | lenhlungano letawube isebentisa leto |
|                          |                          | timphahla nemifwalo noma lokanye  |
|                          |                          | lokukhona kuleligatja lokuvumelele kile |
|                          |                          | [kubobhala] kuliGatja             |
|                          |                          | njengobaletinfilangano            |
|                          |                          | kulokuhlanganiswa kungakwakwa;". |
| 47.                      |                          | Kuchitjiyelwa kwesigaba 65—       |
|                          |                          | ngekunjtjita kwesigatjana (2)      |
|                          |                          | ngalesigatjana lelandzelako:       |
|                          |                          | "(2) Lamalunga alomtimba           |
|                          |                          | lofphete tinsitonchanti tetimakete |
|                          |                          | [le]akweleta budilelwano          |
Act No. and year | Short Title | Extent of repeal or amendment
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48. | The amendment of section 66—
(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:
“(c) does not meet the fit and proper requirements prescribed [by the registrar] in the relevant joint standards.”; and
(b) by the deletion of subsections (8) and (9).

49. | The amendment of section 67—
(a) by the substitution for subsection (4) of the following subsection:
“(4) A person may not, without the prior approval of the [registrar] Authority, acquire shares or any other interest in a market infrastructure in excess of that approved under subsection (3), but not exceeding 49 per cent.”;
(b) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:
“[The] An approval referred to in subsection (3), (4) or (5)—”;
(c) by the substitution in subsection (7) for paragraph (a) of the following paragraph:
“(a) compelling that person to reduce, within a period determined by the court, the shareholding or other interests in the market infrastructure to a shareholding with a total nominal value not exceeding [15 or 49 per cent, as the case may be,]—
(i) in a case where subsection (3) applies, 15 per cent; or
(ii) 49 per cent,

of the total nominal value of all the issued shares of the market infrastructure; and”; and

(d) by the substitution for subsection (8) of the following subsection:
“(8) An application referred to in [subsections] subsection (3), (4) or (5) must be made in the manner and form prescribed by the [registrar] Authority.”.
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<th>Nomoro ya Molao le ngwaga</th>
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<td>emkhatsini walabanemasheya [kute]</td>
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<td>kanyce [ba]nekunakekelo nelikhono</td>
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<td>kuletinsitanchhanti tetimakethe,</td>
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<td>ekweneni isimphethi</td>
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<td>njengenhlango letimele.”.</td>
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<td>48.</td>
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<td>Kuchitjiyelwa khesigaba 66—</td>
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<td>(a) ngekuntjintja indzima (c) ngalendzima</td>
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<td>lelandzelako esigatjaneni sekucala:</td>
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<td>“(c) akufinyeleli kuletidzingo</td>
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<td>tekuvele ungene letibekwe [ngunobhala]</td>
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<td>kumsetfo wekuhlanyangelya lofanele.”;</td>
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<td>(b) ngekususwa kwetigatjana (8) kanye</td>
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<td>nese (9).</td>
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<td>Kuchitjiyelwa khesigaba 67—</td>
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<td>(a) ngekuntjintja kwetigatjana (4)</td>
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<td>ngaletigatjana letilandzelako:</td>
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<td>“(4) Umuntfu angeke, ngaphandle</td>
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<td>kwemvume yangaphambili [yanobhala]</td>
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<td>yeliGatja, afune emashheya nomo lenye</td>
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<td>intalo kutinsitanchhanti tetimakethe,</td>
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<td>kutfola loko lokuvunyelwe ngaphansi</td>
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<td>kwesigatjana (3), kodywa kunanganduli kumaphesenti langema—49].”;</td>
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<td>(b) ngekuntjintja kwemagama landvulela</td>
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<td>indzima (a) esigatjaneni (6)</td>
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<td>ngalamagama lalandzelako:</td>
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<td>“[Le]Imvume lecondziswe kusigatjana</td>
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<td>(3), (4) noma (5)—”</td>
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<td>(c) ngekuntjintja kwendzima (a) esigatjaneni (7) ngalendzima</td>
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<td>lelandzelako:</td>
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<td>“(a) acindzetele lowo muntfu kutsi</td>
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<td>anciphise, ngeshikhatse</td>
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<td>lesincunywe yinkhantolo,</td>
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<td>lokuba nemashheya nomo lenye</td>
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<td>intalo kuletinsitanchhanti</td>
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<td>tetimakethe kulelonhizinga lelilinganisiwe</td>
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<td>lelinganduli [emaphesenti lali-15 noma 49]—</td>
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<td>(i) esimeni lapho khona sigatjana</td>
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<td>(3) sisebenta, emaphesenti la-15; nobe</td>
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<td>(ii) emaphesenti langema—49</td>
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<td>nasekaphelele, [njengoba kunangabekubekiwe]</td>
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<td>kulelonhizinga lelilinganisiwe</td>
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<td>lelapho akufinyeleli kuletidzingo</td>
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<td>tekuvele ungene letibekwe</td>
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<td>[ngunobhala] yeliGatja, afune</td>
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<td>kwesigatjana (3), kodywa kunanganduli kumaphesenti langema—49].”;</td>
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<td>(d) ngekuntjintja kwesigatjana (8)</td>
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<td>ngalesigatjana lelandzelako:</td>
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<td>“(8) Sicelo lesibihale ku[s]tigatjeta</td>
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<td>(3), (4) noma (5) kufanele sentiwe ngendlela lebekwe</td>
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<td>[Ngunobhala] liGatja.”.</td>
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<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td>50.</td>
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<td>The substitution for section 69 of the following section:</td>
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<td>&quot;Report to [registrar] Authority &quot;</td>
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<td>69. Within four months after the financial year-end of a market infrastructure, that market infrastructure must submit to the [registrar] Authority an annual report containing the details [prescribed by the registrar] determined in joint standards and audited annual financial statements that fairly present the financial affairs and status of the market infrastructure.&quot;.</td>
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<td>51.</td>
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<td>The amendment of section 71—</td>
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<td>(a) by the insertion after subsection (1) of the following subsection:</td>
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<td>&quot;(1A) Rules that are made by a market infrastructure may not contradict any regulation, conduct standard, prudential standard, or joint standard issued in term of this Act or the Financial Sector Regulation Act.&quot;;</td>
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<td>(b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:</td>
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<td>&quot;(b) The [registrar] Authority may, after consultation with the Prudential Authority and the South African Reserve Bank, subject to this section, amend the rules or issue an interim rule.&quot;;</td>
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<td>(c) by the substitution in subsection (3) for paragraphs (b) and (c) of the following paragraphs:</td>
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<td>&quot;(b) The [registrar] Authority must as soon as possible after the receipt of a proposed amendment publish—</td>
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<td>(i) the amendment on the [registrar’s] Authority’s website; and</td>
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<td>(ii) a notice in the Gazette that the proposed amendment is available on the [registrar’s] Authority’s website;</td>
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50. Ngekuntjintjwa kwesigaba 69 ngalesigaba lesilandzelako:

"Umbiko [wanobhala] kuliGatja [wenhlango letilawulako]

69. Ekhatsi kwetinyanga letine nasekuphele umnyaka timali wetinsitanchanti tetimakethe, letinsitanchanti tetimakethe kufanele tefule [kunobhala] kuliGatja umbiko wenmyaka wonkhe locuketse imininingwane [lehalawe ngunobhala] letfolwe kuma-Joint standards kanfûye netittatimende temnyaka temali letihlioli letitkhombisa simo setimali kanye nesimo saletinsitanchanti tetimakethe.".

51. Kuchitjiyelwa kwesigaba 71-
(a) ngekufakwa kwalesigatjana leslanidzelako ngemuva kwesigatjana (1)

"(1A) Imitsetfo leventiwe tinsitanchanti tetimakethe tingete tashayisana nanobe ngutiphi timiso temtstefo, umtsetfo wenchubo, ligatja lebungcwethi, umtsetfo wekuhlanganyela lokhoshwe ngekwembandzela yaloMsetfo nome i-Financial Sector Regulation Act";

(b) ngekuntjintjwa kwendzima (b) ngalendzima leslanidzelako esigatjaneni (2):

“(b) [Nobhala anga, ngekuya ngalesigaba, kuchibiyela lemitsetfo nomu kukhipha umtsetfo wesikhashane.] LiGatja ngemuva kwekuhlanganyela nembsetfo wekuhlanganyela kanye neliBhange Ngodla laseNingizimu Afrika, ngekuya ngalomtsetfo lingachibiyela imitsetfo nome linikete ngemtsetfo wesikhashane.”;

(c) ngekuntjintjwa kwetindzima (b) na (c) ngalelindzima leslanidzelako esigatjaneni (3):

“(b) [Nobhala] LiGatja kufanele ngekuhlanganyela ngesikhishha ngemuva kwekuhlanganyela [t]sichibiyelo le[T]sipakhanyisiwe [tikishiwile] lishicilele—

(i) [kuchitjiyelwa] sicibiyelo kwewebhusayitho yeliGatja [lesemtsetfweni]; kanye

(ii) sitiso kuGazethi kutsi lokuchibiyela lokuphakanyisiwe kuyatfolakala kwewebhusayitho yeliGatja [lesemtsetfweni], kubita bonkhe bantfu labanenshisekelo labaphiki-sanako naletichibiyelo letiphakanyisiwe kutsi bafake
(c) If there are no such objections, or if the registrar Authority has considered the objections and, if necessary, has consulted with the market infrastructure and the persons who raised such objections and has decided to approve or amend the proposed amendment, the registrar Authority must publish—

(i) the amendment and the date on which it comes into operation on the [official] Authority’s website; and

(ii) a notice in the Gazette, which notice must state—

(aa) that the amendment to the rules has been approved;

(bb) that the rules as amended are available on the [official] Authority’s website and the website of the market infrastructure; and’’;

(d) by the substitution in subsection (4) for paragraph (a) of the following paragraph;

“(a) The registrar Authority, after consultation with the Prudential Authority and the South African Reserve Bank, by notice in the Gazette and on the [official] Authority’s website, may amend the rules of that market infrastructure—’’;

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

“(b) Where the registrar Authority has amended the rules of a market infrastructure under paragraph (a), the registrar Authority must—’’;

(f) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:

“(ii) give reasons for the amend-ment, and explain the imperative referred to in paragraph (a)(i), in the Gazette and on the [official] Authority’s website.”;

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<th>Act No. and year</th>
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<td>calling upon all interested persons who have any objections to the proposed amendment to lodge their objections with the registrar Authority within a period of 14 days from the date of publication of the notice.</td>
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<td>(c) If there are no such objections, or if the registrar Authority has considered the objections and, if necessary, has consulted with the market infrastructure and the persons who raised such objections and has decided to approve or amend the proposed amendment, the registrar Authority must publish—</td>
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<td>(i) the amendment and the date on which it comes into operation on the [official] Authority’s website; and</td>
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<td>(ii) a notice in the Gazette, which notice must state—</td>
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<td></td>
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<td>(aa) that the amendment to the rules has been approved;</td>
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<td>(bb) that the rules as amended are available on the [official] Authority’s website and the website of the market infrastructure; and’’;</td>
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<td>(d) by the substitution in subsection (4) for paragraph (a) of the following paragraph;</td>
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<td>“(a) The registrar Authority, after consultation with the Prudential Authority and the South African Reserve Bank, by notice in the Gazette and on the [official] Authority’s website, may amend the rules of that market infrastructure—’’;</td>
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<td>(e) by the substitution in subsection (4) for paragraph (b) of the following:</td>
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<td>“(b) Where the registrar Authority has amended the rules of a market infrastructure under paragraph (a), the registrar Authority must—’’;</td>
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<td>(f) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:</td>
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<td>“(ii) give reasons for the amend-ment, and explain the imperative referred to in paragraph (a)(i), in the Gazette and on the [official] Authority’s website.’’;</td>
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<td>tikhala tabo [nganobhala]</td>
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<td>kuliGatja kungakapheli</td>
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<td>emalanang lali-14 kusukela</td>
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<td>ngalelelanga lekuhxicilelwana</td>
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<td>kwalesa.</td>
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<td>(c) Uma ngabe kungekho</td>
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<td>lokuphikiswako, noma uma ngabe</td>
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<td></td>
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<td>(i) [lokuchibiyela] kuchibiyela</td>
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<td>nelusuku laphekuca la khlafana</td>
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<td>kusebenta kuwebhusayithi yeliGatja [lesemsetfweni]; kanye</td>
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<td>(ii) ngesatiso kugazethi, laphekuca la lesatiso kufanele sisho kutsi—</td>
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<td>(aa) lokuchibiyela kwalemitsetfo kuvunyelwe;</td>
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<td>(bb) kutsi lemitsetfo njengoba</td>
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<td>ichtjiyelwe ikhona kuwebhusayithi yeliGatja [lesemsetfweni] yaletinsitanchantse tetimakethe; kanye:’’;</td>
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<td>(cc) loluSuku lokuchitjiyelwa lekutawusetjentswa ngalo.</td>
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<td>(d) ngekunjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4):</td>
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<td>“(a) [Nobhala] LiGatja ngemwaka, ngemwaka kwekucocisana nelitshidla lebuNgcwethi kanye nelilihlelele Nqondi laNgingizimu Afrika lingachibiyela limisetfo yalelo sakhwonechani setimakethe, ngakhesatiso kuGatja kanye nakuwebhusayithi yeliGatja [lesemsetfweni, kungachitjiyelwa lemitsetfo yaletinsitanchantse tetimakethe]—</td>
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<td>(e) ngekunjintjwa kwendzima (b) ngalendzima lelandzelako esigatjaneni (4):</td>
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<td>“(b) Laphekuca [nobhala] liGatja [a]lichibiyela limisetfo yetinsitanchantse tetimakethe ngaphansi kwendzima (a), [nobhala] liGatja kufanele—’’;</td>
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<td>(f) ngeshintjwa kwendziniyana (ii) ngalendziniyana lelandzelako esigatjaneni (4)(b):</td>
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<td>“(ii) kuniketa tizatfu talokuchibi yela, nekuchaha kubaluleka lokubalwe kusigaba (a)(i),</td>
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<td>(g)</td>
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<td>“(a) Subject to prior approval of the [registrar] Authority, a market infrastructure may suspend any of the rules of that organisation for a period not exceeding 30 days at a time after reasonable notice of the proposed suspension has been advertised on the [official] Authority’s website.</td>
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<td>(h)</td>
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<td>“(a) The [registrar] Authority may after consultation with the Prudential Authority and the South African Reserve Bank, for the period of such suspension, issue an interim rule by notice in the Gazette to regulate the matter in question.”;</td>
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</table>

(h) by the substitution in subsection (6)(a) for subparagraphs (iv) to (vii) of the following subparagraphs:

“(iv) suspension or cancellation of the right to be a clearing member of an independent clearing house or central counterparty, an authorised user or a participant;

(v) disqualification, in the case of a natural person, from holding the office of a director or officer of a clearing member of an independent clearing house or central counterparty, an authorised user or a participant, as the case may be, for any period of time;

(vi) a restriction on the manner in which a clearing member of an independent clearing house or central counterparty, an authorised user or a participant may conduct business or may utilise an officer, employee or agent;
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<td>kuGazethi kanye nakuwe-bhusayithi yeliGatja [lesemotsetfweni];</td>
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<td>(g) ngekuntjintjwa kwetindzima (a) na (b) ngalelindzima letilandzelako esigabenni (5):</td>
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<td>“(a) Ngekuwa ngemvume yangaphambilini [yanobhala] yeliGatja, tinsitanchanti Tetimakele ingamisa noma muphi yalemotsetfo yalenhlangano kwentela sikhatsi leisingadluli emalanga langema-30 ngesikhatsi ngemvume kwenasato lesivakalako salokumiswa lokuphakanyisiwe kukhangiswe kuwebhu [lesemotsetfweni].”</td>
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<td>(b) [Nobhala] LiGatja, ngemvume kwekucocisana neliGatja lebuNgcwethi kanye neliBhange Ngodla laseNingizimu Afrika [al] llingakhokha utmsetfo wesikhashana ngesatiso kuGazethi kwentela kulawula loludzaba. [kulesikhatsi sekumiswa, kube khona utmsetfo wesikhashane ngekwesatiso kugazethi kulawula loludzaba lekuhulunywa ngalo.]”</td>
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<td>(h) ngekuntjintjwa kwetindzinyana (iv) kuya ku-(vii) ngaletindzinyana letilandzelako esigatjaneni (6)(a):</td>
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<td>“(iv) kumiswa noma kukhanselwa kwelilungelo lekuba lilunga elingunyatiwe lendlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba, umsebentisi lesemotsetfweni noma labangenelelako;</td>
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<td>(v) kungasavumeli, uma ngabe kunqumuntfu, kutsi aphatse lihhovisi lemcondzisi noma abe sisebeni selilunga elingunyatiwe sendlu letimele legunyatiwe nome ligatja lelisemkhatsini letekuhweba, umsebentisi lesemotsetfweni noma labangenelelako, njengoba kungabe kubekiwe, nganoma sikhatsi leisingakanani;</td>
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<td>(vi) imitsetfo levimbela indlela lilunga elingunyatiwe yendlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba, umsebentisi lesemotsetfweni noma labangenelelako bangenta umsebentisi noma bangasebentisa umsebenti, sisebenti ne ejenti;</td>
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### Extent of repeal or amendment

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<td>(vii) suspension or cancellation of the authorisation of an officer or employee of a clearing member of an independent clearing house or central counterparty, an authorised user or a participant to perform a function in terms of the rules;”; and</td>
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(i) by the substitution in subsection (6)(b) for subparagraph (iii) of the following subparagraph:

“(iii) a market infrastructure may take into account at a disciplinary hearing any information obtained by the [registrar|Authority in the course of an inspection conducted [under section 95] in terms of the Financial Sector Regulation Act”; |

52. The amendment of the heading for Chapter VIII by the substitution for the heading of the following heading:

“[CODE OF CONDUCT] CHAPTER VIII CONDUCT STANDARDS”.

53. The amendment of section 74—

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

“[Code of conduct] Conduct standards for regulated persons”;

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

“(1) [The registrar may in an appropriate consultative manner prescribe a code of conduct for]

Conduct standards may prescribe requirements in relation to—

[(i)](a) authorised users, participants or clearing members of independent clearing houses or central counterparties; or

[(ii)](b) any other regulated person, where the required standard of conduct is not prescribed in another law or [code of conduct] conduct standard, and a [code of conduct] conduct standard is necessary or expedient for the achievement of the objects of this Act.”; and
## Molao wa Taolo ya Lephata la Ditshelete , 2017

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<td>(vii)</td>
<td>kumisa noma kuhansela kwegengnya lesebentse noma umsebenzi weliulunga leligunyatiwe wendlu setimele lebugunyatiwe noma ligezatja lelisekkhatsini letekukwebo, an umsebenzisi losemsetfweni noma labangenelelelo kutsi bente umsebenzi ngekhumambisa nalemitsetfo;”; futsi</td>
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<td>(i)</td>
<td>ngekuntjintjwa kwendzinyana (iii) ngalendzinyana nala bongosebeno esigatjaneni (6)/(b): ”(iii) tinsitanchanti tefunekethe tingatsatsa noma luphi lwatiso lekutsetfiwa kwhelishistse</td>
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52. Kuchitjyelwa kwesihloko seSethluko VIII ngekuntjintjwa kwalesihloko ngalesihloko lesilandzelako:

“[[INDLELA YEKUTIPHATS] SEHLUKO VIII UMTSETFO WENCHUBO”

53. Kuchitjyelwa kwesihloko 74—(a) ngekuntjintjwa kwesihloko seSethluko salesigaba ngalesihloko lesilandzelako: “Umtsetfo wenchubo webantu labalawulwako”;
(b) ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: “(1) [Nobhala angena ngendlela lefangle ye kutsintsana anikete indlela Yekutiphatsa] Umtsetfo wenchubo ungancuma lokudzingekile ngalo kuphatsela —

| (i)            | nebasebentse labangunyatiwe, labangene lelelo noma lilunga leligunyatiwe lendslu setimele legunyatiwe nobe emagatja elitenimali; lalamulako: nobe |
| (ii)           | noma ngabo ngubani umuntu losemsetfweni, lapho khona lizinga lelidingekako lekutiphatsa [alikabekwa no] alikuncunywa kulomunye umtsetfo wenchubo [noma] |
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(c) by the substitution for subsection (2) of the following subsection:

“(2) A [code of conduct] conduct standard is binding on authorised users, participants or clearing members of independent clearing houses or central counterparties or any other regulated person in respect of whom the [code of conduct] conduct standard was prescribed, as the case may be, and on their officers and employees and clients.”.

54. The amendment of section 75—
(a) by the substitution for the heading of the section of the following heading:

“Principles [of code of conduct] for conduct standards”;

(b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“A [code of conduct] conduct standard for authorised users, participants or clearing members of independent clearing houses or central counterparties must be based on the principle that—”;

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

“(a) an authorised user, participant or clearing member of an independent clearing house or central counterparty must—”;

(d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“A [code of conduct] conduct standard for regulated persons, other than the regulated persons mentioned in subsection (1), must be based on the principle that the regulated person must—”;

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<td>indlela yekutiphatsa], [kantsi phindze futsi [indlela yekutiphatsa] nemtsetfo wenchubo [I]uyadzingeka noma [I]uyaphutfuma kwenetela kuphumelela kwaletinjongo taloMtsetfo.&quot;; futsi (c) ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako: &quot;(2) [Indlela yekutiphatsa] Umtsetfo wenchubo [I]uyaphua kабасебентиси лабагунятиве, лабангенелелако нома лилунга лелигунятиве лендлу лetimele legunyatak-o nome ligitia lelisemkhatsini letekuhweba noma lomunye umuntu lolaowlulwako lekgunyoe umtsetfo wancunyelwa yena [losemtsetfweni] [lona lewakhishelwa indlela yekutiphatsa], njengoba kungabe kabeukiwe, nakutisebenti kanye nebasebenti nemaklayenti.&quot;. 54. Kuchitjiyelwa kwesigaba 75— (a) ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako: &quot;Imigomo yekuchutjwa kwemtsetfo [yekutiphatsa]&quot;; (b) ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (1): &quot;[Indlela yekutiphatsa] umtsetfo wenchubo [y]webasebentisi labasemtsetfweni, labangenelelako, noma emalunga lagunyatiwe latimele endlu legunyatak-o nome ligitia lelisemkhastini letekuhweba kufanele icondziswe kulomgomo wekutsi—&quot;; (c) ngekuntjintjwa kwenzidzima (a) ngalenbdzima lelandzelako esigatjaneni (1): &quot;(a) umsebentisi losemtsetfweni, labangenelelako noma liiungula leligunyatiwe lendlu letimele legunyatak-o nome ligitia lelisemkhatsini letekuhweba kufanele—&quot;; (d) ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (2): &quot;[Indlela yekutiphatsa] umtsetfo wenchubo [y]webaquentfu labasemtsetfweni, nagpahandle kwalaba labasemtsetfweni lababalwe kusigatjana (1), kufanele icondziswe kumigomo yekutsi lomunfufu losemtsetfweni kufanele—&quot;;</td>
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The amendment of section 76—

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

“(2) The criteria for the approval of a nominee of an authorised user or a participant and the ongoing requirements applicable to it must be equivalent to [that applied by the registrar when approving a nominee under subsection (3)] criteria determined in conduct standards for nominees”; and

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

“(3) (a) [The registrar may prescribe requirements for—

(i) the approval of a nominee that is not approved as a nominee in terms of subsection (1); and

(ii) approved nominees.] A nominee that is not approved as a nominee in terms of subsection (1) must—

(i) be approved by the Authority; and

(ii) comply with conduct standards determined by the Authority.

(b) The [registrar] Authority must maintain a list of all nominees approved under this section.”.

The amendment of section 77—

(a) by the deletion of the definition of “claims officer”;
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<td>(e)</td>
<td>Ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (3): “[Indlela yekutiphatsa] Umtsetfo wenchubo [H]unganiketa—”; futsi</td>
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<td>(f)</td>
<td>Ngekuntjintjwa kwendzima (f) ngale-ndzima lelandzelako esigatjaneni (3): “(f) noma ngabe yiphi lenye indzaba lefanele noma lekuinalwe ilawulwe ngekushesha [yendlela yekutiphatsa] kumtsetfo wenchubo ngekuphumeleliisa tinjonggo taloMistefo.”</td>
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55. Kuchitiyela kwesigaba 76—
(a) ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako; “(2) Lendlela yekuvunyelwa kwalophakanyisiwe wemsebentisi losemtsetweni noma labangenelelelako kanye naloledzingeka njalo lokusebenta kibo kufanele kuhambitsane [naloledzokhale] ngunobhala ngalesikhatshi avumela lophakanyisiwe ngaphansi kwegatjana (3) yendlela yalakhetshiwe lenchunyele mtsetfo wenchubo.”; futsi 
(b) ngekuntjintjwa kwesigatjana (3) ngalesigatjana lesilandzelako: “(3) [a] Nobhala angabeka tidzingo—
(i) tekuvunyelwa kwalophakanyisiwe longakuvunyelwa kutshaphakanyisiwe ngekwesigatjana (1), kanye 
(ii) labaphakanyisiwe labavunyeliwe 
(b) Nobhala kufanele agcine sukuhla lwako konkhe lokuvunyelwe kwa lophakanyisiwe ngaphansi kwalesigagab.] (a) lophakanyisiwe longakuvunyelwa njengalophakanyisiwe ngekwemibandzela yesigatjana (1) kufanele—
(i) avunyelwe liGatja; futsi 
(ii) ahambisane nemtsetfo wenchubo lonchunyele liGatja ngaphansi kwe-Financial Sector Regulations Act. 
(b) [Nobhala] liGatja kufanele lgičine luhlu lwabo bonkhe labaphakanyisiwe labavunyelwe ngaphansi kwalesigagab.”. 

56. Kuchitiyela kwesigaba 77—
(a) ngkususwa kwenchazelo ye-
“lhhovisi lemakleymi”. 

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<td>(b) by the substitution for paragraph (b) of the definition of “inside information” of the following paragraph: “(b) if it were made public, would be likely to have a material effect on the price or value of any security listed on a regulated market or of any derivative instrument related to such a security;”; and</td>
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<td>(c) by the substitution in paragraph (a) of the definition of “insider” for subparagraph (i) of the following subparagraph: “(i) being a director, employee or shareholder of an issuer of securities listed on a regulated market or an issuer of derivative instruments related to such securities to which the inside information relates; or”</td>
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57. The amendment of section 78—
(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: “(a) An insider who knows that he or she has inside information and who deals, directly or indirectly or through an agent for his or her own account, in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence.”;
(b) by the substitution in subsection (2) for paragraph (a) of the following paragraph: “(a) An insider who knows that he or she has inside information and who deals, directly or indirectly or through an agent for any other person, in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence.”;
(c) by the substitution in subsection (3) for paragraph (a) of the following paragraph: “(a) Any person who deals for an insider, directly or indirectly or through an agent, in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information possessed by the insider relates or which are likely to be affected by it, who knew that such person is an insider, commits an offence.”;
Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo
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(b) ngekuntjintjwa kwendzima | (b) enchazelweni ye— “lwati lwangekhatsi” ngalendzima lelandzelako: | “(b) uma ngabe bekwatiwa nguwonkhe umuntu bekungaba nemtselela wempahla kulelina noma bungako banoma maphi emasheya kumakethe lelawulwako nobe-ke ngukuphi lokususelwa efulwimi lwetetimali loluphatselfene nemasheya lanjalo”; phindze
(c) ngekuntjintjwa kwendzinyana (i) | (c) esigatjaneni (a) ngalendzinyana lelandzelako: | “(i) angumcondzisi, umsebenti noma lonemasheya kantsi angumniketti wemashaya labhalisiwe kumakethe lesemsetfweni nobe lokususelwa efulwimi lwetetimali loluphatselfene nemasheya lanjalo lafho lolwatiso lwangekhatsi luhambisana khona; noma”.
57. Kuchitjiyelwa kwesigaba 78— | (a) ngekuntjintjwa kwendzima | (a) esigatjaneni (1) ngalendzima lelandzelako: | “(a) Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalosebenta ngonoma phecceleti noma ngekuhambisana ne-ejentu kutenela yena kumashaya labhalisiwe kumakethe lesemsetfweni lafho khona lolwatiso luhombisana khona lolwatiso lwangekhatsi luhambisana khona; noma”.
(a) esigatjaneni (2) ngalendzima | (b) ngekuntjintjwa kwendzima | (b) esigatjaneni (2) ngalendzima lelandzelako: | “(a) Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalosebenta ngonoma phecceleti noma ngekuhambisana ne-ejentu kutenela yena kumashaya labhalisiwe kumakethe lesemsetfweni lafho khona lolwatiso luhombisana khona lolwatiso lwangekhatsi luhambisana khona; noma”.
(c) ngekuntjintjwa kwendzima | (c) esigatjaneni (3) ngalendzima lelandzelako; |
Act No. and year | Short Title | Extent of repeal or amendment
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 |  | (d) by the substitution in subsection (4) for paragraph (b) of the following paragraph:
 |  | “(b) An insider is, despite paragraph (a), not guilty of the offence contemplated in that paragraph if such insider proves on a balance of probabilities that he or she disclosed the inside information because it was necessary to do so for the purpose of the proper performance of the functions of his or her employment, office or profession in circumstances unrelated to dealing in any security listed on a regulated market or trading with a derivative instrument related to such a security and that he or she at the same time disclosed that the information was inside information.”; and
 |  | (e) by the substitution for subsection (5) of the following subsection:
 |  | “(5) An insider who knows that he or she has inside information and who encourages or causes another person to deal or discourages or stops another person from dealing in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence.”.
 |  | 58. The amendment of section 82—
 |  | (a) by the substitution for the expression “Enforcement Committee”, wherever it occurs in the section, of the expression “Authority”;
 |  | (b) by the substitution for subsection (4) of the following subsection:
 |  | “(4) Any amount recovered by the [board] Authority as a result of the proceedings contemplated in this section must be deposited by the [board] Authority directly into a specially designated trust account and—
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td>(d)</td>
<td>Noma ngabe ngubani lotsengiselana nemuntu longekhatsi noma ngekumelela yena noma ngekusebentisa s-ejenti kulamasheya labhaliswe kumakethe lesentsetfweni lapho khona lwatiso laloekhatsi lolucuketfewe ngulolosekhatsi luhambelana nalo noma lutawutsintfwa ngilo, nobe luluswelwa eluhlwini lwetetimali lopolokhatselene nemasheya lanjalo lowatiko kutsi umuntu lonjalo unghekhatsh, uneleloala.</td>
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<td>(e)</td>
<td>ngekuntjintjwa kwendzina (b) esigatjaneni (4) ngalendzinyana lelandzelako: “(b) Umuntu longekehatsh, kkungabukwa indzima (a), akamacala lelivetwe kundzima uma ngabe lona longekehatshi uyacinisekisa ngalokwanele kutsi uluvetile lolwatiso lolunekhatsi ngoba bekufanele kutsi ente njalo kute kutsi kusebenteki kafile emsebentini wakhe, ehlouzisa noma emsebentini kutintlo lethugalobananga nekuhwebelana kunoma nguwaphe emasheya lahambisanakako laseluhiweni lwasamakethe lesentsetfweni nobe luhwebo ngeku suselwa eluhlwini lwetetimali lopolokhatselene nemasheya lanjalo nekutsi ngeleso sikhatshi uvete kutsi lowatiso bekulwati iswanekehatsh.</td>
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<td>(g)</td>
<td>ngekuntjintjwa kwesigatjana (5) ngalesigatjana lesilandzelako: “(5) Umuntu longekehatsh lowatiko kutsi unelwatiso lwangekehatsh nalogcugcutela noma amise lomunye umuntu kutsi ahwebelane noma advumate noma amise lomunye umuntu kutsi ahwebelane kulamasheya laseluhiweni kumakethe lesentsetfweni nobe luluswelwa eluhlwini lwetetimali lopolokhatselene nemasheya lanjalo lapho lolwatiso lwangekehatsh lubhekise khona noma uma kungatsintfwa ngilo [nobe luluswelwa eluhlwini lwetetimali lopolokhatselene nemasheya lanjalo] angaba nelicala.”</td>
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<td>58.</td>
<td>kuchitjiyelwa kwesigaba 82—</td>
<td>(a) ngekuntjintjwa kwekuvetwa ke &quot;likomidi lelibeka imitsetfo&quot; ngeligama lelitsi &quot;iGatja&quot; nobe&quot;; kukuphi lapho livela khona kulesigaba;</td>
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<td>(b) ngekuntjintjwa kwesigatjana (4) ngalesigatjana lesilandzelako: “(4) Noma ngabe nguliphi linani lelibekwe [yibhodi] iGatja njengemphumela walembuho</td>
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| | | (a) the [board] Authority is, as a first charge against the trust account, entitled to reimbursement of all expenses reasonably incurred by it in bringing such proceedings and in administering the distributions made to claimants in terms of subsection (5);
(b) the balance, if any, must be distributed by the [claims officer] Authority to the claimants referred to in subsection (5) in accordance with subsection (6); and
(c) any amount not paid out in terms of paragraph (b) accrues to the [board] Authority.'’;
(c) by the substitution in subsection (5) for paragraph (a) of the following paragraph:
“(a) submit claims to the [directorate] Authority within 90 days from the date of publication of a notice in one national newspaper or on the [official] Authority’s website inviting persons who are affected by the dealings referred to in section 78(1) to (5) to submit their claims; and”;
(d) by the substitution in subsection (5)(b) for the words preceding subparagraph (i) of the following words:
“prove to the reasonable satisfaction of the [claims officer] Authority that — ”.

59. The substitution for section 83 of the following section:

“Attachments and interdicts

83. On application by the [board] Authority, a court may in relation to any matter referred to in Chapter X grant an interdict or order the attachment of assets or evidence to prevent their concealment, removal, dissipation or destruction.”.
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<tr>
<td></td>
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<td>levetwe kulesigaba kufanele ifakwe ku-akhawunti leyakhele loko [yibhodi]</td>
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<td></td>
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<td>[yebatsenjwa] yesikhwama semfelandzawonye futsi—</td>
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<td>(a) [yibhodi] liGatja, njengoba ngiyo yekucala lemelene ne-akhawunti yebatsenjwa, inemvume yekuntjintjela tonke tindleko letifolakele ngalokungakho- nakala ngekutsi yenta leto tinchubo nangakulawula lokusatjalaliswa lokwentwi ngulabafake tikhalo temali ngekwegsigatjana (5);</td>
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<td>(b) lelinani lelisele, uma liikhona, kufanele lisatjalaliswe [sisebenti semakleynimu] liGatja kulabo labafake tikhalo lababalwe kusigatjana (5) ngekuhambisana nesigatjana (6); kantsi futsi</td>
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<td>(c) noma ngabe nguliphi limani lelingakakhokhelwa ngekwendzima (b) ventalo [Kubhodi] kuliGatja.”;</td>
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<td>(c) ngekuntjintjwa kwendzima (a) esigatjaneni (5) ngalandzima lelandzelako:</td>
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<td></td>
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<td>&quot;(a) batfumelo emakleyimu [ehhovisi] kuliGatja kungakapheli emalanga la ngi-90 kusukela ngalelilanga lekuhishwe ngalo satiso ephethandzabeni lavelonkhe noma kuwebhushayithi [lesementsefweni]</td>
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<td>[yalolo] yeliGatja kumenywa bantu labatsintsekako ngekuhwebelana lokubalwe kusigaba 78(1) kuyi (5) kutsi batfumelo emakleyimu; kanye&quot;;</td>
</tr>
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<td></td>
<td></td>
<td>futsi</td>
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<td></td>
<td>(d) ngekuntjintjwa kwemagama lalondwene indzinyana (1) esigatjaneni (5)/(b) ngalagama lalandzelako;</td>
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<td></td>
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<td>&quot;batfumelo ngekwenetiseka lokufanele [kusisebenti semakleyimu] kuliGatja [lekufanele] kutsi—&quot;.</td>
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<td>59. Kuntjintjwa kwezisiga 83 ngalesigaba lesilandzelako:</td>
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<td>&quot;Lokufakiwe netivimbo &quot;</td>
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<td>83. Ngesicelo lesifikwe [yibhodi] liGatja, inkhantolo inganiyeka incezadi yekubhela enkhantolo ngalokuhamba- lana naloludzaba lolubalwe kuSchluko X noma ngeluhlelo lwalemphahla lefakiwe noma bufakazi bekuvikela lokufihliwe, lokuhishwe, lokungahambi kahle noma lokuphatamisako.&quot;;</td>
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|  |  |  |
| 60. | The substitution for section 84 of the following section: |  |
|  | <strong>“Additional powers of Authority</strong>** |  |
|  | <strong>84.</strong> The Authority may— |  |
|  | (a) after consultation with the relevant regulated markets in the Republic,— |  |
|  | (i) make conduct standards, or |  |
|  | (ii) give regulator’s directives for the implementation of such systems as are necessary for the effective monitoring and identification of possible contraventions of this Chapter; and |  |
|  | (b) make conduct standards for the disclosure of inside information.” |  |
|  |  |  |
| 61. | The substitution for section 85 of the following section: |  |
|  | <strong>“Composition and functions of directorate</strong>** |  |
|  | <strong>85.</strong> (1) (a) The Directorate established by section 12 of the Insider Trading Act, 1998 (Act No. 135 of 1998), and that continued to exist under the Securities Services Act, 2004 (Act No. 36 of 2004), continues to exist under the name Directorate of Market Abuse, despite the repeal of those Acts. |  |
|  | (b) A reference to the Insider Trading Directorate in any law must, unless clearly inappropriate, be construed as a reference to the Directorate of Market Abuse. |  |
|  | (c) The Authority may determine the functions, powers and duties of the directorate, which may include to consider and make recommendations relating to investigations into offences referred to in sections 78, 80 and 81 of this Act and section 135(2) of the Financial Sector Regulation Act. |  |
|  | (2)(a) The directorate consists of members and alternate members appointed by the Authority. |  |
|  | (b) The members of the directorate holding office at the date that Part 6 of Chapter 17 of the Financial Sector Regulation Act comes into force remain as members for the terms and subject to the conditions applicable to them on their respective appointments. |  |</p>
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<tr>
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<tr>
<td>60.</td>
<td>Kushingjwa kwesigaba 84 ngalesigaba lesilandzelako</td>
<td></td>
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<tr>
<td>&quot;Emandla langetiwe eliGatja&quot;</td>
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<td>84.</td>
<td>liGatja linga—</td>
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<td>(a) ngemuva kwekubuta kutimakethe letifanele letilawuliwe kuRiphabhulu- lukhi;</td>
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<td>(i) ente uMtselto wenchubo, nome</td>
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<tr>
<td>(ii) anikete ngemandla kute kusungulwe tinilelo letinjalo njengoba tbalululekile ekunakweni nasekuNkolweni kwekwaphulwa lokungahle kube khona kuleSehluko; fusi;</td>
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<tr>
<td>(b) ente uMtselto wenchubo wekuNketwa kwelwati lwanghekhati.&quot;</td>
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<tr>
<td>61.</td>
<td>Kushingjwa kwesigaa 85 ngalesigaba lesilandzelako</td>
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<tr>
<td>&quot;Kwakheka nekusebenta kwebhodi yebacondzisi&quot;</td>
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<tr>
<td>(b) Irefusensi kubhodi yebhodi yebacondzisi beteluhwebo lwanghekhati kunome nguwuphi uMtselto kuFufuna yakhiwe njengereFurense kubhodi yeBaCondzisi bekHluNkuyetwa kwetiMakethe.</td>
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<td>(c) iGatja lingancuma imisebenti, emandla nekusebenta kwebhodi yebacondzisi, lokungafaka ekhatsi nekuNcabanga nkeNwenta tincomo lokuphatselele nekuNphunya kuHluKubeta lekuNkuyetswa kuko kutigaba 70, 80</td>
<td></td>
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<td>(2)(a) Lebhidhi yeBacondzisi yakhiwa malunga nemalunga langetiwe lacokwe iGatja.</td>
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<tr>
<td>(b) Emalunga lebhidhi yeBacondzisi lasehovisi ngelusuku loulushiwo kuSehluko 17 se-Financial Sector Regulation Act, achubeka abe ngemalunga ngekwemigomo netimo lababekelwe kona ngekucokwa kwabo.</td>
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</table>
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(c) | A member and an alternate member hold office for a period, not exceeding three years, as the Authority may determine at the time of the member’s appointment, and is eligible for reappointment upon the expiry of the member’s term of office.
(d) | If on the expiry of the term of office of a member, a reappointment is not made or a new member is not appointed, the former member must remain in office for a further period of not more than six months.
(e) | The Authority may remove a member of the directorate from office on good cause shown and after having given the member sufficient opportunity to show why the member should not be removed.
(3) The members of the directorate may comprise of—
(a) | not more than two members of staff of the Authority;
(b) | one person and an alternate from each of the licensed exchanges in the Republic;
(c) | one commercial lawyer of appropriate experience and an alternate;
(d) | one accountant of appropriate experience and an alternate;
(e) | one person of appropriate experience and an alternate from the insurance industry;
(f) | one person of appropriate experience and an alternate from the banking industry;
(g) | one person of appropriate experience and an alternate from the fund management industry;
(h) | one person of appropriate experience and an alternate that represents institutional investors;
(i) | one person of appropriate experience and an alternate nominated by the South African Reserve Bank;
(j) | one person of appropriate experience and an alternate nominated by the Prudential Authority; and
(k) | two other persons of appropriate experience and alternates, to ensure that the directorate is comprised of an appropriate mix of skills and experience.
(4) The persons referred to in subsection (3) who are nominated—
(a) | must be available to serve as members of the directorate;
(b) | must have appropriate knowledge of financial markets; and
(c) | may not be practising authorised users.
Molao wa Taolo ya Lephata la Ditshlele, 2017

Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhalobolo
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(c) Lilinga kanye ne-nilungo lelingetwe bababa likhovisi iminyaka lengedluli kulemitsetfu, njengoba ligatja lingangumna esikhathasini sekucokwa kwelinga, futisi ligumiyawise kobuyisela linga futisi lapho sekuphele sikhiatsisa sekabamba ehlhovisi.

(d) Nangabe linga lingacokwa futisi lapho liphelilewe sikhatse ehlhovisi, lelo lunga kutuna lhihla ehlhovisi tynyanga letinye letingedluli kulemitsetfu. (e) liga lilingasusa linga lebhodi yebancondzisi ehlhovisi ngesiilele phindwe nangemva kwekunkuketa lelo lunga liltlhuba lelalela lekuhombisa kutsi kungani nkolanele lingasusa.

(3) Limalungo lebhodi yebancondzisi ingakhwa—

(a) malungo langadluli kulamabili ebasebenti beliga;
(b) umuntu loyedwva kanye nalongetwe bemagatja eetkuhweba lasemsetweni kuRikhabhuliki;
(c) ummeli wetemnotfo leyedwva lonelwati loulanele kanye nemlekelele;
(d) ngcwethi wetemnotfo nonelwati loulanele kanye nemlekelele;
(e) umuntu loyedwva lonelwati loulanele nemlekelele labaphuma kumkakhaka weNKHWLWENI;
(f) umuntu loyedwva lonelwati loulanele nemlekelele labaphuma kumkakhaka wetekubhangi;
(g) umuntu loyedwva lonelwati loulanele nemlekelele labaphuma kumkakhaka wekulawulwa kwelusitomali;
(h) umuntu loyedwva lonelwati loulanele kanye nemlekelele labamele basi kutikhungo;
(i) umuntu loyedwva lonelwati loulanele nemlekelele labacokwe liBhange Ngodla laseNingizimu Afrika;
(j) umuntu loyedwva lonelwati loulanele kanye nemlekelele labacokwe ngumisetfo webungcweti;

(k) bantu labanye lababili labanekwati loulanele kanye nebalekelele, kuqinisekisa kutsi lebhodi yebancondzisi yakhiwe wynilangansela yemakhono nelwati.

(4) Labantu lekucondziniwe kibo kusigatjana (3) labacokwi—

(a) kufuna babo khona ekusebeneni njengemalungo ehlhovisi yebancondzisi;
(b) kufuna babo nelwati loulanele ngetimakethe temnotfo; futisi
(c) angeke babo basebentisi labasebenta ngekugunyatwa.

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(5) The Authority must designate a chairperson, who may not be the Commissioner of the Authority, and a deputy chairperson who performs the functions of the chairperson when the office of chairperson is vacant or when the chairperson is unable to perform the chairperson’s functions.

(6) All members of the directorate, other than the additional members, have one vote in respect of matters considered by the directorate, but an alternate member only has a vote in the absence from a meeting of the member whom the alternate is representing.

(7) A meeting of the directorate is convened by the chairperson.

(8) If four members of the directorate in writing request the chairperson of the directorate to convene a meeting of the directorate, a meeting must be held within seven business days of the date of receipt of the request.

(9) A meeting of the directorate is chaired by the chairperson or, in the chairperson’s absence, by the deputy chairperson or another member designated by the chairperson or the remaining members.

(10) The directorate determines its procedures, subject to any directions of the Authority.

(11) The decision of a majority of the members of the directorate constitutes the decision of the directorate.

(12) The Authority must ensure that written minutes of each meeting of the directorate are kept in a manner determined by the Authority.

(13) A member of the directorate must disclose, at a meeting of the directorate, or in writing to each of the other members of the directorate, any interest in a matter that is being or is intended to be considered by the directorate, being an interest that—

(a) the member has; or

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

(14) A disclosure in terms of subsection (13) must be given as soon as practicable after the member concerned becomes aware of the interest.

(15) A member referred to in subsection (13) may not participate in the consideration of or decision on that matter by the directorate unless—

(a) the member has disclosed the interest in accordance with subsection (13); and

(b) the other members of the directorate have decided that the interest does not affect the proper execution of the member’s functions in relation to the matter.”
Nompheleka yona

(5) LMGatja kufuna licoke sihlalo, longeke abe ngukomishili weliLMGatja, nasekelasihlalo lowentha imisebenti yashilalo lapho kungekho muntfu ebhovisi lasihlalo nome lapho sihilalo angakhoni kwenta imisebenti yakhe njengashilalo.

(6) Onkhe emalungana ebhodi yeticondziso, ngaphandle kwemalungana lwematho, khe sikhombisasikhe sikhombisa sikhumagama yinamagama, yokhathini wabhemakhosi amiyilwa, lexalumela sakhe ngaphandle kwematho lelile ysebenzisa yiluhluza.

(7) Umhlango webhudi yebacondzisi uhlusini ngusihlalo.

(8) Nangabe emalungana lamane ngekubhala acela sihilalo kutsi abhaleni emhlango webhodi yebacondzisi, lomhlango kufuna unanqiedo ngebhodi kubhala kusihlalo yabo sikhomba ukuhla kwematho.

(9) Umhlango webhodi yebacondzisi uhlusini ngusihlalo nome, lapho angekho sihilalo, kuma sekela wakhe etinsaneni nome lelina sikhona sathixo sibilungisa ngaphandle kwematho.

(10) Lgbhodi yebacondzisi umhlango, kufuna kwematho lelilo lelelilo kyilungo.
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<tr>
<td>62.</td>
<td>The repeal of section 86.</td>
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<td>63.</td>
<td>The substitution for section 88 of the following section:</td>
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<td>“Confidentiality and sharing of information</td>
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<td>88. The [directorate] Authority may share information concerning any matter dealt with in terms of this Chapter with the [institutions which have nominated persons to the directorate, the] Take-over Regulation Panel[,] established by section 196 of the Companies Act, the South African Reserve Bank, the Prudential Authority, the Independent Regulatory Board for Auditors constituted in terms of the Auditing Profession Act, a [licensed exchange, a licensed central securities depository, or a licensed independent clearing house] market infrastructure, the Financial Intelligence Centre established by the Financial Intelligence Centre Act, the National Treasury, the Minister and the persons, inside the Republic or elsewhere, responsible for regulating, investigating or prosecuting insider trading, prohibited trading practices and other market abuses.”</td>
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<td>64.</td>
<td>The amendment of section 90 by the substitution for paragraphs (a) and (b) of the following paragraphs:</td>
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<td>“(a) maintain on a continual basis the accounting records [prescribed by the registrar] determined in joint standards and prepare annual financial statements that conform with the financial reporting standards prescribed under the Companies Act and contain the information that may be [prescribed by the registrar] determined in joint standards;</td>
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<td>(b) cause such accounting records and annual financial statements to be audited by an auditor appointed under section 89, within a period [prescribed by the registrar] determined in joint standards or such later date as the [registrar] Authority may allow on application by a regulated person; and”</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kgotsa tlabololo</td>
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<td>62.</td>
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<td>Kucitfwa kwesigaba 86</td>
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<td>63. Kuntjintjwa kwesigaba 88 ngalesigaba lesilandzelako:</td>
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<td>&quot;Kubamba imfihlo nekwabelana agelwatiso &quot;</td>
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<td>64. Kuchitjiyelwa kwesigaba 90 ngukuntjintjwa kwetindzima (a) neye (b) esigabeni 90 ngalelindzima letilandzelako:</td>
<td>(a) aqcine njalo emarekhodi etimali [lekakhishwe] [ngunobhala] lanqunye ngakwemtsetfo wekuhlanganyela abuye alungi[ng]se titatimende temali temnyaka wonachte lekuhambisana nalokubika ngetimali lokubekwe ngaphansi kwe-Companies Act kantsi kute nalolwatiso [lolungakhishwa] [ngunobhala] lolungancunywa ngakwenchubo yemtsetfo, futsi</td>
<td>&quot;(a) aqcine njalo emarekhodi etimali [lekakhishwe] [ngunobhala] lanqunye ngakwemtsetfo wekuhlanganyela abuye alungi[ng]se titatimende temali temnyaka wonachte lekuhambisana nalokubika ngetimali lokubekwe ngaphansi kwe-Companies Act kantsi kute nalolwatiso [lolungakhishwa] [ngunobhala] lolungancunywa ngakwenchubo yemtsetfo, futsi</td>
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<td></td>
<td>(b) abangale kutsilawo marekhodi etimali kanye netitatimende temnyaka wonkhe tihlobo ngumhloli mabhuku locashiwe ngaphansi kwe-sigaba 89, ngesikhatetsi [lesibeke] [ngunobhala] leseuncunye ngakwemtsetfo wekuhlanganyela noma lolo lusuku lwamuvwa lolungavunyelwa [ngunobhala] igatja ngesicelo lesitfke ngumuntu losemisefweni, kanye.&quot;.&quot;</td>
<td>(b) abangale kutsi lawo marekhodi etimali kanye netitatimende temnyaka wonkhe tihlobo ngumhloli mabhuku locashiwe ngaphansi kwe-sigaba 89, ngesikhatetsi [lesibeke] [ngunobhala] leseuncunye ngakwemtsetfo wekuhlanganyela noma lolo lusuku lwamuvwa lolungavunyelwa [ngunobhala] igatja ngesicelo lesitfke ngumuntu losemisefweni, kanye.&quot;.&quot;</td>
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<td>65.</td>
<td></td>
<td>The amendment of section 91 —</td>
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<td>(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: “When an auditor of a regulated person has conducted an audit in terms of subsection (1), the auditor must, subject to subsection (3), report to the regulated person or to the exchange, central securities depository, [or] independent clearing house or central counterparty in question, if the auditor is the auditor of an authorised user, participant or clearing member of an independent clearing house or central counterparty, and on request to the [registrar] Authority — ”; and (b) by the substitution for paragraph (b) of the following paragraph “(b) on the matters prescribed [by the registrar, including matters relating to the nominees of those regulated persons] in conduct standards.”.</td>
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<td>66.</td>
<td></td>
<td>The substitution in Chapter XII for the heading preceding section 94 of the following heading: “Powers of [registrar] Authority and court”.</td>
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<td>67.</td>
<td></td>
<td>The substitution for section 94 of the following section: “General powers of [registrar] Authority”</td>
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94. (1) If the [registrar] Authority receives a complaint, charge or allegation that a person ([hereinafter referred to as] “the respondent”) who provides securities services (whether the respondent is licensed or authorised in terms of this Act or not) is contravening or is failing to comply with any provision of this Act, or if the [registrar] Authority has reason to believe that such a contravention or failure is taking place, the [registrar] Authority may investigate the matter [by directing that respondent in writing to— (i) provide the registrar with any information, document or record reasonably required by the registrar about such services;].
65. Kuchitijewa kwesigaba 91
(a) ngakunthiwaya kwemagama landvulela indzima (a) ngalamagama lalandzelako:
“Nangabe umhleli timali wemuntfu lolawulwako ene kuhlela timali ngkwesigatjana (1), umhleli timali kufanele ngkwesigatjana (3), abike kuloyo muntfu lolawulwako nobe kuteluhluwebo, libhange felsenkhatzini lemasheya, indlu legunyata ngakutimela nome ligatja lehlamulako lekungayo, nangabe umhleli timali wezisikwengani
logunyata, longeneleza lomagama lenomelungo lelila legunyata ngakutimela nome ligatja lehlamulako, futsi ngafaka sicelo kuligatja—”; futsi
(b) ngakunthiwaya indzima (b) ngalendzima lelandzelako:
“(b) ngaletindzaba letibekelewe [ngunobhala, kufakâ ekhatsi
tindzaba letiphatselele naloophakanyisiwe wakubu bantfu labasemtsetfweni
kunchubo yemtsetfo.’’.

66. Ngekunthiwaya kuSahluko XII
sihloko lesandvulela sigaba 94 ngalesihloko lesilandzelako:
[Kushintjwa kwesigaba 94
ngalesigaba lesilandzelako:
“Emandla [anobhala] eliGatja nemkhantolo’’

67. Kuntjina kwesigaba 94
ngalesigaba lesilandzelako:
“Emandla latayelekile [anobhala] liGatja

94. (1) Uma ngabe [nobhala] liGatja lingatfela sikhalo, kubekwa licala nomu kusatjangelwa kutiyi umuntu (lapa
njengoba abekwe njengalotiphendvulelelo) loniketa umsebenti wemasheya (nomu ngabe lona lophendvulela
unelayiseni nome unganyisiwe ngekwaloMsetfo nome cha) uphula nome uyaahluleka kuhambisana nanoma
miphi imibandzela yaloMsetfo, nome uma ngabe [nobhala] liGatja
[a]limesizathu sekukhovwa kutisi lokungenelela nome lokuhluleka
kuyenika, [nobhala] liGatja
[a]lingaphenya loludzaba [ngekutsi
acondzise lolophendvulako
engekumbalela kutsi—
(i) anikete nobhala nama luphi
lwatiso, imiculu nama emakho-
diladzinga ngunobhala ngalemise-
benti;
(ii) appear before the registrar at a specified time and place] in terms of the Financial Sector Regulation Act.

(2) [Despite any contrary law, the registrar may, if] The power of the Authority to give a regulator’s directive in terms of the Financial Sector Regulation Act extends to giving such a directive in respect of an advertisement, brochure or other document relating to securities that is [misleading or] for any reason objectionable[. direct that the advertisement, brochure or other document not be published or the publication thereof be stopped or that such amendments as the registrar considers necessary be effected].”.

68. The repeal of section 95.

69. The amendment of section 96—

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

“Powers of [registrar] Authority after supervisory on-site [visit or] inspection or investigation”;

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

“After [an] a supervisory on-site [visit or] inspection or an investigation has been conducted [under section 95], the [registrar] Authority may, in order to achieve the objects of this Act referred to in section 2—”; and

(c) by the substitution for paragraph (c) of the following paragraph:

“(c) direct the respondent to take any steps, or to refrain from performing or continuing to perform any act, in order to terminate or remedy any irregularity or state of affairs disclosed by the supervisory on-site [visit or] inspection or investigation[. Provided that the registrar may not make an order contemplated in section 6D(2)(b) of the Financial Institutions (Protection of Funds) Act.]”.

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<td>(ii) avle ngembi kwanobhala ngesikhatsi nendzawo layibhekile.</td>
<td>ngekwemibandzela ye-Financial Sector Regulation Act.</td>
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<td>(2) [Ngaphandle kwekutsi kube nemtsetfo longcubutanako, nobhala anga, uma ngabe] emandla eliGatja ekuniketa sicondziso semlawuli ngekwemibandzela ye-Financial Sector Regulation Act achubeka anikete sicondziso lesinjena ngekwesikhangiso, incwajana noma leminye imiculu lephatselene nemasheya [iyalalekisa Noma] langanoma siphi sizatfu iyaphikišeka[, nqoba lesikhangiso, incwajana noma lomunye umseculu ungakakhishwa noma lokukhishwa kwawo kumiswe noma letio tichibiyelo njengoba nobhala akubona kufanele kwentiwe].”</td>
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<td>68. Kucitfwa kwesigaba 95.</td>
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<td>69. Kuchitjiyelwa kwesigaba 96—</td>
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<td>(a) Ngekuntjintjiwa kwesihloko salesigaba ngalesihloko lelilandzelako [ngalesihloko lelilandzelako]: “Emandla [anobhala] eliGatja ngemuva kwkuphatsa kuhlola nobe kuphenywa kwesayithi [kwekuvakashe] kwesayithi [noma]”</td>
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<td>(c) Ngekuntjintjiwa kwendzima (c) ngalesigabga lelilandzelako: “(c) acondzise lopolophendvulako kutsi atatsa noema tshipini tityatele, noema angasenti noema achiubeke kwena noema yini, kute achedze noema alungise okungakahambisi kahle noema simo setintfo letivetwe kuphatfwa kwekuhlola [ngulebebavakashele] lwangekhatshi nobe luphetiyo [noma labatohlola: Uma ngabe nobhala angeke ente sipakamiso lesivetwe</td>
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### Extent of repeal or amendment

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<tr>
<td>70.</td>
<td>The repeal of section 97.</td>
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<td>71.</td>
<td>The amendment of section 98 by the addition of the following subsection:</td>
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<td>“(5) This section does not affect Part 5 of Chapter 10 of the Financial Sector Regulation Act.”.</td>
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<td>72.</td>
<td>The deletion of the following heading in Chapter XII preceding section 99:</td>
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<td></td>
<td>“Enforcement Committee”.</td>
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<td>73.</td>
<td>The repeal of section 99.</td>
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<td>74.</td>
<td>The amendment of section 105—(a) by the substitution for subsection (1) of</td>
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<td>the following subsection:</td>
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<td>“(1) A person aggrieved by a decision of—</td>
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<td>(a) the [registrar]Authority under a power conferred or a duty imposed upon</td>
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<td>the [registrar]Authority by or under this Act or the Financial Sector</td>
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<td>Regulation Act;</td>
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<td>(b) an exchange to refuse an application by that person to be admitted as a</td>
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<td>authorised user;</td>
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<td>(c) an exchange to withdraw the authorisation of an authorised user or to</td>
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<td>direct an authorised user to terminate the access to the exchange by an officer or employee of such authorised user;</td>
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<td>(d) an exchange to defer, refuse or grant an application for the inclusion of securities in the list or to remove securities from the list or to suspend the trading in listed securities;</td>
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<td>(e) a central securities depository to refuse an application by a person to</td>
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<td>be accepted as a participant;</td>
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<td>(f) a central securities depository to terminate the participation of a participant or to direct a participant to terminate the access to the central securities depository by an officer or employee of a participant;</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td>70.</td>
<td>Kucitfwa kwesigaba sema-97.</td>
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<td>71.</td>
<td>Kuchitjiyelwa kwesigaba 98 ngekungetjwa kwa Molao le ngwaga</td>
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<td></td>
<td>&quot;(5) lesigaba lesi asiyitsikabetsi incenye 5 yeSehluko 10 seFinancial Sector Regulation Act.&quot;;</td>
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<td>72.</td>
<td>Kususwa kwalesihloko lesilandzelako kuSehluko XII lesandvulela sigaaba 99; &quot;Likomidi lelicinisekisako&quot;.</td>
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<td>73.</td>
<td>Kucitfwa kwesigaba 99.</td>
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<td>74.</td>
<td>Kuchitjiyelwa kwesigaba 105—(a) ngukunjitmjwa kwesigatjana lesilandzelako: &quot;(1) Umuntfu longakaphatfwa kahle sincumo se—(a) nobhala ngaphasi kwemandla leliftwese wona nome umseenti lobekwe kilo yi-, nome ngaphasi kwaloMtsetfo nome s-Financial Sector Regulation Act.&quot;;</td>
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<td>(b) tingcoco tekuncatjelwa kwesicelo lesebantu nguloyo muntfu sekumukelwa njengemsebentisi loguyatiwe;</td>
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<td>(c) tingcoco tekususwa kwekuguyatwa kwemsebentisi lokuyatiwe noo kucondzisa umsebentisi loguyatiwe kutsi acitse kufinyelela etingcegeweni temphatsi nome sisebenti saloyo mbeentbenti loguyatiwe;</td>
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<td></td>
<td>(d) tingcoco tekuluthisa, kuncabela nome kuniketa sicelo ngekubandzakanya kwemashyena lakuloluhlul nome kususa emasheya kuloluhlul nome kumisa loluwebo kumasheya labaliwe;</td>
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<td>(e) libhange lelisemkhatsini lemasheya ngekwalela sicelo lesebantu ngumuntfu lekufuna amakwelwe njengalonganelenelako;</td>
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|                           | (f) libhange lelisemkhatsini lemasheya ngekcitisa kunjenelela kwelonelenelako nome kucondzisa longenelelako kutsi acitse kufinyelela kulelibhange lelisemkhatsini lemasheya ngesicelo nome sisebenti salongenelelako;
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| (g) | an independent clearing house or central counterparty to refuse an application by a person to be admitted as a clearing member; |  |
| (h) | an independent clearing house or central counterparty to withdraw the authorisation of a clearing member or to direct a clearing member to terminate the access to the independent clearing house or central counterparty by an officer or employee of such clearing member; |  |
| (i) | an exchange, central securities depository, independent clearing house or central counterparty to impose a penalty on an authorised user, issuer, participant or clearing member of an independent clearing house or central counterparty, as the case may be, or on an officer or employee of an authorised user, issuer, participant or clearing member of an independent clearing house or central counterparty[; |  |
| (j) | the claims officer referred to in Chapter X[ ], may [appeal to the appeal board on the conditions determined by or under section 26 of the Financial Services Board Act and subject to this section] approach the Tribunal for a reconsideration of the decision.\(^\text{3}\); and |  |

\(b\) by the deletion of subsection (2).

75. The amendment of section 108 by the substitution for subsection (1) of the following subsection:

"(1) The [registrar] Authority may [prescribe] determine fees in respect of matters contemplated in this Act and, in relation to [such] those fees [as well as fees payable in terms of this Act], the person by whom the fee must be paid, the manner of payment thereof and, where necessary, the interest payable in respect of overdue fees.".

76. The amendment of section 109 by the substitution for paragraph (c) of the following paragraph:

"(c) contravenes or fails to comply with the provisions of sections 4, 7(1), 24, 25(1), 27(1), 47(1), 49A(1), 54(1), 56A(1) or a prohibition by the [registrar] Authority referred in terms of section 6(7) commits
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<td>(a)</td>
<td>indlu legunyata ngekutimela nome ligatja lelilamulako ngekuncabela sicelo lesepitiva ngumuntfu lotuna kumukelwa njengelilunga leligunyatakho;</td>
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<td>(b)</td>
<td>indlu legunyata ngekutimela nome ligatja lelilamulako ngekususa kugunyatwa kwelilunga leligunyatakho nome kucondzisa lilunga leligunyatakho kutsi liywuncamula kufinyelela endimi legunyata ngekutimela nome ligatja lelilamulako ngempabisi nome sisebenti sable lea nga leligunyatakho;</td>
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<tr>
<td>(c)</td>
<td>tingcogco, libhange lelisemkhatsini lemashey, indlu legunyata ngekutimela nome ligatja lelilamulako ngekuhlawulisa umsebentisi legunyatiwe, umsebentisi, longenelelako nome lilunga leligunyatakho lendlu legunyata ngekutimela nome ligatja lelilamulako, nome kusohovisi nome sisebenti sensebentisi legunyatiwe, loniketako, longenelelako nome lilunga leligunyatakho lendlu legunyata ngekutimela nome ligatja lelilamulako;</td>
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<td>(d)</td>
<td>sohovisi wetikhalo lekucondziswe kuye kuSehluko X, angaya enkhundleni ngekubwuyekwetwa kwesingamculo.&quot;&quot;); futsi</td>
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<td>(b)</td>
<td>Ngekususwa kwesigatjana (2)</td>
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75. Kuchitijyelwa kwaigaba 108 Ngekushintjwa esigatjaneni (1) ngalesigatjana lesilandzelako:

"(1) liGatja lingancuma timali ngekwetindzaba letibekwe kulomtsetfo phindze, ngekuyamana naleto timali umuntfu lekuhina abhadale leto timali, indlela yekubhadala, futsi laapho kufanele khona, nentalo lebhadalwa pho timali tidlulelwe sikhatsi.".

76. Kuchitijyelwa kwaigaba 109 ngekunjintjwa kundzima (c) ngalendzima lelandzelako:

"(c) kuphula nome kuhuleka kulandzela kusihlo ti sibagaba 4, 7(1), 24, 25(1), 27(1), 49A(1), 54(1), 56A(1), nome kuvimbela lokwentiwa [ngunobhala] ligatja lekucondziswe kuko ngekweigaba 6(7), kulicala nome ufanele kuhlalawula imali lengedluli R10 ugdizi nome kuboshwa iminyaka lengedluli iminyaka lehlanu nome

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<td>to both such fine and such imprisonment.”.</td>
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#### 77. The amendment of section 110—

(a) by the deletion of subsection (5); and

(b) by the addition of the following subsection:

“(6) Despite any other provision of this Act, a clearing house performing the functions of a central counterparty must comply with any requirements imposed by regulations or standards, and must—

(a) until 31 December 2021, be licensed as either an associated clearing house or an independent clearing house, and be approved by the Authority, the South African Reserve Bank and the Prudential Authority, in the manner and form prescribed by the Authority, to perform the functions of a central counterparty;

(b) as of 1 January 2022, be licensed as both an independent clearing house and a central counterparty.”.

#### 78. The substitution for the long title of the following long title:

“To provide for the regulation of financial markets; to license and regulate exchanges, central securities depositories, clearing houses, central counterparties and trade repositories; to regulate and control securities trading, clearing and settlement, and the custody and administration of securities; to prohibit insider trading, and other market abuses; to provide for the approval of nominees; to provide for [codes of conduct] conduct standards; to replace the Securities Services Act, 2004, as amended by the Financial Services Laws General Amendment Act, 2008, so as to align this Act with international standards; and to provide for matters connected therewith.”.

#### 79. The substitution for the expression “registrar”, wherever it occurs, of the expression “Authority”, except in section 1(1) and 1A(1).
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77. Kuchitjiyelwa kwegisigaba 110  
(a) ngekususwa kwegisigatjana (5); futsi  
(b) ngekungenetwa kwalesigatjana lesilandzelako:  

“(6) Indlu legunyatako leyenta 
umsebentweli wagatjana lethamulako 
kufanele ihambise nanome 
gukuphi lokudzingekile lokushiwo 
gumisebenzimiso nome lokutshwaye; 
phindze kufanele—  
(a) Kusuka ngamhla tingema- 31 
Ingongonini 2021, ibe 
ismsentfweni ngalokuyamene 
nendlu legunyatako nome 
nendlu legunyata ngakutshwe, 
bese igunyatwa liGatja, 
liBhange Nogdla laseNingizimu 
Africa, liGatja lebulalakani 
ngendlela lenkumuywe liGatja 
kwenta umsebenzi yelagatjana 
lethamulako;  
(b) Kuzo kube ngamhla tingema- 22 
Bhimbidywane igunyatwe kuko 
kokubili njengendlu legunyata 
gakutshwe, kusuka ngakutshwa 
lelilamulako lelilamulako.”  

78. Kunjintjwa kwesiholo lesidze  
kufakwe lesiholo lesidze lesilandzelako:  
“(Kuniketsa kunsethethwelo 
sethethwelo lelilamulako; kugunyata 
kuphindze kulawulwe kuhwebela, 
lhbangane lelitsho kungena 
lemapela, indlu legunyatako, emagatja 
lelilamulako, kungena nemagatja, 
lelilamulako, kugunyata lalokwe 
kwamagatja, kusuka ngamhla tingema 
nendlu legunyatako, bese igunyatwa liGatja, 
liBhange Nogdla laseNingizimu 
Africa, liGatja lebulalakani 
ngendlela lenkumuywe liGatja 
kwenta umsebenzi yelagatjana 
lethamulako;  
(b) Kusuka ngamhla tingema- 22 
Bhimbidywane igunyatwe kuko 
kokubili njengendlu legunyata 
gakutshwe, kusuka ngakutshwa 
lelilamulako lelilamulako.”  

79. Kushintjwa kwesekhumbu 
“nobhala” ngekhetjo 
“liGatja” nobe kukuphi laphe khetjo 
khona[1], 
Ngaphandle kwasesi 
1(1) kanye na T'(1).  

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<td>80.</td>
<td>The amendment of the arrangement of sections—</td>
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<tr>
<td>(a)</td>
<td>by the insertion after item 1 of the following item:</td>
<td>&quot;1A. Relationship between Act and Financial Sector Regulation Act&quot;;</td>
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<td>(b)</td>
<td>by the substitution for item 6 of the following item:</td>
<td>&quot;6. Authority&quot;;</td>
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<td>(c)</td>
<td>by the insertion after item 6 of the following items:</td>
<td>&quot;6A. Criteria for recognition of external market infrastructures. 6B. Withdrawal of recognition. 6C. Principles of co-operation&quot;;</td>
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<td>(d)</td>
<td>by the substitution for the heading in Chapter V preceding item 47 of the following heading:</td>
<td>&quot;Licensing of clearing house and central counterparty&quot;;</td>
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<td>(e)</td>
<td>by the substitution for item 47 of the following item:</td>
<td>&quot;47. Application for clearing house licence and central counterparty licence&quot;;</td>
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<td>(f)</td>
<td>by the substitution for item 48 of the following item:</td>
<td>&quot;48. Requirements applicable to applicants for clearing house licence, central counterparty licence, licenced clearing house and licensed central counterparty&quot;;</td>
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<td>(g)</td>
<td>by the insertion after item 49 of the following item:</td>
<td>&quot;49A. Licensing of external central counterparty&quot;;</td>
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<td>(h)</td>
<td>by the substitution for the heading in Chapter V preceding item 50:</td>
<td>&quot;Functions of licensed clearing house and licensed central counterparty&quot;;</td>
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<td>80. Kuchitjiyelwa kwendlela yekuhlelewa kwetigaba— (a) ngekufakwa kwaloluhlavu lolulandzelako ngemvuwa kweluhlavu 1: &quot;1A. Budielwane emkhatsini weMtsetfo kanye neMtsetfosimiso weMkhakha wieMmotfo&quot;; (b) ngekuntjintja luhlavu 6 ngaloluhlavu lolulandzelako: &quot;6. hitGatja&quot;; (c) ngekufakwa kwaletinhlavu letilandzelako ngemvuwa kweluhlavu 6: &quot;6A. Luhlelo lekwatiwa kwesakhiwonchanti semakethe yangaphandle. 6B. Kusulwa kwekwatiwa. 6C. Tinchubu tekuncedzisa&quot;; (d) ngekuntjintja sihloko kuSehluko V lesandvulela luhlavu 47 ngalesihoko lesilandzelako: &quot;kufakwa emtsetfweni kwendlu legunyatako kanye neligatja letekuhweba lelisemkhatsini&quot;; (e) ngekuntjintja luhlavu 47 ngaloluhlavu lolulandzelako: &quot;47. Sicelo selayisensi yendlu legunyatiwe kanye nelayisensi yeligatja letekuhweba lelisemkhatsini&quot;; (f) ngekuntjintja luhlavu 48 ngaloluhlavu lolulandzelako: &quot;48. Lokadzingekile lokusetjentiswako kulabafaka ticelo telayisensi yendlu legunyatako, ligatja letekuhweba lelisemkhatsini, indlu legunyatiwe lesentsetfweni kanye neligatja letekuhweba lelisemkhatsini lesentsetfweni&quot;; (g) ngekufakwa kwaloluhlavu lolulandzelako ngemvuwa kweluhlavu 49: &quot;49A. Kufakwa emtsetfweni kweligatja letekuhweba lelisemkhatsini langaphandle&quot;; (h) ngekuntjintja sihloko kuSehluko V lesandvulela luhlavu 50 : &quot;Imisebenti yendlu legunyatako lesentsetfweni kanye neligatja letekuhweba lelisemkhatsini lesentsetfweni&quot;;</td>
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<td>(i) by the substitution for item 50 of the following item: “50. Functions of licensed clearing house and licensed central counterparty, and power of Authority to assume responsibility for functions”;</td>
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<td>(j) by the insertion after item 56 of the following item: “56A. Licensing of external trade repository”;</td>
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<td>(k) by the substitution for item 63 of the following item: “63. Demutualisation of exchange, central securities depository, independent clearing house or central counterparty”;</td>
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<td>(l) by the substitution for item 69 of the following item: “69. Report to Authority”;</td>
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<td>(m) by the substitution for the heading of Chapter VIII of the following heading: “CHAPTER VIII CONDUCT STANDARDS”;</td>
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<td>(n) by the substitution for item 74 of the following item: “74. Conduct standards for regulated persons”;</td>
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<td>(o) by the substitution for item 75 of the following item: “75. Principles for Conduct standards”;</td>
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<td>(p) by the substitution for item 84 of the following item: “84. Additional powers of Authority”;</td>
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<td>(q) by the substitution for the heading in Chapter XII preceding section 94 of the following heading: “Powers of Authority and court”;</td>
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<td>(r) by the substitution for item 94 of the following item: “94. General powers of Authority”;</td>
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<td>(s) by the substitution for item 96 of the following item: “96. Powers of Authority after supervisory on-site inspection or investigation”; and</td>
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<td>(t) by the deletion of the following heading in Chapter XII preceding item 99: “Enforcement Committee”</td>
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<tr>
<td>(i) ngekuntjintja luhlavu 50 ngalolulhavu lolulandzelako:</td>
<td>“50. Imisebenti yendlu legunyatako lesemsetfweni kanye neligatja letekuhweba lelisemkhatshini lelisemsetfweni, kanye nemandla eliGatja kwenjelo kuvala tidzingo temisebenti”;</td>
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<td>(j) ngekufakwa kwalolulhavu lolulandzelako ngemvuva kwelulhavu 56:</td>
<td>“56A. Kufakwa emtsetfweni kwelebele letekuphela lelisemkhatsini”;</td>
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<td>(k) ngekuntjintja luhlavu 63 ngalolulhavu lolulandzelako:</td>
<td>“63. Kuguculwa kwebuniyo kuteluhwebo, libhange lemasheya lelisemkhatshini, indlu legunyatako letimele nome ligatja letekuhweba lelisemkhatshini”;</td>
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<td>(l) ngekuntjintja luhlavu 69 ngalolulhavu lolulandzelako:</td>
<td>“69. Bika kuliGatja”;</td>
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<td>(m) ngekuntjintiya kwesihloko seSehluko VIII ngalesihloko lesihloko lelolulandzelako:</td>
<td>“SEHLUKO VIII UMTSETFO WENCHUBO”;</td>
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<td>(n) ngekuntjintja luhlavu 74 ngalolulhavu lolulandzelako:</td>
<td>“74. Imitsefo yenchubu yeBantfu labalawulwako”;</td>
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<td>(o) ngekuntjintja luhlavu 75 ngalolulhavu lolulandzelako:</td>
<td>“75. Timiso temtsetfho weNchubu”;</td>
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<td>(p) ngakuntjintja luhlavu 84 ngalolulhavu lolulandzelako:</td>
<td>“84. Emandla lengetiwe eliGatja”;</td>
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<td>(q) ngekuntjintja kwesihloko kuSehluko XII lesihloko lelolulandzelako:</td>
<td>“Emandla eliGatja nenkantolo”;</td>
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<td>(r) ngekuntjintja luhlavu 94 ngalolulhavu lolulandzelako:</td>
<td>“94. Emandla jikelele eliGatja”;</td>
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<td>(s) ngekuntjintja luhlavu 96 ngalolulhavu lolulandzelako:</td>
<td>“96. Emandla eligatja ngemvuva kwelucwaningi lolulawulwako kusayithi nome luphenyo” futsi</td>
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<td>(t) ngekususwa kwesihloko lesihloko lelolulandzelako kuSehluko XII lesihloko lelolulhavu 99:</td>
<td>“kuciniswa kwalesihloko”</td>
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| Act No. 24 of 2012 | Credit Rating Services Act, 2012 | 1. The amendment of section 1—  
(a) by the insertion in subsection (1) after the definition of “associate” of the following definition:  
“‘Authority’ means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;  
(b) by the insertion in subsection (1) after the definition of “Companies Act” of the following definition:  
“‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
(c) by the deletion in subsection (1) of the definition of “deputy registrar”;  
(d) by the insertion in subsection (1) after the definition of “external credit rating agency” of the following definition:  
“‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;  
(e) by the deletion in subsection (1) of the definitions of “Financial Services Board Act”, “FSB official web site” and “prescribe”;  
(f) by the insertion in subsection (1) after the definition of “rating category” of the following definition:  
“‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;  
(g) by the deletion in subsection (1) of the definition of “registrar”;  
(h) by the insertion in subsection (1) after the definition of “this Act” of the following definition:  
“‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”; and |
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| Mulayo wa nomboro ya 24 wa 2012 | Mulayo wa zwa Tshumelo dza u Kala Zwikolodo, 2012 | 1. U khwiniiswa ha khethekanyo ya vhu 1—
(a) nga u dzhenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutschedzo ya ipfi “mushumisani” hu tshi khou dzheniswa thalutschedzo i tevhelaho: “ ‘Maandalanga’ zwi amba Maandalanga a Vhudifari kha Sekithara ya Masheleli o thomiwaho hu tshi khou tevhedzwa khethekanyo ya vhu 36 ya Mulayo wa Financial Sector Regulation Act’’;
(b) nga u dzhenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutschedzo ya ipfi “Mulayo wa zwa Dzikhamphani” hu tshi khou dzheniswa thalutschedzo i tevhelaho:
   “ ‘tshijandadi tsha vhu udifari’ ipfi iliri na thalutschedzo inca fana na yo vhothhekanywaho na ipfi iliri u ya nga khethikanvanyo ya vhu (1) ya Mulayo wa Financial Sector Regulation Act’’;
(c) nga u thutha kha khethekanyo thukhu ya vhu (1) hu tshi khou thuthwa thalutschedzo ya ipfi “muthusare-dzhistra’’;
(d) nga u dzhenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutschedzo ya ipfi “zhendedzi ja u kala zwikolodo ja muja” hu tshi khou dzheniswa thalutschedzo i tevhelaho:
   “ ‘Mulayo wa Financial Sector Regulation Act’ zwi amba Mulayo wa Financial Sector Regulation Act, 2017’’
(e) nga u thutha kha khethekanyo thukhu ya vhu (1) hu tshi thuthwa thalutschedzo ya maipfi “Mulayo wa Bodo ya Tshumelo dza zwa Masheleli”, “webusaithi ya tshiofisi ya Bodo ya Tshumelo dza zwa Masheleli (FSB)” na ipfi “u randela’’;
(f) nga u dzhenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutschedzo ya ipfi “khethikanvanyo ya u kala” hu tshi dzheniswa thalutschedzo i tevhelaho:
   “ ‘Redzhisijara’ zwi amba Redzhisijara ya Maifhungo a Sekithara ya zwa Masheleli yo ambwaho kha khethikanvanyo ya vhu 736 ya Mulayo wa Financial Sector Regulation Act’’;
(g) nga u thutha kha khethekanyo thukhu ya vhu (1) hu tshi thuthwa thalutschedzo ya ipfi “redzhisijara’’;
(h) nga u dzhenisa kha khethekanyo thukhu ya vhu (1) nga murahu ha thalutschedzo ya ipfi “uyu Mulayo” hu
Act No. and year | Short Title | Extent of repeal or amendment
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(i) by the addition of the following subsection:
“(7) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”.

2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the registrar must be read as a reference to the Authority.
(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.
(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.
(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed, a reference in this Act to a matter being—
(a) prescribed must be read as a reference to the matter being prescribed in a conduct standard; or
(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.
(5) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.
tshi dzhineswa t’halutshedzo i tevhelaho:
” ‘Khothe’ zwi amba Khothe ya Tshumelo dza zwa Mashelesi’ u ya nga khethekanyo ya vhu 219 ya Mulayo wa Financial Sector Regulation Act’; na (i) nga u engedza khethekanyo t’thukhu i tevhelaho;
”’(7) Nga nda ha musi zwo sumbedzwa nga inwe ndila, mai phi na kuambele hu songo t’halutshedzwa kha khethekanyo t’thukhu ya vhu (1) t’halutshedzo kana zwine a amba zwi fana na zve zwa vhofhekanywa nazwo u ya nga Mulayo wa Financial Sector Regulation Act.’”

2. U dzheniswa nga murahu ha khethekanyo ya vhu 1 ya khethekanyo dzi tevhelaho:

“Vhushaka vhukati ha Mulayo na Mulayo wa Financial Sector Regulation Act

1A. (1) Kha uyu Mulayo musi hu tshi ambiwaho nga redzhisitra hu vha hu khou ambiwaho Maandalanga.
(2) Nga nda ha musi zwo vhetshelwa nga inwe ndila nga uno Mulayo kana Mulayo wa Financial Sector Regulation Act, maanda na mishumo zwa Maandalanga u ya nga uno Mulayo ndi u tou engedza manda na mishumo zwa Maandalanga u ya nga Mulayo wa Financial Sector Regulation Act.
(3) Kha uno Mulayo Maandalanga a lavhelesaho kana u andzada fhungo nga ndjivhado kha Gazette zwi tea u vhalwa zwi tshi katela Maandalanga a lavhelesaho kana ame a andzada fhungo nga ndjivhado kha Redzhisitara.
(4) Nga nda ha musi zwo vhetshelwa kha uno Mulayo, kana uno Mulayo u tshi todha fhungo li tshi randelwa, zwo ambiwaho kha uyu Mulayo kha fhungo line ja khou—
(a) randelwa li tea u vhalwa sa zwo ambiwaho kha fhungo line ja khou randelwa kha tshitanadi tsha vhudifari; kana
(b) trwa li tea u vhalwa na zwine zwa khou ambiwaho kha Maandalanga a lavhelesaho fhungo nga u tou nwalana u nwalisa ndavheleso kha Redzhisitara.
(5) Zwi ambiwaho kha uno Mulayo zwi tshi kwama u daelba hune ha khou shunwa hone hu tshi tevhedzwa mbetshelo ya uno Mulayo zwi tea u
(6) A reference in this Act to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.

(7) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.

(b) The Authority may also publish the information or document on its web site.

(8) A reference in this Act to a prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.

(9) A reference in this Act to a review of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

Regulatory instruments

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument.

3. The amendment of section 5(1) by the substitution for paragraph (e) of the following paragraph:

“(e) the application fee prescribed [by the registrar]; and”.

4. The repeal of sections 21 and 22.

5. The deletion in section 23(1) of paragraphs (c), (e) and (h).
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<td>vhalwa sa zwo ambiwaho nga vhulavhelesi ha fhethu hune ha khou shumelwa hone u ya nga Mulayo wa Financial Sector Regulation Act.</td>
<td>(6) Zwi ambiwaho kha uyu Mulayo malugana na nyingamelo hu tshi khou tevhedzwa mbetshelo ya uyu Mulayo zwi tea u vhalwa sa zwi ambiwaho malugana na tsedzuluso u ya nga Mulayo wa Financial Sector Regulation Act.</td>
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<td>(7) (a) Kha uno Mulayo Maandâlanga ane a divhadza kana u andâdza maâfungo kana Jînwalwa kha webusaihi a tea u vhalwa sa Maandâlanga a andâdzaho maâfungo kana Jînwalwa kha Redzhisîtara.</td>
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<td></td>
<td>(b) Maandâlanga a nga andâdza-vho maâfungo kana Jînwalwa kha webusaihi yao.</td>
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<td>(8) Kha uno Mulayo mbadelo yo randelwaho i tea u vhalwa sa zwo ambiwaho kha mbadelo yo teaho yo tiwaho u ya nga khethekanyo ya vhu 237 na Ndima ya 16 ya Mulayo wa Financial Sector Regulation Act.</td>
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<td>(9) Zwi ambiwaho kha uno Mulayo u tola tsheo ya Maandâlanga zwi tea u vhalwa sa u lavhelesi ha fhethu ha tsheo yo dzhiwaho nga Khothe u ya nga Mulayo wa Financial Sector Regulation Act.</td>
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Zwishumiswa zwa ndangulo

1B. Hu tshi itelwa ndivho dza thalutshedzo ya “tshishumiswa tsha ndangulo” kha khethekanyo ya vhu 1(1) ya Mulayo wa Financial Sector Regulation Act, tshinwe na tshinwe tsho randelwaho nga Maandâlanga malugana na ndivhadzo kha Gazette zwi jogwa nga uyu Mulayo une wa vha wone u langulaho.”

3. U khwuiiswa ha khethekanyo ya vhu 5(1) nga u imelwa kha khethekanyo thukhu kha phara ya (e) ya phara i tevhelaho: “(e) mbadelo yo randelwaho ya u ita khumbelo [nga redzhištra]; na”.

4. U fheliswa ha khethekanyo dza vhu 21 na 22.

5. U thutha kha khethekanyo ya vhu 23(1) ya phara dza (c), (e) na (h).
## Act No. and year | Short Title | Extent of repeal or amendment
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6. | The amendment of section 24—  
(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:  
“A conduct standard for or in respect of credit rating agencies may be made on any of the following matters:”; and  
(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:  
“The [rules] conduct standards contemplated in subsection (1) may — ”. |  
7. | The deletion in section 24 of subsections (3) and (4). |  
8. | The repeal of sections 25, 26, 27, 28, 30, 31 and 33. |  
9. | The deletion in section 34 of subsection (2). |  
10. | Amendment of the arrangement of sections by the insertion after item 1 of the following items:  
“1A. Relationship between Act and Financial Sector Regulation Act  
1B. Regulatory instruments”. |  

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<td>6. U kwhiniswa ha tenthekanyo ya vh1 24— <em>(a)</em> nga u imelwa kha tenthekanyo thukhu ya vh1 (1) ya maipfi a rangelwaho nga phara ya <em>(a)</em> ya maipfi a tevhelaho: &quot;Tshitandadi tsha vhudifari kha kana malugana na mazhendedzi a u kala zwikolodo tshi nga itwa kha mathungo a tevhelaho:&quot;; na <em>(b)</em> nga u imelwa kha tenthekanyo thukhu ya vh1 (2) kha maipfi a rangelaho phara ya <em>(a)</em> ya maipfi a tevhelaho: &quot;<strong>[milayo]</strong> tshitandadi tsha vhudifari tsho ambiwaho kha tenthekanyo thukhu ya vh1 (1) tshi nga—&quot;.</td>
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<td>7. U thutha kha tenthekanyo ya vh1 24 ya tenthekanyo thukhu dza vh1 (3) na (4).</td>
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<td>8. U fheliswa ha tenthekanyo dza vh1 25, 26, 27, 28, 30, 31 na 33.</td>
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<td>9. U thuthwa kha tenthekanyo ya vh1 34 ya tenthekanyo thukhu ya vh1 (2).</td>
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<td>10. U kwhiniswa ha nzudzanyo ya tenthekanyo nga u dzhenisa tsititwana tshi tevhelaho nga murahu ha zwitena zwa: &quot;<strong>1A. Vhushaka vhukati ha Mulayo na Mulayo wa Financial Sector Regulation Act</strong>&quot;</td>
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<tr>
<td></td>
<td></td>
<td><strong>1B. Zwishumiswa zwa ndangulo</strong>&quot;</td>
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