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PART 1 OF 5

THE PRESIDENCY

No. 853 22 August 2017

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

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(English text signed by the President)
(Assented to 21 August 2017)

ACT

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

(English text signed by the President)
(Assented to 21 August 2017)

MOLAO

Go tlhoma thulaganyo ya taolo ya ditšhelete ka go tlhoma Bothati jwa Tlhokomelo le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, le go naya ditheo tseo maatla; go boloka le go oketsa tlhomamo ya ditšhelete mo Rephaboliking ka go naya Banka ya Resefe dithata; go tlhoma Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete; go laola le go tlhokomela batlamedi ba dikuno tsa ditšhelete le batlamedi ba ditirelo tsa ditšhelete; go tokafatsa boitshwaro jwa mmaraka go sireletsa badirelwa ba ditšhelete; go tlamela ka kgolagano, tirisanommogo, kopano le therisano magareng ga Banka ya Resefe, Bothati jwa Tlhokomelo, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, Molaodi wa Bostšhaba wa Sekoloto, Senthara ya Botlhodi jwa Ditšhelete le ditheo tsa puso mabapi le tlhomamo ya ditšhelete le ditiro tsa ditheo tseno; go tlhoma Khansele ya Balaodi ba Thulaganyo ya Ditšhelete le Khansele ya Ditona ya Lephata la Ditšhelete; go tlamela ka go dira didiriswa tsa taolo, go akaretsa le maemo a tlhokomelo, maemo a boitshwaro le maemo a a kopantsweng; go dira kabelo ya go go abela ditheo tsa ditšhelete dilaesense; go dira kabelo e e tsenyeletsang dithata tsa go kgobokanya tshedimosetso le go dira ditlhatlhobo tsa botlhokomedi tsa kwa tirong le dipatlisiso; go dira kabelo mabapi le beng ba ba botlhokwa ba ditheo tsa ditšhelete le tlhokomelo ya ditheo tsa ditšhelete tse di kopantsweng mabapi le ditheo tsa ditšhelete tse di matshwanedi tseo e leng karolo ya ditheo tsa ditšhelete tse di kopantsweng; go tlamela mabapi le dithata tsa go gatelela melao ya lephata la ditšhelete, go akaretsa le go pateletsa dikotlhao tsa tsamaiso; go tlamela mabapi le tshireletso le tsweletso ya ditshwanelo mo lephateng la ditšhelete jaaka go tlhagisitswe mo Molaotheong; go tlhoma Khansele ya Ombud le go e naya dithata mabapi le dikema tsa ombud; go tlamela mabapi le tshireletso ya kuno ya ditšhelete le batlamedi ba ditirelo tsa ditšhelete ke, dikema tse di maleba tsa ombud; go tlhoma Lekgotla la Ditirelo tsa Ditšhelete jaaka lekgotla le le ikemetseng le go le naya dithata tsa go sekasekagape ditshwetso tsa balaodi ba lephata la ditšhelete, Khansele ya Ombud le dithulaganyetso tse di rileng tsa popegotheo ya mmaraka; go tlhoma rejisetara ya Tshedimosetso ya Lephata la Ditšhelete le go dira kabelo ya go dira ga yona; go tlamela ka dithulaganyo tsa go arogana tshedimosetso; go tlhama ditlolo; go tlamela ka dithata tsa go dira melawana ga Tona; go tlhabolola le go phimola melao e e rileng ya lephata la ditšhelete; go dira dikabelo tsa kgabaganyo le ditshomarelo; le go tlamela mabapi le merero e e amanang le ona.

THULAGANYO YA DIKAROLO

KGAOLO 1

TLHALOSO, MAITLHOMO LE TSAMAISO YA MOLAO ONO

Karolo 1

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1. Ditlhaloso
2. Dikuno tsa ditšhelete

3. Financial services
4. Financial stability
5. Responsible authorities
6. Financial institutions that are juristic persons

Part 2

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7. Object of Act
8. Administration of Act

Part 3

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

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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
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17. Responsibilities of financial sector regulators
18. Directives to financial sector regulators
19. Exercise of powers by other organs of state

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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

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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 ditiro 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. Ditiro tsa Banka ya Resefe mabapi le ditiragalo tse di rulaganeng
16. Tshedimosetso 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 Kelotlhoko ya Tlhomamo ya Ditšhelete

20. Go tlhongwa ga Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete
21. Ditiro tsa Komiti ya Kelotlhoko 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

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

26. Co-operation among Reserve Bank and financial sector regulators in relation to financial stability
27. Memoranda of understanding relating to financial stability
28. Roles of other organs of state in relation to financial stability

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29. Designation of systemically important financial institutions
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31. Winding-up and similar steps in respect of systemically important financial institutions

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32. Establishment
33. Objective
34. Functions

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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

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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

Karolo 5

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

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

Karolo 6

Ditheo tsa ditšhelete tse di botlhokwa tse di rulaganeng

29. Tshupo ya ditheo tsa ditšhelete tse di botlhokwa tse di rulaganeng
30. Maemo a a botlhokwa le ditaelo tsa bolaodi mabapi le ditheo tsa ditšhelete tse di botlhokwa tse di rulaganeng
31. Go swetsa le dikgato tse di tshwanang mabapi le ditheo tsa ditšhelete tse di botlhokwa tse di rulaganeng

KGAOLO 3

BOTHATI JWA TLHOKOMELO

Karolo 1

Go tlhongwa, maitlhomo le ditiro

32. Go tlhongwa
33. Maitlhomo
34. Ditiro

Karolo 2

Puso

35. Maitlhomo 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. Ditshwetso 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 bolaodi
48. Ditholelo
49. Tshenolo ya dikgatlhegelo

Karolo 3

Badiri, ditlamelo le taolo ya ditšhelete

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

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56. Establishment
57. Objective
58. Functions

Part 2

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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

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Staff and resources

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

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

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

KGAOLO 4

BOTHATI JWA BOITSHWARO JWA LEPHATA LA DITŠHELETE

Karolo 1

Tlhomo, maitlhomo le ditiro

56. Tlhomo
57. Maitlhomo
58. Ditiro

Karolo 2

Puso

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

Karolo 3

Badiri le ditlamelo

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

KGAOLO 5

TIRISANOMMOGO LE KOPANO

Karolo 1

Tirisanommogo le kopano

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

Karolo 2

Khansele ya Balaodi ba Thulaganyo ya Ditšhelete

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

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97. Interpretation
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108. Additional matters for making standards
109. Standards requiring concurrence of Reserve Bank
110. General

Karolo 3

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

KGAOLO 6

DITIRO TSA TSAMAISO

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 tlhomamisa 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 bolaodi

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

Karolo 2

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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
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129. Application and interpretation of Chapter
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Part 2

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KGAOLO 8

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Karolo 1

Ditlhokego tsa kabo ya laesense

111. Tlhokego ya laesense mabapi le batlamedi ba dikuno tsa ditšhelete, ditirelo tsa ditšhelete le dithulaganyetso 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 nngwe kgotsa dikwalo 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 tshekego kgotsa phediso ya laesense
123. Tsamaiso mabapi le go farologanya, go sekega le go fedisa dilaesense
124. Go dira kopo ya laesense

Karolo 3

Dikabelo tse di amanang le dilaesense 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, DITLHATLHOBO 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

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132. Powers to conduct supervisory on-site inspections
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135. Powers to conduct investigations
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Part 3

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151. Enforceable undertakings

Part 4

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Karolo 3

Ditlhatlhobo tsa botlhokomedi kwa tirong

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

Karolo 4

Dipatlisiso

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

Karolo 5

Ditshireletso

140. Ditshireletso

KGAOLO 10

KGATELELO

Karolo 1

Dikitsiso tsa kaelo le ditshwetso tsa tlhaloso

141. Dikitsiso tsa kaelo
142. Ditshwetso tsa tlhaloso

Karolo 2

Ditaelo tsa balaodi ba lephata la ditšhelete

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

Karolo3

Ditumalano tse di gatelelwang

151. Ditumalano tse di gatelelwang

Karolo 4

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Part 5

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Karolo 5

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Karolo 6

Ditumalano tsa kutlwelobotlhoko

156. Ditumalano tsa kutlwelobotlhoko

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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

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Ditheo tsa ditšhelete tse di kopaneng

160. Go tlhongwa ga ditheo tsa ditšhelete tse di kopaneng
161. Kitsiso ka setheo sa ditšhelete se se matshwanedi
162. Tlhokego ya kabo ya laesense go dikgwebo tse di okameng tse dingwe tsa ditheo tsa ditšhelete tse di kopaneng
163. Dikgwebo tse di okameng tse dingwe tse di sa direng tsa ditheo tsa ditšhelete tse di kopaneng
164. Maemo a ditheo tsa ditšhelete tse di kopaneng
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166. Thebolo le kitsiso ya pele ya diphitlhelelo le dilatlhwa

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178. Maitlhomo ka kakaretso a puso
179. Boto ya Khansele ya Ombud
180. Go thapiwa ga maloko a Boto
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185. Dikopano tsa Boto
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194. Kamogelo ya dikema tsa ombud wa madirelo
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197. Mabaka a a farologanang
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201. Melao ya Khansele ya Ombud
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204. Boikamanyo le melao ya lephata la ditšhelete
205. Kganelo
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207. Dikopo tsa tshedimosetso
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210. Dithibelo mo ditheong tsa ditšhelete mabapi le dikema tsa ombud
211. Dikema tsa ombud tse di diriswang
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215. Tlamego ya go ikamanya le melawana e e laolang ya dikema tse di amogelesegang tsa bodirelo jwa ombud
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241. Ditlhomamiso tsa tshedimosetso e e tlhokegang mabapi le tshekatsheko ya lekgethwana
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249. Tiragatso ya Kgaolo mo Lekgotleng

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261. Maemo a Rejisetara le kitsiso ya boatlhodi
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283. Dithulaganyo mabapi le ditherisano le batsayakarolo
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288. Melawana le dikaelo

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305. Setlhogo se se khutshwane le tshimologo

ŠEJULE 1
MELAO YA LEPHATA LA DITŠHELETE

ŠEJULE 2
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ŠEJULE 3
MAKWALO A A TLA PHASALATSWANG MO REJISETARENG

ŠEJULE 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;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"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"**;

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

KGAOLO 1

TLHALOSO, MAITLHOMO LE TSAMAISO YA MOLAO

Karolo 1

Tlhaloso

Ditlhaloso

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 kotlhao 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 nngwe le nngwe—

(a) ka tshupetso 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 letlole la peeletso ka maitlhomo a go sala morago motlhala wa poelo ya tshupanekelo eo kgotsa ya go tlhalosa kabo ya thoto ya photefolio kgotsa go tsenya tiragatso ya dituelelo mo khomputareng;

"lokwalo la kgwebo", mabapi le motho, le kaya lokwalo le le tshwerweng ke motho mabapi le go tsweletsa pele kgwebo;

"mafelo a kgwebo" a kaya mafelo, go akaretsa le moago kgotsa karolo ya moago, e e diriswang ke motho go tsweletsa kgwebo pele;

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

"Motlhankedimogolo wa Khuduthamaga" o kaya Motlhankedimogolo wa Khuduthamaga wa Bothati jwa Tlhokomelo yo o thapilweng go ya ka karolo 36(1), le go akaretsa nama-o-sa-tshwere wa Motlhankedimogolo wa Khuduthamaga;

"Ombud yo Mogolo" o kaya motho yo o thapilweng jaaka Ombud yo Mogolo wa Khansele ya Ombud go ya ka karolo 188;

"sekema sa peeletsommogo" se na le bokao jo bo tshwanang le jo se tlhalositsweng ka jona mo karolong 1 ya *Collective Investments Schemes Control Act*, 2002 (Molao 45 wa 2002);

"Khomišenara", mabapi le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, o kaya Khomišenara wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete yo o thapilweng go ya ka karolo 61(1), le go akaretsa nama-o-sa-tshwere wa Khomišenara;

"*Companies Act*" o kaya *Companies Act*, 2008 (Molao 71 wa 2008);

"setlamo" se na le bokao jo bo tshwanang le jo se tlhalositsweng ka jona mo karolong 1 ya *Companies Act*;

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

"maemo a boitshwaro" a kaya maemo a a dirilweng go ya ka karolo 106;

"Molaotheo" o kaya Molaotheo 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 tswa kwa ntle mme fela a sa akaretse mokonteraka yo o ikemetseng jaaka go bonetswe pele mo tlhalosong ya **"leloko la badiri"**;

"tiro ya taolo" e kaya nngwe le nngwe ya tse di latelang:

(a) Tiro ya bolaodi 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 fa gare; le
(d) tiro ya bogakolodi;

"Khansele ya Dikema tsa Kalafi" e kaya Khansele ya Dikema tsa Kalafi e e tlhomilweng go ya ka karolo 3 ya *Medical Schemes Act*;

"Kgotlatshekelo" e kaya Kgotlatshekelokgolo jaaka e tlhalositswe mo karolong 1 ya *Superior Courts Act*, 2013 (Molao 10 wa 2013);

"sekoloto" se na le bokao jo bo tshwanang le jo bo fitlhelwang mo karolong 1 ya Molao wa Sekoloto wa Bosetšhaba;

"tumalano ya sekoloto" e na le bokao jo bo tshwanang le jo bo fitlhelwang mo karolong 1 ya Molao wa Sekoloto wa Bosetšhaba;

"taelo ya kganelo" e kaya taelo e e dirilweng go ya ka karolo 153 kgotsa 205;

"Motlatsakhomišenara" o kaya motho yo o thapilweng jaaka Motlatsakhomišenara go ya ka karolo 61(2), le go akaretsa nama-o-sa-tshwere wa Motlatsakhomišenara;

"Motlatsammusisi" o kaya motho yo o thapilweng go ya ka karolo 4 kgotsa 6(1)*(a)* ya *Reserve Bank Act* jaaka Motlatsammusisi wa Banka ya Resefe;

"Mokaedikakaretso" o kaya Mokaedikakaretso wa Matlotlo a Bosetšhaba, le go akaretsa nama-o-sa-tshwere wa Mokaedikakaretso;

"motho yo o ileditsweng" o kaya motho yo—

(a) o samaganeng le kgwebo ya setheo sa ditšhelete, kgotsa yo o nang le kgatlhego e e tlhamaletseng mo setheong sa ditšhelete, ntle le fa e se jaaka morekedi wa ditšhelete;

(b) e leng leloko la Kabinete, leloko la Khanselekhuduthamaga ya porofense, leloko la Kokoano Bosetšhaba, kemedi ya leruri ya Khansele ya Bosetšhaba ya Diporofense, leloko la kgotlatheomolao ya porofense kgotsa leloko la khansele ya mmasepala;

(c) e leng modiredi wa, kgotsa o mo maemong a a duelang a boeteledipele jwa, mokgatlho wa sepolotiki;

(d) ka nako nngwe le nngwe a kileng a tloswa mo ofising kgotsa maemong a terasete;

(e) o kgotsa kileng a ganelwa go ya ka molao wa lephata la ditšhelete;

(f) o kgotsa kileng ka nako nngwe le nngwe a otlhaiwa semmuso ka ntlha ya go tlola molao o o amanang le taolo kgotsa tlhatlhobo ya ditheo tsa ditšhelete, kgotsa dikabelo tsa dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete kgotsa molao o o tsamaelanang le wa taolo wa boditšhaba;

(g) o kgotsa a kileng ka nako nngwe le nngwe a bonwa molato wa—

(i) bogodu, tsietso, kutso ka leina, tlhagiso ya lokwalo le le utswitsweng, maikano a maaka kgotsa tlolomolao e e tsenyeletsang go tlhoka nnete, e ka tswa e le mo Rephaboliking kgotsa gongwe le gongwe; kgotsa

(ii) tlolomolao go ya ka *Prevention of Corruption Act*, 1958 (Molao 6 wa 1958), *Corruption Act*, 1992 (Molao 94 wa 1992), Dikarolo 1 go fitlha 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 nngwe le nngwe e a e dirileng morago ga fa Molaotheo o sena go tsenngwa mo tirisong, moo kotlhao e e neng e pateleditswe motlolamolao ke kgotsa e ne e le katlholo ya go ya kgolegelong ntle le boikgethelo jwa tuelo ya tšhelete;

(i) o lebanwe ke taelo ya kamogothoto ya nakonyana kgotsa ke mokoloti yo o sa kgopologeng;

(j) o ileditswe go ka nna leloko la mokgatlho o o busang wa setheo go ya ka molawana o o maleba; kgotsa

(k) o tlhomamisitswe ke Kgotlatshekelokgolo go sa itekanelang mo tlhaloganyong kgotsa setseno, kgotsa o emisitswe go ya ka *Mental Health Act*, 2002 (Molao 17 wa 2002);

"lokwalo" le akaretsa—

(a) buka, rekoto, thoto, lenanetheko, akhaonto le tshedimosetso nngwe le nngwe e e tlhagelelang mo selong ka namana;

(b) tshedimosetso e e bolokilweng kgotsa gatisitsweng seileketeroniki, tshedimosetsopalo, mo ditshwantshong, semakenete kgotsa ka pono; le

(c) sediriswa sengwe le sengwe ka ga, kgotsa ka, se tshedimosetso e gatisitsweng kgotsa bolokilweng;

"eligible financial institution" means each of the following:

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

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

(c) a market infrastructure; and

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

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

"Executive Committee" means the Committee established in terms of section 60;

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

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

"financial crime" includes an offence in terms of—

(a) a financial sector law;

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

(c) the Financial Intelligence Centre Act; or

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

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

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

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

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

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

(a) A financial product provider;

(b) a financial service provider;

(c) a market infrastructure;

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

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

"financial instrument" means—

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

(b) a depository receipt and other equivalent instruments;

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

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

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

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

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

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

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

"financial product" means a financial product as defined in section 2;

"financial product provider" means a person that, as a business or as part of a business, provides a financial product;

"ditheo 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 maitlhomo a tlhaloso eno;

"tumalano e e gatelelwang" e kaya tumalano e e kailweng mo karolong 151 kgotsa 203;

"Komiti ya Khuduthamaga" e kaya Komiti e e tlhomilweng go ya ka karolo 60;

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

"ditheo tsa ditšhelete tse di kopaneng" di kaya setlhopha sa ditlamo tse di thapilweng jaaka setheo sa ditšhelete go ya ka karolo 160;

"bosenyi jwa ditšhelete" bo akaretsa tlolomolao go ya ka—

(a) molao wa lephata la ditšhelete;

(b) dikarolo 2, 4, 5 le 6 tsa *Prevention of Organised Crime Act*, 1998 (Molao 121 wa 1998);

(c) *Financial Intelligence Centre Act*; kgotsa

(d) karolo 4 ya *Protection of Constitutional Democracy against Terrorist and Related Activities Act*, 2004 (Molao 33 wa 2004);

"morekedi wa ditšhelete" o kaya motho yo, kuno ya ditšhelete, sediriswa sa ditšhelete, tirelo ya ditšhelete kgotsa tirelo e e tlametsweng ke thulaganyetso ya popegotheo ya mmaraka e abelwang kgotsa tlamelwang, kgotsa boemong jwa, ka maemo afe kgotsa afe, gape o akaretsa—

(a) motlhatlhami wa maemo a motho; le

(b) moamogela ditshwanelo tsa kuno, sediriswa kgotsa tirelo;

"tsenyeletso ya tsa ditšhelete" e kaya gore batho botlhe ba na le phitlhelelo e e mo nakong e bile e lolame go dikuno le ditirelo tsa ditšhelete tse di siameng, lolameng 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) thulaganyetso 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 tlhalositswe mo karolong 1 ya *Companies Act*;

(b) setlankana sa peeletso le didiriswa tse dingwe tse di lekanang;

(c) sediriswa sa molato se se jaaka tshupamolato kgotsaibonto, mme e seng tumalano ya sekoloto;

(d) tshireletso ya mmaraka wa madi jaaka e tlhalositswe mo karolong 1(1) ya *Financial Markets Act*;

(e) sediriswa se se tswang jaaka go tlhalositswe mo karolong 1 (1) ya *Financial Markets Act*;

(f) thebolo, setifikeiti, sediriswa sa bosireletsi kgotsa sediriswa sengwe se se amogelang, abelang kgotsa tlhamang ditshwanelo tsa go nna tokololo go, fitlhelela, rulaganya, kgotsa fetola, didiriswa tsa ditšhelete tse di kailweng mo ditemaneng *(a)* go fitlha go *(e)*;

"Senthara ya Botlhodi ba tsa Ditšhelete" e kaya Senthara ya Botlhodi ba tsa Ditšhelete e e tlhomilweng 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; 5
(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— 10
(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; 15
"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 20
(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; 25
"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; 30
"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; 35
"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; 40
"Friendly Societies Act" means the Friendly Societies Act, 1956 (Act No. 25 of 1956);
"governing body" means— 45
(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; 50
(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 55
(b) in relation to an ombud scheme, the body of persons that oversees the affairs of the ombud scheme;

"kuno ya ditšhelete" e kaya kuno ya ditšhelete jaaka e tlhalositswe mo karolong 2;

"moabi wa dikuno tsa ditšhelete" o kaya motho yo, jaaka kgwebo kgotsa karolo ya kgwebo, a tlamelang ka kuno ya ditšhelete;

"mokgatlho walephata la ditšhelete" o kaya nngwe le nngwe ya tse di latelang:

(a) Bothati jwa Tlhokomelo;

(b) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete;

(c) Lekgotla;

(d) Khansele ya Ombud;

(e) Ofisi ya Moatlhodi wa Matlole a Penšene; le

(f) Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Ditšhelete;

"Bothati jwa Boitshwaro jwa Lephata la Ditšhelete" bo kaya bothati jo bo tlhomilweng go ya ka karolo 56;

"molao wa lephata la ditšhelete" o kaya—

(a) Molao ono;

(b) molao o o neetsweng mo Šejuleng 1;

(c) Molawana o o dirilweng go ya ka Molao ono kgotsa o o dirilweng go ya ka molao o o kailweng mo Šejuleng 1; kgotsa

(d) sediriswa sa taolo se se dirilweng go ya ka Molao ono kgotsa se se dirilweng go ya ka molao o o kailweng mo Šejuleng 1;

"molaodi wa lephata la ditšhelete" o kaya—

(a) Bothati jwa Tlhokomelo;

(b) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete;

(c) Molaodi wa Bosetšhaba wa Sekoloto, fela mabapi le Dikarolo 2, 3 le 5 tsa Kgaolo 2, le Dikarolo 1, 2 le 3 tsa Kgaolo 5; kgotsa

(d) Senthara ya Botlhodi jwa Ditšhelete, fela mabapi le Dikarolo 2, 3 le 5 tsa Kgaolo 2, le Dikarolo 1, 2 le 3 tsa Kgaolo 5;

"tirelo ya ditšhelete" e kaya tirelo ya ditšhelete jaaka e tlhalositswe mo karolong 3;

"moabi wa tirelo ya ditšhelete" o kaya motho yo, jaaka kgwebo kgotsa karolo ya kgwebo, a tlamelang ka tirelo ya ditšhelete;

"tlhomamo ya ditšhelete" e kaya tlhomamo ya ditšhelete jaaka e tlhalositswe mo karolong 4;

"Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete" e kaya komiti e e tlhomilweng go ya ka karolo 20;

"thulaganyo ya ditšhelete" e kaya thulaganyo ya ditheo le mebaraka eo ka yona dikuno tsa ditšhelete, didiriswa tsa ditšhelete le ditirelo tsa ditšhelete di tlamelwang le go gweba ka tsona, le go akaretsa go dira ga thulaganyetso ya popegotheo ya mmaraka le thulaganyo ya tefo;

"Khansele ya Balaodi ba Thulaganyo ya Ditšhelete" e kaya khansele e e tlhomilweng go ya ka karolo 79(1);

"ngwaga wa ditšhelete" e kaya paka ya dikgwedi tse 12 go simolola ka 1 Moranang wa ngwaga nngwe le nngwe;

"kuno ya ditšhelete ya boditšhaba" e kaya sediriso kgotsa thulaganyo e e tlametsweng kwa ntle ga Rephaboliki, kgotsa e tlametswe ke motho kwa ntle ga Rephaboliki, e e tshwanang le kgotsa e e tsamaelanang le kuno ya ditšhelete;

"*Friendly Societies Act*" o kaya *Friendly Societies Act*, 1956 (Molao 25 wa 1956);

"mokgatlho o o busang" o kaya—

(a) mabapi le setheo sa ditšhelete, motho kgotsa mokgatlho wa batho, ba tlhophilwe kgotsa ba sa tlhophiwa, ba ba laolang, tsamaisang, tlhamang pholisi le leano tsa, lebisa merero ya bona kgotsa ba na le thata ya go dirisa dithata le go dira ditiro tsa setheo sa ditšhelete, le go akaretsa—

(i) mogwebisani wa kakaretso wa semphato se se lekanyeditsweng kgotsa bagwebisani ba semphato sengwe le sengwe;

(ii) maloko a setlamotekanyetsobeng;

(iii) batlhokomedi ba terasete;

(iv) boto ya bakaedi ba setlamo; le

(v) boto ya letlole la penšene le le kailweng mo karolong 7A ya *Pension Funds Act*; le

(b) mabapi le sekema sa ombud, o kaya mokgatlho wa batho o o tlhokomelang merero ya sekema sa ombud;

"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;

"setlhopha sa ditlamo" se na le bokao jo bo tshwanang le jo se tlhalositsweng 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 akaretsa 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 tlhalositswe mo karolong 1 ya *Companies Act*, e leng setlamo se se tsentsweng mo Rephaboliking;

"tshupanekelo" e kaya palo nngwe le nngwe—

(a) e e phasaladitsweng kgotsa e e fitlhelelwang ke setšhaba; le

(b) e e tlhomamiswang nako le nako—

(i) ka botlalo kgotsa e seng ka botlalo ka tiriso ya fomula kgotsa mokgwa mongwe le mongwe wa palelo, kgotsa ka tekolo; le

(ii) ka go ikaega mo boleng jwa thoto kgotsa ditlhotlhwa tse di fitlhegileng, kgotsa ditswa dinwe le dingwe tsa tsona; le

(c) e tlhomamiswa go nna tshupanekelo mabapi le maitlhomo ano ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete;

"sekema sa ombud wa bodirelo" se kaya thulaganyo ya dipharologantsho tse di latelang:

(a) Thulaganyo e tlhomilwe ke setheo sa ditšhelete se le esi kgotsa go feta;

(b) maitlhomo a thulaganyo ke go nolofatsa tsereganyo le tharabololo ya dingongorego go tswa go badirisi ba ditšhelete ka ga dikuno tse di tsepameng tsa ditšhelete kgotsa ditirelo tsa ditšhelete; le

(c) tsereganyo kgotsa tharabololo ya dingongorego go ya ka sekema sa ombud e dirwa ke ombud yo o thapilweng go ya ka melawana ya taolo ya sekema sa ombud;

"Khansele ya Ditona" e kaya Khansele ya Ditona ya Lephata la Ditšhelete e e tlhomilweng go ya ka karolo 83(1);

"tshwetso ya tlhaloso" e kaya kanego go ya ka karolo 142;

"amanang" e na le bokao jo bo tshwanang le jo e tlhalositsweng 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 kwadisitsweng 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 tlhaloso efe, tshwaragano kgotsa go sa tshwaraganang;

(c) terasete ya letlole la terasete;

(d) setheo se se kailweng mo temaneng *(a)*, *(b)* kgotsa *(c)* seo se lebaganeng le tswalokgwebo, ka fa tlase ga ditsamaiso tsa phaloso ya kgwebo kgotsa ka fa tlase ga taolo ya boatlhodi; le

(e) dithoto tsa moswi kgotsa motho yo o phutlhameng;

"motho yo o botlhokwa", mabapi le setheo sa ditšhelete, o kaya nngwe le nngwe ya tse di latelang:

(a) Leloko la mokgatlho o o busang wa setheo sa ditšhelete;

(b) motlhankedimogolo wa khuduthamaga kgotsa motho mongwe yo o laolang 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 tseyeng ditshwetso tse di—

(i) amang kgwebo yotlhe kgotsa karolo e e botlhokwa ya kgwebo ya setheo sa ditšhelete; kgotsa

(ii) nang le bokgoni jwa go 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 gatelelwa ga dipholisi le go tsenngwa tirisong ga maano a a dumeletsweng (kgotsa amogetsweng) ke mokgatlho o o busang wa setheo sa ditšhelete;

(e) tlhogo ya tiro ya taolo ya setheo sa ditšhelete; le

"legal practitioner" means a legal practitioner as defined in section 1 of the Legal Practice Act, 2014 (Act No. 28 of 2014);

"leniency agreement" means an agreement referred to in section 156;

"levy" means a levy imposed by a financial sector body in terms of legislation that empowers the imposition of a levy, and includes interest payable on an unpaid levy;

"licence" includes a written licence, registration, approval, recognition, permission, consent or any other authorisation in terms of a financial sector law, however it is described in that law, to provide a financial product, financial service or a market infrastructure;

"Long-term Insurance Act" means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);

"market infrastructure" means each of the following, as they are defined in section 1(1) of the Financial Markets Act:

(a) A central counterparty;

(b) a central securities depository;

(c) a clearing house;

(d) an exchange; and

(e) a trade repository;

"Medical Schemes Act" means the Medical Schemes Act, 1998 (Act No. 131 of 1998);

"Minister" means the Minister of Finance;

"National Credit Act" means the National Credit Act, 2005 (Act No. 34 of 2005);

"National Credit Regulator" means the National Credit Regulator established in terms of section 12 of the National Credit Act;

"National Payment System Act" means the National Payment System Act, 1998 (Act No. 78 of 1998);

"National Treasury" means the National Treasury established in terms of section 5 of the Public Finance Management Act;

"ombud" means each of the following:

(a) The Adjudicator as defined in section 1(1) of the Pension Funds Act;

(b) the Ombud for Financial Services Providers as defined in section 1(1) of the Financial Advisory and Intermediary Services Act;

(c) a person declared by a specific financial sector law to be a statutory ombud; and

(d) a person who has the function, in terms of the rules of a recognised industry ombud scheme, of mediating or resolving complaints to which the scheme applies;

"Ombud Board" means the Board of the Ombud Council established in terms of section 179(1);

"Ombud Council" means the Ombud Council established in terms of section 175;

"Ombud Council rule" means a rule made by the Ombud Council in terms of section 201;

"ombud scheme" means—

(a) an industry ombud scheme; or

(b) a statutory ombud scheme;

"organ of state" has the same meaning ascribed to it in terms of section 239 of the Constitution;

"outsourcing arrangement", in relation to a financial institution, means an arrangement between a financial institution and another person for the provision to or for the financial institution of any of the following:

(a) A control function;

(b) a function that a financial sector law requires to be performed or requires to be performed in a particular way or by a particular person; and

(c) a function that is integral to the nature of a financial product or financial service that the financial institution provides, or is integral to the nature of the market infrastructure,

but does not include—

(i) a contract of employment between the financial institution and a person referred to in paragraph *(a)* or *(b)* of the definition of **"staff member"**; or

(ii) an arrangement between a financial institution and a person for the person to act as a representative of the financial institution;

(f) motho yo o dirang tiro mo kgotsa go setheo sa ditšhelete e molao wa lephata la ditšhelete o batlang gore e dirwe;

"modirakamolao" o kaya modirakamolao jaaka go tlhalositswe mo karolong 1 ya Molao wa Tiragatso ya tsa Molao, 2014 (Molao 28 wa 2014);

"tumalano ya kutlwelobotlhoko" e kaya tumalano e e kailweng mo karolong 156;

"lekgethwana" le kaya lekgethwana lengwe le lengwe le le duedisiwang ke mokgatlho wa lephata la ditšhelete go ya ka molawana o o nayang thata ya tuediso ya lekgethwana, e bile le akaretsa morokotso o o duelwang mo lekgethwaneng le le sa duelwang;

"laesense" e akaretsa laesense e e kwetsweng, kwadiso, thebolo, kamogelo, tetlelelo, tumelelo kgotsa tumelelo nngwe le nngwe go ya ka molao wa lephata la ditšhelete, mme fela go tlhalositswe mo molaong oo, go tlamela kuno ya ditšhelete, tirelo ya ditšhelete kgotsa thulaganyetso ya popegotheo ya mmaraka;

"*Long Term Insurance Act*" o kaya *Long-term Insurance Act*, 1998 (Molao 52 wa 1998);

"thulaganyetso ya popegotheo" e kaya nngwe le nngwe 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 dithoto;

(c) setheo sa kgwebo sa dibanka;

(d) kananyo; le

(e) setheo sa kgwebo;

"*Medical Schemes Act*" o kaya *Medical Schemes Act*, 1998 (Molao 131 wa 1998);

"Tona" o kaya Tona ya Matlotlo;

"*National Credit Act*" o kaya 2005 (Molao 34 wa 2005);

"Bolaodi jwa Bosetšhaba jwa Sekoloto" bo kaya Bolaodi jwa Bosetšhaba jwa Sekoloto jo bo 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 Bosetšhaba" a kaya Matlotlo a Bosetšhaba a a tlhomilweng go ya ka karolo 5 ya *Public Finance Management Act*;

"ombud" o kaya nngwe le nngwe ya tse di latelang:

(a) Moatlhodi 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 nna ombud wa semolao; le

(d) motho yo o nang le tiro, go ya ka melawana ya sekema se se amogelelsegang sa ombud wa bodirelo, ya go tsereganya kgotsa rarabolola dingongorego tse sekema se diragatswang 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 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 Molaotheo;

"thulaganyo ya go bona tirelo kwa ntle", mabapi le setheo sa ditšhelete, e kaya thulaganyo magareng ga setheo sa ditšhelete le motho yo mongwe mabapi le go tlamela kgotsa mabapi le setheo sa ditšhelete sa nngwe le nngwe ya tse di latelang:

(a) Tiro ya go laola;

(b) tiro e e tlhokwang go dirwa kgotsa go dirwa ka mokgwa o o rileng ke molao wa lephata la ditšhelete kgotsa ke motho yo o rileng; le

(c) tiro e e leng botlhokwa mo go nneng teng ga kuno ya ditšhelete kgotsa tirelo ya ditšhelete e e abelwang ke setheo sa ditšhelete, kgotsa e e leng botlhokwa

"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 nneng teng ga thulaganyetso ya popegotho ya mmaraka, mme ga e akaretse—

(i) konteraka ya tiro magareng ga setheo sa ditšhelete le motho yo o kailweng mo temaneng *(a)* kgotsa *(b)* ya tlhaloso ya leloko la badirimmogo; kgotsa

(ii) thulaganyo magareng ga setheo sa ditšhelete le motho mabapi le gore motho a dire jaaka kemedi ya setheo sa ditšhelete;

"panele" e kaya panele ya Lekgotla e e bopilweng go ya ka karolo 224;

"lenane la panele" le kaya lenane le le kailweng mo karolong 225;

"leloko la panele" le kaya leloko la panele;

"moamegi", mo ditsamaisong mo tshekatshekopoeletsong ya tshwetso ka Lekgotla, o kaya—

(a) motho yo o dirileng kopo ya tshekatshekopoeletso; le

(b) motsayatshwetso yo o tsereng tshwetso;

"tirelo ya tuelo" e kaya tirelo e e tlametsweng go morekedi wa ditšhelete go nolofatsa tuelo go, kgotsa go tswa go, morekedi wa ditšhelete;

"thulaganyo ya tuelo" e na le bokao jo bo tshwanang le jo e tlhalositsweng ka jona mo karolong 1 ya *National Payment System Act*;

"*Pension Fund Act*" o kaya *Pension Funds Act*, 1956 (Molao 24 wa 1956);

"motho" o kaya motho wa tlholego kgotsa setheo , le go akaretsa setheo sa puso;

"*Promotion of Administrative Justice Act*" o kaya *Promotion of Administrative Justice Act*, 2000 (Molao 3 wa 2000);

"*Protection of Personal Information Act*" o kaya *Protection of Personal Information Act*, 2013 (Molao 4 wa 2013);

*"***kabelo ya kaelo"** e akaretsa—

(a) tsamaiso ya dithulaganyo tsa go tlhomamisa kaelo;

(b) go kgobokanya, go sekaseka kgotsa go tsamaisa tsenyo ya tshedimosetso mabapi le maitlhomo a go tlhomamisa kaelo; le

(c) go tlhomamisa kaelo ka tiriso ya fomula kgotsa mokgwa mongwe wa palelo kgotsa tekanyetso ya tshedimosetso e e tsentsweng e e tlametsweng mabapi le maitlhomo ao;

"Bothati jwa Tlhokomelo" bo kaya bothati jo bo tlhomilweng go ya ka karolo 32;

"Komiti ya Tlhokomelo" e kaya komiti e e tlhomilweng go ya ka karolo 41;

"maemo a tlhokomelo" a kaya maemo a a dirilweng go ya ka karolo 105;

"*Public Finance Management Act*" o kaya *Public Finance Management Act*, 1999 (Molao 1 wa 1999);

"maemo a bokgoni" a kaya, mabapi le setheo sa ditšhelete se—

(a) e leng setlamo, seo motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano—

(i) a nang le bonnye 15% ya dišere tsa setheo sa ditšhelete;

(ii) a nang le bokgoni jwa go diragatsa kgotsa go laola tiragatso ya 15% ya ditshwanelo tsa go tlhopha tse di patagantsweng le dithoto tsa setheo sa ditšhelete;

(iii) a nang le bokgoni jwa go ntsha kgotsa go laola go ntshiwa ga bonnye 15% ya dithoto tsa setheo sa ditšhelete; kgotsa

(iv) yo o nang le ditshwanelo mabapi le setheo sa ditšhelete tse, fa di diragatswa, di ka nnang le ditlamorago tseo motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano—

(aa) a nang le bonnye 15% ya dithoto tsa setheo sa ditšhelete;

(bb) a nang le bokgoni jwa go diragatsa kgotsa go laola tiriso 15% ya ditshwanelo tsa go tlhopha tse di patagantsweng le dišere kgotsa dithoto tse dingwe tsa setheo sa ditšhelete; kgotsa

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

(b) e leng setlamotekanyetsobeng, se motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmogo le motho yo o amamnang kgotsa wa kamano, a nang le bonnye 15% ya dikgatlhego kgotsa ditaolo tsa diboutu maloko mo setlamotekanyetsobeng;

(c) e leng terasete, se kaya gore motho o na le, ka tlhamalalo kgotsa e seng ka tlhamalalo, a le esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano—

"recognised industry ombud scheme" means an industry ombud scheme that is recognised in terms of section 194;

"Regulation" means a Regulation made in terms of section 288;

"regulator's directive" means a directive issued by a financial sector regulator in terms of section 143, 144 or 159;

"regulatory instrument" means each of the following:

(a) A prudential standard;

(b) a conduct standard;

(c) a joint standard;

(d) an Ombud Council rule;

(e) a determination of fees in terms of section 237(1)*(a)*;

(f) an instrument identified as a regulatory instrument in a financial sector law; 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 dirilweng go ya ka karolo 288;

"taelo ya molaodi" e kaya taelo e e rebotsweng ke molaodi wa lephata la ditšhelete go ya ka karolo 143, 144 kgotsa 159;

"sediriswa sa bolaodi" se kaya nngwe le nngwe ya tse di latelang:

(a) Maemo a tlhokomelo;
(b) maemo a boitshwaro;
(c) maemo a a kopantsweng;
(d) molao wa Khansele ya Bolaodi jwa Ombud;
(e) tlhomamiso ya dituediso go ya ka karolo 237(1)*(a)*;
(f) sediriswa se se supilweng jaaka sediriswa sa bolaodi mo molaong wa lephata la ditšhelete; le
(g) sediriswa se se tlhabololang kgotsa gogelang morago sediriswa se se kailweng mo ditemaneng *(a)* go fitlha go *(f)*;

"letlhakore la kamano", mabapi le motho (''motho wa ntlha''), le kaya motho yo o amanang le motho wa ntlha go ya ka mokgwa o o tlhalositsweng mo karolong 2(1)*(a)*, *(b)* kgotsa *(c)* ya *Companies Act*;

"Rejisetara" e kaya Rejisetara ya Tshedimosetso ya Lephata la Ditšhelete e e kailweng mo karolong 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 jaaka e kailwe mo karolong 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 jaaka bo tlhalositswe mo karolong 5;

"karolo 27 memorantamo wa tumalano" e kaya memorantamo wa tumalano o o kailweng mo karolong 27;

"karolo 77 memorantamo wa tumalano" e kaya memorantamo wa tumalano o o kailweng mo karolong 77;

"ditirelo tsa dithoto" di na le bokao jo bo tshwanang le jo bo tlhalositsweng ka jona mo karolong 1(1) ya *Financial Markets Act*;

"tirelo e e tlametsweng ke thulaganyetso ya popegotheo ya mmaraka" e kaya kgwebo e e dirilweng kgotsa tiro e e dirilweng 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 botlhokwa", o kaya mong yo o botlhokwa wa setheo jaaka go tlhalositswe mo karolong 157;

"lekgethwana le le kgethegileng" le kaya lekgethwana le le duediswang jaaka lekgethwana le le kgethegileng ke mokgatlho wa lephata la ditšhelete go ya ka molawana o o neelanang ka maatla a tuediso ya lekgethwana;

"molao o o tsepameng wa lephata la ditšhelete" o kaya molao 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 , jaaka go tlhalositswe mo karolong 213 ya *Labour Relations Act*, 1995 (Molao 66 wa 1995);
(b) motho fela yo o boneng tshegetso mo mothong;
(c) motho fela yo o tsentsweng ke motho mo konterakeng jaaka mokonteraka yo o ikemetseng go tlamela dithoto le ditirelo go motho kgotsa go dira ditiro mo boemong jwa motho ka fa tlase ga dipeelo tse di tlhagisitsweng mo konterakeng, fela ntle le go ya ka thulaganyo ya go batla tirelo kwa ntle;

"Maemo" a kaya nngwe le nngwe ya tse di latelang:

(a) Maemo a tlhokomelo;

"statutory ombud" means each of the following:

(a) The Adjudicator as defined in section 1(1) of the Pension Funds Act;

(b) the Ombud for Financial Services Providers as defined in section 1(1) of the Financial Advisory and Intermediary Services Act; and

(c) a person declared by a specific financial sector law to be a statutory ombud;

"statutory ombud scheme" means a scheme declared by a specific financial sector law to be a statutory ombud scheme;

"supervised entity" means each of the following:

(a) A licensed financial institution;

(b) a person with whom a licensed financial institution has entered into an outsourcing arrangement; and

(c) a representative of a financial institution;

"supervisory on-site inspection" means an inspection as contemplated in Part 3 of Chapter 9;

"systemic event" means an event or circumstance, including one that occurs or arises outside the Republic, that may reasonably be expected to have a substantial adverse effect on the financial system or on economic activity in the Republic, including an event or circumstance that leads to a loss of confidence that operators of, or participants in, payment systems, settlement systems or financial markets, or financial institutions, are able to continue to provide financial products or financial services, or services provided by a market infrastructure;

"systemically important financial institution" means a financial institution designated in terms of section 29;

"taxable income" has the same meaning ascribed to it in terms of section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);

"this Act" includes the Regulations and regulatory instruments made in terms of this Act;

"transformation of the financial sector" means transformation as envisaged by the Financial Sector Code for Broad-Based Black Economic Empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

"Tribunal" means the Financial Services Tribunal established in terms of section 219(1);

"Tribunal member" means a member of the Tribunal referred to in section 220;

"Tribunal rules" means rules made in terms of section 227;

"trust" has the same meaning ascribed to it in terms of section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988);

"trustee" has the same meaning ascribed to it in terms of section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988);

"website" means a website as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002); and

"winding-up" means the process of dissolving a financial institution that includes the selling of all assets, the paying off of creditors and the distribution of any remaining assets.

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

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

Financial products

2. (1) In this Act **"financial product"** means—

(a) a participatory interest in a collective investment scheme;

(b) a long-term policy as defined in section 1(1) of the Long-term Insurance Act;

(b) maemo a boitshwaro; le
(c) maemo a a kopantsweng;

"ombud wa semolao" o kaya nngwe le nngwe ya tse di latelang:
(a) Moatlhodi jaaka go 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*; le
(c) motho yo o tlhomamisitsweng ka molao o o tsepameng wa lephata la ditšhelete go nna ombud wa semolao;

"sekema sa ombud sa semolao" se kaya sekema se se tlhomamisitsweng ke molao o o tsepameng 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;

"tlhatlhobo ya tlhokomelo kwa tirong" 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 tlisang go tlhoka boikanyego jwa gore badirisi ba, kgotsa batsayakarolo mo, dithulaganyong tsa tuelo, dithulaganyong tsa tshetlego kgotsa mebaraka ya ditšhelete, kgotsa ditheo tsa ditšhelete, ba kgona go tswela pele go tlamela dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete;

"setheo sa ditšhelete sa botlhokwa jo bo rulaganeng" se kaya setheo sa tšhelete se se tlhomilweng go ya ka karolo 29;

"lotseno le le duediswang 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 taolo tse di dirilweng go ya ka Molao ono;

"phetolo ya lephata la ditšhelete" e kaya phetolo jaaka e bonetswe pele ke Khoutu ya Lephata la Ditšhelete mabapi le Maatlafatso ya Ikonomi ya Motheo o o Anameng ya Batho ba Bantsho e e rebotsweng 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 kailweng mo karolong 220;

"**melawana ya Lekgotla**" e kaya melawana e e dirilweng go ya ka karolo 227;

"terasete" e na le bokao jo bo tshwanang le jo e tlhalositsweng ka jona mo karolong 1 ya *Trust Property Control Act*, 1988 (Molao 57 wa 1988);

"motlhokomedi" o na le bokao jo bo tshwanang le jo a tlhalositsweng ka jona mo karolong 1 ya *Trust Property Control Act*, 1988 (Molao 57 wa 1988);

"webesaete" e kaya webesaete jaaka e tlhalositswe mo karolong 1 ya *Electronic Communications and Transactions Act*, 2002 (Molao 25 wa 2002); le

"phediso" e kaya kgato ya go phatlalatsa setheo sa ditšhelete go akaretsa le thekiso ya dithoto tsotlhe, tuelo ya banayamolato le kabo phatlalatso ya dithoto tse di setseng.

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

(3) Tshupetso mo molaong wa lephata la ditšhelete, kgotsa mo sedirisweng se se dirilweng kgotsa rebotsweng go ya ka molao wa lephata la ditšhelete, go ikamanya le melao ya lephata la ditšhelete kgotsa molao o o rileng wa lephata la ditšhelete e akaretsa tshupetso ya go ikamanya le ditlhokego mo didirisweng tse di dirilweng kgotsa rebotsweng go ya ka melao e e maleba ya setheo sa ditšhelete.

Dikuno tsa ditšhelete

2. (1) Mo Molaong ono **"dikuno tsa ditšhelete"** di kaya—
(a) kgatlhego ya botsayakarolo mo sekema sa peeletsommogo;
(b) pholisi ya nako e e telele jaaka e tlhalositswe 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 the person—

(a) manages the financial consequences to the person of particular events or circumstances occurring or not occurring; or

(b) avoids or limits the financial consequences of fluctuations in, or in the value of, receipts or costs, including prices and interest rates.

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

Financial services

3. (1) In this Act **"financial service"** means—

(a) any of the following activities conducted in the Republic in relation to a financial product, a foreign financial product, a financial instrument, or a foreign financial instrument:

(i) Offering, promoting, marketing or distributing;

(ii) providing advice, recommendations or guidance;

(iii) operating or managing;

(c) pholisi ya nako e e khutshwane jaaka e tlhalositswe mo karolong 1(1) ya *Short-term Insurance Act*;

(d) kunomolemo e e tlametsweng ke—

(i) mokgatlho wa letlole la penšene, jaaka o tlhalositswe mo karolong 1(1) ya *Pension Funds Act*, go leloko la mokgatlho go ya ka botokololo; kgotsa

(ii) mokgatlho wa botsalano, jaaka o tlhalositswe mo karolong 1(1) ya *Friendly Societies Act*, go leloko la mokgatlho go ya ka botokolo;

(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 laolwang go ya ka Molao wa Bosetšhaba wa Sekoloto;

(h) tsholofetso, tshireletsego kgotsa thulaganyo nngwe ya tshegetso ya sekoloto jaaka e tlametswe mo molaong wa lephata la ditšhelete;

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

(j) sediriswa kgotsa thulaganyo e e akaretsang kuno kgotsa dikuno tsa ditšhelete tse di kailweng mo ditemaneng *(a)* go fitlha go *(i)*.

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

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

(b) sediriswa kgotsa thulaganyo ke ka yona, kgotsa go nneng le yona, motho o ka dirang e le nngwe kgotsa go feta ya ditiro tse di latelang:

(i) Kadimo;

(ii) go dira peeletso ya ditšhelete; le

(iii) go laola dikotsi tsa ditšhelete.

(3) mabapi le maitlhomo a karolotlaleletso (2)*(b)*(ii), motho (“**mmeeletsi**”) o dira peeletso ya ditšhelete fa a—

(a) etleetsa, ka tšhelete kgotsa boleng jwa tšhelete, go motho yo mongwe mme nngwe le nngwe ya tse di latelang e a diragatswa:

(i) Motho yo mongwe o dirisa ketleetso go tlisa poelo ya ditšhelete go mmeeletsi;

(ii) mmeeletsi o ikaelela gore motho yo mongwe o tshwanetse go dirisa ketleetso go tlisa poelo ya ditšhelete go mmeeletsi, le fa go sena poelo, kgotsa tatlhegelo, e e dirilweng; le

(iii) motho yo mongwe o ikaelela gore ketleetso e dirisetswe go direla mmeeletsi poelo ya ditšhelete, le fa go sena poelo, kgotsa tatlhegelo, e e dirilweng; le

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

(4) Mabapi le maitlhomo a karolotlaleletso (2)*(b)*(iii), motho o laola dikotsi tsa ditšhelete fa a—

(a) laola ditlamorago tsa tšhelete go motho wa ditiragalo kgotsa mabaka a a rileng a diragala kgotsa a sa diragale; kgotsa

(b) tila kgotsa lekanyetsa ditlamorago tsa ditšhelete tsa go ya godimo le tlase mo, kgotsa mo boleng jwa, dirasiti kgotsa ditshenyegelo, go akaretsa ditlhotlhwa le dikelo tsa morokotso.

(5) Melawana e e tlhomang kuno ya ditšhelete go ya ka karolotlaleletso (2) e ka totobaletsa bolaodi jwa lephata la ditšhelete gore ke jona bothati jo bo rweleng maikarabelo a go laola batlamedi ba kuno ya ditšhelete.

Ditirelo tsa ditšhelete

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

(a) nngwe le nngwe ya ditiro tse di latelang tse di dirwang mo Rephaboliking mabapi le kuno ya ditšhelete, kuno ya ditšhelete ya boditšhaba, sediriswa sa ditšhelete, kgotsa sediriswa sa ditshelete sa boditšhaba:

(i) Kabelo, tsweletso, papatso kgotsa phatlalatso;

(ii) go tlamela ka kgakololo, dikatlanegiso kgotsa kaelo;

(iii) go dirisa ka kgotsa go tsamaisa;

(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 tlamela ka ditirelo tsa tsamaiso;

(b) go samagana kgotsa go dira mmaraka mo Rephaboliking mo kunong ya ditšhelete, kuno ya ditšhelete ya boditšhaba, sediriswa sa ditšhelete kgotsa sediriswa sa ditšhelete sa boditšhaba;

(c) tirelo ya tuelo;

(d) ditirelo tsa dithoto;

(e) tirelo ya magareng jaaka e tlhalositswe mo karolong (1) ya *Financial Advisory and Intermediary Services Act*;

(f) tirelo e e amanang le theko le thekiso ya kananyo ya boditšhaba;

(g) tirelo e e amanang le kabelo ya sekoloto, go akaretsa le tirelo ya kgobokanyo ya molato, mme ga e akaretse ditirelo tsa—

(i) mogakolodi wa tsa sekoloto yo o kwadisitsweng go ya ka karolo 44 ya Molao wa Bosetšhaba wa Sekoloto yo o tlamelang ka ditirelo tsa mogakolodi wa tsa sekoloto jaaka go tlhalositswe mo Molaong oo;

(ii) modiredi yo o phatlalatsang tuelelo jaaka go tlhalositswe mo karolong 1 ya Molao wa Bosetshaba wa Sekoloto; kgotsa

(iii) moemedi yo mongwe wa tharabololo ya dithulano, jaaka go tlhalositswe mo karolong 1 ya Molao wa Bosetšhaba wa Sekoloto;

(h) tirelo e e tlamelwang kwa setheong sa ditšhelete ka thulaganyo ya go bona tirelo kwa ntle;

(i) tirelo nngwe le nngwe e e tlamelwang ke setheo sa ditšhelete, e leng tirelo e e laolwang ke molao o o tsepameng wa lephata la ditšhelete; le

(j) tirelo e e tlhomilweng ka Melawana ya karolo eno jaaka tirelo ya ditšhelete.

(2) Tirelo e e tlamelwang ke thulaganyetso ya popegotheo ya mmaraka ga se tirelo ya ditšhelete, ntle le fa e tlhomilwe ka Melawana go ya ka karolotlaleletso (3).

(3) Fa go dira jalo go tla tsweletsa maikaelelo a Molao ono jaaka a tlhagisitswe mo karolong 7, Melawana e ka tlhoma jaaka tirelo ya ditšhelete—

(a) tirelo nngwe le nngwe e e sa laolweng go ya ka molao o o tsepameng wa lephata la ditšhelete fa tirelo, e e tlamelwang mo Rephaboliking, e amana le-

(i) kuno ya ditšhelete, kuno ya boditšhaba ya ditšhelete, sediriswa sa ditšhelete kgotsa; sediriswa sa ditšhelete sa boditšhaba

(ii) thulaganyo eo e leng ka boyona thulaganyo ya kadimo, go dira peeletso ya ditšhelete kgotsa taolo ya dikotsi tsa ditšhelete, tsotlhe jaaka di kailwe mo dikarolong 2(2) go fitlha go (4); kgotsa

(iii) kabelo ya kaelo kgotsa tshupanekelo; kgotsa

(b) tirelo e e tlamelwang ke thulaganyetso ya popegotheo ya mmaraka.

(4) Mabapi le maitlhomo a karolo (1)*(b)* a tlhaloso ya "**tirelo ya ditšhelete**" mo karolotlaleletsong (1)—

"go dirisana le", go kaya nngwe le nngwe ya tse di latelang, e dirilwe jaaka mookamedi kgotsa moemedi:

(a) Mabapi le dipoelo tsa dithoto kgotsa botsayakarolo jwa kgatlhego mo sekemeng sa peeletsommogo, go tsamaisa dithoto kgotsa dipoelo; le

(b) go reka le go rekisa dithoto kgotsa morokotso mabapile le maikarabelo bobona kgotsa mo boemong jwa motho yo mongwe jaaka kgwebo, karolo ya kgwebo kgotsa ka go tsamaelana le go dira kgwebo;

"go dira mmaraka" mo sedirisweng sa ditšhelete go diragala fa—

(a) motho, ka tiriso ya sediriswa, kwa lefelong kgotsa ka gongwe, a tlhagisa ditlhotlhwa tse motho a di beileng go fitlhelela kgotsa go rulaganya sediriswa sa ditšhelete, e ka tswa e le ka kgotsa e se ka akhaonto ya motho yoo; le

(b) batho ba bangwe ka mabaka ba solofela gore ba ka tsena mo kgwebisanong ya didiriswa tseo ka ditlhotlhwa tseo.

(5) Melawana e e tlhomang tirelo ya ditšhelete go ya ka karolotlaleletso (3) e ka tsepamisa bolaodi jwa lephata la ditšhelete joo e leng bothati jo bo rweleng maikarabelo a go laola batlamedi ba tirelo.

Tlhomamo ya ditšhelete

4. (1) Mabapi le maitlhomo a Molao ono, **"tlhomamo ya ditšhelete"** e kaya gore—

(a) ditheo tsa ditšhelete ka kakaretso di tlamela dikuno tsa ditšhelete le ditirelo tsa ditšhelete, le dithulaganyetso tsa popegotheo ya mmaraka di dira ka kakaretso ditiro le maikarabelo 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.

(b) ditheo tsa ditšhelete di na le bokgoni jwa go tswelela pele go tlamela dikuno tsa ditšhelete, le dithulaganyetso tsa dipopegotheo tsa mmaraka di na le bokgoni 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

(c) go na le boikanyego ka kakaretso mo bokgoning jwa ditheo tsa ditšhelete go tswelela pele go tlamela dikuno tsa ditšhelete le ditirelo tsa ditšhelete, le bokgoni jwa dithulaganyetso tsa dipopegotheo go tswelela go dira ditiro le maikarabelo a tsona go ya ka melao ya lephata la doitšhelete, 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 kailweng 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 nngwe ya bolaodi jwa lephata la ditšhelete go rolela ditiro tsa yona le dithata mabapi le kabelo ya molao wa lephata la ditšhelete oo e leng bothati jo bo rwalang maikarabelo a bolaodi jo bongwe jwa lephata la ditšhelete, bolaodi jo bongwe jwa lephata la ditšhelete ke, go ya ka bogolo jwa tholelo, bothati jo bo rwalang maikarabelo mabapi le kabelo.

Ditheo tsa ditšhelete tseo e leng ditheo tsa molao

6. Fa molao wa lephata la ditšhelete o pateletsa tlamego e e tshwanetseng go diragatswa ke setheo seo se leng mo molaong, maloko a mokgatlho o o busang wa setheo se se mo molaong a tshwanetse go netefatsa gore go ikamanngwa le pataletsego.

Karolo 2

Maitlhomo le tsamaiso ya Molao

Maitlhomo a Molao

7. (1) Maitlhomo a Molao ono ke go fitlhelela tsamaiso e e tlhomameng ya ditšhelete e e dirang go ya ka dikgatlhegelo tsa barekedi ba ditšhelete e bile e tshegetsa kgolo ya ikonomi e e lekalekanang e e tsweletswang mo Rephaboliking, ka go tlhoma, mmogo le melao e e tsepameng ya lephata la ditšhelete, letlhomeso la bolaodi le tlhokomelo le le ntshetsang pele—

(a) tlhomamo ya ditšhelete;

(b) polokego le itekanelo ya ditheo tsa ditšhelete;

(c) tsholo e e lolameng le tshireletso ya barekedi ba ditšhelete;

(d) bokgoni le tshiamo ya thulaganyo ya ditšhelete;

(e) thibelo ya bosenyi jwa ditšhelete;

(f) tsenyeletso mo go tsa ditšhelete;

(g) phetolo ya lephata la ditšhelete; le

(h) boikanyego mo thulaganyong ya ditšhelete.

(2) Fa go batlwa go fitlhelelwa maitlhomo a Molao ono Banka ya Resefe le balaodi ba lephata la ditšhelete ga ba a tshwanela go thibelwa mo go fitlheleleng maitlhomo a bona le maikarabelo jaaka go tlhagisitswe mo dikarolong 11, 33 le 57.

Tsamaiso ya Molao

8. Tona o rwala 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

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 tsepameng 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 laolwa ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete; kgotsa

(b) Banka ya Resefe, Bothati jwa Tlhokomelo, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, Komiti ya Tlhokomelo, Komiti Khuduthamaga, Motlhankedimogolo wa Khuduthamaga, Khomišenara kgotsa Motlatsakhomišenara.

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

(b) Mabapi le maitlhomo 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, Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete.

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

KGAOLO 2

TLHOMAMO YA DITŠHELETE

Karolo 1

Dithata le ditiro tsa Banka ya Resefe

Maikarabelo tlhomamo ya ditšhelete

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

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

(b) fa tiragalo ya thulaganyo e diragetse 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) tshwanetse go dira go ya ka letlhomeso la pholisi le go dumalanweng ka lona magareng ga Tona le Mmusisi;

(b) ka diragatsa thata 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 tsa maphata a mangwe a puso tse di diragatsang dithata tse di amang dintlha tsa ikonomi.

Go lekolwa ga dikotsi ke Banka ya Resefe

12. Banka ya Resefe e tshwanetse—

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

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

(ii) dikotsi dingwe le dingwe go tlhomamo ya ditšhelete, le tlholego 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 Kelotlhoko ya Tlhomamo ya Ditšhelete kgotsa a begilwe go Banka ya Resefe ke molaodi wa lephata la ditšhelete;

(b) go tsaya dikgato go fokotsa dikotsi go tlhomamo ya ditšhelete, go akaretsa le go gakolola bolaodi ba lephata la ditšhelete, 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 tlhabolotsweng ke mekgatlho ya boditšhabatšhaba ya go tlhoma dikemo tsa thulaganyetso ya popegotheo ya mmaraka, le go bega diphitlhelelo tsa yona go balaodi ba lephata la ditšhelete le Tona, ka go ela tlhoko mabaka le maemo a mo gare ga Rephaboliki.

Thadiso ya tlhomamo ya ditšhelete

13. (1) Banka ya Resefe e tshwanetse, bonnye dikgwedi dingwe le dingwe tse thataro, go dira tekanyetso ya tlhomamo ya thulaganyo ya ditšhelete, eo e kailweng fano jaaka **"thadiso ya tlhomamo ya ditšhelete"**.

(2) Thadiso ya tlhomamo ya ditšhelete e tshwanetse go tlhagisa—

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

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

(c) tshosobanyo ya dikgato tse e di tserweng mmogo le balaodi ba lephata la ditšhelete go tlhagisa le go laola dikotsi, makoa kgotsa dikotsi mo thulaganyong ya ditšhelete mo pakeng e e ka fa tlase ga thadiso le ao go bonelwang pele gore a tla diragala mo dikgweding tse 12 tse di latelang; le

(d) tshosobanyo ya dikatlanegiso tse e di dirileng mmogo le Komiti ya Keletlhoko ya Tlhomamo ya Ditšhelete mo pakeng e e ka fa tlase ga thadiso le tswelelopele e e fitlheletsweng mo go tsenyeng tirsong dikatlanegiso tseo.

(3) Tshedimosetso e, fa e ka phasalatswa e ka gakatsang kgonagalo ya tiragalo e e rulaganeng, e tlhoka go phasalatswa mo thadisong ya tlhomamo ya ditšhelete 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 nngwe le nngwe go Tona le Komiti ya Keletlhoko ya Tlhomamo ya Ditšhelete go bona tshedimosetso le tshwaelo, le go letla Tona kgotsa Komiti ya Keletlhoko ya Tlhomamo ya Ditšhelete go dira ditshwaelo bonnye dibeke 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 amogetswe 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) Mmusisi o ka, morago ga go rerisana le Tona, tlhomamisa gore tiragalo kgotsa lebaka le le tsepameng, kgotsa kopano e e tsepameng ya ditiragalo kgotsa mabaka, ke tiragalo e e rulaganeng.

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

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

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

(5) The Governor—

(a) must notify the Minister of a determination made in terms of subsection (1) or (4);

(b) must keep the determination under review;

(c) may, at any time, after having consulted the Minister, amend or revoke a determination in writing; and

(d) must notify the Minister of any amendment or revocation of a determination made in terms of subsection (1) or (4).

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

(7) The Reserve Bank must, in respect of a determination made in terms of subsection (1) or (4), and any amendment or revocation of such a determination—

(a) table the determination, or the amendment or revocation of the determination, in Parliament; and

(b) publish the determination, or the amendment or revocation of the determination, on the Reserve Bank's website.

Functions of Reserve Bank in relation to systemic events

15. (1) The Reserve Bank must take all reasonable steps—

(a) to prevent systemic events from occurring; and

(b) if a systemic event has occurred or is imminent, to—

(i) mitigate without delay the adverse effects of the event on financial stability; and

(ii) manage the systemic event and its effects.

(2) When acting in terms of subsection (1), the Reserve Bank must have regard to the need to—

(a) minimise adverse effects on financial stability and economic activity;

(b) protect, as appropriate, financial customers; and

(c) contain the cost to the Republic of the systemic event and the steps taken.

Information to Minister

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

(2) The Reserve Bank may not, except with the Minister's approval, take a step in terms of section 15 that will or is likely to—

(a) bind the National Revenue Fund to any expenditure;

(b) have a material impact on the cost of borrowing for the National Revenue Fund; or

(c) create a future financial commitment or a contingent liability for the National Revenue Fund.

Responsibilities of financial sector regulators

17. If the Governor has in terms of section 14(4) determined that a systemic event has occurred or is imminent, each financial sector regulator must—

(2) Mmusisi o ka, pele ga go tlhomamisa go ya ka karolotlaleletso (1), rerisana le Komiti ya Keletlhoko ya Tlhomamo ya Ditšhelete.

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

(4) Mmusisi o ka, morago ga go rerisana le Tona, tlhomamisa gore tiragalo e e rulaganeng e e tsepameng e diragetse kgotsa e ka 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 tlhomamiso ka fa tlase ga thadiso;

(c) o ka, nako nngwe le nngwe, 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 kgogelomorago ya tlhomamiso e e dirilweng go ya ka karolotlaleletso (1) kgotsa (4).

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

(7) Banka ya Resefe e tshwanetse, mabapi le tlhomamiso e e dirilweng go ya ka karolotlaleletso (1) kgotsa (4), le tlhabololo nngwe le nngwe kgotsa kgogelomorago 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, mo webesaeteng ya Banka ya Resefe.

Ditiro tsa Banka ya Resefe mabapi le ditiragalo tse di rulaganeng

15. (1) Banka ya Resefe e tshwanetse go tsaya dikgato tsotlhe tse di maleba—

(a) go thibela ditiragalo tse di rulaganeng go direga; le

(b) fa tiragalo e e rulaganeng e diregile kgotsa e ka direga, go—

(i) thibela ntle le 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 tsia tlhokego 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) tlamelela Letlole la Bosetšhaba la Lotseno go ditshenyegelo dingwe le dingwe;

(b) nna le kutlwalo e e botlhokwa mo ditlhotlhwakadimong go Letlole la Bosetšhaba la Lotseno; kgotsa

(c) tlhola boitlamo jwa ditšhelete jwa isago kgotsa molato wa tshoganyetso 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.

(a) tlamela Banka ya Resefe ka tshedimosetso nngwe le nngwe e e mo diatleng tsa balaodi ba lephata la ditšhelete, eo e ka kgontshang Banka go laola tiragalo e e rulaganeng kgotsa ditlamorago tsa tiragalo e e rulaganeng; le

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

Ditaelo go balaodi ba lephata la ditšhelete

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

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

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

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

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

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

(3) Bothati jwa Tlhokomelo, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le Senthara ya Botlhodi jwa Ditšhelete di tshwanetse go ikamanya le taelo e e rebotsweng go tsona go ya ka karolotlaleletso (1) kgotsa (2).

(4) Bolaodi jwa Bosetšhaba jwa Sekoloto bo tshwanetse go ikamanya le taelo eo e e reboletsweng go ya ka karolotlaleletso (1) kgotsa (2), fela fa Tona a rerisane le Tona e e rweleng maikarabelo a merero ya sekoloto sa badirisi mo taelong eo.

Tiragatso ya dithata ka maphata a mangwe a puso

19. (1) Fa Mmusisi go ya ka karolo 14(4) a tlhomamisitse gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, lephata la puso le le diragatsang dithata tsa lona mabapi le thulaganyo ya ditšhelete le ka se, ntle le thebolo ya Tona, ka go dira ka therisano le leloko la Kabinete le le rweleng maikarabelo a lephata leo, diragatse dithata tsa lona ka mokgwa o o sa tsamaelaneng le 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 ditlamorago tsa tiragalo eo e e rulaganeng.

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

(3) Karolotlaleletso (1) ga e diragatswe mo balaoding ba lephata la ditšhelete.

Karolo 3

Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete

Go tlhongwa ga Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete

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

(2) Maitlhomomagolo a Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete ke go—

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

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

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 Kelotlhoko ya Tlhomamo ya Ditšhelete

21. Komiti ya Kelotlhoko ya Tlhomamo 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 lephata la ditšhelete bo tshwanetse go itsisiwe, le go refosana dikakanyo, ka ga ditirwana tsa Banka ya Resefe le balaodi ba lephata la ditšhelete mabapi le tlhomamo ya ditšhelete;

(b) go dira dikatlanegiso go Mmusisi ka ga go tlhomiwa ga ditheo tse di rulaganeng tsa ditšhelete tse di botlhokwa;

(c) go gakolola Tona le Banka ya Resefe ka ga—

(i) dikgato tse di ka tsewang go tlhatlosa, sireletsa kgotsa tlamela, kgotsa go laola kgotsa thibela dikotsi go, tlhomamo ya ditšhelete; le

(ii) merero e e amanang le taolo ya dikotsi le thibelo;

(d) go dira dikatlanegiso go maphata a mangwe a puso mabapi le dikgato tse di maleba go bona go ka di tsaya go thusa mo go tlhatloseng, sireletseng kgotsa tlameleng, kgotsa laoleng kgotsa thibeleng dikotsi go tlhomamo ya ditšhelete; le

(e) tiro nngwe le nngwe eo e e neetsweng go ya ka molawana o o maleba.

Boloko

22. (1) Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete e na le maloko a a latelang:

(a) Mmusisi;

(b) Motlatsammusisi yo o rwalang maikarabelo a merero ya tlhomamo ya ditšhelete;

(c) Motlhankedimogolo wa Khuduthamaga;

(d) Khomišenara;

(e) Motlhankedimogolo wa Khuduthamaga wa Bolaodi jwa Bosetšhaba jwa Sekoloto;

(f) Mokaedikakaretso;

(g) Mokaedi wa Senthara ya Botlhodi jwa Ditšhelete; le

(h) tekanyetso ya batho ba le bararo ba tlaleletso ba ba thapilweng ke Mmusisi.

(2) Leloko la Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete e e kailweng go ya ka karolotlaleletso (1)*(h)* le dira go ya ka paka, le ka dipeelo, tse di tlhomamisitsweng ke Mmusisi.

Tshegetso ya tsamaiso ka Banka ya Resefe

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

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

Dikopano le tsamaiso

24. (1) Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete e tshwanetse go kopana bonnye mo dikgweding dingwe le dingwe tse thataro.

(2) Mmusisi—

(a) o ka bitsa kopano ya Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete nako nngwe le nngwe; le

(b) o tshwanetse go bitsa kopano fa a kopilwe go dira jalo ke Motlhankedimogolo wa Khuduthamaga, Khomišenara kgotsa ke Motlhankedimogolo wa Khuduthamaga ya Bolaodi jwa Bosetšhaba jwa Sekoloto.

(3) *(a)* Mmusisi o okamela kopano ya Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete eo Mmusisi a leng teng mo go yona.

(b) Fa Mmusisi a seyo mo kopanong, Motlatsammusisi yo o rweleng maikarabelo a merero ya tlhomamo ya ditšhelete o okamela kopano.

(4) *(a)* Leloko la Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete le le sa kgoneng go tsenela kopano le ka, morago ga go itsise maloko a mangwe le ka tumalano ya motho yo o tla okamelang kopano, tlhopha mongwe yo o refosanang nae go tsenela 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

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 ditshwanelo tse di tshwanang le tsa leloko la Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete.

(5) Komiti ya Kelotlhoko 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 setheo sa ditšhelete, go tsenela kopano.

(7) Komiti e ka tlhoma ditlhopha tse di farologaneng 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 Tshoganyetso ya Lephata la Ditšhelete.

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

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

(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) Motlatsammusisi yo o thapilweng ke Mmusisi, yo e leng Modulasetilo;

(b) dikemedi tsa balaodi bangwe le bangwe ba lephata la ditšhelete;

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

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

(4) Foramo ya Tshoganyetso ya Lephata la Ditšhelete e tshwanetse go kopana mo dikgweding 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 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 tshegetseng tlhomamo ya ditšhelete

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

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

(a) go dirisanammogo 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 tshedimosetso go Banka ya Resefe le Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete go tshegetsa kgotsa busetsa tlhomamo ya ditšhelete, jaaka go kopile Banka ya Resefe kgotsa Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete;

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

(d) go kgobokanya tshedimosetso go tswa go, kgotsa ka ga, ditheo tsa ditšhelete tse 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.

(2) Banka ya Resefe e tshwanetse, fa e diragatsa dithata tsa yona go ya ka Kgaolo eno, go tsaya tsia—

(a) dikakanyo dingwe le dingwe tse di tlhagisitsweng le tshedimosetso nngwe le nngwe e e begilweng ke balaodi ba lephata la ditšhelete; le

(b) dikatlanegiso dingwe le dingwe tsa Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete.

Memorantamao wa tumalano o o mabapi le tlhomamo ya ditšhelete

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

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

(3) Kgatiso ya memorantamo wa tumalano e tshwanetse ntle le tshenyo ya nako fa go sena go tsenwa mo go yona kgotsa tlhabololwa, go romelwa go Tona le leloko la Kabinete le le rwalang maikarabelo a merero ya sekoloto sa badirisi.

(4) Kamogelesego ya tiro nngwe le nngwe e e dirilweng ke molaodi wa lephata la ditšhelete go ya ka molao wa lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto kgotsa Molao wa Senthara ya Botlhodi jwa Ditšhelete ga e angwe ke go tlholega go ikamanya le karolo eno kgotsa memorantamo 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 ditšhelete, le tshwanetse—

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

(b) go neelana ka thuso eo le tshedimosetso go Banka ya Resefe le Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete go tshegetsa le go busetsa tlhomamo ya ditšhelete, 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 karolotlaleletso (1) jaaka setheo sa ditšhelete se se botlhokwa mo thulaganyong, Mmusisi o tshwanetse go—

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

(b) laletsa setheo sa ditšhelete go dira ditlhagiso 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 karolotlaleletso (1), Mmusisi o tshwanetse go tsaya tsia bonnye tse di latelang:

(a) Bogolo jwa setheo sa ditšhelete;

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

(c) kgokagano 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 Kelotlhoko ya Tlhomamo ya Ditšhelete;

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

(g) merero mengwe le mengwe e e ka newang ke Molawana.

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

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

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

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

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

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

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

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

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

(b) leverage ratios;

(c) liquidity;

(d) organisational structures;

(e) risk management arrangements, including guarantee arrangements;

(f) sectoral and geographical exposures;

(g) required statistical returns;

(h) recovery and resolution planning; and

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

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

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

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

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

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

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

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

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

(e) placing the financial institution under business rescue or adopting a business rescue plan for the financial institution;

(4) *(a)* Fa Mmusisi a tlhomamisitse go ya ka karolo 14(4) gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, Mmusisi o ka tlhoma setheo sa ditšhelete jaaka setheo sa ditšhelete se se botlhokwa mo thulaganyong ntle le go ikamanaya, kgotsa go ikamanya ka gotlhe, le karolotlaleletso (2) kgotsa (3).

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

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

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

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

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

Maemo a a botlhokwa le ditaelo tsa bolaodi mabapi le ditheo tsa ditšhelete tse di botlhokwa 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 pateletsa, ka ditaelo kgotsa maemo a tlhokomelo, ditlhokego tse di diragatswang go e le nngwe kgotsa go feta ya ditheo tsa ditšhelete tse di botlhokwa mo thulaganyong kgotsa go ditheo tse ka kakaretso mabapi le nngwe le nngwe ya dintlha tse di latelang:

(a) Dilekanyo tsa phutlhamo le ditlhokego tsa khapetlele, tse di ka akaretsang ditlhokego mabapi le disireletsi tsa khapetlele tse di sa tlwaelegang;
(b) dikamano magareng ga khapetlele ya kadimo le dišere;
(c) phatlhalatsokgwebo;
(d) dibopego tsa setheo;
(e) dithulaganyo tsa taolo ya dikotsi, go akaretsa dithulaganyo tsa tshireletsego;
(f) ditlhagiso tsa lephata le kgaolo;
(g) dipoelo tse di tlhokegang tsa dipalopalo;
(h) togamaano ya poelo le tharabololo; le
(i) morero mongwe le mongwe o o mabapi le maemo a tlhokomelo kgotsa taelo ya molaodi e e ka dirwang e e neetsweng ka Melawana e e dirilweng mo katlanegisong ya Mmusisi.

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

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

Go swetsa le dikgato tse di tshwanang mabapi le ditheo tsa ditšhelete tse di botlhokwa tse di rulaganeng

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

(a) Go sekega, go fetola, go tlhabolola kgotsa go phimola laesense e e reboletsweng setheo seo sa ditšhelete;
(b) go dirisa tharabololo e e kgethegileng go konotelela setheo sa ditšhelete ka boithaopo;
(c) go dira kopo go kgotlatshekelo ya gore setheo sa ditšhelete se konotelelwe;
(d) go thapa motsamaisi, motlhokomedi kgotsa motlhomamisi mo setheong sa ditšhelete;
(e) go baya setheo sa ditšhelete ka fa tlase ga phaloso ya kgwebo kgotsa tiriso ya leano la phaloso ya kgwebo mo setheong sa ditšhelete;

(f) entering into an agreement for amalgamation or merger of the financial institution with a company; and

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

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

CHAPTER 3

PRUDENTIAL AUTHORITY

Part 1

Establishment, objective and functions

Establishment

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

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

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

Objective

33. The objective of the Prudential Authority is to—

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

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

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

(d) assist in maintaining financial stability.

Functions

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

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

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

(ii) market infrastructures;

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

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

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

(e) support financial inclusion;

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

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

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

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

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

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

(f) go tsena mo tumalanong ya kopanyo kgotsa tshwaraganyo ya setheo sa ditšhelete le setlamo; le

(g) go tsena mo thulaganyong ya tumalano le banayasekoloto ba setheo sa ditšhelete.

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

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 dithoto;

(b) tsholetsa le go oketsa pabalesego le itekanelo ya thulaganyetso ya popegotheo ya mmaraka;

(c) sireletsa barekedi ba ditšhelete kgatlhanong le kotsi ya gore ditheo tseo tsa ditšhelete di ka palelwa ke go fitlhelela ditlamego tsa tsona; le

(d) thusa mo go tshegetseng tlhomamo ya ditšhelete.

Ditiro

34. (1) Gore bo fitlhelele maitlhomo a jona, Bothati jwa Tlhokomelo bo tshwanetse—

(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 dithoto; le

(ii) dithulaganyetso tsa popegotheo ya mmaraka;

(b) go dirisana mmogo le, le go thusa Banka ya Resefe, Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, Bolaodi jwa Bosetšhaba jwa Sekoloto le Senthara ya Botlhodi jwa Ditšhelete, jaaka go tlhokega go ya ka Molao ono;

(c) go dirisana mmogo le Khansele ya Dikema tsa Kalafi mo go sekasekeng merero ya dikgatlhegelo tse di tshwanang;

(d) go tshegetsa kgaisano ya leruri mo kabelong ya dikuno tsa ditšhelete le ditirelo tsa dithoto, 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 fitlheleleng 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 tshwanetse go dira tiro nngwe le nngwe e 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 fitlhelela maitlhomo a jona, go akaretsa le—

(a) go dirisana mmogo le badiri-ka-bona mo ditaolong tse dingwe; le

(b) go tsaya karolo mo bolaoding jwa boditšhabatšhaba, botlhokomeding, 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 tlhokego ya tsamaiso e e bonelang pele segolosegolo, e e ikaegileng ka dipoelo le e e itshetlegileng ka mokgwa o o theilweng mo dikotsing, le go baya kwa pele tiriso ya ditlamelwana tsa bona go tsamaelana le botlhokwa jwa dikotsi mo go fitlheleleng maitlhomo a jona; le

(b) go ya ka moo go kgonagalang, go tsaya tsia maemo a taolo le tlhokomelo a boditšhabatšhaba a a theilweng ke mekgatlho e e kailweng mo karolo-tlaleletsong (3)*(b)*, le maemo mo Rephaboliking.

(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 tlhoma le go tsenya tirisong dikgato le dithulaganyo tse di maleba e bile di nonofile tsa puso, ka go ela tlhoko, mo gare ga dilo tse dingwe, maemo le ditiragatso tse di amogetsweng boditšhabatšhaba mo mabakeng ano.

Go thapiwa ga Motlhankedimogolo wa Khuduthamaga

36. (1) Mmusisi o tshwanetse, ka tumalano le Tona, go thapa Motlatsammusisi yo o leng moitseanape mo lephateng la ditšhelete, ntle le Motlatsammusisi yo o rwalang maikarabelo a tlhomamo ya ditšhelete, jaaka Motlhankedimogolo wa Khuduthamaga wa Bothati jwa Tlhokomelo.

(2) Fa go thapiwa Motlatsammusisi jaaka Motlhankedimogolo 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 Motlhankedimogolo wa Khuduthamaga; le

(b) boemo jwa tiro jo bo tshwanetseng go fitlhelelwa kgatlhanong le ditekanyetsotiro tseo.

(3) Motho a ka se thapiwe kgotsa go tshwara maemo a Motlhankedimogolo 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 rwala maikarabelo a taolo ya letsatsi le letsatsi le tsamaiso ya Bothati jwa Tlhokomelo; le

(b) go tsamaelana le karolo 42*(b)*, o tshwanetse go dira ditiro tsa Bothati jwa Tlhokomelo, go akaretsa le go diragatsa dithata le go dira ditiro tse di tsamaelanang le ditiro tseo.

(2) Fa a dira go ya ka karolotlaleletso (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 tlhomamisa;

(b) o, kwa bokhutlong jwa paka eo, na le tshwanelo ya go ka thapiwa gape sebaka sa paka e le esi e e okeditsweng; le

(c) o tshwanetse go tswa mo ofising pele ga bokhutlo jwa paka ya tiro fa motho yoo—

(i) a rola tiro jaaka Motlhankedimogolo wa Khuduthamaga, ka go naya Mmusisi kitsiso e e kwetsweng ya sebaka sa bonnye dikgwedi tse tharo, kgotsa paka e e khutshwane e e ka amogelwang ke Mmusisi;

(ii) ceases to hold office as Deputy Governor; or

(iii) is removed from office as Chief Executive Officer.

(2) The Governor must, at least three months before the end of the Chief Executive Officer's first term of office, inform the Chief Executive Officer whether the Governor proposes to re-appoint the person as Chief Executive Officer. 5

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— 10

(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 15

(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. 20

(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. 25

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. 30

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. 35

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 40

(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; 45

(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; 50

(ii) a tlogela tiro jaaka Motlatsammusisi; kgotsa

(iii) a tlogediswa tiro jaaka Motlhankedimogolo wa Khuduthamaga.

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

Go tloswa ga Motlhankedimogolo wa Khuduthamaga

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

(2) Mmusisi o ka, ka tumalano le Tona, tlosa Motlhankedimogolo wa Khuduthamaga mo tirong fa patlisiso e e ikemetseng, e e tlhomilweng ke Mmusisi ka tumalano le Tona, e fitlheletse gore Motlhankedimogolo wa Khuduthamaga—

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

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

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

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

(3) Fa patlisiso e e ikemetseng e tlhomilwe go ya ka karolotlaleletso (2), Mmusisi o ka sekega Motlhankedimogolo wa Khuduthamaga mo tirong fa go sa ntse go letilwe tshwetso ya go tlosa Motlhankedimogolo wa Khuduthamaga.

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

(5) Fa Motlhankedimogolo wa Khuduthamaga a tlositswe mo tirong go ya ka karolotlaleletso (2), Tona o tshwanetse go romela pegelo le diphitlhelelo tsa patlisiso e e ikemetseng go Kokoano Bosetšhaba mo matsatsing a le 30.

Motlhankedimogolo wa Khuduthamaga wa nama-o-tshwere

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

Go tlhongwa ga Komiti ya Tlhokomelo

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

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

Botsayakarolo jwa Komiti ya Tlhokomelo

42. Komiti ya Tlhokomelo e tshwanetse—

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

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

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

(ii) go rolela dithata tsa Bothati jwa Tlhokomelo go Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka karolo 77 ya memorantamo wa tumalano;

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

(iv) go amogela ditsamaiso tsa tiro ya tsamaiso ya Bothati jwa Tlhokomelo, le tlhabololo nngwe le nngwe go ditsamaiso tseo;

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

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

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

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

Meetings of Prudential Committee

43. (1) *(a)* The Prudential Committee must meet as often as necessary for the performance of its functions.

(b) An audio or audio-visual conference among a majority of the members of the Prudential Committee, which enables each participating member to hear and be heard by each of the other participating members, must be regarded as a meeting of the Prudential Committee, and each participating member must be regarded as being present at such a meeting.

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

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

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

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

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

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

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

Decisions of Prudential Committee

44. (1) *(a)* A proposal before a meeting of the Prudential Committee becomes a decision of the committee if a majority of the members present, or regarded as being present, and voting on the proposal, vote for the proposal.

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

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

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

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

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

Governance and other subcommittees

45. (1) The Prudential Committee must establish—

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

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

(v) go thapa maloko a dikomititlaleletso tsa Bothati jwa Tlhokomelo a a tlhokegang kgotsa a a dumeletsweng ke molao, le go bontsha tsela mabapi le maitsholo a tiro a komititlaleletso nngwe le nngwe;

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

(vii) go dira ditlhomamiso tsa dituelo go ya ka molao wa lephata la ditšhelete; le

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

Dikopano tsa Komiti ya Tlhokomelo

43. (1) *(a)* Komiti ya Tlhokomelo e tshwanetse go kopana kgapetsakgapetsa fa go tlhokega go dira ditiro tsa yona.

(b) Khonferense ya kutlo kgotsa kutlopono magareng ga bontsi jwa maloko a Komiti ya Tlhokomelo, e e kgontshang leloko lengwe le lengwe le le tsayang karolo go utlwa le 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 karolotlaleletso (1)*(b)* e diragatswang, kwa mafelong a a tlhomamisitsweng 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 Motlhankedimogolo wa Khuduthamaga, yo o supilweng ke Mmusisi kgotsa yo o tlhophilweng go ya ka tsamaiso e e tlhomamisitsweng ke Mmusisi, o okamela kopano.

(5) Mmusisi kgotsa Motlatsammusisi yo o okametseng kopano ya Komiti ya Tlhokomelo o ka laletsa kgotsa letla motho mongwe le mongwe, go akaretsa le kemedi ya Bothati jwa Boitshwaro a Lephata la Ditšhelete kgotsa Bolaodi jwa Bosetšhaba jwa Sekoloto, go tla kopanong ya Komiti ya Tlhokomelo, fela motho yo o laleditsweng ga a na tshwanelo ya go tlhopha kwa kopanong.

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

(7) Motlhankedimogolo wa Khuduthamaga o tshwanetse go netefatsa gore metsotso ya kopano e gatiswa ka mokgwa o o rebotsweng ke Motlhankedimogolo 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 tlileng kopanong, kgotsa a a tseetsweng go nna teng kwa kopanong, le ao a ka tsayang karolo mo tshekatshekong ya tshitsinyo, a boutela tshitsinyo.

(b) Mo lebakeng la fa diboutu tsa tshitsinyo di lekana, motho yo o okametseng kopano o dira boutu ya makgaolakgang mo godimo ga boutu ya tlwaelo.

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

(3) Tshwetso ya Komiti ya Tlhokomelo ga e tlhoke kamogelesego fela ka ntlha ya gore—

(a) go nnile le phatlatiro 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 go laola dikotsi tseo; le

(b) komititlaleletso go gakolola Komiti ya Tlhokomelo ka ga dikgato tse di tshwanetseng go tsewa go netefatsa gore Bothati jwa Tlhokomelo bo ikamanya le ditlamego tsa jona mabapi le boruni le taolo ya ditšhelete.

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

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

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

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

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

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

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

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

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

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

Duties of members of Prudential Committee and members of subcommittees

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

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

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

(i) in good faith;

(ii) for a proper purpose; and

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

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

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

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

(c) cause improper detriment to another person.

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

Regulatory strategy

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

(2) A regulatory strategy must—

(a) state—

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

(ii) the intended key outcomes of the strategy;

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

(i) how it should perform its regulatory and supervisory functions;

(2) Komiti ya Tlhokomelo e ka tlhoma komiti e le esi kgotsa go feta e e nang le ditiro tse di tla tlhomamisiwang ke Komiti ya Kelotlhoko 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 akaretsa 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) Leloko la komititlaleletso e e tlhomilweng go ya ka karolo eno, go akaretsa le leloko le le seng mo tirelong ya lephata la puso, o thapiwa mo pakeng, le go ya ka mabaka le dipeelo, le dipeelo tse di amanang le mogolo, jaaka go tlhomamisitse Komiti ya Tlhokomelo.

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

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

(8) Motlhankedimogolo wa Khuduthamaga o tshwanetse go netefatsa gore metsotso 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 tlhomamisitsweng ke Komiti ya Tlhokomelo.

Ditiro tsa maloko a Komiti ya Tlhokomelo le maloko a dikomititlaleletso

46. (1) Leloko 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

(iii) ka tlhokomelo e e tseneletseng le matsetseleko tse motho 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 tshedimosetso nngwe le nngwe e a e fitlheletseng jaaka leloko leo go—

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

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

(c) thatafaletsa motho yo mongwe.

(3) Mabapi le maitlhomo a karolo eno, **"kunomolemo"** le **"thatafaletso"** ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

Leano la bolaodi

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

(2) Leano la bolaodi le tshwanetse go—

(a) tlhagisa—

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

(ii) dipoelo tse di botlhokwa tse di lebeletsweng tsa leano;

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

(i) mokgwa o bo tshwanetseng go dira ditiro tsa jona tsa bolaodi le botlhokomedi;

(ii) the matters to which it should have regard in performing those functions;
(iii) its approach to administrative actions; and
(iv) how it should give effect to the requirements applicable to it with respect to—
(aa) transparency;
(bb) openness to consultation; and
(cc) accountability; and
(c) be aimed at giving effect to section 34(4).

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

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

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

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

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

Delegations

48. (1) The Prudential Committee may, in writing—
(a) delegate any power or duty referred to in section 42*(b)*(viii) to the Chief Executive Officer or another staff member of the Prudential Authority; and
(b) at any time, amend a delegation made in terms of paragraph *(a)*.

(2) The Chief Executive Officer may, in writing—
(a) delegate to a staff member of the Prudential Authority or an official or staff member of the Reserve Bank any power or duty assigned or delegated to the Chief Executive Officer in terms of a financial sector law, except the power to delegate contained in this subsection;
(b) delegate to an administrative action committee the power to impose administrative penalties that are specified in the delegation, if the Prudential Authority establishes an administrative action committee; and
(c) at any time amend a delegation made in terms of paragraph *(a)* or *(b)*.

(3) A delegation in terms of subsection (1)*(a)* or (2)*(a)* may be to a specific person or to a person holding a specific position.

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

(5) A delegation in terms of this section—
(a) is subject to the limitations and conditions specified in the delegation;

(ii) merero e bo tshwanetseng go e ela tlhoko mo go direng ditiro tsa jona;
(iii) itlhagiso ya jona go ditiro tsa tsamaiso; le
(iv) ka moo bo ka neelanang ka ditlhokego tse di maleba go jona mabapi le—
(aa) ponaletshego;
(bb) ditherisano tse di seng bofitlha; le
(cc) boikarabelo; le
(c) go lebiswa mo 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 tlhabolola nako nngwe le nngwe.

(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, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le Bolaodi jwa Bosetšhaba jwa Sekoloto; le
(ii) go laletsa ditshwaelo go tswa go Tona, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le Bolaodi jwa Bosetšhaba jwa Sekoloto, ka ga thalo, gore di dirwe mo pakeng e e kailweng ke Komiti ya Tlhokomelo.

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

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

(6) Komiti ya Tlhokomelo e tshwanetse go leka ka gotlhe go fokotsa, ka moo go kgonagalang e bile go tshwanetse, go sa tsamaelaneng magareng ga leano la bolaodi la Bothati jwa Tlhokomelo le leano la bolaodi la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(7) Motlhankedimogolo wa Khuduthamaga o tshwanetse—
(a) go tlamela kgatiso ya leano la bolaodi la Bothati jwa Tlhokomelo, le tlhabololo nngwe le nngwe jaaka e amogetswe, go Tona, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le Bolaodi jwa Bosetšhaba jwa Sekoloto; le
(b) go phasalatsa leano le tlhabololo nngwe le nngwe.

Ditholelo

48. (1) Komiti ya Tlhokomelo e ka, ka go kwala—
(a) rolela thata nngwe le nngwe kgotsa tiro e e kailweng mo karolong 42*(b)*(viii) go Motlhankedimogolo wa Khuduthamaga kgotsa modirammogo mongwe wa Bothati jwa Tlhokomelo; le
(b) ka nako nngwe le nngwe, tlhabolola tholelo e e dirilweng go ya ka temana *(a)*.

(2) Motlhankedimogolo wa Khuduthamaga o ka, ka go kwala—
(a) rolela go modirimmogo wa Bothati jwa Tlhokomelo kgotsa mokantoro kgotsa motlhankedi kgotsa modirammogo wa Banka ya Resefe thata nngwe le nngwe kgotsa tiro e e neilweng kgotsa roletsweng Motlhankedimogolo wa Khuduthamaga go ya ka molao wa lephata la ditšhelete, ntle le thata ya tholelo e e umakilweng mo karolotlaleletsong eno;
(b) rolela go komiti ya tiro ya tsamaiso thata ya go pateletsa dikotlhao tsa tsamaiso tse di tsepamisitsweng mo tholelong, fa Bothati jwa Tlhokomelo bo tlhoma komiti ya tiro ya tsamaiso; le
(c) ka nako nngwe le nngwe go tlhabolola tholelo e e dirilweng go ya ka temana *(a)* kgotsa *(b)*.

(3) Tholelo go ya ka karolotlaleletso (1)*(a)* kgotsa (2)*(a)* e ka dirwa go motho yo o tsepameng kgotsa go motho yo o tshwereng maemo a a tsepameng.

(4) Thata nngwe le nngwe kgotsa tiro ya Bothati jwa Tlhokomelo e ka rolelwa go Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ka memorantamo wa tumalano wa karolo 77 go tsamaelana le letlhomeso le thulaganyo ya tholelo e e tlhabolotsweng ke balaodi ba lephata la ditšhelete go netefatsa gore tholelo nngwe le nngwe ga e thibele Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mo go fitlheleleng maitlhomo a jona a a tlhalositsweng mo dikarolong 33 le 57.

(5) Tholelo go ya ka karolo eno—
(a) e tsamaelana le ditekanyetso le dipeelo tse di tlhalositsweng mo tholelong;

(b) does not divest the Prudential Authority, the Prudential Committee or the Chief Executive Officer of responsibility in respect of the delegated power or duty; and

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

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

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

Disclosure of interests

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

(a) the member has; or

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

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

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

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

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

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

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

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

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

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

(b) when the interest was acquired.

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

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

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

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

(b) an interest that is not material.

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

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

(b) an offence in terms of section 265.

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

(9) The Chief Executive Officer must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.

(b) ga e amoge Bothati jwa Tlhokomelo, Komiti ya Tlhokomelo kgotsa Motlhankedimogolo wa Khuduthamaga maikarabelo mabapi le thata e e roletsweng kgotsa tiro; le

(c) e ka gogelwa morago nako nngwe le nngwe, mme kgogelomorago ga e ame ditshwanelo dipe kgotsa melato tse di bonweng ka ntlha ya ditlamorago tsa tholelo.

(6) Sengwe le sengwe se se dirwang 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 ditšhelete ya go rolela thata kwa Bothating jwa Tlhokomelo.

Tshenolo ya dikgatlhegelo

49. (1) Leloko la Komiti ya Tlhokomelo kgotsa komititlaleletso e e tlhomilweng go ya ka karolo 45(1) le tshwanetse go senola, kwa kopanong ya Komiti ya Tlhokomelo kgotsa komititlaleletso, go ya ka mabaka, kgotsa ka go kwalela mongwe le mongwe wa maloko a mangwe a komiti eo kgotsa komititlaleletso, kgatlhegelo nngwe le nngwe mo morerong o o tsewang kgotsa o o tla tsewang tsia ke komiti e e maleba ya gore—

(a) leloko le na le yona; kgotsa

(b) motho yo o amanang le leloko o na le yona.

(2) Tshenolo e e kailweng mo karolotlaleletsong (1) e 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 tshwanetseng go senolwa go ya ka karolotlaleletso (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 karolotlaleletso (1); le

(ii) maloko a mangwe a komiti eo a sweditse gore kgatlhegelo e ka se tseelwe gore e ama go dira tiro go go siameng ga leloko leo mabapi le morero.

(b) Tshekatsheko nngwe le nngwe ya, kgotsa tshwetso ya, morero o o sa ikamanyeng le temana *(a)* ga e amogelesege e bile e tshwanetse go sekasekwa gape kgotsa go swetswa ntle le go nna teng ga leloko.

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

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

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

(a) gore kgatlhegelo ke e e tlhamaletseng, motsopodia, ya tšhelete kgotsa e seng ya tšhelete; kgotsa

(b) gore kgatlhegelo e fitlheletswe leng.

(6) Mabapi le maitlhomo a karolo eno, ga go tlhokege gore motho a senole—

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

(i) motlhankedi kgotsa modiri wa Banka ya Resefe; kgotsa

(ii) morekedi wa ditšhelete wa setheo sa ditšhelete; kgotsa

(b) kgatlhegelo e e senang boleng.

(7) Go palelwa ga motho go senola ka ga kgatlhego go tsamaelana le karolo eno le dikaelo dingwe le dingwe tse di ka neelwang ke Tona go ya ka karolo 288(3) go nna le ditlamorago tsa—

(a) tlolo ya ditlamego mo karolong 46 kgotsa 52, karolo nngwe le nngwe e e diragatswang mo mothong; le

(b) tlolo ya molao go ya ka karolo 265.

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

(9) Motlhankedimogolo wa Khuduthamaga o tshwanetse go tshola rejisetara ya ditshenolo tsotlhe tse di dirilweng go ya ka karolo eno le ya ditshwetso tsotlhe tse di dirilweng go ya ka karolo eno.

Part 3

Staff, resources and financial management

Staff and resources

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

(2) The Prudential Authority may—

(a) enter into secondment arrangements in respect of persons;

(b) engage persons on contract otherwise than as employees;

(c) enter into contracts;

(d) acquire or dispose of property;

(e) insure itself against any loss, damage, risk or liability that it may suffer or incur; and

(f) do anything else necessary for the performance of its functions.

(3) The Prudential Authority may not enter into a secondment arrangement in respect of a person, or engage persons on contract, unless the person and the Prudential Authority have agreed in writing on—

(a) the performance measures that will be used to assess that person's performance; and

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

Resources provided by Reserve Bank

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

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

Duties of staff members

52. (1) A person who is or has been a staff member of the Prudential Authority may not use that position or any information obtained as a staff member to—

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

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

(c) cause improper detriment to another person.

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

Financial management duties of Chief Executive Officer

53. The Chief Executive Officer must—

(a) recommend to the Prudential Committee fees for prudential supervision by, and other services provided by, the Prudential Authority in terms of this Act and other financial sector laws, and levies in terms of levies legislation;

(b) exercise the utmost care to protect the assets and records of the Prudential Authority;

(c) act with fidelity, honesty, integrity and in the best interests of the Authority in managing the financial affairs of the Prudential Authority;

(d) on request, disclose to the Minister or the Governor all material facts relating to the affairs of the Prudential Authority, including those reasonably discoverable, that in any way may influence decisions or actions of the Minister or the Governor;

(e) seek, within the Chief Executive Officer's sphere of influence, to prevent any prejudice to the financial interests of the Republic;

Karolo 3

Badiri, ditlamelo le taolo ya ditšhelete

Badiri le ditlamelo

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

(2) Bothati jwa Tlhokomelo bo ka—

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

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

(c) go tsena mo dikonterakeng;

(d) go reka le go rekisa thoto;

(e) go 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 fitlhelelwa kgatlhanong le ditekanyetso tseo.

Ditlamelo tse di tlamelwang ke Banka ya Resefe

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

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

Ditiro tsa maloko a badiri

52. (1) Motho yo e leng kgotsa yo o kileng a nna leloko la badiri ba Bothati jwa Tlhokomelo o ka se dirise maemo ao kgotsa tshedimosetso nngwe le nngwe 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) kgoreletsa Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa

(c) thatafaletsa motho yo mongwe.

(2) Mabapi le maitlhomo a karolo eno, **"kunomolemo"** le **"thatafaletso"** ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

Ditiro tsa taolo ya ditšhelete tsa Motlhankedimogolo wa Khuduthamaga

53. Motlhankedimogolo wa Khuduthamaga o tshwanetse—

(a) go atlanegisa go Komiti ya Tlhokomelo dituelo tsa tlhokomelo ya botlhokomedi 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 bontsha tlhokomelo e kgolo go sireletsa dithoto le direkoto tsa Bothati jwa Tlhokomelo;

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

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

(e) go batla, mo tshusumetsong ya Motlhankedimogolo wa Khuduthamaga, go thibela kgobelelo nngwe le nngwe go dikgatlhegelo tsa ditšhelete tsa Rephaboliki;

(f) ensure that the Prudential Authority has and maintains—
(i) effective, efficient and transparent systems of financial and risk management;
(ii) an effective, efficient and transparent system of internal audit; and
(iii) a procurement and provisioning system that is fair, equitable, transparent, competitive and cost-effective;

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

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

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

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

Information by Chief Executive Officer

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

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

Annual reports and financial accounts

55. (1) The Chief Executive Officer must—

(a) ensure that full and proper records of the financial affairs of the Prudential Authority are kept and maintained;

(b) prepare financial accounts for the Prudential Authority for each financial year which will form part of the annual report of the Reserve Bank; and

(c) submit to the Minister, within five months after the end of each financial year, for tabling in the National Assembly an annual report on the activities of the Prudential Authority during that financial year, including particulars of any matters that may be prescribed by Regulation for this section.

(2) The financial accounts of the Prudential Authority referred to in subsection (1)*(b)*—

(a) must be disclosed in the annual report of the Reserve Bank in a manner that reflects the direct costs that accrue to the Prudential Authority; and

(b) may be disclosed in the form of an annexure to the annual report of the Reserve Bank.

(f) go netefatsa gore Bothati jwa Tlhokomelo bo na le gape bo tshegetsa—
(i) dithulaganyo tsa taolo ya ditšhelete le kotsi tse di nonofileng, di na le bokgoni le ponalatsego;
(ii) thulaganyo ya boruni jwa ka fa gare e e nonofileng, e na le bokgoni le ponalatsego; 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 maitsholo a bosenyi le ditshenyegelo tse di sa tsamaelaneng le dipholisi tsa tsamaiso tsa Bothati jwa Tlhokomelo; le
(iii) laola khapetlele ya tiro e e leng teng ka nonofo le tshomarelo;

(h) laola le go sireletsa dithoto tsa Bothati; le go laola lotseno, ditshenyegelo le melato ya Bothati;

(i) tlhoma dithulaganyo le ditsamaiso go netefatsa gore dikgato tsa kgalemo tse di nonofileng e bile di le maleba di a tsewa kgatlhanong le leloko la badirimmogo ba Bothati le le—
(i) tlolang molao o o malebana le tiragatso ya ditiro tsa Bothati; kgotsa
(ii) amegang mo maitsholong a a nyenyefatsang taolo ya ditšhelete 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 Matlotlo a Bosetšhaba ka tshedimosetso, dipoelo, dikwalo, ditlhaloso le ditshegetso tse di ka neelwang ke Molawana wa karolo eno kgotsa eo e ka kopiwang ke Komiti ya Tlhokomelo kgotsa Matlotlo a Bosetšhaba.

(2) Karolotlaleletso (1) ga e tlhoke kgotsa dumelele kabelo ya tshedimosetso ka ga batho ba ba ka supiwang go tswa mo tshedimosetsong.

Dipegelo tsa ngwaga le diakhaonto tsa ditšhelete

55. (1) Motlhankedimogolo wa Khuduthamaga o tshwanetse go—

(a) netefatsa gore direkoto tse di feletseng tsa nnete tsa merero ya ditšhelete tsa Bothati jwa Tlhokomelo di a tsholwa le go tlhokomelwa;

(b) baakanya diakhanto tsa ditšhelete tsa Bothati jwa Tlhokomelo ngwaga mongwe le mongwe wa ditšhelete tse di tla nnang karolo ya pegelo ya ngwaga ya Banka ya Resefe; le

(c) romelela Tona mo dikgweding tse tlhano morago ga bokhutlo jwa ngwaga mongwe le mongwe wa ditšhelete, mabapi le go di baya fa pele ga Kokoano Bosetšhaba pegelo ya ngwaga e e ka ga ditiro tsa Bothati jwa Tlhokomelo mo ngwageng oo wa ditšhelete , go akaretsa le dintlha tsa morero mongwe le mongwe tse di ka neelwang ke Molawana wa karolo eno.

(2) Diakhanto tsa ditšhelete tsa Bothati jwa Tlhokomelo tse di kailweng mo karolotlaleletsong (1)*(b)*—

(a) di tshwanetse go senolwa mo pegelong ya Banka ya Resefe ka mokgwa o o bontshang ditshenyegelo ka tlhamalalo tse di tswang kwa Bothating jwa Tlhokomelo; e bile

(b) di ka senolwa ka mokgwa wa mametlelelo go pegelo ya ngwaga ya Banka ya Resefe.

CHAPTER 4

FINANCIAL SECTOR CONDUCT AUTHORITY

Part 1

Establishment, objective and functions

Establishment

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

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

Objective

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

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

(b) protect financial customers by—

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

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

(c) assist in maintaining financial stability.

Functions

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

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

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

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

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

(e) promote financial inclusion;

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

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

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

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

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

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

KGAOLO 4

BOTHATI JWA BOITSHWARO JWA LEPHATA LA DITŠHELETE

Karolo 1

Thlomo, maikaelelo le ditiro

Thlomo

56. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo a tlhongwa, jaaka setheo se se mo molaong.

(2) Bothati ke setheo sa setšhaba sa bosetšhaba mabapi le maitlhomo a *Public Finance Management Act* le, ntle le karolo 49(2) ya *Public Finance Management Act*, le kwa ntle ga karolo 49(2) ya *Public Finance Management Act*, Khomišenara ke moitseanape yo o ikarabelang wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mabapi le maitlhomo a Molao ono.

Maikaelelo

57. Maikaelelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ke go—

(a) oketsa le go tshegetsa nonofo le tshiamo ya thulaganyo ya ditšhelete; le

(b) sireletsa barekedi ba ditšhelete ka go—

(i) ntshetsa pele tsholo e e lolameng ya badirelwa ba ditšhelete ka ditheo tsa ditšhelete; le

(ii) tlamela barekedi ba ditšhelete le bao ba tla nnang barekedi ba ditšhelete ka mananeo a thuto ya tsa ditšhelete, le ka go tsholetsa bobuisokwalo jwa tsa ditšhelete le bokgoni jwa barekedi ba ditšhelete le bao ba tla nnang barekedi ba ditšhelete go tsaya ditshwetso tse di nepagetseng tsa ditšhelete; le

(c) thusa go tshegetsa tlhomamo ya ditšhelete.

Ditiro

58. (1) Go fitlhelela maikaelelo a jona, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go—

(a) laola le go tlhokomela, go tsamaelana le melao ya lephata la ditšhelete, boitshwaro jwa ditheo tsa ditšhelete;

(b) dirisana mmogo le, le go thusa, Banka ya Resefe, Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete, Bothati jwa Tlhokomelo le Bolaodi jwa Bosetšhaba jwa Sekoloto, jaaka go tlhokega go ya ka Molao ono;

(c) dirisana mmogo le Khansele ya Dikema tsa Kalafi mo go sekasekeng merero eo ka bobedi e nang le kgatlhego mo go yona;

(d) ntshetsa pele, go fitlhela mo go tsamaisaneng le phitlhelelong ya maikaelelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, kgaisano e e tsweletswang mo kabelong ya dikuno tsa ditšhelete le ditirelo tsa ditšhelete, go akaretsa le ka go dirisana mmogo le go kopana le Khomišene ya Kgaisano;

(e) ntshetsa pele tsenyeletso ya ditšhelete;

(f) tlhatlhoba nako le nako modiko le seelo tsa bolaodi jwa lephata la ditšhelete, le go tsaya dikgato go fokotsa dikotsi tse di supilweng go fitlhelela maikaelelo a jona kgotsa tiragatso e e nonofileng ya ditiro tsa jona;

(g) tsamaisa go kgobokanngwa ga makgethwana le go phatlalatsa madi a a amogetsweng mabapi le makgethwana;

(h) dira le go phasalatsa patlisiso e e malebana le maikaelelo a jona;

(i) tlhokomela seelo se thulaganyo ya ditšhelete e abelang barekedi ba ditšhelete dipoelo tse di lolameng ka teng, ka go tsepama mo tolamong le tshiamong ya dikuno tsa ditšhelete le ditirelo tsa ditšhelete le seelo seo bo tla fitlhelelang ditlhokego le ditsholofelo tse di amogelesegang tsa barekedi ba ditšhelete; le

(j) tlhama le go tsenya tirisong maano le mananeo a a mabapi le thuto ya tsa ditšhelete mo setšhabeng ka kakaretso.

(2) Mabapi le setheo sa ditšhelete seo e leng batlamedi ba sekoloto se se laolwang go ya ka Molao wa Bosetšhaba wa Sekoloto, Bothati jwa Boitshwaro 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 sekoloto ka fa tlase ga tumalano ya sekoloto fela mabapi le merero e e kailweng mo karolong 108.

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

(4) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka dira sengwe le sengwe se se tlhokegang go fitlhelela maikaelelo 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 Lephata la Ditšhelete bo tshwanetse go—

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

(b) tsaya tsia tlhokego ya itlhagiso e bogolo e thibelang, e e tsepameng mo dipoelong le mokgwa o o theilweng mo dikotsing, le go tlisa pele tiriso ya ditlamelwana tsa jona go tsamaelana le botlhokwa jwa dikotsi mo go ftlheleleng maikaelelo a jona; le

(c) go ya ka moo go ka kgonegang, go tsaya tsia bolaodi jwa boditšhabatšhaba le maemo a tlhokomelo a a beilweng ke mekgatlho e e kailweng mo karolotlaleletsong (3)*(b)*, le maemo a a renang mo Rephaboliking.

(6) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go dira ditiro tsa jona ntle le letshogo, tseoletlhakore kgotsa kgobelelo.

Karolo 2

Puso

Maithlomo ka Kakaretso a puso

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

Thlome lebotsayakarolo jwa Komiti Khuduthamaga

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

(2) Komiti Khuduthamaga e na le Khomišenara le Batlatsakhomišenara.

(3) Komiti Khuduthamaga e tshwanetse go—

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

(b) dira boemong jwa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mo mererong e e latelang:

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

(ii) go rolela dithata tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go Bothati jwa Tlhokomelo go ya ka karolo 77 ya memorantamo wa tumalano;

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

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

(v) go thapa maloko a dikomiti tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete tse di tlhokegang kgotsa letleletsweng ke molao, le go neelana ka dikaelo mabapi le tiragatso ya tiro ya komiti nngwe le nngwe;

(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 dingwe tsa bolaodi go ya ka melao ya lephata la ditšhelete eo e leng bolaodi jo bo rwalang maikarabelo;
(vii) go neelana, go farologantsha, go 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.

Khomišenara le Batlatsakhomišenara

61. (1) Tona o tshwanetse go thapa motho yo o nang le boitseanape jo bo maleba mo lephateng la ditšhelete jaaka Khomišenara wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(2) Tona o tshwanetse go thapa bonnye batho ba le babedi, mme e seng go feta ba le bane, ba ba nang le boitseanape jo bo maleba mo lephateng la ditšhelete jaaka Batlatsakhomišenara.

(3) Khomišenara le Batlatsakhomišenara ba dira mo maemong a nako e e tletseng a khuduthamaga.

(4) Kgato ya go tlhopha batho ba ba tla thapiwang jaaka Khomišenara kgotsa batlatsakhomišenara e ka kaelwa ka Molawana.

(5) *(a)* Khomišenara o ka thapa Motlatsakhomišenara go tshwara marapo nakwana jaaka Khomišenara fa Khomišenara a seyo mo ofising.

(b) Fa Khomišenara a sa kgone go thapa Khomišenara wa nama-o-tshwere go ya ka temana *(a)*, kgotsa fa go na le phatlhatiro mo ofising ya Khomišenara, Tona o ka thapa Motlatsakhomišenara go tshwara marapo nakwana jaaka Khomišenara ka nako e Khomišenara a seng teng kgotsa go fitlhela go thapiwa Khomišenara.

(6) Motho a ka se thapiwe, kgotsa go nna go nna mo tirong jaaka, Khomišenara kgotsa Motlatsakhomišenara fa motho—

(a) a ileditswe; kgotsa
(b) e se moagi wa Rephaboliki ka tlhago.

(7) Fa a thapa Khomišenara kgotsa Motlatsakhomišenara, Tona le motho yo o thapilweng ba tshwanetse go dumalana, ka go kwala, ka—

(a) ditekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiro ya motho yoo; le
(b) boemo jwa tiro jo bo tshwanetseng go fitlhelelwa kgatlhanong le ditekanyetso tseo.

Botsayakarolo jwa Khomišenara le Batlatsakhomišenara

62. (1) Khomišenara—

(a) o rwala maikarabelo a taolo le tsamaiso ya letsatsi le letsatsi ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le
(b) go tsamaelana le karolo 60(3)*(b)*, o tshwanetse go dira ditiro tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, go akaretsa le go diragatsa dithata le maikarabelo a a tsamaelanang le ditiro tseo.

(2) Ditiro tsa Batlatsakhomišenara di tlhomamiswa ke Komitikhuduthamaga.

(3) Fa a dira go ya ka karolotlaleletso (1) kgotsa (2), Khomišenara kgotsa Motlatsakhomišenara o tshwanetse go tsenya mo tirisong dipholisi le maano tse di amogetsweng ke Komitikhuduthamaga.

Paka ya ofisi

63. (1) Motho yo o thapilweng jaaka Khomišenara kgotsa Motlatsakhomišenara—

(a) o dira sebaka sa paka e e tlhomamisitsweng ke Tona, paka eo e ka se feteng dingwaga tse tlhano;
(b) o, ka nako ya bokhutlo jwa paka eo ya tiro, na le tshwanelo ya go tlhophiwa gape sebaka sa paka e nngwe gape; le
(c) o tshwanetse go tlogela tiro pele ga paka e ya bokhutlong fa motho yoo—
(i) a rola tiro ka go kwalela Tona kitsiso ya bonnye dikgwedi tse tharo, kgotsa nako e khutshwane e Tona o ka e amogelang; kgotsa
(ii) o beleseditswe mo tirong jaaka Khomišenara 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 5

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 10

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. 15

(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); 20

(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 25 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; 30

(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. 35

(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 40 discharge the responsibilities of office if he or she is absent from two consecutive meetings of the Executive Committee without the leave of the Executive Committee.

(8) If the Commissioner or a Deputy Commissioner is removed from office in terms of this section, the Minister must, within 30 days, submit the report and findings of the independent inquiry to the National Assembly. 45

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 50 each of the other participating members, must be regarded as a meeting of the Executive Committee, and each participating member must be regarded as being present at such a meeting.

(2) Tona o tshwanetse, bonnye dikgwedi tse tharo pele ga paka ya ntlha ya tiro ya motho jaaka Khomišenara kgotsa Motlatsakhomišenara e ya bokhutlong, go itsise motho yoo fa Tona a thitsinya go mo thapa gape jaaka Khomišenara kgotsa Motlatsakhomišenara kgotsa nnyaa, go ya ka boemo.

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 tlhomilweng ke Tona e fitlheletse gore Khomišenara—

(a) ga a kgone go dira ditiro tse a di thapetsweng ka ntlha ya boitekanelo kgotsa mabaka a mangwe;

(b) o paletswe ka gotlhe go fitlhelela boemo jwa tiro kgatlhanong le ditekanyetsotiro tse go dumalanweng ka tsona go ya ka karolo 61(7);

(c) o paletswe ka gotlhe go diragatsa nngwe le nngwe ya maikarabelo a tiro, go akaretsa nngwe le nngwe ya maikarabelo a a abilweng go ya ka molawana; kgotsa

(d) o dirile ka mokgwa o o sa tsamaelaneng le go ka tswelela pele go dira.

(4) Fa patlisiso e e ikemetseng e tlhomilwe 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 tlhomilweng ke Khomišenara, ka tumalano le Tona, e fitlheletse gore Motlatsakhomišenara—

(a) ga a kgone go dira tiro e a e thapetsweng ka ntlha ya boitekanelo kgotsa mabaka a mangwe;

(b) o paletswe ka gotlhe go fitlhelela boemo jwa tiro kgatlhanong le ditekanyetsotiro tse go dumalanweng ka tsona go ya ka karolo 61(7);

(c) o paletswe ka gotlhe go diragatsa nngwe le nngwe ya maikarabelo a tiro, go akaretsa nngwe le nngwe ya maikarabelo a a abilweng go ya ka molawana; kgotsa

(d) o dirile ka mokgwa o o sa tsamaelaneng le go ka tswelela pele go dira.

(6) Fa patlisiso e e ikemetseng e tlhomilwe go ya ka karolotlaleletso (5), Khomišenara o ka emisa Motlatsakhomišenara mo tirong go letilwe tshwetso ya go tlosa motho yoo mo tirong.

(7) Ntle le go lekanyetsa karolotlaleletso (3)*(c)* kgotsa (5)*(c)*, Khomišenara kgotsa Motlatsakhomišenara, go ya ka maemo, o ka tseelwa gore o paletswe ka gotlhe go diragatsa maikarabelo a tiro fa a sa nna teng kwa dikopanong tse pedi tse di latelanang tsa Komitikhuduthamaga ntle le khunologo ya Komitikhuduthamaga.

(8) Fa Khomišenara kgotsa Motlatsakhomišenara a beleseditswe mo tirong go ya ka karolo eno, Tona o tshwanetse; mo matsatsing a le 30, go romela pegelo le diphitlhelelo tsa patlisiso e e ikemetseng go Kokoano Bosetšhaba.

Dikopano tsa Komitikhuduthamaga

66. (1) *(a)* Komitikhuduthamaga e tshwanetse go kopana kgapetsakgapetsa ga go tlhokega go dira ditiro tsa yona.

(b) Khonferense ya kutlo kgotsa kutlopono magareng ga bontsi jwa maloko a Komitikhuduthamaga, e e kgontshang leloko lengwe le lengwe le le tsayang karolo go utlwa le go utlwelelwa ke mongwe le mongwe wa maloko a mangwe a a tsayang karolo, e tshwanetse go tsewa jaaka kopano ya Komiti ya Khuduthamaga, e bile leloko lengwe le lengwe le le tsayang karolo le tshwanetswe go tseelwa gore le teng kwa kopanong eo.

(2) Meetings of the Executive Committee must be held at times and, except where subsection (1)*(b)* applies, at places determined by the Commissioner.

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

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

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

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

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

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

Decisions of Executive Committee

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

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

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

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

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

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

Governance and other subcommittees

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

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

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

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

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

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

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

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

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

(4) A member of a subcommittee established in terms of this section, including a person who is not in the service of an organ of state, holds office for the period, and on the terms and conditions, including terms regarding remuneration, determined by the Director-General or the Executive Committee, as the case may be, who established the subcommittee.

(2) Dikopano tsa Komitikhuduthamaga di tshwanetse go tshwarwa ka nako le, ntle le mo karolotlaleletso (1)*(b)* e diragatswang, kwa mafelong a a tlhomamisitsweng ke Khomišenara.

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

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

(b) Fa Khomišenara a se teng kwa kopanong, Motlatsakhomišenara yo o tlhophilweng ke Khomišenara kgotsa a tlhophilwe go tsamaelana le tsamaiso e e tlhomamisitsweng ke Khomišenara, o okamela kopano.

(5) Khomišenara kgotsa Motlatsakhomišenara yo o okametseng kopano ya Komitikhuduthamaga o ka laletsa kgotsa letlelela motho mongwe le mongwe, go akaretsa moemedi wa Bothati jwa Tlhokomelo, Banka ya Resefe, Senthara ya Botlhodi jwa tsa Ditšhelete, Khansele ya Dikema tsa Kalafi kgotsa Bolaodi jwa Bosetšhaba jwa Sekoloto, go tsenela kopano, mme motho yo o laleditsweng o ka tsaya karolo mme ga a na tshwanelo ya go bouta mo kopanong.

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

(7) Khomišenara o tshwanetse go netefatsa gore metsotso ya kopano nngwe le nngwe ya Komiti e tsholwa ka mokgwa o o tlhomamaisitsweng ke Khomišenara.

Ditshwetso tsa Komitikhuduthamaga

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

(b) Fa go diragala gore diboutu tsa tshitsinyo di lekane, motho yo o okametseng kopano o ka dira 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 kwa ntle ga kopano ya Komitikhuduthamaga.

(3) Tshwetso ya Komitikhuduthamaga e amogelesega fela ka ntlha ya—

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

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

Puso le dikomiti tlaleletso dingwe

68. (1) Mokaedikakaretso o tshwanetse go tlhoma—

(a) komititlaleletso go thadisa, lekola le go gakolola Komitikhuduthamaga ka ga pholisi ya moputso ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le

(b) komititlaleletso go thadisa, lekola le gakolola Komitikhuduthamaga ka ga dikotsi tse Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo lebaganeng le tsona le maano a go laola dikotsi tseo.

(2) Komitikhuduthamaga e ka tlhomela Bothati jwa Boitshwaro jwa Lephata la Ditšhelete komititlaleletso e le nngwe kgotsa go feta, eo ditiro tsa yona di ka tlhomamiswang ke Komitikhuduthamaga.

(3) *(a)* Mokaedikakaretso o tlhomamisa botokololo jwa komititlaleletso nngwe le nngwe e e tlhomilweng go ya ka karolotlaleletso (1).

(b) Bontsi jwa maloko a komititlaleletso e e tlhomilweng go ya ka karolotlaleletso (1) bo ka se nne maloko a badirammogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(c) Komitikhuduthamaga e tlhomamisa botokololo jwa komititlaleletso nngwe le nngwe e e tlhomilweng go ya ka karolotlaleletso (2).

(d) Komititlaleletso e e tlhomilweng go ya ka karolotlaleletso (2) e ka akaretsa batho bao e seng maloko a Komitikhuduthamaga kgotsa badirammogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(e) Motho yo o ileditsweng o ka se nne kgotsa o ka se tswelele go nna leloko la komititlaleletso e etlhomilweng go ya ka karolo eno.

(4) Leloko la komititlaleletso e e tlhomilweng go ya ka karolo eno go akaretsa le motho yo o seng mo tirelong ya lephata la puso, yo o dirang sebaka sa paka, le go ya ka dipeelo le mabaka, le dipeelo mabapi le moputso, tse di tlhomamisitsweng ke Mokaedikakaretso kgotsa Komitikhuduthamaga, jaaka mabaka a ntse, yo o tlhomileng komititlaleletso.

(5) A subcommittee established in terms of subsection (1) must be chaired by a person who is not the Commissioner, a Deputy Commissioner or a staff member of the Financial Sector Conduct Authority.

(6) A subcommittee established in terms of this section determines its procedures, subject to any directions of the Director-General or the Executive Committee, as the case may be, who established the subcommittee.

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

Duties of Commissioner, Deputy Commissioners and other subcommittee members

69. (1) The Commissioner, each Deputy Commissioner and each member of a subcommittee of the Financial Sector Conduct Authority established as contemplated in section 51(1)*(a)*(ii) of the Public Finance Management Act or of section 68 of this Act must—

(a) act honestly in all matters relating to the Financial Sector Conduct Authority; and

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

(i) in good faith;

(ii) for a proper purpose; and

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

(2) A person who is or has been a person mentioned in subsection (1) must not use the position, or any information obtained because of the position, to—

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

(b) impede the Financial Sector Conduct Authority's ability to perform its functions; or

(c) cause improper detriment to another person.

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

Regulatory strategy

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

(2) A regulatory strategy must—

(a) state—

(i) the regulatory and supervisory priorities for the Financial Sector Conduct Authority for the next three years; and

(ii) the intended key outcomes of the strategy;

(b) set guiding principles for the Financial Sector Conduct Authority on—

(i) how it should perform its regulatory and supervisory functions;

(ii) the matters which it should have regard to in performing those functions;

(iii) its approach to administrative actions; and

(iv) how it should give effect to the requirements applicable to it with respect to—

(aa) transparency;

(bb) openness to consultation; and

(cc) accountability; and

(c) be aimed at giving effect to section 58.

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

(5) Komititlaleletso e e tlhomilweng go ya ka karolotlaleletso (1) e tshwanetse go okamelwa ke motho yo o seng Khomišenara, Motlatsakhomišenara kgotsa leloko la badirammogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(6) Komititlaleletso e e tlhomilweng go ya ka karolo eno e tlhomamisa tsamaiso ya yona, go tsamaelana le kaelo ya Mokaedikakaretso kgotsa Komitikhuduthamaga, jaaka mabaka a ntse, yo o tlhomileng komititlaleletso.

(7) Khomišenara o tshwanetse go netefatsa gore metsotso ya kopano nngwe le nngwe ya komititlaleletso e e tlhomilweng go ya ka karolo eno e tsholwa ka mokgwa o o tlhomamisitsweng ke Komitikhuduthamaga.

Ditiro tsa Khomišenara, Batlatsakhomišenara le maloko a mangwe a komititlaleletso

69. (1) Khomišenara, Motlatsakhomišenara mongwe le mongwe le leloko 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 ono ba tshwanetse go—

(a) dira ka botshepegi mo mererong yotlhe e e amanang le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le

(b) dira ditiro tse ba di thapetsweng jaaka maloko—

(i) a a tshepagalang;

(ii) a maitlhomo a a siameng; le

(iii) a tlhokomelo e e kwa godimo le matsetseleko tse motho yo o mo maemong ao a ka di diragatsang.

(2) Motho yo kaiwang kgotsa yo o kailweng mo karolotlaleletsong (1) ga a tshwanela go dirisa maemo, kgotsa tshedimosetso nngwe le nngwe e a e fitlheletseng ka ntlha ya maemo, go—

(a) una molemo ka boena kgotsa go dira motho 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 motho yo mongwe.

(3) Mabapi le maitlhomo a karolo eno, **"kunomolemo"** le **"thatafaletso"** ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

Leano la bolaodi

70. (1) Komitikhuduthamaga e tshwanetse, mo dikgweding tse thataro morago ga letlha la go tsenngwa tirisong ga Kgaolo eno, go amogela leano la bolaodi la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go neelana ka kaelo ya kakaretso mo go fitlheleleng maikaelelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le go dira ditiro tsa yona tsa bolaodi le botlhokomedi.

(2) Leano la bolaodi le tshwanetse—

(a) go tlhagisa—

(i) ditlapele tsa bolaodi le botlhokomedi tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete tsa dingwaga tse tharo tse di tlang; le

(ii) dipoelo tse di botlhokwa tse di ikaeletsweng tsa leano;

(b) go tlhagisetsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ditheo tsa kaelo ka ga—

(i) mokgwa o bo tshwanetseng go dira ditiro tsa bolaodi le botlhokomedi ka ona;

(ii) merero e bo tshwanetseng go e ela tlhoko mo go direng ditiro tseo;

(iii) itlhagiso ya jona go ditiro tsa tsamaiso; le

(iv) ka mokgwa o e tshwanetseng go diragatsa ditlhokego tse di diragatswang go jona mabapi le—

(aa) ponalatshego;

(bb) go kgona go rerisana; le

(cc) boikarabelo; le

(c) go nna le maikaelelo a go kgontsha go nna teng ga karolo 58.

(3) Komitikhuduthamaga e tshwanetse go thadisa leano la yona la bolaodi bonnye ngwaga le ngwaga, e bile e ka le tlhabolola nako nngwe le nngwe.

(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 tbolaodi, e tshwanetse go—

(i) tlamela Tona, Bothati jwa Tlhokomelo le Bolaodi jwa Bosetšhaba jwa Sekoloto ka kgatiso ya leano kgotsa tlhabololo e e thadilweng; le

(ii) laletsa ditshwaelo go tswa go Tona, Bothati jwa Tlhokomelo le Bolaodi jwa Bosetšhaba jwa Sekoloto, ka ga thadiso, tseo di tshwanetseng go dirwa mo pakeng e e tsepamisitsweng ke Komitikhuduthamaga.

(b) Paka e e kailweng mo temaneng *(a)*(ii) e tshwanetse go nna 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 tsotlhe tse di dirilweng mo thalong.

(6) Fa Tona a dumela, leano la bolaodi la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le le amogetsweng le ka tsenyeletswa mo leanong la setlamo go ya ka karolo 52*(b)* ya *Public Finance Management Act*.

(7) Komitikhuduthamaga e tshwanetse go isa tlase, go ya ka boemo jo bo kgonagalang e bile bo le maleba, go sa tlhomamang magareng ga leano la bolaodi la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le leano la bolaodi la Bothati jwa Tlhokomelo.

(8) Khomišenara o tshwanetse go—

(a) tlamela Tona, Bothati jwa Tlhokomelo le Bolaodi jwa Bosetšhaba jwa Sekoloto ka kgatiso ya leano labolaodi la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le

(b) phasalatsa leano la bolaodi le tlhabololo nngwe le nngwe.

Ditholelo

71. (1) Komitikhuduthamaga e ka, ka go kwala—

(a) rolela thata nngwe kgotsa tiro ya, kgotsa go rolela go, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go Khomišenara kgotsa Motlatsakhomišenara, ntle le—

(i) thata ya go romeletsa e e tlhagelelang mo karolotlaleletsong eno; le

(ii) dithata tse di kailweng mo karolong 60(3)*(b)*(i) go fitlha go (viii);

(b) rolela go komiti ya tsamaiso ya tiro thata ya go lefisa dikotlhao tsa tsamaiso tse di tsepamisitsweng mo thomeletsong, fa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tlhoma komiti ya tsamaiso ya tiro; le

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

(2) Khomišenara o ka, ka go kwala—

(a) rolela thata kgotsa tiro nngwe le nngwe e e neetsweng kgotsa neetsweng Khomishenara go ya ka molao wa lephata la ditšhelete, ntle le thata ya go romeletsa e e tlhagelelang mo karolotlaleletsong eno, go—

(i) Motlatsakhomišenara; kgotsa

(ii) leloko la badirimmogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le

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

(3) Motlatsakhomišenara o ka, ka go kwala—

(a) rolela thata kgotsa tiro nngwe le nngwe e e roletsweng go Motlatsakhomishenara yoo go ya ka molao wa lephata la ditšhelete, ntle le thata ya go romeletsa e e tlhagelelang mo karolotlaleletsong eno, go leloko la badirimmogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le

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

(4) Tholelo go ya ka karolotlaleletso (2)*(a)*(ii) kgotsa (3)*(a)* e ka direlwa motho yo o supilweng kgotsa go motho yo o tshwereng maemo a a tsepameng.

(5) Tholelo kgotsa tiro nngwe ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete e ka rolelwa go Bothati jwa Tlhokomelo ka karolo 77 ya memorantamo wa tumalano go tsamaelana la letlhomeso le thulaganyo ya tholelo e e tlhabolotsweng ke balaodi ba lephata la ditšhelete go netefatsa gore tholelo nngwe le nngwe ga e thibele Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete gore bo fitlhelele maikaelelo a jona jaaka a tlhagisitswe 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 Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, Khomišenara kgotsa Motlatsakhomišenara yo o amegang mabapi le thata kgotsa tiro e e roletsweng; le

(c) e ka gogelwa morago ka go kwala nako nngwe le nngwe, go latela ditshwanelo dingwe le dingwe tse di ka tswang di fitlheletswe.

(7) Sengwe le sengwe se se dirilweng ke baemedi go ya ka tholelo se tshwanetse go tsewa jaaka se dirilwe ke Bothati 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 go rolela thata ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

Tshenolo ya dikgatlhegelo

72. (1) Leloko la Komitikhuduthamaga le tshwanetse go senola, mo kopanong ya Khuduthamaga, kgotsa ka go kwalela go mongwe le mongwe wa maloko, kgatlhego nngwe le nngwe mo morerong o o kgotsa o a ikaeletseng go o tsaya tsia, kwa kopanong kgotsa e seng kwa kopanong ya Komitikhuduthamaga, go ka nna kgatlhegelo 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 lemoga ka kgatlhegelo.

(3) *(a)* Leloko le le kailweng mo karolotlaleletsong (1) le ka se dire tiro mabapi le morero o kailweng fa fela—

(i) leloko le senotse kgatlhegelo go tsamaelana le karolotlaleletso (1); le

(ii) maloko a mangwe a Komitikhuduthamaga a sweditse gore kgatlhegelo ga e ame ka gope go dira tiro ka matsetseleko ga leloko mabapi le morero o o amegang.

(b) Tshekatsheko nngwe le nngwe ya, kgotsa tshwetso ka ga, morero o o sa ikamanyeng le temana *(a)* ga e amogelesege e bile e tshwanetse go sekasekwa gape kgotsa go swetswa leloko le se teng.

(4) Leloko la komititlaleletso ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete jo bo tlhomilweng go ya ka karolo 51(1)*(a)*(ii) ya *Public Finance Management Act* kgotsa karolo 68(1) ya Molao ono le tshwanetse go senola, kwa kopanong ya komititlaleletso, kgotsa ka go kwalela mongwe le mongwe wa maloko a komititlaleletso, kgatlhegelo nngwe le nngwe mo morerong o o kgotsa o komititlaleletso e ikaelelang go o sekaseka, e le kgatlhego e—

(a) leloko le nang le yona; kgotsa

(b) motho yo o amanang le leloko a nang le yona.

(5) Tshenolo go ya ka karolotlaleletso (4) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go lemoga ka kgatlhegelo eo.

(6) Leloko le le kailweng mo karolotlaleletsong (4) le ka se tseye karolo mo tshekatshekong ya kgotsa tshwetso ya morero oo ke komititlaleletso fa fela—

(a) leloko le senotse kgatlhegelo go tsamaelana le karolotlaleletso (4); le

(b) maloko a mangwe a komititlaleletso eo a sweditse gore kgatlhegelo eo e ka se ame ka gope go dira ditiro ka matsetseleko ga leloko mabapi le morero o o amegang.

(7) *(a)* Leloko lengwe le lengwe la badirimmogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le motho mongwe le mongwe yo o amegang mo go direng tiro ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete kgotsa tiragatso ya dithata tsa jona o tshwanetse go senola ka nako, nepagalo le tlhomamo, dikgatlhegelo, go akaretsa le dikgatlhegelo tsa losika, tseo di ka amang go dira ditiro tsa bona ka matsetseleko kgotsa thata e e roletsweng.

(b) Khomišenara o tshwanetse go netefatsa gore temana *(a)* e a diragatswa.

(8) Mabapi le maitlhomo a karolo eno, ga go kgathalesege—

(a) gore kgatlhegelo e tlhamaletse, ga e a tlhamalala, ya tšhelete kgotsa e e seng ya tšhelete; kgotsa

(b) fa kgatlhegelo e ne e fitlhelelwa.

(9) Mabapi le maitlhomo a karolo eno, motho ga a tshwanela go senola—

(a) ntlha ya gore motho yoo, kgotsa motho yo a amanang le ena, ke—

(i) motlhankedi kgotsa mothapiwa wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; kgotsa

(ii) morekedi wa ditšhelete wa setheo sa ditšhelete; kgotsa

(b) kgatlhegelo e e seng ya botlhokwa.

(10) Khomišenara o tshwanetse go tshola rejisetara ya ditshenolo tsotlhe tse di dirilweng go ya ka karolo eno le ka ga ditshwetso tsotlhe tse di dirilweng go ya ka karolo eno.

Part 3

Staff and resources

Staff and resources

73. (1) The Financial Sector Conduct Authority may, in accordance with applicable law— 5

(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; 10

(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 15 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. 20

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 25 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 30

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 35 persons identifiable from the information.

CHAPTER 5

CO-OPERATION AND COLLABORATION

Part 1

Co-operation and collaboration 40

Co-operation and collaboration between financial sector regulators and Reserve Bank

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 45 purpose—

Karolo 3

Badiri le ditlamelwana

Badiri le ditlamelwana

73. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka, go tsamaelana le molao o o maleba—

(a) mabapi le tiro ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete—
(i) thapa batho jaaka badiri;
(ii) tsena mo thulaganyong ya kadimisano; kgotsa
(iii) rerisana le batho ka ga konteraka fela e seng jaaka bathapiwa;

(b) tsena mo dikonterakeng;

(c) fitlhelela le go fetisa thoto;

(d) inšora kgatlhanong le tatlhegelo, tshenyego, dikotsi kgotsa molato e bo ka e itemogelang kgotsa ya nna ka fa tlase ga yona; le

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

(2) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka se tsene mo thulaganyong ya kadimisano mabapi le motho, kgotsa go rerisana le batho jaaka bathapiwa kgotsa mo konterakeng, fa fela motho yoo le Bothati ba dumalane ka go kwala ka—

(a) ditekanyetsotiro tse di tshwanetseng go diriswa go tlhatlhoba tiro ya motho yoo; le

(b) boemo jwa tiro jo bo tshwanetseng go fitlhelelwa kgatlhanong le ditekanyetso tseo.

Ditiro tsa maloko a badirimmogo

74. (1) Motho yo e leng kgotsa yo e neng e le leloko la badirimmogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete o kase dirise maemo ao kgotsa tshedimosetso nngwe le nngwe e a e boneng jaaka leloko la badirimmogo go—

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

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

(c) thatafaletsa motho yo mongwe.

(2) Mabapi le maitlhomo a karolo eno, **"kunomolemo"** le **"thatafaletso"** ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

Tshedimosetso ka Khomišenara

75. (1) Khomišenara o tshwanetse go tlamela Komitikhuduthamaga le Matlotlo a Bosetšhaba ka tshedimosetso, dipoelo, dikwalo, ditlhaloso le ditshegetso tse di ka neelwang ke Molawana mabapi le karolo eno kgotsa tshedimosetso e Komiti Khuduthamaga kgotsa Matlotlo a Bosetšhaba a ka e kopang.

(2) Karolotlaleletso (1) ga e tlhoke kgotsa neye tetla kabelo ya tshedimosetso ka ga batho ba ba ka supiwang go tswa mo tshedimosetsong.

KGAOLO 5

TIRISANOMMOGO LE KOPANO

Karolo 1

Tirisanommogo le kopano

Tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete le Banka ya Resefe

76. (1) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse go dirisanammogo le go kopana fa ba dira ditiro tsa bona go ya ka melao ya lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto, le *Financial Intelligence Centre Act,* ba tshwanetse mabapi le maitlhomo ano—

(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 ditšhelete le , Molao wa Bosetšhaba wa Sekoloto le *Financial Intelligence Centre Act*;

(b) go sedimosetsana ka, le go arogana tshedimosetso ka merero ya kgatlhego e e tshwanang;

(c) go leka ka thata go amogela maano a taolo a a tlhomameng, go akaretsa le go rarabolola dikgwetlho tsa taolo le tlhokomelo;

(d) go rulaganya, ka mokgwa o o maleba, ditiro mabapi le melao ya lephata la ditšhelete, 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 botlhokomedi tsa kwa tirong le dipatlisiso;

(iv) ditiro tsa go gatelela melao ya lephata la ditšhelete le Molao wa Bosetšhaba wa Sekoloto;

(v) karogano ya tshedimosetso;

(vi) pusetso le tharabololo; le

(vii) pegelo ka ditheo tsa ditšhelete, go akaretsa pegelosemolao le mekgwa ya go kgobokanya tshedimosetso;

(e) go isa tlase sebedi sa matsapa le ditshenyegelo, go akaretsa le go tlhoma le go dirisa, mo go tshwanetseng, dideithabeise tse di tshwanang kgotsa tse di aroganwang le dibebofatsi tse dingwe;

(f) go dumalana ka go nneng teng kwa diforamong tsa boditšhabatšhaba tse di maleba; le

(g) go tlhabolola, go ya ka mokgwa o o maleba, maemo a a tlhomameng a pholisi, go akaretsa mabapi le tlhagiso le therisano kwa diforamong tse di maleba tsa Aforikaborwa le tsa boditšhabatšhaba.

(2) Balaodi ba lephata la ditšhelete 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 Kabinete a a diragatsang Molao wa Bosetšhaba wa Sekoloto le Kokoano Bosetšhaba ka ga dikgato tse di tserweng go dirisana mmogo le go kopana.

Memorantamo wa tumalano

77. (1) Balaodi ba lephata la ditšhelete le Banka ya Resefe, ba tshwanetse, ka bonako jo bo kgonagalang fela e seng morago ga dikgwedi tse thataro tsa go tsenngwa tirisong ga Kgaolo eno, go dira memorantamo wa tumalano o le esi kgotsa go feta go diragatsa ditlamego tsa bona go ya ka karolo 76.

(2) Tholelo ya thata kgotsa tiro ke molaodi wa lephata la ditšhelete go molaodi yo mongwe wa lephata la ditšhelete go tshwanetse go tsenngwa tirisong ka memorantamo wa tumalano o o dirilweng go ya ka karolo eno.

(3) Kamogelesego ya kgato nngwe le nngwe e e tserweng ke molaodi, Banka ya Resefe kgotsa Mmusisi go ya ka molao wa lephata la ditšhelete kgotsa Molao wa Bosetšhaba wa Sekoloto le *Financial Intelligence Centre Act* ga e angwe ke go palelwa ke go ikamanya le karolo eno kgotsa memorantamo wa tumalano go ya ka karolo eno.

(4) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse go thadisa memorantamo wa tumalano bonnye gangwe mo dingwageng dingwe le dingwe tse tharo le go o tlhabolola jaaka go tshwanetse.

(5) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse go tlamela Tona le maloko a Kabinete a a tsamaisang Molao wa Bosetšhaba wa Sekoloto ka kgatiso ya memorantamo wa tumalano mongwe le mongwe o o dirilweng go ya ka karolo eno, le tlhabololo nngwe le nngwe ya memorantamo oo wa tumalano.

(6) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse go phasalatsa memorantamo mongwe le mongwe wa tumalano o ba o dirileng le tlhabololo nngwe le nngwe ya ona.

Maphata a mangwe a puso

78. (1) Lephata la puso le le nang le tiro ya bolaodi kgotsa botlhokomedi mabapi le ditheo tsa ditšhelete le tshwanetse, ka mokgwa o o kgonagalang, go rerisana le balaodi ba lephata la ditšhelete mabapi le go dira tiro eo.

(2) A financial sector regulator or the Reserve Bank may, in writing, request an organ of state referred to in subsection (1) to provide information about any action that the organ of state has taken or proposes to take in relation to a financial institution specified in the request.

(3) The organ of state must comply with a request in terms of subsection (2), but this subsection does not require or permit an organ of state to do something that contravenes a law.

Part 2

Financial System Council of Regulators

Financial System Council of Regulators

79. (1) The Financial System Council of Regulators is hereby established.

(2) The objective of the Financial System Council of Regulators is to facilitate co-operation and collaboration, and, where appropriate, consistency of action, between the institutions represented on the Financial System Council of Regulators by providing a forum for senior representatives of those institutions to discuss, and inform themselves about, matters of common interest.

(3) The Financial System Council of Regulators must be composed of the following members:

(a) The Director-General;
(b) the Director-General of the Department of Trade and Industry;
(c) the Director-General of the Department of Health;
(d) the Chief Executive Officer;
(e) the Commissioner;
(f) the Chief Executive Officer of the National Credit Regulator;
(g) the Registrar of Medical Schemes;
(h) the Director of the Financial Intelligence Centre;
(i) the Commissioner of the National Consumer Commission;
(j) the Commissioner of the Competition Commission;
(k) the Deputy Governor responsible for financial stability matters; and
(l) the head, however described, of any organ of state or other organisation that the Minister may determine.

Meetings

80. (1) Meetings of the Financial System Council of Regulators must be held at least twice a year, or more frequently as determined by the Director-General.

(2) The Director-General, or an alternate nominated by the Director-General, chairs the meetings of the Financial System Council of Regulators.

(3) The Director-General must convene a meeting at the request of a member of the Financial System Council of Regulators.

(4) A member of the Financial System Council of Regulators may, with the concurrence of the Director-General, nominate a senior official of the member's institution to act as an alternate for the member.

(5) Meetings of the Financial System Council of Regulators must be conducted in accordance with procedures determined by it.

Working groups and subcommittees

81. (1) The Financial System Council of Regulators must establish working groups or subcommittees in respect of the following matters:

(a) Enforcement and financial crime;
(b) financial stability and resolution;
(c) policy and legislation;
(d) standard-setting;
(e) financial sector outcomes;

(2) Molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe o ka, ka go kwala, kopa lephata la puso le le kailweng mo karolotlaleletsong (1) go neelana ka tshedimosetso ka ga kgato nngwe le nngwe e e tserweng ke lephata la puso kgotsa e le tshitsinyang go ka e tsaya mabapi le setheo sa ditšhelete se se tsepamisitsweng mo kopong.

(3) Lephata la puso le tshwanetse go ikamanya le kopo go ya ka karolotlaleletso (2), mme karolotlaleletso eno ga e tlhoke kgotsa neye tetla lephata la puso go dira sengwe se se kgatlhanong le molao.

Karolo 2

Khansele ya Balaodi ba Thulaganyo ya Ditšhelete

Khansele ya Balaodi ba Thulaganyo ya Ditšhelete

79. (1) Khansele ya Balaodi ba Thulaganyo ya Ditšhelete e a tlhongwa.

(2) Maikaelelo a Khansele ya Balaodi ba Thulaganyo ya Ditšhelete ke go nolofatsa tirisanommogo le kopano, le, mo go tlhokegang, tlhomamo ya tiro, magareng ga ditheo tse di emetsweng mo Khanseleng ya Balaodi ba Thulaganyo ya Ditšhelete ka go abelana ka foramo ya baemedi ba bagolo ba ditheo tseo go buisana, le go itshedimosa ka, merero ya kgatlhego e e tshwanang.

(3) Khansele ya Balaodi ba Thulaganyo ya Ditšhelete e tshwanetse go nna le maloko a a latelang:

(a) Mokaedikakaretso;
(b) Mokaedikakaretso wa Lefapha la Kgwebisano le Madirelo;
(c) Mokaedikakaretso wa Lefapha la Boitekanelo;
(d) Motlhankedimogolo wa Khuduthamaga;
(e) Khomišenara;
(f) Motlhankedimogolo wa Khuduthamaga wa Bolaodi jwa Bosetšhaba jwa Sekoloto;
(g) Mokwadisi wa Dikema tsa Kalafi;
(h) Mokaedi wa Senthara ya Botlhodi jwa Ditšhelete;
(i) Khomišenara wa Khomišene ya Bosetšhaba ya Badirisi;
(j) Khomišenara wa Khomišene ya Kgaisano;
(k) Motlatsammusisi yo o rweleng maikarabelo a merero ya tlhomamo ya ditšhelete; le
(l) tlhogo, ka mokgwa o e tlhalositsweng, ya lephata lengwe le lengwe la puso kgotsa mokgatlho mongwe o Tona a ka o tlhomamisang.

Dikopano

80. (1) Dikopano tsa Khansele ya Balaodi ba Thulaganyo ya Ditšhelete di tshwanetse go tshwarwa bonnye gabedi mo ngwageng, kgotsa kgapetsakgapetsa jaaka go tlhomamisitswe ke Mokaedikakaretso.

(2) Mokaedikakaretso, kgotsa mongwe yo o tlhophilweng ke Mokaedikakaretso, o okamela dikopano tsa Khansele ya Balaodi ba Thulaganyo ya Ditšhelete.

(3) Mokaedikakaretso o tshwanetse go tshwara kopano ka kopo ya leloko la Khansele ya Balaodi ba Thulaganyo ya Ditšhelete.

(4) Leloko la Khansele ya Balaodi ba Thulaganyo ya Ditšhelete le ka, ka tumalano le Mokaedikakaretso, tlhopha motlhankedi yo mogolo wa setheo sa leloko go dira jaaka morefosani wa leloko.

(5) Dikopano tsa Khansele ya Balaodi ba Thulaganyo ya Ditšhelete di tshwanetse go tshwarwa go tsamaelana le ditsamaiso tse di tlhomamisitsweng ke yona.

Ditlhopha tse didirang

81. (1) Khansele ya Balaodi ba Thulaganyo ya Ditšhelete e tshwanetse go tlhoma ditlhopha tsa tiro tse di kwa thoko kgotsa dikomititlaleletso mabapi le merero e e latelang:

(a) Kgatelelo le bosenyi jwa ditšhelete;
(b) tlhomamo ya ditšhelete le tharabololo;
(c) pholisi le molao;
(d) peo ya maemo;
(e) dipoelo tsa lephata la ditšhelete;

(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

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 Khansele ya Balaodi ba Thulaganyo ya Ditšhelete.

(2) Khansele ya Balaodi ba Thulaganyo ya Ditšhelete e tshwanetse go tlhomamisa botokololo, mabaka a kaelo le tsamaiso ya setlhopha sa tiro kgotsa komititlaleletso.

Tshegetso go Khansele ya Balaodi ba Thulaganyo ya Ditšhelete

82. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go tlamela ka tshegetso ya tsamaiso le ditlamelo tse dingwe go Khansele ya Balaodi ba Thulaganyo ya Ditšhelete le ditlhopha tsa yona tsa tiro le dikomititlaleletso.

(2) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go netefatsa gore metsotso ya kopano nngwe le nngwe ya Khansele ya Balaodi ba Thulaganyo ya Ditšhelete, le ya kopano nngwe le nngwe ya setlhopha sa tiro kgotsa komititlaleletso, e tsholwa ka mokgwa o o tlhomamisitsweng ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

Karolo 3

Khansele ya Ditona ya Lephata la Ditšhelete

Khansele ya Ditona ya Lephata la Ditšhelete

83. (1) Khansele ya Ditona ya Lephata la Ditšhelete e a tlhongwa.

(2) Maikaelelo a Khansele ya Ditona ya Lephata la Ditšhelete ke go nolofatsa tirisanommogo le kopano magareng ga maloko a Kabinete a a tsamaisang molao o o maleba go taolo le tlhokomelo ya lephata la ditšhelete ka go tlamela ka foramo ya dipuisano le tshekatsheko ya merero ya kgatlhegelo e e tshwanang.

(3) Maloko a Khansele ya Ditona ya Lefapha la Ditšhelete ke—
(a) Tona;
(b) maloko a Kabinete a a rwalang maikarabelo a tshireletso ya badirisi le merero ya sekoloto sa badirisi;
(c) leloko la Kabinete le le rwalang maikarabelo a boitekanelo; le
(d) leloko la Kabinete le le rwalang maikarabelo a tlhabololo ya ikonomi.

Dikopano

84. (1) Dikopano tsa Khansele ya Ditona ya Lefapha la Ditšhelete di diragala ka dinako le kwa mafelong a a 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 bitsa kopano ka kopo ya leloko la Khansele ya Ditona.

(4) Leloko la Khansele ya Ditona le ka tlhopha Motlatsamoporesidente go dira jaaka morefosani go leloko kwa kopanong e e rileng ya Khansele ya Ditona.

(5) Tona o ka laletsa leloko lengwe le lengwe la Kabinete leo e seng leloko la Khansele ya Ditona go tla kopanong ya Khansele ya Ditona.

(6) Dikopano tsa Khansele ya Ditona di tshwarwa go tsamaelana le ditsamaiso tse di tlhomamisitsweng ke yona.

Tshireletso ya barekedi ba ditšhelete go ya ka melao ya lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto le Molao wa Tshireletso ya Badirisi

85. (1) Maloko a Kabinete a a rwalang maikarabelo a merero ya tshireletso ya badirisi le sekoloto sa badirisi a ka kopa Khansele ya Ditona go sekaseka fa ka gongwe kabelo e e maleba mo molaong wa lephata la ditšhelete, kgotsa mo molaong o o tshitsintsweng wa lephata la ditšhelete, Molawana kgotsa sediriso sa taolo, se tlamela kgotsa se tla tlamela ka maemo a tshireletso go barekedi ba ditšhelete a a lekanang, kgotsa a a fetang, tshireletso e ba e tlametsweng go ya ka Molao wa Bosetšhaba wa Sekoloto kgotsa Molao wa Tshireletso ya Badirisi.

(2) Khansele ya Ditona—
(a) e tshwanetse go ikamanya le kopo; le

(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 5

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. 10

(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. 15

(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. 20

(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. 25

(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. 30

CHAPTER 6

ADMINISTRATIVE ACTIONS 35

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. 40

(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 45

(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. 50

(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 tlamele maemo ao a tshireletso go badirisi ba ditšhelete, dira dikatlanegiso go tlhabolola kabelo e e maleba, kgotsa go tsaya dikgato tse dingwe tsa semolao tse di matshwanedi, go netefatsa gore bonnye tshireletso e lekane.

Tekanyetso 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 ditšhelete, Banka ya Resefe, Senthara ya Botlhodi jwa Ditšhelete, Khansele ya Dikema tsa Kalafi le Khomišene ya Kgaisano.

(b) Khansele ya Ditona e tshwanetse, mo dingwageng dingwe le dingwe tse pedi morago ga tshekatsheko ya ntlha e e ikemetseng e e kailweng mo temaneng *(a)*, go dira tshekatsheko e e ikemetseng ya nonofo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete, Banka ya Resefe, Senthara ya Botlhodi jwa Ditšhelete, Khansele ya Dikema tsa Kalafi le Khomišene ya Kgaisano.

(2) Tshekatsheko go ya ka karolo eno e tshwanetse go nna le bonnye kanoko le tshekatsheko ya memorantamo wa tumalano o o tlhokegang go ya ka karolo 77, ditlamorago tsa ditherisano dingwe le dingwe tsotlhe go ya ka karolo 78, le boikamanyo le dikarolo tseo.

(3) Khansele ya Ditona ka boitlhamedi jwa yona, kgotsa ka kopo ya molaodi wa lephata la ditšhelete, ka nako nngwe le nngwe e ka dira tshekatsheko e e ikemetseng ya nonofo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete, Banka ya Resefe, Senthara ya Botlhodi jwa Ditšhelete, Khansele ya Dikema tsa Kalafi le Khomišene ya Kgaisano.

(4) Fa bolaodi jwa lefapha la ditšhelete 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 kgolagano, e bile, fa Khansele e gana kopo, go tlamela bolaodi jwa lephata la ditšhelete jo bo dirileng kopo ka mabaka a go gana kopo.

(5) Tshekatsheko nngwe le nngwe 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 Khanseleng ya tshekatsheko ya diteng.

KGAOLO 6

DITIRO TSA TSAMAISO

Karolo 1

Dikomiti tsa tiro ya tsamaiso

Go tlhongwa le botokololo

87. (1) Molaodi wa lephata la ditšhelete o ka tlhama komiti ya tiro ya tsamaiso go sekaseka le go dira dikatlanegiso go molaodi wa lephata la ditšhelete ka ga ditiro tsa tsamaiso tse di rometsweng go ena ke molaodi wa lephata la ditšhelete.

(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 esi 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 Tlhokomelo kgotsa Komiti Khuduthamagga kgotsa maloko a badirammogo a bolaodi jwa lephata la ditšhelete.

(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 thapiwe 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 bolaodi jwa lephata la ditšhelete yo e seng leloko la Komiti ya Tlhokomelo, Komiti Khuduthamaga kgotsa leloko la badirimmogo ba bolaodi jwa lephata la ditšhelete o thapiwa sebaka se se sa feteng dingwaga tse tlhano, le ka dipeelo, go akaretsa le dipoelo tse di amanang le tuelo, tse di tlhomamisitsweng ke bolaodi 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 nngwe ya maikarabelo a tiroi; kgotsa

(c) le dirile ka mokgwa o o sa tsamaelaneng le ditlhokego tsa go tswelela go dira.

(4) Ntle le go lekanyetsa karolotlaleletso (3)*(b)*, leloko le tshwanetse go tseelwa gore le paletswe ka gotlhe go diragatsa maikarabelo a ofisi fa le ka se nne 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 kokoanngwa 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 tlhomamisa ditsamaiso tsa yona, go tsamaelana le dikaelo tsa molaodi wa lephata la ditšhelete yo o tlhomileng komiti ya tiro ya tsamaiso.

(3) Molaodi wa lephata la ditšhelete o tshwanetse go netefatsa gore metsotso e e kwetsweng ya kopano nngwe le nngwe ya komiti ya bona ya tiro ya tsamaiso e a tsholwa.

Tiriso ya Karolo go Khansele ya Ombud

90. Karolo eno e diragatswa, 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 nngwe le nngwe 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 kitsiso mo Rejisetareng, tlhomamisa ditsamaiso tsa tiro ya tsamaiso e e dirilweng ke jona go ya ka molao wa lephata la ditšhelete, o o tshwanetseng—

(a) go ikaelela go tsweletsa pele kgato e e lolameng le go tlhomama mo tirong ya tsamaiso e e dirilweng ke bolaodi jwa lephata la ditšhelete go ya ka melao ya lephata la ditšhelete; le

(b) go tlhomama mabapi le—

(i) meono ya *Promotion of Administrative Justice Act*; le

(ii) ditlhokego dingwe le dingwe tse di maleba tsa molao wa lephata la ditšhelete.

(2) Fa go utlwalega e bile go na le lebaka mo maemong, ditsamaiso mabapi le tiro ya tsamaiso di ka tswa mo ditlhokegong tse di tsepameng tsa *Promotion of Administrative Justice Act,* go tsamaelana 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 tshwanetse go—

(a) phasalatsa mo webesaeteng ya jona—

(i) thalo ya tsamaiso kgotsa tlhabololo e e tshitsintsweng; le

(ii) kitsiso e e laletsang tshwaelo e e kwetsweng ya setšhaba mo pakeng e e neetsweng mo kitsisong, eo e tshwanetseng go nna bonnye matsatsi a le 30 go simolola ka letsatsi la phasalatso ya kitsiso;

(b) gorosa thalo ya tsamaiso kgotsa tlhabololo e e tshitsintsweng go Mokaedika-karetso le molaodi yo mongwe jwa lephata la ditšhelete; le

(c) sekaseka ditshwaelo dingwe le dingwe tse di amogetsweng.

(2) Fa bolaodi jwa lephata la ditšhelete bo ikaelela go dira tsamaiso kgotsa tlhabololo ka mokgwa o o farologaneng go tswa go tsamaiso e e thadilweng kgotsa tlhabololo e e phasaladitsweng go ya ka karolotlaleletso (1), molaodi o tshwanetse, pele a dira tsamaiso kgotsa tlhabololo, go boeletsa dikgato tse di kailweng mo karolo-tlaleletsong (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 ditshwetso

95. (1) Bolaodi jwa lephata la ditšhelete bo ka, ka kitsiso go motho wa kamano yo bolaodi bo dirileng tshwetso ka ena go ya ka molao wa lephata la ditšhelete (kgotsa, fa batho bao ba feta bongwe, botlhe), gogela morago tshwetso fa—

(a) tshwetso e dirilwe ka ntlha ya tsietso kgotsa e seng ka molao;

(b) tshedimosetso e tshwetso 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 tshwetso fa bo ne bo na le tshedimosetso e e nepagetseng e bile e feletse; kgotsa

(c) tshwetso e, ka lebaka lengwe, sa amogelesege.

(2) Kgogelomorago ya tshwetso go ya ka karolotlaleletso (1) e tsena mo tirisong go simolola ka letlha le tshwetso 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 ditshwanelo tse di leng teng kgotsa tse di bonweng tsa motho mongwe le mongwe (ntle le motho yo molaodi a dirileng tshwetso mabapi le ena); kgotsa

(b) fa—

(i) bolaodi jwa lephata la ditšhelete bo itsisitswe gore kopo go Lekgotla kgotsa kgotlatshekelo mabapi le tshwetso e tla dirwa; kgotsa

(ii) ditsamaiso di simolotse kwa Lekgotleng kgotsa kgotlatshekelong mabapi le tshwetso.

(4) Pele bolaodi jwa lephata la ditshelete bo tsaya kgato go ya ka karolotlaleletso (1), bo tshwanetse go—

(a) itsise ka ga maikaelelo a jona a go dira jalo go motho yo tshwetso e dirilweng mabapi le ena; le

(b) naya motho sebaka se se lekaneng, sa bonnye matsatsi a le 14, go dira ditlhagiso kwa bolaoding.

(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 1

Regulatory instruments

Interpretation

97. In this Part, **"maker"**, in relation to a regulatory instrument, means the person that proposes to make the regulatory instrument.

Process for making regulatory instruments

98. (1) A regulatory instrument must not be made unless the maker—

(a) has published—

(i) a draft of the regulatory instrument;

(ii) a statement explaining the need for and the intended operation of the regulatory instrument;

(iii) a statement of the expected impact of the regulatory instrument; and

(iv) a notice inviting submissions in relation to the regulatory instrument and stating where, how and by when submissions are to be made; and

(b) has, once submissions referred to in paragraph *(a)*(iv) have been received and considered, submitted the regulatory instrument to Parliament in terms of section 103(1).

(2) The period allowed for making submissions referred to in subsection (1)*(a)*(iv) must be at least six weeks.

(3) If the maker is a financial sector regulator, the maker must, when complying with subsection (1)*(a)*, provide a copy of the documents referred to in that paragraph to—

(a) the other financial sector regulator, the Reserve Bank, the National Credit Regulator, the Council for Medical Schemes and the Director-General; and

(b) if the regulatory instrument would impose requirements on providers of securities services, the market infrastructure that has the function of licensing those providers in terms of a financial sector law.

(4) If the maker is the Ombud Council, the maker must, when complying with subsection (1)*(a)*, 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

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 tshitsinyang 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 ikaeletsweng ya sediriswa sa bolaodi;

(iii) polelo ya kutlwalo e e solofetsweng ya sediriswa sa bolaodi; le

(iv) kitsiso e e laletsang 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 nna bonnye dibeke tse thataro.

(3) Fa modiri e le molaodi wa lephata la ditšhelete, modiri o tshwanetse go, fa a ikamanya le karolotlaleletso (1*)(a)*, neelana ka kgatiso ya dikwalo tse di kailweng mo temaneng eo go—

(a) molaodi yo mongwe wa lephata la ditšhelete, Banka ya Resefe, Bolaodi jwa Bosetšhaba jwa Sekoloto, Khansele ya Dikema tsa Kalafi le Mokaedikakaretso; le

(b) fa sediriswa sa bolaodi se ka gobelela ditlhokego mo batlameding ba ditirelo tsa dithoto, dithulaganyetso 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)*, tlamela kgatiso ya dikwalo tse di kailweng mo karolotlaleletsong eo go balaodi 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 nnyaa, go dira sediriswa sa bolaodi ka mokgwa o o farologaneng thata go tswa mo sedirisong sa bolaodi se se thadilweng se se phasaladitsweng go ya ka karolo 98, modiri o tshwanetse, pele a dira sediriswa sa bolaodi, go boeletsa kgato ya therisano e e kailweng mo karolong 98.

Didiriswa 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 ditshelete, kgotsa go fenya maitlhomo a sediriswa sa bolaodi se se tshitsintsweng, modiri o tshwanetse go, pele a dira sediriswa—

(a) phasalatsa—

(i) thalo ya sediriso sa bolaodi le polelo e e tlhalosang tlhokego ya le tiriso e e ikaeletsweng ya sediriswa sa boaodi;

(ii) kitsiso e e laletsang 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 nnile le tiego mo go ikamanyeng le dikarolo 98 le 99 e tseelelwa gore e ka isa kwa

customers or harm to the financial system, or defeat the object of the proposed regulatory instrument; and

(b) submit the regulatory instrument to Parliament in terms of section 103(2).

(2) The period allowed for making submissions in terms of subsection (1)*(a)*(ii) must be at least seven days.

(3) A maker must, after making an instrument pursuant to subsection (1), as soon as possible, but not later than within 30 days of making the instrument—

(a) submit to Parliament a report of the consultation process, which report must include a general account of the issues raised in the submissions and a response to the issues raised in the submissions.

(b) if the maker is a financial sector regulator, provide a copy of the documents referred to in paragraph *(a)* to—

(i) the other financial sector regulator, the Reserve Bank, the National Credit Regulator, the Council for Medical Schemes and the Director-General; and

(ii) if the regulatory instrument would impose requirements on providers of securities services, the market infrastructure that has the function of licensing those providers in terms of a financial sector law.

(c) if the maker is the Ombud Council, provide a copy of the documents referred to in that subsection to the financial sector regulators, the National Credit Regulator and the Director-General.

Part does not limit other consultation

101. This Part does not prevent a maker of a regulatory instrument from engaging in consultations in addition to those required in terms of this Part.

Making, publication and commencement of regulatory instruments

102. (1) In deciding whether to make a regulatory instrument, the maker must take into account all submissions received by the expiry of the period referred to in section 98(2) or 100(2) and any deliberations of Parliament.

(2) A regulatory instrument must be published in the Register after it is made.

(3) A regulatory instrument comes into effect—

(a) on the date the instrument is published in the Register; or

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

Submission of regulatory instruments to Parliament

103. (1) Before making a regulatory instrument in terms of section 98 or 99, the maker of the regulatory instrument must submit the regulatory instrument to Parliament, for a period of at least 30 days while Parliament is in session, together with—

(a) the documents mentioned in section 98(1)*(a)*; and

(b) a report on the consultation process referred to in section 104.

(2) Before making a regulatory instrument in terms of section 100, the maker of the regulatory instrument must submit to Parliament, whether in session or not, the documents mentioned in section 100(1)*(a)* for a period of at least seven days (which period may run concurrently with the seven days referred to in section 100(2)).

Reports on consultation processes

104. (1) With each regulatory instrument, the maker must publish a consultation report.

(2) A consultation report must include—

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

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

kgobelelong ya barekedi ba ditšhelete kgotsa e ka ama segolo thulaganyo ya ditshelete, kgotsa ya fenya maitlhomo 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 ditlhagiso go ya ka karolotlaleletso (1*)(a)*(ii) e tshwanetse go nna bonnye matsatsi a le supa.

(3) Modiri o tshwanetse, morago ga go dira sediriso se se tsamaelanang le karolotlaleletso (1), ka bonako jo kgonagalang, fela e seng morago ga mo matsatsing a le 30 a go dira sediriswa—

(a) go romelela Palamente pegelo ya kgato ya therisano, eo e tshwanetseng go akaretsa maikarabelo ka kakaretso a morero o o tlhagisitsweng mo ditlhagisong le tsibogelo go merero e e tlhagisitsweng mo ditlhagisong;

(b) fa modiri e le bolaodi jwa lephata la ditšhelete, go tlamela ka kgatiso ya makwalo a a kailweng mo temaneng *(a)* kwa—

(i) bolaoding jo bongwe jwa ditshelete, Banka ya Resefe, Bolaodi jwa Bosetshaba jwa Sekoloto, Khansele ya Dikema tsa Kalafi le Mokaedikakakaretso; le

(ii) fa sediriso sa bolaodi se ka pateletsa ditlhokego mo batlameding ba ditirelo tsa dithoto, thulaganyetso ya popegotheo ya mmaraka e e nang le maikarabelo a go abela batlamedi bao ka dilaesense go ya ka molao wa lephata la ditšhelete.

(c) fa modiri e le Khansele ya Ombud, go tlamela ka kgatiso ya makwalo a a kailweng mo karolotlaleletsong eo go balaodi ba lephata la ditšhelete, Molaodi wa Bosetšhaba wa Sekoloto le Mokaedikakaretso.

Karolo ga e lekanyetse ditherisano tse dinngwe

101. Karolo eno ga e thibele modiri wa sediriswa sa boaodi mo go rerisaneng le mo godimo ga tseo di tlhokegang 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 ditlhagiso tsotlhe tse di amogetsweng ka nako ya go ya bokhutlong gap aka e e kailweng mo karolotlaleletsong 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 letlha le sediriswa si phasaladitsweng mo Rejisetareng ka lona, kgotsa

(b) fa sediriswa se tlamela gore se tsenngwa mo tirisong mo letlheng le le kwa moragnyana, ka letlha 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 romelela 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 kakaretso ya merero e e tlhagisitsweng mo ditlhagisong tse di dirilweng ka nako ya ditherisano; le

(b) tsibogelo go merero e e tlhagisitsweng mo ditlhagisong.

(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 tlhalositsweng mo karolong 100, pegelo ya ditherisano e tshwanetse go phasalatswa mo matsatsing a la 30 morago ga go dirwa ga sediriswa e bile pegelo e tshwanetse go akaretsa polelo ya mabaka a gore goreng go diega mo go ikamanyeng, kgotsa go ikamanyeng ka botlalo, le dikarolo 98 le 99 go tseetswe gore go ka isa kwa kgobelelong ya morekedi wa ditšhelete kgotsa go ama bobe thulaganyo ya ditšhelete, kgotsa go fenya maitlhomo a sediriswa sa bolaodi.

Karolo 2

Maemo

Maemo a tlhokomelo

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 dithoto;

(b) ditheo tsa ditšhelete tse e leng dithulaganyetso tsa popegotheo ya mmaraka; le

(c) batho ba botlhokwa ba ditheo tseo tsa ditšhelete.

(2) Maemo a tlhokomelo e tshwanetse go nna le maikaelelo a e le nngwe kgotsa go feta ya tse di latelang:

(a) Go netefatsa polokego le tolamo ya ditheo tseo tsa ditšhelete;

(b) fokotsa kotsi ya gore ditheo tseo tsa ditšhelete, le batho ba ba botlhokwa ba itshotse ka mokgwa o o ka tlisang, kgotsa o o bakang, bosenyi jwa ditšhelete; le

(c) go thusa go tshegetsa tlhomamo ya ditšhelete.

(3) Ntle le go lekanyetsa karolotlaleletso (1), maemo a tlhokomelo a ka dirwa mo go nngwe le nngwe ya merero e e latelang:

(a) Ditlhokego tsa ditšhelete tse di nepagetseng, go akaretsa ditlhokego mabapi le tekano ya khapetlele, maemotlase a thekiso le theko ya dithoto le maemotlase a boleng jwa dithoto;

(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 nngwe le nngwe ya Molao ono e ka laolwang ke maemo a tlhokomelo, go akaretsa le merero e e kailweng mo karolong 30; le

(d) morero mongwe le mongwe o o maleba le botlhokwa go fitlhelela nngwe le nngwe ya maikaelelo a a tlhagisitsweng 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 botlhokwa ba ditheo tsa ditšhelete; le

(d) bakonteraka.

(2) Maemo a boitshwaro a tshwanetse go nna le maikaelelo a e le nngwe kgotsa go feta ya tse di latelang:

(a) Go netefatsa nonofo le tshiamo ya mebaraka ya ditšhelete;

(b) go netefatsa gore ditheo 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 nepagetse;

(d) go fokotsa kotsi ya gore ditheo tsa ditšhelete, dikemedii, batho ba ba botlhokwa le bakonteraka ba tsaya karolo mo boitshwarong jwa kgotsa jo bo nang le seabe mo bosenying 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 nngwe le nngwe ya mereo e e latelang:

(a) Ditlhokego tsa nonofo le tshiamo tsa mebaraka ya ditšhelete;

(b) mekgwa ya go lwantsha ditiragatso tse di botlhaswa;

(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

(c) ditlhokego tsa go tshola barekedi ba ditšhelete ka tolamo, go akaretsa le mabapi le—
(i) go tlhangwa le go tshwanela ga dikuno tsa ditšhelete le ditirelo tsa ditšhelete;
(ii) tsweletso pele, papatso le phatlalatso ya, le kgakololo mabapi le, dikuno tseo le ditirelo;
(iii) tharabololo ya dingongorego le dithulano mabapi le dikuno tseo le ditirelo, go akaretsa le go busetsa mo maemong;
(iv) tshenolo ya tshedimosetso go barekedi ba ditšhelete; le
(v) meono e e kaelang dikgato le ditsamaiso mabapi le go ganwa, go gogelwa morago kgotsa go tswalwa ga tlhagiso ya ditšhelete kgotsa tirelo ya ditšhelete ka setheo sa ditšhelete mabapi le morekedi a le esi kgotsa go feta wa ditšhelete, go etswe tlhoko maemo a a maleba a boditšhabatšhaba le ditiragatso, le go latela ditlhokego tsa molao mongwe le mongwe wa lephata la ditšhelete kgotsa *Financial Intelligence Centre Act*, go akaretsa le—
(aa) ditshenolo tse di tshwanetseng go dirwa kwa morekeding wa ditšhelete; le
(bb) pegelo ya kgano nngwe le nngwe, kgogelomorago kgotsa tswalo go molaodi wa lephata la ditšhelete;

(d) tlhamo, tshwanelo, tsenyotirisong, tlhokomelo le tekanyetso ya mananeo a thuto ya tsa ditšhelete, kgotsa mananeo a mangwe a a tsweletsang kitso ya tsa ditšhelete;
(e) merero e mo go yona sediriswa sa bolaodi se ka dirwang ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka molao o o tsepameng wa lephata la ditšhelete;
(f) merero e go ya ka kabelo nngwe le nngwe ya Molao ono e ka laolwang ke maemo a boitshwaro; le
(g) morero mongwe le mongwe o o maleba le botlhokwa mo go fitlheleleng nngwe le nngwe ya maikaelelo a a tlhalositsweng mo karolotlaleletsong (2).

(4) Maemo a boitshwaro a ka tlhomamisa boitshwaro jo bo tsepameng mabapi le kuno ya ditšhelete kgotsa tirelo ya ditšhelete go nna boitshwaro jwa kgwebo jo bo sa lolamang fa boitshwaro joo—
(a) bo kgotsa bo ka tlhoka tlhomamo ya botlhokwa ka go tshola barekedi ba ditšhelete ka tolamo;
(b) bo tsietsa kgotsa bo faposa kgotsa bo ka tsietsa kgotsa bo ka faposa barekedi ba ditšhelete;
(c) bo gobelela e seng ka tolamo kgotsa bo ka gobelela e seng ka tolamo barekedii ba ditšhelete kgotsa setlhopha sa badirisi ba ditšhelete; kgotsa
(d) bo kgoreletsa ka mokgwa ofe phitlhelelo ya nngwe ya maikaelelo a molao wa lephata la ditšhelete.

(5) *(a)* Mabapi le motlamedi wa sekoloto yo o laolwang ke Molao wa Bosetšhaba wa Sekoloto, maemo a boitshwaro a ka dirwa fela mabapi le tirelo ya ditšhelete e e tlametsweng mabapi le tumalano ya sekoloto le merero e e tlametsweng mo karolong 108.

(b) Maemo a boitshwaro a a kailweng mo temaneng *(a)* a ka dirwa fela morago ga therisano le Molaodi wa Bosetšhaba wa Sekoloto.

Maemo a a kopantsweng

107. Bothati jwa Tlhokomelo le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka dira maemo a a kopantsweng mo morerong mongwe le mongwe mabapi le gore mongwe le mongwe wa bona o na le thata ya go ka dira maemo.

Mereto ya tlaleletso ya go dira maemo

108. (1) Go fitlhelela maemo a a kailweng a bolaodi jwa lephata la ditšhelete jaaka a tlhagisitswe mo dikarolong 33 le 57, maemo a a kailweng mo dikarolong 105, 106 kgotsa 107 a ka dirwa mo go nngwe le nngwe ya dintlha tse di latelang tsa tlaleletso:
(a) Ditlhokego tsa motho yo o itekanetseng a le matshwanedi, go akaretsa mabapi le—
(i) boleng jwa semelo sa motho jwa boikanyego le tshiamo;
(ii) bokgoni, go akaretsa le maitemogelo, borutegi le kitso; 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 representatives;

(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 akaretsa mabapi le—

(i) popego, botokololo le tsamaiso ya mokgatlho o o busang le wa ditlhophatlaleletso tsa mekgatlho e e busang; le

(ii) ditiro le maikarabelo a mekgatlho e e busang le ditlhophatlaleletso tsa yona;

(c) go thapiwa, ditiro, maikarabelo, tuelo, tebogo, dikema tsa thotloetso, le go ya ka melawana ya tiro, go sekegwa le go belesetswa ga maloko a mekgatlho ya puso le ditlhophatlaleletso tsa yona;

(d) go thapiwa, ditiro, maikarabelo, tuelo, tebogo, dikema tsa thotloetso, le go ya ka melawana ya tiro, go sekegwa le go belesetswa ga batho ba ba botlhokwa;

(e) tiro ya, le ditlhokego tsa tiro tsa, ditheo tsa ditšhelete;

(f) taolo ya ditšhelete, go akaretsa le—

(i) ditlhokego 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 ditshenolo;

(g) taolo ya dikotsi le ditlhokego tsa taolo ya ka fa gare;

(h) ditiro tsa taolo tsa ditheo tsa ditšhelete, go akaretsa le go batla tirelo ya konteraka ya ditiro tsa taolo go tswa kwa ntle;

(i) tsholo ya direkoto le taolo ya tshedimosetso ke ditheo tsa ditšhelete le dikemedi;

(j) pegelo ka ditheo tsa ditšhelete le dikemedi go bolaodi jwa lephata la ditšhelete;

(k) dithulaganyo tsa go bona tirelo ya konteraka go tswa kwa ntle ke ditheo tsa ditšhelete;

(l) dithulaganyo tsa inšorense, go akaretsa 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) ditlhokego tsa go supa le go laola thulano ya dikgatlhego; le

(p) ditlhokego tsa go boloka dithoto ka tshireletsego, go akaretsa le ditlhokego mabapi le thebolo le tlhokomelo ya ba ba kgethilweng le badisi.

(2) Maemo a ka—

(a) tlamela mabapi le bolaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe go dira ditlhomamiso, go tsamaelana le ditsamaiso tse di tlhalositsweng mo maemong, mabapi le maitlhomo a maemo; le

(b) pateletsa ditlhokego mabapi le thebolo ka bolaodi jwa lephata la ditšhelete mabapi le merero e e tsepamisitsweng.

(3) Maemo a a dirilweng ke bolaodi jwa lephata la ditšhelete a ka tlhabolola kgotsa a gogela morago maemo a mangwe a a dirilweng ke bolaodi jwa lephata la ditšhelete.

Maemo a a tlhokang tumelelo ya Banka ya Resefe

109. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka se dire maemo a a gobelelang ditlhokego mo batlameding ba ditirelo tsa tuelo ntle le tumalano ya Banka ya Resefe.

(2) Molaodi wa lephata la ditšhelete o ka se dire maemo a a ikaelelang go thusa go tshegetsa tlhomamo ya ditšhelete ntle le tumalano ya Banka ya Resefe.

Kakaretso

110. (1) Maemo a a farologaneng a ka direlwa, kgotsa mabapi le—

(a) ditlhopha tse di farologaneng tsa ditheo tsa ditšhelete, baemedi, beng ba ba botlhokwa, bakonteraka kgotsa batho ba ba botlhokwa; kgotsa

(b) mabaka a a farologaneng.

(2) Maemo a ka dirwa go tsamaelana le dikgato, ditiro, ditirisano, dipholisi le dithapo.

(3) Maemo a tshwanetse go phasalatswa 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 dithulaganyetso tsa popegotheo ya mmaraka

111. (1) Motho o ka se tlamele, jaaka kgwebo kgotsa karolo ya kgwebo, kuno ya tšhelete, tirelo ya tšhelete kgotsa thulaganyetso ya popegotheo ya mmaraka ntle le—

(a) go tsamaelana le laesense go ya ka molao o o tsepameng wa lephata la ditšhelete kgotsa Molao wa Bosetšhaba wa Sekoloto kgotsa *National Payment System Act*; kgotsa

(b) fa go se molao o o tsepameng wa lephata la ditšhelete o o tlamelang ka laesense eo, go tsamaelana 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 tsamaelana 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 itlhalose kgotsa ga tsewa gore o abetswe laesense go ya ka molao wa lephata la ditšhelete, go akaretsa le go abelwa laesense go tlamela ka dikuno tse di rileng tsa 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 ntlha 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 tlamela ka dikuno tse di rileng tsa ditšhelete, ditirelo tsa ditšhelete kgotsa thulaganyetso ya popegotheo ya mmaraka, ntle le fa motho wa ntlha a abetswe laesense jalo.

(6) Mabapi le maitlhomo a dikarolotlaleletso (4) le (5), motho yo laesense ya gagwe e sekegilweng kgotsa phimotsweng ga a abelwa laesense.

(7) Ntle le ka moo go tlametsweng ka tlhamalalo ke Molao ono, Molao ono ga o ame dikabelo tsa melao e e tsepameng ya lephata la ditšhelete mabapi le kabo ya laesense e e amanang le dikuno tsa ditšhelete le ditirelo tsa ditšhelete le thulaganyetso ya popegotheo ya mmaraka.

Karolo 2

Laesense e e tlhokegang go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162

Tlhaloso

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 aba 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 tshedimosetso e nngwe 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 tshedimosetso e nngwe kgotsa dikwalo tse di tsepamisitsweng ke bothati jo bo rwalang maikarabelo; le

(b) netefatsa tshedimosetso nngwe le nngwe e e neilweng 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 fitlhela modirakopo a ikamanya 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 ditšhelete le tse dingwe tsa, le tse di leng teng go, modirakopo;

(c) ditlhokego tsa batho ba ba itekanetseng e bile ba le matshwanedi tse di diragatswang go modirakopo le go motho mongwe le mongwe yo o botlhokwa kgotsa mong yo o botlhokwa wa modirakopo;

(d) dithulaganyo 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 tlhomamisa kopo ka go—

(a) sekegela kopo le go rebola laesense go modirakopo; kgotsa

(b) sa amogele kopo le go itsise modirakopo ka tshwanelo.

(2) Bothati jo bo rwalang maikarabelo bo ka se abele modirakopo laesense ntle le fa bo kgotsofetse gore—

(a) modirakopo o na le ditlamelo tse di lekaneng le bokgoni go netefatsa gore o tla ikamanya le ditlhokego tsa melao ya lephata la ditšhelete mabapi le laesense; le

(b) go rebolela modirakopo laesense go ka se nne kgatlhanong le dikgatlhego tsa barekedi ba ditšhelete kgotsa lephata la ditšhelete kgotsa dikgatlhego tsa setšhaba.

(3) *(a)* Bothati jo bo rwalang maikarabelo bo tshwanetse go go tlhomamisa kopo jaaka go tlhalositswe mo karolotlaleletsong (1) le go itsise modirakopo mo dikgweding 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 nngwe kgotsa go feta, fela paka yotlhe 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 nngwe le nngwe magareng ga nako e bothati jo bo rwalang maikarabelo bo nayang modirakopo kitsiso go ya ka karolo 114 le nako e ditlhokego tse di mo kitsisong di kgotsofatswang ka yona ga e balellwe.

Go bega Ditlamego tsa moabelwalaesense

117. (1) Moabelwalaesense o tshwanetse go begela bothati jo bo rwalang maikarabelo jo bo rebotseng laesense ka potlako nngwe le nngwe ya tse di latelang:

(a) Ntlha ya gore laesense e tlotse kgotsa e tlola, ka mokgwa o o fetang tekano—

(i) molao wa lephata la ditšhelete;

(ii) taelo ya molaodi kgotsa taelo go ya ka karolo 202;

(iii) tumalano e e gatelelwang;

(iv) taelo ya kgotlatshekelo e e dirilweng go ya ka molao wa lephata la ditšhelete; kgotsa

(v) tshwetso ya Lekgotla;

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PART 2 OF 5

THE PRESIDENCY

No. 853 22 August 2017

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

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(b) the fact that the licensee has become aware that information given in connection with the application for the licence was false or misleading.

(2) Subsection (1) also applies in relation to events and circumstances that occur while a licence is suspended.

(3) Information that is reported in terms of this section is not admissible in evidence in any criminal proceedings, except in criminal proceedings for perjury.

Licences not transferable

118. A licence is not transferable from the licensee to another person.

Variation of licences

119. (1) The responsible authority that issued a licence may, by notice to the licensee, vary the licence if to do so will assist in achieving the objective of the responsible authority as set out in section 33 or 57.

(2) A variation of a licence may include—

(a) removing or varying a condition of the licence, or adding a condition; and

(b) changing the categories of financial products, financial services or financial customers to which the licence relates.

(3) A variation of a licence takes effect on a date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

Suspension of licences

120. (1) The responsible authority that issued a licence may, by notice to the licensee, suspend the licence, for the period specified in the notice, if—

(a) the licensee applies for suspension of the licence;

(b) a condition of the licence has been contravened or not been complied with in a material way;

(c) the licensee has contravened in a material way—

(i) a financial sector law;

(ii) a prudential standard, a conduct standard or a joint standard;

(iii) a regulator's directive or a directive in terms of section 202;

(iv) an enforceable undertaking;

(v) an order of a court made in terms of a financial sector law; or

(vi) a decision of the Tribunal;

(d) the licensee has in a foreign country contravened in a material way a law of that country that corresponds to a financial sector law;

(e) information provided in or in relation to an application in relation to the licence was false or misleading (including by omission) in a material way;

(f) the suspension is necessary to prevent—

(i) a serious contravention of a financial sector law; or

(ii) financial customers of the licensee suffering material prejudice; or

(g) fees in respect of the licence, a levy or an administrative penalty payable by the licensee, including any interest, are unpaid and have been unpaid for at least 30 days.

(2) The responsible authority may refuse to suspend a licence in terms of subsection (1)*(a)* if the suspension—

(a) would not be in the best interests of financial customers; or

(b) would frustrate the objects of a financial sector law applicable to the licence.

(3) The responsible authority that suspended a licence may at any time revoke the suspension.

(b) ntlha ya gore moabelwalaesense o itse gore tshedimosetso e eneilweng mabapi le kopo ya laesense e fosagetse kgotsa e a timetsa.

(2) Karolotlaleletso (1) e diragatswa mabapi le ditiragalo le mabaka a a diragalang fa laesense e emisitswe.

(3) Tshedimosetso e e begilweng go ya ka karolo eno ga e amogelesege 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 go 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 thusa ka phitlhelelo ya maikaelelo a bothati jo bo rwalang maikarabelo jaaka go tlhagisitswe mo karolong 33 kgotsa 57.

(2) Pharologanyo ya laesense e ka akaretsa go—

(a) tlosa kgotsa farologanya lebaka la laesense, kgotsa go tsenya lebaka; le

(b) fetola ditlhopha tsa dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tseo laesense 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 laesense le tlotswe kgotsa go sa ikamanngwa le lona ka tlotlo yotlhe;

(c) moabelwalaesense o dirile tlolo e kgolo ya —

(i) molao wa lephata la ditšhelete;

(ii) maemo a tlhokomelo, maemo a boitshwaro, maemo a a kopanetsweng kgotsa taolo ya Khansele ya Bolaodi jwa Ombud;

(iii) taelo ya molaodi kgotsa taelo go ya ka karolo 202;

(iv) tumalano e e gatelelwang;

(v) taelo ya kgotlatshekelo e e dirilweng go ya ka molao wa lephata la ditšhelete; kgotsa

(vi) tshwetso ya Lekgotla;

(d) moabelwalaesense a tlotse molao thata kwa nageng ya boditšhaba o o tsamaelanang le molao wa lephata la ditšhelete;

(e) tshedimosetso e e tlametsweng ka kgotsa mabapi le kopo e e amanang le laesense e fosagetse kgotsa e timetsa (go akaretsa le ka tlogelo) thata;

(f) tshekego e botlhokwa go thibela—

(i) tlolomolao e e masisi ya molao wa lephata la ditšhelete; kgotsa

(ii) barekedi ba ditšhelete ba moabelwalaesense ba le ka fa tlase ga kgobelelo; kgotsa

(g) dituelo mabapi le laesense, lekgethwana kgotsa kotlhao ya tsamaiso e e duelwang ke moabelwalaesense, e akaretsa 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 ditšhelete; kgotsa

(b) e tla dira gore maikaelelo a molao wa lephata la ditšhelete a a diragatswang mo laesenseng a tsielege.

(3) Bothati jo bo rwalang maikarabelo jo bo sekegileng laesense bo ka nako nngwe le nngwe 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.

(4) Go sekegwa ga laesense go tsenngwa mo tirisong ka letlha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa letlha le le kwa morago le tsepamisitswe, 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 ditšhelete.

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 tlhalositswe mo karolong 120(1)*(b)* go fitlha go *(g)*; kgotsa

(c) fa moabelwalaesense a khutlisitse go dira kgwebo e e abetsweng laesense.

(2) Bothati jo bo rwalang maikarabelo bo ka gana go phimola laesense go ya ka karolotlaleletso (1)*(a)* fa phimolo—

(a) e ka se nne mo kgatlhegong ya barekedi ba ditšhelete; kgotsa

(b) e tla dira gore maikaelelo a molao wa lephata la ditšhelete a a diragatswang mo laesenseng a tsielege.

(3) Phimolo ya laesense e tsenngwa 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.

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 tswelela ka ditiro tse di abetsweng laesense go fitlhela, le ka paka e e tsepamisitsweng mo kitsisong, go nolofatsa kemiso e e rulaganeng kgotsa khutliso ya tiro.

(2) Mabaka go ya ka karolotlaleletso (1) a tshwanetse go lebiswa mo go—

(a) netefatseng gore barekedi ba ditšhelete ba moabelwalaesense ba tshwarwa ka tolamo; kgotsa

(b) kemiso e erulaganeng kgotsa khutliso ya tiro e e abetsweng laesense.

(3) Go dira tiro e e abetsweng laesense go tsamaelana le ditlhokego tsa kitsiso go ya ka karolotlaleletso (1) ga se tlolo ya karolo 111 kgotsa 162.

Tsamaiso Mapapi le go farologanya, go sekega le go fedisa dilaesense

123. (1) *(a)* Pele bothati jo bo rwalang maikarabelo bo farologanya, sekega kgotsa phimola laesense, bo 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 ntlha eno, le go mo naya nako e e lekaneng go dira jalo.

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

(c) Bothati jo bo rwalang maikarabelo ga bo tlhoke go ikamanya le temana *(a)* fa moabelwalaesense a dirile kopo ya kgato e e tshitsintsweng gore e tsewe.

(2) Mo go swetseng ka go farologanya, sekega kgotsa phimola laesense, bothati jo bo rwalang maikarabelo bo tshwanetse go tsaya tsia ditlhagiso tsotlhe tse di dirilweng mo pakeng e e tsepamisitsweng mo kitsisong go ya ka karolotlaleletso (1)*(a)*(ii).

(3) Fa tiego e e tsamaelanang le go ikamanya, kgotsa go ikamanya ka gotlhe, le karolotlaleletso (1)*(a)* mabapi le kgato e e tshitsintsweng e na le bokgoni jwa go gobelela barekedi ba ditšhelete, ya ama tlhomamo ya ditšhelete ka kgobelelo kgotsa ya fenya maikaelelo a kgato, bothati jo bo rwalang maikarabelo bo ka tsaya kgato ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso eo.

(4) *(a)* Fa bothati jo bo rwalang maikarabelo bo tsaya kgato ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso (1)*(a)* go ya ka mabaka a a kailweng mo karolotlaleletsong (3), moabelwalaesense o tshwanetse go abelwa polelo e e kwetsweng ya mabaka a gore goreng go sa ikamanngwa le karolotlaleletso eo.

(b) Moabelwalaesense o ka dira ditlhagiso go bothati jo bo rwalang maikarabelo mo kgweding e le 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 itsise moabelwalaesense, ka bonako jo bo kgonagalang, fa bothati jo bo rwalang maikarabelo bo tshitsinya go tlhabolola kgotsa phimola pharologanyo, tshekego kgotsa phimolo.

Go dira kopo ya dilaesense

124. (1) Bothati jo bo rwalang maikarabelo bo ka, ka go kwala, tlhomamisa ditsamaiso le ditlhokego tsa dikopo.

(2) Ditlhokego tse di tlhomamisitsweng go ya ka karolotlaleletso (1) di ka akaretsa ditlhokego mabapi le—

(a) foromo ya setheo ya modirakopo;
(b) ditiro tsa kgwebo tsa modirakopo;
(c) maemo a ditšhelete a modirakopo;
(d) ditlhokego tsa motho yo o itekanetseng le e bile a siame; le
(e) dithulaganyo tsa modirakopo tsa puso le taolo ya dikotsi.

(3) Kopo go bothati jo bo rwalang maikarabelo mabapi le maitlhomo a Karolo eno e tshwanetse go dirwa go tsamaelana le ditsamaiso tse di maleba go ya ka karolotlaleletso (1).

(4) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa ditlhokego tse di tlhomamisitsweng go ya ka karolotlaleletso (1).

Karolo 3

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

Tiragatso

125. Karolo eno e diriswa mababi le dilaesense go ya ka melao yotlhe ya lephata la ditšhelete.

Tumalano ya balaodi ba lephata la ditšhelete ka ga meroro ya kabo ya laesense

126. (1) Bothati jo bo rwalang maikarabelo bo ka se tseye epe ya dikgato tse di tsepamisitsweng mo karolotlaleletsong (2) ntle le fa—

(a) bothati jo bongwe jwa ditšhelete bo dumetse; le
(b) kgato e amana le kgotsa e ama setheo sa ditšhelete se se botlhokwa mo thulaganyong, Banka ya Resefe le yona e dumetse.

(2) Dikgato tseo ke—

(a) go aba laesense;
(b) go farologanya, emisa kgotsa fedisa laesense (mme fela di tlhalositswe mo molaong o o maleba wa lephata la ditšhelete); le
(c) go neelana ka kgololo go ya ka karolo 281.

Tshenolo ya pateletso ya dilaesense

127. (1) Setheo sa ditšhelete se se abetsweng laesense se tshwanetse go ikamanya le ditlhokego tse di diriswang tsa maemo a tlhokomelo, maemo a boitshwaro le maemo a a kopanetsweng mabapi le tshupo ya dilaesense tse di maleba ka fa tlase ga melao ya lephata la ditšhelete mo makwalong a kgwebo, go akaretsa le dipapatso le materiale o mongwe wa tsweletso.

(2) Setheo se se abetsweng laesense sa ditšhelete 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 nngwe le nngwe e tshwanetse go phasalatswa ke bothati jo bo rwalang maikarabelo jo bo e rebotseng.

(2) Pharologanyo, tshekego kgotsa phimolo nngwe le nngwe 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

Application and interpretation of Chapter

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

Information gathering

131. (1) *(a)* The responsible authority for a financial sector law may, by written notice to any person, request the person to provide specified information or a specified document in the possession of, or under the control of, the person that is relevant to assisting the responsible authority to perform its functions in terms of a financial sector law.

(b) A supervised entity that has been given a notice in terms of paragraph *(a)* must comply with the requirements in the notice.

(2) *(a)* The responsible authority for a financial sector law may, by written notice to a supervised entity, require the supervised entity to provide specified information or a specified document in the possession of, or under the control of, the entity that is relevant to the responsible authority's assessment of compliance by a supervised entity with, or risk of contraventions by a supervised entity of—

(i) a financial sector law;

KGAOLO 9

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

Karolo 1

Tiragetso le tlhaloso

Tiragetso le tlhaloso ya Kgaolo

129. (1) Kgaolo eno e diriswa mo kgobokanyong ya tshedimosetso, ditlhatlhobo tsa botlhokomedi tsa kwa tirong le dipatlisiso ke Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(2) Khansele ya Dikema tsa Kalafi e ka diragatsa dithata go ya ka Kgaolo eno mabapi le dithata le ditiro tse di tlhagisitsweng mo *Medical Schemes Act*, le dithata le ditiro tse e di abetsweng mo Molaong ono.

(3) Mabapi le tiragatso ya dithata go ya ka Kgaolo eno ka Khansele ya Dikema tsa Kalafi mabapi le sekema sa kalafi, tshupetso mo Kgaolong eno go—

(a) molaodi wa lephata la ditšhelete kgotsa bothati jo bo rwalang maikarabelo bo tshwanetse go buiswa jaaka bo akaretsa tshupetso go Khansele ya Dikema tsa Kalafi;

(b) tlhogo ya molao wa lephata la ditšhelete e tshwanetse go tseelwa gore e akaretsa tshupetso go Mokwadisi wa Sekema sa Kalafi yo o thapilweng go latela karolo 18 ya *Medical Schemes Act*;

(c) molao wa lephata la ditšhelete o tshwanetse go tseelwa gore o akaretsa tshupetso go didiriswa tsa taolo le go *Medical Schemes Act*; le

(d) setheo sa ditšhelete se se abetsweng laesense se tshwanetse go buiswa jaaka se akaretsa tshupetso go sekema sa kalafi se se kwadisitsweng go ya ka *Medical Schemes Act* kgotsa motsamaisi wa sekema sa kalafi se se rebotsweng go ya ka *Medical Schemes Act*.

Tshwanelo ya badiredi ba Semolao

130. (1) *(a)* Motho ga a tshwanela go araba potso e e boditsweng, kgotsa go ikamanya le tlhokego ya go tlhagisa lokwalo kgotsa tshedimosetso, go ya ka Kgaolo eno go ya ka moo motho a tshwanetsweng ke go tleleima 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 tleleima 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)* Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka, ka kitsiso e e kwetsweng go mongwe le mongwe, kopa motho go tlamela ka tshedimosetso kgotsa lokwalo le le tsepamisitsweng le le tshotsweng ke, kgotsa le le ka fa tlase ga taolo ya, motho yo o leng maleba mo go thuseng bothati jo bo rwalang maikarabelo go dira ditiro tsa jona go ya ka molao wa lephata la ditšhelete.

(b) Setheo se se tlhokometsweng se se neilweng kitsiso go ya ka temana *(a)* se tshwanetse go ikamanya le ditlhokego tse di mo kitsisong.

(2) *(a)* Bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete bo ka, ka kitsiso e e kwaletsweng setheo se se tlhokometsweng, kopa setheo se se tlhokometsweng go tlamela ka tshedimosetso e e tsepamisitsweng kgotsa lokwalo le le tsepamisitsweng leo se le tshotseng la, kgotsa le le ka fa tlase ga taolo ya sona ya, setheo se se maleba go tekanyetso ya bothati jo bo rwalang maikarabelo ya go ikamanya ka setheo se se tlhokometsweng ka, kgotsa kotsi ya ditlolo ka setheo se se tlhokometsweng sa—

(i) molao wa lephata la ditšhelete;

(ii) a regulator's directive issued by the responsible authority; or
(iii) an enforceable undertaking accepted by the responsible authority.

(b) The responsible authority may require the information or document to be verified as specified in the notice, including by an auditor approved by the responsible authority.

(*c*) A supervised entity that has been given a notice in terms of paragraph *(a)* or *(b)* must comply with the requirements in the notice.

(3) The responsible authority for a financial sector law may, for the purpose of gathering information relevant to its functions, engage in the activity commonly called "mystery shopping" in respect of financial products or financial services, and similar activities.

Part 3

Supervisory on-site inspections

Powers to conduct supervisory on-site inspections

132. (1) A financial sector regulator may conduct a supervisory on-site inspection at the business premises of a supervised entity with prior notification to the supervised entity and, if the business premises of a supervised entity is a private residence, with the prior agreement of—

(a) the person apparently in control of the business reasonably believed to be conducted at the private residence; and
(b) the occupant of the private residence or the part of the private residence to be inspected.

(2) The purpose for which a financial sector regulator may conduct a supervisory on-site inspection of a supervised entity is to—

(a) check compliance by the entity with a financial sector law for which the financial sector regulator is the responsible authority, a regulator's directive issued by the financial sector regulator or an enforceable undertaking accepted by the financial sector regulator;
(b) determine the extent of the risk posed by the entity of contraventions of a financial sector law for which the financial sector regulator is the responsible authority; and
(c) assist the financial sector regulator in supervising the relevant financial institution.

(3) *(a)* A financial sector regulator may determine the time and place of a supervisory on-site inspection, provided that the supervisory on-site inspection must be done at a reasonable time within ordinary business hours.

(b) A financial sector regulator must conduct a supervisory on-site inspection with strict regard to—

(i) an affected person's right to—
(aa) dignity;
(bb) freedom and security;
(cc) privacy; and
(dd) other constitutional rights; and
(ii) decency and good order as the circumstances require, in particular by—
(aa) conducting the supervisory on-site inspection discreetly and with due decorum;
(bb) causing as little disturbance as possible; and
(cc) concluding the supervisory on-site inspection as soon as possible.

(4) *(a)* An official of a financial sector regulator, when conducting a supervisory on-site inspection, may do any of the following:

(i) Request any person who has a specified business document that is relevant to the inspection in his, her or its possession or under his, her or its control to produce that document and examine, make extracts from and copy any business document on the premises;
(ii) question any person on the premises to find out information relevant to the inspection;
(iii) give the supervised entity a written directive to produce to the financial sector regulator, at a time and place and in a manner specified in the directive, a

(ii) taelo ya molaodi wa lephata la ditšhelete e e rebotsweng ke bothati jwa lephata la ditšhelete; kgotsa

(iii) tumalano e e gatelelwang e e amogetsweng ke bothati jo bo maleba.

(b) Bothati jo bo rwalang maikarabelo bo ka kopa tshedimosetso 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 neetsweng kitsiso go ya ka temana *(a)* kgotsa *(b)* se tshwanetse go ikamanya le ditlhokego tse di mo kitsisong.

(3) Bothati jo bo rwalang maikarabelo jwa lephata la ditšhelete bo ka, mabapi le maitlhomo a go kgobokanya tshedimosetso e e malebana le ditiro tsa jona, tsaya karolo mo tirong e e itsegeng ka "theko e e makatsang" mabapi le dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete, le ditiro tse di tshwanang.

Karolo 3

Ditlhatlhobo tsa botlhokomedi tsa tirong

Dithata tsa go dira ditlhatlhobo tsa botlhokomedi tsa tirong

132. (1) Bolaodi jwa lephata la ditšhelete bo ka dira ditlhatlhobo tsa botlhokomedi kwa tirong kwa mafelong a kgwebo a setheo se se tlhokometsweng ka kitsiso e e dirilweng pele kwa setheong se se tlhokometsweng 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 taolong ya kgwebo e ka mabaka go dumelwang gore e dirwa kwa lefelong la poraefete; le

(b) badirisi ba lefelo leo la poraefete kgotsa karolo ya lefelo la poraefete le le tla tlhatlhobiwang.

(2) Maitlhomo a bolaodi jwa lephata la ditšhelete a go ka dira tlhatlhobo ya botlhokomedi kwa tirong ya setheo se se tlhokometsweng ke go—

(a) tlhola go ikamanya ga setheo le molao wa lephata la ditšhelete o molaodi wa lephata la ditšhelete a rwalang maikarabelo a ona kgotsa tumalano e e gatelelwang e e amogetsweng ke molaodi wa lephata la ditšhelete;

(b) tlhomamisa ka moo kotsi e e tlisitsweng ke setheo ka ditlolo tsa molao wa lephata la ditšhelete o molaodi wa lephata la ditšhelete a rwalang maikarabelo a ona; le

(c) thusa molaodi wa lephata la ditšhelete mo go tlhokomeleng setheo sa ditšhelete se se maleba.

(3) *(a)* Molaodi wa lephata la ditšhelete o ka tlhomamisa nako le lefelo la tlhatlhobo ya botlhokomedi kwa tirong, fa fela tlhatlhobo ya botlhokomedi kwa tirong e dirwa ka nako e e maleba e e welang ka fa tlase ga nako e e tlwaelegileng ya tiro.

(b) Molaodi wa lephata la ditšhelete o tshwanetse go dira tlhatlhobo ya botlhokomedi kwa tirong ka keletlhoko e kgolo go—

(i) tshwanelo ya motho yo o amegang ya—

(aa) seriti;

(bb) kgololosego le tshireletsego;

(cc) sephiri; le

(dd) ditshwanelo tse dingwe tsa semolaotheo; le

(ii) tlotlego le tolamo jaaka maemo a tlhoka, segolosegolo ka go—

(aa) dira tlhatlhobo ya botlhokomedi kwa tirong ka bofitlha le ka manontlhotlho;

(bb) dira gore go se nne le kgoreletsego e kgolo; le

(cc) konosetsa tlhatlhobo ya botlhokomedi kwa tirong ka bonako jo bo kgonegang.

(4) *(a)* Motlhankedi wa bolaodi jwa lephata la ditšhelete, fa a dira tlhatlhobo ya botlhokomedi kwa tirong, o ka dira nngwe le nngwe ya tse di latelang:

(i) Kopa motho mongwe le mongwe yo o tshotseng kgotsa yo o neng a tshotse lokwalo la kgwebo le le tsepamisitsweng le le leng malebana le tlhatlhobo go tlhagisa lokwalo leo le go le sekaseka, go dira ditswa le go dira khopi go tswa mo lokwalong lengwe le lengwe la kgwebo mo lefelong;

(ii) botsa motho mongwe le mongwe mo lefelong go batla tshedimosetso 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 ditšhelete, ka nako, kwa

specified business document that is relevant to the inspection and is in the possession or under the control of the supervised entity;

(iv) when a business document is produced as required by a directive in terms of subparagraph (iii), examine, make extracts from and copy the document;

(v) if, as a result of the inspection, the official or the financial sector regulator suspects on reasonable grounds that a contravention of a financial sector law has occurred or is likely to occur—

(aa) give a written directive to the supervised entity or the person apparently in control of the premises to ensure that no person removes from the premises, or conceals, destroys or otherwise interferes with, any business document; or

(bb) take possession of, and remove from the premises, a business document for the purpose of preventing another person from removing, concealing, destroying or otherwise interfering with the document.

(b) A directive in terms of paragraph *(a)*(iii) or (v)*(aa)* is effective if given to a person apparently in control of the premises.

(c) The financial sector regulator must ensure that the person apparently in control of the premises is given a written receipt for the business documents taken as mentioned in paragraph *(a)*(v)*(bb)*.

(d) The financial sector regulator must ensure that any business document removed as contemplated in paragraph *(a)*(v)*(bb)* is returned to the supervised entity when retention of the business document is no longer necessary to achieve the object of a financial sector law.

(e) The supervised entity from whose premises a document was removed as contemplated in paragraph *(a)*(v)*(bb)*, or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document.

Interference with supervisory on-site inspections

133. A person may not intentionally or negligently interfere with or hinder the conduct of a supervisory on-site inspection.

Part 4

Investigations

Investigators

134. (1) A financial sector regulator may, in writing, appoint a person as an investigator and may appoint any person to assist the investigator in carrying out an investigation.

(2) A person appointed as an investigator must —

(a) not be a disqualified person;

(b) not have any conflict of interest in respect of the subject matter of the investigation; and

(c) have appropriate skills and expertise.

(3) The financial sector regulator must issue an investigator appointed in terms of subsection (1) with a certificate of appointment, which must be in the possession of the investigator when an investigator exercises any power or performs any duty in terms of this Act, and such investigator must produce the certificate of appointment at the request of any person in respect of whom such power is being exercised.

Powers to conduct investigations

135. (1) A financial sector regulator may instruct an investigator appointed by it to conduct an investigation in terms of this Part in respect of any person, if the financial sector regulator—

(a) reasonably suspects that a person may have contravened, may be contravening or may be about to contravene, a financial sector law for which the financial sector regulator is the responsible authority; or

lefelong le ka mokgwa o o tsepamisitsweng mo taelong, lokwalo la kgwebo le le tsepamisitsweng le le malebana le tlhatlhobo e bile le mo diatleng tsa kgotsa ka fa tlase ga taolo ya setheo se se tlhokometsweng;

(iv) fa lokwalo la kgwebo le tlhagisitswe jaaka go kopilwe ka taelo go ya ka temanatlaleletso (iii), tlhatlhoba, dira ditswa go tswa go lona le go gatisa lokwalo;

(v) fa, go ya ka ditlamorago tsa tlhatlhobo, motlhankedi kgotsa molaodi wa lephata la ditšhelete a belaela ka mabaka a a utlwalang gore tlolo ya molao wa lephata la ditšhelete e diragetse kgotsa e ka diragala—

(aa) neela taelo e e kwetsweng go setheo se se tlhokometsweng kgotsa motho yo o laolang lefelo gore a se ntshe mo lefelong, kgotsa fitlha, senya kgotsa ka gongwe go tshwenyana le, lokwalo le le tsepamisitsweng la kgwebo; kgotsa

(bb) go itseela, le go tlosa mo lefelong, lokwalo la kgwebo mabapi le maitlhomo a go thibela motho yo mongwe go tlosa, fitlha, senya kgotsa ka gongwe go tshwenyana le lokwalo.

(b) Taelo go ya ka temana *(a)*(iii) kgotsa (v)*(aa)* e tsenngwa mo tirisong fa e neilwe motho yo a ka tswang a laola lefelo.

(c) Molaodi wa lephata la ditšhelete o tshwanetse go netefatsa gore motho yo o ka tswang a laola lefelo o newa rasiti e e kwetsweng mabapi lelokwalo lengwe le lengwe la kgwebo le le tlositsweng jaaka go kailwe mo temaneng *(a)*(v)*(bb)*.

(d) Bolaodi jwa lephata la ditšhelete bo tshwanetse go netefatsa gore lokwalo lengwe le lengwe la kgwebo le le tlositsweng jaaka go tlhalositswe mo temaneng *(a)*(v)*(bb)* le busetswa kwa setheong se se tlhokometsweng fa pusetso ya lokwalo la kgwebo e sa tlhole e tlhokega go fitlhelela maitlhomo a molao wa lephata la ditšhelete.

(e) Setheo se se tlhokometsweng se kwa lefelong la sona go tlositsweng lokwalo jaaka go kailwe mo temaneng *(a)*(v)*(bb)*, kgotsa moemedi wa sona yo o letleletsweng, se ka, ka nako e e tlwaelegileng ya diura tsa tiro le ka fa tlase ga tlhokomelo ya molaodi wa lephata la ditšhelete, tlhatlhoba, gatisa le go dira ditswa go tswa go lokwalo.

Go ltshunyatshunya mo dithlathobong tsa botlhokomedi tsa tirong

133. Motho o ka se tshwenyane le kgotsa kgoreletse go dirwa ga tlhatlhobo ya kwa tirong ya botlhokomedi ka maikemisetso kgotsa botlhaswa.

Karolo 4

Dipatlisiso

Babatlisisi

134. (1) Molaodi wa lephata la ditšhelete o ka, ka go kwala, thapa motho jaaka mmatlisisi le go ka thapa motho mongwe le mongwe go thusa mmatlisisi mo go direng patlisiso.

(2) Motho yo o thapilweng jaaka motlhatlhobi o tshwanetse—

(a) gore a bo a se motho yo o ileditsweng;

(b) gore a bo a sena kgotlhang ya dikgatlhego mabapi le morero o o batlisiswang; e bile

(c) go nna le bokgoni jo bo maleba le boitseanape.

(3) Molaodi wa lephata la ditšhelete o tshwanetse go abela mmatlisisi yo o thapilweng go ya ka karolotlaleletso (1) setifikeite sa go thapiwa, seo se tshwanetseng go tsholwa ke mmatlisisi fa mmatlisisi a diragatsa thata nngwe le nngwe kgotsa a dira tiro nngwe go ya ka Molao ono, e bile mmatlisisi yoo o tshwanetse go tlhagisa setifikeite sa go thapiwa ka kopo ya motho mongwe le mongwe mabapi le yoo thata e diragatswang mo go ena.

Dithata tsa go dira dipatlisiso

135. (1) Molaodi wa lephata la ditšhelete o ka laela mmatlisisi yo a mo thapileng go dira patlisiso go ya ka Karolo eno mabapi le motho mongwe le mongwe, fa molaodi wa lephata la ditšhelete —

(a) ka lebaka, a belaela gore motho oka tswa a tlotse, kgotsa o tlola kgotsa o ka tswa a le gaufi le go tlola, molao wa lephata la ditšhelete o molaodi wa lephata la ditšhelete a rwalang maikarabelo 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 251(3)*(e)* go ikamanya le kopo ya bothati jo bo kopang go ya ka tumalano ya sebedi kgotsa bontsi kgotsa memorantamo wa tumalano o o tlhalositsweng mo karolong eo.

(2) Bolaodi jo bo rwalang maikarabelo bo ka batlisisa morero mongwe o o amarang le molato kgotsa tlolomolao e e kailweng mo dikarolong 78, 80 le 81 tsa *Financial Markets Act*, go akaretsa le go gweba go go seng mo molaong ga motho yo o nang le tshedimosetso e e bofitlha 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 babatlisisi 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 nngwe le nngwe ya tse di latelang:

(i) Ka kitsiso e e kwetsweng, kopa motho mongwe le mongwe yo mmatlisisi a dumelang ntle le pelaelo gore o ka kgona go tlamela ka tshedimosetso e e maleba go patlisiso go itlhagisa fa pele ga mmatlisisi, ka nako le kwa lefelong le le le tsepamisitsweng mo kitsisong, go botsolotswa ke mmatlisisi;

(ii) ka kitsiso e e kwetsweng, kopa motho mongwe le mongwe yo mmatlisisi a dumelang ntle le pelaelo gore o ka kgona go tlhagisa lokwalo kgotsa sengwe se se maleba go patlisiso, go—

(aa) tlhagisa lokwalo kgotsa ntlha go mmatlisisi, ka nako le kwa lefelong le le tsepamisitsweng mo kitsisong; kgotsa

(bb) tlhagisa lokwalo kgotsa selo go mmatlisisi, ka nako le kwa lefelong le le tsepamisitsweng mo kitsisong, go botsolotswa ke mmatlisisi ka ga lokwalo kgotsa sengwe;

(iii) botsa motho yo o ikamanyang le kitsiso go ya ka temanatlaleletso (i) kgotsa (ii)*(bb)*;

(iv) kopa motho yo o botswang dipotso jaaka go kailwe mo temanatlaleletsong (i) kgotsa (ii)*(bb)* go dira maikano kgotsa tlhomamiso, le go tsamaisa maikano ao kgotsa tlhomamiso eo;

(v) tlhatlhoba, gatisa kgotsa dira ditswa go tswa mo lokwalong lengwe le lengwe kgotsa selong se se tlhagisitsweng go mmatlisisi jaaka go tlhokega go ya ka temana eno *(a)*;

(vi) go itseela, le go tlosa mo lefelong, lokwalo lengwe le lengwe kgotsa selo se se tlhagisitsweng go mmatlisisi jaaka go tlhokega go ya ka temana eno *(a)*; le

(vii) neela taelo go motho yo o leng teng fa mmatlisisi a diragatsa dithata go ya ka karolo eno, go nolofatsa tiragatso ya dithata tseo.

(b) Mmatlisisi yo o tsayang lokwalo kgotsa selo go ya ka temana *(a)*(vi) o tshwanetse go naya motho yo o le tlhagisang rasiti e e kwetsweng.

(c) Go latela temana *(d)*, mmatlisisi o tshwanetse go netefatsa gore lokwalo kgotsa sengwe se se tserweng go ya ka temana *(a)*(vi) se busetswa kwa mothong yo a se tlhagisitseng fa—

(i) pusetso ya lokwalo kgotsa sengwe e sa tlhole e tlhokega go fitlhelela maitlhomo a patltisiso; kgotsa

(ii) ditsamaiso tsotlhe tse di tlhageletseng go tswa mo patlisisong di latlhilwe kwa bokhutlong.

(d) Lokwalo kgotsa sengwe se tshwanetse go busetswa kwa mothong yo o se tlhagisitseng fa—

(i) lokwalo kgotsa sengwe se gorositswe kwa bothating jo bo tlhophilweng; kgotsa

(ii) ka mogopolo wa Khomišenara, 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 tshwanetsweng go nna mong wa lokwalo kgotsa sengwe se se tserweng go ya ka temana *(a)*(vi), kgotsa moemedi yo o letleletsweng, o ka, ka nako ya diura tsa tiro e e tlwaelegileng le ka fa tlase ga tlhokomelo ya bolaodi jwa lephata la ditšhelete, tlhatlhoba, gatisa le go dira ditswa go tswa mo lokwalong, kgotsa go tlhatlhoba selo.

(2) Motho yo o botswang go ya ka karolo eno o tshwanetse ke go emelwa ke moitseanape wa semolao yo o leng teng kwa potsolotsong go mo thusa.

Powers of investigators to enter and search premises

137. (1) An investigator may, for the purposes of conducting an investigation, do any of the following:

(a) Enter any premises—

(i) with the prior consent of—

(aa) in the case of a private residence, the person apparently in control of the business reasonably believed to be conducted at the private residence, and the occupant of the private residence or the part of the private residence to be entered; or

(bb) in the case of any other premises, the person apparently in control of the premises,

after informing that person that—

(AA) granting consent will enable the investigator to enter the premises and for the investigator to subsequently search the premises as referred to in paragraph *(b)* or *(c)*, and to do anything contemplated in subsection (6); and

(BB) he or she is under no obligation to admit the investigator in the absence of a warrant; or

(ii) without prior consent and without prior notice to any person—

(aa) if the entry is authorised by a warrant; or

(bb) with the prior authority of the head of a financial sector regulator or a senior staff member of the financial sector regulator delegated to perform the function, if the head of a financial sector regulator or senior staff member on reasonable grounds believes that—

(AA) a warrant will be issued under section 138(1) if applied for;

(BB) the delay in obtaining the warrant is likely to defeat the purpose for which entry of the premises is sought; and

(CC) it is necessary to enter the premises to conduct the investigation and search the premises as referred to in paragraph *(b)* or *(c)*, and to do anything contemplated in subsection (6);

(b) if the investigation is one referred to in section 135(1)*(a)*, search the premises for evidence of a contravention of a financial sector law; or

(c) if the investigation is one referred to in section 135(1)*(b)*, search the premises pursuant to the request, subject to section 251.

(2) The authority of an investigator in terms of subsection (1)*(a)* to enter a premises also provides authority for the investigator to subsequently search the premises as referred to in subsection (1)*(b)* or *(c)*, and to do anything contemplated in subsection (6).

(3) An investigator exercising powers in terms of this section must do so with strict regard to—

(a) an affected person's right to—

(i) dignity;

(ii) freedom and security;

(iii) privacy; and

(iv) other constitutional rights; and

(b) decency and good order as the circumstances require, in particular by—

(i) entering and searching only such areas or objects as are reasonably required for the purposes of the investigation;

(ii) conducting the search discreetly and with due decorum;

(iii) causing as little disturbance as possible; and

(iv) concluding the search as soon as possible.

(4) An entry or search of premises in terms of this Part must be done, at a reasonable time within ordinary business hours,—

(a) unless the warrant authorising it expressly authorises entry at night; or

(b) in the case of a search contemplated in subsection (1)*(a)*(ii)*(bb)*, if the investigator on reasonable grounds believes that the purpose for which the entry and search is sought, is likely to be defeated by a delay, as close to ordinary business hours as the circumstances reasonably permit.

Dithata tsa babatlisisi tsa go tsena le go batla mo mafelong

137. (1) Mmatlisisi o ka, ka maitlhomo a go dira patlisiso, dira nngwe ya tse di latelang:

(a) Go tsena mo lefelong lengwe le lengwe—

(i) ka tumelelo ya pele ya—

(aa) mabapi le tulo ya poraefete, motho yo onnang mo tulong 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 tulong le gore mmatlisisi a phuruphutse ditulo jaaka go kailwe mo temanatlaleletsong *(b)* kgotsa *(c)*, le go dira sengwe le sengwe se se tlhalositsweng mo karolotlaleletsong (6); le

(BB) ga a patelesege go amogela mmatlisisi fa thebolo e seyo; kgotsa

(ii) ntle le tumelelo eo le ntle le tumelelo ya pele go motho mongwe le mongwe—

(aa) fa go tsena go letleletswe ka thebolo; kgotsa

(bb) ka taolo ya pele ya tlhogo ya bolaodi jwa lephata la ditšhelete kgotsa modirimmogo yo mogolo wa bolaodi jwa lephata la ditšhelete yo o romilweng go dira tiro, fa tlhogo ya bolaodi jwa lephata la ditšhelete kgotsa modirimmogo yo mogolo a dumela ka mabaka a a utlwalang gore—

(AA) thebolo e tla rebolwa ka fa tlase ga karolo 138(1) fa e diretswe kopo;

(BB) tiego mo go fitlhelelng thebolo e ka ama maitlhomo a kopo e e dirilweng mabapi le go tsena mo ditulong; le

(CC) go botlhokwa 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 tlhalositsweng mo karolotlaleletsong (6);

(b) fa patlisiso e 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 e le e kailweng mo karolong 135(1)*(b)*, go phuruphutsa lefelo go latela kopo, go latela karolo 251.

(2) Taolo ya mmatlisisi go ya ka karolotlaleletso (1)*(a)* go tsena mo lefelong e tlamela gape ka taolo ya mmatlisisi ya go phuruphutsa mo mafelong jaaka go tlhalositswe mo karolotlaleletsong (1)*(b)* kgotsa *(c)*, le go dira sengwe le sengwe se se kailweng mo karolotlaleletsong (6).

(3) Mmatlisisi yo o dirisang dithata go ya ka karolo eno o tshwanetse go dira seno ka keletlhoko e kgolo go—

(a) tshwanelo ya moamegi ya—

(i) seriti;

(ii) kgololosego le tshireletsego;

(iii) bosephiri jwa bowena; le

(iv) ditshwanelo tse dingwe tsa semolaotheo; le

(b) tshiamo le tolamo jaaka maemo a letla, segolosegolo 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 kgolo; le

(iv) go konosetsa patlisiso ka bonako jo bo kgonegang.

(4) Tseno kgotsa phuruphotso mo lefelong go ya ka Karolo eno e tshwanetse go dirwa ka nako e e maleba mo dinakong tse di tlwaelegileng tsa tiro—

(a) ntle le fa thebolo e e nayang tetla e letlelela gore go tsenwe bosigo; kgotsa

(b) mo lebakeng la phuruphutso e e tlhalositsweng mo karolotlaleletsong (1)*(a)*(ii)*(bb)*, fa mmatlisisi ka mabaka a a utlwalang a dumela gore maitlhomo a tseno kgotsa phuruphutso e a diretsweng, a ka angwa ke tiego, mo nakong e e gaufi le dinako tse di tlwaegileng tsa tiro jaaka maemo a letla go ya ka mabaka.

(5) An investigator may be accompanied and assisted during the entry and search of any premises for an investigation by a police officer or a person appointed in terms of section 134.

(6) *(a)* While on the premises in terms of this section, an investigator, for the purpose of conducting the investigation, has the right of access to any part of the premises and to any document or item on the premises, and may do any of the following:

(i) Open or cause to be opened any strongroom, safe, cabinet or other container in which the investigator reasonably suspects there is a document or item that may afford evidence of the contravention concerned or be relevant to the request;

(ii) examine, make extracts from and copy any document on the premises;

(iii) question any person on the premises to find out information relevant to the investigation;

(iv) require a person on the premises to produce to the investigator any document or item that is relevant to the investigation and is in the possession or under the control of the person;

(v) require a person on the premises to operate any computer or similar system on or available through the premises to—

(aa) search any information in or available through that system; and

(bb) produce a record of that information in any media that the investigator reasonably requires;

(vi) if it is not practicable or appropriate to make a requirement in terms of subparagraph (v), operate any computer or similar system on or available through the premises for a purpose set out in that subparagraph; and

(vii) take possession of, and take from the premises, a document or item that may afford evidence of the contravention concerned or be relevant to the request.

(b) An investigator must give the person apparently in charge of the premises a written receipt for documents or items taken as mentioned in paragraph *(a)*(vii).

(c) Subject to paragraph *(d)*, the investigator must ensure that any document or item taken by the investigator as mentioned in paragraph *(a)*(vii) is returned to the person when—

(i) retention of the document or item is no longer necessary to achieve the object of the investigation; or

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

(d) A document or item need not be returned to the person who produced it if —

(i) the document or item has been handed over to a designated authority; or

(ii) it is not in the best interest of the public or any member or members of the public for the documents or items to be returned.

(e) A person from whose premises a document or item was taken as mentioned in paragraph *(a)*(vii), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document or item.

(7) An investigator, and any person assisting an investigator as mentioned in subsection (5), may use reasonable force to exercise any power in terms of this section.

Warrants

138. (1) *(a)* A judge or magistrate who has jurisdiction may issue a warrant for the purposes of this Part on application by an investigator.

(b) The judge or magistrate may issue a warrant in terms of this section—

(i) on written application by the investigator setting out under oath or affirmation why it is necessary to enter and investigate the premises; and

(ii) if it appears to the magistrate or judge from the information under oath or affirmation that—

(aa) in the case of an investigation under section 135(1)*(a)*, that—

(AA) there are reasonable grounds for suspecting that a contravention of a financial sector law has occurred, may be occurring or may be about to occur;

(5) Mmatlisisi o ka patwa le go thuswa ka nako ya tseno le patlo ya lefelo lengwe le lengwe go ya go dira patlisiso ke motlhankedi wa sepodisi kgotsa motho yo thapilweng go ya ka karolo 134.

(6) *(a)* Fa a le kwa lefelong go ya ka karolo eno mmatlisisi, ka maitlhomo a go dira patlisiso, o na le tshwanelo ya go tsena mo karolong nngwe le nngwe ya lefelo le go lokwalo lengwe le lengwe kgotsa sengwe le sengwe e bile o ka dira nngwe le nngwe ya tse di latelang:

(i) Bula kgotsa a dira gore go bulwe kamore ya polokelo, polokelo, kobotlo kgotsa setshelo sengwe se mmatlisisi a ka belaelang ka mabaka a a utlwalang gore se na le lokwalo kgotsa sengwe se se ka nnang bopaki jwa tlolo e e amegang;

(ii) tlhatlhoba, dira ditswa le go gatisa lokwalo lengwe le lengwe mo lefelong;

(iii) botsa motho mongwe le mongwe mo lefelong go batlisisa tshedimosetso e e malebana le patlisiso;

(iv) kopa motho mo lefelong go tlhagisetsa mmatlisisi lokwalo lengwe le lengwe kgotsa sengwe se se malebana le patlisiso e bile se tshotswe kgotsa se le mo tlase ga taolo ya motho;

(v) kopa motho yo o mo lefelong go dirisa khomputara nngwe le nngwe kgotsa thulaganyo e e tshwanang le e e leng teng mo lefelong go—

(aa) batla tshedimosetso nngwe le nngwe e eleng teng ka tiriso ya thulaganyo eo; le

(bb) tlhagisa rekoto ya tshedimosetso eo mo tlhaeletsanong e e tlhokwang ke mmatlisisi;

(vi) fa go sa kgonege kgotsa go le matshwanedi go dira tlhokego go ya ka temanatlaleletso (v), dirisa khomputara nngwe le nngwe kgotsa thulaganyo e e tshwanang e e ka ga kgotsa e e leng teng mo lefelong ka maitlhomo a a kailweng mo temanatlaleletsong eo; le

(vii) itseela, le go go tsaya go tswa mo lefelong, lokwalo kgotsa sengwe seo se ka nnang bopaki jwa tlolo e e amegang kgotsa seo se ka nnang maleba mo kopong.

(b) Mmatlisisi o tshwanetse go naya motho yo 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 kailwe mo temaneng *(a)*(vii).

(c) Go latela temana *(d)*, mmatlisisi o tshwanetse go netefatsa gore lokwalo lengwe le lengwe kgotsa sengwe se se tserweng ke mmatlisisi jaaka go kailwe mo temaneng *(a)*(vii) se busetswa kwa mothong fa—

(i) go tsholwa ga lokwalo kgotsa sengwe go sa tlhole go tlhokega go fitlhelela maitlhomo a patlisiso; kgotsa

(ii) ditsamaiso tsotlhe tse di tlhageletseng go tswa mo patlisisong di latlhilwe kwa bokhutlong.

(d) Lokwalo kgotsa sengwe se tshwanetse go busetswa kwa mothong yo o se tlhagisitseng fa—

(i) lokwalo kgotsa sengwe se sena go newa bothati jo bo tlhomilweng; kgotsa

(ii) go se mo kgatlhegong ya setšhaba kgotsa leloko kgotsa maloko a setšhaba gore dikwalo kgotsa dinngwe di buswe.

(e) Motho yo lokwalo kgotsa sengwe se tserweng kwa lefelong la gagwe jaaka go kailwe mo temaneng *(a)*(vii), kgotsa kemedi ya gagwe e e dumeletsweng, o ka, ka dinako tsa tiro tse di tlwaelegileng tsa tiro le ka fa tlase ga tlhokomelo ya molaodi wa lephata la ditšhelete, tlhatlhoba, gatisa le go dira ditswa go tswa mo lokwalong kgotsa sengweng.

(7) Mmatlisisi, le motho mongwe le mongwe yo o thusang mmatlisisi jaaka go tlhalositswe mo karolotlaleletsong (5), o ka dirisa kgatelelo go diragatsa thata nngwe le nngwe go ya ka karolo eno.

Dithebolelo

138. (1) *(a)* Moatlhodi kgotsa magiseterata yo o nang le taolo o ka rebola thebolo mabapi le maitlhomo a Karolo eno mo kopong ya mmatlisisi.

(b) Moatlhodi kgotsa magiseterata o ka rebola thebolo go ya ka karolo eno—

(i) ka kopo e e kwetsweng ke mmatlisisi e e tlhalosang ka fa tlase ga maikano kgotsa netefatso gore goreng go tlhokega go tsena le go batlisisa kwa mafelong; le

(ii) fa go tswa mo tshedimosetsong e e ikanetsweng kgotsa netefaditsweng magiseterata kgotsa moatlhodi a lemoga gore—

(aa) mo lebakeng la patlisiso e e ka fa tlase ga karolo 135(1)*(a)*, go—

(AA) na le mabaka a a utlwalang a go belaela gore molao wa lephata la ditšhelete o tlotswe, o ka tswa o tlolwa kgotsa o ka tlolwa;

(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

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.

(BB) tseno le patlisiso mo mafelong e ka tlisa tshedimosetso e e mabapi le tlolo; le

(CC) tseno le patlisiso mo mafelong ao e tlhokega ka mabaka mabapi le maitlhomo 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 magiseterata 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 bile le fitlhelega; le

(b) ka topo e e utlwalang ya motho mongwe le mongwe mo lefelong, go tlhagisa thebolo kgotsa kgatiso ya thebolo.

Go itshunyatshunya mo dipatlisisong

139. (1) Motho o ka se itshunye ka maikaelelo kgotsa boatla mo kgotsa o ka se thibele go dirwa 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 palelwe 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 tlogelo, e bile e le maleba mo patlisisong, fa motho a ne a itse gore tshedimosetso e fosagetse kgotsa e a timetsa, go akaretsa le ka tlogelo.

Karolo 5

Ditshireletso

Ditshireletso

140. (1) *(a)* Motho yo o botsolotswang kgotsa yo o tlhokegang go tlhagisa lokwalo kgotsa tshedimosetso, ka nako ya tlhatlhobo ya botlhokomedi kwa tirong e e tlhalositsweng mo karolong 132, kgotsa ka mmatlisisigo ya ka 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 bolaodi jwa lephata la ditšhelete yo o dirang tlhatlhobo ya botlhokomedi kwa lefelong kgotsa mmatlisisi o ka kopa gore potso e arabiwe kgotsa lokwalo kgotsa tshedimosetso e tlhagisiwe, e mo lebakeng le motho a tshwanetseng go araba potso kgotsa go tlhagisa lokwalo.

(c) Karabo e e bofelelang e e neilweng, le lokwalo le le bofelelang kgotsa tshedimosetso e e tlhagisitsweng, jaaka go tlhokega go ya ka temana *(b)*, ga e amogelesege mo bopaking kgatlhanong le motho mo tsamaisong nngwe le nngwe ya bosenyi, ntle le fa mo tsamaisong ya bosenyi mabapi le maikano a maaka kgotsa e mo go yona motho a sekisetswang go tlola karolo 273 go ikaegilwe mo mofuteng wa karabo e e fosagetseng kgotsa e e timetsang.

(2) Motlhankedi wa bolaodi jwa lephata la ditšhelete yo o dirang tlhatlhobo ya botlhokomedi kwa tirong kgotsa mmatlisisi o tshwanetse go itsise motho ka tshwanelo ya go ema kgatlhanong go ya ka karolo eno kwa tshimologong ya tlhatlhobo ya botlhokomedi kwa lefelong kgotsa patlisiso.

CHAPTER 10

ENFORCEMENT

Part 1

Guidance notices and interpretation rulings

Guidance notices

141. (1) The responsible authority for a financial sector law may publish guidance notices on the application of the financial sector law.

(2) Guidance notices are for information, and are not binding.

Interpretation rulings

142. (1) The responsible authority for a financial sector law may publish a statement (an **"interpretation ruling"**) regarding the interpretation or application of a specified provision of that law, in circumstances specified in the statement.

(2) The purpose of an interpretation ruling is to promote clarity, consistency and certainty in the interpretation and application of financial sector laws.

(3) The responsible authority must interpret and apply the provision of the financial sector law to which the interpretation ruling relates in accordance with the interpretation ruling.

(4) An interpretation ruling ceases to be effective if—

(a) a provision of the financial sector law that was the subject of the interpretation ruling is repealed or amended in a manner that materially affects the interpretation ruling, in which case the interpretation ruling will cease to be effective from the date that the repeal or amendment is effective; or

(b) a court overturns or modifies an interpretation of the financial sector law on which the interpretation ruling is based, in which case the interpretation ruling will cease to be effective from the date of judgment unless—

(i) the decision is under appeal;

(ii) the decision is fact-specific and the general interpretation upon which the interpretation ruling was based is unaffected; or

(iii) the reference to the interpretation upon which the interpretation ruling was based did not form a part of the reasoning on which the judgment of the court was based.

(5) The responsible authority that issues an interpretation ruling may amend or revoke the interpretation ruling if it is necessary to do so because of a judicial decision or a change in the law.

(6) An interpretation ruling ceases to be effective upon the occurrence of any of the circumstances described in subsection (4), whether or not the responsible authority publishes a notice of withdrawal or modification of the interpretation ruling.

(7) Before the responsible authority issues an interpretation ruling, it must publish—

(a) a draft of the proposed interpretation ruling; and

(b) a notice calling for written public comments within a period specified in the notice, which period must be at least one month from the date of publication of the notice.

(8) The responsible authority is not obliged to comply with subsection (7) in relation to an amendment to, or a revocation of, an interpretation ruling.

(9) The responsible authority that issues an interpretation ruling must publish it.

KGAOLO 10

KGATELELO

Karolo 1

Dikitsiso tsa kaelo le ditshwetso tsa thaloso

Dikitsiso tsa kaelo

141. (1) Bothati jo bo rwalang maikarabelo mo molaong wa lephata la ditšhelete bo ka phasalatsa dikitsiso tsa kaelo mo tirisong ya molao wa lephata la ditšhelete.

(2) Dikitsiso tsa kaelo ke tsa tshedimosetso, e bile ga di tlame.

Ditshwetso tsa tlhaloso

142. (1) Bothati jo bo rwalang maikarabelo mo molaong wa lephata la ditšhelete bo ka phasalatsa polelo (**"tshwetso ya tlhaloso"**) mabapi le tlhaloso kgotsa tiriso kabelo e e tsepamisitsweng ya molao oo, mo mabakeng a a tsepamisitsweng mo polelong.

(2) Maitlhomo a tlhaloso ya tshwetso ya tlhaloso ke go ntshetsa pele tlhalosetso, tsepamo le tlhomamo mo go tlhaloseng le tirisong ya melao ya lephata la ditšhelete.

(3) Bothati jo bo rwalang maikarabelo bo tshwanetse go tlhalosa le go dirisa kabelo ya molao wa lephata la ditšhelete e e amanang le tshwetso ya tlhaloso go tsamaelana le tshwetso ya tlhaloso.

(4) Tlhaloso e e tlamang e khutla go diriswa fa—

(a) kabelo ya molao wa lephata la ditšhelete eo e neng e le yona morero wa tshwetso ya tlhaloso e phimolwa kgotsa e tlhabololwa ka mokgwa o o amang segolo tshwetso ya tlhaloso, fa go le jalo tshwetso ya tlhaloso e tla khutlisa go dira go tloga ka letlha la go tsenngwa tirisong ga phimolo kgotsa tlhabololo; kgotsa

(b) kgotlatshekelo e phimola kgotsa fetola tlhaloso ya molao wa lephata la ditšhelete o tshwetso ya tlhaloso e theilweng mo go ona, fa go le jalo tshwetso ya tlhaloso e tla khutla go dira go tloga ka letsatsi la katlholo ntle le fa—

(i) tshwetso e le ka fa tlase ga boikuelo;

(ii) tshwetso e tsepamisitswe mo ntlheng e bile tlhaloso ya kakaretso eo tshwetso ya tlhaloso e theilweng mo go yona ga e a amega; kgotsa

(iii) tshupetso go tlhaloso eo tshwetso ya tlhaloso e neng e theilwe mo go yona e ne e se karolo ya neo ya mabaka eo katlholo ya kgotlatshekelo e neng e theilwe mo go yona.

(5) Bothati jo bo rwalang maikarabelo jo bo rebolang tshwetso yatlhaloso bo ka tlhabolola kgotsa phimola tshwetso ya tlhaloso fa go tlhokega gore go dirwe jalo ka ntlha ya phetogo mo molaong kgotsa tshwetso ya boatlhodi.

(6) Tlhaloso e e tlamang e khutla go diriswa fa go diragala nngwe ya mabaka a a tlhalositsweng mo karolotlaleletsong (4), fa bothati jo bo rwalang maikarabelo bo phasaladitse kgotsa bo sa phasalatsa kitsiso ya kgogelomorago kgotsa phetolo ya tlhaloso e e tlamang.

(7) Pele bothati jo bo rwalang maikarabelo bo rebola tshwetso ya tlhaloso, bo tshwanetse go phasalatsa—

(a) thalo ya tshwetso ya tlhaloso e e tshitsintsweng; le

(b) kitsiso e e laletsang ditshwaelo tsa setšhaba tse di kwetseng mo pakeng e e tsepamisitsweng mo kitsisong, paka eo e tshwanetse go nna bonnye kgwedi e le esi go tloga ka letlha la phasalatso ya kitsiso.

(8) Bothati jo bo rwalang maikarabelo ga bo patelesege go ikamanya le karolotlaleletso (7) mabapi le tlhabololo go, kgotsa phimolo ya, tshwetso ya tlhaloso.

(9) Bothati jo bo rwalang maikarabelo jo bo rebolang tshwetso ya tlhaloso bo tshwanetse go e phasalatsa.

Part 2

Directives by financial sector regulators

Directives by Prudential Authority

143. (1) The Prudential Authority may issue to either of the following persons:

(a) A financial institution that provides a financial product or securities services, or that is a market infrastructure; and

(b) a key person of a financial institution,

a written directive requiring the person to take action specified in the directive if—

(i) the financial institution is conducting its business in an improper or financially unsound way and, as a result, there is a risk that the financial institution may not be able to comply with its obligations; or

(ii) the financial institution or key person of a financial institution—

(aa) has contravened or is likely to contravene a financial sector law for which the Prudential Authority is the responsible authority;

(bb) has not complied with an enforceable undertaking accepted by the Prudential Authority;

(cc) is involved or is likely to be involved in financial crime; or

(dd) is causing or contributing to instability in the financial system, or is likely to do so.

(2) The Prudential Authority may issue to a holding company of a financial conglomerate a written directive requiring the holding company to take action specified in the directive, if the holding company or another company in the financial conglomerate concerned—

(a) is conducting its business in an improper or financially unsound way and, as a result, there is a risk that an eligible financial institution in the conglomerate will not be able to comply with its obligations under a financial sector law or in relation to a financial product or financial service that it provides or offers to provide;

(b) has not complied with an enforceable undertaking accepted by the Prudential Authority;

(c) has contravened or is likely to contravene a financial sector law;

(d) is involved or is likely to be involved in financial crime; or

(e) is causing or contributing to instability in the financial system, or is likely to do so.

(3) A directive in terms of subsection (1) or (2) must be aimed at achieving the objective of the Prudential Authority set out in section 33 and—

(a) reducing any risks referred to in subsection (1)(*b*)(i) or (2)*(a)*;

(b) ensuring that the financial institution or the directed person complies with the enforceable undertaking that was accepted by the Prudential Authority;

(c) stopping the financial institution or company from contravening applicable financial sector laws, or reducing the risk of such contraventions;

(d) stopping the financial institution or company from being involved in financial crime, and reducing the risk that it may be so involved;

(e) reducing the risk that a systemic event may occur; or

(f) remedying the effects of a contravention of a financial sector law or the person's involvement in financial crime.

(4) The Prudential Authority may not issue a directive to a financial institution on the basis set out in subsection (1)(*b*)(ii)*(dd)* unless it has been directed in terms of section 18 to do so or with the concurrence of the Reserve Bank.

(5) Action that may be specified in a directive in terms of subsection (1) includes the following:

(a) The financial institution ceasing offering or providing a specific financial product;

Karolo 2

Ditaelo tsa balaodi ba 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 tlamelang ka kuno ya ditšhelete kgotsa ditirelo tsa dithoto, kgotsa ba e leng thulaganyetso ya popegotheo; le

(b) motho yo o botlhokwa wa setheo sa ditšhelete,

taelo e e kwetsweng e e tlhokang motho go tsaya kgato e e tsepamisitsweng mo taelong fa—

(i) setheo sa ditšhelete se dira tiro ya sona ka mokgwa o o sa siamang kgotsa wa tsamaiso ya ditšhelete e e sokameng le, ka ntlha ya seo, go na le kotsi ya gore setheo sa ditšhelete se ka se kgone go ikamanya le ditlamego tsa sona; kgotsa

(ii) setheo sa ditšhelete kgotsa motho wa botlhokwa wa setheo sa ditšhelete—

(aa) a tlotse kgotsa a ka tlola molao wa lephata la ditšhelete o Bothati jwa Tlhokomelo bo tsayang maikarabelo a ona;

(bb) a sa ikamanyang le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(cc) yo o amanang kgotsa o o ka amanang le bosenyi jwa ditšhelete; kgotsa

(dd) o dira kgotsa o na le seabe mo go sa tsepamang ga thulaganyo ya ditšhelete, kgotsa o ka dira 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 tsepamisitsweng mo taelong fa kgwebo e e okameng tse dingwe kgotsa setlamo se sengwe mo dikgwebong tsa ditšhelete tse di tlhakaneng—

(a) se dira tiro ya sona ka mokgwa o o sa siamang kgotsa wa tsamaiso ya ditšhelete e e sokameng le, ka ntlha ya seo, go na le kotsi ya gore setheo sa ditšhelete se se mo ditheong tse di tlhakaneng se ka se kgone go ikamanya le ditlamego tsa jona;

(b) se sa ikamanya le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(c) se tlotse kgotsa se ka tlola molao wa lephata la ditšhelete;

(d) se amega kgotsa se ka amega mo bosenying jwa ditšhelete; kgotsa

(e) se tlisa kgotsa se na le seabe mo go sa tsepamang ga thulaganyo ya ditšhelete, kgotsa se ka dira jalo.

(3) Taelo go ya ka karolotlaleletso (1) kgotsa (2) e tshwanetse go lebiswa mo go fitlheleleng maikaelelo a Bothati jwa Tlhokomelo a a tlhagisitsweng mo karolong 33 le—

(a) go fokotsa dikotsi dingwe le dingwe tse di kailweng mo karolotlaleletsong (1)*(b)*(i) kgotsa (2)*(a)*;

(b) go netefatseng gore setheo sa ditšhelete kgotsa motho yo o laetsweng o ikamanya le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(c) go thibela setheo tsa ditšhelete kgotsa setheo se se tlolang melao e e diriswang; ya lephata la ditšhelete, kgotsa go fokotsa kotsi ya ditlolo tseo;

(d) go thibela setheo sa ditšhelete kgotsa setlamo mo go amegeng mo bosenying jwa ditšhelete, le go fokotsa kotsi ya gore se ka amega jalo;

(e) go fokotsa kotsi ya gore tiragalo e e rulagantsweng e ka diragala; kgotsa

(f) go namola ditlamorago tsa tlolo ya molao wa ditshelete kgotsa botsayakarolo jwa motho mo bosenying 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 tumalano ya Banka ya Resefe.

(5) Tiro e e ka tsepamiswang mo taelong go ya ka karolotlaleletso (1) e akaretsa tse di latelang:

(a) Setheo sa ditšhelete se se khutlisang go neelana kgotsa go tlamela ka kuno e e tsepameng 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 remedying the effects of a contravention of a financial sector law.

(6) In addition to its powers to issue regulator's directives, if a person is engaging, or is proposing to engage, in conduct that contravenes a financial sector law for which the Prudential Authority is the responsible authority, the Prudential Authority may issue a written directive to the person requiring the person to cease engaging, or not to engage, in the conduct.

Directives by Financial Sector Conduct Authority

144. (1) The Financial Sector Conduct Authority may issue to a financial institution a written directive requiring the financial institution to take action specified in the directive if—

(a) the financial institution is conducting its business in a way that poses a material risk to the efficiency and integrity of financial markets;

(b) the financial institution's treatment of its financial customers is such that the institution will not be able to comply with its obligations in relation to the fair treatment of financial customers;

(c) the financial institution is providing financial education in a manner that is not in accordance with relevant conduct standards;

(d) the financial institution or a key person, representative or contractor of the financial institution—

(i) has contravened or is likely to contravene a financial sector law for which the Financial Sector Conduct Authority is the responsible authority;

(ii) has not complied with an enforceable undertaking accepted by the Financial Sector Conduct Authority;

(iii) is involved or is likely to be involved in financial crime; or

(iv) is causing or contributing to instability in the financial system, or is likely to do so.

(2) The Financial Sector Conduct Authority may issue to a key person, a representative or a contractor of a financial institution (in this section, a **"directed person"**) a written directive requiring the directed person to take action specified in the directive if the financial institution or the directed person—

(a) has contravened or is likely to contravene a financial sector law for which the Financial Sector Conduct Authority is the responsible authority;

(b) has not complied with an enforceable undertaking accepted by the Financial Sector Conduct Authority;

(c) is involved or is likely to be involved in financial crime; or

(d) is causing or contributing to instability in the financial system, or is likely to do so.

(3) A directive in terms of subsection (1) or (2) must be aimed at achieving the objective of the Financial Sector Conduct Authority set out in section 57 and—

(a) stopping the financial institution or the directed person from contravening applicable financial sector laws, or reducing the risk of such contraventions;

(b) ensuring that the financial institution or the directed person complies with the enforceable undertaking that was accepted by the Financial Sector Conduct Authority;

(c) stopping the financial institution or the directed person from being involved in financial crime, and reducing the risk that it may be so involved;

(b) setheo sa ditšhelete se se fetolang kuno e e tsepameng ya ditšhelete kgotsa dipeelo tseo e tlametsweng ka tsona;

(c) go ntsha 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 tirisanong e e tsepameng kgotsa se se sa direng tumalano ya tlamego e e tsepameng, ya tshoganyetso kgotsa ka mokgwa mongwe;

(f) setheo sa ditšhelete se se namolang ditlamorago tsa tlolo ya molao wa lephata la ditšhelete.

(6) Mo godimo ga dithata tsa jona tsa go rebola ditaelo tsa molaodi, fa motho a dira, kgotsa a tshitsinya go dira, tlolo ya maitsholo jwa molao wa lephata la ditšhelete o Bothati jwa Tlhokomelo e leng bothati jo bo rwalang maikarabelo a ona, Bothati ba Tlhokomelo bo ka rebolela motho taelo e e kwetsweng e e lopang motho go emisa go dira kgotsa go se direng, maitsholo ao.

Ditaelo ka Bothati jwa Boitshwaro jwa Lephata la Ditšhelete

144. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete 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 tshiamo ya mebaraka 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 ikamanya le ditlamego tsa sona mabapi le tsholo e e lolameng ya barekedi ba ditšhelete;

(c) setheo sa ditšhelete se palelwa ke go tlamela ka mananeo a a maleba a thuto ya tsa ditšhelete le ditiro tse dingwe go tsweletsa 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 molao wa lephata la ditšhelete o Bothati jwa Bitshwaro jwa Lephata la Ditšhelete e leng bothati jo bo rwalang maikarabelo a ona;

(ii) se sa ikamanyang le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete;

(iii) se amegang kgotsa se ka amega mo bosenying jwa ditšhelete; kgotsa

(iv) se tlisang 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 Ditšhelete bo ka rebolela motho yo o botlhokwa, kemedi kgotsa mokonteraka wa setheo sa ditšhelete (mo karolong eno, **"motho yo o laelwang"**) taelo e e kwetsweng e e lopang motho yo o laelwang go tsaya kgato e e tsepamisitsweng mo taelong fa setheo sa ditšhelete kgotsa motho yo o laelwang—

(a) se tlotse kgotsa se ka tlola molao wa lephata la ditšhelete o Bothati jwa Boitshwaro jwa Lephata la Ditšhelete e leng jona bothati jo bo rwalang maikarabelo a ona;

(b) ga se a ikamanya le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete;

(c) se amega kgotsa se ka amega mo bosenying jwa ditšhelete; kgotsa

(d) se dira kgotsa se dira kgotsa se na le seabe mo go sa tlhomamang mo thulaganyong ya ditshelete, kgotsa se ka dira jalo.

(3) Taelo go ya ka karolotlaleletso (1) kgotsa (2) e tshwanetse go lebiswa mo go fitlhelelng maitlhomo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete a a tlhagisitsweng mo karolong 57 le—

(a) go thibela setheo sa ditshelete kgotsa motho yo o laelwang mo go tloleng melao e e diragatswang ya lephata la ditšhelete, kgotsa fo fokotsa kotsi ya ditlolo tseo;

(b) go netefatsa gore setheo sa ditšhelete kgotsa motho yo o laelwang o ikamanya le tumalano e e gatelelwang e e amogetsweng ke Bothati jwaBoitshwaro jwa Ditšhelete;

(c) go thibela setheo sa ditšhelete kgotsa motho yo o laolwang mo go amegeng mo bosenying jwa ditshelete, le go fokotsa kotsi ya go amega mo go jona;

(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 remedying 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 tiragalo e e rulagantsweng; kgotsa

(e) go namola ditlamorago tsa tlolo ya molao wa lephata la ditshelete kgotsa kamego ya motho mo bosenying jwa ditšhelete.

(4) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka se rebole taelo go ya ka mabaka a a tlhalositsweng mo karolotlaleletsong (1)*(d)*(iv) ntle le fa go laetswe gore go dirwe jalo go ya ka karolo 18 kgotsa ka tumalano ya Banka ya Resefe.

(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 tlamela ka kuno e e tsepameng ya ditšhelete kgotsa tirelo ya ditšhelete;

(b) setheo sa ditšhelete se se fetolang 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 kgotsa tuelo ya tiro; le

(e) setlamo sa ditšhelete se se namolang ditlamorago tsa tlolo ya molao wa lephata la ditšhelete.

(6) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka se rebole taelo go ya ka karolotlaleletso (5)*(a)* kgotsa *(b)* go setheo sa thulaganyo ya botlhokwa ntle le tumalano ya Bothati Jwa Tlhokomeloto.

(7) Tiro e e ka tsepamiswang mo taelong go ya ka karolotlaleletso (2) e tshwanetse go lebiswa mo go fitlheleleng maikaelelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le go netefatsa gore motho yo o botlhokwa, moemedi kgotsa mokonteraka o dira tiro ya gagwe go tsamaelana le melao e ediragatswang ya lephata la ditšhelete.

(8) Mo go tlatseng dithata tsa jona tsa go rebola ditaelo tsa molaodi, fa motho a dira, kgotsa a tshtsinya go dira, boitshwaro jo bo tlolang molao wa lephata la ditšhelete jo Bothati jwa Boitshwaro jwa Lephata la Ditšhelete e leng bothati jo bo rwalang maikarabelo, Bothati jwa Boitshwaro jwa Ditšhelete bo ka rebolela motho taelo e e kwetsweng e e laelang motho go emisa go dira, kgotsa go se dire, boitshwaro.

Go ntshiwa ga batho mo maemong

145. Bolaodi jwa lephata la 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 tlotse molao wa lephata la ditšhelete;

(b) a amegile mo bosenying jwa ditšhelete;

(c) a rwala maikarabelo a, kgotsa ka mokgwa mongwe a tsere karolo mo, kgotsa a paletswe ke, go tsaya dikgato tse di leng teng tse di ikaeletseng go thibela—

(i) tlolo ya molao wa lephata la ditšhelete ka setheo sa ditšhelete; kgotsa

(ii) setheo sa ditšhelete se amega mo bosenying jwa ditšhelete; kgotsa

(d) a sa tlhole a ikamanya le ditlhokego tsa go itekanelela tiro le tshiamo.

Ditlhokego tsa ditherisano

146. (1) Pele go rebolwa taelo ya bolaodi go ya ka Karolo eno, molaodi wa lephata la ditšhelete o tshwanetse go—

(a) naya setheo sa ditšhelete kgotsa motho yo a tshitsinyang go mo naya taelo thalo ya taelo e e tshitsintsweng le polelo ya mabaka a gore goreng e le ntlha e e tshitsintsweng, go akaretsa le polelo ya dintlha tse di maleba le mabaka; le

(b) laletsa setheo sa ditšhelete kgotsa motho go dira ditlhagiso ka ga morero, le go se naya nako e e tsepamisitsweng, e e amogelesegang, go dira jalo.

(2) Fa taelo e laela gore motho a tloswe mo maemong a a tsepamisitsweng kgotsa mo tirong ya kgotsa e e mabapi le setheo sa ditšhelete, molaodi wa lephata la ditšhelete o tshwanetse gape go—

(a) naya motho thalo ya taelo e e tshitsintsweng le polelo ya mabaka a gore goreng go tshitsintswe gore e rebolwe, le go akaretsa le polelo ya dintlha tse di maleba le mabaka; le

(b) laletsa motho go dira ditlhagiso ka ga morero mo pakeng e e tsepamisitsweng go ya ka karolotlaleletso (1)*(b)*.

(3) In deciding whether to issue the directive, the financial sector regulator must take into account all submissions received by the end of the period referred to in subsection (1)*(b)* or (2)*(b)*.

(4) If the delay involved in complying, or complying fully, with subsections (1) and (2) in respect of a proposed directive is likely to lead to prejudice to financial customers, prejudicially affect financial stability or defeat the object of the directive, the financial sector regulator may issue the directive without having complied, or complied fully, with those subsections.

(5) *(a)* If a financial sector regulator issues a directive without having complied, or complied fully, with subsections (1) and (2), the person to whom it was issued, and, where subsection (2) applies, the person referred to in that subsection must be given a written statement of the reasons why those subsections were not complied with.

(b) A person to whom the statement was given may make submissions to the financial sector regulator within one month after being provided with the statement.

(c) The financial sector regulator must consider the submissions, and notify the person, as soon as practicable, whether the financial sector regulator proposes to revoke the directive.

Period for compliance

147. A regulator's directive must specify a reasonable period for compliance, where applicable.

Revoking directives

148. A financial sector regulator may at any time revoke a regulator's directive it has issued by written notice to the person to whom it was issued.

Compliance with directives

149. (1) A financial institution, key person, representative or contractor to which a regulator's directive in terms of this Part has been issued must comply with the directive.

(2) The High Court may, on application by a party to a contract with a financial institution, other than the financial institution, make an order relating to the effect of a directive in terms of this Part on the contract.

(3) *(a)* Without limiting what the order may do, the order may require the financial institution to—

(i) perform its obligations under the contract; or

(ii) compensate the applicant, as specified in the order.

(b) An order in terms of paragraph *(a)* may not require a person to take action that would contravene the directive of a financial sector regulator.

Application and interpretation

150. This Part applies in addition to any power in a specific financial sector law that relates to the issuing of directives by a financial sector regulator.

Part 3

Enforceable undertakings

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 tsotlhe tse di amogetsweng ka bokhutlo jwa paka e e kailweng mo karolotlaleletsong (1)*(b)* kgotsa (2)*(b)*.

(4) Fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso (1) le (2) mabapi le taelo e e tshitsintsweng e ka isa kwa kgobelelong ya barekedi ba ditšhelete, ya ama tlhomamo ya ditšhelete setlhogo kgotsa ya fenya maikaelelo a taelo, molaodi wa lephata la ditšhelete o ka rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso tseo.

(5) *(a)* Fa molaodi wa lephata la ditšhelete a rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso (1) le (2), motho yo a e reboletsweng, le, mo karolotlaleletso (2) e dirisitsweng, motho yo o kailweng mo karolotlaleletsong eo o tshwanetse go newa polelo e e kwetsweng ya mabaka a gore goreng go sa ikamanngwa le dikarolotlaleletso tseo.

(b) Motho yo o neilweng polelo o ka dira ditlhagiso go molaodi wa lephata la ditšhelete mo kgweding e le esi 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 kgonegang, 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 amogelelsegang ya go ikamanya, fa go kgonega.

Kgogelomorago ya ditaelo

148. Molaodi wa lephata la ditšhelete o ka, ka nako nngwe le nngwe, 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 reboletsweng taelo go ya ka Karolo eno o tshwanetse go ikamanya le taelo.

(2) Kgotlatshekelokgolo e ka, ka kopo ya moamegi mo konterakenga le setheo sa ditšhelete, ntle le setheo sa ditšhelete, dira taelo e e amanang le ditlamorago tsa 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 tsa sona ka fa tlase ga konteraka; kgotsa

(ii) duela modirakopo, jaaka go tsepamisitswe mo taelong.

(b) Taelo go ya temana *(a)* e ka se lope motho go tsaya kgato e e tla tlolang taelo ya molaodi wa lephata la ditšhelete.

Tiragatso le tlhaloso

150. Karolo eno e diriswa mo godimo ga thata nngwe le nngwe 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 neelana ka tumalano e e kwetsweng go bothati jo bo rwalang maikarabelo mabapi le boitshwaro jwa nako e e tlang jwa motho mabapi le ntlha e e laolwang ke molao wa lephata la ditšhelete, le tumalano eo, fa e amogelwa ke bothati jo bo maleba, e nna sediriso sa molao se se gatelelwang ke bothati jo bo rwalang maikarabelo jaaka go kailwe mo Molaong ono.

(2) Tumalano e e kwetsweng e e kailweng mo karolotlaleletsong (1) e ka akaretsa tumalano go tlamela ka 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

Debarment

153. (1) The responsible authority for a financial sector law may make a debarment order in respect of a natural person if the person has—

(a) contravened a financial sector law in a material way;

(3) Motho yo o neetseng tumalano e e gatelelwang o ka, ka tumelelo ya bothati jo bo rwalang maikarabelo, farologantsha kgotsa gogela morago tumalano ka nako nngwe le nngwe, ntle le fa tumalano e setse e le ntlha e e gatelelwang.

(4) Fa setheo sa ditšhelete se abetswe laesense ka fa tlase ga molao o o tsepameng wa lephata la ditšhelete o o neetseng tumalano e e gatelelwang se tlola peelo ya tumalano, bothati jo bo rwalang maikarabelo bo ka emisa kgotsa gogela morago laesense.

(5) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa tumalano nngwe le nngwe e e gatelelwang eo bo e amogelang, le pharologantsho nngwe le nngwe kgotsa kgogelomorago ya tumalano e e gatelelwang.

(6) Fa Lekgotla le kgotsofetse, mo tirisong ka bothati jo bo rwalang maikarabelo, gore motho o tlotse tumalano e e gatelelwang, Lekgotla le ka dira e le nngwe kgotsa go feta ya ditaelo tse di latelang:

(a) Taelo e e laelang motho go ikamanya le tumalano;

(b) fa tumalano e amana le tlolo e e fetileng ya molao wa lephata la ditšhelete, taelo e e laelang motho go dira tiro e e tsepamisitsweng, ka e le nngwe ya kgotsa ka bobedi jwa maitlhomo a a latelang:

(i) go namola ditlamorago tsa tlolo;

(ii) go netefatsa gore motho ga a tlole tumalano gape;

(c) taelo e nngwe e e welwang kgotsa e e maleba.

(7) Bothati jo bo rwalang maikarabelo bo ka faela le mokwadisi wa kgotlatshekelo e e nang le bokgoni kgatiso e e kanetsweng ya taelo go ya ka karolotlaleletso (6), fa—

(a) go sa ikamanngwa le taelo; le

(b) ka gongwe—

(i) go se ditsamaiso tse di dirilweng kwa kgotlatshekelong tsa boikuelo kgatlhanong le tiragatso ya taelo mo bokhutlong jwa paka e e neilweng mabapi le go dira boikuelo joo; kgotsa

(ii) fa boikuelo joo bo setse bo dirilwe, kwa bokhutlong boikuelo bo diragaditswe.

(8) Taelo, mo go faelweng, e na le poelo mo katlholong ya selegae, e bile e ka gatelelwa jaaka e kete e neilwe semolao kwa kgotlatshekelong eo.

Karolo 4

Ditaelo tsa Kgotlatshekelo

Go ikamanyo le melao ya lephata la ditšhelete

152. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka simolola ditsamaiso kgatlhanong le motho kwa Kgotlatshekelokgolo mabapi le taelo ya go netefatsa ikamanyo le molao wa lephata la ditšhelete.

(2) Kgotlatshekelokgolo e ka dira taelo go ya ka karolotlaleletso (1)—

(a) fa Kgotlatshekelo e lemoga gore motho o dira, kgotsa o tshitsinya go dira, boitshwaro jo bo tlolang molao wa lephata la ditšhelete;

(b) fa motho a kile a dira boitshwaro joo mo nakong e e fetileng;

(c) fa go na le kotsi kgotsa tshenyego e kgolo kgotsa e e sa baakanyegeng, kgobelelo kgotsa e ka tlhola kotsi fa motho a dira boitshwaro jwa tlolo ya molao wa lephata la ditšhelete; kgotsa

(d) le fa namolo e nngwe e le teng.

(3) Kgotlatshekelokgolo e ka se tlhoke bothati jo bo rwalang maikarabelo go dira tumalano ka ga ditshenyegelo tse di mabapi le kopo ya taelo go ya ka karolo eno.

(4) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa taelo nngwe le nngwe ya kgotlatshekelo, ntle le ditaelo tsa puisano, tseo bo di fitlhelelang go ya ka karolo eno.

Karolo 5

Kganelo

Kganelo

153. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka dira taelo ya kganelo mabapi le motho ka esi fa motho ka esi a—

(a) tlotse molao wa lephata la ditšhelete ka tsenelelo e kgolo;

(b) contravened in a material way an enforceable undertaking that was accepted by the responsible authority in terms of section 151(1);

(c) attempted, or conspired with, aided, abetted, induced, incited or procured another person to contravene a financial sector law in a material way; or

(d) contravened in a material way a law of a foreign country that corresponds to a financial sector law.

(2) A debarment order prohibits the natural person, for the period specified in the debarment order, from—

(a) providing, or being involved in the provision of, specified financial products or financial services, generally or in circumstances specified in the order;

(b) acting as a key person of a financial institution; or

(c) providing specified services to a financial institution, whether under outsourcing arrangements or otherwise.

(3) A debarment order in respect of a natural person takes effect from—

(a) the date on which it is served on the person; or

(b) if the order specifies a later date, the later date.

(4) *(a)* A natural person who is subject to a debarment order may not engage in conduct that, directly or indirectly, contravenes the debarment order.

(b) Without limiting paragraph *(a)*, a natural person who is subject to a debarment order contravenes that paragraph if the natural person enters into an arrangement with another person to engage in the conduct that directly or indirectly contravenes a debarment order on behalf of, or in accordance with the directions, instructions or wishes of, the natural person who is subject to the debarment order.

(5) A licensed financial institution that becomes aware that a debarment order has been made in respect of a natural person employed or engaged by the financial institution must take all reasonable steps to ensure that the debarment order is given effect to.

(6) The responsible authority that made a debarment order may, by order and on application by the debarred natural person—

(a) reduce the period of the debarment order; or

(b) revoke the debarment order.

(7) The responsible authority must publish each debarment order, and each order under subsection (6), that it makes.

Consultation requirements

154. (1) Before making a debarment order in respect of a natural person, the responsible authority must—

(a) give a draft of the debarment order to the person and to the other financial sector regulator, along with reasons for and other relevant information about the proposed debarment; and

(b) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(2) The period contemplated in terms of subsection (1)*(b)* must be at least one month.

(3) In deciding whether or not to make a debarment order in respect of a natural person, the responsible authority must take into account at least—

(a) any submission made by, or on behalf of, the person; and

(b) any advice from the other financial sector regulator.

Where person cannot be located

155. If a responsible authority after taking all reasonable steps, including through electronic means, cannot locate a person to be given a document or information under section 154 or a debarment order, delivering the document or information to the person's last known e-mail or physical business or residential address will be sufficient.

(b) tlotse ka tsenelelo e kgolo tumalano e e gatelelwang e e neng e amogetswe ke bothati jo bo rwalang maikarabelo go ya ka karolo 151(1);

(c) lekile, logile maano a bosenyi le, thusitse, rotloeditse, potlakisitse, tlhotlheleditse kgotsa fitlheletse motho yo mongwe go tlola molao wa lephata la ditšhelete ka tsenelelo e kgolo; kgotsa

(d) tlotse ka tsenelelo e kgolo molao wa naga e sele o o tsamaelanang le molao wa lephata la ditšhelete.

(2) Taelo ya kganelo e thibela motho ka esi, mo nakong e e tsepamisitsweng, jaaka go tsepamisitswe mo taelong ya kganelo, mo go—

(a) tlameleng, kgotsa mo go tseyeng karolo mo kabelong ya, dikuno tse di tsepamisitsweng tsa ditšhelete kgotsa ditirelo tsa ditšhelete, ka kakaretso kgotsa mo mabakeng a a tsepamisitsweng mo taelong;

(b) direng jaaka motho wa botlhokwa wa setheo sa ditšhelete; kgotsa

(c) tlameleng ditirelo tse di tsepamisitsweng go setheo sa ditšhelete, ka gongwe ka fa tlase ga dithulaganyo tsa go bona tirelo go tswa kwa ntle kgotsa ka mokgwa mongwe.

(3) Taelo ya kganelo mabapi le motho ka esi e simolola go dira—

(a) ka letlha leo e neetsweng motho ka esi; kgotsa

(b) fa taelo e tsepamisa letlha la morago, letlha la morago.

(4) *(a)* Motho ka esi yo o neetsweng taelo ya kganelo o ka se amege mo boitshwarong jo bo, ka tlhamalalo kgotsa e seng ka tlhamalalo, tlolang taelo ya kganelo.

(b) Go sa lekanyetswe temana *(a)*, motho ka esi o tlola temana eo fa motho ka esi a dira tumalano le motho yo mongwe ya go amega mo boitshwarong jo ka tlhamalalo kgotsa e seng ka tlhamalalo bo tlolang taelo ya kganelo, mo boemong jwa, kgotsa go tsamaelana le dintlha, ditaelo kgotsa dikeletso tsa, motho ka esi.

(5) 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 diriswang ke setheo sa ditšhelete se tshwanetse go tsaya dikgato tse di maleba go netefatsa gore taelo ya kganelo e a diragatswa.

(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 nngwe le nngwe ya kganelo, le taelo nngwe le nngwe ka fa tlase 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 ditšhelete, mmogo le mabaka a le tshedimosetso e nngwe 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 tsaya tsia bonnye—

(a) tlhagiso nngwe le nngwe e e dirilweng ke, kgotsa mo boemong jwa, motho ka esi; le

(b) kgakololo nngwe le nngwe go tswa kwa molaoding yo mongwe wa lephata la ditšhelete.

Fa motho a sa kgone go fitlhelelwa

155. Fa bothati jo bo rwalang maikarabelo morago ga go tsaya dikgato tse di maleba, go akaretsa le ka mokgwa wa seeleketeroniki, bo sa kgone go fitlhelela motho gore a newe lokwalo kgotsa tshedimosetso ka fa tlase ga karolo 154 kgotsa taelo ya kganelo, thomelo ya lokwalo kgotsa tshedimosetso kwa atereseng ya motho e e itsegeng ya bofelo ya imeile kgotsa ya kgwebo kgotsa ya bodulo e tla lekana.

Part 6

Leniency agreements

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

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.

Karolo 6

Ditumalano tsa kutlwelobotlhoko

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 patlisisong 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 kotlhao ya tsamaiso mo mothong mabapi le boitshwaro.

(2) Tumalano ya kutlwelobotlhoko le motho e ka tlamela 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 batsalani ba motho.

(3) Bothati jo bo rwalang maikarabelo bo ka se tsene mo tumalanong ya kutlwelobotlhoko le motho ntle le fa bo kgotsofetse gore go matshwanedi go dira jalo, ka go ela tlhoko, magareng ga merero e mengwe—

(a) tlholego le ditlamorago tsa tlolo e e kaiwang;

(b) tlholego le bogolo jwa botsayakarolo jwa motho mo tlolong; le

(c) bogolo jwa tirisanommogo ya motho.

(4) Bothati jo bo rwalang maikarabelo jo bo tsenang mo tumalanong bo tshwanetse go e phasalatsa ntle le fa bothati jo bo rwalang maikarabelo bo tlhomamisa gore phasalatso 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 kitsiso go motho yo bo dirileng tumalano nae, khutlisa tumalano—

(a) fa motho a dumela;

(b) fa motho a neetse bothati jo bo rwalang maikarabelo tshedimosetso e e fosagetseng kgotsa e e timetsang mabapi le go tsena mo tumalanong;

(c) fa motho a paletswe ke go ikamanya le tumalano; kgotsa

(d) mo mabakeng a a tsepamisitsweng mo tumalanong.

KGAOLO 11

BENG BA BA BOTLHOKWA

Karolo 1

Beng ba ba botlhokwa

Beng ba ba botlhokwa

157. (1) Go latela dikarolotlaleletso (3) le (4), motho ke mong yo o botlhokwa 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 leano la setheo sa ditšhelete.

(2) Ntle le go lekanyetsa karolotlaleletso (1), motho o na le bokgoni jo bo kailweng mo karolotlaleletsong 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 thata ya go thapa 15% ya maloko a mokgatlho o o busang wa setheo sa ditšhelete;

(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 mokgatlho 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 fitlhelela ditlhokego tsa go nna 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,

(3) Tona, Banka ya Resefe le bolaodi jwa lephata la ditšhelete ga se, mo maemong ao, beng ba ba botlhokwa ba setheo sa ditšhelete.

(4) *(a)* Molaodi wa lephata la ditšhelete o ka, ka tumalano le bolaodi jo bongwe jwa lephata la ditšhelete le ka kopo, swetsa gore motho ga se mong yo o botlhokwa wa—

(i) setheo sa ditšhelete se se matshwanedi;

(ii) molaodi sekema sa peeletsommogo; kgotsa

(iii) setheo sa ditšhelete se se neetsweng go ya ka Melawana e e dirilweng mabapi le maitlhomo a temana eno.

(b) Molaodi wa lephata la ditšhelete o ka se dire tlhomamiso kgotsa go se dumelele tlhomamiso go ya ka temana *(a)*, ntle le fa molaodi wa lephata la ditšhelete a kgotsofetse gore—

(i) tlhomamiso e ka se gobelele phitlhelelo ya maikaelelo a molaodi wa lephata la ditšhelete jaaka go tlhagisitswe mo karolong 33 kgotsa 57; le

(ii) ga go tlhokege go dirisa ditlhokego tsa Kgaolo eno mo mothong.

(c) Molaodi wa lephata la ditšhelete o ka, ka tumalano le bolaodi jo bongwe jwa lephata la ditšhelete, gogela morago tlhomamiso e a e dirileng go ya ka temana *(a)*.

(d) Pele ga molaodi wa lephata la ditšhelete a gogela morago tlhomamiso mabapi le motho e e dirilweng go ya ka temana *(a)*, molaodi wa lephata la ditšhelete o tshwanetse go—

(i) naya motho yo o tlhomamisitsweng go se nne mong yo o botlhokwa kitsiso ya kgato e e tshitsintsweng le polelo ya mabaka a yona; le

(ii) laletsa motho go dira ditlhagiso ka ga morero, le go naya motho nako e e lekaneng go dira jalo.

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

(f) Mo go swetseng ka ga go gogela morago tlhomamiso, balaodi ba lephata la ditšhelete ba tshwanetse go tsaya tsia ditlhagiso tsotlhe tse di dirilweng mo pakeng e e tsepamisitsweng mo kitsisong go ya ka temana *(d)*(ii).

(g) Fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le temana *(d)* mabapi le kgogelomorago e e tshitsintsweng e lebega e kete e tla kgobelela barekedi ba ditšhelete, e tla amam ka kgobelelo tsepamo ya ditšhelete kgotsa ya fenya maikaelelo a kgogelomorago, balaodi ba lephata la ditšhelete b aka gogela morago tlhomamiso ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le temana eo.

(h) Fa balaodi ba lephata la ditšhelete ba gogela morago tlhomamiso go ya ka temana *(a)* ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le temana *(d)* ka lebaka le le tlhagisitsweng mo temaneng *(g)*, ba tshwanetse go naya motho polelo e e kwetsweng ya mabaka a gore goreng go sa ikamanngwa le temana *(d)*.

(i) Motho o ka dira ditlhagiso kwa molaoding wa lephata la ditšhelete mo kgweding e le esi morago ga go newa polelo.

(j) Balaodi ba lephata la ditšhelete ba tshwanetse go sekaseka ditlhagiso, le go itsise batho, ka bonako jo bo kgonegang, gore a ba tshitsinya go dira tlhomamiso e nngwe go ya ka temana *(a)* mabapi le motho le setheo sa ditšhelete.

(k) Tlhomamiso, le kgogelomorago ya tlhomamiso, go ya ka karolotlaleletso eno di tshwanetse go phasalatswa.

Dithebolo le dikitsiso tse di amanang le beng ba ba botlhokwa

158. (1) Mabapi le maitlhomo a karolo eno, setheo sa ditšhelete se kaya fela—

(a) setheo sa ditšhelete se se matshwanedi;

(b) molaodi wa sekema sa tsadisommogo; le

(c) setheo sa ditšhelete se se neetsweng mo Melawaneng e e dirilweng mabapi le maitlhomo a karolo eno.

(2) Motho o ka se lere ditlamorago mo thulaganyong tse di ka dirang gore, motho, ka nosi kgotsa mmogo le motho yo a amanang kgotsa ka kamano ya segareng, e nne mong yo o botlhokwa wa setheo sa ditšhelete, ntle le thebelo e e kwetsweng ya pele ya bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete o go ya ka ona setheo sa ditšhelete se tlhokegang go abelwa laesense.

(3) Mong yo o botlhokwa wa setheo sa ditšhelete—

(a) se se sa tlhongwang jaaka setheo sa thulaganyetso ya botlhokwa, se ka se, ntle le go fitlhelela thebolo e e kwetsweng ya pele ya bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete o ka ona ditheo tsa ditšhelete di tshwanetseng go abelwa dilaesense, diragatse 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 botlhokwa wa setheo sa ditšhelete; le

(b) se se sa tlhongwang jaaka setheo sa thulaganyetso ya botlhokwa, se ka se, ntle le go itsise pele bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete o ka ona ditheo tsa ditšhelete di tshwanetseng go abelwa dilaesense, diragatse thulaganyo epe e ka nnang le ditlamorago tsa, motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kamano ya segareng, a emisang go nna mong yo o botlhokwa 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 fokotsang 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 tlhotlheletsa ka maatla kgwebo kgotsa leano la setheo sa ditšhelete—

(a) ntle le go fitlhelela thebolo e e kwetsweng ya pele ya bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete o go ya ka ona setheo sa ditšhelete se tlhokabg go abelwa laesense, fa bothati jo bo rwalang maikarabelo fa o abelana ka thebolo e e kailweng mo karolotlaleletsong (2), bo tlhoka thebolo e e kwetsweng ya pele ya koketso kgotsa phokotso nngwe le nngwe eo; kgotsa

(b) ntle le thebolo e e kwetsweng ya pele ya bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete o go ya ka ona setheo sa ditšhelete se tlhokabg go abelwa laesense, fa bothati jo bo rwalang maikarabelo fa o abelana ka thebolo e e kailweng mo karolotlaleletsong (2), ga bo tlhoke thebolo e e kwetsweng ya pele ya koketso kgotsa phokotso nngwe le nngwe eo.

(5) Thulaganyo e e kailweng mo dikarolotlaleletsong (2), (3) kgotsa (4) ga di tlhoke go akaretsa phitlhelelo ya, kgotsa thulaganyo ya dišere kgotsa merokotso e mengwe kgotsa thoto

(6) Fa motho a dira thulaganyo e e tlolang dikarolotlaleletso (2), (3) kgotsa (4), thulaganyo, jaaka go tlhalositswe gore e na le ditlamorago mo dikarolotlaleletsong tse di maleba, ga e dire.

(7) Thebolo go ya ka dikarolotlaleletso (2), (3) kgotsa (4) e ka se dirwe ntle le fa bothati jo bo rwalang maikarabelo bo netefaditse gore—

(a) motho yo o nnang mong yo o botlhokwa, kgotsa thulaganyo, kgotsa koketsego kgotsa phokotsego mo bogolong jwa bokgoni jwa mong yo o botlhokwa jwa go laola kgotsa go tlhotlheletsa kgwebo kgotsa leano la setheo sa ditšhelete o ka se ame ka kgobelelo kgotsa o ka ama taolo ya botlhokwa le tlhomamo ya ditšhelete ya setheo; le

(b) motho o fitlhelela e bile o ka tswelela go fitlhelela ditlhokego tse di maleba tsa motho yo o itekanetseng ka nepagalo.

(8) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka se rebole go ya ka karolotlaleletso (2) kgotsa (4) mabapi le setheo sa ditšhelete se se matshwanedi seo e leng thulaganyetso ya popegotheo ya mmaraka ntle le tumelelo ya Bothati jwa Tlhokomelo le Banka ya Resefe.

(9) Maemo a tlhokomelo, maemo boitshwaro kgotsa maemo a kopanelo a ka nelana ditsamaiso mabapi le dikopo mabapi le dithebolo le dikitsiso go ya ka karolo eno.

(10) Karolo eno ga e ame tlhokego epe go ya ka molao wa lephata la ditšhelete ya go fitlhelela thebolo kgotsa tumelelo mabapi le phitlhelelo kgotsa thulaganyo.

Maemo mabapi le, le ditaelo tsa bolaodi go beng ba ba botlhokwa

159. (1) Mo tlaleletsong ya dithata mo Karolong 2 ya Kgaolo 7 tsa go dira maemo—

(a) molaodi wa lephata la ditšhelete o tshwanetse go dira maemo, ao beng ba ba botlhokwa ba ba ditheo tsa ditšhelete ba tshwanetseng go ikamanya le ona, mabapi le ditlhokego tsa batho ba ba itekanetseng ka nepagalo, go akaretsa le mabapi le—

(i) dinonofo tsa botho jwa motho tsa boikanyego le tshiamo;

(ii) bokgoni, go akaretsa le nonofo, boithutelo le kitso; le

(iii) kemo ya tsa ditšhelete; le

(b) balaodi ba lephata la ditšhelete ba tshwanetse go dira maemo a a kopantsweng a a tsepamisang popego ya, "koketsego kgotsa phokotsego mo bogolong jwa bokgoni jwa motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa wa

materially the business or strategy of the financial institution'', as referred to in section 157(1) and section 158(4).

(2) *(a)* A financial sector regulator may issue to a significant owner of a financial institution a written directive requiring the significant owner to take action specified in the directive if the institution has contravened or is likely to contravene a financial sector law for which the financial sector regulator is the responsible authority.

(b) A directive in terms of paragraph *(a)* must be aimed at stopping the institution from contravening the financial sector law, or reducing the risk of such a contravention.

(3) In addition to subsection (2), a financial sector regulator may issue a directive to a significant owner of a financial institution, and to the financial institution, requiring them—

(a) to prepare and submit to the financial sector regulator a plan that is satisfactory to the financial sector regulator, under which the significant owner will, within a period that is acceptable to the financial sector regulator, cease to be a significant owner of the financial institution; and

(b) on the financial sector regulator's approval of the plan, to implement the plan.

CHAPTER 12

FINANCIAL CONGLOMERATES

Designation of financial conglomerates

160. (1) The Prudential Authority may designate members of a group of companies as a financial conglomerate.

(2) A financial conglomerate designated in terms of subsection (1) must include both an eligible financial institution and a holding company of the eligible financial institution, but need not include all the members of the group of companies.

(3) Without detracting from section 3(3) and (4) of the Promotion of Administrative Justice Act, and despite section 3(5) of that Act, before designating members of a group of companies as a financial conglomerate in terms of subsection (1), the Prudential Authority must—

(a) give the holding company of the eligible financial institution notice of the proposed designation and a statement of the purpose of and the reasons why the designation is proposed; and

(b) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(4) The Prudential Authority must consult the Financial Sector Conduct Authority in connection with any designation in terms of subsection (1).

(5) A designation in terms of subsection (1) must be for the purpose of facilitating the prudential supervision of the eligible financial institution.

(6) In deciding whether to designate members of a group of companies as a financial conglomerate in terms of subsection (1), the Prudential Authority must take into account all relevant considerations, including at least the following:

(a) The risk to effective prudential supervision of the eligible financial institution from the structure of the group of companies;

(b) submissions made by or for the holding company; and

(c) any other matters that may be prescribed by Regulation.

(7) The Prudential Authority may designate members of a group of companies as a financial conglomerate in terms of subsection (1) without having complied, or complied fully, with subsection (3) if it is reasonable and justifiable in the circumstances as contemplated in section 3(4)*(a)* and *(b)* of the Promotion of Administrative Justice Act and the delay involved in complying, or complying fully, with that subsection in respect of a proposed action is likely to lead to material prejudice to financial customers, prejudicially affect financial stability or defeat the object of the designation.

kamano ya segareng, go laola kgotsa go tlhotlheletsa segolo kgwebo kgotsa leano la setheo sa ditshelete", jaaka go kailwe mo karolong 157(1) le mo karolong 158(4).

(2) *(a)* Molaodi wa lephata la ditšhelete o ka rebolela mong yo o botlhokwa wa setheo sa ditšhelete taelo e e kwetsweng e e laelang mong yo o botlhokwa go tsaya kgato e e tsepamisitsweng mo taelong fa setheo se tlotse kgotsa se ka tlola molao wa lephata la ditšhelete o molaodi wa lephata la ditšhelete e leng bothati jo bo rwalang maikarabelo.

(b) Taelo go ya ka temana *(a)* e tshwanetse go lebiswa kwa go thibeleng setheo sa ditšhelete mo go tloleng molao wa lephata la ditšhelete, kgotsa go fokotsa kotsi ya tlolo eo.

(3) Mo go tlatseng karolotlaleletso (2), molaodi wa lephata la ditšhelete o ka rebola taelo go mong yo o botlhokwa wa setheo sa ditšhelete, le kwa setheong sa ditšhelete, a kopa gore di—

(a) baakanye le go romelela molaodi wa lephata la ditšhelete leano le le kgotsofatsang molaodi wa lephata la ditšhelete, leo ka fa tlase ga lona mong yo o botlhokwa a tla, mo nakong e e amogelesegang go ya ka molaodi wa lephata la ditšhelete, khutlisa go nna mong yo o botlhokwa wa setheo sa ditšhelete; le

(b) ka thebolo ya molaodi ya leano, go tsenya leano mo tirisong.

KGAOLO 12

DITHEO TSA DI KOPANTSWENG TSA DITŠHELETE

Go thapiwa ga ditheo tsa ditshelete tse di

160. (1) Bothati jwa Tlhokomelo bo ka supa maloko a setlhopha sa ditlamo jaaka setheo se se kopantsweng sa ditšhelete.

(2) Setheo se se kopantsweng sa ditšhelete se se supilweng go ya ka karolotlaleletso (1) se tshwanetse go akaretsa ka bobedi setheo se se matshwanedi sa ditšhelete le setlamo se se laolang sa setheo se se matshwanedi sa ditšhelete, mme ga se tlhoke go akaretsa maloko otlhe a setlhopha sa ditlamo.

(3) Ntle le go fapoga mo karolong 3(3) le (4) ya Molao wa Tsweletso ya Tshiamo ya Tsamaiso, le ntle le karolo 3(5) ya Molao, pele go supiwa maloko a setlhopha sa ditlamo jaaka setheo se se kopantsweng sa ditšhelete go ya karolotlaleletso (1), Bothati jwa Tlhokomelo bo tshwanetse go—

(a) naya setlamo se se okameng tse dingwe sa setheo se se matshwanedi sa ditšhelete kitsiso ya tshupo e e tshitsintsweng le polelo ya maitlhomo a le mabaka a gore goreng tshupo e tshitsintswe; le

(b) laletsa setlamo se se okameng tse dingwe go dira ditlhagiso ka ga morero, le go neelana ka nako e e lekaneng go dira jalo.

(4) Bothati jwa Tlhokomelo bo tshwanetse go rerisana le Bolaodi jwa Boitshwaro jwa Lephata la Ditšhelete mabapi le tshupo nngwe le nngwe go ya ka karolotlaleletso (1).

(5) Tshupo go ya ka karolotlaleletso (1) e tshwanetse go nna ya maitlhomo a go nolofatsa tlhokomelo e e manontlhotlho ya setheo se se matshwanedi sa ditšhelete.

(6) Mo go swetseng ka ga go supa maloko a setlhopha sa ditlamo jaaka ditheo tse di kopantsweng tsa ditšhelete go ya ka karolotlaleletso (1), Bothati jwa Tlhokomelo bo tshwanetse go ela tlhoko ditshekatsheko tsotlhe, go akaretsa le bonnye tse di latelang:

(a) Kotsi ya tlhatlhobelo e e nonofileng ya setheo se se matshwanedi sa ditšhelete go tswa mo popegong ya setlhopha 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) Bothati jwa Tlhokomelo bo ka supa maloko a setlhopha sa ditlamo jaaka setheo se se kopantsweng sa ditšhelete go ya ka karolotlaleletso (1) ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso (3) fa go utlwagala kgotsa ka mabaka mo maemong jaaka go tlhalositswe mo karolong 3(4)*(a)* le *(b)* ya Molao wa Tsweletso ya Tshiamo ya Tsamaiso le tiego e e nnileng teng mo go ikamanyeng, kgotsa mo go ikamanyeng ka botlalo, le karolotlaleletso eomabapi le kgato e e tshitsintsweng e ka lere kgobelelo e e tseneletseng mo barekeding ba ditšhelete, ya ama ka kgobelelo tsepamo ya ditšhelete kgotsa maitlhomo a tshupo.

(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.

(8) *(a)* Fa Bothati jwa Tlhokomelo bo supa maloko a setlhopha sa ditlamo jaaka setheo se se kopantsweng go ya ka karolotlaleletso (1) ntle 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 ikamanngwa le karolotlaleletso eo.

(b) Setlamo se se okameng tse dingwe se ka direla Bothati jwa Tlhokomelo ditlhagiso mo kgweding e le esi morago ga go abelwa polelo.

(c) Bothati jwa Tlhokomelo bo tshwanetse gotsaya ditlhagiso tsia, le go itsise setlamo se se okameng tse dingwe, ka bonako jo bo kgonegang, gore a Bothati jwa Tlhokomelo bo tshitsinya go tlhabolola kgotsa go gogela morago tshupo.

(9) Bothati jwa Tlhokomelo bo tshwanetse go sekasekagape nako le nako ditshupo tse di dirilweng, kgotsa tshwetso nngwe le nngwe 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 porofaeleng ya kotsi ya ditokololo tsa setlhopha 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 Tshiamo ya Tsamaiso, le ntle le karolo 3(5) ya Molao, Bothati jwa Tlhokomelo bo ka tlhabolola kgotsa gogela morago tshupo go ya ka karolotlaleletso (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 tshitsintsweng 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) akaretsa polelo ya maitlhomo a mabaka a goreng tlhabololo kgotsa kgogelomorago e tshitsintswe; le

(ii) laletsa ditheo tse di kailweng mo temaneng *(a)* go dira ditlhagiso ka ga morero, le go neelana ka nako e e lekaneng go dira jalo.

(11) Bothati jwa Tlhokomelo bo tshwanetse go phasalatsa tshupo nngwe le nngwe e e dirilweng go ya ka karolo eno, le tlhabololo nngwe le nngwe 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 nna karolo ya setlhopha sa ditlamo, go itsise Bothati jwa Tlhokomelo ka ga tiragalo eo.

(2) Kitsiso go ya ka karolotlaleletso (1) e tshwanetse go nna mo foromong e e tlhomamisitsweng ke Bothati jwa Tlhokomelo, e tladitswe go tsamaelana le ditaelo tse di mo foromong, le go romelwa le tshedimosetso nngwe le nngwe e e ka tlhomamiswang ke Bothati jwa Tlhokomelo.

(3) Fa setheo se se matshwanedi sa ditšhelete se tlola karolotlaleletso (1), setlamo se se okameng tse dingwe sa setheo sa ditšhelete se dira tlolo e e tshwanang le eo.

Tlhokego ya kabo ya laesense go dikwebo tse di okameng tse dinge tsa ditheo tsa ditšhelete tse dikopaneng

162. (1) *(a)* Bothati jwa Tlhokomelo bo ka, ka kitsiso go setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete, lopa gore setlamo se se laolang se abelwe laesense go ya ka Molao ono.

(b) Kitsiso e e kailweng mo temaneng *(a)* e tshwanetse go—

(i) akaretsa polelo ya maitlhomo a le mabaka a gore goreng go tlhokega gore setlamo se se okameng se abelwe laesense a tshitsintswe; le

(ii) laletsa setlamo se se okameng go dira ditlhagiso ka ga morero, le go neelana ka nako e e lekaneng go dira jalo.

(2) Karolotlaleletso (1) ga e dirisiwe mo setlamong se se laolang se se abetsweng laesense go ya ka molao wa lephata la ditšhelete.

(3) Tlhokego go ya ka karolotlaleletso (1) e tshwanetse go nna ya maitlhomo a go dira gore Bothati jwa Tlhokomelo bo diragatse dithata tsa jona mabapi le setheo se se kopantsweng sa ditšhelete, go oketsa polokego le itekanelo ya setheo se se matshwanedi sa ditšhelete.

(4) Setlamo se se laolang se se neilweng kitsiso go ya ka karolotlaleletso (1) se tshwanetse go ikamanya le ditlhokego tsa kitsiso.

(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.

(5) *(a)* Fa—

(i) Bothati jwa Tlhokomelo bo ka naya setlamo se se laolang kitsiso go ya ka karolotlaleletso (1); kgotsa

(ii) setlamo se se laolang se abetswe laesense go ya ka molao wa lephata la ditšhelete,

leloko lengwe le lengwe la setlhopha sa ditlamo mo setheong se se kopantsweng sa ditšhelete, (go akaretsa le setheo sa ditšhelete se se matshwanedi) le tshwanetse, ka pateletso ka setlamo se se laolang, go tlamela setlamo se se laolang ka tshedimosetso nngwe le nngwe e e tlhokegang go kgontsha setlamo se se laolang go ikamanya le le ditlamego tsa sona go ya ka Molao ono kgotsa molao o o tsepameng wa lephata la ditšhelete.

(b) Go tsenya mo tirisong temana *(a)*, setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete se tshwanetse go pateletsa melawana e e tlamang ya ditlamo ka ga, kgotsa go dira tumalano e e tlamang le, maloko a setheo se se kopantsweng sa ditšhelete, e e akaretsang dipeelo mabapi le tiragatso ya tshedimosetso, go akaretsa tshedimosetso ya bowena, mo setheong sa ditšhelete se se kopantsweng.

Dikgwebo tse di okameng tse dingwe tse di sa direng tsa ditheo tsa ditšhelete tse di kopaneng

163. (1) *(a)* Bothati jwa Tlhokomelo bo ka, ka kitsiso go setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete, lopa setheo se se laolang go nna setheo se se sa direng.

(b) Kitsiso e e kailweng mo temaneng *(a)* e tshwanetse go—

(i) akaretsa polelo ya maitlhomo a le mabaka a goreng go dirilwe tshitsinyo 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 go ya ka karolotlaleletso (1) e tshwanetse go nna ya maitlhomo a go laola dikotsi go polokego le itekanelo ya setheo se se matshwanedi sa ditšhelete go tswa go maloko a mangwe a setheo se se kopantsweng sa ditšhelete, ka nonofo.

(3) Mo go swetseng ka go pateletsa kgotsa go se pateletse tlhokego ya gore setheo se se okameng se nne setheo se se sa direng go ya ka karolotlaleletso (1), Bothati jwa Tlhokomelo bo tshwanetse go ela tlhoko ditshekatsheko tsotlhe tse di maleba, go akaretsa le bonnye tse di latelang:

(a) Dikotsi go pabalesego le tshiamo ya ditheo tsa ditšhelete tse di matshwanedi tse di tswang mo ditokololong tse dingwe tsa ditheo tse di kopantsweng tsa ditšhelete;

(b) ditlhagiso tse di dirilweng ke kgotsa tse di diretsweng setheo se se okameng; le

(c) merero mengwe le mengwe e e ka neelwang ka Molawana.

(4) Setheo se se laolang sa ditšhelete se se neilweng kitsiso go ya ka karolotlaleletso (1) se tshwanetse go ikamanya le ditlhokego tsa kitsiso.

Maemo a ditheo tse di kopaneng tsa ditšhelete

164. (1) Thata ya Bothati jwa Tlhokomelo ya go dira maemo a a manontlhotlho e atolosetswa mo go direng maemo a tlhokomelo a go tshwanetseng go ikamanngwa le ona ke ditlamo tse di laolang tsa ditheo tse di kopantsweng tsa ditšhelete.

(2) Mo go tlaleletseng dintlha tse di kailweng mo karolong 105, maemo a tlhokomelo a a kailweng mo karolotlaleletsong (1) a ka akaretsa ditlhokego mabapi le—

(a) ditšhelete kgotsa dipeo mo pontsheng tse dingwe tsa ditlamo tse di mo teng ga ditheo tse di kopantsweng tsa ditšhelete;

(b) dithulaganyo tsa puso le taolo tsa ditlamo tse di laolang kgotsa ditheo tse di kopantsweng tsa ditšhelete;

(c) go bega tshedimosetso ka ga ditlamo tse di mo teng ga ditheo tse di kopantsweng tsa ditšhelete tseo e seng ditheo tsa ditšhelete; le

(d) go fokotsa kgotsa go laola dikotsi go polokego le itekanelo ya setheo se se matshwanedi sa ditšhelete go tswa mo malokong a mangwe a setheo se se kopantsweng sa ditšhelete.

(3) Thata ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ya go dira maemo a boitshwaro e atolosetswa mo go direng maemo ao gore go ikamanngwe le ona ke ditlamo tse di laolang tsa ditheo tse di kopantsweng tsa ditšhelete.

Directives to holding companies

165. (1) The power of the Prudential Authority to issue a directive in terms of section 143 extends to issuing a directive to the holding company of a financial conglomerate imposing requirements on the holding company to manage and otherwise mitigate risks to the prudent management or financial soundness of an eligible financial institution in the conglomerate arising from other members of the conglomerate.

(2) *(a)* Requirements that a directive contemplated in subsection (1) may impose, include requirements with respect to restructuring the financial conglomerate in accordance with a plan submitted to the Prudential Authority by the holding company, and approved by the Prudential Authority within a period agreed by the Prudential Authority.

(b) The Prudential Authority may only issue a directive imposing requirements with respect to restructuring the financial conglomerate if the Authority is objectively satisfied that another type of directive will not achieve the result sought to be attained by requiring restructuring of the financial conglomerate.

(c) In deciding whether to issue a directive imposing requirements with respect to restructuring the financial conglomerate, the Prudential Authority must take into account all relevant considerations, including at least the following:

(i) The extent to which the existing structure of the financial conglomerate is hindering or is likely to hinder the effective supervision of the financial conglomerate concerned;

(ii) whether the restructuring of the financial conglomerate is reasonably necessary and appropriate to remedy impediments to the effective supervision of the financial conglomerate; and

(iii) submissions made by or for the holding company.

(3) The power of the Financial Sector Conduct Authority to issue a directive in terms of section 144 extends to issuing a directive to the holding company of a financial conglomerate requiring the holding company to ensure that a financial institution in the conglomerate complies with a financial sector law for which the Financial Sector Conduct Authority is the responsible authority.

Approval and prior notification of acquisitions and disposals

166. (1) *(a)* A holding company of a financial conglomerate may not acquire or dispose of a material asset as defined in prudential standards made for this section, without the approval of the Prudential Authority.

(b) A prudential standard made under this subsection must clearly identify what constitutes a material asset.

(2) The Prudential Authority may not give an approval in terms of subsection (1), unless the Authority is satisfied that the acquisition or disposal will not prejudicially affect—

(a) the prudent management and the financial soundness of an eligible financial institution within the financial conglomerate;

(b) the ability of the Prudential Authority to determine —

(i) how the different types of business of the financial conglomerate are conducted;

(ii) the risks of the financial conglomerate and each person that is part of that financial conglomerate; or

(iii) the manner in which the governance framework is organised and conducted for the financial conglomerate.

(3) *(a)* If the Prudential Authority contemplates refusing to grant approval of an acquisition or disposal referred to in subsection (1), prior to taking a decision, the Prudential Authority must notify the holding company of the proposed refusal to grant approval.

(b) A notice referred to in paragraph *(a)* must—

(i) include a statement of the reasons for the refusal to grant approval; and

Ditaelo go ditlamo tse di laolang

165. (1) Thata ya Bothati jwa Tlhokomelo ya go ntsha taelo go ya ka karolo 143 e atolosetswa mo go reboleng taelo eo go setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete se se diragatsang ditlhokego mo setheong se se laolang go laola le ka mokgwa mongwe go fokotsa dikotsi go bolaodi jwa tlhokomelo kgotsa tlhomamo ya ditšhelete ya setheo se se matshwanedi sa ditšhelete mo setheong se se kopantsweng go tswa mo malokong a mangwe a setheo se se kopantsweng.

(2) *(a)* Ditlhokego tsa gore taelo e e kailweng mo karolotlaleletsong (1) e ka pateletsa go ya ka karolotlaleletso (1) e akaretsa ditlhokego mabapi le go baakanya sešwa setheo se se kopantsweng go tsamaelana le leano le le neetsweng Bothati jwa Tlhokomelo ke setlamo se se okameng, le go rebolwa ke Bothati jwa Tlhokomelo mo pakeng e go dumalanweng ka yona ke Bothati jwa Tlhokomelo, le go rebolwa ke Bothati jwa Tlhokomelo.

(b) Bothati jwa Tlhokomelo bo ka rebola fela taelo e e pateletsang ditlhokego mabapi le go rulaganngwa sešwa gape ga ditheo tse di kopantsweng tsa ditšhelete fa Bothati bo kgotsofaditswe ka maikaelelo ke gore mofuta o mongwe wa taelo o ka se fitlhelele ditlamorago tse di ikaeletsweng ka go tlhoka gore setheo se se kopantsweng sa ditšhelete se ganelwe.

(c) Mo go swetseng gore go rebolwe kgotsa go se rebolwe taelo e e pateletsang ditlhokego mabapi le go rulaganngwa sešwa ga setheo se se kopantsweng sa ditšhelete, Bothati jwa Tlhokomelo bo tshwanetse go ela tlhoko ditshekatsheko tsotlhe tse di maleba, go akaretsa le bonnye tse di latelang:

(i) Bogolo jo popego ya gajaana ya setheo sa ditšhelete e kgoreletsang kgotsa e ka kgoreletsang tlhokomelo e e nonofileng ya setheo se se kopantsweng sa ditšhelete se se amegang;

(ii) gore a thulaganyosešwa ya setheo se se kopantsweng sa ditšhelete e a tlhokega ka mabaka le gore a e siametse go ka namola dikgoreletsi tsa tlhokomelo e e nonofileng ya setheo se se kopantsweng sa ditšhelete; le

(iii) ditlhagiso tse di dirilweng ke kgotsa mabapi le setlamo se se okameng.

(3) Thata ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete 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 kopantsweng sa ditšhelete e e lopang setlamo se se laolang go netefatsa gore setheo sa ditšhelete mo setheong se se kopantsweng se ikamanya le molao wa lephata la ditšhelete o Bothati jwa Boitshwaro jwa Lephata la Ditšhelete e leng bolaodi jo bo rwalang maikarabelo a ona.

Thebolo le kitsiso ya pele ya diphitlhelelo le dilatlhwa

166. (1) *(a)* Setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete se ka se fitlhelele kgotsa phimole dithoto tse di botlhokwa jaaka go tlhalositswe mo maemong a tlhokomelo a a diretsweng 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 tlhamang thoto e e botlhokwa.

(2) Bothati jwa Tlhokomelo bo ka se neelane ka thebolo go ya ka karolotlaleletso (1), ntle le fa Bothati bo kgotsofetse gore phitlhelelo kgotsa phimolo e ka se ame ka kgobelelo—

(a) bolaodi jwa tlhokomelo 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 tlhomamisa—

(i) ka moo mefuta e e farologaneng ya dikgwebo e tsamaiswang ka teng;

(ii) dikotsi tsa setheo se se kopantsweng sa ditšhelete le motho mongwe le mongwe yo e leng karolo ya setheo se se kopantsweng seo sa ditšhelete; kgotsa

(iii) mokgwa o letlhomeso la puso rulagantsweng le go tsamaiswang ka teng mabapi le setheo se se kopantsweng sa ditšhelete.

(3) *(a)* Fa Bothati jwa Tlhokomelo bo akanya go se letle thebolo ya phitlhelelo kgotsa phimolo e e kailweng mo karolotlaleletsong (1), pele ga go tsaya tshwetso, Bothati jwa Tlhokomelo bo tshwanetse go itsise setlamo se se okameng ka ga go se letlwe go go tshitsintsweng ga thebolo.

(b) Kitsiso e e kailweng mo temaneng *(a)* e tshwanetse go—

(i) akaretsa polelo ya mabaka a gore goreng thebolo e sa letlwa; 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 letle kopo ya thebolo go ya ka karolotlaleletso (1), Bothati jwa Tlhokomelo bo tshwanetse go ela tlhoko ditshekatsheko tsotlhe, go akaretsa bonnye tse di latelang:

(a) Gore a phitlhelelo kgotsa phimolo e ka se ame ka kgobelelo merero e e kailweng mo karolotlaleletsong (2); le

(b) ditlhagiso tse di dirilweng mabapi le kopo ya thebolo, go akaretsa le ditlhagiso dingwe le dingwe tse di dirilweng ka tsibogelo go kopo ya ditlhagiso e e kailweng mo karolotlaleletsong (3).

(5) Phitlhelelo kgotsa phimolo e e tlolang karolotlaleletso (1) ga e na ditlamorago tsa semolao.

KGAOLO 13

DIKOTLHAO TSA TSAMAISO

Dikotlhao tsa tsamaiso

167. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka, ka taelo e e neetsweng motho, diragatsa mo mothong kotlhao ya tsamaiso e e maleba, eo e tshwanetseng go duelwa go molaodi wa lephata la ditšhelete mo pakeng e e tsepamisitsweng mo taelong, fa motho—

(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 tlhomamiseng kotlhao e e maleba ya tsamaiso ya boitshwaro jo bo rileng—

(a) merero e bothati jo bo rwalang maikarabelo bo tshwanetseng go e ela tlhoko e akaretsa tse di latelang:

(i) Tlhokego ya go thibela boitshwaro joo;

(ii) ka moo motho 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, motho yo o maleba go morero, go akaretsa le mabaka a phokotso a a kailweng mo ditlhagisong tseo; le

(b) ntle le go lekanyetsa temana *(a)*, merero e bothati jo bo rwalang maikarabelo bo tshwanetseng go e ela tlhoko e akaretsa tse di latelang:

(i) Tlhago, nako, bomasisi le bogolo jwa tlolo;

(ii) tatlhegelo kgotsa tshenyegelo nngwe le nngwe e motho mongwe le mongwe a e itemogetseng ka ntlha ya boitshwaro;

(iii) bogolo jwa kunomolemo ya ditšhelete kgotsa kgwebo mo mothong, kgotsa setheo se se amanang le motho, go tswa mo boitshwarong;

(iv) ka gongwe motho o kile a tlola molao wa lephata la ditšhelete mo malobeng;

(v) ditlamorago tsa boitshwaro mo thulaganyong ya ditšhelete le tlhomamong ya ditšhelete;

(vi) ditlamorago tsa kotlhao e e tshitsintsweng mo tlhomamong ya ditšhelete;

(vii) bogolo jo boitshwaro bo neng bo le jwa ka bomo kgotsa jwa botlhaswa.

(3) Taelo ya kotlhao ya tsamaiso e ka akaretsa tuelo ya go busetsa bothati jo bo rwalang maikarabelo madi a ditshenyegelo 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 duedise motho kotlhao ya tsamaiso fa katlholo ya motho 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 kailwe 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 tlhalositswe mo Melawaneng e e diretsweng Kgaolo eno.

Morokotso 5

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 tlhotlhwa e e duelwang jaaka kotlhao ya tsamaiso go fitlhela o duetswe ka botlalo.

Kgatelelo

170. (1) Bothati jo bo rwalang maikarabelo jo bo dirang taelo ya kotlhao ya tsamaiso 10 bo ka faela kgatiso e e kanetsweng ya taelo le mokwadisi wa kgotlatshekelo e e nang le bokgoni fa—

(a) madi a a duediswang go ya ka taelo a sa duelwa jaaka go tlhokega go ya ka taelo; le

(b) gongwe— 15

(i) go se kopo ya tshekatsheko morago mabapi le molao wa lephata la ditšhelete kgatlhanong le go dirwa ga taelo e e dirilweng ka nako ya bokhutlo jwa paka ya go dira dikopo tseo; kgotsa

(ii) fa kopo eo e dirilwe, tshekatsheko morago e fedisitswe kwa bofelong.

(2) Taelo, fa e faelwa, e na le ditlamorago tsa katlholo ya selegae, e bile e ka gatelelwa 20 jaaka e kete go neilwe semolao kwa kgotlatshekelong eo.

Tiriso ya madi a a duetsweng jaaka dikotlhao tsa tsamaiso

171. Madi otlhe a a bonweng ke bothati jo bo rwalang maikarabelo jaaka dikotlhao tsa tsamaiso a tshwanetse go diriswa—

(a) pele, go busetsa bothati jo bo rwalang maikarabelo madi a jona a dituelo le 25 ditshenyegelo 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 tsamaelana le temana *(a)* e tshwanetse go duelwa mo Letloleng la Lotseno la Bosetshaba. 30

Kotlhao ya tsamaiso e e tserweng mo katlholong

172. Fa go tlhomamiswa katlholo e e ka newang motho yo o bonweng molato go ya ka molao wa lephata la ditšhelete, kgotlatshekelo e tshwanetse go ela tlhoko taelo ya kotlhao nngwe le nngwe ya tsamaiso e e dirilweng mabapi le sete e e tshwanang ya dintlha. 35

Tebalelo melato ya dikotlhao tsa tsamaiso

173. Bothati jo bo rwalang maikarabelo jo bo duedisang motho kotlhao ya tsamaiso bo ka, mo kopong ka motho, ka taelo, phimola dikotlhao tsotlhe kgotsa dingwe tsa dikotlhao tsa tsamaiso, le morokotso otlhe kgotsa nngwe ya morokotso o o duelwang go ya ka karolo 169. 40

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 tuelo e e dirilweng kgotsa molato o o iponetsweng ke motho yo mongwe mabapi le taelo ya 45 kotlhao ya tsamaiso e e pateleditsweng motho yo mongwe.

(2) Tumalano go ya ka karolotlaleletso (1) ga e na ditlamorago dipe.

CHAPTER 14

OMBUDS

Part 1

Ombud Council

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;

KGAOLO 14

OMBUDS

Karolo 1

Khansele ya 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 ditšhelete 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 ditšhelete mabapi le dikuno tsa ditšhelete, ditirelo tsa ditšhelete, le ditirelo tse di tlamelwang ke dithulaganyetso tsa popego ya mmaraka.

Ditiro tsa Khansele ya Ombud

177. (1) Gore e 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 tirisanommogo magareng, le thulaganyo ya ditiro tsa ombuds;

(c) leka go sireletsa go ikemela le go sa tseyeng letlhakore ga ombuds;

(d) tsweletsa pele temoso ya setšhaba ka ga ombuds le dikema tsa ombud le ditirelo tse ba di tlamelang;

(e) tsaya dikgato go nolofatsa phitlhelelo ya barekedi ditšhelete go ombuds tse di maleba;

(f) itsise setšhaba ka ga sekema sa ombud, go akaretsa go bega ka mefuta ya dingongorego tse diombud tse di farologaneng di samaganeng le tsona;

(g) rarabolola, go tsamaelana le Molao ono, ditshelepano tsa phitlhelelo ya lefelotaolo la dikema tse di farologaneng tsa ombud;

(h) tlhokomela tiro ya dikema tsa ombud, go akaretsa le bogolo jo di ikamanyang le ditlhokego tsa Kgaolo eno ka jona le melao e e tsepameng ya lephata la ditšhelete; le

(i) tsweletsa pele tsenyeletso ya ditšhelete.

(2) Khansele ya Ombud e tshwanetse gape go dira tiro nngwe le nngwe e e e roletsweng go ya ka kabelo nngwe le nngwe ya Molao ono kgotsa molawana mongwe le mongwe o o maleba.

(3) Khansele ya Ombud e ka dira sengwe le sengwe gape se se tlhokegang ka mabaka go fitlhelela maikaelelo a yona.

(4) Khansele ya Ombud e tshwanetse go dira tiro ya yona ntle le letshogo, tseoletlhakore kgotsa kgobelelo.

Maithlomo ka kakaretso puso

178. Khansele ya Ombud e tshwanetse go—

(a) laola merero ya yona ka bokgoni le; le

(b) tlhoma le go diragatsa ditsamaiso tsa puso le dikgato tse di maleba e bile di na le bokgoni.

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.

(b) Khomišenara; le
(c) bonnye maloko a mangwe a le mane, mme e seng go feta thataro.
(3) Khomišenara ga a na boutu mo potsong e e sekasekwang ke Boto.

Go thapiwa ga maloko a Boto

180. (1) Maloko a Boto a athapiwa ke Tona.
(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 go tshwara maemo 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) e se ka tlwaelo moagi mo Rephaboliking; kgotsa
(f) a samagane le—
(i) kgwebo ya setheo sa ditšhelete; kgotsa
(ii) kabelo ya dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete go barekedi ba ditšhelete.

Para ya ofisi ya maloko a Boto

181. (1) Motho yo o thapilweng jaaka leloko la Boto—
(a) o nna mo tirong sebaka sa paka e e sa feteng dingwaga tse tlhano, jaaka Tona a ka tlhomamisa;
(b) o, ka go fitlha bokhutlong ga paka ya tiro, na le tshwanelo ya go ka thapiwa gape sebaka sa paka e le nngwe; le
(c) o tshwanetse go tswa mo ofising pele ga paka ya tiro e ya bokhutlong fa motho yoo—
(i) a rola tiro ka go naya Tona kitsiso e e kwetsweng ya bonnye dikgwedi tse tharo, kgotsa nako e khutshwane e Tona a ka e amogelang; kgotsa
(ii) a ntshitswe mo ofising.
(2) Tona o tshwanetse, bonnye dikgwedi di le tharo pele ga bokhutlo jwa paka ya motho ya ntlha ya ofisi, go itsise 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 akaretsa le dipeelo le mabaka tse di amanang le mogolo, tse di tlhomamisitsweng 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 ikemetseng e e tlhomilweng ke Tona e fitlheletse gore leloko—
(a) ga le kgone go dira ditiro tsa ofisi ka ntlha ya mabaka a boitekanelo kgotsa a mangwe;
(b) le paletswe ka gotlhe go diragatsa epe ya maikarabelo a ofisi; kgotsa
(c) le dirile ka mokgwa o o sa tsamaelaneng le ditlhokego tsa go tswelela go nna mo tirong.
(3) Ntle le go lekanyetsa karolotlaleletso (2)*(b)*, leloko la Boto le tshwanetse go tseelwa gore le paletswe ka mokgwa o o bonagalang go diragatsa maikarabelo a ofisi fa a sa nne teng mo dikopanong tse pedi tse di latelanang tsa 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)*(b)* applies, at places determined by the Chairperson.

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

(4) *(a)* The Chairperson chairs the meetings of the Board at which the Chairperson is present.

(b) If the Chairperson is not present at a meeting, the Deputy Chairperson chairs the meeting.

(5) The person chairing a meeting of the Board may invite or allow any other person to attend a meeting of the Board, but a person who is invited has no right to vote at the meeting.

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

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

Decisions of Board

186. (1) *(a)* A proposal before a meeting of the Board becomes a decision of the Board if a majority of the members who are present or regarded as being present, and who may vote, vote for the proposal.

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

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

(4) Fa patlisiso e e ikemetseng e tlhomilwe go ya ka karolotlaleletso (2), Tona o ka emisa leloko la Boto go tla tirong go sa letilwe tshwetso ka go tloswa ga motho yoo mo ofising.

(5) Fa leloko la Boto le tlositswe mo tirong go ya ka karolotlaleletso (2), Tona o tshwanetse go romela pegelo le diphitlhelelo tsa patlisiso e e ikemetseng go Kokoano Bosetšhaba.

Botsayakarolo jwa Boto

184. Boto e tshwanetse—

(a) ka kakaretso, go tlhokomela taolo le tsamaiso ya Khansele ya Bolaodi ya Ombud go netefatsa gore e na le bokgoni e bile e nonofile;

(b) gothapa maloko a komiti ya Khansele ya Bolaodi ya Ombud a a tlhokegang kgotsa letleletsweng ke molao, le go naya dikaelo mabapi le boitshwaro jwa tiro ya komiti e nngwe le e nngwe;

(c) go dira ditlhomamiso tsa dituelo go ya ka molao wa lephata la ditšhelete;

(d) go baya Tona mo leseding ka ga—

(i) ikamanyo ya dikema tsa ombud le melao ya lephata la ditšhelete go ya ka moo di amanang le dikema tsa ombud;

(ii) dingongorego tse dikema tsa ombud di samaganeng le tsona, le ka moo di sekasekwang ka teng; le

(iii) boitshwaro jwa ditheo tsa ditšhelete tse di dirang gore go nne le dingongorego tse dintsi go dikema tsa ombud;

(e) go baya balaodi ba lephata la ditšhelete mo leseding ka ga boitshwaro jwa ditheo tsa ditšhelete tse di dirang gore go nne le dingongorego tse dintsi tsa dikema tsa ditšhelete; le

(f) go sekaseka morero mongwe le mongwe o o neilweng Boto go ya ka molao wa lephata la ditšhelete.

Dikopano tsa Boto

185. (1) *(a)* Boto e tshwanetse go kopana kotare nngwe le nngwe kgotsa kgapetsakgapetsa jaaka go tlhokega go dira ditiro tsa yona.

(b) Khonferense ya kutlo kgotsa kutlopono magareng ga bontsi jwa maloko a Boto, e e kgontshang leloko lengwe le lengwe le le tsayang karolo go utlwa le go utlwiwa ke leloko lengwe le lengwe la maloko a mangwe a a tsayang karolo, e tshwanetse go tsewa jaaka kopano ya Boto, e bile leloko lengwe le lengwe le le tsayang karolo le tshwanetse go tseelwa gore le teng kwa kopanong eo.

(2) Dikopano tsa Boto di tshwanetse go tshwarwa ka nako le, ntle le moo karolotlaleletso (1)*(b)* e diriswang, kwa mafelong a a tlhomamisitsweng ke Modulasetilo.

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

(4) *(a)* Modulasetilo o okamela dikopano tsa Boto tse Modulasetilo a leng teng mo go tsona.

(b) Fa Modulasetilo a se teng kwa kopanong, Motlatsamodulasetilo o okamela kopano.

(5) Motho yo o okametseng kopano ya Boto o ka laletsa kgotsa letla motho mongwe le mongwe go tla kopanong ya Boto, fela motho yo o laleditsweng ga a na tshwanelo ya go bouta kwa kopanong.

(6) Maloko a ka laola ditsamaiso kwa kopanong ya Boto jaaka ba bona go tshwanetse.

(7) Modulasetilo o tshwanetse go netefatsa gore metsotso ya kopano nngwe le nngwe e tsholwa ka mokgwa o o tlhomamisitsweng ke Modulasetilo.

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 lebakeng la tekatekano ya diboutu mo tshitsinyong, motho yo o okameng kopano o ka dira boutu ya makgaolakgang mo godimo ga boutu ya tlwaelo.

(2) Boto e ka, go tsamaelana le ditsamaiso tse di tlhomamisitsweng ke Boto, tsaya tshwetso mo tshitsinyong 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

(3) Tshwetso ya Boto ga e tlhoke go amogelesega fela ka ntlha ya gore—
(a) go ne go na le phatlatiro kwa ofising ya leloko fa go ne go tsewa tshwetso; kgotsa
(b) motho yo e neng e se leloko o tsere karolo mo tshwetsong.

Puso le dikomiti tse dingwe tsa le Khansele ya Ombud

187. (1) Boto e tshwanetse go tlhoma—
(a) komiti go gakolola Boto ka pholisi ya mogolo ya Khansele ya Ombud; le
(b) komiti go sekaseka, tlhokomela le go gakolola Boto ka ga dikotsi tse Khansele ya Ombud e lebaganeng le tsona le maano a go laola dikotsi tseo.

(2) *(a)* Boto e ka tlhoma komiti kgotsa tse dingwe tse dintsi mabapi le Khansele ya Ombud, ka botokololo le ditiro jaaka di tlhomamisitswe ke Boto.

(b) Komiti e ka akaretsa batho bao e seng maloko a Boto.

(3) Motho yo o ileditsweng 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 tirelong ya 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 tshwanetse 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 tshwanetse go netefatsa gore metsotso ya kopano nngwe le nngwe e tsholwa go ya ka mokgwa o o tlhomamisitsweng ke Boto.

Ombud yo mogolo

188. (1) Tona o tshwanetse go thapa Ombud yo Mogolo e bile motho yo o thapilweng jalo o tshwanetse go dumela, ka go kwala, ka ga—
(a) ditekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiro ya motho yo o umakilweng; le
(b) boemo jwa tiro jo bo tshwanetseng go fitlhelelwa kgatlhanong le ditekanyetso tseo.

(2) Go tsamaelana le Molao ono, Ombud yo Mogolo o dira go ya ka dipeelo le mabaka, go akaretsa le dipeelo le mabaka tse di amanang le mogolo, phenšene, khunologo le dikunomolemo tse dingwe, tse di tlhomamisitsweng ke Boto le go tsepamiswa mo konterakeng ya tiro magareng ga Ombud yo Mogolo le Khansele ya Ombud.

(3) Ombud yo Mogolo wa Khansele ya Ombud—
(a) o rwala maikarabelo a bolaodi le tsamaiso tsa letsatsi le letsatsi tsa Khansele ya Bolaodi ya Ombud; le
(b) o tshwanetse go dira ditiro tsa Khansele ya Ombud, ntle le tse di kailweng mo karolong 184*(b)* le *(c)*, go akaretsa le go diragatsa dithata le go dira ditiro tse di amanang le ditiro tseo.

(4) *(a)* Ombud yo mogolo o tshwanetse go bitsa kopano le go okamela dikopano tsa ombuds kgapetsakgapetsa, mme fela bonnye makgetlo a le mane ka ngwaga, go sekaseka tsamaiso e e nonofileng ya dithulaganyo tsa ombuds.

(b) Ombud yo Mogolo, kgotsa, fa Ombud yo Mogolo a se teng, motho yo o thapilweng ke Ombud yo Mogolo, o okamela dikopano tsa ombuds.

(c) Fa boombuds ba bararo ba kwalela Ombud yo Mogolo go mo kopa go bitsa kopano ya Khansele ya Ombud, kopano ya boombuds e tshwanetse go tshwarwa.

(5) Fa a dira go ya ka karolotlaleletso (3), Ombud yo Mogolo o tshwanetse go tsenya dipholisi le maano tse di amogetsweng ke Boto mo tirsong.

Ditiro tsa maloko a Boto

189. (1) Leloko la Boto le tshwanetse go—
(a) dira ka boikanyego mo mererong yotlhe e e amanang le Khansele ya Ombud; le

(b) perform his or her functions as a member—
(i) in good faith;
(ii) for a proper purpose; and
(iii) with the degree of care and diligence that a reasonable person in the member's position would exercise.

(2) A person who is or was a member of the Board may not use that position, or any information obtained as a member of the Board, to—
(a) improperly benefit himself, herself or another person;
(b) impede the Ombud Council's ability to perform its functions; or
(c) cause improper detriment to another person.

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

Delegations

190. (1) The Chief Ombud may, in writing—
(a) delegate any of his or her powers or duties in terms of a financial sector law, except the power to delegate contained in this subsection, to a staff member of the Ombud Council; and
(b) at any time, amend or revoke a delegation made in terms of paragraph *(a)*, subject to any rights that may have accrued.

(2) A delegation in terms of subsection (1) may be to a specific person or to a person holding a specific position.

(3) A delegation in terms this section—
(a) is subject to the limitations and conditions specified in the delegation; and
(b) does not divest the Chief Ombud of responsibility in respect of the delegated power or duty.

(4) Anything done by a delegate in terms of the delegation must be regarded as having been done by the Ombud Council.

Staff and resources

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

(2) The Ombud Council may not enter into a secondment arrangement in respect of a person, or engage persons as employees or on contract, unless the person and the Ombud Council have agreed in writing, on—
(a) the performance measures that must be used to assess that person's performance; and
(b) the level of performance to be achieved against those measures.

Duties of staff members

192. (1) A person who is or was a staff member of the Ombud Council may not use that position or any information obtained as a staff member to—
(a) improperly benefit himself, herself or another person;
(b) impede the Ombud Council's ability to perform its functions; or
(c) cause improper detriment to another person.

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

(b) dira ditiro tsa gagwe jaaka leloko—
(i) ka maikaelelo a a nepagetseng;
(ii) ka 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 tshedimosetso nngwe le nngwe e e fitlheletsweng jaaka leloko la Boto, go—
(a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tsela e e sa siamang;
(b) kgoreletsa Khansele ya Ombud go dira tiro ya yona; kgotsa
(c) thatafaletsa motho yo mongwe.

(3) Mabapi le maitlhomo a karolo eno, **"kunomolemo"** le **"thatafaletso"** ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

Ditholelo

190. (1) Ombud yo Mogolo o ka, ka go kwala—
(a) rolela nngwe le nngwe ya dithata kgotsa ditiro go ya ka molao wa lephata la ditšhelete, ntle le thata ya go rolela e e fitlhelwang mo karolotlaleletsong eno, go leloko la badirimmogo la Khansele ya Ombud; le
(b) ka nako nngwe le nngwe, tlhabolola kgotsa phimola tholelo e e dirilweng go ya ka temana *(a)*, go tsamaelana le ditshwanelo tse di fitlheletsweng.

(2) Tholelo go ya ka karolotlaleletso (1) e ka direlwa motho yo o rileng kgotsa motho yo o tshwereng maemo a a rileng.

(3) Tholelo go ya ka kgaolo eno—
(a) e go ya ka ditekanyetso le mabaka tse di tsepamisitsweng mo tholelong; le
(b) ga e amoge Ombud yo Mogolo maikarabelo mabapi le thata kgotsa tiro e e roletsweng.

(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 tsamaelana le molao o o diriswang—
(a) dirisana le batho jaaka badiri; kgotsa
(b) dira thulaganyo ya tshutiso ya nakwana ya modiri;
(c) buisana le batho ka ga konteraka go na le jaaka e le badiri;
(d) dira dikonteraka;
(e) phitlhelelo le phetiso ya thoto;
(f) inšora 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 se dire thulaganyo ya tshutiso ya nakwana ya modiri mabapi le motho, kgotsa ya dirisana le batho jaaka badiri kgotsa mo konterakeng, ntle le fa motho le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ba dumalane ka go kwala mabapi le—
(a) ditekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiro ya motho; le
(b) boemo jwa tiro jo bo tshwanetseng go fitlhelelwa kgatlhanong le ditekanyetso tseo.

Ditiro tsa maloko a badiri

192. (1) Motho yo e leng kgotsa yo e neng e le leloko la badirimmogo ba Khansele ya Ombud o ka se dirise maemo ao kgotsa tshedimosetso nngwe le nngwe e a e boneng jaaka leloko la badirimmogo go—
(a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tsela e e sa siamang;
(b) kgoreletsa Khansele ya Ombud go dira ditiro tsa yona; kgotsa
(c) thatafaletsa motho yo mongwe.

(2) Mabapi le maitlhomo a karolo eno, **"kunomolemo"** le **"thatafaletso"** ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

Disclosure of interests

193. (1) A member of the Board must disclose, at a meeting of the Board, or in writing to each of the other members, any interest in a matter that is being or will be considered by him or her, whether or not at a meeting of the Board, being an interest that—

(a) the member has; or

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

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

(3) A member referred to in subsection (1) may not perform a function in relation to the matter concerned unless—

(a) the member has disclosed the interest in accordance with subsection (1); and

(b) the other members of the Board have decided that the interest cannot be seen as affecting the member's proper execution of his or her functions in relation to the matter.

(4) A member of a committee of the Ombud Council established in terms of section 51(1)*(a)*(ii) of the Public Finance Management Act or section 187(1) of this Act must disclose, at a meeting of the committee, or in writing to each of the other members of that committee, any interest in a matter that is being or is intended to be considered by that committee, being an interest that—

(a) the member has; or

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

(5) A disclosure in terms of subsection (4) must be given as soon as practicable after the member concerned becomes aware of the interest.

(6) A person referred to in subsection (1) or (4) may not participate in the consideration of, or decision on, that matter by the Board or the committee, as the case may be, unless—

(a) the person has disclosed the interest in accordance with subsection (1) or (4); and

(b) the other members of the Board or that committee have decided that the interest cannot be seen as affecting the member's proper execution of his or her functions in relation to the matter.

(7) *(a)* Each member of the Ombud Council's staff and each other person involved in the performance of the functions or the exercise of the powers of the Ombud Council must make timely, proper and adequate disclosure of their interests, including the interests of a related party, that could reasonably be seen as interests that may affect the proper execution of their functions of office or a delegated power.

(b) The Chief Ombud must ensure that paragraph *(a)* is complied with.

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

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

(b) when the interest was acquired.

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

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

(i) an official or employee of the Ombud Council; or

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

(b) an interest that is not material.

(10) The Chief Ombud must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.

Part 2

Recognition of industry ombud schemes

Recognition of industry ombud schemes

194. (1) The Ombud Council may, on application by an industry ombud scheme, recognise the industry ombud scheme for the purposes of this Act.

(2) An application in terms of subsection (1) must—

(a) be in writing, in a form approved or accepted by the Ombud Council; and

(b) include or be accompanied by—

(i) a copy of the governing rules of the industry ombud scheme;

Tshenolo ya dikgatlhegelo

193. (1) Leloko la Boto le tshwanetse go senola, kwa kopanong ya Boto, kgotsa ka go kwalela mongwe le mongwe wa maloko a mangwe, kgatlhegelo nngwe le nngwe mo morerong o o kgotsa o o tla sekasekwang ke ena, e ka nna kgotsa e se kwa kopanong ya Boto, e le kgatlhego e—

(a) leloko le nang le yona; kgotsa

(b) motho yo o amanang le leloko a nang le yona.

(2) Tshenolo go ya ka 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 Boto a sweditse gore kgatlhegelo e ka se tseelwe gore e ama go dira ka manontlhotlho ga leloko mabapi le morero.

(4) Leloko la komiti ya Khansele ya Ombud e e tlhomilweng go ya ka karolo 51(1)*(a)*(ii) ya *Public Finance Management Act* kgotsa karolo 187(1) ya Molao ono le tshwanetse go senola, kwa kopanong ya komiti, kgotsa ka go kwalela mongwe le mongwe wa maloko a komiti eo, kgatlhegelo nngwe le nngwe mo morerong o o sekasekwang kgotsa o komiti e e ikaelelang go o sekaseka, e le kgatlhego e—

(a) leloko le nang le yona; kgotsa

(b) motho yo o amanang le leloko a nang le yona.

(5) Tshenolo go ya ka karolotlaleletso (4) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhegelo.

(6) Motho yo o kailweng mo karolotlaleletsong (1) kgotsa (4) o ka se tseye karolo mo tshekatshekong ya, kgotsa tshwetso ka ga, morero oo ke Boto kgotsa komiti, go ya ka maemo a mabaka, ntle le fa—

(a) motho a senotse kgatlhegelo go ya ka karolotlaleletso (1) kgotsa (4); le

(b) maloko a mangwe a Boto kgotsa komiti eo a sweditse ka gore kgatlhegelo eo e ka se tseelwe gore e ama go dira ka manontlhotlho ga leloko mabapi le morero.

(7) *(a)* Leloko lengwe le lengwe la badiri ba Khansele ya Bolaodi ya Ombud le motho mongwe le mongwe yo o amegang mo go direng tiro kgotsa mo tiragatsong ya dithata tsa Khansele ya Ombud le tshwanetse go dira tshenolo ya dikgatlhegelo ka nako, nepagalo le tshiamo, go akaretsa le dikgatlhego tsa mokgatlho o o amegang, tse di ka tsewang ka mabaka jaaka dikgatlhegelo tse di ka amang go dira ka manontlhotlho ga gagwe ditiro tsa ofisi kgotsa thata e e roletsweng.

(b) Ombud yo Mogolo o tshwanetse go netefatsa gore temana *(a)* e a obamelwa.

(8) Mabapi le maitlhomo a karolo eno, ga go kgathalesege—

(a) gore kgatlhegelo e tlhamaletse, ga e a tlhamalala, ke ya tšhelete kgotsa ga se ya tšhelete; kgotsa

(b) gore kgatlhegelo e fitlheletswe leng.

(9) Mabapi le maitlhomo a karolo eno, motho o ka nna a se senole—

(a) ntlha ya gore motho yoo, kgotsa motho yo a amanang le ena, ke—

(i) motlhankedi kgotsa modiri wa Khansele ya Ombud; kgotsa

(ii) modirisi wa ditšhelete wa setheo sa ditšhelete; kgotsa

(b) kgatlhegelo e e seng ya botlhokwa.

(10) Ombud yo Mogolo o tshwanetse go tshola rejisetara ya ditshenolo tsotlhe tse di dirilweng go ya ka karolo eno le ditshwetso tsotlhe tse di dirilweng go ya ka karolo eno.

Karolo 2

Kamogelo ya dikema tsa ombud wa madirelo

Kamogelo ya dikema tsa ombud wa madirelo

194. (1) Khansele ya Ombud e ka, ka kopo ka sekema sa bodirelo sa ombud, amogela sekema sa bodirelo sa ombud mabapi le maitlhomo a Molao ono.

(2) Kopo go ya ka karolotlaleletso (1) e tshwanetse—

(a) go kwalwa, ka mokgwa o o rebotsweng kgotsa amogetsweng ke Khansele ya Bolaodi ya Ombud; le

(b) go akaretsa le kgotsa go romelwa le—

(i) kgatiso ya melawana ya go busa ya sekema sa ombud sa bodirelo;

(ii) a list of financial institutions that shall be members of the industry ombud scheme should it be recognised; and
(iii) any other information required in the form.

Requirement for further information or documents by Ombud Council

195. (1) The Ombud Council may, by notice in writing, require an applicant for recognition—
(a) to give the Ombud Council additional information or documents specified by the Ombud Council; and
(b) to verify any information given by the applicant in connection with the application in a manner specified by the Ombud Council.
(2) The Ombud Council need not deal further with the application until the applicant has complied with the notice contemplated in subsection (1).

Determination of applications

196. (1) The Ombud Council must determine an application for recognition in terms of section 194 by—
(a) granting the application and notifying the applicant accordingly; or
(b) refusing the application and notifying the applicant accordingly.
(2) The Ombud Council may grant an application for recognition subject to conditions specified by the Ombud Council.
(3) The Ombud Council must not recognise an industry ombud scheme unless satisfied that—
(a) a significant number of relevant financial institutions shall be members of the industry ombud scheme, should it be recognised;
(b) the governing rules of the industry ombud scheme—
(i) identify the financial products or financial services to which the industry ombud scheme relates, or in the case of a market infrastructure, the services that it provides;
(ii) require the members of the industry ombud scheme to inform financial customers about the scheme and how to contact and complain to the scheme, at the frequency agreed by the scheme for its members;
(iii) make adequate and appropriate provision for making complaints;
(iv) are legally binding on the members of the industry ombud scheme, and enforceable by the governing body of the industry ombud scheme;
(v) require each member of the industry ombud scheme to comply with, and give effect to, any determination of the ombud made in terms of the industry ombud scheme;
(vi) make adequate provision for monitoring and oversight of the operation of the industry ombud scheme, including in respect of the terms and conditions of the engagement of the ombud, including remuneration and other benefits, and any action to terminate that engagement;
(vii) require the ombud to apply, where appropriate, principles of equity when dealing with a complaint; and
(viii) otherwise comply with applicable Ombud Council rules;
(c) the ombud scheme has or has available to it sufficient resources and capacity to ensure that it is able to comply with the requirements of financial sector laws in relation to ombud schemes and any conditions that may be specified in terms of subsection (2); and
(d) recognising the industry ombud scheme will not be contrary to the interests of financial customers, the financial sector or the public interest.
(4) *(a)* The Ombud Council must determine an application as contemplated in subsection (1) within three months after it is made.
(b) In working out when the period mentioned in paragraph *(a)* expires, any period between the Ombud Council giving the applicant a notice in terms of section 195 and the requirements in the notice being satisfied is not to be counted.

(ii) lenane la ditheo tsa ditšhelete tse di kgotsa tse di tla nnang maloko a sekema sa ombud sa bodirelo fa se ka amogelwa; le
(iii) tshedimosetso nngwe le nngwe e e tlhokegang mo foromong.

Ditlhokego tsa tshedimosetso ya tlaleletso kgotsa dikwalo ka Khansele ya Ombud

195. (1) Khansele ya Ombud e ka, ka kitsiso e e kwetsweng, lopa modirakopo ya kamogelo—
(a) go naya Khansele ya Ombud tshedimosetso ya tlaleletso kgotsa dikwalo tse di tsepamisitsweng ke Khansele ya Ombud; le
(b) go netefatsa tshedimosetso e e neetsweng ke modirakopo mabapi le kopo ka mokgwa o o tsepamisitsweng ke Khansele ya Ombud.
(2) Khansele ya Ombud ga e tlhoke go tswelelela go dira ka kopo go fitlhela modirakopo a ikamantse le kitsiso, e e tlhalositsweng mo karolotlaleletsong (1).

Tlhomamiso ya ditiiso

196. (1) Khansele ya Ombud e tshwanetse go tlhomamisa kopo ya kamogelo go ya ka karolo 194 ka go—
(a) amogela kopo le go itsise modirakopo ka nepagalo; kgotsa
(b) gana kopo le go itsise modirakopo ka nepagalo.
(2) Khansele ya Ombud e ka amogela kopo ya go amogelwa go latela mabaka a a neetsweng ke Khansele ya Ombud.
(3) Khansele ya Ombud ga e a tshwanela go amogela sekema sa ombud sa bodirelo ntle le fa e kgotsofetse gore—
(a) palo e e bonalang ya ditheo tsa ditšhelete e tla nna 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 dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tse di amanang le sekema sa ombud sa bodirelo kgotsa mo lebakeng la dithulaganyetso tsa popegotheo ya mmaraka, ditirelo tse di e tlamelang;
(ii) se lopa maloko a sekema sa bodirelo jwa ombud go itsise barekedi ba ditšhelete ka ga sekema le ka moo b aka ikgolaganyang le go ngongoregela kwa sekemeng, ka seelo se se dumetsweng 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 tlama 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 leloko lengwe le lengwe la sekema sa ombud sa bodirelo go ikamanya le, le go diragatsa, tlhomamiso nngwe le nngwe 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 nngwe le nngwe go khutlisa tiro eo;
(vii) e lopa ombud go dirisa, fa go leng maleba, meono ya tekatekano fa e sekaseka ngongorego; le
(viii) e ikamanya ka mokgwa mongwe le melawana e e maleba ya Khansele 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 tsepamiswang go ya ka karolotlaleletso (2); le
(d) e amogela gore sekema sa ombud sa bodirelo se ka se nne kgatlhanong le dikgatlhego tsa barekedi ba ditšhelete kgotsa lephata la ditšhelete kgotsa kgatlhego ya setšhaba.
(4) *(a)* Khansele ya Ombud e tshwanetse go tlhomamisa kopo jaaka go tlhalositswe mo karolotlaleletsong (1) mo dikgweding tse tharo morago ga fa e sena go dirwa.
(b) Mo go batleng go itse gore paka e e kailweng mo temaneng *(a)* e fela leng, paka nngwe le nngwe magareng ga go naya modirakopo kitsiso go ya ka karolo 195 ke Khansele ya Ombud le go kgotsofatswa ga ditlhokego ga e balelwe.

Varying conditions

197. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, remove or vary a condition of recognition, or add a condition.

(2) A variation takes effect on the date of the notice in terms of subsection (1) or, if the notice specifies a later date, the later date.

Suspension of recognition

198. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, suspend the recognition of the scheme if—

(a) the industry ombud scheme applies for suspension;

(b) a condition of recognition has been contravened or not been complied with in a material way;

(c) the industry ombud scheme, an ombud for the industry ombud scheme, or a significant number of the financial institutions that are members of the industry ombud scheme, have contravened in a material way the governing rules of the industry ombud scheme, a provision of a financial sector law relating to ombuds or Ombud Council rules;

(d) information provided in, or in relation to, an application to the Ombud Council in relation to the industry ombud scheme was false or misleading, including by omission, in a material way;

(e) the industry ombud scheme is not complying with a requirement of this Act;

(f) the suspension is necessary to prevent—

(i) a serious contravention of a financial sector law; or

(ii) financial customers of the members of the industry ombud scheme from suffering material prejudice; or

(g) a fee, a levy or an administrative penalty payable by the industry ombud scheme, including any interest, is unpaid and has been unpaid for at least 30 days after it is due.

(2) The Ombud Council may at any time revoke the suspension.

(3) A suspension takes effect on the date of the notice in terms of subsection (1), or a later date specified in the notice.

(4) A suspension does not affect an obligation of the industry ombud scheme that it has in terms of a financial sector law, including an obligation to report a matter to the Ombud Council.

Revocation of recognition

199. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, revoke the recognition of an industry ombud scheme—

(a) if the industry ombud scheme applies for revocation;

(b) on any of the bases on which it may suspend recognition, as set out in section 198(1)*(b)* to *(g)*; or

(c) if the scheme has ceased to function.

(2) Revocation of recognition takes effect on the date of the notice in terms of subsection (1) or, if the notice specifies a later date, the later date.

Procedure for varying, suspending and revoking recognition

200. (1) *(a)* Before the Ombud Council varies a condition of, or suspends or revokes, the recognition of a recognised industry ombud scheme, it must—

(i) give the industry ombud scheme notice of the proposed action and a statement of the reasons for it; and

(ii) invite the industry ombud scheme to make submissions on the matter, and give it a reasonable period to do so.

(b) The period referred to in paragraph *(a)*(ii) must be at least one month.

(2) The Ombud Council need not comply with subsection (1) if the industry ombud scheme has applied for the proposed action to be taken.

Mabaka a a forologanang

197. (1) Khansele ya Bolaodi ya Ombud e ka, ka kitsiso go sekema se se amogetsweng sa ombud, tlosa kgotsa fetola lebaka la kamogelo, kgotsa tlatsa lebaka.

(2) Phetolo e tsenngwa mo tirisong ka letlha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa kitsiso e tsapimisa letlha le lengwe la moragonyana, letlha la moragonyana.

Kemiso ya kamogelo

198. (1) Khansele ya Ombud e ka, ka kitsiso go sekema sa ombud se se 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 tlotswe kgotsa le sa obamelwa ka mokgwa o o tseneletseng;

(c) sekema sa ombud sa bodirelo, ombuds wa sekema sa ombud sa bodirelo kgotsa palo e e bonalang ya ditheo tsa ditšhelete tse e leng maloko a sekema sa ombud sa bodirelo a tlotse ka tsenelelo e kgolo melawana ya go busa ya sekema sa ombud sa bodirelo kgotsa kabelo ya molao wa lephata la ditšhelete, kgotsa melawana ya Khansele ya Ombud, e e amanang le ombuds;

(d) tshedimosetso e e tlametsweng mo, kgotsa mabapi le, kopo mabapi le Khansele ya Ombud mabapi le sekema sa ombud sa bodirelo e ne e fosagetse kgotsa e timetsa, go akaretsa le ka tlogelo, ka tsenelelo e kgolo;

(e) sekema sa ombud sa bodirelo se sa ikamanye le tlhokego ya Molao ono;

(f) tshekego e botlhokwa go thibela—

(i) tlolo e e masisi ya molao wa lephata la ditšhelete; kgotsa

(ii) barekedi ba ditšhelete ba baabelwadilaesense gore ba se gobelelwe ka tsenelelo e kgolo; kgotsa

(g) tuelo, lekgethwana kgotsa kotlhao ya tsamaiso e e duelwang ke sekema sa ombud sa bodirelo, go akaretsa le morokotso, ga e a duelwa e bile e ntse e sa duelwa bonnye matsatsi a le 30 morago ga fa e tshwanetse go duelwa.

(2) Khansele ya Ombud e ka phimola kemiso ka nako nngwe le nngwe.

(3) Tshekego e tsenngwa mo tirisong ka letlha la kitsiso go ya ka karolotlaleletso (1), kgotsa letlha le le kwa moragonyana le le tsepamisitsweng mo kitsisong.

(4) Tshekego ga e ame tlamego ya sekema sa ombud sa bodirelo e se nang le yona go ya ka molao wa lephata la ditšhelete, go akaretsa le tlamego ya go begela Khansele ya Ombud morero.

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 tlhalositswe mo karolong 198(1)*(b)* go fitlha go *(g)*; kgotsa

(c) fa sekema se khutlisitse go dira.

(2) Phimolo ya kamogelo e tsenngwa mo tirisong ka letlha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa kitsiso e tsapamisa 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 tshwanetse—

(i) go naya sekema sa ombud sa bodirelo kitsiso ya tiro e e tshitsintsweng le polelo ya mabaka a yona; le

(ii) go laletsa sekema sa ombud sa bodirelo go dira ditlhagiso ka ga morero, le go se naya nako e e lekaneng go dira jalo.

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

(2) Khansele ya Ombud e tlhoka go ikamanya le karolotlaleletso (1) fa sekema sa ombud sa bodirelo se dirile kopo ya gore tiro e dirwe.

(3) In deciding whether to vary a condition of, or suspend or revoke, recognition, the Ombud Council must have regard to all submissions made within the period specified in the notice in terms of subsection (1)*(a)*(ii).

(4) The Ombud Council may take the action without having complied, or complied fully, with subsection (1) if the delay involved in complying, or complying fully, with that subsection in respect of a proposed action is likely to lead to material prejudice to financial customers or defeat the object of the action.

(5) *(a)* If the Ombud Council takes action without having complied, or complied fully, with subsection (1) for the reason set out in subsection (4), the industry ombud scheme must be given a written statement of the reasons why that subsection was not complied with.

(b) The industry ombud scheme may make submissions to the Ombud Council within one month after being provided with the statement.

(c) The Ombud Council must have regard to the submissions, and notify the industry ombud scheme, as soon as practicable, whether the Ombud Council proposes to amend or revoke the variation, suspension or revocation.

Part 3

Powers of Ombud Council

Ombud Council rules

201. (1) The Ombud Council may make rules for, or in respect of, ombuds and ombud schemes, aimed at ensuring that financial customers have access to, and are able to use affordable and effective, independent and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products, financial services, and services provided by market infrastructures.

(2) Ombud Council rules in terms of subsection (1) may be made on any of the following matters:

(a) Governing rules of ombud schemes;

(b) governance of ombud schemes, including in relation to—

(i) the composition, membership and operation of governing bodies and of substructures of ombud schemes; and

(ii) the roles and responsibilities of governing bodies and their substructures;

(c) the qualifications and experience of ombuds, including fit and proper person requirements for ombuds and for members of governing bodies of industry ombud schemes;

(d) the definition and type of complaints to be dealt with by specified ombud schemes;

(e) dispute resolution processes;

(f) any matters on which a regulatory instrument may be issued by the Ombud Council in terms of a specific financial sector law in so far as it relates to ombud schemes and ombuds;

(g) matters that may in terms of any other provision of this Act be regulated by rules of the Ombud Council; and

(h) any other matter that is appropriate and necessary for achieving the aim set out in subsection (1).

(3) An Ombud Council rule must not be inconsistent with relevant financial sector laws.

(4) An Ombud Council rule must not interfere with the independence of an ombud or the investigation or determination of a specific complaint.

(5) The Ombud Council must, in developing Ombud Council rules—

(a) seek to provide for a consistent approach and consistent requirements for all ombud schemes, promote the efficiency and cost-effectiveness of ombud schemes, and promote co-ordination and co-operation between ombud schemes; and

(b) take into account differences in the nature and complexity of complaints heard by different ombud schemes.

(3) Mo go swetseng ka go fetola lebaka la, kgotsa emisa kgotsa phimola, kamogelo, Khansele ya Ombud e tshwanetse go ela tlhoko ditlhagiso tsotlhe tse di dirilweng mo nakong e e tsepamisitsweng mo kitsisong go ya karolotlaleletso (1)*(a)*(ii).

(4) Khansele ya Ombud e ka dira tiro ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso (1) fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso eo mabapi le tiro e e tshitsintsweng e ka tlisa ditlamorago tsa kgobelelo e e tseneletseng go barekedi ba ditšhelete, ya ama ka kgobelelo tlhomamo ya ditšhelete kgotsa ya fenya maikaelelo a tiro.

(5) *(a)* Fa Khansele ya Ombud e dira tiro ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso (1) ka mabaka a a tlhalositsweng mo karolotlaleletsong (4), sekema sa ombud sa bodirelo se tshwanetse go newa polelo e e kwetsweng ya mabaka a gore goreng go sa ikamanngwa le karolotlaleletso eo.

(b) Sekema sa ombud sa bodirelo se ka dira ditlhagiso go Khansele ya Ombud mo kgweding e le esi morago ga go 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 kgonagalang, le fa ka gongwe Khansele ya Ombud e tshitsintse go tlhabolola kgotsa 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 ikaelelang go netefatsa gore badirisi ba ditšhelete ba fitlhelela, gape ba kgona go, dirisa kgato e nngwe ya tharabololo ya thulano e e duelegang, nonofileng, ikemetseng le go lolama go dingongorego tse di ka ga ditheo tsa ditšhelete mabapi le dikuno tsa ditšhelete le ditirelo tsa ditšhelete le ditirelo tse di tlamelwang ke thulaganyetso ya popegotheo ya mmaraka.

(2) Melawana ya ombuds mabapi le karolotlaleletso (1) e ka dirwa mabapi le nngwe le nngwe ya merero e e latelang:

(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 mekgatlhotlaleletso ya dikema tsa ombud; le

(ii) ditiro le maikarabelo a mekgatlho e e busang le mekgatlhotlaleletso ya yona;

(c) borutegi le maitemogelo a ombuds;

(d) tlhaloso le mofuta wa dingongorego tse di tshwanetseng go sekasekwa ke sekema sa ombuds se se tsepamisitsweng;

(e) dikgato tsa go rarabolola dikgotlhang;

(f) merero mengwe le mengwe e sediriso sa bolaodi se ka diriswang mo go yona e ka rebolwa ke Khansele ya Ombud go ya ka molao o o tsepameng wa lephata la ditšhelete go ya jaaka e amana le dikema tsa ombud le ombuds;

(g) merero e go ya ka kabelo nngwe le nngwe ya Molao ono e ka laolwang ka melawana ya Khansele ya Ombud; le

(h) morero mongwe le mongwe o o maleba e bile o tlhokega go fitlhelela maikaelelo a a tlhalositsweng mo karolotlaleletsong (1).

(3) Molawana wa Khansele ya Ombud o tshwanetse go tsamaelana le melao e e maleba ya lephata la ditšhelete.

(4) Molawana wa Khansele ya Ombud ga o a tshwanela go kgoreletsa le go ikemela ga ombud kgotsa patlisiso kgotsa tlhomamiso ya ngongorego e e tsepameng.

(5) Khansele ya Ombud e tshwanetse, mo go tlhabololeng melawana ya Khansele ya Ombud—

(a) go batla go tlamela mabapi le mokgwa o o tlhomameng le ditlhokego tse di tlhomameng go dikema tsotlhe tsa ombud, go tsweletsa bokgoni le poloko ya ditshenyegelo ya dikema tsa ombud, le go tsweletsa kopano le tirisanommogo magareng ga dikema tsa ombud; le

(b) go tsaya tsia dipharologano mo tlholegong le tharaanong 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 Khansele ya Ombud e ka direlwa, kgotsa mabapi le—

(a) ditlhopha tse di farologaneng tsa dikema tsa ombuds le ombud; le

(b) mabaka a a farologaneng.

(7) *(a)* Khansele ya Ombud e ka, ka kopo go tswa kwa sekemeng sa ombud, golola sekema seo sa ombud go tswa mo molawaneng wa Khansele ya Ombud sebaka sa nako e e tsepamisitsweng, fa fela Khansele ya Ombud e kgotsofetse gore tlamorago e e ikaeletsweng ya molawana e santse e tla fitlhelelwa.

(b) Kgololo nngwe le nngwe eo e ka dirwa go ya ka mabaka a a beilweng ke Khansele ya Ombud.

(8) Molawana wa Khansele ya Ombud o ka tlhabolola kgotsa phimola molawana o mongwe wa Khansele ya Ombud.

Ditaelo tsa Khansele ya Ombud

202. (1) Khansele ya Ombud e ka rebolela motho yo e leng ombud, kgotsa go sekema sa ombud, taelo e e kwetsweng e e lopang motho go tsaya kgato e e tsepamisitsweng mo taelong fa motho a 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 fitlhelela maikaelelo a Khansele ya Ombud a a tlhalositsweng mo karolong 176 le go thibela ombud kgotsa sekema sa ombud mo go tloleng melao ya lephata la ditšhelete e e diriswang jaaka e amana le dikema tsa ombud, kgotsa go fokotsa dikotsi tsa ditlolo tseo.

(3) Khansele 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 molawana wa Khansele 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 oi matshwanedi e bile a nepagetse.

(4) Pele ga thebolo ya taelo go ya ka karolo eno, Khansele ya Ombud e tshwanetse go—

(a) naya motho yo e mo tshitsintseng go mo rebolela taelo thalo ya taelo le polelo ya mabaka a gore goreng Khansele ya Ombud e tshitsinya go e rebola, go akaretsa le polelo ya dintlha tse di maleba le mabaka; le

(b) laletsa batho gore ba dire ditlhagiso ka ga morero, le go e naya nako e e tsepamisitsweng, e e tshwanetseng go nna e e lekaneng, go dira jalo.

(5) Fa taelo e tlhoka gore motho a tloswe mo maemong a motho mabapi le sekema sa ombud, Khansele ya Ombud e tshwanetse go—

(a) naya motho thalo ya taelo e e tshitsintsweng le polelo ya mabaka a gore goreng Khansele ya Ombud e tshitsinya go e rebola, go akaretsa le polelo ya dintlha 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 swetseng ka go rebola kgotsa go se rebole taelo, Khansele ya Ombud e tshwanetse go tsaya tsia ditlhagiso tsotlhe tse di amogetsweng kwa bokhutlong jwa nako e e kailweng mo karolotlaleletsong (4)*(b)*.

(7) Fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso (4) le (5) mabapi le taelo e e tshitsintsweng e ka tlisa kgobelelo mo barekeding ba ditšhelete kgotsa ya fenya maikaelelo a taelo, Khansele ya Ombud e ka rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso tseo.

(8) *(a)* Fa Khansele ya Ombud e rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletso (4) le (5), motho yo o e reboletsweng, le, mo karolotlaleletso (5) e diriswang, motho yo o kailweng mo karolotlaleletsong eo, o tshwanetse go newa 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 Khansele ya Ombud mo kgweding e le esi morago ga go tlamelwa ka polelo.

(c) Khansele ya Ombud e tshwanetse go tsaya tsia ditlhagiso, le go itsise motho, ka bonako jo bo kgonagalang, fa e le gore Khansele ya Ombud e tshitsinya go phimola taelo.

(9) Taelo go ya ka karolo eno e tshwanetse go totobatsa nako e e lekaneng ya go ikamanya.

(10) The Ombud Council may at any time revoke a directive in terms of this section by written notice to the person to whom it was issued.

(11) A person to whom a directive in terms of this section has been issued must comply with the directive.

Enforceable undertakings

203. (1) An ombud scheme may give the Ombud Council, and the Ombud Council may accept, a written undertaking concerning the ombud scheme's future conduct in relation to a financial sector law in so far as it relates to ombud schemes.

(2) Section 151 applies, with necessary changes required by the context, in relation to an undertaking contemplated in subsection (1), as if the references in that section to "responsible authority" were references to the Ombud Council.

Compliance with financial sector laws

204. (1) The Ombud Council may commence proceedings against an ombud scheme in the High Court for an order to ensure compliance with the financial sector law in so far as it relates to ombud schemes.

(2) Section 152 applies, with necessary changes required by the context, in relation to the proceeding, as if the references in that section "responsible authority" were references to the Ombud Council.

Debarment

205. (1) The Ombud Council may make a debarment order in respect of a natural person if the person has—

(a) contravened a financial sector law in so far as it relates to ombud schemes, or an Ombud Council rule;

(b) attempted, or conspired with, aided, abetted, induced, incited or procured another person to contravene a financial sector law in so far as it relates to ombud schemes.

(2) A debarment order prohibits the person, for a specified period, as specified in the order, from performing a specified role in relation to an ombud scheme.

(3) Before making a debarment order in respect of a person, the Ombud Council must—

(a) give a draft of the order to the person and to the financial sector regulators, along with reasons for and other relevant information about, the proposed debarment; and

(b) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(4) The period in terms of subsection (3)*(b)* must be at least one month.

(5) In deciding whether or not to make a debarment order in respect of a person, the Ombud Council must take into account at least—

(a) any submission made by, or made for, the person; and

(b) any advice from a financial sector regulator.

(6) A debarment order takes effect from—

(a) the date on which it is served on the person; or

(b) if the order specifies a later date, the later date.

(7) A copy of a debarment order in respect of a person must also be given to each ombud scheme.

(8) *(a)* A person who is subject to a debarment order may not engage in conduct that directly, or indirectly, contravenes the order.

(b) Without limiting paragraph *(a)*, a person contravenes that paragraph if the person enters into an arrangement with another person to engage in the conduct for or on behalf of, or in accordance with the directions, instructions or wishes of, the person.

(9) An ombud scheme that becomes aware that a debarment order has been made in respect of a person employed or engaged by the ombud scheme must take all reasonable steps to ensure that the order is given effect to.

(10) Khansele ya Ombud ka nako nngwe le nngwe e ka phimola taelo go ya ka karolo eno ka 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 boitshwaro jwa nako e e tlang mabapi le molao wa lephata la ditšhelete jaaka ga e amana le dikema tsa ombud.

(2) Karolo 151 e a diriswa, ka diphetogo tse di tlhokegang go ya ka maemo, mabapi le tumalano e e tlhalositsweng mo karolotlaleletsong (1), jaaka e kete dikaelo mo karolong eo go ‘‘bothati jo bo rwalang maikarabelo’’ e ne e le dikaelo go Khansele ya Ombud.

Boikamanyo le melao ya lephata la ditšhelete

204. (1) Khansele ya Ombud e ka simolola ditsamaiso kgatlhanong le sekema sa ombud kwa Kgotlatshekelongkgolo mabapi letaelo 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 botlhokwa go ya ka maemo, mabapi le tsamaiso, jaaka e kete ditshupetso mo karolong eo ‘‘bothati jo bo rwalang maikarabelo’’ e ne e le dikaelo go Khansele ya Ombud.

Kganelo

205. (1) Khansele ya Ombud e ka dira taelo ya kganelo mabapi le motho ka esi fa motho ka esi a—

(a) tlotse molao wa lephata la ditšhelete kgotsa boemo jaaka ga bo amana le dikema tsa ombud, kgotsa molawana wa Khansele ya Ombud;

(b) lekile, kgotsa logile maano a bosenyi le, thusitse, rotloeditse, potlakisitse, tlhotlheleditse kgotsa fitlheletse motho yo mongwe go tlola molao wa lephata la ditšhelete jaaka ga o amana le dikema tsa ombud.

(2) Taelo ya kganelo e thibela motho ka esi, mo nakong e e tsepamisitsweng, jaaka go tlhalositswe mo taelong, mo go direng tiro e e rileng e e amanang le sekema sa ombud.

(3) Pele go dirwa taelo ya kganelo mabapi le motho ka esi, Khansele ya Ombud e tshwanetse—

(a) naya motho ka esi le bolaodi jwa lephata la ditšhelete thalo ya taelo, mmogo le mabaka a le tshedimosetso e nngwe e e maleba ka ga, kganelo e e tshitsintsweng; le

(b) laletsa motho go dira ditlhagiso ka ga morero, le go naya motho nako e e lekaneng go dira jalo.

(4) Nako go ya ka karolotlaleletso (3)*(b)* e tshwanetse go nna bonnye kgwedi e le 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) tlhagiso nngwe le nngwe e e dirilweng ke, kgotsa e e diretsweng, motho; le

(b) kgakololo nngwe le nngwe go tswa go molaodi wa lephata la ditšhelete.

(6) Taelo ya kganelo e simolola go dira—

(a) ka letlha le e neetsweng motho ka esi ka lona; kgotsa

(b) fa taelo e tsepamisa letlha le le kwa moragonyana, letlha 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 boitshwaro jo bo tlolang taelo ka tlhamalalo, kgotsa e seng ka tlhamalalo.

(b) Ntle le tekanyetso ya temana *(a)*, motho ka esi o tlola temana eo fa motho ka esi a tsena mo thulaganyong le motho yo mongwe go dira boitshwaro jwa, kgotsa mo boemong jwa, kgotsa go tsamaelana le dikaelo, ditaelo kgotsa dikeletso 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 setheo sa ditšhelete se tshwanetse go tsaya dikgato tsotlhe 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 eo—

(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 pateletsa kotlhao ya tsamaiso mo sekemeng sa ombud, leloko la mokgatlho 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 tlamela ka tshedimosetso e e tsepamisitsweng kgotsa lokwalo le le tsepamisitsweng le le mo taolong ya motho yo o neilweng kitsiso, e ka nna tshedimosetso kgotsa lokwalo le le malebana le tshekatsheko ya boikamanyo ya Khansele ya Ombud ka sekema sa ombud kgotsa ombud le—

(i) molao wa lephata la ditšhelete jaaka ga o amana le ombuds;

(ii) molawana wa Khansele ya Ombud;

(iii) taelo e e rebotsweng ke Khansele ya Ombud go ya 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 kailwe 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 botlhokomedi 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 eo 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), maitlhomo a ditlhatlhobo tsa botlhokomedi 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 eo 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 dithata go ya ka karolo eno jaaka ga e diriswa mabapi le balaodi ba lephata la ditšhelete.

Karolo 4

Dikabelo ka kakaretso

Phitlhelelo go dikema tsa ombud

209. (1) Khansele ya Ombud e tshwanetse, ka bonako jo bo kgonagalang morago ga go tsenngwa tirisong ga Karolo eno, tlhoma le go dirisa senthara e le esi kgotsa go feta go nolofatsa phitlhelelo go ombuds e e maleba ya barekedi ba ditšhelete.

(2) Senthara e ka tsenyeletsa senthara ya go letsa.

(3) Maitlhomo a senthara ke go tlamela ka lefelo, 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 neelane ka tsamaiso epe ya ka fa gare e e nang le yona mabapi le go samagana le kgotsa go rarabolola dingongorego tse di dirilweng go sona ke barekedi ba ditšhelete jaaka sekema sa ombud, kgotsa motho yo o samaganang 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 ikgolaganngwang le go romela dingongorego go dikema tseo, go tsamaelana le melawana ya khansele ya ombud e e ka rebolwang mabapi le seno.

(3) *(a)* Setheo sa ditšhelete se ka se lope kgotsa laletse morekedi wa ditšhelete go ngongoregela go—

(i) ombud, ntle le fa motho yo o neetsweng maikarabelo a tiro eno e le karolo ya sekema sa ombud sa bodirelo se se amogetsweng kgotsa sekema sa ombud sa semolao; kgotsa

(ii) sekema sa ombud, ntle le fa sekema sa ombud se se amegang e le sekema sa ombud sa bodirelo se se amogetsweng kgotsa sekema sa ombud sa semolao.

(b) Tlhokego kgotsa taletso e e farologaneng le temana *(a)* ga e amogelesege.

(4) Sekema sa ombud se ka se itlhalose kgotsa se itseele gore ke sekema sa ombud sa bodirelo se se amogetsweng go ya ka Karolo eno ntle le fa se amogetswe jalo.

(5) Sekema sa ombud se ka se letle motho yo mongwe go se supa jaaka sekema sa ombud sa bodirelo se se amogetsweng go ya ka Karolo eno, ntle le fa se amogetswe jalo.

(6) Mabapi le maitlhomo a dikarolotlaleletso (3), (4) le (5), sekema sa ombud se kamogelo ya sona e sekegilweng kgotsa e phimotsweng ga se amogelesege.

Dikema tsa ombud tse di diriswang

211. (1) *(a)* Fa go sena sekema sa ombud sa bodirelo kgotsa sekema sa ombud sa semolao se se amogetsweng se se dirang kabelo mabapi le tharabololo ya dingongorego ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta o o rileng, Khansele ya Ombud e ka, morago ga go rerisana le dikema tsa ombud tse di maleba, thapa sekema sa ombud, kgotsa dikema sa ombud tse pedi kgotsa go feta, go samagana le le go rabolola dingongorego ka ga dikuno kgotsa ditirelo tsa mofuta oo.

(b) Fa Khansele ya Ombud e thapa dikema tsa ombud di le pedi kgotsa go feta go ya ka temana *(a)*, e tshwanetse gape go tlhomamisa dipopi tsa ngongorego e e tshwanetseng go sekasekwa le go rabololwa ke nngwe le nngwe ya dikema tse di thapilweng.

(c) Khansele ya Ombud e ka thapa sekema sa ombud ka maiteko a boyona kgotsa ka kopo ya sekema kgotsa setheo sa ditšhelete se se tlamelang kgotsa tshitsinyang go tlamela ka dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta oo.

(2) Fa Khansele ya Ombud e thapa sekema sa ombud go ya ka 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 Molaong 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 thapo; le

(ii) o tshwanetse go samagana le go rarabolola dingongorego tseo ka mokgwa o o tshwanang le wa fa a samagana le go rarabolola dingongorego tse dingwe tse sekema sa ombud di amanang le tsona; le

(b) melawana ya go busa ya sekema sa ombud e tshwanetse go tsewa jaaka e kete e akaretsa tlamego mo setheong sa ditšhelete go ikamanya le tlhomamiso ya ombud mo dingongoregong tseo.

(3) Fa setheo sa ditšhelete se tlamela ka dikuno tsa ditšhelete le ditirelo tsa ditšhelete e bile go na le sekema sa ombud sa bodirelo se se amogetsweng se se tlamelang mabapi le tharabololo ya dingongorego tse di ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete tsa mofuta oo, setheo sa ditšhelete se tshwanetse go nna leloko la sekema seo sa ombud sa bodirelo.

Overlaps between ombud schemes

212. (1) An industry ombud scheme may not deal with a complaint to which a statutory ombud scheme applies, but must refer the complaint to the appropriate statutory ombud scheme unless the statutory ombud scheme has declined to deal with the complaint.

(2) An ombud scheme may not deal with a complaint that has been dealt with by another ombud scheme unless—

(a) the complaint is referred to it by the other ombud scheme; or

(b) the Ombud Council has designated both schemes in terms of section 211(1) to deal with and resolve complaints of the relevant kind and each scheme is dealing with the elements of the complaint in accordance with the applicable determination in terms of section 211(1)*(b)*.

Collaboration between ombuds and ombud schemes

213. The ombud schemes, and the ombuds, must cooperate and collaborate with each other regarding complaints about financial institutions in relation to financial products and financial services, including by developing processes and procedures to jointly hear and determine complaints, on their own initiative or as may be required by Ombud Council rules.

Governing rules of recognised industry ombud scheme

214. (1) Before the Ombud Council can recognise an industry ombud scheme in terms of section 194, the Ombud Council must—

(a) publish—

(i) a draft of the governing rules or amendments to the governing rules;

(ii) a statement explaining the need for and the intended operation of the governing rules or the amendment to the governing rules;

(iii) a statement of the expected impact of the governing rules or the amendment to the governing rules; and

(iv) a notice inviting submissions in relation to the rules or amendment to the governing rules and stating where, how and by when submissions are to be made; and

(b) submit the draft governing rules to the Financial Sector Conduct Authority.

(2) The period allowed for making submissions on the governing rules or amendments to the governing rules in terms of subsection (1) must be at least 30 days.

(3) *(a)* The governing rules of a recognised industry ombud scheme must be approved by and may not be amended without the approval of the Ombud Council.

(b) Governing rules or amendments to governing rules that are adopted by a recognised industry ombud scheme without the approval by the Ombud Council are void.

(4) The Ombud Council must not approve governing rules or an amendment to governing rules unless it is satisfied that to do so assists in achieving the object of this Act as set out in section 7.

Obligation to comply with governing rules of recognised industry ombud schemes

215. (1) A financial institution that is a member of a recognised industry ombud scheme must comply with the governing rules of the scheme.

(2) Without limiting any other right that a financial customer of a financial institution that is a member of a recognised industry ombud scheme may have, the financial customer may enforce the obligation in subsection (1) in relation to a financial product or a financial service as if the obligation were a provision of the contract in terms of which the financial product or financial service was provided to the financial customer.

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 setseng e rarabolotswe ke sekema sa ombud se sengwe ntle le fa—

(a) ngongorego e rometswe kwa go sona ke sekema sa ombud se sengwe; kgotsa

(b) Khansele ya Ombud e thapile dikema ka bobedi go ya ka karolo 211(1) go sekaseka le go rarabolola dingongorego tsa mofuta o o maleba e bile sekema sengwe le sengwe se sekaseka le dipopi tsa ngongorego go tsamaelana le tlhomamiso e e diriswang go ya ka karolo 211(1)*(b)*.

Tirisanommogo magareng ga ombuds le dikema tsa ombuds

213. Dikema tsa ombud, le ombuds, ba tshwanetse go dirisana mmogo le go kopana mabapi le dingongorego tse di ka ga ditheo tsa ditšhelete mabapi le dikuno tsa ditšhelete le ditirelo tsa ditšhelete, go akaretsa le ka go tlhabolola dikgato le ditsamaiso tsa go reetsa le go tlhomamisa dingongorego ka kopano, ka maiteko a tsona kgotsa jaaka go tla be go tlhokega go ya ka melwana ya Khansele ya Ombud.

Melawana e e laolang ya sekema se se amogelesegang sa bodirelo jwa ombud sa bodirelo se se amogetsweng

214. (1) Pele Khansele ya Ombud e ka amogela sekema sa ombud sa bodirelo go ya ka karolo 194, Khansele ya Ombud e tshwanetse go—

(a) phasalatsa—

(i) thalo ya melawana ya go busa kgotsa ditlhabololo tsa melawana ya go busa;

(ii) polelo e e tlhalosang tlhokego ya le tsamaiso e e ikaeletsweng ya melawana ya go busa kgotsa tlhabololo ya melawana e e busang;

(iii) polelo ya kutlwalo e e solofetsweng ya melawana ya go busa kgotsa tlhabololo ya melawana ya go busa; le

(iv) kitsiso e ka yona go laletswang ditlhagiso mabapi le melawana kgotsa tlhabololo ya melawana ya go busa e bile e bolela gore ditlhagiso di ka dirwa kae, jang le gore leng; le

(b) romela thalo ya melawana ya go busa kwa Bothating jwa Boitshwaro jwa Lephata la Ditšhelete.

(2) Nako e e dumeletsweng ya go dira ditlhagiso ka ga melawana ya go busa kgotsa ditlhabololo go melawana ya go busa go ya ka karolotlaleletso (1) e tshwanetse go nna bonnye malatsi a le 30.

(3) *(a)* Melawana ya go busa ya sekema sa ombud sa bodirelo se se amogetsweng e tshwanetse go rebolwa ke e bile e ka se tlhabololwe ntle le thebolo ya Khansele ya Ombud.

(b) Melawana ya go busa kgotsa ditlhabololo go melawana e e busang e e amogetsweng ke sekema sa ombud sa bodirelo se se amogetsweng ntle le thebolo ya Khansele ya Ombud ga e amogelesege.

(4) Khansele ya Ombud ga e a tshwanela go rebola melawana ya go busa kgotsa tlhabololo go melwana ya gobusa ntle le fa e kgotsofetse gore go dira jalo go thusa go fitlhelela maikaelelo a Molao ono a a tlhalositsweng mo karolong 7.

Tlamego ya go ikamanya le melawana e e laolang ya dikema tse di a mogele se gang tsa bodirelo jwa Ombud

215. (1) Setheo sa ditšhelete se e leng leloko la sekema sa ombud sa bodirelo se se amogetsweng se tshwanetse go ikamanya le melawana ya go busa ya sekema.

(2) Ntle le go lekanyetsa tshwanelo nngwe le nngwe e morekedi wa setheo sa ditšhelete se se abetsweng laesense seo e leng leloko la sekema sa ombud sa bodirelo se se amogetsweng a ka nnang le yona, morekedi wa ditšhelete o ka gatelela tlamego e e mo karolotlaleletsong (1) mabapi le kuno ya ditšhelete kgotsa tirelo ya ditšhelete jaaka e kete tlamego e ne e le kabelo ya konteraka e go ya ka yona kuno ya ditšhelete kgotsa tirelo ya ditšhelete e neng e tlametswe go morekedi wa ditšhelete.

Suspension of time barring terms

216. Receipt of a complaint by a financial sector regulator, the Ombud Council or an ombud suspends any applicable time barring terms, whether in terms of an agreement or any law, or the running of prescription in terms of the Prescription Act, 1969 (Act No. 68 of 1969), for the period from the receipt of the complaint until the complaint has either been withdrawn or finally determined.

Reporting

217. (1) An ombud scheme must—

(a) within six months after the end of each financial year, submit to the Ombud Council, in the form and with the content required by the Ombud Council, a report on the operation of the ombud scheme during the financial year, including in relation to—

(i) compliance with the financial sector laws in so far as they relate to ombud schemes;

(ii) the complaints that the ombud scheme is dealing with, and how they are being dealt with; and

(iii) the conduct of financial institutions that is giving rise to complaints; and

(b) comply with any request by the Ombud Council at any time for information about the operation of the ombud scheme, trends in and implications of the conduct of financial institutions observed by the ombud scheme, and any other relevant information.

(2) Each of the following must, on request by the Financial Sector Conduct Authority, and may at any time, provide information and reports to the Financial Sector Conduct Authority about the operation of ombud schemes and trends in and implications of the conduct of financial institutions observed by it:

(a) The Ombud Council;

(b) a statutory ombud scheme;

(c) a recognised industry ombud scheme.

(3) If, in dealing with a complaint, an ombud becomes aware that there has or may have been—

(a) a contravention of a financial sector law in a material way by a financial institution; or

(b) an activity or action by a financial institution that has an effect on financial customers other than the complainant,

the ombud must report the details of the matter, including the identity of the financial institution concerned, to the Financial Sector Conduct Authority.

(4) *(a)* The Ombud Council must provide the Minister of Finance and the National Treasury with information, returns, documents, explanations and motivations that may be prescribed by Regulation for this section or information that the Minister of Finance or the National Treasury may request.

(b) Paragraph *(a)* does not require or permit the provision of information about persons identifiable from the information.

CHAPTER 15

FINANCIAL SERVICES TRIBUNAL

Part 1

Interpretation

Definitions

218. For the purposes of this Chapter—

"decision" means each of the following:

(a) A decision by a financial sector regulator or the Ombud Council in terms of a financial sector law in relation to a specific person;

Tshekego ya dipeelo tse di beilweng tsa nako

216. Kamogelo ya ngongorego ka molaodi wa lephata la ditšhelete, Khansele ya Ombud kgotsa ombud e sekega dipeelo tsa thibelo ya nako, e ka nna go ya ka tumalano kgotsa molao mongwe le mongwe, kgotsa go diragatswa ga taelo go ya ka *Prescription Act*, 1969 (Molao 68 wa 1969), mo nakong ya go simolola ka kamogelo ya ngongorego go fitlhela ngongorego e gogelwa morago, kgotsa e tlhomamiswa kwa bokhutlong.

Go bega

217. (1) Sekema sa Ombud se tshwanetse—

(a) mo dikgweding tse thataro morago ga go ya bokhutlong ga ngwaga nngwe le nngwe 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 sa lephata la ditšhelete ka nako ya ngwaga wa ditšhelete, go akaretsa mabapi le—

(i) ikamanyo le melao ya lephata la ditšhelete jaaka ga e amana le dikema tsa ombud;

(ii) dingongorego tse sekema sa ombud se samaganeng le tsona, le ka moo di rarabololwang ka teng; le

(iii) boitshwaro jwa ditheo tsa ditšhelete jo bo tlisang dingongorego tse dintsi; le

(b) go ikamanya le kopo ya Khansele ya Ombud ka nako nngwe le nngwe mabapi le tshedimosetso e e ka ga tsamaiso ya sekema sa ombud, tse di diriswang sešweng le bokao jwa maitsholo a ditheo tsa ditšhelete a a elwang tlhoko ke sekema sa ombud le tshedimosetso nngwe le nngwe e e maleba.

(2) Nngwe le nngwe ya tse di latelang e tshwanetse, ka kopo ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, gape le ka nako nngwe le nngwe, tlamela ka tshedimosetso le dipegelo ka ga tiro ya dikema tsa ombud le tseo di diriswang 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 go samagana le ngongorego, ombud a lemoga gore go na le kgotsa go ka nna le—

(a) tlolo ya molao wa lephata la ditšhelete ka tsenelelo 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 Boitshwaro jwa Lephata la Ditšhelete ka ga morero oo, go akaretsa le tshupo ya setheo sa ditšhelete se se amegang.

(4) *(a)* Khansele ya Ombud e tshwanetse go tlamela Tona ya Matlole le Matlotlo a Bosetšhaba ka tshedimosetso, dipoelo, dikwalo, ditlhaloso le ditshegetso tse di ka neelwang ka Molawana mabapi le karolo eno kgotsa tshedimosetso e e ka lopiwang ke Tona ya Matlole le Matlotlo a Bosetšhaba.

(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

Ditlhaloso

218. Mabapi le maitlhomo a Kgaolo eno—

"tshwetso" e kaya nngwe le nngwe ya tse di latelang:

(a) tshwetso e e tserweng ke molaodi wa lephata la ditšhelete kgotsa Khansele ya Ombud go ya ka molao wa lephata la ditšhelete mabapi le motho yo o rileng;

(b) a decision by an authorised financial services provider, as defined in section 1 of the Financial Advisory and Intermediary Services Act, in terms of section 14 of that Act in relation to a specific person;

(c) a decision in relation to a specific person by a market infrastructure, being a decision in terms of rules of the market infrastructure contemplated by the Financial Markets Act, or a decision contemplated in section 105 of the Financial Markets Act;

(d) a decision of a statutory ombud in terms of a financial sector law in relation to a specific complaint by a person;

(e) a decision of a kind prescribed by Regulation for the purposes of this paragraph,

and includes—

(f) an omission to take such a decision within the period prescribed or specified in a financial sector law, rules, or other requirements pertaining to the decision-maker;

(g) an omission to take such a decision within a reasonable period, if the applicable financial sector law, or rules of, or other requirements pertaining to, the decision-maker require the decision to be taken but without prescribing or specifying a period;

(h) an action taken as a result of such a decision; and

(i) an omission to take action as a result of such a decision within the prescribed or a reasonable period, if the applicable financial sector law requires the action to be taken but does not prescribe a period,

but does not include—

(j) a decision of a financial sector regulator that the financial sector regulator is directed to take in terms of section 18(2) or 30(1);

(k) a decision to conduct a supervisory on-site inspection or an investigation;

(l) an assessment of a levy issued to a specific person; or

(m) a decision prescribed by Regulations made for this paragraph;

"decision-maker" means—

(a) in relation to a decision by a financial sector regulator, the financial sector regulator;

(b) in relation to a decision by the Ombud Council, the Ombud Council;

(c) in relation to a decision referred to in paragraph *(b)* of the definition of "decision" in this section, the authorised financial services provider;

(d) in relation to a decision referred to in paragraph *(c)* of the definition of "decision" in this section, the market infrastructure;

(e) in relation to a decision by a statutory ombud, the statutory ombud; and

(f) in relation to a decision referred to in paragraph *(e)* of the definition of "decision" in this section, the person identified in the Regulations as the decision-maker.

Part 2

Financial Services Tribunal

Establishment and function of Financial Services Tribunal

219. (1) The Financial Services Tribunal is hereby established to reconsider, in terms of this Chapter, decisions as defined in section 218 and to perform the other functions conferred on it by this Act and specific financial sector laws.

(2) The Tribunal—

(a) is independent;

(b) must be impartial and exercise its powers without fear, favour or prejudice;

(c) is a tribunal of record; and

(d) must perform its function in accordance with this Act and the specific financial sector laws.

(b) tshwetso ka motlamedi wa ditirelo tsa ditšhelete tse di amogetsweng, jaaka go tlhalositswe mo karolong 1 ya *Financial Advisory and Intermediary Services Act*, go ya ka karolo 14 ya Molao oo mabapi le motho yo o rileng;

(c) tshwetso e e mabapi le motho yo rileng ka thulaganyetso ya popegotheo ya mmaraka, eo e leng tshwetso go ya ka melawana ya thulaganyetso ya popegotheo ya mmaraka e e tlhalositsweng ke *Financial Markets Act*, kgotsa tshwetso e e tlhalositsweng mo karolong 105 ya *Financial Markets Act*;

(d) tshwetso ya ombud wa semolao go ya ka molao wa lephata la ditšhelete mabapi le ngongorego e e rileng ka motho;

(e) tshwetso ya mofuta o o rileng e e neetsweng ke Molawana mabapi le maitlhomo a temana eno,

ebile e akaretsa—

(f) tlogelo go tsaya tshwetso eo mo nakong e e beilweng kgotsa tsepamisitsweng mo molaong wa lephata la ditšhelete, melawana, kgotsa ditlhokego tse dingwe tse di amanang le motho yo o tsereng tshwetso;

(g) tlogelo ya go tsaya tshwetso eo mo nakong e e lekaneng, fa molao wa lephata la ditšhelete o o maleba, kgotsa melwanaya, kgotsa ditlhokego tse dingwe tse di amanang le motho yo o tsereng tshwetso di tlhoka gore go tsewe tshwetso fela ntle le go baya kgotsa go tsepamisa nako;

(h) kgato e e tserweng ka ntlha ya tshwetso eo; le

(i) tlogelo ya go tsaya tshwetso ka ntlha ya tshwetso eo mo nakong e e beilweng kgotsa e e lekaneng, fa molao wa lephata la ditšhelete o o amogetsweng o tlhoka gore kgato e tsewe mme o sa neelane ka nako,

mme ga o akaretse—

(j) tshwetso e molaodi wa lephata la ditšhelete a kaelwang go e tsaya go ya ka karolo 18(2) kgotsa 30(1);

(k) tshwetso ya go diragatsa kelotlhoko ya botlhokomedi jwa kwa setsheng kgotsa patlisiso;

(l) tshekatsheko ya lekgethwana le le reboletsweng motho yo o rileng; kgotsa

(m) tshwetso e e neilweng ke Melawana e e diritsweng temana eno;

"motho yo o tsayang tshwetso" o kaya—

(a) mabapi le tshwetso ka molaodi wa lephata la ditšhelete, molaodi wa lephata la ditšhelete;

(b) mabapi le tshwetso ka Khansele ya Ombud, Khansele ya Ombud;

(c) mabapi le tshwetso e e kailweng mo temaneng *(b)* ya tlhaloso ya ''tshwetso'' mo karolong eno, motlamedi wa ditirelo tsa ditšhelete yo o amogetsweng;

(d) mabapi le tshwetso e e kailweng mo karolong *(c)* ya tlhaloso ya ''tshwetso'' mo karolong eno, thulaganyetso ya popegotheo ya mmaraka;

(e) mabapi le tshwetso ka ombud wa semolao, ombud wa semolao; le

(f) mabapi le tshwetso e e kailweng mo temaneng *(e)* ya tlhaloso ya ''tshwetso'' mo karolong eno, motho yo o supilweng mo Melawaneng jaaka motho yo o tsayang tshwetso.

Karolo 2

Lekgotla la Ditirelo tsa Ditšhelete

Go tlhongwa le tiro ya Lekgotla la Ditirelo tsa Ditšhelete

219. (1) Lekgotla la Ditirelo tsa Ditšhelete le a tlhongwa go sekasekagape, go ya ka Kgaolo eno, ditshwetso jaaka di tlhalositswe mo karolong 218 le go dira ditiro tse dingwe tse le bo di abetsweng ke Molao ono le melao ya lephata la ditšhelete e e rileng.

(2) Lekgotla—

(a) le ikemetse;

(b) le tshwanetse go se tseye letlhakore le go diragatsa dithata tsa lona ntle le letshogo, kgetholo kgotsa kgobelelo;

(c) ke lekgotla la rekoto; le

(d) le tshwanetse go dira ditiro tsa lona go tsamaelana le Molao ono le melao e e tsepameng ya lephata la ditšhelete.

Members of Tribunal

220. (1) The Tribunal consists of as many members, appointed by the Minister, as the Minister may determine.

(2) The Tribunal members must include—

(a) at least two persons who are retired judges, or are persons with suitable expertise and experience in law; and

(b) at least two other persons with experience or expert knowledge of financial products, financial services, financial instruments, market infrastructures or the financial system.

(3) A person may not be appointed to, or hold office as, a Tribunal member if the person—

(a) is a disqualified person; or

(b) is not a citizen of the Republic or is not ordinarily resident in the Republic.

(4) The Minister must appoint a Tribunal member referred to in subsection (2)*(a)* as the Chairperson, and may appoint another Tribunal member as Deputy Chairperson.

(5) The Chairperson—

(a) must preside at meetings of the Tribunal; and

(b) is responsible for managing the work of the Tribunal effectively.

(6) The Deputy Chairperson performs the functions of the Chairperson on delegation by the Chairperson, or in the absence of the Chairperson, or if for any reason the office of the Chairperson is vacant.

Term of office and termination of membership

221. (1) A Tribunal member holds office for—

(a) three years from the date of the member's appointment; or

(b) if a shorter period is specified in the appointment of the Tribunal member, that shorter period.

(2) A Tribunal member may be re-appointed at the expiry of a term.

(3) A person may resign as a Tribunal member by giving at least three months written notice to the Minister, or a shorter period of notice that the Minister may accept.

(4) The Minister must terminate a person's appointment as a Tribunal member if the member becomes a disqualified person.

(5) The Minister may terminate a person's appointment as a Tribunal member if—

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

(b) an independent inquiry established by the Minister has found that the member—

(i) has failed in a material way to discharge any of the responsibilities of office; or

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

(6) If an independent inquiry has been established in terms of subsection (5)*(b)* in relation to a member, the Minister may suspend the member from office pending a decision on the removal of the member.

(7) A Tribunal member holds office on terms and conditions, including as to remuneration, not inconsistent with this Act, determined by the Minister.

Staff and resources

222. (1) The Chairperson may, in accordance with applicable law—

(a) for the work of the Tribunal—

(i) appoint persons as employees;

(ii) enter into secondment arrangements; or

(iii) engage persons on contract otherwise than as employees;

(b) enter into contracts;

(c) acquire and dispose of property;

(d) insure the Tribunal against any loss, damage, risk or liability that it may suffer or incur; and

Maloko a Lekgotla

220. (1) Lekgotla le na le maloko a le mantsi, a a thapilweng ke Tona, jaaka Tona a ka tlhomamisa.

(2) Maloko a Lekgotla a tshwanetse 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 maitemogelo mo molaong; le

(b) bonnye batho ba bangwe ba babedi bao ba nang le maitemogelo kgotsa kitso e e kwa godimo ya dikuno tsa ditšhelete, ditirelo tsa ditšhelete, didiriso tsa ditšhelete, dithulaganyetso tsa popegotheo ya mmaraka kgotsa dithulaganyo tsa ditšhelete.

(3) Motho o ka se thapelwe go, kgotsa go dira jaaka, leloko la Lekgotla fa motho—

(a) a ileditswe; kgotsa

(b) e se moagi wa Rephaboliki kgotsa e se moagi ka tlwaelo mo Rephaboliking.

(4) Tona o tshwanetse go thapa leloko la Lekgotla le le kailweng mo karolotlaleletsong (2)*(a)* jaaka Modulasetilo, e bile o ka thapa leloko le lengwe la Lekgotla jaaka Motlatsamodulasetilo.

(5) Modulasetilo—

(a) o tshwanetse go okamela kwa dikopanong tsa Lekgotla; le

(b) o rwala maikarabelo a go laola tiro ya Lekgotla ka nonofo.

(6) Motlatsamodulasetilo o dira ditiro tsa Modulasetilo ka tholelo ya Modulasetilo, kgotsa fa Modulasetilo a seyo, kgotsa fa ka lebaka lengwe go na le phatlatiro 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 letlha la go thapiwa ga leloko; kgotsa

(b) fa paka e e khutshwane e tsepamisitswe mo go thapiweng ga leloko la Lekgotla, paka eo 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 romelela Tona kitsiso ya bonnye dikgwedi di le tharo, kgotsa nako 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 ileditswe.

(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) fa patlisiso e e ikemetseng e e tlhomilweng ke Tona e fitlheletse gore leloko—

(i) le paletswe ka gotlhe go diragatsa nngwe le nngwe ya maikarabelo a lona a tiro; kgotsa

(ii) le dirile ka mokgwa o o sa tsamaelaneng le ditlhokego tsa go tswelela pele go dira.

(6) Fa patlisiso e e ikemetseng e tlhomilwe go ya ka karolotlaleletso (5)*(b)* mabapi le leloko, Tona o ka emisa leloko mo tirong go sa letilwe tshwetso ka ga go tloswa ga leloko.

(7) Leloko la Lekgotla le dira go ya ka dipeelo le mabaka, go akaretsa le ka ga go duelwa, go go tsamaelanang le Molao ono, tse di tlhomamisitsweng ke Tona.

Badiri le ditlamelo

222. (1) Modaulasetilo o ka, go tsamaelana le molao o o maleba—

(a) mabapi le tiro ya Lekgotla—

(i) thapa batho jaaka badiri;

(ii) dira dithulaganyo tsa go tlatsa go thapiwa ga motho; kgotsa

(iii) dirisana le batho ka konteraka ka pharologano le bona jaaka badiri;

(b) dira dikonteraka;

(c) fitlhelela le go latlha thoto;

(d) inšora Lekgotla kgatlhanong le tatlhegelo nngwe le nngwe, 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 konteraka, 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 fitlhelelwa 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 tshedimosetso nngwe le nngwe e a e fitlheletseng jaaka leloko la badiri go—

(a) una molemo e seng ka tshwanelo kgotsa go dira gore motho yo mongwe a une molemo;

(b) kgoreletsa bokgoni jwa Lekgotla jwa go dira ditiro tsa jona; kgotsa

(c) thatafeletsa motho yo mongwe.

(2) Mabapi le maitlhomo a karolo eno, **"kunomolemo" le "thatafaletso"** ga di a lekanyetswa go kunomolemo kgotsa thatafaletso ya ditšhelete.

Dipanele tsa Lekgotla

224. (1) Modulasetilo o tshwanetse go tlhama panele ya Lekgotla mabapi le kopo nngwe le nngwe ya tshekatshekogape ya tshwetso.

(2) Panele e tlhometswe go sekaseka kopo mabapi le mokgatlho o o dirang ditshwetso wa Lekgotla, e bile panele e diragatsa nngwe le nngwe ya dithaa tsa Lekgotla tse di amanang le tshekatshekogape ya tshwetso.

(3) Tshwetso ya panele ke tshwetso ya Lekgotla jaaka go kailwe mo dikarolong 234, 235 le 236 mabapi le kopo ya tshekatshekogape ya tshwetso.

(4) Panele e bopilwe ka—

(a) motho yo o tla okamang panele, yo e tshwanetseng go nna motho yo o kailweng mo karolong 220(2)*(a)* kgotsa 225(2)*(a)*(i); 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 feleletsa ditsamaiso tsa tshekatshekogape ya tshwetso,Modulasetilo o ka—

(a) tsenya mo boemong jwa leloko leo motho yo o kailweng mo karolotlaleletsong (4);

(b) laela gore ditsamaiso di tswelele pele fa pele ga maloko a a setseng a panele; kgotsa

(c) tlhoma panele e ntšhwa le go laela panele e ntšhwa go tswelela pele ka ditsamaiso, kgotsa go simolola ditsamaiso tse dintšhwa.

Lenane la panele

225. (1) Tona o tshwanetse go tlhoma le go tlamela lenane la batho ba ba ikemiseditseng go dira jaaka maloko a dipanele tsa Lekgotla.

(2) Batho ba ba akareditsweng 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, dithulaganyetso tsa popegotheo ya mmaraka kgotsa dithulaganyo tsa ditšhelete; le

(b) go nna motho yo o itekanetseng e bile a le matshwanedi go ka akaretswa mo lenaneng la panele.

(3) Motho o ka se akaretswe mo lenaneng la panele fa e le motho yo o ileditsweng.

(4) Tona o ka, dingwaga dingwe le dingwe tse tlhano, laletsa mo phatlalatseng batho go dira kopo ya go akaretswa mo lenaneng la panele.

(5) Modulasetilo o tshwanetse go netefatsa gore batho ba ba akareditsweng 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 tshitsinyo 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 mokgwa o o sa tsamaelaneng le go dira jaaka leloko la panele.

Tshenolo ya dikgatlhego

226. (1) *(a)* Fa pele kgotsa ka nako ya ditsamaiso tse mo go tsona leloko la panele le tsayang karolo, go lebega e kete leloko la panele , kgotsa motho yo o amanang le leloko la panele, a na le kgatlhego mo tshwetsong e panele e e tlhametsweng go e sekaseka gape, leloko la panele le tshwanetse go—

(i) senolela maloko a mangwe a panele kgatlhego eo ka bonako le ka botlalo; le

(ii) ikgogela 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 maitlhomo a karolo eno, ga go kgathalesege—

(a) gore kgatlhegelo e tlhamaletse, ga e a tlhamalala, ke ya tšhelete kgotsa ga se ya tšhelete; kgotsa

(b) gore kgatlhego e fitlheletswe leng.

(3) Mo karolong eno**"kgatlhegelo"** ga e akaretse kgatlhegelo e e seng ya boleng.

(4) Modulasetilo o tshwanetse go tshola rejisetara ya ditshenolo tsotlhe tse di dirilweng go ya ka karolo eno, le go tshola thulaganyo ya ditshenolo tsa kgatlhego 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 latelwa mabapi le ditsamaiso tsa dikopo tsa tshekatshekogape ya tshwetso go ya ka Kgaolo eno, le maitsholo a ditsamaiso tseo, e bile e ka tlhabolola kgotsa phimola melao eo nako nngwe le nngwe.

(2) Melawana ya Lekgotla, le ditlhabololo le diphimolo tsa Melawana ya Lekgotla, di tshwanetse go phasalatswa.

Karolo 3

Tshwanelo ya mabaka a ditshwetso

Tshwanelo ya ya mabaka a dishwetso itsisiwe

228. Tlamego mo molaong wa lephata la ditšhelete ya go itsise motho ka ga tshwetso e e tserweng mabapi le motho yoo e tshwanetse go tseelwa gore e akaretsa tlamego ya go itsise motho ka ga tshwanelo ya motho yoo—

(a) ya go lopa mabaka a tshwetso go ya ka karolo 229; le

(b) ya go dira kopo ya gore tshwetso e sekasekwe gape go ya ka Karolo 4.

Tshwanelo ya mabaka a ditshwetso

229. (1) Motho yo o iseng a newe mabaka a tshwetso o ka, mo matsatsing a le 30 morago ga fa motho a sena go itsisiwe ka ga tshwetso, lopa polelo ya mabaka mabapi le tshwetso go tswa gomotho yo o dirileng tshwetso.

(2) Motho yo o dirileng tshwetso o tshwanetse, mo kgweding e le esi morago ga go amogela kopo e e kailweng mo karolotlaleletsong (1), naya motho polelo ya mabaka a tshwetso, e e tshwanetseng go akaretsa polelo ya dintlha tsa botlhokwa tse tshwetso e ikaegileng ka tsona.

Part 4

Reconsideration of decisions

Applications for reconsideration of decisions

230. (1) *(a)* A person aggrieved by a decision may apply to the Tribunal for a reconsideration of the decision by the Tribunal in accordance with this Part.

(b) A reconsideration of a decision in terms of this Part constitutes an internal remedy as contemplated in section 7(2) of the Promotion of Administrative Justice Act.

(2) The application must be made—

(a) if the applicant requested reasons in terms of section 229, within 30 days after the statement of reasons was given to the person; or

(b) in all other cases, within 60 days after the applicant was notified of the decision, or such longer period as may on good cause be allowed.

(3) An application in terms of subsection (1) must be made in accordance with the Tribunal rules.

Decision of Tribunal not suspended

231. Neither an application for a reconsideration of a decision, nor the proceedings on the application, suspends the decision of the decision-maker unless the Tribunal so orders.

Proceedings for reconsideration of decisions

232. (1) In proceedings for reconsideration of a decision—

(a) the procedure is, subject to the financial sector laws and the Tribunal rules, determined by the Chairperson;

(b) the proceedings are to be conducted with as little formality and technicality, and as expeditiously, as the requirements of the financial sector laws and a proper consideration of the matter permit; and

(c) any party may be represented by a legal representative.

(2) The person chairing a panel may give directions to facilitate the conduct of proceedings for reconsideration of a decision before the panel.

(3) A panel must conduct any hearing it holds in public, but the person presiding over the panel may direct that a person be excluded from a hearing on any ground on which it would be proper to exclude a person from civil proceedings before the High Court.

(4) In proceedings for reconsideration of a decision, the panel is not bound by the rules of evidence, but may, subject to this section, inform itself on any relevant matter in any appropriate way.

(5) The person presiding over a panel—

(a) may, on good cause shown, by order, direct a specified person to appear before the panel at a time and place specified in the order to give evidence, to be questioned or to produce any document; and

(b) must administer an oath to or accept an affirmation from any person called to give evidence.

(6) A person giving evidence or information, or producing documents, has the protections and liabilities of a witness giving evidence in proceedings before the High Court.

Decisions of panels

233. If the panel constituted for an application for reconsideration of a decision is divided in opinion as to an order to be made, the opinion of the majority of the panel members prevails, but if they are equally divided in opinion, the opinion of the member presiding over the panel prevails.

Karolo 4

Tshekatsheko poeletso ya ditshwetso

Dikopo mabapi le tshekatshekopoeletso ya ditshwetso

230. (1) *(a)* Motho yo o ngongoregelang tshwetso o ka dira kopa kwa Lekgotleng mabapi le tshekatshekogape ya tshwetso ke Lekgotla go tsamaelana le Karolo eno.

(b) Tshekatshekogape ya tshwetso go ya ka Karolo eno e tshwanetswe ke namolo ya ka fa gare jaaka go tlhalositswe mo karolong 7(2) ya *Promotion of Administrative Justice Act*.

(2) Kopo e tshwanetse go dirwa—

(a) fa modirakopo a kopile mabaka go ya ka karolo 229, mo malatsing a le 30 morago ga fa polelo ya mabaka e sena go newa motho; kgotsa

(b) mo mabakeng otlhe a mangwe, mo malatsing a le 60 morago ga fa modirakopo a sena go itsisiwe 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 sekegwang

231. Kopo ya tshekatshekogape ya tshwetso, kgotsa ditsamaiso mo kopong, ga di sekege tshwetso ya motho yo o dirileng tshwetso ntle le fa Lekgotla le laela jalo.

Ditsamaiso tsa tshekatshekopoeletso ya ditshwetso

232. (1) Mo ditsamaisong mabapi le tshekatshekogape ya tshwetso—

(a) tsamaiso e, go larleal melao ya lephata la ditšhelete le Melawana ya Lekgotla, tlhomamiswa ke Modulasetilo;

(b) ditsamaiso di tshwanetse go dirwa e seng ka tsenelelo e kgolo le ka nolofatso, mme ka bonako, jaaka go tlhokega go ya ka melao ya lephata la ditšhelete le kelotlhoko e kgolo; le

(c) moamegi mongwe le mongwe o ka emelelwa moemedi wa semolao.

(2) Motho yo o okameng panele o ka neelana ka dikaelo go nolofatsa tsamiso ya ditsamaiso tsa tshekatshekogape ya tshwanelo e e fa pele ga panele.

(3) Panele e tshwanetse go tshwara theetso nngwe le nngwe e e nnang le yona mo phatlalatseng, mme motho yo o okamang panele o ka laela gore motho a se akaretswe mo tsamaisong ka ntlha ya lebaka lengwe le lengwe leo ka lona go tla nnang matshwanedi 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, ikitsise ka ga merero mengwe le mengwe e e maleba ka mokgwa o o siameng.

(5) Motho yo o okameng panele—

(a) o ka, ka lebaka le le utlwagalang, ka taelo, laela motho yo o tsepamisitsweng go tlhagelela fa pele ga Panele ka nako le kwa lefelong le le tsepamisitsweng mo taelong go neelana ka bopaki, go botsolotswa kgotsa go tlhagiso lokwalo lengwe le lengwe; le

(b) o tshwanetse go tsamaisa kano ya kgotsa go amogela netefaletso go tswa mo mothong mongwe le mongwe yo o biditsweng go neelana ka bopaki.

(6) Motho yo o neelanang ka bopaki kgotsa tshedimosetso, kgotsa yo o tlhagisang dikwalo, mabapi le ditsamaiso tse di ka ga tshekatshekogape ya tshwetso o na le ditshireletso le melato ya paki e e neelanang ka bopaki mo ditsamaisong tse di fa pele ga Kgotlatshekelokgolo.

Ditshwetso tsa panele

233. Fa panele e e tlhomilweng malebana le kopo ya tshekatshekogape ya tshwetso e sa dumalane ka gore taelo e dirwe, kakanyo ya bontsi jwa maloko a panele e a diragatswa, mme fa ba lekana ka pharologano ya dikakanyo, kakanyo ya leloko le le okamang panele e a diragatswa.

Tribunal orders

234. (1) In proceedings on an application for reconsideration of a decision the Tribunal may, by order—

(a) set the decision aside and remit the matter to the decision-maker for further consideration;

(b) in the case of a decision of any of the following kinds, also make an order setting aside the decision and substituting the decision of the Tribunal:

(i) A decision in terms of Chapter 13;

(ii) a decision referred to in paragraph *(b)* or *(c)* of the definition of **"decision"** in section 218; and

(iii) a decision of a kind prescribed by Regulation for the purposes of this section; or

(c) dismiss the application.

(2) The Tribunal may, in exceptional circumstances, make an order that a party to proceedings on an application for reconsideration of a decision pay some or all of the costs reasonably and properly incurred by the other party in connection with the proceedings.

(3) Subsections (1) and (2) are subject to any provision of a financial sector law that excludes, restricts or qualifies the orders that the Tribunal may make in proceedings for reconsideration of a decision.

(4) The Tribunal may, by order, summarily dismiss an application for reconsideration of a decision if the application is frivolous, vexatious or trivial.

(5) This section does not affect any other right that a person may have.

Judicial review of Tribunal orders

235. Any party to proceedings on an application for reconsideration of a decision who is dissatisfied with an order of the Tribunal may institute proceedings for a judicial review of the order in terms of the Promotion of Administrative Justice Act or any applicable law.

Enforcement of Tribunal orders

236. (1) A party to proceedings on an application for reconsideration of a decision may file with the registrar of a competent court a certified copy of an order made in terms of section 234 if—

(a) no proceedings in relation to the making of the order have been commenced in a court by the end of the period for commencing such proceedings; or

(b) if such proceedings have been commenced, the proceedings have been finally disposed of.

(2) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

CHAPTER 16

FEES, LEVIES AND FINANCES

Part 1

Fees and Levies

Fees and levies

237. (1) *(a)* Fees may be charged by a financial sector body in accordance with this Part to fund the performance of specific functions under this Act and the relevant financial sector laws.

(b) Levies may be imposed by a financial sector body in accordance with this Part, read with legislation that empowers the imposition of levies, to fund the operations of the financial sector body.

Ditaelo tsa Lekgotla

234. (1) Mo ditsamaisong 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 jwa ditshenyegelo kgotsa ditshenyegelo tsotlhe tse di bonweng ka mabaka le ka tshiamo 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 ditšhelete e e sa akaretseng, 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 botlhokwa.

(5) Karolo eno ga e ame tshwanelo nngwe le nngwe 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 boatlhodi 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 kgotlatshekelong 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 faetswe, e na le tlamorago ya katlholo ya selegae, 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

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 tlase 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 puisommogo 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—

previous year basis x 1.025 x (current index ÷ 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

(2) Mokgatlho wa lephata la ditšhelete o tshwanetse go phasalatsa dituelo tse di tlhomamisitsweng le makgethwana a a duediswang mo Rejisetareng le mo webesaeteng ya ona.

(3) Dituelo le makgethwana di duelwa kwa mokgatlhong wa lephata la ditšhelete kgotsa ka nako e e dumetsweng ke mokgatlho wa lephata la ditšhelete.

(4) Dituelo tse di farologaneng di ka tlhomamiswa le makgethwana a ka duediswa mabapi le mefuta e e farologaneng kgotsa ditlhopha tsa batho kgotsa ditheo tse di tlhokometsweng.

Dituediso le makgethwana tse di nnang molato

238. (1) Tuelo kgotsa lekgethwana tse di duelwang mokgatlho wa lephata la ditšhelete go ya ka karolo 237 ke molato o o duelwang go mokgatlho wa lephata la ditshelete.

(2) Mokgatlho wa lephata la ditšhelete o ka fitlhelela madi a molato a a tshwanetseng go duelwa go ya ka karolo eno go ya ka mokgwa wa tsamaiso ya molao kwa kgotlatshekelong e e nang le bokgoni.

Ditshitsinyo tsa tekanyetsokabo, dituediso le makgethwana

239. (1) Mabapi le ngwaga mongwe le mongwe wa ditšhelete, mokgatlho mongwe le mongwe wa lephata la ditšhelete o tshwanetse go baakanya le go amogela—

(a) tekanyetsokabo go tsamaelana le karolo 248 e e akaretsang tekanyetso ya ditshenyegelo tsa ona;

(b) tshitsinyo mabapi le dituelo tse di tla duediswang le makgethwana a a tla pateletswang ke mokgatlho wa lephata la ditšhelete; le

(c) tekanyetso e e bonelwang pele ya ditshenyegelo tsa ona mo dingwageng tse pedi tse di tlang tsa ditšhelete.

(2) Tshitsinyo mabapi le makgethwana e ka akaretsa tshitsinyo mabapi le lekgethwana le le kgethegileng le le esi kgotsa go feta, e bile mo lebakeng leo, tekanyetso ya ditshenyegelo e tshwanetse go akaretsa tekanyetso ya tshenyegelo e e kgethegileng mabapi le tshitsinyo ya lekgethwana le le kgethegileng.

(3) Tekanyetso ya tshenyegelo mabapi le ngwaga wa ditšhelete e ka akaretsa kabelo ya matlolepeelothoko e le esi kgotsa go feta, mme palogotlhe ya matlolepeelothoko a a bonweng a a akareditsweng mo tekanyetsong ya ditshenyegelo e ka se fete 15% ya tshenyegelo yotlhe e e lekanyeditsweng , go sa akaretswe matlolepeelothoko.

(4) Mokgatlho wa lephata la ditšhelete o tshwanetse go tsaya tsia ditlhagiso tse di dirilweng mabapi le tekanyetsokabo gape le ditshitsinyo tsa dituelo le makgethwana, ao a a amogelang go ya ka karolo 240.

(5) Mokgatlho wa lephata la ditšhelete o tshwanetse go romela tekanyetsokabo ya ona e e feleleditsweng, mmogo le ditshitsinyo tsa dituelo le makgethwana, kwa go Tona.

(6) Tona o tshwanetse go dumelelwa paka ya bonnye malatsi a le 30 go sekaseka ditshitsinyo le go tlamela ka ditshwaelo, fa di le teng.

(7) Mabapi le ditshitsinyo tsa dituelo le makgethwana tsa ngwaga wa ntlha wa ditšhelete go latea tshimolo ya karolo eno, Tona o tshwanetse go rebola ditshitsinyo tsa mekgatlho yotlhe ya ditheo tsa ditšhelete.

(8) Mabapi le Lekgotla, Tona o tshwanetse go rebola ditshitsinyo tsa dituelo le makgethwana a ngwaga mongwe le mongwe wa ditšhelete go latela tshimololo ya karolo eno.

(9) *(a)* Mabapi le mekgatlho 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 tshwanetse go rebola ditshitsinyo tsa dituelo lkgotsa makgethwana, fa ditshitsinyo tsa dituelo kgotsa makgethwana di ikaegile ka tekanyetso ya ditshenyegelo tsa tlaleletso go thotlhwa e e badilweng jaaka—

motheo wa ngwagatlola × 1.025 × (tshupanekelo ya gajaana ÷ tshupanekelo e e fetileng).

(b) Mabapi le maitlhomo a temana *(a)*—

"tshupanekelo ya gajaana" e kaya boleng jwa tshupanekelo ka letlha le tlhotlhwa e e elwang tlhoko, kgotsa fa boleng bo seyo, boleng jwa gajaana jo bo leng teng mabapi le maitlhomo a go baakanya ditshitsinyo tsa dituelo le makgethwana tsa ngwaga wa gajaana wa ditšhelete;

"tshupanekelo" e kaya Tshupane ya Tlhotlhwa ya Badirisi, jaaka e phasaladitswe ke Statistics South Africa; le

"previous year basis", for a financial year, means the estimate of operating expenditure adopted in terms of this section for the financial year before the year for which the calculation is being done.

Consultation requirements

240. (1) Part 1 of Chapter 7, with the exception of section 100, applies with the necessary changes, to the adoption of the budget, the estimates of expenditure as well as the fees and levies proposals as provided for in section 239.

(2) The documents that must be published under section 98 include—

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

(b) an explanation by the financial sector body of the budget, estimates of expenditure and fees and levies proposals, and of the variation of the budget, estimates of expenditure and the fees and levies proposals against the budget, estimates of expenditure and the fees and levies proposals adopted for the previous financial year.

Determinations of information required for assessment of levy

241. (1) A financial sector body may, in writing, require a supervised entity to provide it with information relevant to any assessment of the supervised entity's liability for any levy as specified in the requirement.

(2) A requirement in terms of subsection (1) may be published in the Register or provided to the supervised entity from whom information is required, and must specify the manner in which, and the date by when, the information must be provided.

(3) If—

(a) the supervised entity fails or refuses to comply with the requirement issued in terms of subsection (1); or

(b) the information provided by the supervised entity is incomplete, incorrect or misleading,

the supervised entity, and each director or member of the governing body of the supervised entity, are liable to an administrative penalty under Chapter 13.

Assessments of levy

242. (1) A financial sector body must issue to each supervised entity that is liable to pay a levy for the financial year, an assessment of a levy payable by the supervised entity.

(2) The assessment notice issued to a supervised entity must state the date on which the levy is due and must be paid, which period must not be less than 30 days from the date of receipt of the notice of assessment by the supervised entity.

Payment of fee or levy by instalments

243. (1) A person who has been charged a fee, or a supervised entity who has been charged a levy, may offer to pay the fee or levy by specified instalments, and if an offer is made, the financial sector body must—

(a) accept the offer;

(b) accept a modified offer; or

(c) reject the offer,

and must notify the person who made the offer accordingly.

"tshupanekelo e e fetileng" e kaya boleng jwa tshupane jo bo dirisitsweng mabapi le boleng jwa **"tshupanekelo ya ga jaana"** mo ditshitsinyong tsa dituelo le makgethwana tse di baakanyeditsweng ngwagatlola wa ditšhelete; le

"motheo wa ngwagatlola", mabapi le ngwaga wa ditšhelete, o kaya tekanyetso ya ditshenyegelo tsa tiro tse di amogetsweng go ya ka karolo eno mabapi le ngwaga wa ditšhelete pele ga ngwaga o palelo e dirwang ka ona.

Ditlhokego tsa therisano

240. (1) Karolo 1 ya Kgaolo 7, ntle le karolo 100, e diriswa le diphetogo tse di tlhokegang, mo kamogelong ya tekanyetsokabo, ditekanyetso tsa ditshenyegelo gape le ditshitsinyo tsa dituelo le makgethwana jaaka di tlametswe mo karolong 239.

(2) Dikwalo tse di tshwanetseng go phasalatswa ka fa tlase ga karolo 98 di akaretsa—

(a) tekanyetsokabo, tekanyetso ya ditshenyegelo le ditshitsinyo tsa dituelo le makgethwana tse di tlametsweng mo karolong 239 mabapi le ngwaga wa ditšhelete o o maleba; le

(b) tlhaloso ka mokgatlho wa lephata la ditšhelete ya tekanyetsokabo, tekanyetso ya ditshenyegelo le ditshitsinyo tsa dituelo le makgethwana, le ya phapaano ya tekanyetsokabo, tekanyetso ya ditshenyegelo le ditshitsinyo tsa dituelo le makgethwana kgatlhanong le tekanyetsokabo, tekanyetso ya ditshenyegelo le ditshitsinyo tsa dituelo le makgethwana tse di amogetsweng mabapi le ngwagatlola wa ditšhelete.

Ditlhomamiso tsa tshedimosetso e e tlhokegang mabapi le tshekatsheko ya lekgethwana

241. (1) Mokgatlho wa lephata la ditšhelete o ka, ka go kwala, lopa setheo se se tlhokometsweng go o tlamela ka tshedimosetso e e malebana le tekanyetso nngwe le nngwe ya go rwala maikarabelo ga setheo se se tlhokometsweng mabapi le lekgethwana lengwe le lengwe jaaka go tsepamisitswe mo ditlhokegong.

(2) Tlhokego go ya ka karolotlaleletso (1) e ka phasalatswa mo Rejisetareng kgotsa ya tlamelwa go setheo se se tlhokometsweng se tshedimosetso e tlhokwang mo go sona, e bile e tshwanetse go tsepamisa mokgwa o ka ona, tshedimosetso e tshwanetseng go tlamelwa.

(3) Fa—

(a) setheo se se tlhokometsweng se palelwa kgotsa se gana go 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 fosagetse kgotsa e timetsa,

Setheo se se tlhokometsweng, le mokaedi mongwe le mongwe kgotsa leloko la mokgatlho o o busang wa setheo se se tlhokometsweng, ba tshwanetswe ke kotlhao ya tsamaiso ka fa tlase ga Kgaolo 13.

Tshekatsheko ya lekgethwana

242. (1) Mokgatlho wa lephata la ditšhelete o tshwanetse go rebolela setheo sengwe le sengwe se se tlhokometsweng se se tshwanetseng go duela lekgethwana la ngwaga wa ditšhelete tekanyetso ya lekgethwana e e duelwang ke setheo se se tlhokometsweng.

(2) Kitsiso ya tekanyetso e e reboletsweng setheo se se tlhokometsweng e tshwanetse go tlhagisa letlha le lekgethwana le tshwanetseng go duelwa ka lona, leo paka ya lona e sa tshwanelang go nna malatsi a le kwa tlase ga a le 30 go tloga ka letlha la kamogelo ya kitsiso ya tekanyetso ka setheo se se tlhokometsweng.

Tuelelo ya tuediso kgotsa lekgethwana ka dikarolotuelo

243. (1) Motho yo o duediswang tuelo, kgotsa setheo se se tlhokometsweng se se duediswang lekgethwana, o ka ipofa go duela tuela kgotsa lekgethwana ka dikarolotuelo tse di tsepamisitsweng, e bile fa neelo e dirilwe, setheo sa lephata la ditšhelete se tshwanetse go—

(a) amogela neelo;

(b) amogela neelo e e fetotsweng; kgotsa

(c) go se amogele neelo,

ebile se tshwanetse go itsise motho yo o dirileng neelo, ka tshwanelo.

(2) A person who wishes to make an offer to pay a fee or levy by instalments must make an offer—

(a) immediately after being notified of the fee or levy charged, if the fee or levy must be paid within 14 days after the date on which notification is received; or

(b) at least 14 days before the date on which the fee or levy must be paid, if paragraph *(a)* does not apply.

(3) The financial sector body must notify the person who made an offer in terms of subsection (1) of its decision—

(a) immediately after receipt of the offer, in respect of an offer referred to in subsection (2)*(a)*; or

(b) within seven days after the receipt of the offer, in respect of an offer referred to in subsection (2)*(b)*.

Interest on late or non-payment of fees and levies

244. (1) If a fee or levy is not paid, or not paid in full, within the period specified for payment, and an offer to pay the fee or levy by instalments has not been accepted as referred to in section 243(1)*(a)* or *(b)*, the person liable to pay the fee or levy in question must pay interest at the rate referred to in subsection (2), on the amount of the fee or levy that remains unpaid 30 days after the due date.

(2) Interest due and payable on an outstanding fee or levy amount must be calculated based on the interest rate prescribed for the time being in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

(3) Interest charged is a debt due to the financial sector body, and may be recovered by a judicial process in a competent court.

Exemption from fee

245. (1) A financial sector body may, on application by a person who is liable to pay a fee, exempt the person from the payment of a fee, or a part of a fee, to the extent and subject to conditions determined by the financial sector body.

(2) An application referred to in subsection (1) must include the particulars determined by the financial sector body.

(3) A financial sector body may only grant an exemption from the payment of a fee, or a part of a fee, for sound reasons.

Management of fees and levies

246. (1) Fees determined in accordance with section 237(1)*(a)*, and interest accrued on fees in terms of section 244 must be collected by the financial sector body and paid into a bank account designated for that purpose, which is in the name and control of the financial sector body.

(2) Levies imposed in accordance with section 237(1)*(b)*, and interest accrued on levies in term of section 244 must be collected by the Financial Sector Conduct Authority and paid into a bank account designated for that purpose, which is in the name and control of the Financial Sector Conduct Authority.

(3) Each financial sector body's allocation of the levies collected contemplated in subsection (2) must be transferred to the financial sector body's designated account in accordance with a payment schedule agreed between the financial sector body and the Financial Sector Conduct Authority.

(4) The designated bank accounts referred to in subsections (1) to (3) must be approved by the National Treasury.

(2) Motho yo o batlang go dira thulaganyo ya go duela tuelelo kgotsa lekgethwana ka dikarolotuelo o tshwanetse go rulaganya—

(a) ka bonako morago ga go itsisiwe ka ga tuelelo kgotsa lekgethwana le le tshwanetseng go duelwa, fa tuelelo kgotsa lekgethwana le tshwanetse go duelwa mo matsatsing a le 14 morago ga letlha le kitsiso e amogetsweng ka lona; kgotsa

(b) bonnye matsatsi a le 14 pele ga letlha le tuelelo kgotsa lekgethwana le tshwanetseng go duelwa 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 karolotlaleletso (1) ka ga tshwetso ya ona—

(a) ka bonako morago ga go amogela neelo, mabapi le neelo e e kailweng mo karolotlaleletsong (2)*(a)*; kgotsa

(b) mo malatsing a le supa morago ga go amogela neelo, mabapi le neelo e e kailweng mo karolotlaleletsong (2)*(b)*.

Morokotso mo tuelelong e e thari kgotsa e e sa dirwang le makgethwana

244. (1) Fa tuelelo kgotsa lekgethwana le sa duelwa, kgotsa le sa duelwa ka botlalo, mo nakong e e tsepamisitsweng mabapi le tuelelo, mme neelo ya go duelela tuelo kgotsa lekgetho ka dikarolotuelo e sa amogelwa jaaka go kailwe mo karolong 243(1)*(a)* kgotsa *(b)*, motho yo o tshwanetseng go duela tuelo kgotsa lekgethwana le le umakwang o tshwanetse go duela morokotso ka kelo e e kailweng mo karolotlaleletsong (2), mo tlhotlhweng ya tuelelo kgotsa lekgethwana le le sa duelwang malatsi a le 30 morago ga letlha la bofelo.

(2) Morokotso o o tshwanetseng go duelelwa le go duelwa mo tlhotlhweng ya tuelelo kgotsa lekgethwana e e tshwanetseng go duelwa o tshwanetse go balwa 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 duediswang ke sekoloto se se tshwanetseng go duelwa kwa mokgatlhong wa lephata la ditšhelete, e bile o ka busetswa ka ditsamaiso tsa boatlhodi kwa kgotlatshekelong e e nang le bokgoni.

Kgololo mo go dueleng

245. (1) Mokgatlho wa lephata la ditšhelete o ka, ka kopo ka motho yo o tshwanetseng go duela tuelelo, golola motho mo go dueleng tuelelo, kgotsa karolo ya tuelelo, ka bogolo le go ya ka mabaka a a tlhomamisitsweng ke mokgatlho wa lephata la ditšhelete.

(2) Kopo e e kailweng mo karolotlaleletsong (1) e tshwanetse go akaretsa dintlha tse di tlhomamisitsweng ke mokgatlho wa lephata la ditšhelete.

(3) Mokgatlho wa lephata la ditšhelete o ka neelana fela ka kgololo mo go dueleng tuelelo, kgotsa karolo ya tuelelo, ka mabaka a a utlwagalang.

Taolo ya dituediso le makgethwana

246. (1) Dituelelo tse di tlhomamisitsweng go tsamaelana le karolo 237(1)*(a)*, le morokotso o o bonweng go tswa mo dituelelong go ya ka karolo 244 di tshwanetse go kgobokanngwa ke mokgatlho wa lephata la ditshelete le go duelwa mo akhaontong ya banka e e tlhometsweng maitlhomo ao, eo e leng mo leineng le mo taolong ya mokgatlho wa lephata la ditšhelete.

(2) Makgethwana a a duediswang go tsamaelana le karolo 237(1)*(b)*, le morokotso o o bonweng mo makgethwaneng go ya ka karolo 244 a tshwanetse go kgobokanngwa ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le go duelwa mo akhaontong e e tlhometsweng maitlhomo ao, e e mo leineng le mo taolong ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(3) Kabo ya makgethwana a a kgobokantsweng go latela karolotlaleletso (2) a mokgatlho mongwe le mongwe wa lephata la ditšhelete e tshwanetse go sutisetswa kwa akhaontong e e tlhometsweng mokgatlho wa lephata la ditshelete go tsamaelana le thulaganyo ya tuelelo e go dumalanweng ka yona magareng ga mokgatlho wa lephata la ditšhelete le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(4) Diakhaonto tsa banka tse di kailweng mo dikarolotlaleletsong (1) go fitlha go (3) di tshwanetse go rebolwa ke Matlotlo a Bosetšhaba.

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

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 mekgatlho ya lephata la ditšhelete

247. (1) Madi a mokgatlho mongwe le mongwe wa lephata la ditšhelete a na le—

(a) madi a a amogetsweng ke mokgatlho wa lephata la ditšhelete jaaka dituelelo le makgethwana;

(b) matlole a a bonwang ke mokgatlho wa lephata la ditšhelete go tswa kwa motsweding mongwe le mongwe; le

(c) morokotso mo ditlhotlhweng tse di leng mo dikoloto tsa mokgatlho wa lephata la ditšhelete mo akhaontong.

(2) Madi a mokgatlho wa lephata la ditšhelete a ka diriswa fela jaana:

(a) Mo tsamaisong ka kakaretso le mo ditshenyegelong tsa tiro tsa mokgatlho wa lephata la ditšheleteo;

(b) go diragatsa dithata, go dira ditiro, le go diragatsa ditiro tsa mokgatlho wa lephata la ditšhelete go ya ka melao ya lephata la ditšhelete; le

(c) go duela madi a o a duetsweng ka phoso.

Kgaolo 3

Go dira tekanyetsokabo, tshupo ya matlotlo, boruni le pegelo ya tsa ditšhelete

Go dira tekanyetsokabo, tshupo ya motlotlo, boruni le pegelo ya tsa ditšhelete

248. (1) Bothati jo bo rwalang maikarabelo Bothati jwa Boitshwaro jwa Lephata la Ditšhelete , Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phenšene, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Ditšhelete ke bothati jo bo rwalang maikarabelo mabapi le akhaonto ya banka e e tlhomilweng e e kailweng mo karolong 246(1), e bile bo dira ditiro tse di kailweng mo Karolong 2 ya Kgaolo 6 ya *Public Finance Management Act*.

(2) Bothati jo bo rwalang maikarabelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ke bothati jo bo rwalang maikarabelo mabapi le akhaonto e e tlhomilweng ya banka e e kailweng mo karolong 246(2), e bile bo dira ditiro tse di kailweng mo Karolong 2 ya Kgaolo 6 ya *Public Finance Management Act*.

(3) Mabapi le Bothati jwa Tlhokomelo, Motlhankedimogolo wa Khuduthamaga o rwla maikarabelo mabapi le go arabela mabapi le akhaonto ya banka e e kailweng mo karolong 246(1).

(4) *(a)* Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phenšene, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Ditšhelete 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 dikanego go tsamaelana le karolo 55 ya *Public Finance Management Act*;

(iii) romela tshedimosetso jaaka e tlhokwa go ya ka karolo 54 ya *Public Finance Management Act*; le

(iv) ikamanya le Melawana ya Matlotlo, makwalotiko, dikaelo le dintlha tsa tiragats go ya ka *Public Finance Management Act*.

(b) Lekgotla, le fa e se setheo sa setšhaba go ya ka *Public Finance Management Act*, le tshwanetse go ikamanya le ditlhokego tse di mo temaneng *(a)*.

(5) *(a)* Bothati jwa Tlhokomelo bo tshwanetse go baakanya tekanyetsokabo ya ngwaga le ditekanyetso tsa tshenyegelo ya ngwaga wa ditšhelete go tsamaelana le karolo 239, le pegelo ya ngwaga le dikarabelo tsa ditšhelete go tsamaelana le karolo 55.

(b) Motlhankedimogolo wa Khuduthamaga o rwala maikarabelo a go netefatsa gore tshenyegelo ya Bothati jwa Tlhokomelo e go ya ka tekanyetsokabo ya jona e e rebotsweng.

(6) Bothati jwa Tlhokomelo, Lekgotla, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phenšene, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Ditšhelete ba tshwanetse go tlamela Bothati jwa Boitshwaro jwa Lephata la Ditšhelete 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 duediswang.

(7) Mo godimo ga merero e e tshwanetseng go akaretswa mo pegelong ya ngwaga le dikanegong tsa ditšhelete tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete tse di kailweng mo karolong 55 ya *Public Finance Management Act*, pegelo ya ngwaga e tshwanetse go tlhagisa le go nna le kanego e e bontshang—

(a) palogotlhe ya ditheo tse di tlhokometsweng tse di duetseng makgethwana a a duedisitsweng go tsamaelana le karolo 237(1)*(b)*;

(b) palogotlhe ya matlole a a phatlaladitsweng go tswa mo akhaontong ya banka e e tlhomilweng e e kailweng mo karolong 246(2) go ya kwa akhaontong ya banka e e tlhomilweng ya mokgatlho mongwe le mongwe wa lephata la ditšhelete o o kailweng mo karolong 246(1); le

(c) morero mongwe le mongwe o o tlhomamisitsweng ke Tona.

(8) Mo godimo ga merero e e tshwanetseng go akaretswa mo dipegelong tsa ngwaga le dikanegong tsa ditšhelete kgotsa mo dikarabelong tsa ditšhelete tsa mokgatlho wa lephata la ditšhelete tse di kailweng mo dikarolotlaleletsong (4) le (5), pegelo ya ngwaga ya mokgatlho wa lephata la ditšhelete e tshwanetse go nna le kanego e e bontshang—

(a) palogotlhe ya batho ba ba duetseng dituelelo tse di tlhomamisitsweng ke mokgatlho oo wa lephata la ditšhelete mo ngwageng wa ditšhelete;

(b) palogotlhe ya ditheo tse di tlhokometsweng tse di duetseng makgethwana a a duedisitsweng ke mokgatlho oo wa lephata la ditšhelete mo ngwageng oo wa ditšhelete;

(c) palogotlhe ya dituelelo tse di kgobokantsweng ke mokgatlho wa lephata la ditšhelete;

(d) palogotlhe ya makgethwana a a kgobokantsweng mo boemong jwa le go amogelwa ke mokgatlho wa lephata la ditšhelete; le

(e) morero mongwe le mongwe o o tlhomamisitsweng ke Tona.

(9) Mokgatlho wa lephata la ditšhelete o tshwanetse go phasalatsa tekanyetsokabo ya ona ya ngwaga mo webesaeteng ya ona, e bile o tshwannetse go phasalatsa dituelelo tse di tlhomamisitsweng tsa ona le makgethwana a a duediswang mo Rejisetareng le mo webesaeteng ya ona.

Karolo 4

Tiragatso ya Kgaolo mo Lekgotleng

Tiragatso ya Kgaolo mo Lekgotleng

249. Modulasetilo wa Lekgotla o rwala maikarabelo a go netefatsa gore ditiro tsa Lekgotla go ya ka Kgaolo eno di a dirwa.

KGAOLO 17

TSELE LE TSELE

Karolo 1

Karogano ya tshedimosetso le go bega

Bothati jo bo thapilweng

250. Mo Karolong eno,**"bothati jo bo thapilweng"** bo kaya—

(a) Banka ya Resefe;

(b) bolaodi jwa lephata la ditšhelete;

(c) Bolaodi jwa Bosetšhaba jwa Sekoloto;

(d) Khansele ya Dikema tsa Kalafi;

(e) thulaganyetso ya popegotheo ya mmaraka, mme fela mabapi le ditiro tsa yona tsa bolaodi le botlhokomedi go ya ka molao wa lephata la ditšhelete;

(f) setheo sa puso se se rwalang maikarabelo a taolo, tlhokomelo kgotsa kgatelelo ya molao mongwe le mongwe;

(g) Mokgatlho o o tshwanang le setheo sa puso se se kailweng 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) mokgatlho 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 ditšhelete kgotsa Banka ya Resefe o na le tlamego le tiro ya go—
(i) fitlhelela maikaelelo a yona jaaka go tlhagitswe mo Molaong ono;
(ii) fitlhelela maikaeleloa melao ya lephata la ditšhelete;
(iii) dira ditiro tsa gagwe, go akaretsa ditiro tsa gagwe tsa botlhokomedi, go ya ka melao ya lephata la ditšhelete le *Financial Intelligence Centre Act*.

(b) Molaodi wa lephata la ditshelete kgotsa Banka ya Resefe o tshwanetese go kgobokanya loe go dirisa tshedimosetso, go akaretsa le tshedimosetso ya bowena jaaka e tlhalositswe mo *Protection of Personal Information Act*, go fitlhela molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe a tlhomamisa gore go botlhokwa go dira ka nepagalo ditlamego le ditiro tse di kailweng mo temaneng *(a)*.

(c) Molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe o ka arogana kgotsa a senola tshedimosetso gore a diragatse ditlamego le ditiro tsa gagwe go ya ka karolotlaleletso eno le karolotlaleletso (2), e bile ditshenolo kgotsa karogano ya tshedimosetso mabapi le maitlhomo mangwe le mangwe di na le karogano kgotsa tshenolo ya tshedimosetso mabapi le maitlhomo a a sa dumelelwang, jaaka go kailwe mo karolong 272.

(2) *(a)* Molaodi wa lephata la ditshelete kgotsa Banka ya Resefe o tshwanetse go senola tshedimosetso e e kailweng mo karolotlaleletsong (1)*(b)* fa molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe e tlhomamisa gore go botlhokwa go ikamanya le ditlamego tsa yona—
(i) go dira ditiro tsa gagwe go ya ka, kgotsa jaaka a kgontshitswe ke, melao ya lephata la ditšhelete kgotsa *Financial Intelligence Centre Act*;
(ii) tse di amanang le ditsamaiso tsa semolao kgotsa ditsamaiso tse dingwe;
(iii) go tsibosa barekedi ba ditšhelete kgatlhanong le go dira kgwebo le setheo sa ditšhelete kgotsa motho yo mongwe yo o dirang ditiro tse di kgatlhanong le melao ya lephata la ditšhelete kgotsa *Financial Intelligence Centre Act*;
(iv) go itsise barekedi ba ditšhelete ka ga dikgato tse di tserweng kgatlhanong le setheo sa ditšhelete go ya ka melao ya lephata la ditšhelete kgotsa *Financial Intelligence Centre Act*;
(v) go lemosa barekedi ba ditšhelete ka ga ditiro tse di dirilweng ke setheo sa ditšhelete se molaodi wa ditšhelete kgotsa Banka ya Resefe a dumelang gore di ka lere kotsi mo barekeding ba ditšhelete;
(vi) go sireletsa dikgatlhego tsa setšhaba;
(vii) go se kgothaletse, thibele, batlisise, bege le go rarabolola tsietso kgotsa ditiro tse dingwe tsa bosenyi mabapi le dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete; kgotsa
(viii) mabapi le maitlhomo a a kgatlhanong le go gweba ka madi le twantsho ya tshegetso ya ditšhelete go borukhutli.

(b) Tshedimosetso e e bonweng go ya ka *Financial Intelligence Centre Act*, ntle le go ya ka dikarolo 45 le 45B tsa Molao oo, e ka diriswa fela kgotsa senolwa go tsamaelana le dikarolo 29, 40 le 41 tsa Molao oo.

(3) Molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe, mo go fitlheleleng maitlhomo a a kailweng mo karolotlaleletsong (1)*(a)* le (2)*(a)*, e ka—
(a) ikgolaganya le bothati bongwe le bongwe jo bo thapilweng mabapi le merero ya kgatlhego e e tshwanang;
(b) tsaya karolo mo ditsamaisong tsa bothati bongwe le bongwe jo bo thapilweng;
(c) gakolola kgotsa amogela kgakololo go tswa go bothati bongwe le bongwe jo bo thapilweng;
(d) pele ga go dira tiro ya bolaodi e molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe bo tseelang gore e botlhokwa kgatlhanong le setheo sa ditšheletete, itsise bothati bongwe le bongwe jo bo thapilweng gore molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe, jaaka mabaka a ntse, wa tiro e e letilweng ya bolaodi kgotsa, fa seno se ka se kgonagale, itsise bothati jo bo thapilweng ka bonako jo bo kgonegang morago ga go dira 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

(e) rerisana le go tsena mo ditumalanong tsa tirisanommogo 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 setheo sa ditšhelete e kopantsweng kgotsa lekala le tlhomilweng, go, magareng ga tse dingwe—

(i) golaganya le go kopanya go bega le ditlamego tse dingwe tsa ditheo tsa ditšhelete;

(ii) tlamela ka mekgwa ya thefosano ya tshedimosetso, go akaretsa le kabelo e e tlhokang kgotsa letlang molaodi wa lephata la ditšhelete, Banka ya Resefe kgotsa bolaodi jo bo thapilweng—

(aa) go sedimosetswa ka tekanyetso e e kgatlhanong mabapi le ditheo tsa ditšhelete; kgotsa

(bb) go tlamela kgotsa amogela tshedimosetso e e mabapi le mathata a a botlhokwa a a itemogelwang mo setheong sa ditšhelete;

(iii) tlamela ka ditsamaiso tsa go golaganya ditiro tsa tlhokomelo go nolofatsa tlhokomelo ya ditheo tsa ditšhelete, go akaretsa ka nako le nako; le

(iv) thusa bothati bongwe le bongwe jo bo thapilweng mo go laoleng le go gateleleng melao mengwe le mengwe ya gore bothati jo bo thapilweng bo rwala maikarabelo a go tlhokomela le go gatelela, e e tshwanang le molao wa lephata la ditšhelete kgotsa e e nang le seabe mo go laoleng lephata la ditšhelete le ditheo tsa ditšhelete.

(4) *(a)* Tshedimosetso e ka senolwa fela ke molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe go bothati jo bo thapilweng fa, pele tshedimosetso e senolwa, molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe e kgotsofetse gore bothati jo bo thapilweng jo bo amogelang tshedimosetso bo na le mekgwa e e maleba e e nonofileng ya go sireletsa tshedimosetso, mekgwa eo e tshwanang le e e tlametsweng mo karolong eno.

(b) Molaodi wa lephata la ditšhelete 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 tshwanang le e e tlametsweng mo karolong eno.

(c) Molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe o ka kopa fela tshedimosetso mo bothating jo bo thapilweng mabapi le tiro ya ditiro le go diragatswa ga dithata 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 tshwanetse go diriswa fela ke bothati jo bo thapilweng mabapi le maitlhomo ao e a kopetsweng;

(ii) e ka se senolelwe mokgatlho wa boraro ntle le tumelelo ya bothati jo bo thapilweng jo bo tlametseng ka tshedimosetso; le

(iii) e tshwanetse go busetsa tshiamo le boitshepo jwa jona, e bile bothati jo bo thapilweng jo bo amogelang tshedimosetso bo tshwanetse go tsaya dikgato tse di maleba, ka mabaka a a utlwagalang a a rulaganeng go thibela tatlhegelo ya, tshenyegelo go kgotsa tshenyo e e sa dumelelwang ya tshedimosetso, le phitlhelelo e e seng mo molaong ya kgotsa tsamaiso ya tshedimosetso.

(e) Fa, ntle le temana *(d)*, bothati jo bo thapilweng bo pateletswa ke molao go senola tshedimosetso e e tlametsweng ke bothati jo bongwe jo bo thapilweng go mokgatlho wa boraro, bothati jo bo thapilweng jwa ntlha bo tshwanetse—

(i) go itsise gore bothati jo bo thapilweng jwa tiragalo le mabaka ao tshedimosetso e tla dirwang gore 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 aroganwa kgotsa senolwa tshedimosetso go ya ka karolotlaleletso (3) kgotsa (4), molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe e tshwanetse go ikamanya le ditlhokego tse di mo dikarolotlaleletsong tseo, e bile tlolo ya ditlhokego tseo e na le ditlamorago tsa karogano kgotsa tshenolo ya tshedimosetso ka mokgwa o o sa dumelelwang, jaaka go kailwe mo karolong 272.

(6) *(a)* Molaodi wa lephata la ditšhelete kgotsa Banka ya Resefe o tshwanetse go tshola dikgato tse di kwetsweng le ditsamaiso tse di—

(i) tlhagisang ka tlhamalalo gore ke batlhankedi le badiri bafe mo bolaoding jwa lephata la ditšhelete kgotsa Banka ya Resefe ba ba dumeletsweng go arogana 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 tlhomameng go ya ka ditlhokego tsa karolo eno *le Protection of Personal Information Act*.

(b) Dikgato le ditsamaiso tse di kailweng mo temaneng *(a)* di tshwanetse go neelana ka tumelelo ya go arogana kgotsa senoa tshedimosetso fela kwa batlhankeding le badiring ba ba nang le bogolo jwa maemo a a rileng a a nepagetseng mo setheong.

(c) Ke fela motlhankedi kgotsa modiri wa bolaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe yo o dumeletsweng ke pholisi le ditsamaiso tsa bolaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe a ka aroganang kgotsa senolang tshedimosetso mo boemong jwa bolaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe.

(7) Mabapi le maitlhomo a karolo eno, **"tshedimosetso"** ga e akaretse dintlha 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 dintlha ka botlalo e e kwetsweng go Bothati jwa Tlhokomelo, mokgatlho o o busang wa setheo sa ditšhelete le, mo lebakeng la ditheo tse di kopantsweng tsa setheo sa ditšhelete, kgwebo e e okameng tse dingwe ya setheo sa ditšhelete, ka ga morero mongwe le mongwe o o amanang le kgwebo ya setheo sa ditšhelete kgotsa setlamo se se mo gare ga ditheo tse di kopantsweng, e le morero—

(i) o e leng gore moruni o lemoga ka ona mo go direng ditiro jaaka monayaboleng kgotsa moruni; le

(ii) moruni o tsaya gore—

(aa) o dira kgotsa o ka dira gore setheo sa ditšhelete se se tlhomame mo ditšheleteng;

(bb) o tlola kgotsa o ka tlola molao wa lephata la ditšhelete; kgotsa

(cc) o o ka nnang le ditlamorago tsa tlhatlhobo e e sa konosetswang kgotsa o ka tlisa ditlamorago tsa ntlhakemo e e nonofileng kgotsa e e kgatlhanong mo diakhaontong.

(b) Moruni o tshwanetse go romela pegelo nnwge le nngwe kgotsa lokwalo le lengwe kgotsa dintlha ka ga morero o o tlhalositsweng mo karolong 45(1)*(a)* le (3)*(c)* ya *Auditing Profession Act*, 2005 (Molao 26 wa 2005), go Bothati jwa Tlhokomelo.

(2) Moruni wa setheo sa ditšhelete se se abetsweng laesense kgotsa wa ditheo tse di kopantsweng tsa ditšhelete yo o rolang tiro kgotsa yo go thapiwa ga gagwe go khutliswang o tshwanetse go romela go Bothati jwa Tlhokomelo—

(a) polelo e e kwetsweng ya mabaka a go rola tiro kgotsa mabaka a moruni a dumelang gore ke ona mabaka a khutliso; le

(b) pegelo nngwe le nngwe e e tlhalositsweng mo karolong 45(1)*(a)* le (3)*(c)* ya *Auditing Profession Act*, 2005 (Molao 26 wa 2005), ya gore moruni o tla, mme mabapi le go rola kgotsa go khutlisa tiro, nna le mabaka a go romela.

(3) *(a)* Thomelo, ka mowa o montle, ka moruni ya pegelo kgotsa tshedimosetso e e ka fa tlase ga dikarolotlaleletso (1) kgotsa (2) ga se tlolo ya molao, tlolo ya tumalano kgotsa tlolo ya khoutu ya boitshwaro jwa seporofešenale.

(b) Go palelwa, ka mowa o montle, ga moruni go ikamanya le karolo eno ga go neye motho ope tshwanelo ya go dira kgatlhanong le moruni.

Pegelo go balaodi ba lephata la ditšhelete

253. (1) Motho o ka begela balaodi ba lephata la ditšhelete—

(a) mathata a ditšhelete kgotsa mathata a ditšhelete a a belaelwang mo setheong sa ditšhelete;

(b) tlolo kgotso tlolo e e belaelwang ya molao wa lephata la ditšhelete mabapi le setheo sa ditšhelete; kgotsa

(c) botsayakarolo kgotsa botsayakarolo jo bo belaelwang jwa setheo sa ditšhelete mo bosenying jwa ditšhelete.

(2) Ntle le fa pegelo e dirilwe ka mowa o o maswe, motho yo o dirang pegelo go ya ka karolotlaleletso (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 pegelo.

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.

Thibelo ya tirisobotlhaswa

254. Motho o ka se gobelele motho yo mongwe mo tirong, kgotsa o ka se atlhole motho yo mongwe ka mokgwa mongwe le mongwe, ka lebaka la gore motho yo mongwe o—

(a) dirile pegelo go ya ka karolo 252; kgotsa 5

(b) dirile pegelo go ya ka karolo 253, le fa pegelo e ne e sa tlhokwe ke molao.

Ditshenolo tse di sireleditsweng

255. Dikarolo 252 le 253 di diriswa mo godimo ga, e bile ga di lekanyetse, molao mongwe le mongwe o mongwe o o tlamelang ka tshireletso mo bathong ba ba begang ka nepagalo ditlolomolao. 10

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 tshegetsa Rejisetara ya Tshedimosetso ya Lephata la Ditšhelete go tsamaelana le Karolo eno. 15

Maitlhomo a Rejisetara

257. Maitlhomo a Rejisetara ke go tlamela ka phitlhelelo e e tshepagalang go tshedimosetso e e nepagetseng, e e maatla e bile e le mo nakong e e amanang le melao ya lephata la ditšhelete, Melawana, didiriso tsa bolaodi le go tsenngwa mo tirisong ga tsona. 20

Diteng tsa Rejisetara

258. (1) Rejisetara ke deithabeisi ya dikwalo tse di neetsweng mo Šejuleng 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. 25

Go tsholwa Rejisetera

259. (1) Rejisetara e tshwanetse go tsholwa ka mokgwa wa seileketeroniki.

(2) Rejisetara e tshwanetse go tsholwa ka mokgwa o o nolofatsang phitlhelelo le patlo ya Rejisetara ka maloko a setšhaba.

Ditlhokego tsa makwalo kwadisitsweng 30

260. Mokaedikakaretso o ka dira tlhomamiso e e kwetsweng—

(a) e e tsepamisang ditlhokego tsa dikwalo tse di tshwanetseng go, kgotsa tse di ka, akaretswang mo Rejisetareng, go akaretsa le go kopa motho yo o kwadisang lokwalo gore a tlamele ka tshedimosetso ya lokwalo, go netefatsa gore Rejisetara e mosola mo bathong ba ba fitlhelelang Rejisetara; le 35

(b) e e tsepamisang ditsamaiso tsa go fetisetsa dikwalo go Matlole a Bosetšhaba gore di kwadiswe.

Boemo jwa Rejisetara le kitsiso ya boatlhodi

261. (1) Rejisetara e, mabapi le maitlhomo otlhe, tseelwa gore ke rekoto e e tladitsweng e bile e nepagetse ya melao yotlhe ya lephata la ditšhelete le didiriso tsotlhe 40 tsa bolaodi tse di akareditsweng mo Rejisetareng.

(2) Tlhamo ya molao kgotsa sediriso sa bolaodi se se akareditsweng mo Rejisetareng e, ntle le fa go lemogwa kganetsano, 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 letlha le le tsepamisitsweng mo tlhamong. 45

(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 tsenngwa mo tirisong go diragatsa, ka gotlhe kgotsa ka karolo, ga molao kgotsa sediriso sa bolaodi jaaka se tlhagelela mo Rejisetareng.

(b) Kgotlatshekelo kgotsa lekgotla le ka ikitsise ka ga merero eo le ka mokgwa 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 seo 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 bontshang gore, ka letlha le le rileng, morago ga go tsenngwa tirisong ga Karolo eno—

(a) motho o abetswe kgotsa o ne a sa abelwa laesense ka fa tlase ga molao wa lephata la ditšhelete;

(b) laesense e e tsepamisitsweng e kgotsa e ne e se go ya ka mabaka a a tsepamisitsweng;

(c) laesense e e tsepamisitsweng e ne e, ka nako e e rileng, sekegilwe, phimotswe kgotsa gogetswe morago; kgotsa

(d) setheo sa ditšhelete se se tsepamisitsweng se ne ka nako e e rileng e le setheo sa ditšhelete sa thulaganyo ya botlhokwa,

se amogelesega jaaka bosupi jwa dintlha le merero e e kailweng mo go sona 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 diphoso.

(2) Fa Rejisetara e siamisitswe, Mokaedikakaretso o tshwanetse go tsenya tshwaelo ya direkoto tse di maleba mo Rejisetareng go tlhalosa mokgwa wa tshiamiso le go tsepamisa letlha 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 nngwe le nngwe kgotsa tiro ya Mokaedikakaretso mabapi le Rejisetara, ntle le thata ya go romela, go leloko la badirimmogo ba Matlole a Bosetšhaba kgotsa motho mongwe le mongwe yo o maleba, e bile Mokaedikakaretso o ka, ka nako nngwe le nngwe, tlhabolola 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 tlhalositsweng mo tholelong.

(4) Tholelo ga e amoge Mokaedikakaretso maikarabelo mabapi le thata e e roletsweng 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 tlolang dikarolo 46(1) kgotsa (2), 52, 69(1) kgotsa (2) kgotsa 74 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotllhao ya tuediso e e sa feteng R5 000 000 kgotsa go tswalelwa kwa kgolegelong 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 kotlhao ya tuediso e e sa feteng R15 000 000 kgotsa go tswalelwa 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 kotlhao 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 kotlhao ya tuediso e e sa feteng R50 000.

Dikopo tsa tshedimosetso, tlhatlhobo ya botlhokomedi 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 se tshwanetswe ke kotlhao ya tuediso e e sa feteng R1 000 mabapi le letsatsi lengwe le lengwe leo tlolomolao e tswelelang ka lona.

(2) Setheo se se tlhokometsweng se se kgotsa motho yo o tlolang dikarolo 132(4)*(a)*(iii) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuediso e e sa feteng R5 000 000.

(3) Fa—

(a) bolaodi jwa lephata bo naya setheo se se tlhokometsweng taelo go ya ka karolo 132(4)*(a)*(iii); le

(b) ntle le lebaka le le utlwalang, lokwalo la kgwebo le taelo e amanang nalo le tloswa mo lefelong, kgotsa le fitlhiwa, kgotsa le senngwa kgotsa ka mokgwa mongwe le kgoreletswa, ka pharologano go taelo,

setheo se se tlhokometsweng kgotsa motho yo o neilweng taelo o tlola molao e bile o tshwanetse ka go bonwa molato ke kotlhao 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 kotlhao ya tuediso e e sa feteng R1 000 000 kgotsa go tlhatlhelwa kwa kgolegelong sebaka se 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 kotlhao ya tuediso e e sa feteng R5 000 000 kgotsa go tlhatlhelwa kwa kgolegelong sebaka se 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 kotlhao ya tuediso e e sa feteng R15 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(2) Motho yo o tlolang karolotlaleletso 153(4)*(a)* o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuediso e e sa feteng R15 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(3) Fa—

(a) motho yo o lebanweng ke taelo ya kganelo a tlola karolotlaleletso 153(4)*(a)* ka go tsena mo thulaganyong e e kailweng mo karolong 153(4)*(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,

moamegi yo mongwe mo tumalanong le ena o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuediso e e sa feteng R15 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(4) Motho yo o tlolang karolotlaleletso 153(5) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuediso e e sa feteng R5 000 000.

Administrative penalties

269. A person who contravenes section 174 by giving an undertaking commits an offence and is liable on conviction to a fine not exceeding twice the maximum amount that would have been payable under the undertaking.

Ombud schemes

270. (1) A person who contravenes section 189(1) or (2) or section 192 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(2) A person who contravenes section 202(11) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(3) A natural person who contravenes section 205(8) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(4) If—

(a) a natural person who is subject to a debarment order in terms of section 205, contravenes section 205(8)*(a)* by entering into an arrangement referred to in section 205(8)*(b)*; and

(b) the other party to the arrangement knew or should reasonably have known that entering into the arrangement contravened that section;

the other party to the arrangement also commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(5) A person who contravenes section 207(2) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(6) A licensed financial institution that contravenes section 210 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(7) A financial institution that contravenes section 215(1) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(8) A person who contravenes section 217 commits an offence and is liable on conviction to a fine not exceeding R5 000 for each day during which the offence continues.

Proceedings in Tribunal

271. A person who contravenes a direction in terms of section 232(5)*(a)*, or refuses, without reasonable excuse, to take an oath or make an affirmation when required to do so as contemplated in section 232(5)*(b)*, commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

Miscellaneous

272. (1) *(a)* A financial sector regulator or the Reserve Bank commits an offence if information is disclosed or shared for a purpose that is not authorised in terms of section 251(1) or (2), or in a manner that is not authorised as referred to in section 251(5).

(b) Both an official or employee who shares or discloses information, and the financial sector regulator or the Reserve Bank on whose behalf the information is shared or disclosed, commit an offence if an official or employee—

(i) who is not authorised to share or disclose information shares or discloses information in contravention of section 251(6)*(c)*;

(ii) who is authorised to share or disclose information shares or discloses information for a purpose that is not authorised in terms of section 251(1) or (2), or in a manner that contravenes section 251(3) or (4).

(2) *(a)* If a financial sector regulator or the Reserve Bank commits an offence referred to in subsection (1), it is liable on conviction to a fine not exceeding R5 000 000.

Dikotlhao tsa tsamaiso

269. Motho yo o tlolang karolo 174 ka go dira kano o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuediso 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 tlolang karolo 189(1) kgotsa (2) kgotsa karolo 192 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000.

(2) Motho yo o tlolang karolo 202(11) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000.

(3) Motho ka esi yo o tlolang karolo 205(8) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000.

(4) Fa—

(a) motho ka esi yo o lebanweng ke taelo ya kganelo go ya ka karolo 205 a tlola karolotlaleletso 205(8)*(a)* ka go dira thulaganyo e e kailweng mo karolong 205(8)*(b)*; le

(b) moamegi yo mongwe mo 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 kotlhao ya tuediso e e sa feteng R5 000 000.

(5) Motho yo o tlolang karolotlaleletso 207(2) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R15 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(6) Setheo sa ditšhelete se se abetsweng laesensese se tlolang karolotlaleletso 210 se tlola molao e bile fa se bonwe molato se tshwanetswe ke kotlhao ya tuediso e e sa feteng R5 000 000.

(7) Setheo sa dišhelete se se tlolang karolo 215(1) se tlola molao e bile fa se bonwe molato se tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000.

(8) Motho yo o tlolang karolotlaleletso 217 o tlola molao e bile fa o bonwe molato o tshwanetswe ke kotlhao ya tuediso e e sa feteng R5 000 mabapi le letsatsi lengwe le lengwe leo ka lona molato o tswelelang.

Ditsamaiso tsa Lekgotla

271. Motho yo o tlolang kaelo go ya ka karolo 232(5)*(a)*, kgotsa yo o ganang, ntle le lebaka le le utlwagalang, go tsaya kano kgotsa tlhomamiso fa a kopiwa go dira jalo jaaka go tlhalositswe mo karolong 232(5)*(b)*, o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse tlhano, kgotsa go duediswa le go tshwarwa goo ka bobedi.

Tsele le tsele

272. *(a)* Bolaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe e tlola molao fa tshedimosetso e senotswe kgotsa e aroganwe mabapi le maitlhomo a a sa dumelelwang go ya ka karolo 251(1) kgotsa (2), kgotsa ka mokgwa o o sa dumelelwang jaaka go kailwe mo karolong 251(5).

(b) Ka bobedi motlhankedi kgotsa modiri yo o aroganang kgotsa yo o senolang tshedimosetso, le bolaodi jwa lephata la ditshelete kgotsa Banka ya Resefe e boemong jwa yona tshedimosetso e aroganweng kgotsa e senotsweng, ba tlola molao fa motlhankedi kgotsa modiri—

(i) yo o sa dumelelwang go arogana kgotsa go senola tshedimosetso a arogana kgotsa a senola tshedimosetso ka tlolo ya karolo 251(6)*(c)*;

(ii) yo o dumeletsweng go arogana kgotsa go senola a arogana kgotsa senola tshedimosetso mabapi le maitlhomo a a sa dumelelwang go ya ka karolo 251(1) kgotsa (2), kgotsa ka mokgwa o o tlolang karolo 251(3) kgotsa (4).

(2) *(a)* Fa bolaodi jwa lephata la ditshelete kgotsa Banka ya Resefe bo tlola molao o o kailweng mo karolotlaleletsong (1), bo bonwe molato bo tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000.

(b) An official or employee who commits an offence referred to in subsection (1)*(b)* is liable on conviction to a fine not exceeding R5 000 000, or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

(3) An auditor who contravenes section 252 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(4) A person who contravenes section 254 commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

(5) A person who contravenes a condition imposed in terms of section 280 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

False or misleading information

273. A person who provides to a financial sector regulator or the Reserve Bank, information in connection with the operation of a financial sector law, that the person knew or believed, or ought reasonably to have known or believed, to be false or misleading, including by omission, commits an offence and is liable on conviction to a fine not exceeding R10 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

Accounts and records

274. A person who is required in terms of a financial sector law to keep accounts or records commits an offence if—

(a) the accounts or records do not correctly record and explain the matters, transactions, acts or operations to which they relate; and

(b) the person—

(i) knew that, or was reckless whether, the accounts or records correctly recorded and explained the matters, transactions, acts or operations to which they relate;

(ii) intended to deceive or mislead a financial sector regulator or an investigator; or

(iii) intended to hinder or obstruct a financial sector regulator, or an investigator in performing his or her duties in terms of a financial sector law,

and is liable on conviction to a fine not exceeding R10 000 000, or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

False assertion of connection with financial sector regulator

275. A person who, without the consent of the financial sector regulator, applies to a company, body, business or undertaking a name or description that reasonably signifies or implies some connection between the company, body, business or undertaking and a financial sector regulator commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

Liability in relation to juristic persons

276. (1) If—

(a) a financial institution commits an offence in terms of a financial sector law; and

(b) a member of the governing body of the financial institution failed to take all reasonably practicable steps to prevent the commission of the offence,

the member of the governing body commits the like offence, and is liable on conviction to a penalty not exceeding the penalty that may be imposed on the financial institution for the offence.

(2) If—

(a) a key person of a financial institution engages in conduct that amounts to a contravention of a financial sector law; and

(b) Motlhankedi kgotsa modiri yo o tlolang molao o o kaiweng mo karolotlaleletsong (1)*(b)* fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000, kgotsa go tswalelwa kwa kgolegelong 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 kotlhao 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 kotlhao ya tuelo e e sa feteng R5 000 000, kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse tlhano, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(5) Motho yo o tlolang peelo e e neetsweng go ya ka karolo 280 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000.

Tshedimosetso e e fosagetseng kgotsa e e timetsang

273. Motho yo o tlamelang molaodi 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 fosagetse kgotsa e e timetsa, go akaretsa le ka tlogelo, o tlola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R10 000 000, kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

Diakhaonto le direkoto

274. Motho yo o 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 tsona, e bile

(b) motho—

(i) a ne a itse, kgotsa a ne a sa kgathalele gore, diakhaonto kgotsa direkoto di gatisitse le go tlhalosa dintlha, ditsamaiso, ditiro kgotsa dikgato tse di amanang le tsona;

(ii) a ne a ikaeletse go tsietsa kgotsa go faposa bolaodi jwa lephata la ditšhelete kgotsa mmatlisisi; kgotsa

(iii) a ne a ikaeletse go kgoreletsa kgotsa go thibela bolaodi jwa lephata la ditšhelete, kgotsa mmatlisisi mo go direng ditiro tsa gagwe go ya ka molao wa lephata la ditšhelete,

ebile o tshwanetswe ke kotlhao ya tuelo e e sa feteng R10 000 000, kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

Tlnagiso e e fosagetseng ya kamano le bolaodi jwa lephata la ditšhelete

275. Motho yo, ntle le tumelelo ya molaodi wa lephata la ditšhelete, o dirisang go setlamo, mokgatlho, kgwebo kgotsa kano leina kgotsa tlhaloso e e kayang kgotsa bontshang kamano e e rileng magareng ga setlamo, mokgatlho, 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 mokgatlho o o busang wa setheo sa ditšhelete le le paletswe ke go tsaya dikgato tsotlhe tse di maleba tse di kgonegang go thibela tirego ya molato,

leloko la mokgatlho o busang le tlola molato oo, e bile fa le bonwe molato le tshwanetswe ke kotlhao e e sa feteng kotlhao e e ka pateletswang setheo sa ditšhelete mabapi le tlolomolao.

(2) Fa—

(a) motho yo o botlhokwa wa setheo sa ditšhelete a dira boitshwaro jo bo lereng tlolo ya molao wa lephata la ditšhelete; le

(b) the financial institution failed to take all reasonably practicable steps to prevent the conduct,

the financial institution must be taken also to have engaged in the conduct.

Part 4

General matters

Complaints

277. A financial sector regulator must, if asked, assist a person to make a complaint to the appropriate ombud about the actions or practices in terms of a financial sector law, of a person in connection with providing financial products or financial services.

Compensation for contraventions of financial sector laws

278. A person, including a financial sector regulator, who suffers loss because of a contravention of a financial sector law by another person, may recover the amount of the loss by action in a court of competent jurisdiction against—

(a) the other person; and

(b) any person who was knowingly involved in the contravention.

Extension of period for compliance

279. (1) A financial sector regulator may, for a valid reason, extend any period for compliance with, or a period prescribed by, a provision of a financial sector law, other than a provision that the financial sector regulator must comply with.

(2) A financial sector regulator may grant an extension in terms of subsection (1) more than once, and may do so either before or after the time for compliance has passed or the period prescribed has ended.

Conditions of licences

280. (1) A licence may be given subject to conditions specified in the licence or in the notice of the grant or issue of the licence given to the licensee.

(2) A suspension, cancellation or revocation of a licence in terms of a financial sector law may be subject to conditions specified in the notice of the suspension, cancellation or revocation given to the licensee.

(3) Contravention of a condition in terms of subsection (2) does not affect the suspension, cancellation or revocation of the licence.

(4) In this section, a reference to a licence must be read as including a reference to a consent, agreement, approval or permission of any kind in terms of a financial sector law.

Exemptions

281. (1) The responsible authority for a financial sector law may, in writing and with the concurrence of the other financial sector regulator, exempt any person or class of persons from a specified provision of the financial sector law, unless it considers that granting the exemption—

(a) will be contrary to the public interest; or

(b) may prejudice the achievement of the objects of a financial sector law.

(2) Subsection (1) applies to the granting of exemptions if a financial sector law does not provide a power to grant exemptions.

(3) If a financial sector law provides a power to grant exemptions, the responsible authority must—

(a) grant the exemption in terms of the relevant provisions of the financial sector law; and

(b) setheo sa ditšhelete se palelwa ke go tsaya dikgato tsotlhe tse di maleba go thibela boitshwaro joo,

setheo sa ditšhelete se tshwanetse go tsewa gore le sona se dirile tlolo ya molao.

Karolo 4

Merero ya kakaretso

Dingongorego

277. Molaodi wa lephata la ditšhelete o tshwanetse, fa a kopilwe, go thusa motho go dira ngongorego go ombud yo o maleba ka ga ditiro kgotsa ditiragatso go ya ka molao wa lephata la ditšhelete, tsa motho mabapi le go tlamela ka dikuno tsa ditšhelete kgotsa ditirelo 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 ntlha ya tlolo ya molao wa lephata la ditšhelete ka motho yo mongwe o ka busetsa madi a tatlhegelo ka tiro kwa kgotlatshekelong ya katlholo e e nonofileng kgatlhanong le—

(a) motho yo mongwe; le

(b) motho mongwe le mongwe yo o neng a amega ka go itse mo tlolong.

Katoloso ya paka ya go ikamanyo

279. (1) Molaodi wa lephata la ditšhelete o ka, ka lebaka le le utlwalang, katolosa paka nngwe le nngwe ya go ikamanya le, kgotsa paka e e neetsweng ke, kabelo ya molao wa lephata la ditšhelete, ntle le kabelo e molaodi wa lephata la ditšhelete a tshwanetseng go ikamanya le yona.

(2) Molaodi wa lephata la ditšhelete o ka dumelela katoloso go ya ka karolotlaleletso (1) go feta gangwe, o 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 neilweng moabelwalaesense.

(3) Tlolo ya lebaka go ya ka karolotlaleletso (2) ga e ame kemiso, phimolo kgotsa phediso ya laesense.

(4) Mo karolong eno, kaelo go laesense e tshwanetse go tseelwa gore e akaretsa kaelo go tumelelo, tumalano, thebolo kgotsa tetlelelo ya mofuta mongwe le mongwe go ya ka molao wa lephata la ditšhelete.

Dikgololo

281. (1) Bothati 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 fa bo tseela gore go abelana ka kgololo—

(a) go tla nna kgatlhanong le dikgatlhego tsa setšhaba; kgotsa

(b) go ka gobelela phitlhelelo ya maikaelelo a molao wa lephata la ditšhelete.

(2) Karolotlaleletso (1) e diriswa mo go abeleng dikgololo fa molao wa lephata la ditšhelete o sa tlamele ka thata ya go neelana ka dikgololo.

(3) Fa molao wa lephata la ditšhelete o tlamela ka thata ya go neelana ka dikgololo, bothati jo bo rwalang maikarabelo bo tshwanetse—

(a) go neelana ka kgololo go ya ka dikabelo tse di maleba tsa molao wa lephata la ditšhelete; le

(b) when deciding whether to grant an exemption, comply with the requirements of subsection (1) in addition to any requirements specified in the financial sector law.

(4) The responsible authority must publish each exemption.

Requirements for notification and concurrence

282. (1) If this Act provides that a financial sector regulator must notify the other financial sector regulator of a particular matter, the notification is not required if the other regulator has agreed, in a section 77 memorandum of understanding or otherwise, that—

(a) failure to provide the notice does not prejudice the achievement of its objective; and

(b) the notification is unnecessary.

(2) If this Act provides that a financial sector regulator may not take a particular action without the concurrence of the other financial sector regulator, the concurrence is not required if the other regulator has agreed, in a section 77 memorandum of understanding or otherwise, that—

(a) action of the relevant kind does not prejudice the achievement of its objective; and

(b) its concurrence is unnecessary.

(3) If this Act provides that a financial sector regulator may not take a particular action without the concurrence of the Reserve Bank, the concurrence is not required if the Reserve Bank has agreed, in a memorandum of understanding or otherwise, that the concurrence is unnecessary.

Arrangements for engagements with stakeholders

283. Each of the financial sector regulators and the Ombud Council must establish and give effect to arrangements to facilitate consultation and the exchange of information with financial institutions, financial customers, and prospective financial customers on matters of mutual interest.

Records and entries in books of account admissible in evidence

284. In any proceedings in terms of, or in relation to, a financial sector law, the records and books of account of a financial institution, and of a person who is engaged by a financial institution to perform a control function, are admissible as evidence of the matters, transactions and accounts recorded therein.

Immunities

285. The State, the Minister, the Reserve Bank, the Governor and Deputy Governors, a financial sector regulator, a member of the Executive Committee, the Prudential Committee, a member of a subcommittee of the Prudential Authority or the Financial Sector Conduct Authority, a member of the Tribunal, the Ombud Council, a member of the Ombud Board, an employee of the State, a board member or officer of the Reserve Bank, a staff member of a financial sector regulator, a staff member of the Reserve Bank, a person appointed by a financial sector regulator or the Reserve Bank to exercise a power or perform a function or duty in terms of a financial sector law is not liable for, or in respect of, any loss or damage suffered or incurred by any person arising from a decision taken or action performed in good faith in the exercise of a function, power or duty in terms of a financial sector law.

Notices to licensees

286. (1) A notice in terms of, or relating to, a financial sector law to a person who is or was licensed in terms of a financial sector law must be served on, or given to—

(a) the person; or

(b) if the person cannot be found after reasonable inquiry, some other person apparently involved in the management or control of a place where the person carries or carried on the licensed activities.

(b) fa bo swetsa ka go neelana ka kgololo, go ikamanya le ditlhokego tsa karolotlaleletso (1) mo godimo ga ditlhokego dingwe le dingwe tse di tsepamisitsweng mo molaong wa lephata la ditšhelete.

(4) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa kgololo nngwe le nngwe.

Ditlhokego tsa kitsiso le tumalano

282. (1) Fa Molao ono o tlamela gore molaodi wa lephata la ditšhelete o tshwanetse go itsise molaodi yo mongwe wa lephata la ditšhelete ka ga morero o o rileng, kitsiso ga e tlhokege fa molaodi yo mongwe a dumetse, mo karolong 77 ya memorantamo wa tumalano kgotsa ka gongwe, gore—

(a) go palelwa ke go tlamela ka kitsiso ga go gobelele phitlhelelo ya maikaelelo a ona; le

(b) kitsiso ga e tlhokagale.

(2) Fa Molao ono o tlamela gore molaodi wa lephata la ditšhelete o ka se dire tiro epe ntle le tumalano ya molaodi yo mongwe wa lephata la ditšhelete, tumalano ga e tlhokege fa molaodi yo mongwe a dumetse, mo karolong 77 ya memorantamo 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 tlamela 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 memorantamong wa tumalano kgotsa ka gongwe, gore tumalano ga e tlhokagale.

Dithulaganyo mabapi le ditherisano le batsayakarolo

283. Mongwe le mongwe wa balaodi ba lephata la ditšhelete le Khansele ya Ombud o tshwanetse go tlhoma le go tsenya mo tirisong dithulaganyo tsa go nolofatsa ditherisano le, le thefosano ya tshedimosetso le, batsayakarolo ba kgatlhego e e tshwanang.

Direkoto le dikwadiso mo dibukeng tsa go rwala maikarabelo a a amogelwang khaonto tse di amogelesegang jaaka bosupi

284. Mo ditsamaisong dingwe le dingwe go ya ka, kgotsa mabapi le, molao wa lephata la ditšhelete, direkoto le dibuka tsa akhaonto tsa setheo sa ditšhelete, le tsa motho yo o diriswang ke setheo sa ditšhelete go dira tiro ya go laola, di amogelesega jaaka bosupi jwa dintlha, ditiro le diakhaonto tse di rekotilweng ka fa gare.

Dikgololo

285. Puso, Tona, Banka ya Resefe, Mmusisi le Batlatsammusisi, molaodi wa lephata la ditšhelete, leloko la Komiti Khuduthamaga, Komiti ya Tlhokomelo, leloko la komiti ya Bolaodi jwa Tlhokomelo, Bolaodi jwa Boitshwaro jwa Lephata la Ditšhelete, leloko la Lekgotla, Khansele ya Ombud, leloko la Boto ya Ombud, modiredi wa Puso, Banka ya Resefe, leloko la boto kgotsa motlhankedi wa Banka ya Resefe, leloko la badirimmogo ba Banka ya Resefe, ga ba rwale maikarabelo a, kgotsa mabapi le, tatlhegelo nngwe le nngwe kgotsa kgobalo e e bonweng kgotsa itemogetsweng ke motho mongwe le mongwe ka ntlha ya tshwetso e e tserweng kgotsa tiro e e dirilweng ka mowa o montle mo go diragatseng tiro kgotsa thata go ya ka molao wa lephata la ditšhelete.

Kitsiso go baabelwadilaesense

286. (1) Kitsiso go ya ka, kgotsa e e amanang le, molao wa lephata la ditšhelete go motho yo o kgotsa yo o neng a abetswe laesense go ya ka molao wa lephata la ditšhelete e tshwanetse go neelwa go, kgotsa go newa—

(a) motho; kgotsa

(b) fa motho a sa kgone go fitlhelelwa morago ga patlisiso e e tseneletseng, motho mongwe yo o kileng a amega mo tsamaisong 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 maitlhomo a molao wa lephata la ditšhelete, tirelo go ya ka karolotlaleletso (1)*(b)* ke tirelo e e nonofileng.

Ditlhokego tsa phasalatso 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 tlhokego ya go e phasalatsa mo Lokwalodikgannyeng la Puso, go tshwanetse go tseelwa jaaka tlhokego ya go phasalatsa lokwalo kgotsa tshedimosetso mo Rejisetareng.

(2) Lokwalo kgotsa tshedimosetso e ka phasalatswa mo webesaeteng ya motho yo o tlhokang go e phasalatsa, kgotsa ka mekgwa mengwe e e nonofileng.

(3) Karolo eno ga e tlhoke phasalatso ya thalo ya lokwalo mo Rejisetareng.

Karolo 5

Melawana le dikaelo

Melawana le dikaelo

288. (1) Tona o ka dira Melawana go nolofatsa go tsenngwa 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) Tlhokego go ya ka molao wa lephata la ditšhelete kgotsa *Interpretation Act* (Molao 33 wa 1957), ya go phasalatsa Melawana mo Lokwalodikgannyeng la Puso e tshwanetse go tseelwa jaaka tlhokego ya go phasalatsa Melawana mo Rejisetareng.

(3) *(a)* Tona o ka rebola dikaelo tsa go senola dikgatlhegelo tse di botlhokwa tse di tlhalositsweng mo dikarolong 49,72, 193 le 226, go tlamela ka kaelo go batho bao ba kopilweng go senola dikgatlhegelo tsa botlhokwa go ya ka dikarolo tseo.

(b) Dikaelo tse di rebotsweng go ya ka temana *(a)* ga di amoge batho ba ba kopilweng go senola kgatlhegelo e e botlhokwa go ya ka dikarolo 49, 72, 193 le 226 ditiro tsa bona tsa go dirisa menagano ya bona ka nepagalo le go senola dikgatlhegelo tsotlhe tse di ka nnang botlhokwa.

(4) Tona o ka se dire Melawana ntle le fa Tona—

(a) a phasaladitse—

(i) melawana e e thadilweng;

(ii) polelo e e tlhalosang tlhokego ya le tiro e e ikaeletsweng ya Melawana;

(iii) polelo ya kutlwalo e e solofetsweng ya Melawana;

(iv) kitsiso e e laletsang ditlhagiso mabapi le Melawana le go itsise gore ditlhagiso di ka dirwa kae, jang 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 fitlha go (iv); le

(ii) pegelo ya dikgato tsa ditherisano, e e tla akaretsang—

(aa) maikarabelo ka kakaretso a dintlha tse di tlhagisitsweng mo ditlhagisong; le

(bb) tsibogelo go dintlha tse di tlhagisitsweng mo ditlhagisong.

(5) *(a)* Paka e e dumeletsweng ya go dira ditlhagiso tse di kailweng mo temaneng (4)*(a)* e tshwanetse go nna bonnye dibeke tse thataro.

(b) Paka e e letleletsweng mabapi le tshekatsheko e e kailweng mo karolotlaleletsong (4)*(b)* e tshwanetse go nna bonnye matsatsi a le 30 fa Palamente e kokoane.

(6) Fa Tona a ikaelela, ka ntlha ya kgotsa eseng ka ntlha ya ditlamorago 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 boeletsa tsamaiso e e kailweng mo karolotlaleletsong (4).

(7) Fa go ikamanngwa le karolotlaleletso (4) kgotsa (6), go ya ka mogopolo wa Tona, go ka lere kgobelelo mo barekeding ba ditšhelete kgotsa kotsi mo thulaganyong ya ditšhelete, kgotsa go fenya maikaelelo a Molawana o o tshitsintsweng, Tona o tshwanetse, pele a dira Molawana—

(a) go phasalatsa—

(i) Molawana o o thadilweng le polelo e e tlhalosang tlhokego ya le tiro e e ikaeletsweng ya Molawana;

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PART 3 OF 5

THE PRESIDENCY

No. 853 22 August 2017

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

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(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

"Financial Services Board Act" means the Financial Services Board Act, 1990 (Act No. 97 of 1990).

(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 dikarolotlaleletso (4) le (6) e tseelwa gore eka tlisa kgobelelo mo barekeding ba ditšhelete kgotsa kotsi mo thulaganyong ya ditšhelete, kgotsa ya fenya maikaelelo a Molawana o o tshitsintsweng; le

(b) go romelela Palamente dikwalo tse di kailweng mo temaneng *(a)*.

(8) *(a)* Nako e e letleletsweng ya go dira ditlhagiso tse di kailweng mo karolotlaleletsong (7)*(a)*(ii) e tshwanetse go nna bonnye malatsi a le supa.

(b) Nako e e letleletsweng ya go romela ditlhagiso kwa Palamenteng 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 nngwe le nako e e kailweng mo temaneng *(a)*.

(9) Tona o tshwanetse, morago ga go dira Molawana o o tsamaelanang le dikarolotlaleletso (7) le (8), mo malatsing a le 30 a go dira Molawana, go romelela Palamente pegelo ya kgato ya ditherisano e e kailweng mo dikarolotlaleletsong (13) go fitlha 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 tsotlhe tse di amogetsweng ka letlha la bofelo la nako e e kailweng mo karolotlaleletsong (5)*(a)* kgotsa (8)*(a)* le dipuisano tsa Palamete.

(12) Molawana o tsenngwa mo tirisong—

(a) ka letlha le o phasaladitsweng mo Rejisetareng ka lona; kgotsa

(b) fa Molawana o tlamela gore o tla tsenngwa 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 tshwanetse go akaretsa—

(a) boikarabelo ka kakaretso jwa dintlha tse di tlhagisitsweng mo ditlhagisong tse di dirilweng ka nako ya ditherisano; le

(b) tsibogelo go dintlha tse di tlhagisitsweng mo ditlhagisong.

(15) Fa Tona a sa ikamanya le karolotlaleletso (4) kgotsa (6) mabapi le mabaka a a boletsweng mo karolotlaleletsong (7), pegelo ya ditherisano e tshwanetse go phasalatswa mo malatsing a le 30 morago ga go dirwa ga sediriso e bile pegelo e tshwanetse go akaretsa polelo ya mabaka a gore goreng tiego e e nnileng teng mo go ikamanyeng, kgotsa mo go ikamanyeng ka botlalo, le karolotlaleletso (4) kgotsa (6) e tseetswe gore e bakile kgobelelo mo barekeding ba ditšhelete kgotsa kotsi mo thulaganyong ya ditšhelete, kgotsa e fentse maikaelelo a Molawana.

Karolo 6

Ditlhabololo, diphediso, dikabelo tsa kgabaganyo le tshomarelo

Tlhaloso

289. Mo Karolong eno—

"Boto ya Boikuelo" e kaya Boto ya Boikuelo e e tlhomilweng ke karolo 26A ya *Financial Services Board Act*;

"Bokaedi jwa Tirisobotlhaswa ya Mmaraka" bo kaya Bokaedi jwa Tirisobotlhaswa ya Mmaraka jo bo tlhomilweng ke karolo 12 ya *Insider Trading Act*, 1998 (Molao 135 wa 1998) le go tsweletswa go ya ka *Securities Services Act*, 2004 (Molao 36 wa 2004) le *Financial Markets Act* ya nako eo;

"Komiti ya Kgatelelo" e kaya Komiti ya Kgatelelo e e tlhomilweng go ya ka karolo 10A ya *Financial Services Board Act* kgotsa karolo 97 ya *Securities Services Act*, 2004 (Molao 36 wa 2004);

"Boto ya Ditirelo tsa Ditšhelete" e kaya Boto ya Ditirelo tsa Ditšhelete jaaka e tlhalositswe mo *Financial Services Board Act*; le

"Molao wa Boto ya Ditirelo tsa Ditšhelete" e kaya *Financial Services Board Act*, 1990 (Molao 97 wa 1990).

Amendments and repeals

290. The Acts listed in Schedule 4 are amended or repealed as set out in that Schedule.

Transitional provision in relation to medical schemes

291. (1) The functions of the Prudential Authority in relation to medical schemes and the associated powers and duties of the Prudential Authority are, to the extent determined by, and subject to any conditions determined by, the Minister, to be exercised by the Council for Medical Schemes instead of the Prudential Authority, but with the concurrence of the Prudential Authority.

(2) The functions of the Financial Sector Conduct Authority in relation to medical schemes and the associated powers and duties of the Financial Sector Conduct Authority are, to the extent determined by, and subject to any conditions determined by, the Minister, to be exercised by the Council for Medical Schemes instead of the Financial Sector Conduct Authority, but with the concurrence of the Financial Sector Conduct Authority.

(3) A determination in terms of subsection (1) or (2) must be published.

(4) The concurrence of a financial sector regulator in terms of subsection (1) or (2) to the exercise of a particular power or the performance of a particular function or duty is not required if the financial sector regulator has agreed in writing that—

(a) the exercise of the power or the performance of the function or duty does not prejudice the achievement of its objective; and

(b) its concurrence is unnecessary.

Transitional prudential powers of Financial Sector Conduct Authority

292. (1) This section applies for the period of three years from the date on which this section comes into effect but the Minister may, by notice in the *Gazette*, determine a shorter or longer period.

(2) The power of the Prudential Authority to make prudential standards, to be complied with by the following financial institutions, with respect to the safety and soundness of those financial institutions and otherwise to achieve the objectives of the Prudential Authority, is to be exercised by the Financial Sector Conduct Authority:

(a) Collective investment schemes as defined in section 1(1) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

(b) pension funds as defined in section 1(1) of the Pension Funds Act;

(c) friendly societies as defined in section 1(1) of the Friendly Societies Act.

(3) A prudential standard in terms of subsection (2) may only impose requirements that may be imposed under the specific financial sector law relevant to the financial institution concerned.

(4) The Financial Sector Conduct Authority may exercise its other powers in terms of financial sector laws with respect to the financial institutions referred to in subsection (2) to achieve the objective of the Prudential Authority.

(5) Subsection (3) does not affect the powers of the Financial Sector Conduct Authority in respect of a financial institution.

Transfer of assets and liabilities of Financial Services Board

293. (1) At the date on which this section comes into effect, the assets and liabilities of the Financial Services Board cease to be assets and liabilities of the Board and become assets and liabilities of the Financial Sector Conduct Authority without any conveyance, transfer or assignment.

(2) A person or authority who, in terms of a law or of a trust instrument or in any other way is required to keep or maintain a database in relation to assets or liabilities must, and may without any application or otherwise, record in the database the transfer of the asset or liability in terms of subsection (1).

Ditlhabololo le diphediso

290. Melao e e neetsweng mo Šejuleng 4 e a tlhabololwa kgotsa phimolwa jaaka go tlhalositswe mo Šejuleng 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 tlhomamisitsweng ke, le go ya ka mabaka mangwe le mangwe a a tlhomamisitsweng ke, Tona, di tshwanetse go diragatswa ke Khansele ya Dikema tsa Kalafi e seng Bothati jwa Tlhokomelo, mme fela ka tumalano le Bothati jwa Tlhokomelo.

(2) Ditiro tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mabapi le dikema tsa kalafi le maatla le ditiro tse di di patileng tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, ka bogolo jo bo tlhomamisitsweng ke, le go ya ka mabaka mangwe le mangwe a a tlhomamisitsweng ke, Tona, di tshwanetse go diragatswa ke Khansele ya Dikema tsa Kalafi e seng Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, mme fela ka tumalano le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(3) Tlhomamiso go ya ka karolotlaleletso (1) kgotsa (2) e tshwanetse go phasalatswa.

(4) Tumalano ya bolaodi ja lephata la ditšhelete go ya ka karolotlaleletso (1) kgotsa (2) ya tiragatso ya thata e e rileng kgotsa go dirwa ga tiro e e rileng ga go tlhokege fa bolaodi jwa lephata la ditšhelete 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 tlhokege.

Dithata tsa kgaba ganyo tsa tlhokomelo ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete

292. (1) Karolo eno e diriswa mo pakeng ya dingwaga tse tharo go simolola ka letlha la go tsenngwa mo tirisong ga karolo eno mme Tona o ka, ka kitsiso mo Lokwalodikgannyeng la Puso, tlhomamisa paka e khutshwane kgotsa e telele.

(2) Thata ya Bothati jwa Tlhokomelo ya go dira maemo a tlhokomelo, eo ditheo tsa ditšhelete tse di latelang di tshwanetseng go ikamanya le yona, mabapi le tshireletsego le tlhomamo ya ditheo tseo tsa ditšhelete le go fitlhelela maikaelelo a Bothati jwa Tlhokomelo, e tshwanetse go diragatswa ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete:

(a) Dikema tsa peeletsommogo 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 karolotlaleletso (2) a ka pateletsa fela ditlhokego tse di ka pateletswang ka fa tlase ga molao wa lephata la ditšhelete o o rileng o o maleba go setheo sa ditšhelete se se amegang.

(4) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka diragatsa dithata tsa jona tse dingwe go ya ka melao ya lephata la ditšhelete mabapi le ditheo tsa ditšhelete tse di kailwaeng mo karolotlaleletsong (2) go fitlhelela maikaelelo a Bothati jwa Tlhokomelo.

(5) Karolotlaleletso (3) ga e ame dithata tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mabapi le setheo sa ditšhelete.

Tshutiso ya dithoto le melato ya Boto ya Ditirelo tsa Ditšhelete

293. (1) Ka letlha leo karolo eno e tsenngwang mo tirisong ka lona, dithoto le melato ya Boto ya Ditirelo tsa Ditšhelete di khutla go nna dithoto le melato ya Boto mme di nna dithoto le melato ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ntle le thebolelo, tshutiso kgotsa kabo.

(2) Motho kgotsa bothati jo, go ya ka molao kgotsa sediriso sa terasete kgotsa ka mokgwa ofe bo tlhokang go tshola kgotsa tshegetsa deithabeise mabapi le dithoto kgotsa melato bo tshwanetse, e bile bo ka ntle le tiriso kgotsa ka mokgwa mongwe, rekota mo deithabeising tshutiso ya dithoto kgotsa melato go ya ka karolotlaleletso (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 thoto 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 letleletsweng ke Tona mabapi le maitlhomo a karolo eno o ka kanela ka go kwala gore thoto e e tsepamisitsweng kgotsa molato ya Boto ya Ditirelo tsa Ditšhelete e nnile thoto kgotsa molato wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ka letlha leo karolo eno e tsentsweng mo tirisong ka lona.

(b) Setifikeiti go ya ka temana *(a)* ke bosupi jo bo konotelelang jwa gore thoto kgotsa molato o o tsepamisitsweng wa Boto ya Ditirelo tsa Ditšhelete ke thoto kgotsa molato wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

Tshutiso ya badiri ba Boto ya Ditirelo tsa Ditšhelete

294. (1) *(a)* Ka letlha leo karolo eno e tsenang mo tirisong ka lona, badiri ba Boto ya Ditirelo tsa Ditšhelete ba tshwanetse go sutisetswa kwa Bothating jwa Boitshwaro jwa Lephata la Ditšhelete le Banka ya Resefe, ka tatelano, go ya ka karolo 197 ya *Labour Relations Act*, 1995 (Molao 66 wa 1995).

(b) Kaelo nngwe le nngwe mo karolong 197 ya *Labour Relations Act*, 1995, go—

(i) "mothapi wa kgale" e tshwanetse go tsewa jaaka kaelo go Boto ya Ditirelo tsa Ditšhelete; le

(ii) "mothapi yo mošwa" e tshwanetse go tsewa jaaka kaelo go Bothati jwa Boitshwaro jwa Lephata la Ditšhelete kgotsa Banka ya Resefe, go ya ka mabaka, mabapi le badiri ba ba tla sutisetswang go nngwe ya ditheo tseno.

(c) Ditumalano tse di kailweng mo karolong 197 ya *Labour Relations Act*, 1995, di tshwanetse go sekaseka tshutiso ya badiri ba Boto ya Ditirelo tsa Ditšhelete go matlole a phenšene a Banka ya Resefe ya Aforikaborwa, mo go tlhokegang.

(2) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, ka letlha leo karolo eno e tsenngwang mo tirisong ka lona, bo rwala maikarabelo, mabapi le maikarabelo a Boto ya Ditirelo tsa Ditšhelete a go etleetsa tshenyegelo ya dikabelo tse di duelwang go sekema sa kalafi se se kwadisitsweng ka fa tlase ga *Medical Schemes Ac*t ke—

(a) motho yo o neng a thapilwe ke Boto ya Ditirelo tsa Ditšhelete go simolola ka 1 Ferikgong 1997 a be a tswelela go thapiwa jalo go fitlhela a rola tiro mo Botong ya Ditirelo tsa Ditšhelete; kgotsa

(b) motho yo o neng e le mogatsa kgotsa moikaegi wa motho yo o tlhalositsweng mo temaneng *(a)* ka nako ya go rola tiro mo Botong ya Ditirelo tsa Ditšhelete, kgotsa go tlhokafala ga motho fa a ne e le modiri wa Boto ya Ditirelo tsa Ditšhelete.

(3) Fa dikunomolemo tse di duelwang leloko go ya ka melawana ya Letlole la Penšene 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 kgethegileng, dikunomolemo tse di duelwang modiri yoo ka nako ya go rola tiro ga gagwe ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le Banka ya Resefe 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, letlole la penšene la Boto ya Ditirelo tsa Ditšhelete e nna letlole la penšene la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

Dipegelo tsa ngwaga

295. (1) Bothati jwa Tlhokomelo bo tshwanetse go baakanya pegelo nngwe le nngwe ya ngwaga ya bolaodi jwa lephata la ditšhelete e e tlhokwang ke molao wa lephata la ditšhelete oo e leng bolaodi jo bo rwalang maikarabelo a yona mabapi le paka ya go bega e mo go yona letlha le karolo eno e tshwanetseng go tsenngwa mo tirisong ka lona.

(2) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go baakanya pegelo nngwe le nngwe ya ngwaga ya Boto ya Ditirelo tsa Ditšhelete kgotsa bolaodi bongwe jwa lephata la ditšhelete e e tlhokwang ke molao wa lephata la ditšhelete o e leng ona bothati jo bo rwalwang maikarabelo mabapi le paka ya go bega eo 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 ntlha ya ngwaga ya Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwaro 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

296. (1) Tlhatlhobo kgotsa patlisiso go ya ka *Banks Act*, *Mutual Banks Act*, 1993 (Molao 124 wa 1993) *Act, Co-operative Banks Act*, 2007 (Molao 40 wa 2007), Short *Term Insurance Act* kgotsa Long *Term Insurance Act* e e sa letilweng e bile e sa konosetswa ka bonako pele ga letlha leo ka lona karolo eno e tsenngwang tirisong e ka tsweletswa le go khutliswa ke Bothati jwa Tlhokomelo go ya dikabelo tse di maleba tsa Molao ono, kgotsa ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mabapi le tlhatlhobo kgotsa patlisiso go ya ka *Short-term Insurance Act* kgotsa *Long-term Insurance Act*.

(2) Tlhatlhobo kgotsa patlisiso go ya ka molao wa lephata la ditšhelete kgotsa molawana o o kailweng mo tlhalosong ya "molawana wa Boto ya Ditirelo tsa Ditšhelete "mo karolong 1 ya *Financial Services Board Act*, ntle le eo e kailweng mo karolotlaleletsong (1), e e letilweng mme e sa konosetswa ka bonako pele ga letlha la go tsenngwa mo tirisong ga Kgaolo eno e ka tsweletswa le go knosetswa ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka dikabelo tse di maleba tsa Molao ono.

Ditumalano tsa tirisanommogo le diejensi tsa kwa ntle

297. Thulaganyo mabapi le molao wa lephata la ditšhelete magareng ga mokwadisi, motlhokomedi kgotsa molaodi yo mongwe wa lephata la ditšhelete le ejensi ya puso ya boditšhaba e e diriswang ka letlha leo karolo eno e tsenngwang mo tirisong ka lona e tswelela go diriswa jaaka le ka kemisetso ya molaodi wa lephata la ditšhelete yo o maleba mabapi le mokwadisi, motlhokomedi kgotsa molaodi yo mongwe wa lephata la ditšhelete, mme e ka tlhabololwa 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 tsenngwa tirisong ga Karolo eno; le

(ii) panele ya Boto ya Boikuelo e tla tswelela go samagana le morero mongwe le mongwe o e neng e samagane le ona ka bonako pele ga letlha leo.

(b) Komiti ya Kgatelelo le dipanele tse di kailweng mo temaneng *(a)*(ii) di tswelela go nna teng mabapi le maitlhomo a temana *(a)* fela.

(2) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go tlamela Komiti ya Kgatelelo le dipanele tse dingwe ka tshegetso ya tsamaiso le e nngwe.

(3) Mabapi le maitlhomo a karolo eno, ditsamaiso di a diragatswa fa—

(a) mo lebakeng la Komiti ya Kgatelelo e e tlhomilweng go ya ka karolo 97 ya *Securities Sevices 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 ditshwetso tsa Boto ya Ditirelo tsa Ditšhelete

299. Go sa nyatswe diphimolo tse di dirisitsweng go ya ka karolo 290, karolo 26 ya *Financial Services Board Act* e tswelela go diriswa mabapi le ditshwetso tse di dirilweng pele ga letlha leo boikuelo bo tsenngwang mo tirisong ka lona, mme boikuelo jo bo tlhalositsweng 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 tlhomamiswe ka konotelelo pele ga letlha leo karolo eno e tsenngwang mo tirisong ka lona e ka tsweletswa fa pele ga boto ya tshekatsheko, eo e tshwanetseng go diragatsa dithata tsa Lekgotla mabapi le kopo.

(2) The Prudential Authority must be substituted as a party in any pending proceedings, whether in a court, tribunal or before an arbitrator or any other person or body, that have been commenced but not finally determined immediately before the date on which this section comes into effect, for the Reserve Bank or a registrar in terms of the Banks Act, the Mutual Banks Act, 1993 (Act No. 124 of 1993), the Co-operative Banks Act, 2007 (Act No. 40 of 2007), the Short-term Insurance Act or the Long-term Insurance Act.

(3) The Financial Sector Conduct Authority must be substituted as a party in any pending proceedings, whether in a court, tribunal or before an arbitrator or any other person or body, that have been commenced but not finally determined immediately before the date on which this section comes into effect, for the Financial Services Board, the Directorate of Market Abuse, where applicable, or a registrar in terms of a financial sector law other than the Banks Act.

Savings of approvals, consents, registrations and other acts

301. (1) A licence, authorisation, approval, registration, consent or similar permission given in terms of a financial sector law and in force immediately before the date on which this section comes into effect remains in force for the purposes of the financial sector law, but may be amended or revoked by the responsible authority for the financial sector law, in accordance with the provisions of that financial sector law.

(2) Rules made in terms of section 26 of the Financial Advisory and Intermediary Services Act and in force immediately before the date on which this section come into effect have effect as Ombud Council rules, and may be amended or revoked by Ombud Council rules in accordance with this Act.

(3) A regulatory instrument or Regulation made or issued in terms of a financial sector law and in force immediately before the date on which this section comes into effect remains in force for the purposes of the financial sector law but may be amended or revoked by a regulatory instrument made by the responsible authority for the financial sector law in accordance with the relevant financial sector law.

(4) Consultations undertaken before the date on which Part 1 of Chapter 7 comes into effect in relation to a regulatory instrument proposed to be made under a specific financial sector law or a proposed financial sector law after that Part came into effect are taken to meet the requirements of this Act for consultation to the extent that they—

(a) meet the requirements of the specific financial sector law for consultation prior to the amendment of that law in accordance with Schedule 4; or

(b) substantially meet the requirements of this Act for consultation on the proposed regulatory instrument.

(5) Regulations made in terms of section 5 of the Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993), and in force on the date on which this section comes into effect continue in force, but may be amended or repealed by Regulations made in terms of section 5 by the Prudential Authority.

(6) An ombud scheme that, immediately before the repeal of the Financial Services Ombuds Schemes Act, 2004 (Act No. 37 of 2004), came into effect, was recognised in terms of that Act must be taken to be a recognised industry ombud scheme as if it had been recognised under this Act.

(7) Subsection (6) ceases to have effect at the end of 12 months after Chapter 14 takes effect, but the Ombud Council may, on application and for good reason, extend the application of that subsection in a particular case for a further period of not more than 6 months.

(2) Bothati jwa Tlhokomelo bo tshwanetse go emisetswa jaaka mokgatlho mo ditsamaisong dingwe le dingwe tse di letetsweng, kwa kgotlatshekelong, lekgotleng kgotsa fa pele ga motsereganyi kgotsa motho mongwe le mongwe yo mongwe kgotsa mokgatlho, tse di neng di simolotswe mme di ise di tlhomamiswe ka konotelelo ka bonako pele ga letlha leo ka lona karolo eno e tsenngwang mo tirisong, mabapi le Banka ya Resefe kgotsa mokwadisi go ya ka *Banks Act, the Mutual Banks Act*, 1993 (Molao 124 wa 1993), *Co-operative Banks Act*, 2007 (Molao 40 wa 2007), *Short Term Insurance Act* kgotsa *Long Term Insurance Act*.

(3) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go emisetswa jaaka mokgatlho mo ditsamaisong dingwe le dingwe tse di letetsweng, kwa kgotlatshekelong, lekgotleng kgotsa fa pele ga motsereganyi kgotsa motho mongwe le mongwe yo mongwe kgotsa mokgatlho, tse di neng di simolotswe mme di ise di tlhomamiswe ka konotelelo ka bonako pele ga letlha leo ka lona karolo eno e tsenngwang mo tirisong, mabapi le Boto ya Ditirelo tsa Ditšhelete, Bokaedi jwa Tirisobotlhaswa ya Mmaraka kgotsa mokwadisi go ya ka molao wa lephata la ditšhelete ntle le *Banks Act*.

Ditshomarelo tsa dithebolo, ditumelelo, dikwadiso le ditiro tse dingwe

301. (1) Laesense, tetla, thebolo, kwadiso, tumalano kgotsa tumelelo e e tshwanang e e neilweng go ya ka molao wa lephata la ditšhelete le go diragatswa ka bonako pele ga letlha le ka lona karolo eno e tsenngwang mo tirisong e sala go nna mo tirisong mabapi le maitlhomo a molao wa lephata la ditšhelete mme e ka tlhabololwa kgotsa phimolwa ke bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete, go tsamaelana le dikabelo tsa molao oo wa lephata la ditšhelete.

(2) Melawana e e dirilweng go ya ka karolo 26 ya *Financial Advisory and Intermediary Services Act* le go tsenngwa mo tirisong ka bonako pele ga letlha leo karolo eno e tsenngwang mo tirisong ka lona e na le ditlamorago jaaka melawana ya Khansele ya Ombud, e bile e ka tlhabololwa kgotsa phimolwa ke Khansele ya Ombud go tsamaelana le Molao ono.

(3) Sediriso sa bolaodi se se dirilweng kgotsa rebotsweng go ya ka molao wa lephata la ditšhelete le go diriswa ka bonako pele ga letlha leo karolo eno e tsenngwang mo tirisong ka lona se sala go nna mo tirisong mabapi le maitlhomo a molao wa lephata la ditšhelete mme se ka tlhabololwa kgotsa phimolwa ke bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete go tsamaelana le molao wa lephata la ditšhelete o o maleba.

(4) Ditherisano tse di dirilweng pele ga letlha le Karolo 1 ya Kgaolo 7 e tsenngwang mo tirisong ka lona mabapi le sediriswa sa bolaodi se se tshitsintsweng go dirwa ka fa tlase ga molao wa lephata la ditšhelete o o tsepamisitsweng kgotsa molao wa lephata la ditšhelete o o tshitsintsweng morago ga fa Karolo eo e tsenngwa mo tirisong di tsewa gore di tsamaelana le ditlhokego tsa Molao ono mabapi le therisano ya bogolo jwa gore di—

(a) tsamaelana le ditlhokego tsa molao wa lephata la ditšhelete o o tsepamisitsweng mabapi le therisano pele ga tlhabololo ya molao oo go tsamaelana le Šejule 4; kgotsa

(b) tsamaelana segolo le ditlhokego tsa Molao ono mabapi le therisano mo sedirisong sa bolaodi se se tshitsintsweng.

(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 letlha leo karolo eno e tsenngwang mo tirisong ka lona e tswelela go diriswa, mme e ka tlhabololwa kgotsa phimolwa ke Melawana e e dirilweng go ya ka karolo 5 ke Bothati jwa Tlhokomelo.

(6) Sekema sa ombud se, ka bonako pele ga go tsenngwa mo tirisong ga phimolo 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 khutlisa go diriswa kwa bokhutlong jwa dikgwedi tse 12 morago ga go tsenngwa tirisong ga Kgaolo 14, mme Khansele ya Ombud e ka, ka kopo le ka lebaka le le utlwalang, atolosetsa tiriso ya karolotlaleletso eo mo morerong o o rileng mo nakong e nngwe 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. 5

(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. 10

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— 15

(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. 20

(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 25

(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. 30

Part 7

Short title and commencement 35

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— 40

(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. 45

Lekgethwana

302. (1) Go sa nyatswe go phimolwa ga *Financial Services Board Act* go ya ka Šejule 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 fitlhela ka letlha le le beilweng ke Tona ka kitsiso e e phasaladitsweng mo Rejisetareng. 5

(2) Lekgethwana le le kailweng mo karolotlaleletsong (1) le, go simolola ka letlha leo karolo eno e tsenngwang mo tirisong ka lona, tseelwa gore ke lekgethwana mabapi le maitlhomo a Molao ono.

Mogakolodimogolo

303. Kaelo mo Molaong mongwe le mongwe kgotsa molaotlaleletso go Mogakolodimogolo e, morago ga letlha leo karolo eno e tsenngwang mo tirisong ka lona, tsewa jaaka kaelo go Bothati jwa Tlhokomelo. 10

Dithulaganyetso tsa kgabaganyo tsa tlaleletso

304. (1) Gore go nolofatswe go tsenngwa mo tirisong, tsenyotirisong e e maleba le tiro ya Molao ono, Tona o ka dira Melawana e e tlamelang mabapi le dithulaganyetso tsa kgabaganyo mabapi le tiragatso ya dithata, go dirwa ga ditiro, le merero e mengwe e e ka tswang e le botlhokwa mabapi le— 15

(a) go tlhongwa ga balaodi ba lephata la ditšhelete le mekgatlho e mengwe go ya ka Molao ono;

(b) go tsenngwa mo tirisong ga dikabelo tse di farologaneng tsa Molao ono; le 20

(c) phimolo le tlhabololo ya dikabelo tse di farologaneng tsa molao tse di phimotsweng kgotsa tlhabolotsweng ke Molao ono.

(2) Ntle le go lekanyetsa karolotlaleletso (1), Melawana go ya ka karolo eno e ka tlamela mabapi le—

(a) Banka ya Resefe gore e diragatse dithata tse di tsepamisitsweng le go dira ditiro tse di tsepamisitsweng tsa Bothati jwa Tlhokomelo, fa go ka tlhokega gore dithata le ditiro tsa Bothati jwa Tlhokomelo go ya ka Molao ono di diragatswe mabapi le nako ya pele ga go tlhongwa semmuso ga Bothati jwa Tlhokomelo; le 25

(b) Boto ya Ditirelo tsa Ditšhelete go diragatsa dithata tse di tsepamisitsweng le go dira ditiro tse di tsepamisitsweng tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, fa go ka tlhokega gore dithata le ditiro tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka Molao ono di diragatswe pele ga go tlhongwa semmuso ga Bothati jwa Boitshwaro jwa Lephata la Ditšhelete. 30 35

Karolo 7

Setlhogo se se khutshwane le tshimologo

Setlhogo se se khutshwane le tshimologo

305. (1) Molao ono o bidiwa Molao wa Taolo ya Lephata la Ditšhelete, 2017, e bile o tsenngwa mo tirisong ka letlha le le tlhomamisitsweng ke Tona ka kitsiso mo Lokwalodikgang la Puso. 40

(2) Matlha a a farologaneng a ka tlhomamiswa ke Tona mabapi le go tsenngwa tirisong ga—

(a) dikabelo tse di farologaneng tsa Molao ono;

(b) dikabelo tse di farologaneng tsa Molao ono mabapi le ditlhopha tse di farologaneng tsa ditheo tsa ditšhelete; le 45

(c) phimolo kgotsa tlhabololo ya dikabelo tse di farologaneng tsa molao o o phimotsweng kgotsa tlhabolotsweng 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)

Long-term Insurance Act, 1998 (Act No. 52 of 1998)

Short-term Insurance Act, 1998 (Act No. 53 of 1998)

Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001)

Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002)

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)

ŠEJULE 1

MELAO YA LEPHATA LA DITŠHELETE

(Karolo 1(1))

Pension Funds Act, 1956 (Molao 24 wa 1956)

Friendly Societies Act, 1956 (Molao 25 wa 1956)

Banks Act, 1990 (Molao 94 wa 1990)

Financial Services Board Act, 1990 (Molao 97 wa 1990)

Financial Supervision of the Road Accident Fund Act, 1993 (Molao 8 wa 1993)

Mutual Banks Act, 1993 (Molao 124 wa 1993)

Long-term Insurance Act, 1998 (Molao 52 wa 1998)

Short-term Insurance Act, 1998 (Molao 53 wa 1998)

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)

Financial sector law	Responsible authority
Pension Funds Act, 1956 (Act No. 24 of 1956)	Financial Sector Conduct Authority
Friendly Societies Act, 1956 (Act No. 25 of 1956)	Financial Sector Conduct Authority
Banks Act, 1990 (Act No. 94 of 1990)	Prudential Authority
Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993)	Prudential Authority
Mutual Banks Act, 1993 (Act No. 124 of 1993)	Prudential Authority
Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002)	Financial Sector Conduct Authority
Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002)	Financial Sector Conduct Authority
Co-operative Banks Act, 2007 (Act No. 40 of 2007)	Prudential Authority
Financial Markets Act, 2012 (Act No. 19 of 2012)	Financial Sector Conduct Authority
Credit Rating Services Act, 2012 (Act No. 24 of 2012)	Financial Sector Conduct Authority
The Long-term Insurance Act, 1998 (Act No. 52 of 1998) and the Short-term Insurance Act, 1998 (Act No. 53 of 1998), so far as they relate to matters within the objectives of— *(a)* the Prudential Authority *(b)* the Financial Sector Conduct Authority	 Prudential Authority Financial Sector Conduct Authority
A regulatory instrument made by the Prudential Authority	Prudential Authority
A regulatory instrument made by the Financial Sector Conduct Authority	Financial Sector Conduct Authority
A joint standard, so far as it relates to matters within the objectives of— *(a)* the Prudential Authority *(b)* the Financial Sector Conduct Authority	 Prudential Authority Financial Sector Conduct Authority

ŠEJULE 2

BOTHATI JO BO RWALANG MAIKARABELO

(Karolo 5)

Molao wa lephata la ditšhelete	**Bothati jo bo rwalang maikarabelo**
Pension Funds Act, 1956 (Molao 24 wa 1956)	Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
Friendly Societies Act, 1956 (Molao 25 wa 1956)	Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
Banks Act, 1990 (Molao 94 wa 1990)	Bothati jwa Tlhokomelo
Financial Supervision of the Road Accident Fund Act, 1993 (Molao 8 wa 1993)	Bothati jwa Tlhokomelo
Mutual Banks Act, 1993 (Molao 124 wa 1993)	Bothati jwa Tlhokomelo
Financial Advisory and Intermediary Services Act, 2002 (Molao 37 wa 2002)	Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
Collective Investment Schemes Control Act, 2002 (Molao 45 wa 2002)	Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
Co-operative Banks Act, 2007 (Molao 40 wa 2007)	Bothati jwa Tlhokomelo
Financial Markets Act, 2012 (Molao 19 wa 2012)	Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
Credit Rating Services Act, 2012 (Molao 24 wa 2012)	Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
Long-term Insurance Act, 1998 (Molao 52 wa 1998) le *Short-term Insurance Act*, 1998 (Molao 53 wa 1998), jaaka ga o amana le merero e e mo maikaelelong a— *(a)* Bothati jwa Tlhokomelo *(b)* Bothati jwa Boitshwaro jwa Lephata la Ditšhelete	 Bothati jwa Tlhokomelo Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
Sediriswa sa bolaodi se se dirilweng ke	Bothati jwa Tlhokomelo
Sediriswa sa bolaodi se se dirilweng ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete	Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
Maemo a a kopanetsweng, jaaka ga a amana le merero e e mo maikaelelong a— *(a)* Bothati jwa Tlhokomelo *(b)* Bothati jwa Boitshwaro jwa Lephata la Ditšhelete	 Bothati jwa Tlhokomelo Bothati jwa Boitshwaro jwa Lephata la Ditšhelete

SCHEDULE 3

DOCUMENTS TO BE PUBLISHED IN THE REGISTER

(Section 258)

1. This Act
2. Financial sector laws
3. Regulations made in terms of financial sector laws
4. Regulatory instruments made in terms of financial sector laws
5. Administrative action procedures
6. Guidance notes and interpretation rulings issued under Part 1 of Chapter 10
7. Enforceable undertakings
8. Orders of a court under section 152 or 204, other than interlocutory orders
9. Debarment orders
10. Licences (including their terms and the conditions to which they are subject)
11. Notice of variations, suspensions and revocations of licences (including any applicable conditions)
12. Notices in terms of section 122
13. The Panel list
14. Tribunal rules
15. Decisions of the Tribunal
16. Governing rules of recognised industry ombud schemes
17. The terms of recognition of industry ombud schemes and the conditions of recognition
18. Notice of variations, suspensions and revocations of recognition of industry ombud schemes (including any applicable conditions)
19. Determinations of fees in terms of section 237(1)*(a)*
20. Exemptions under section 281 (including any applicable conditions)
21. Documents that a financial sector law provides are to be published in the Register
22. Amendments to and revocations of documents referred to in items 1 to 21

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 bolaodi tse di dirilweng go ya ka melao ya lephata la ditšhelete
5. Dikgato tsa tiro ya tsamaiso
6. Dikitsiso tsa kaelo le ditshwetso tsa tlhaloso tse di tlamang tse di rebotsweng ka fa tlase ga Karolo 1 ya Kgaolo 10
7. Ditumalano tse di gatelelwang
8. Ditaelo tsa kgotlatshekelo tse di ka fa tlase ga karolo 152 kgotsa 204, ntle le ditaelo tsa puisano
9. Ditaelo tsa kganelo
10. Dilaesense (go akaretsa le dipeelo le mabaka tseo di leng ka fa tlase ga tsona)
11. Kitsiso ya diphetolo, dikemiso le diphimolo tsa dilaesense (go akaretsa 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 akaretsa le mabaka mangwe le mangwe a a diriswang)
19. Ditlhomamiso tsa dituediso go ya ka karolo 237(1)*(a)*
20. Dikgololo ka fa tlase ga karolo 281 (go akaretsa le mabaka mangwe le mangwe a a diriswang)
21. Dikwalo tse di tlamelwang ke molao wa lephata la ditšhelete di tshwanetse go phasalatswa mo Rejisetareng
22. Ditlhabololo le diphimolo tsa dikwalo tse di kailweng mo dintlheng 1 go Fitlha go 21

SCHEDULE 4

AMENDMENTS AND REPEALS

(Section 290)

Act No. and year	Short Title	Extent of repeal or amendment
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 of the Financial Markets Control Act, 1989 (Act No. 55 of 1989)]** 1(1) of the Financial Sector Regulation Act, 2017, the creditor may, after giving the notice mentioned in subsection (1) and before the second meeting of creditors, realise the property in the manner and on the conditions mentioned in subsection (8).''; *(b)* by the substitution for subsection (3) of the following subsection: ''(3) If such property does not consist of **[a marketable security]** securities or a bill of exchange, the trustee may, within seven days as from the receipt of the notice mentioned in subsection (1) or within seven days as from the date which the certificate of appointment issued by the Master in terms of subsection (1) of section eighteen or subsection (2) of section fifty six reached him, whichever be the later, take over the property from the creditor at a value agreed upon between the trustee and the creditor or at the full amount of the creditor's claim, and if the trustee does not so take over the property the creditor may, after the expiration of the said period but before the said meeting, realise the property in the manner and on the conditions mentioned in subsection (8).''; and

ŠEJULE 4

DITLHABOLOLO LE DIPHIMOLO

(Karolo 290)

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
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 gelisensieer kragtens artikel 9 van die **'Financial Markets Act'**, 2012; en *(b)* 'n sentralesekuriteitebewaarplek soos omskryf in artikel 1 en kragtens artikel 29 van daardie Wet gelisensieer; of *(c)* 'n verrekeningshuis soos omskryf in artikel 1 van daardie Wet en kragtens artikel 49 van die 'Financial Markets Act, 2012', gelisensieer; *(d)* 'n sentrale teenparty soos in artikel 1 van daardie Wet as 'n 'central counter party' omskryf en kragtens artikel 49 van daardie Wet gelisensieer; of *(e)* 'n gelisensieerde eksterne sentrale teenparty soos in artikel 1 van daardie Wet omskryf as 'n 'external central counter party;". **2.** Artikel 83 word gewysig— *(a)* deur subartikel (2) deur die volgende subartikel te vervang: "(2) As daardie goed bestaan uit effekte soos omskryf in artikel 1(1) van die 'Financial Markets Act', 2012 (Wet No. 19 van 2012, 'n wissel **[of]**, 'n finansiële instrument of 'n buitelandse finansiële instrument soos omskryf in artikel 1(1) van die **[Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989)]** 'Financial Sector Regulation Act', 2017, dan kan die skuldeiser, nadat hy kennis gegee het soos bepaal in subartikel (1) en voor die tweede byeenkoms van skuldeisers, die goed te gelde maak op die wyse en voorwaardes bepaal in subartikel (8)."; *(b)* deur in subartikel (8) paragraaf *(a)* deur die volgende paragraaf te vervang: "*(a)* as dit bestaan**[—** **(i)]** uit goed van 'n soort wat gewoonlik deur 'n

Act No. and year	Short Title	Extent of repeal or amendment
		(c) by the substitution in subsection (8) for paragraph *(a)* of the following paragraph: "*(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 section 12 thereof, forthwith]** in terms of that Act, immediately sell it through **[a stockbroker]** an authorised user, external authorised user or such regulated person, or if the creditor is **[a stockbroker]** an authorised user, external authorised user or regulated person, also to another **[stockbroker]** authorised user, external authorised user or regulated person; **[or** **(ii) a financial instrument referred to in subsection (2) the creditor may, subject to the provisions of the Financial Markets Control Act, 1989, and rules referred to in sections 17 thereof, forthwith sell it through a financial instrument trader as defined in section 1 of the said Act, or, if the creditor is a financial instrument trader or financial instrument principal as defined in section 1 of**

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		[effektemakelaar soos omskryf in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985)] gemagtigde gebruiker of ’n eksterne gemagtigde gebruiker, op ’n beurs of ’n eksterne beurs, elk omskryf in artikel 1(1) van die ‘Financial Markets Act’, 2012 (Wet No. 19 van 2012) omskryf, of, waar van toepassing, iemand deur die Minister van Finansies voorgeskryf as ’n gereguleerde persoon ingevolge artikel 5 van daardie Wet, verkoop word, kan die skuldeiser dit, behoudens die bepalings van **[genoemde]** daardie Wet en **[(waar van toepassing) die]** toepaslike standaarde en reëls **[bedoel in artikel 12 daarvan, onverwyld]** ingevolge daardie Wet, onmiddellik verkoop deur ’n **[effektemakelaar]** ’n gemagtigde gebruiker, eksterne gemagtigde gebruiker of sodanige gereguleerde persoon, of, indien die skuldeiser ’n **[effektemakelaar]** ’n gemagtigde gebruiker, eksterne gemagtigde gebruiker of gereguleerde persoon is, ook aan ’n ander **[effektemakelaar]** gemagtigde gebruiker, eksterne gemagtigde gebruiker of gereguleerde persoon; **[of** **(ii) ’n finansiële instrument bedoel in subartikel (2), kan die skuldeiser dit, behoudens die bepalings van die Wet op Beheer van Finansiële Markte, 1989, en reëls bedoel in artikel 17 daarvan, onverwyld verkoop deur ’n finansiële instrument-handelaar soos omskryf in artikel 1 van genoemde Wet, of, indien die skuldeiser ’n**

Act No. and year	Short Title	Extent of repeal or amendment
		the said Act, also to another financial instrument trader or financial instrument principal; **and]**''.
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'';

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		finansiële instrument-handelaar of 'n finansiële instrument-prinsipaal is soos omskryf in artikel 1 van genoemde Wet, ook aan 'n ander finansiële instrument-handelaar of finansiële instrument-prinsipaal;]".
Wet No. 24 van 1956	Wet op Pensioenfondse, 1956	**1.** Artikel 1 word gewysig— *(a)* deur in subartikel (1) na die omskrywing van "eggenoot" die volgende omskrywing in te voeg: " **'Financial Sector Regulation Act'** beteken die 'Financial Sector Regulation Act', 2016;"; *(b)* deur in subartikel (1) die volgende omskrywing na die omskrywing van "gebeurlikheidsreserwerekening" in te voeg: " **'gedragstandaard'** dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'conduct standard' toegeskryf word;"; *(c)* deur in subartikel (1) die volgende omskrywing na die omskrywing van "geregistreerde kantoor" in te voeg: " **'gesamentlike standaard'** dit wat ingevolge artikel 1(1) aan die 'Financial Sector Regulation Act' aan 'joint standard' toegeskryf word;"; *(d)* deur in subartikel (1) na die omskrywing van "ontslag weens personeelinkorting" die volgende omskrywing in te voeg: " **'Owerheid'** die Gedragsowerheid op die Finansiële Sektor ingestel ingevolge artikel 56 van die 'Financial Sector Regulation Act';"; *(e)* deur in subartikel (1) die omskrywing van "Raad op Finansiële Dienste" te skrap; *(f)* deur in subartikel (1) die volgende omskrywing na die omskrywing van "raadslid" in te voeg: " **'Register'** die Register van Finansiële Sektorinligting bedoel in artikel 256 van die 'Financial Sector Regulation Act';"; *(g)* deur in subartikel (1) die omskrywing van "registrateur" 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';";

Act No. and year	Short Title	Extent of repeal or amendment
		(i) by the insertion in subsection (1) after the definition of "this Act" of the following definition: " **'Tribunal'** means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;"; and *(j)* by the addition of the following subsection: "(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.". **2.** The insertion after section 1 of the following sections: "**Relationship between Act and Financial Sector Regulation Act** **1A.** (1) A reference in this Act to the registrar or the Financial Services Board must be read as a reference to the Authority. (2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act. (3) A reference in this Act to the Authority determining or publishing a matter by notice in the *Gazette* must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register. (4) Unless expressly 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 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.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(i) deur in subartikel (1) die volgende omskrywing na die omskrywing van "voorsorgbewaringsfonds" in te voeg: " **'voorsorgstandaard'** dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf word;"; *(j)* deur in subartikel (1) die omskrywing van "voorgeskryf" te skrap; en *(k)* deur die volgende subartikel by te voeg: "(3) Tensy die samehang anders aandui, het woorde en uitdrukkings wat nie in subartikel (1) omskryf is nie, 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 Raad op Finansiële Dienste, 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 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 voorskryf 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

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(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. *(b)* Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer. (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. (7) 'n Verwysing in hierdie Wet na 'n appèl teen 'n besluit van die Owerheid moet gelees word as 'n verwysing na 'n heroorweging van die besluit deur die Tribunaal ingevolge 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 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, behoudens 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 finansieel 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—"; and *(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,

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
		(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 verwysing 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 aanstelling,

Act No. and year	Short Title	Extent of repeal or amendment
		remuneration (if any) and removal of the board, be amended if **[the results of an inspection or on-site visit under section 25 necessitates amendment of the rules of the fund or if the registrar is of the opinion that]** the fund— **[(i)]***(a)* is not in a sound financial condition or does not comply with the provisions of this Act or the regulations affecting the financial soundness of the fund; **[(ii)]***(b)* has failed to act in accordance with the provisions of section 18; or **[(iii)]***(c)* is not being managed in accordance with this Act or the rules of the fund.''. **9.** The insertion in Chapter VA before section 30A of the following section: ''**Ombud scheme** **30AA.** The ombud scheme in relation to complaints regulated in terms of this Chapter is declared to be a statutory ombud scheme for the purposes of the Financial Sector Regulation Act.''. **10.** The substitution in section 30C(1) for the words preceding paragraph *(a)* of the following words: ''The Minister shall**[, after consultation with the Financial Services Board,]** appoint—''. **11.** The substitution for section 30D of the following section: ''**Main object of Adjudicator** **30D.** (1) The main object of the Adjudicator shall be to dispose of complaints lodged in terms of section 30A(3) of this Act, and complaints for which the Adjudicator is designated in terms of section 211 of the Financial Sector Regulation Act **[in a procedurally fair, economical and expeditious manner]**. (2) In disposing of complaints in terms of subsection (1) the Adjudicator must— *(a)* apply, where appropriate, principles of equity;

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		bevoegdhede, vergoeding (indien enige) en verwydering van die raad, gewysig word indien **[die uitslag van 'n inspeksie of besoek ter plaatse kragtens artikel 25 wysiging van die statute van die fonds verg of indien die registrateur van mening is dat]** die fonds— **[(i)]***(a)* nie in 'n gesonde finansiële toestand is nie of nie voldoen aan die bepalings van hierdie Wet of die regulasies wat die finansiële gesondheid van die fonds raak nie; **[(ii)]***(b)* versuim het om ooreenkomstig die bepalings van artikel 18 op te tree; of **[(iii)]***(c)* nie bestuur word ooreenkomstig hierdie Wet of die statute van die fonds nie.''. **9.** Die volgende artikel word in Hoofstuk VA voor artikel 30A ingevoeg: ''**Ombudskema** **30AA.** Die ombudskema in verband met die klagtes ingevolge hierdie Hoofstuk gereguleer, word verklaar 'n statutêre ombudskema by die toepassing van die 'Financial Sector Regulation Act', te wees.''. **10.** In artikel 30C(1) word die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde vervang: ''Die Minister stel**[, na oorleg met die Raad op Finansiële Dienste]** aan—''. **11.** Artikel 30D word deur die volgende artikel vervang: ''**Hoofoogmerk van Beregter** **30D.** (1) Die hoofoogmerk van die Beregter is om **[op 'n prosedureel regverdige, 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;

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		(b) have regard to the contractual arrangement or other legal relationship between the complainant and any financial institution; *(c)* have regard to the provisions of this Act; and *(d)* act in a procedurally fair, economical and expeditious manner.''. **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)*(b*A*)* 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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		(b) let op die kontraktuele reëling of ander regsverhouding tussen die klaer en enige finansiële instelling; *(c)* op die bepalings van hierdie Wet let; en *(d)* prosedureel regverdig, ekonomies en vinnig handel.”. **12.** Die woorde wat paragraaf *(a)* in artikel 30Q voorafgaan word deur die volgende woorde vervang: “Die Beregter kan **[met die instemming van die Raad op Finansiële Dienste]**—”. **13.** Paragraaf *(a)* in artikel 30R(1) word deur die volgende paragraaf vervang: “*(a)* fondse **[voorsien deur die Raad op Finansiële Dienste]** wat ingevolge wetgewing aan die Beregter toeval op grond van ’n begroting voorgelê aan, en goedgekeur deur, die **[Raad op Finansiële Dienste]** Minister; en”. **14.** Die uitdrukking “Raad op Finansiële Dienste” word in artikel 30S vervang deur die uitdrukking “Minister”. **15.** Subartikel (1) van artikel 30T word deur die volgende subartikel vervang: “(1) **[Ondanks die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is die raad van die Raad op Finansiële Dienste soos in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), omskryf,]** Die Beregter is die rekenpligtige gesag van die kantoor van die Beregter.”. **16.** Artikels 33, 33A en 34 word herroep. **17.** Subartikels (1)*(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: " **'conduct standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(c)* by the insertion in subsection (1) after the definition of "court" of the following definition: " **'Financial Sector Regulation Act'** means the Financial Sector Regulation Act, 2017;"; *(d)* by the insertion in subsection (1) after the definition of "Insurance Act" of the following definition: " **'joint standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(e)* by the deletion in subsection (1) of the definition of "prescribed"; *(f)* by the insertion in subsection (1) after the definition of "principal officer" of the following definition: " **'prudential standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(g)* by the insertion in subsection (1) after the definition of "principal officer" of the following definition: " **'Register'** means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;"; *(h)* by the deletion in subsection (1) of the definition of "registrar"; and *(i)* by the addition of the following subsection: "(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.".

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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' toegeksryf word;"; en *(h)* deur die volgende subartikel by te voeg: "(3) Tensy die samehang anders aandui, het woorde en uitdrukkings wat nie in subartikel (1) omskryf is nie, dieselfde betekenis wat ingevolge die 'Financial Sector Regulation Act' daaraan toegeskryf is.".

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		2. The insertion after section 1 of the following sections: "**Relationship between Act and Financial Sector Regulation Act** **1A.** (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act. (2) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being— *(a)* prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or *(b)* determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register. (3) *(a)* 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

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		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) 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 gedragstandaard of 'n gesamentlike standaard voorgeskryf is; of *(b)* bepaal word, gelees word as 'n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer. (3) *(a)* 'n Verwysing in hierdie Wet na die Owerheid wat inligting of 'n dokument op 'n webwerf publiseer, moet gelees word as 'n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer. *(b)* Die Owerheid kan ook die inligting of dokument op sy webwerf publiseer. (4) 'n Verwysing in hierdie Wet na gelde wat by regulasie voorgeskryf is, moet gelees word as 'n verwysing daarna dat die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act', vasgestel word. (5) Die Owerheid moet die volgende in die Register publiseer: *(a)* die registrasie van 'n vereniging ingevolge hierdie Wet en elke kansellasie van 'n registrasie; *(b)* enige vrystelling of enige intrekking van 'n vrywaring 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 omskrywing van 'reguleringsinstrument' ('regulatory instrument') in artikel 1(1)

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		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 *(b*A*)* and *(b*C*)*. **8.** The deletion in section 48 of subsections (2), (3), (4) and (5).

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		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.** 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 *(b*A*)* en *(b*C*)* 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

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		9. Die uitdrukkig "registrateur" word, waar dit ook al voorkom, deur die uitdrukking "Owerheid" vervang. **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 beskermng 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 bepalings van **[die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet No. 38 van 1984),]** Deel 4 van Hoofstuk 9 van die 'Financial Sector Regulation Act', 2017 behalwe **[artikels 2 en 7 daarvan]** artikel 134, is **[*mutatis mutandis*]** van toepassing met die veranderinge deur die samehang vereis ten opsigte van 'n inspeksie wat ingevolge subartikel (1) uitgevoer word. *(b)* Artikel 130 van die 'Financial Sector Regulation Act', 2017, is nie ten opsigte van 'n inspeksie ingevolge subartikel (1) gedoen, van toepassing nie.". **4.** Subartikel (2) van artikel 12 word deur die volgende subartikel vervang: "(2) Die bepalings van **[artikels 4, 5, 8 en 9 van die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet No. 38 van 1984),]** Deel 4 van Hoofstuk 9 van die 'Financial Sector Regulation Act' is **[*mutatis mutandis*]** met die veranderinge deur die samehang

Act No. and year	Short Title	Extent of repeal or amendment
		changes required by the context in respect of an inspection carried out in terms of subsection (1).''.
Act No. 94 of 1990	Banks Act, 1990	**1.** The amendment of section 1— *(a)* by the insertion in subsection (1) after the definition of ''allocated capital and reserve funds'' of the following definition: '' **'Authority'** means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;''; *(b)* by the deletion in subsection (1) of the definition of ''board of review''; *(c)* by the insertion in subsection (1) after the definition of ''company'' of the following definition: '' **'conduct standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;''; *(d)* by the insertion in subsection (1) after the definition of ''fellow subsidiary'' of the following definition: '' **'Financial Sector Regulation Act'** means the Financial Sector Regulation Act, 2017;''; *(e)* by the deletion in subsection (1) of the definition of ''prescribed''; *(f)* by the insertion in subsection (1) after the definition of ''person'' of the following definition: '' **'prudential standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;''; *(g)* by the insertion in subsection (1) after the definition of ''qualifying capital and reserve funds'' of the following definition: '' **'Register'** means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;''; *(h)* by the deletion in subsection (1) of the definition of ''Registrar''; *(i)* by the insertion in subsection (1) after the definition of ''tier 2 unimpaired reserve funds'' of the following definition: '' **'Tribunal'** means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;''; and *(j)* by the addition of the following subsection: ''(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.''.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		vereis van toepassing ten opsigte van 'n inspeksie wat ingevolge subartikel (1) uitgevoer word.''.
Bankwet No. 94 van 1990	Bankwet, 1990	**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 ''publiek'' in te voeg: '' **'Register'** die Inligtingsregister vir die Finansiële Sektor in artikel 256 van die 'Financial Sector Regulation Act' bedoel;''; *(f)* deur in subartikel (1) die omskrywing van ''Registrateur'' te skrap; *(g)* deur in subartikel (1) na die omskrywing van ''toegewysde kapitaal en reserwefondse'' die volgende omskrywing in te voeg: '' **'Tribunaal'** die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die 'Financial Sector Regulation Act';''; *(h)* deur in subartikel (1) die omskrywing van ''voorgeskryf'' te skrap; *(i)* deur in subartikel (1) na die omskrywing van ''voorgeskryf'' die volgende omskrywing in te voeg: '' **'voorsorgstandaard'** dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf is;''; en *(j)* deur die volgende subartikel by te voeg: ''(3) Tensy die samehang anders aandui, het woorde en uitdrukkings wat nie in subartikel (1) omskryf is nie, die betekenis wat ingevolge die 'Financial Sector Regulation Act' daaraan toegeskryf is.''.

Act No. and year	Short Title	Extent of repeal or amendment
		2. The insertion after section 1 of the following section: "**Relationship between Act and Financial Sector Regulation Act** **1A.** (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act. (2) A reference in this Act to the Authority determining or publishing a matter by notice in the *Gazette* must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register. (3) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 90, a reference in this Act to a matter being— *(a)* prescribed must be read as a reference to the matter being prescribed in a prudential standard or a conduct standard; or *(b)* determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register. (4) *(a)* Matters in respect of which regulations relating to banks may be prescribed in terms of this Act may also be made in prudential standards or conduct standards. *(b)* Regulations prescribed in terms of this Act that are in force immediately before the commencement of this subsection continue to be in force, but may be repealed by the Minister to allow for prudential or conduct standards to be made in terms of the Financial Sector Regulation Act, in respect of the subject matter of those regulations. *(c)* Paragraph *(b)* does not limit the powers of the Minister in terms of this Act to prescribe regulations. (5) A reference in this Act to an inspection or an investigation in terms of section 6 of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act, but not a reference to an inspection in terms of section 83 or 84 of this Act.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		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

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		(6) *(a)* A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register. *(b)* The Authority may also publish the information or document on its web site. (7) A reference in this Act to a prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act. (8) A reference in this Act to a review of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act. (9) *(a)* If any requirement in the Financial Sector Regulation Act is inconsistent with any provision of this Act, the requirement in the Financial Sector Regulation Act prevails. *(b)* If any requirement in a regulatory instrument made in terms of the Financial Sector Regulation Act is inconsistent with any provision of a regulatory instrument made in terms of this Act, the requirement in the regulatory instrument made in terms of the Financial Sector Regulation Act prevails.". **3.** The repeal of section 3. **4.** The deletion in section 4 of subsections (1) and (2). **5.** The substitution in section 5 for subsection (2) of the following subsection: "(2) Any delegation under subsection (1) *(a)* shall not prevent the exercise of the relevant power by the **[Registrar personally]** Authority.". **6.** The deletion in section 6 of subsections (1) and (2). **7.** The repeal of sections 8, 9 and 10. **8.** The amendment of section 23— *(a)* by the substitution for subsection (1) of the following subsection: "(1) The Registrar may subject to the provisions of section 24, in the case of a bank registered as such, **[with the consent of the Governor and after consultation with the Minister and]** by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if the institution has not con-

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		’n verwysing na ’n inspeksie of ondersoek ingevolge die ‘Financial Sector Regulation Act’, maar nie ’n verwysing na ’n inspeksie ingevolge artikel 83 of 84 van hierdie Wet nie. (6) *(a)* ’n Verwysing in hierdie Wet na die Owerheid wat inligting of ’n dokument op ’n webwerf aankondig of publiseer, moet gelees word as ’n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer. *(b)* Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer. (7) ’n Verwysing in hierdie Wet na voorgeskrewe gelde moet gelees word as ’n verwysing na die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’, bepaal. (8) ’n Verwysing in hierdie Wet na ’n hersiening van ’n besluit van die Owerheid moet gelees word as ’n verwysing na ’n heroorweging van die besluit deur die Tribunaal ingevolge die ‘Financial Sector Regulation Act’. (9) *(a)* Indien enige vereiste in die ‘Financial Sector Regulation Act’ onbestaanbaar is met enige bepaling van hierdie Wet, geld die vereiste in die ‘Financial Sector Regulation Act’. *(b)* Indien enige vereiste in ’n reguleringsinstrument gemaak ingevolge die ‘Financial Sector Regulation Act’ onbestaanbaar is met enige bepaling van ’n reguleringsinstrument ingevolge hierdie Wet gemaak, geld die vereiste in die reguleringsinstrument ingevolge die ‘Financial Sector Regulation Act’ gemaak.”. **3.** Artikel 3 word herroep. **4.** Subartikels (1) en (2) in artikel 4 word geskrap. **5.** Subartikel (2) in artikel 5 word deur die volgende subartikel vervang: “(2) ’n Delegering kragtens subartikel (1)*(a)* belet nie die uitoefening van die betrokke bevoegdheid deur die **[Registrateur persoonlik]** Owerheid nie.”. **6.** Subartikels (1) en (2) in artikel 6 word geskrap. **7.** Artikels 8, 9 en 10 word geskrap.

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		ducted any business as a bank during the period of six months commencing on the date on which the institution was registered as a bank."; *(b)* by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words: "The Registrar may, subject to the provisions of section 24, in the case of a bank registered as such, **[after consultation with the Minister and]** by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if—"; and *(c)* by the substitution for subsection (3) of the following subsection: "(3) The Registrar may, subject to the provisions of section 24, in the case of a bank registered as such, **[after consultation with the Minister and]** by notice in writing to the institution concerned cancel such registration if the institution has ceased to conduct the business of a bank or is no longer in operation.". **9.** The substitution in section 52 for subsection (1A) of the following subsection: "(1A) Notwithstanding subsection (1), the Registrar may, by **[means of a circular contemplated in section 6(4)]** notice published in the Register, determine circumstances and conditions in terms whereof an application contemplated in subsection (1) is not required.". **10.** The amendment of section 69A— *(a)* by the substitution for subsection (4) of the following subsection: "(4) A commissioner appointed under subsection (1) and any person or persons appointed under subsection (2) shall for the purpose of their functions in terms of this section have powers and duties in all respects corresponding to the powers and duties conferred or imposed **[by sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), upon a registrar or an inspector contemplated in the Inspection of Financial Institutions Act, 1998]** or an investigator in terms of the Financial Sector Regulation Act: Provided that for the purposes of this section, those powers extend to the associates of the bank. **[*(a)* any reference to an "institution" or a "financial institu-**

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		8. Artikel 23 word gewysig— *(a)* deur subartikel (1) deur die volgende subartikel te vervang: "(1) Registrateur kan, behoudens die bepalings van artikel 24, in die geval van 'n bank wat as sodanig geregistreer is, **[met die instemming van die President en na oorleg met die Minister en]** by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien die instelling nie gedurende die tydperk van ses maande vanaf die datum waarop die instelling as 'n bank geregistreer is, enige sake as 'n bank gedoen het nie."; *(b)* deur in subartikel (2) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang: "Die Registrateur kan, behoudens die bepalings van artikel 24, in die geval van 'n bank wat as sodanig geregistreer is, **[na oorleg met die Minister en]** by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of, onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien—"; en *(c)* deur subartikel (3) deur die volgende subartikel te vervang: "(3) Die Registrateur kan, behoudens die bepalings van artikel 24, in die geval van 'n bank wat as sodanig geregistreer is, **[na oorleg met die Minister en]** by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek indien die instelling opgehou het om die bedryf van 'n bank uit te oefen of nie langer in werking is nie.". **9.** Subartikel (1A) in artikel 52 word deur die volgende subartikel vervang: "(1A) Ondanks subartikel (1) kan die Registrateur deur **[middel van 'n omsendbrief in artikel 6(4) beoog]** <u>kennisgewing in die Register gepubliseer</u>, omstandighede en voorwaardes bepaal ingevolge waarvan 'n aansoek in subartikel (1) beoog, nie vereis word nie.". **10.** Artikel 69A word gewysig— *(a)* deur subartikels (4) en (5) deur die volgende subartikel te vervang: "(4) 'n Kommissaris aangestel kragtens subartikel (1) en enige

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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]**

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		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 ondersoek van die besigheid, handel, transaksies, sake of bates en laste van 'n bank onder kuratele uitvoer, kan die kommissaris—** ***(a)* 'n persoon wat 'n direkteur, dienaar, werknemer, vennoot, lid of aandeelhouer van die**

Act No. and year	Short Title	Extent of repeal or amendment
		section 136(1) of that Act shall **[be deemed to have been amended as follows:** **'(1) In carrying out an investigation into the business, trade, dealings, affairs or assets and liabilities of a bank under curatorship, a commissioner may—** ***(a)* administer an oath or affirmation or otherwise examine any person who is, or formerly was, a director, servant, employee, partner, member or shareholder of the institution: Provided that the person examined, whether under oath or not, may have his or her legal adviser present at the examination: Provided further that on good cause shown the commissioner may direct that the proceedings under this paragraph shall be held *in camera* and not be accessible to the public;'] apply with the changes necessary in the context in respect of an inspection carried out in terms of subsection (1) and the commissioner may on good cause shown direct that the proceedings under this paragraph shall be held *in camera* and not be accessible to the public.''; and *(c)* by the repeal of subsection (5A). **11.** The substitution in section 84 for subsection (5) of the following subsection: ''(5) For the purposes of the performance of the duties as set out in subsection (4), the repayment administrator shall, in relation to the person subject to the relevant direction and in relation to the affairs of that person, have the powers conferred by **[sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998)]** sections 136 to 138 of the Financial Sector Regulation Act, upon an **[inspector]** investigator contemplated in those sections, as if the repayment administrator were an **[inspector]** investigator and the person subject to the direction were a financial institution contemplated in those sections.''. **12.** The deletion in section 90 of subsection (1)*(e)* and *(g)*.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		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 regsverteen-woordiger 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 ingevolge subartikel (1) uitgevoer 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. **11. Subartikel (5) in artikel 84 word deur die volgende subartikel vervang: "(5) Vir die doeleindes van die verrigting van die pligte soos in subartikel (4) uiteengesit, het die terugbetalingsadministrateur, met betrekking tot die persoon wat aan die tersaaklike lasgewing onderworpe is en met betrekking tot die sake van daardie persoon, die bevoegdhede wat by **[artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998)]** artikels 136 tot 138 van die 'Financial Sector Regulation Act', aan 'n **[inspekteur]** ondersoeker beoog in daardie artikels verleen word, asof die terugbetalings-administrateur 'n **[inspekteur]** ondersoeker en die persoon wat aan die lasgewing onderworpe is 'n finansiële instelling was soos in daardie artikels beoog.''. **12.** Subartikel (1)*(e)* en *(g)* in artikel 90 word geskrap.

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		13. The amendment of section 91— *(a)* by the substitution in subsection (1) for paragraph *(b)* of the following paragraph: "*(b)* contravenes or fails to comply with a provision of section 7(3), (4) or (5), 34, 35, **[37(1),]** 38(1), 39, 41, 42(1), 52(1) or (4), 53, 55, 58, 59, 60(5)*(a)*, 60(5)*(b)*, 61(2), 65, 66, 67, 70(2), (2A) or (2B), 70A, 72, 73, 75, 76, 77, 78(1) or (3), 79, 80, 84(1A) or 84(2),"; *(b)* by the deletion in subsection (4) of paragraph *(c)*; and *(c)* by the deletion of subsections (6), (6A) and (7). **14.** The repeal of section 91A. **15.** The substitution for the expression "Registrar", wherever it occurs, of the expression "Authority". **16.** The amendment of the arrangement of sections— *(a)* by the insertion after item 1 of the following item: "**1A.** Relationship between Act and Financial Sector Regulation Act"; and *(b)* by the substitution for item 4 of the following item: "**4.** Authority".
Act No. 97 of 1990	Financial Services Board Act, 1990	**1.** The repeal of the whole Act.
Act No. 8 of 1993	Financial Supervision of the Road Accident Fund Act, 1993	**1.** The amendment of section 1— *(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 *(b)* by the deletion of the definitions of "executive officer" and "Financial Services Board".
Act No. 124 of 1993	Mutual Banks Act, 1994	**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 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 appeal";

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		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. **14.** Artikel 91A word herroep. **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 Toesighouding 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;";

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		(c) by the insertion in subsection (1) after the definition of "company" of the following definition: " **'conduct standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(d)* by the insertion in subsection (1) after the definition of "executive officer" of the following definition: " **'Financial Sector Regulation Act'** means the Financial Sector Regulation Act, 2017;"; *(e)* by the deletion in subsection (1) of the definition of "prescribed"; *(f)* by the insertion in subsection (1) after the definition of "person" of the following definition: " **'prudential standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(g)* by the insertion in subsection (1) after the definition of "public" of the following definition: " **'Register'** means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;"; *(h)* by the deletion in subsection (1) of the definition of "Registrar"; *(i)* by the insertion in subsection (1) after the definition of "subsidiary" of the following definition: " **'Tribunal'** means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;"; and *(j)* by the addition of the following subsection: "(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.". **2.** The insertion after section 1 of the following section: "**Relationship between Act and Financial Sector Regulation Act** **1A.** (1) A reference in this Act to the Registrar must be read as a reference to the Authority. (2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(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' toegskryf is;"; en *(j)* deur die volgende subartikel by te voeg: "(3) Tensy die samehang anders aandui, het woorde en uitdrukkings wat nie in subartikel (1) omskryf is nie, dieselfde betekenis as wat in die 'Financial Sector Regulation Act' daaraan toegeskryf is.". **2.** Die volgende artikels word na artikel 1 ingevoeg: "**Verhouding tussen Wet en 'Financial Sector Regulation Act'** **1A.** (1) 'n Verwysing 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

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		addition to the powers and duties that it has in terms of the Financial Sector Regulation Act. (3) A reference in this Act to the Authority determining or publishing a matter by notice in the *Gazette* must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register. (4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 91, a reference in this Act to a matter being— *(a)* prescribed must be read as a reference to the matter being prescribed in a prudential standard or a conduct standard; or *(b)* determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register. (5) *(a)* Matters in respect of which regulations relating to banks may be prescribed in terms of this Act may also be made in prudential standards or conduct standards. *(b)* Regulations prescribed in terms of this Act that are in force immediately before the commencement of this subsection continue to be in force, but may be repealed by the Minister to allow for prudential or conduct standards to be made in terms of the Financial Sector Regulation Act, in respect of the subject-matter of those regulations. *(c)* Paragraph *(b)* does not limit the powers of the Minister in terms of this Act to prescribe regulations. (6) *(a)* A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register. *(b)* The Authority may also publish the information or document on its web site. (7) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.

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		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 bepaal of publiseer by kennisgewing in die Register gepubliseer. (4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat 'n aangeleentheid by regulasie ingevolge artikel 91 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. (5) *(a)* Aangeleenthede ten opsigte waarvan regulasies ten aansien van banke ingevolge hierdie Wet gemaak kan word, kan ook in voorsorgstandaarde of gedragstandaarde voorgeskryf word. *(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. *(c)* Paragraaf *(b)* beperk nie die Minister se bevoegdhede ingevolge hierdie Wet om regulasies uit te vaardig nie. (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. *(b)* Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer. (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'.

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		(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. (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 2. **4.** The substitution in section 3 for subsection (2) of the following subsection: "(2) Any delegation under subsection (1) *(a)* shall not prevent the exercise of the relevant power by the **[Registrar personally]** Authority.". **5.** The deletion in section 4 of subsections (1) and (2). **6.** The repeal of sections 6, 7 and 8. **7.** 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."; *(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

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		(8) 'n Verwysing in hierdie Wet na 'n appèl teen 'n besluit van die Owerheid moet gelees word as 'n verwysing na 'n heroorweging van die besluit deur die Tribunaal ingevolge die 'Financial Sector Regulation Act'. (9) *(a)* Indien enige vereiste in die 'Financial Sector Regulation Act' strydig is met enige bepaling van hierdie Wet, geld die vereiste in die 'Financial Sector Regulation Act'. *(b)* Indien enige vereiste in 'n reguleringsinstrument gemaak ingevolge die 'Financial Sector Regulation Act' strydig is met enige bepaling van 'n reguleringsinstrument ingevolge hierdie Wet gemaak, geld die vereiste in die reguleringsinstrument ingevolge die 'Financial Sector Regulation Act' gemaak.''. **3.** Artikel 2 word herroep. **4.** Subartikel (2) in artikel 3 word deur die volgende subartikel vervang: ''(2) 'n Delegering kragtens subartikel (1)*(a)* belet nie die uitoefening van die betrokke bevoegdheid deur die **[Registrateur self]** Owerheid nie.''. **5.** Subartikels (1) en (2) in artikel 4 word geskrap. **6.** Artikels 6, 7 en 8 word herroep. **7.** Artikel 21 word gewysig— *(a)* deur subartikel (1) deur die volgende subartikel te vervang: ''(1) Die Registrateur kan, behoudens die bepalings van artikel 22, in die geval van 'n onderlinge bank wat as sodanig geregistreer is, **[met die instemming van die Minister en]** by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien die instelling nie gedurende die tydperk van ses maande vanaf die datum waarop die instelling as 'n onderlinge bank geregistreer is, enige sake as 'n onderlinge bank gedoen het nie.''; *(b)* deur in subartikel (2) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang: ''Die Registrateur kan, behoudens die bepalings van artikel 22, in die geval van 'n onderlinge bank wat as sodanig geregistreer is, **[met die**

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		(c) by the substitution for subsection (3) of the following subsection: "(3) The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, **[with the consent of the Minister and]** by notice in writing to the institution concerned cancel such registration if the institution has ceased to conduct business as a mutual bank or is no longer in operation.". **8.** The deletion in section 91 of subsection (1)*(e)* and *(g)*. **9.** The deletion in section 92 of subsections (6) and (7). **10.** The amendment of the arrangement of sections by the insertion after item 1 of the following item: "**1A.** Relationship between Act and Financial Sector Regulation Act".
Act No. 141 of 1993	Policy Board for Financial Services and Regulation Act, 1993	**1.** The repeal of the whole Act.
Act No. 52 of 1998	Long-term Insurance Act, 1998	**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; *(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;";

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		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—"; 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.". **8.** Subartikel (1)*(e)* en *(g)* in artikel 91 word geskrap. **9.** Subartikels (6) en (7) in artikel 92 word geskrap. **10.** Die indeling van artikels word gewysig deur die volgende item na item 1 in te voeg: "**1A.** Verhouding tussen Wet en 'Financial Sector Regulation Act' ".
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;";

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		(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 insertion in subsection (1) after the definition of "holding company" of the following definition: " **'joint standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(f)* by the deletion in subsection (1) of the definition of "prescribe"; *(g)* by the insertion in subsection (1) after the definition of "premium" of the following definition: " **'prudential standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(h)* 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;"; *(i)* by the deletion in subsection (1) of the definition of "Registrar"; *(j)* 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 *(k)* 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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		(d) deur in subartikel (1) die volgende omskrywing na die omskrywing van "ouditeur" in te voeg: " **'Owerheid'**— *(a)* 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'; *(b)* in die geval van artikel 8 en artikels 44 tot 65, die Gedrags-owerheid vir die Finansiële Sektor ingestel ingevolge artikel 56 van die 'Financial Sector Regulation Act'; en *(c)* in die geval van artikels 3, 4, 18, 22 en 36, óf die Voorsorgs-owerheid óf die Gedrags-owerheid vir die Finansiële Sektor, behoudens oorleg-plegings- en koördinerings-vereistes soos in die 'Financial Sector Regulation Act', uiteengesit;"; *(e)* deur in subartikel (1) die omskrywing van "Raad" te skrap; *(f)* 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';"; *(g)* deur in subartikel (1) die omskrywing van "Registrateur" te skrap; *(h)* deur in subartikel (1) na die omskrywing van "statutêre aktuaris" die volgende omskrywing in te voeg: " **'Tribunaal'** die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die 'Financial Sector Regulation Act';"; *(i)* deur in subartikel (1) die omskrywing van "voorskryf" te skrap; *(j)* deur in subartikel (1) na die omskrywing van "voorskryf" die volgende omskrywing in te voeg: " **'voorsorgstandaard'** dit wat ingevolge die 'Financial Sector Regulation' Act aan 'prudential standard' toegeskryf word;"; en *(k)* deur die volgende subartikel by te voeg: "(3) Tensy die samehang anders aandui, het woorde en uitdrukkings wat nie in subartikel (1) omskryf is nie, die betekenis in die 'Financial Sector Regulation Act' daaraan toegeskryf.".

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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.

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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 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 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 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 ondersoek ingevolge die 'Financial Sector Regulation Act'. *(b)* 'n Verwysing na 'n inspeksie ingevolge 'n bepaling van hierdie Wet, moet gelees word as 'n verwysing na 'n heroorweging van die besluit van die Tribunaal ingevolge die 'Financial Sector Regulation Act'. (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'.

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		(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. **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 to15, 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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		(7) 'n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as 'n verwysing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act'. **Reguleringsinstrumente** **1B.** By die toepassing van die omskrywing van 'reguleringsinstrument' ('regulatory instrument') in artkel 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 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, 26 en 37 tot 43, moet met die instemming van die Gedragsowerheid vir die Finansiële Sektor handel. (3) Die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, na gelang van die geval, ten opsigte van artikels 18 en 22, moet met die instemming van die ander Owerheid optree.''. **4.** Subartikels (2), (4) en (8) in artikel 4 word geskrap. **5.** Artikel 5 word herroep. **6.** Artikel 9 word gewysig— *(a)* deur in subartikel (3) paragraaf *(b)* deur die volgende paragraaf te vervang: ''*(b)* tensy die aansoeker tot bevrediging van die Owerheid demonstreer dat— (i) die aansoeker voldoen aan, en gepaste stappe gedoen het om voort te gaan om te voldoen aan hierdie Wet se vereistes vir 'n beheer- en risiko-bestuurraamwerk en

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		(ii) its directors and managing executives meet the fit and proper requirements; and (iii) any persons that directly or indirectly control or own that applicant within the meaning of section 25 of this Act, meet the fit and proper requirements;"; and *(b)* by the addition in subsection (3) of the following paragraph: "*(c*A*)* if the registration will be contrary to the interests of prospective policyholders or the public interest.". **7.** The amendment of section 10 by the insertion after paragraph *(f)* of the following paragraph: "*(f*A*)* relating to the business arrangements of the long-term insurer, including, but not limited to, the outsourcing arrangements that the long-term insurer may enter into;". **8.** The amendment of section 11 by the substitution for subsection (1) of the following subsection: "(1) The **[Registrar]** Authority may, by notice to the long-term insurer, amend, delete, replace or impose additional conditions contemplated in section 10, subject to which the long-term insurer is registered or deemed to be registered— *(a)* upon application of a long-term insurer and having regard, with the necessary changes required by the context, to section 9(3)*(b)*; *(a*A*)* when in the public interest or the interests of the policyholders or potential policyholders of the long-term insurer; *(b)* when acting in accordance with section 12(2) or (3) or when giving an authorisation in accordance with section 35(2)*(a)*, in relation to a long-term insurer; or

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		vereistes vir finansiële gesondheid; (ii) die aansoeker se direkteure en uitvoerende bestuurders voldoen aan die vereistes vir geskiktheid en gepastheid; en (iii) enige persone wat daardie aansoeker regstreeks of onregstreeks beheer of besit binne die betekenis van artikel 25 van hierdie Wet, voldoen aan die vereistes vir geskiktheid en gepastheid;"; en *(b)* deur die volgende paragraaf in subartikel (3) by te voeg: "*(c*A*)* en die registrasie daarvan onbestaanbaar sal wees met die belange van voornemende polishouers of die openbare belang.". **7.** Artikel 10 word gewysig deur die volgende paragraaf na paragraaf *(f)* in te voeg: "*(f*A*)* aangaande die besigheidsreëlings van die langtermynversekeraar, met inbegrip van, maar nie beperk nie tot, die uitbestedingsreëlings wat die langtermynversekeraar kan aangaan;". **8.** Artikel 11 word gewysig deur subartikel (1) deur die volgende subartikel te vervang: "(1) Die **[Registrateur]** Owerheid kan, by kennisgewing aan die langtermynversekeraar, bykomende voorwaardes in artikel 10 beoog, behoudens waaraan die langtermyn-versekeraar geregistreer is of geag word geregistreer te wees, wysig, skrap, vervang of oplê— *(a)* by aansoek van 'n langtermyn-versekeraar en met inagneming, met die nodige veranderinge deur die samehang vereis, van artikel 9(3)(*b*); *(a*A*)* wanneer dit in die openbare belang of die belang van die polishouers of potensiële polishouers van die langtermynversekeraar is; *(b)* wanneer ooreenkomstig artikel 12(2) of (3) gehandel word of wanneer magtiging ooreenkomstig artikel 35(2)*(a)*, met betrekking tot 'n langtermyn-versekeraar verleen word; of

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		(c) if a long-term insurer has ceased to enter into certain long-term policies determined by the **[Registrar]** Authority to an extent which no longer justifies its continued registration in respect of those policies, and the long-term insurer has been allowed at least 30 days in which to make representations in respect of the matter **[, by notice to the long-term insurer vary a condition, subject to which the long-term insurer is registered or deemed to be registered, by amending or deleting it, or determine a new condition contemplated in section 10]**.”. **9.** The deletion in section 22 of subsection (3). **10.** The amendment of section 26— *(a)* by the substitution for subsection (1) of the following subsection: “(1) Subject to this section, no person shall, directly or indirectly and without the prior approval of the **[Registrar]** Authority, acquire or hold shares or any other financial interest in a long-term insurer or a related party of that long-term insurer which results in that person, directly or indirectly, alone or with a related party, exercising control within the meaning of section 2(2) of the Companies Act, over that long-term insurer.”; *(b)* by the substitution, in subsection (2) for paragraphs *(a)* and *(b)* of the following paragraphs: “*(a)* prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the aggregate nominal value of those shares, by itself or together with the aggregate nominal value of the shares already owned by that person or by that person and related parties, will amount to **[25]** 15 per cent or more of the total nominal value of all of the issued shares of the long-term insurer concerned;

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		(c) indien ’n langtermynversekeraar opgehou het om sekere langtermynpolisse deur die **[Registrateur]** Owerheid bepaal, af te sluit in die mate wat nie langer sy voortgesette registrasie ten opsigte van daardie polisse regverdig nie, en die langtermynversekeraar minstens 30 dae toegelaat is om vertoë ten opsigte van die aangeleentheid te rig**[,** **by kennisgewing aan die langtermynversekeraar ’n voorwaarde, behoudens waaraan die langtermynversekeraar geregistreer is of geag word geregistreer te wees, verander deur dit te wysig of te skrap, of ’n nuwe voorwaarde in artikel 10 beoog, bepaal]**.”. **9.** Subartikel (3) in artikel 22 word geskrap. **10.** Artikel 26 word gewysig— *(a)* deur subartikel (1) deur die volgende subartikel te vervang: “(1) Behoudens hierdie artikel mag geen persoon, regstreeks of onregstreeks en sonder die vooraf goedkeuring van die **[Registrateur]** Owerheid, aandele 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;

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		(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: "*(a*A) 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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		(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.”; *(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—”; *(d)* deur die volgende paragraaf na paragraaf *(a)* in subartikel (3) in te voeg: “*(a*A*)* word nie gegee as die persoon nie aan die vereistes vir geskiktheid en gepastheid voldoen nie;”; *(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 *(f)* deur subartikels (5) en (6) te skrap. **11.** Subartikels (2)*(f)* en (4) in artikel 62 word geskrap. **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;”. **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;”. **14.** Artikel 68 word herroep.

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		15. The amendment of Schedule 1— *(a)* by the substitution in Item 2*(b)* for subparagraph (i) of the following subparagraph: "(i) an over-the-counter instrument, it is capable of being readily closed out and is entered into with a counterparty **[for which the relevant criteria have been]** that complies with criteria approved by the **[Registrar]** Authority and any **[subject to such]** conditions as **[he or she]** the Authority may determine;"; and *(b)* by the substitution in Item 2*(b)* for subparagraph (iii) of the following subparagraph: "(iii) any other instrument, it is regularly traded on a licensed stock exchange in the Republic, or on any other financial market in the Republic approved by the **[Registrar subject to such conditions as he or she may determine]** Authority, which approval may be subject to conditions determined by the Authority.". **16.** The amendment of the arrangement of sections— *(a)* by the insertion after item 1 of the following items: "**1A.** Relationship between Act and Financial Sector Regulation Act **1B.** Regulatory instruments"; and *(b)* by the substitution for item 2 of the following item: "**2.** Exercise of powers and performance of duties by Authority".
Act No. 53 of 1998	Short-term Insurance Act, 1998	**1.** The amendment of section 1— *(a)* by the insertion in subsection (1) after the definition of "approved reinsurance policy" of the following definition: " **'Authority'** means— *(a)* in the case of sections 7, 9 to 17, 19 to 20, 22 to 34, 36 to 42, 56 and 59 to 62, the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act; *(b)* in the case of sections 8, 43 to 55, the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act; and

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		15. Bylae 1 word gewysig— *(a)* deur in Item 2*(b)* subparagraaf (i) deur die volgende subparagraaf te vervang: "(i) 'n oor-die-toonbank instrument, dit in staat is om geredelik gerealiseer te word en dit afgesluit word met 'n teenparty **[vir wie die betrokke keuringsmaat-stawwe]** wat voldoen aan maatstawwe goedgekeur **[is]** deur die **[Registrateur behoudens die]** Owerheid en enige voorwaardes wat **[hy of sy]** die Owerheid bepaal;" en *(b)* deur in Item 2*(b)* subparagraaf (iii) deur die volgende subparagraaf te vervang: "(iii) enige ander instrument, dit gereeld op 'n gelisensieerde aandelebeurs in die Republiek, of op enige ander finansiële mark in die Republiek deur die **[Registrateur]** Owerheid goedgekeur **[behoudens die voorwaardes wat hy of sy bepaal]**, welke goedkeuring onderhewig kan wees aan voorwaardes deur die Owerheid bepaal, verhandel word.". **16.** Wysiging van die indeling van artikels— *(a)* deur die volgende items na item 1 in te voeg: "**1A.** Verhouding tussen Wet en 'Financial Sector Regulation Act' **1B.** Reguleringsinstrumente"; en *(b)* deur item 2 deur die volgende item te vervang: "**2.** Uitoefening van bevoegdhede en verrigting van pligte deur Owerheid".
Wet No. 53 van 1998	Korttermyn-versekeringswet, 1998	**1.** Artikel 1 word gewysig— *(a)* 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;"; *(b)* deur in subartikel (1) die volgende omskrywing na die omskrywing van "garansiepolis" in te voeg: " **'gedragstandaard'** dit wat ingevolge die 'Financial Sector Regulation Act' aan 'conduct standard' toegeskryf is;";

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		(c) in the case of sections 3, 4, 18, 21, 35, 57, 58 and 63, either the Prudential Authority or the Financial Sector Conduct Authority, subject to consultation and co-ordination requirements set out in the Financial Sector Regulation Act;"; *(b)* by the deletion in subsection (1) of the definition of "Board"; *(c)* by the insertion in subsection (1) after the definition of "company" of the following definition: " **'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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		(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van "gemengde polis" in te voeg: " **'gesamentlike standaard'** dit wat in artikel 1(1) van die 'Financial Sector Regulation Act' aan 'joint standard' toegeskryf word;"; *(d)* deur in subartikel (1) die volgende omskrywing na die omskrywing van "ouditeur" in te voeg: " **'Owerheid'**— *(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'; *(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 *(c)* in die geval van artikels 3, 4, 18, 21, 35, 57, 58 en 63, óf die Voorsorgowerheid óf die Gedragsowerheid vir die Finansiële Sektor, behoudens vereistes vir oorleg en koördinering in die 'Financial Sector Regulation Act' uiteengesit;"; *(e)* deur in subartikel (1) die omskrywing van "Raad" te skrap; *(f)* deur in subartikel (1) na die omskrywing van "Raad" die volgende omskrywing in te voeg: " **'Register'** die Inligtingsregister vir die Finansiële Sektor in artikel 256 van die 'Financial Sector Regulation Act' bedoel;"; *(g)* deur in subartikel (1) die omskrywing van "Registrateur" te skrap; *(h)* deur in subartikel (1) na die omskrywing van "statutêre aktuaris" die volgende omskrywing in te voeg: " **'Tribunaal'** die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die 'Financial Sector Regulation Act';"; en *(i)* deur in subartikel (1) die omskrywing van "voorskryf" te skrap; *(j)* deur in subartikel (1) na die omskrywing van "voorskryf" die volgende omskrywing in te voeg: " **'voorsorgstandaard'** dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf is;";

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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.

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		(k) deur in subartikel (1) die omskrywing van "Wet op die Raad op Finansiële Dienste" te skrap; en *(l)* deur die volgende subartikel by te voeg: "(3) Tensy die samehang anders aandui, het woorde en uitdrukkings wat nie in subartikel (1) omskryf is nie, die betekenis in die 'Financial Sector Regulation Act' daaraan toegeskryf.". **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 voorsorg-standaard, 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 toesighoudende inspeksie ter plaatse of 'n ondersoek ingevolge die 'Financial Sector Regulation Act'.

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		(6) A reference to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act. (7) The reference in sections 3(3) and 21(3) to an appeal to the board of appeal established by section 26 of the Financial Services Board Act must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act. (8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act. **Regulatory instruments** **1B.** For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the *Gazette* is specifically required by this Act is a regulatory instrument.". **3.** The substitution for section 2 of the following section: "**Exercise of powers and performance of duties by Authority** **2.** (1) The Authority, in fulfilling its responsibility for implementing this Act, must exercise its powers and perform its duties in terms of this Act subject to the Financial Sector Regulation Act. (2) The Prudential Authority, in respect of sections 9 to 15, 25 and 36 to 42, must act with the concurrence of the Financial Sector Conduct Authority. (3) The Prudential Authority or the Financial Sector Conduct Authority, as the case may be, in respect of sections 18, 21 and 57, must act with the concurrence of the other Authority.". **4.** The deletion in section 4 of subsections (2), (4) and (8). **5.** The repeal of section 5.

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		(6) 'n Verwysing na 'n inspeksie ingevolge 'n bepaling van hierdie Wet moet gelees word as 'n verwysing na 'n ondersoek ingevolge die 'Financial Sector Regulation Act'. (7) Die verwysing in artikels 3(3) en 21(3) na 'n appèl tot die appèlraad 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: "**Uitoefening 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 57 moet met die instemming van die ander Owerheid optree.". **4.** Subartikels (2), (4) en (8) in artikel 4 word geskrap. **5.** Artikel 5 word herroep.

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		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; (ii) its directors and managing executives meet the fit and proper requirements; and (iii) any persons that directly or indirectly control or own that applicant within the meaning of section 25 meet the fit and proper requirements."; and *(b)* by the addition in subsection (3) of the following paragraph: "*(c*A*)* if registration will be contrary to the interests of prospective policyholders or the public interest.". **7.** The amendment of section 10 by the insertion after paragraph *(f)* of the following paragraph: "*(f*A*)* relating to the business arrangements of the short-term insurer, including, but not limited to, the outsourcing arrangements that the short-term insurer may enter into;". **8.** The amendment of section 11 by the substitution for subsection (1) of the following subsection: "(1) The **[Registrar]** Authority may, by notice to the short-term insurer, amend, delete, replace or impose additional conditions contemplated in section 10, subject to which the short-term insurer is registered or deemed to be registered— *(a)* upon application of a short-term insurer and having regard, with the necessary changes required by the context, to section 9(3)*(b)*;

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		6. Artikel 9 word gewysig— *(a)* deur in subartikel (3) paragraaf *(b)* deur die volgende paragraaf te vervang: "*(b)* tensy die aansoeker tot bevrediging van die Owerheid demonstreer dat— (i) die aansoeker voldoen aan, en gepaste stappe gedoen het om voort te gaan om te voldoen aan, hierdie Wet se vereistes vir 'n beheer- en risiko-bestuurraamwerk en finansiële gesondheid; (ii) die aansoeker se direkteure en uitvoerende bestuurders voldoen aan die vereistes vir gepastheid en geskiktheid; en (iii) enige persone wat daardie aansoeker regstreeks of onregstreeks beheer of besit binne die betekenis van artikel 25, aan die vereistes vir geskiktheid en gepastheid voldoen."; en *(b)* deur die volgende paragraaf in subartikel (3) by te voeg: "*(c*A*)* indien registrasie onbestaanbaar met die belange van voornemende polishouers of die openbare belang sal wees.". **7.** Artikel 10 word gewysig deur die volgende paragraaf na paragraaf *(f)* in te voeg: "*(f*A*)* in verband met die besigheidsreëlings van die korttermynversekeraar, met inbegrip van, maar nie beperk nie tot, die uitbestedingsreëlings wat die korttermynversekeraar kan aangaan;". **8.** Artikel 11 word gewysig deur subartikel (1) deur die volgende subartikel te vervang: "(1) Die **[Registrateur]** Owerheid kan, by kennisgewing aan die korttermynversekeraar, voorwaardes in artikel 10 beoog, wysig, skrap, vervang of bykomende voorwaardes 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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		*(a*A*)* 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,

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		veranderinge deur die samehang vereis, van artikel 9(3)(*b*); *(a*A) wanneer dit in die openbare belang of die belange van die polishouers of potensiële 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 korttermyn-versekeraar 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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		the aggregate nominal value of those shares, by itself or together with the aggregate nominal value of the shares already owned by that person or by that person and related parties, will amount to **[25]** 15 per cent or more of the total nominal value of all of the issued shares of the short-term insurer concerned; *(b)* after the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the total number of those shares, by itself or together with the total number of the shares already owned by that person or by that person and related parties, will amount to **[25]** 15 per cent or more of all the shares in a specific class of shares issued by the short-term insurer concerned."; *(c)* by the substitution in subsection (3) for the words preceding paragraph *(a)* of the following words: "(3) The approval referred to in subsection (1) or (2)—"; *(d)* by the insertion in subsection (3) after paragraph *(a)* of the following paragraph: "*(a*A) shall not be given if the person does not meet the fit and proper requirements;"; *(e)* by the substitution in subsection (4)*(a)* for the words preceding subparagraph (i) of the following words: "compelling such shareholder to reduce, within a period determined by the Court, that shareholding to a shareholding not exceeding **[25]** 15 per cent of—"; and *(f)* by the deletion of subsections (5) and (6). **11.** The amendment of section 55 by the deletion of subsections (2)*(f)* and (4). **12.** The amendment of section 65 by the substitution in subsection (1) for paragraph *(a)* of the following paragraph: "*(a)* contravenes or fails to comply with a provision of a notice, directive or request referred to in section **[4(2), (3) or (4),]** 21(1) or (2), 26(1), 34(2)*(a)* or 35(2);".

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		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; *(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.”; *(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—”; *(d)* deur die volgende paragraaf na paragraaf *(a)* in subartikel (3) in te voeg: “*(a*A*)* word nie gegee nie as die persoon nie aan die vereistes vir geskiktheid en gepastheid voldoen nie;”; *(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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		13. The repeal of section 66. **14.** The amendment of Schedule 1— *(a)* by the substitution in Item 2*(b)* for subparagraph (i) of the following subparagraph: "(i) an over-the-counter instrument, it is capable of being readily closed out and is entered into with a counterparty that complies with criteria **[for which the relevant criteria have been]** approved by the **[Registrar]** Authority and any **[subject to such]** conditions as **[he or she]** the Authority may determine;" and *(b)* by the substitution in Item 2*(b)* for subparagraph (iii) of the following subparagraph: "(iii) any other instrument, it is regularly traded on a licensed stock exchange in the Republic, or on any other financial market in the Republic approved by the **[Registrar subject to such conditions as he or she may determine]** Authority, which approval may be subject to conditions determined by the Authority.". **15.** The amendment of Schedule 3 by the substitution in Item 6(3) for paragraph *(c)* of the following paragraph: "*(c)* subject to the conditions **[he or she]** that the Authority may determine.". **16.** The amendment of the arrangement of sections— *(a)* by the insertion after item 1 of the following items: "**1A.** Relationship between Act and Financial Sector Regulation Act **1B.** Regulatory instruments"; and *(b)* by the substitution for item 2 of the following item: "**2.** Exercise of powers and performance of duties by Authority".
Act No. 80 of 1998	Inspection of Financial Institutions Act, 1998	The repeal of the whole Act

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		[4(2), (3) of (4),] 21(1) of (2), 26(1), 34(2)(*a*) of 35(2) bedoel, oortree of versuim om daaraan te voldoen;”. **13.** Artikel 66 word herroep. **14.** Bylae 1 word gewysig— *(a)* deur in Item 2*(b)* subparagraaf (i) deur die volgende subparagraaf te vervang: “(i) ’n oor-die-toonbank instrument, dit in staat is om geredelik gerealiseer te word en dit afgesluit word met ’n teenparty **[vir wie die betrokke keuringsmaatstawwe]** wat aan maatstawwe voldoen wat goedgekeur is deur die **[Registrateur behoudens die]** Owerheid en enige voorwaardes wat **[hy of sy]** die Owerheid bepaal;” en *(b)* deur in item 2*(b)* subparagraaf (iii) deur die volgende subparagraaf te vervang: “(iii) enige ander instrument, dit gereeld op ’n gelisensieerde aandelebeurs in die Republiek, of op enige ander finansiële mark in die Republiek deur die **[Registrateur]** Owerheid goedgekeur **[behoudens]**, welke goedkeuring onderhewig is aan **[die]** voorwaardes wat **[hy of sy]** die Owerheid bepaal, verhandel word.”. **15.** Bylae 3 word gewysig deur in Item 6(3) paragraaf *(c)* deur die volgende paragraaf te vervang: “*(c)* behoudens die voorwaardes wat **[hy of sy]** die Owerheid bepaal.”. **16.** Die indeling van artikels word gewysig— *(a)* deur die volgende items na item 1 in te voeg: “**1A.** Verhouding tussen Wet en ‘Financial Sector Regulation Act’ **1B.** Reguleringsinstrumente; en”. *(b)* deur item 2 deur die volgende item te vervang: “**2.** Uitoefening van bevoegdhede en verrigting van pligte deur Owerheid”.
Wet No. 80 van 1998	Wet op Inspeksie van Finansiële Instellings, 1998	Die hele Wet word herroep.

Act No. and year	Short Title	Extent of repeal or amendment
Act No. 28 of 2001	Financial Institutions (Protection of Funds) Act, 2001	**1.** The amendment of section 1— *(a)* by the deletion of the definitions of "administrative sanction" and "applicant"; *(b)* by the insertion before the definition of "Companies Act" of the following definition: " **'Authority'** means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;"; *(c)* by the deletion of the definitions of "board", "determination", "directorate", "enforcement committee" and "financial institution"; *(d)* by the insertion after the definition of "financial institution" of the following definition: " **'Financial Sector Regulation Act'** means the Financial Sector Regulation Act, 2017;"; *(e)* by the substitution for the definition of "institution" of the following definition: " **'institution'**, for the purposes of sections 5**[, 6, 9]** and 10, means— *(a)* a **[financial institution]** supervised entity; *(b)* any person, partnership, company or trust in which, or in the business of which, a **[financial institution]** supervised entity or an unregistered person has or had a direct or indirect interest; *(c)* any person, partnership, company or trust which has or had a direct or indirect interest in a **[financial institution]** supervised entity or unregistered person, or in the business of a **[financial institution]** supervised entity or an unregistered person; *(d)* a participating employer in a pension fund organisation; *(e)* any person, partnership, company or trust that controls, manages or administers the affairs or part of the affairs of a **[financial institution]** supervised entity or an unregistered person; or *(f)* any unregistered person;"; *(f)* by the substitution for the definition of "law" of the following definition: " **'law'**, for the purposes of section 5A, means— *(a)* this Act; *(b)* the Pension Funds Act, 1956 (Act No. 24 of 1956); *(c)* the Friendly Societies Act, 1956 (Act No. 25 of 1956); *(d)* the Close Corporations Act, 1984 (Act No. 69 of 1984);

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Wet No. 28 van 2001	Wet op Finansiële Instellings (Beskerming van Fondse), 2001	**1.** Artikel 1 word gewysig— *(a)* deur die omskrywings van "aansoeker", "administratiewe sanksie" en "afdwingingskomitee" te skrap; *(b)* deur die omskrywings van "direktoraat" en "finansiële instelling" te skrap; *(c)* deur die volgende omskrywing na die omskrywing van "finansiële instelling" in te voeg: " **'Financial Sector Regulation Act'** die 'Financial Sector Regulation Act', 2017;"; *(d)* deur die omskrywing van "instelling" deur die volgende omskrywing te vervang: " **'instelling'** by die toepassing van artikels 5**[, 6, 9]** en 10— *(e)* 'n **[finansiële instelling]** entiteit onder toesig; *(f)* enige persoon, vennootskap, maatskappy of trust waarin, of in die besigheid waarvan, 'n **[finansiële instelling]** entiteit onder toesig of 'n ongeregistreerde persoon 'n regstreekse of onregstreekse belang het of gehad het; *(g)* enige persoon, vennootskap, maatskappy of trust wat 'n regstreekse of onregstreekse belang in 'n **[finansiële instelling]** entiteit onder toesig of ongeregistreerde persoon, of in die besigheid van 'n **[finansiële instelling]** entiteit onder toesig of ongeregistreerde persoon het of gehad het; *(h)* 'n deelnemende werkgewer in 'n pensioenfondsorganisasie; *(i)* enige persoon, vennootskap, maatskappy of trust wat die sake of deel van die sake van 'n **[finansiële instelling]** entiteit onder toesig of 'n ongeregistreerde persoon beheer, bestuur of administreer; *(j)* enige ongeregistreerde persoon;"; *(k)* deur die volgende omskrywing voor die omskrywing van "persoon" in te voeg: " **'Owerheid'** die Gedragsowerheid vir die Finansiële Sektor, ingestel ingevolge artikel 56 van die 'Financial Sector Regulation Act';"; *(l)* deur die omskrywing van "registrateur" deur die volgende omskrywing te vervang: " **'registrateur'**— *(a)* **[die registrateur soos omskryf in enige van die Wette vermeld in paragraaf *(a)* van die**

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		(e) the Trust Property Control Act, 1988 (Act No. 57 of 1988); *(f)* the Banks Act, 1990 (Act No. 94 of 1990); *(g)* the Mutual Banks Act, 1993 (Act No. 124 of 1993); *(h)* the Long-term Insurance Act, 1998 (Act No. 52 of 1998); *(i)* the Short-term Insurance Act, 1998 (Act No. 53 of 1998); *(j)* the Medical Schemes Act, 1998 (Act No. 131 of 1998); *(k)* the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001); *(l)* the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002); *(m)* the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002); *(n)* the Co-operative Banks Act, 2007 (Act No. 40 of 2007); *(o)* the Companies Act, 2008 (Act No. 71 of 2008); *(p)* the Financial Markets Act, 2012 (Act No. 19 of 2012); *(q)* the Credit Rating Services Act, 2012 (Act No. 24 of 2012); including any subordinate legislation, enactment or regulatory instrument made under these Acts;"; *(g)* by the substitution for the definition of "registrar" of the following definition: " **'registrar'** means— *(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;** ***(b)*** **the executive officer defined in section 1 of the Financial Services Board Act, 1990;]** or **[*(c)*]***(b)* **[except for the purposes of sections 6A to 6I,]** the registrar of medical schemes referred to in section 1 of the Medical Schemes Act, 1998;"; *(h)* by the deletion of the definition of "respondent"; and *(i)* 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.".

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		omskrywing van 'finansiële instelling' in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990; ***(b)*** **die uitvoerende beampte omskryf in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990]** die Owerheid; of **[*(c)*]***(b)* **[behalwe vir die doeleindes van artikels 6A tot 6I,]** 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 Mediese 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 Tussengangersdienste, 2002 (Wet No. 37 van 2002); *(m)* Wet op Beheer van Kollektiewe Beleggingskemas, 2002 (Wet No. 45 van 2002); *(n)* 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);

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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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		ook enige ondergeskikte wetgewing, verordening of maatreël gemaak kragtens hierdie Wette;"; *(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 uitdrukkings wat nie in subartikel (1) omskryf is nie, die betekenis wat in die 'Financial Sector Regulation Act' daaraan toegeskryf is.". **2.** Artikel 4A word herroep. **3.** Artikel 5 word gewysig— *(a)* deur paragraaf *(e)* in subartikel (5) deur die volgende paragraaf te vervang: "*(e)* die koste opgeloop deur die registrateur met betrekking tot 'n inspeksie van die sake van die **[betrokke]** instelling gedoen ingevolge die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998), voor die herroeping daarvan, of 'n toesighoudende ter plaatse 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.". **4.** Artikels 6, 6A tot 6I, 7, 9 en 9A word herroep.
Wet No. 38 van 2001	Wet op Finansiële Intelligensie-sentrum, 2001	**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 appèlraad. (3) Verrigtinge voor die appèlraad moet ooreenkomstig hierdie Wet gehou en beslis word.". **2.** Artikels 45E(4) tot (11) en (13) word geskrap.

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Act No. 37 of 2002	Financial Advisory and Intermediary Services Act, 2002	**1.** The amendment of section 1— *(a)* by the insertion in subsection (1) after the definition of "advice" of the following definition: " **'alternative investment fund'** means a collective investment undertaking, including investment compartments of a collective investment undertaking, constituted in any legal form, including in terms of a contract, by means of a trust, or in terms of statute, which— *(a)* raises capital from one or more investors to facilitate the participation or interest in, subscription, contribution or commitment to, a fund or portfolio, with a view to investing it in accordance with a defined investment policy for the benefit of the investors; and *(b)* does not require approval as a collective investment scheme in terms of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);"; *(b)* by the insertion in subsection (1) after the definition of "authorised financial services provider" of the following definition: " **'Authority'** means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;"; *(c)* by the deletion in subsection (1) of the definitions of "Board" and "board of appeal"; *(d)* by the insertion before the definition of "client" of the following definition: " **'conduct standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act, 2017;"; *(e)* by the insertion after the definition of "financial product" of the following definition: " **'Financial Sector Regulation Act'** means the Financial Sector Regulation Act, 2017;"; *(f)* by the deletion in subsection (1) of the definition of "Financial Services Board Act"; *(g)* by the insertion in subsection (1) in the definition of "financial product" after paragraph *(g)* of the following paragraph: "*(g*A*)* an investment, subscription, contribution, or commitment in an alternative investment fund;";

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Wet No. 37 van 2002	Wet op Finansiële Advies- en Tussengangers-dienste, 2002	**1.** Artikel 1 word gewysig— *(a)* deur in subartikel (1) die volgende omskrywing voor die omskrywing van "dokument" in te voeg: " **'alternatiewe beleggingsfonds'** 'n kollektiewe beleggingsonderneming, met inbegrip van beleggings-kompartemente van 'n kollektiewe beleggingsonderneming, in enige regmatige vorm daargestel, ook ingevolge 'n kontrak, by wyse van 'n trust, of ingevolge 'n statuut, wat— *(a)* kapitaal van een of meer belegger verkry om die deelname of belang in, intekening tot, bydrae tot of verbintenis tot 'n fonds of portefeulje te vergemaklik met die oog daarop om dit ooreenkomstig 'n omskrewe beleggingsbeleid tot voordeel van die beleggers te belê; en *(b)* vereis nie goedkeuring as 'n kollektiewe beleggingskema ingevolge die Wet op Beheer van Kollektiewe Belegging-skemas, 2002 (Wet No. 45 van 2002), nie;"; *(b)* deur in subartikel (1) die omskrywings van "amptelike webwerf" en "appèlraad" te skrap; *(c)* deur in subartikel (1) die volgende omskrywing na die omskrywing van "dokument" in te voeg: " **'Financial Sector Regulation Act'** die 'Financial Sector Regula-tion Act', 2017;"; *(d)* deur in subartikel (1) die volgende paragraaf na paragraaf *(g)* in die omskrywing van "finansiële produk" in te voeg: "*(g*A*)* '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 wesenlik soortgelyk is aan of ooreenstemmend is met 'n finansiële produk bedoel in paragrawe *(a)* tot en met *(i)*;";

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		(h) by the substitution in subsection (1) in the definition of "financial product" for paragraph *(j)* of the following paragraph: "*(j)* any financial product issued by any foreign product supplier **[and marketed in the Republic]** and which in nature and character is essentially similar or corresponding to a financial product referred to in paragraph *(a)* to (i), inclusive;"; *(i)* by the substitution in subsection (1) for the definition of "fit and proper requirements" of the following definition: " **'fit and proper requirements'** means the requirements **[published under]** referred to in section 6A;"; *(j)* by the substitution in subsection (1) for the definition of "intermediary service" of the following definition: " **'intermediary service'** means, subject to subsection (3)*(b)*, any act other than the furnishing of advice, performed by a person **[for or on behalf of a client or product supplier]**— *(a)* the result of which is that a client may enter into, offers to enter into or enters into any transaction in respect of a financial product **[with a product supplier]**; or *(b)* with a view to— (i) buying, selling or otherwise dealing in (whether on a discretionary or non-discretionary basis), managing, administering, keeping in safe custody, maintaining or servicing a financial product **[purchased by a client from a product supplier or in which the client has invested]**; (ii) collecting or accounting for premiums or other moneys payable by the client **[to a product supplier]** in respect of a financial product; or (iii) receiving, submitting **[or]**, processing or settling the claims of a client **[against a product supplier]** in respect of a financial product;";

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		(f) deur in subartikel (1) die volgende omskrywing na die omskrywing van "gedragskode" in te voeg: " **'gedragstandaard'** dit wat in artikel 1(1) van die 'Financial Sector Regulation Act', aan 'conduct standard' toegeskryf is;"; *(g)* deur in subartikel (1) die volgende omskrywing na die omskrywing van "gematigde verskaffer van finansiële dienste" die volgende omskrywing in te voeg: " **'gesamentlike standaard'** het die betekenis ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'joint standard' toegeskryf;"; *(h)* deur in subartikel (1) die volgende omskrywing na die omskrywing van "Ombud" in te voeg: " **'Ombudsraad'** die raad ingevolge artikel 175 van die 'Financial Sector Regulation Act' ingestel;"; *(i)* deur in subartikel (1) na die omskrywing van "ouditeur" die volgende omskrywing in te voeg: " **'Owerheid'** die Gedragsraad op die Finansiële Sektor ingestel ingevolge artikel 56 van die 'Financial Sector Regulation Act';"; *(j)* deur in subartikel (1) die omskrywing van "Raad" te skrap; *(k)* deur in subartikel (1) die volgende omskrywing na die omskrywing van "reël" in te voeg: " **'Register'** die Inligtingsregister op die Finansiële Sektor in artikel 256 van die 'Financial Sector Regulation Act' bedoel;"; *(l)* deur in subartikel (1) die omskrywing van "registrateur" te skrap; *(m)* deur in subartikel (1) na die omskrywing van "sleutelpersoon" die volgende omskrywing in te voeg: " **'Tribunaal'** die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die 'Financial Sector Regulation Act';"; *(n)* deur in subartikel (1) die omskrywing van "tussengangersdiens" deur die volgende omskrywing te vervang: " **'tussengangersdiens'** behoudens subartikel (3)*(b)*, enige ander handeling as die verskaffing van advies, verrig deur 'n persoon **[vir of namens 'n kliënt of produkvoorsiener]**— *(a)* waarvan die gevolg is dat 'n kliënt enige transaksie ten opsigte van 'n finansiële produk **[met 'n produkvoorsiener]** kan

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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 kliënt van 'n produkvoorsiener of waarin die kliënt belê het,]** te koop, te verkoop of andersins daarin te handel (hetsy op 'n diskresionêre of nie-diskresionêre basis), te bestuur, te administreer, in veilige bewaring te hou, in stand te hou of te diens; (ii) premies of ander gelde betaalbaar deur die kliënt **[aan 'n produkvoorsiener]** ten opsigte van 'n finansiële produk in te vorder of daarvoor rekenpligtigheid te aanvaar; of (iii) die eise van 'n kliënt **[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 "voorskryf" die volgende omskrywing in te voeg: " **'voorsorgstandaard'** dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act', 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 uitdrukkings wat nie in subartikel (1) omskryf is nie, die betekenis wat in die 'Financial Sector Regulation Act' daaraan toegeskryf is.".

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		2. The insertion after section 1 before Chapter 1 of the following sections: "**Relationship between Act and Financial Sector Regulation Act** **1A.** (1) A reference in this Act to the Board or the registrar must be read as a reference to the Authority. (2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act. (3) A reference in this Act to the Authority determining or publishing a matter by notice in the *Gazette* must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register. (4) Unless expressly 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 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.

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		2. Die volgende artikel word na artikel 1 voor Hoofstuk 1 ingevoeg: "**Verhouding tussen Wet en 'Financial Sector Regulation Act'** **1A.** (1) 'n Verwysing in hierdie Wet na die Raad of die registrateur moet as 'n verwysing na die Owerheid gelees word. (2) Behalwe soos anders deur hierdie Wet of die 'Financial Sector Regulation Act' bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die 'Financial Sector Regulation Act' het. (3) 'n Verwysing in hierdie Wet na die Owerheid wat 'n aangeleentheid by kennisgewing in die *Staatskoerant* bepaal of publiseer, moet gelees word dat dit 'n verwysing insluit na die Owerheid wat die aangeleentheid by kennisgewing in die Register gepubliseer, bepaal of publiseer. (4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat 'n aangeleentheid voorgeskryf word, moet 'n verwysing in hierdie Wet na 'n aangeleentheid wat— *(a)* voorgeskryf word, gelees word as 'n verwysing daarna dat die aangeleentheid in 'n voorsorgstandaard, 'n gedragstandaard of 'n gesamentlike standaard voorgeskryf word; of *(b)* bepaal word, gelees word as 'n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer. (5) 'n Verwysing in hierdie Wet na 'n ter plaatse besoek ingevolge 'n bepaling van hierdie Wet, moet gelees word as 'n verwysing na 'n toesighoudende ter plaatse inspeksie ingevolge die 'Financial Sector Regulation Act'. (6) 'n Verwysing in hierdie Wet na 'n inspeksie ingevolge 'n bepaling van hierdie Wet moet gelees word as 'n verwysing na '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 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.

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		(8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act. (9) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act. **Regulatory instruments** **1B.** For the purposes of the definition of "regulatory instrument" in section 1 of the Financial Sector Regulation Act, fit and proper requirements determined in terms of section 6A, codes of conduct drafted under section 15 and criteria and guidelines for the approval of compliance officers determined under section 17(2) are regulatory instruments.". **3.** The repeal of section 2. **4.** The substitution in section 3(2)*(b)* for subparagraph (i) of the following subparagraph: "(i) the fee payable **[in terms of this Act]**; and". **5.** The deletion in section 4 of subsections (1), (5) and (6). **6.** The substitution for section 6 of the following section: "**Delegations** **6.** (1) The Authority may, in writing, delegate to any person a power or duty conferred upon the Authority under this Act in respect of any matter relating to a conduct standard referred to in section 6A(2)*(a)*, *(b)* and *(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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		(8) 'n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as 'n verwysing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act'. (9) 'n Verwysing in hierdie Wet na 'n appèl van 'n besluit van die Owerheid moet gelees word as 'n verwysing na 'n hersiening van die besluit van die Tribunaal ingevolge die 'Financial Sector Regulation Act'. **Reguleringsinstrumente** **1B.** By die toepassing van die omskrywing van 'reguleringsinstrument' ('regulatory instrument') in artikel 1 van die 'Financial Sector Regulation Act', is vereistes vir geskiktheid en gepastheid ingevolge artikel 6A bepaal, gedrags-kodes kragtens artikel 15 opgestel en maatstawwe en riglyne vir die goedkeuring van voldoeningsbeamptes kragtens artikel 17(2) bepaal, reguleringsinstrumente.''. **3.** Artikel 2 word herroep. **4.** Subparagraaf (i) in artikel 3(2)*(b)* word deur die volgende subparagraaf vervang: ''(i) die gelde betaalbaar **[ingevolge hierdie Wet]**; en''. **5.** Subartikels (1), (5) en (6) word uit artikel 4 geskrap. **6.** 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 personeellid van die Owerheid, tevrede wees dat die persoon die nodige finansies, bestuurskapasiteit, mensehulpbronne 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 anything 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 writing 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: ''*(a*A) 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 **[official]** Authority's web site, and be accompanied by information to satisfy the **[registrar]** Authority that the applicant complies with the fit and proper requirements **[determined for financial services providers or categories of providers, determined by the registrar by notice in the *Gazette*, in respect of—** ***(a)* personal character qualities of honesty and integrity;** ***(b)* competence;** ***(b*A) operational ability; and** ***(c)* financial soundness]**.

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		(4) 'n Delegering ontdoen 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. (5) 'n Delegering kragtens hierdie artikel gemaak kan te eniger tyd skriftelik gewysig of ingetrek word, maar 'n wysiging of intrekking raak nie enige regte of aanspreeklikhede toegeval weens die gedelegeerde se handelinge nie.". **7.** Artikel 6A word gewysig— *(a)* deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang: "**[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 *(b)* deur die volgende paragraaf na paragraaf *(a)* in te voeg: "*(a*A*)* kan verteenwoordigers in verskillende kategorieë klassifiseer; en". **8.** Artikel 8 word gewysig deur subartikels (1) en (1A) deur die volgende subartikels te vervang: "(1) 'n Aansoek om 'n magtiging bedoel in artikel 7(1), met inbegrip van 'n aansoek deur 'n aansoeker wat nie in die Republiek gedomisilieer is nie, moet aan die **[registrateur]** Owerheid voorgelê word in die vorm en op die wyse deur die **[registrateur]** Owerheid by kennisgewing op die amptelike webwerf bepaal, en vergesel gaan van die inligting om die **[registrateur]** Owerheid tevrede te stel dat die aansoeker voldoen aan die vereistes vir geskiktheid en gepastheid **[vir verskaffers van finansiële dienste of kategorieë verskaffers, deur die registrateur by kennisgewing in die *Staatskoerant* bepaal, ten opsigte van—** ***(a)* persoonlike karaktereienskappe van eerlikheid en integriteit;** ***(b)* bekwaamheid;** ***(b*A*)* bedryfsvermoë; en** ***(c)* finansiële gesondheid]**.

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		(1A) If the applicant is a partnership, trust or corporate or unincorporated body, **[the requirements in paragraphs *(a)* and *(b)* of subsection (1) do not apply to the applicant, but in such a case]** the application must be accompanied by additional information to satisfy the **[registrar]** Authority that every person who acts as a key individual of the applicant complies with the fit and proper requirements for key individuals in the category of financial services providers applied for**[, in respect of—** ***(a)* personal character qualities of honesty and integrity;** ***(b)* competence; and** ***(c)* operational ability]**, to the extent required in order for such key individual to fulfill the responsibilities imposed by this Act.''. **9.** The amendment of section 9(1)— *(a)* by the substitution for paragraphs *(c)* and *(d)* of the following paragraphs: ''*(c)* has failed to comply with any other provision of this Act or any requirement under the Financial Sector Regulation Act, including a conduct standard, a prudential standard or a joint standard; *(d)* **[is liable for payment of]** has failed to pay a levy **[under section 15A of the Financial Services Board Act, 1990 (Act No. 91 of 1990), a penalty under section 41(2) and (3) or an administrative sanction under section 6D(2) of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001), and has failed to pay the said levy, penalty or administrative sanction],** an administrative penalty, or **[and]** any interest in respect thereof;''; and *(b)* by the substitution for paragraph *(f)* of the following paragraph: ''*(f)* has failed to comply with a regulator's **[any]** directive **[issued under this Act]**; or''.

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		(1A) Indien die aansoeker ’n vennootskap, trust of regspersoon 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 karaktereienskappe 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 gedragstandaard, ’n voorsorgstandaard of ’n gesamentlike standaard; *(d)* **[aanspreeklik is vir betaling van]** versuim het om ’n heffing, **[kragtens artikel 15A van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), ’n boete kragtens artikel 41(2) en (3) of ’n administratiewe sanksie kragtens artikel 6D(2) van die Wet op Finansiële Instellings (Beskerming van Fondse), 2001 (Wet No. 28 van 2001), en versuim het om genoemde heffing, boete of administratiewe sanksie en]** ’n administratiwe 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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		10. Subartikel (3) in artikel 13 word deur die volgende subartikel vervang: "(3) **[Die gemagtigde]** 'n Gemagtigde verskaffer van finansiële dienste moet— *(a)* 'n register van verteenwoordigers, en sleutelpersone van **[sodanige]** daardie verteenwoordigers byhou, wat gereeld bygewerk moet word en beskikbaar moet wees vir die **[registrateur]** Owerheid vir verwysings- of inspeksie-doeleindes**[.]**; en *(b)* binne vyf dae nadat hy of sy deur die Owerheid ingelig is van die uitsluiting van 'n verteenwoordiger of sleutelindividu deur die Owerheid, die naam van daardie verteenwoordiger of sleutelindividu verwyder uit die register in paragraaf *(a)* bedoel.". **11.** Artikel 14 word deur die volgende artikel vervang: "**Uitsluiting van verteenwoordigers** **14.** (1) *(a)* 'n Gemagtigde verskaffer van finansiële dienste moet 'n persoon wat— (i) 'n verteenwoordiger van die verskaffer van finansiële dienste; of (ii) die sleutelindividu van sodanige verteenwoordiger, is of was, na gelang van die geval, uitsluit van die lewering van finansiële dienste indien die verskaffer van finansiële dienste op grond van beskikbare feite en inligting tevrede is dat die persoon— (iii) nie voldoen aan die vereistes in artikel 13(2)*(a)* bedoel nie of dit nie meer nakom nie; of (iv) enige bepaling van hierdie Wet op 'n wesenlike wyse oortree het of versuim het om daaraan te voldoen; en *(b)* Die redes vir 'n uitsluiting ingevolge paragraaf *(a)* moes plaas-gevind het en tot die wete van die verskaffer van finansiële dienste gekom het terwyl die persoon 'n verteen-woordiger 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 lewer nie, nadat alle redelike stappe gedoen is om

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		(3) A financial services provider must— *(a)* before debarring a person— (i) give adequate notice in writing to the person stating its intention to debar the person, the grounds and reasons for the debarment, and any terms attached to the debarment, including, in relation to unconcluded business, any measures stipulated for the protection of the interests of clients; (ii) provide the person with a copy of the financial services provider's written policy and procedure governing the debarment process; and (iii) give the person a reasonable opportunity to make a submission in response; *(b)* consider any response provided in terms of paragraph *(a)*(iii), and then take a decision in terms of subsection (1); and *(c)* immediately notify the person in writing of— (i) the financial services provider's decision; (ii) the persons' rights in terms of Chapter 15 of the Financial Sector Regulation Act; and (iii) any formal requirements in respect of proceedings for the reconsideration of the decision by the Tribunal. (4) Where the debarment has been effected as contemplated in subsection (1), the financial services provider must— *(a)* immediately withdraw any authority which may still exist for the person to act on behalf of the financial services provider; *(b)* where applicable, remove the name of the debarred person from the register referred to in section 13(3); *(c)* immediately take steps to ensure that the debarment does not prejudice the interest of clients of the debarred person, and that any unconcluded business of the debarred person is properly attended to;

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		dit te doen, met inbegrip van verspreiding deur elektroniese middele waar moontlik, sal lewering van die dokument of inligting aan die persoon se laaste bekende e-posadres of fisieke sake- of woonadres voldoende wees. (3) 'n Verskaffer van finansiële dienste moet— *(a)* voordat 'n persoon uitgesluit word— (i) genoegsame skriftelike kennis aan die persoon gee waarin die verskaffer se voorneme om die persoon uit te sluit, die gronde en redes vir die uitsluiting en enige voorwaardes aan die uitsluiting geheg, uiteengesit word, met inbegrip van, in verband met onafgehandelde besigheid, enige maatreëls bepaal vir die beskerming van die belange van kliënte; (ii) die persoon voorsien van 'n afskrif van die verskaffer van finansiële dienste se skriftelike beleid en prosedure wat die uitsluitingsproses beheer; en (iii) die persoon 'n redelike geleentheid gun om met 'n vertoog te reageer; *(b)* enige reaksie ingevolge paragraaf *(a)*(iii) voorsien, oorweeg, en kan daarna 'n besluit ingevolge subartikel (1) neem; en *(c)* die persoon onmiddellik skriftelik in kennis stel van— (i) die verskaffer van finansiële dienste se besluit; (ii) die persone se regte ingevolge Hoofstuk 15 van die 'Financial Sector Regulation Act'; (iii) enige ander formele vereistes ten opsigte van die verrigtinge vir die heroorwegings van die besluit deur die Tribunaal. (4) Waar die uitsluiting uitgevoer is soos in subartikel (1) beoog, moet die verskaffer van finansiële dienste— *(a)* enige magtiging wat nog bestaan vir die persoon om namens die verskaffer van finansiële dienste te handel, onmiddellik terugtrek; *(b)* waar van toepassing, die naam van die uitgesluite persoon verwyder van die register in artikel 13(3) bedoel; *(c)* onmiddellik stappe doen om te verseker dat die uitsluiting nie die belange van kliënte van die uitgeslote persoon benadeel nie, en dat enige onafgehandelde besigheid van die uitgeslote persoon behoorlik hanteer word;

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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

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		(d) in die vorm en op die wyse deur die Owerheid bepaal, die Owerheid binne vyf dae van die uitsluiting in kennis stel; en *(e)* die Owerheid binne 15 dae vanaf die uitsluiting voorsien van die gronde en redes vir die uitsluiting in die formaat wat die Owerheid kan vereis. (5) 'n Uitsluiting ingevolge subartikel (1) wat ten opsigte van 'n persoon wat nie meer 'n verteenwoordiger van 'n verskaffer van finansiële dienste is nie, moet nie langerwees nie as ses maande vanaf die datum waarop die persoon opgehou het om 'n verteenwoordiger van die verskaffer van finansiële dienste te wees. (6) Vir die uitsluiting van'n persoon soos in subartikel (1) beoog, moet die verskaffer van finansiële dienste inligting oor die gedrag van die persoon, deur die Owerheid, die Ombud of enige ander belanghebbende verskaf, in ag neem. (7) Die Owerheid kan, vir die doeleindes van rekordhouding, enige inligting, met inbegrip van inligting bedoel in subartikel (4)*(d)* en *(e)*, vereis om die registrateur in staat te stel om 'n sentrale register van alle persone wat ingevolge subartikel (1) uitgesluit is, te hou en voortdurend by te werk, en daardie register moet op die webwerf van die Owerheid, of by wyse van enige ander gepaste openbare media, gepubliseer word. (8) 'n Uitsluiting ingevolge hierdie artikel uitgevoer, moet deur die Owerheid hanteer word soos in hierdie artikel beoog. (9) 'n Persoon ingevolge subartikel (1) uitgesluit, mag nie finansiële dienste lewer of as 'n verteenwoordiger of sleutelindividu van 'n verteenwoordiger van enige verskaffer van finansiële dienste optree nie, tensy die persoon voldoen het aan die vereistes in artikel 13(1)*(b)*(ii) bedoel vir die heraanstelling van 'n uitgesluite persoon as 'n verteenwoordiger of sleutelindividu van 'n verteenwoordiger.''. **12.** Artikel 14A word herroep. **13.** Artikel 20 word gewysig deur subartikel (3) deur die volgende subartikel te vervang: ''(3) Die oogmerk van die Ombud is om klagtes kragtens hierdie Wet, en klagtes waarvoor die Bemiddelaar ingevolge artikel 211 van die 'Financial Sector Regulation Act' aangewys is, te

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		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.". **18.** The repeal of section 26. **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 billike, 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.

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		21. The substitution for section 39 of the following section: "**Right to reconsideration of decision** **39.** Any person aggrieved by a decision of a financial services provider to debar that person in terms of section 14 may apply for the reconsideration of the decision to the Tribunal.". **22.** The repeal of sections 41 and 44. **23.** The amendment of section 45— *(a)* by the deletion in subsection (1) of paragraph *(a)*(ii); and *(b)* by the insertion after subsection (1) of the following subsections: "(1A) The provisions of this Act do not apply to the— *(a)* performing of the activities referred to in paragraph *(b)*(ii) and (iii) of the definition of "intermediary service" by a product supplier— (i) who is authorised under a particular law to conduct business as a financial institution; and (ii) where the rendering of such service is regulated under such law; and *(b)* rendering of financial services by a manager as defined in section 1 of the Collective Investment Schemes Control Act, 2002, to the extent that the rendering of financial services is regulated under that Act. (1B) The exemption referred to in— *(a)* subsection (1A)*(a)* does not apply to a person to whom the product supplier has delegated or outsourced the activity, or any part of the activity, contemplated in paragraph *(a)*, and where the person is not an employee of the product supplier; and *(b)* subsection (1A)*(b)* does not apply to an authorised agent as defined in section 1 of the Collective Investment Schemes Control Act, 2002.".

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		21. Artikel 39 word deur die volgende artikel vervang: "**Reg op heroorweging van beslissing** **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.". **22.** Artikels 41 en 44 word herroep. **23.** Artikel 45 word gewysig— *(a)* deur die volgende subartikels na subartikel (1) in te voeg: "(1A) Die bepalings van hierdie Wet is nie van toepassing nie op die— *(a)* verrigting van die aktiwiteite in paragraaf *(b)*(ii) en (iii) van die omskrywing van 'tussengangers-diens' bedoel deur 'n produk-verskaffer— (i) wat kragtens 'n bepaalde wet gemagtig is om besigheid as 'n finansiële instelling te doen; en (ii) waar die lewering van so 'n diens kragtens sodanige wet gereguleer word; en *(b)* finansiële dienste lewer deur 'n bestuurder soos omskryf in artikel 1 van die Wet op Beheer van Kollektiewe Belegging-skemas, 2002, tot die mate wat die lewering van finansiële dienste kragtens daardie Wet gereguleer word. (1B) Die vrystelling bedoel in— *(a)* subartikel (1A)*(a)* is nie van toepassing nie op 'n persoon aan wie die produkverskaffer die aktiwiteit, of enige deel van die aktiwiteit, in paragraaf *(a)* beoog, gedelegeer of uitbestee het en waar die persoon nie 'n werknemer van die produkverskaffer is nie; en *(b)* subartikel (1A)*(b)* is nie van toepassing nie op 'n gemagtigde agent soos omskryf in artikel 1 van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002.".

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		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;";

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		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;";

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		(h) 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;"; and *(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.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(h) deur die omskrywing van "voorgeskryf" te skrap; *(i)* deur die volgende omskrywing voor die omskrywing van "werf" in te voeg: " **'voorsorgstandaard'** dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf is;"; en *(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 uitdrukkings 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 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.

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PART 4 OF 5

THE PRESIDENCY

No. 853 22 August 2017

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

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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—";

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(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 gelde moet gelees word as 'n verwysing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act'. (9) 'n Verwysing in hierdie Wet na 'n appèl teen 'n beslissing van die Owerheid moet gelees word as 'n verwysing na 'n heroorweging van die beslissing deur die Tribunaal ingevolge die 'Financial Sector Regulation Act'. **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—";

Act No. and year	Short Title	Extent of repeal or amendment
		(b) by the deletion in subsection (1) of the proviso to paragraph *(f)*; and *(c)* by the substitution in subsection (1) for paragraph *(j)* of the following paragraph: "*(j)* if a manager fails to comply with a written request, direction or directive by the **[registrar]** Authority under this Act or the Financial Sector Regulation Act, do or cause to be done all that a manager was required to do in terms of the request, direction or directive of the **[registrar]** Authority.". **5.** The amendment of section 15A— *(a)* by the substitution in subsection (1) for paragraph *(c)* of the following paragraph: "*(c)* if deemed reasonably necessary in the interests of investors, at that time or at any time thereafter, and notwithstanding any steps already taken by the **[registrar in accordance with paragraph *(a)* or *(b)* or any other provision of this Act, act in accordance with section 15]** Authority."; and *(b)* by the substitution for subsection (3) of the following subsection: "(3) For the purposes of this section, "financial soundness requirement" means any requirement or limitation referred to in sections 85 to 89, inclusive, sections 91 to 96, inclusive, and section 105 and includes any other financial requirements imposed under this Act or by a prudential standard, conduct standard or joint standard.". **6.** The repeal of sections 15B, 18, 22, 23 and 24. **7.** The substitution in sections 63 and 66 for the expression "Minister", wherever it occurs, of the expression "Authority". **8.** The amendment of section 99(1) by the substitution for paragraph *(b)* of the following paragraph: "*(b)* the **[registrar]** Authority, granted on such conditions as **[he or she]** the Authority may impose in writing **[may determine]**.".

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(b) deur in subartikel (1) die voorbehoudsbepaling tot paragraaf *(f)* te skrap; en *(c)* deur in subartikel (1) paragraaf *(j)* deur die volgende paragraaf te vervang: "*(j)* indien 'n bestuurder versuim om aan 'n skriftelike versoek, instruksie of lasgewing deur die **[registrateur]** Owerheid kragtens hierdie Wet of die 'Financial Sector Regulation Act' te voldoen, alles wat ingevolge die versoek, instruksie of direktief van die **[registrateur]** Owerheid, van die bestuurder vereis is om te doen, of te laat doen.". **5.** Artikel 15A word gewysig— *(a)* deur in subartikel (2) paragraaf *(c)* deur die volgende paragraaf te vervang: "*(c)* indien dit in die belang van beleggers redelik nodig geag word, op daardie tydstip of te eniger tyd daarna, en ondanks enige stappe wat die **[registrateur]** Owerheid reeds **[ooreenkomstig paragraaf *(a)* of *(b)* of enige ander bepaling van hierdie Wet]** geneem het**[, ooreenkomstig artikel 15 handel]**."; en *(b)* deur subartikel (3) deur die volgende subartikel te vervang: "(3) By die toepassing van hierdie artikel, beteken 'vereiste vir finansiële gesondheid' enige vereiste of beperking in artikels 85 tot 89, inklusief, artikels 91 tot 96, inklusief, en artikel 105 en sluit enige ander finansiële vereistes in wat kragtens hierdie Wet of deur 'n voorsorgstandaard, gedragstandaard of gesamentlike standaard opgelê is.". **6.** Artikels 15B, 18, 22, 23 en 24 word herroep. **7.** In artikels 63 en 66 word die uitdrukking "Minister", waar dit ook al voorkom, deur die uitdrukking "Owerheid" vervang. **8.** Artikel 99(1) word gewysig deur paragraaf *(b)* deur die volgende paragraaf te vervang: "*(b)* die **[registrateur]** Owerheid, verleen op die voorwaardes wat **[hy of sy]** die Owerheid skriftelik **[bepaal]** oplê.".

Act No. and year	Short Title	Extent of repeal or amendment
		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)**[,]** or (2) *(a)* **[or (3)*(a)*]** does not prohibit the exercise of the power in question by the Minister, association or **[registrar]** Authority, as the case may be.". **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 direction, requirement, notice, rule, regulatory instrument or regulation under any provision 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 Financial Sector Regulation Act **1B.** Regulatory instruments".
Act No. 37 of 2004	Financial Services Ombud Schemes Act, 2004	**1.** The repeal of the whole Act.
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;".

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
		9. Artikel 112 word gewysig— *(a)* deur subartikel (3) te skrap; en *(b)* deur subartikel (4) deur die volgende subartikel te vervang: "(4) Enige delegasie kragtens subartikel (1)**[,]** of (2)*(a)* **[of (3)*(a)*]** verhinder nie die uitoefening van die betrokke bevoegdheid deur die Minister, vereniging of **[registrateur]** Owerheid, na gelang van die geval, nie.". **10.** Artikel 114 word gewysig deur subartikels (3)*(d)*, (5) en (6) te skrap. **11.** Artikel 115 word gewysig deur paragraaf *(c)* deur die volgende paragraaf te vervang: "*(c)* versuim om te voldoen aan 'n lasgewing, vereiste, kennisgewing, reël, reguleringsinstrument of regulasie kragtens enige bepaling van hierdie Wet of die 'Financial Sector Regulation Act',". **12.** Die indeling van artikels word gewysig deur die volgende item na item 1 in te voeg: "**1A.** Verhouding tussen Wet en 'Financial Sector Regulation Act' **1B.** Reguleringsinstrumente".
UMthetho 37 ka 2004	Umthetho weenkqubo zomsombululizi-khalo kwinkonzo zemali ka-2004	**1.** Ukuchithwa komthetho wonke.
UMthetho wama-34 wezi-2005	uMthetho weziKweletu kaZwelonke, ka-2005	**1.** Ukufaka endaweni esigabeni soku-1 sencazelo "yesiphathimandla esibheka izikhalo zamakhasimende esinamandla" incazelo elandelayo— " **'isiphathimandla esibheka izikhalo zamakhasimende esinamandla'**, maqondana nanoma yimuphi umbango ovuka ngenxa yesivumelwano sesikweletu lapho umhlinzeki wesikweletu "kuyisikhungo sezimali" njengalokho kuchazwe *(Financial Services Ombud Schemes Act)*, 2004 (uMthetho No. 37 ka 2004) wokuLawulwa koMkhakha weziMali, 2017, kusho **["isiphathimandla esibheka izikhalo zamakhasimende", noma "isiphathimandla esibheka izikhalo zamakhasimende ngokomthetho"]** "uhlelo lwe-ombud", njengoba **[lawo magama echazwe ngokwehlukana]** leli gama lichaziwe eMthethweni, esinamandla ngokuhambisana nalowo Mthetho okubhekana nesikhalo esibhekiswe esikhungweni sezimali;".

Act No. and year	Short Title	Extent of repeal or amendment
		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".

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		2. Ukuchibiyela isigaba se-134— *(a)* ngokufaka endaweni esigabeni soku-(1) yeziqephu *(a)* kanye *(b)* izigaba ezilandelayo— "*(a)* uma umhlinzeki wesikweletu othintekayo kuyisikhungo sezimali njengalokho sichazwe 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 okuxazulula isikhalo noma udaba olubandakanya umhlinzeki wesikweletu, njengoba kunqunyiwe ngokuhambisana **[nezigaba 13 no 14 zalowo]** nalowo Mthetho; futhi— (ii) kufanele luxazululwe kube sengathi luyisikhalo ngokwalowo Mthetho; noma *(b)* uma umhlinzeki wesikweletu kungesona isikhungo sezimali, njengalokho sichazwe eMthethweni *(Financial Services Ombud Schemes Act)*, 2004 (uMthetho No. 37 ka 2004) wokuLawulwa koMkhakha weziMali, 2017, udaba lungadluliselwa— (i) enkantolo yamakhasimende, ukuze luxazululwe ngokwalo Mthetho kanye nomthetho wesifundazwe osungule leyo nkantolo yamakhasimende; noma (ii) kwi-ejenti esebenzisa ezinye izindlela zokuxazulula umbango, ukuba ixazulule ngokulamula."; futhi *(b)* ngokufaka endaweni yesigatshana se-(4)*(b)* indimana (i) indimana esilandelayo— "(i) esiphathimandleni esibheka izikhalo zamakhasimende esinamandla,

Act No. and year	Short Title	Extent of repeal or amendment
Act No. 40 of 2007	Co-operative Banks Act, 2007	**1.** The amendment of section 1— *(a)* by the deletion of the definition of "appeal board"; *(b)* by the insertion after the definition of "Agency" of the following definition: " **'Authority'** means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;"; *(c)* by the insertion after the definition of "business plan" of the following definition: " **'conduct standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(d)* by the substitution for the definition of "co-operative bank" of the following definition: " **'co-operative bank'** means a co-operative or a co-operative financial institution registered as a co-operative bank in terms of this Act whose members— *(a)* are employed by a common employer or who are employed within the same business district; or *(b)* have common membership in an association or organisation, including a religious, social, co-operative, labour or educational group; *(c)* reside within the same defined community or geographical area;"; *(e)* by the substitution for the definition of "co-operative financial institution" of the following definition: " **'co-operative financial institution'** means a co-operative that takes deposits and chooses to identify itself by use of the name Financial Co-operative, Financial Services Co-operative, Credit Union or Savings and Credit Co-operative;";

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		ukuba sixazulule udaba ngokwalo *(Financial Services Ombud Schemes Act)*, ka 2004 (uMthetho No. 37 ka 2004)] wokuLawulwa koMkhakha weziMali, 2017, uma umhlinzeki wesikweletu othintekayo kuyisikhungo sezimali **[nomuntu othintekayo kuyisikimu esaziwayo]** njengalokho kuchazwe kulowo Mthetho; noma''.
UMthetho 40 ka-2007	UMthetho weeBhanki zeNtsebenzi swano ka-2007	**1.** Kwenziwa utshintsho kwicandelo 1— *(a)* ngokuthi kucinywe inkcazelo yegama elithi ''ibhodi yezibheno''; *(b)* ngokuthi emva kwenkcazelo yegama elithi ''iArhente'' kufakelwe inkcazelo elandelayo: '' **'iGunya'** liGunya Lobulumko elisekwe ngokwecandelo 32 le*Financial Sector Regulation Act*;''; *(c)* ngokuthi emva kwenkcazelo yegama elithi ''isicwangciso soshishino'' kufakelwe inkcazelo elandelayo: '' **'elithi indlela yokuziphatha'** linentsingiselo ekwanyene elinikwe yona kwicandelo 1(1) le*Financial Sector Regulation Act*;''; *(d)* ngokuthi endaweni yokuchazwa kwegama elithi ''ibhanki yentsebenziswano'' kufakelwe ukuchazwa kwegama elilandelayo: **'ibhanki yentsebenziswano'** ngumfelandawonye okanye iziko lemali elingumfelandawonye elibhaliswe njengebhanki yentsebenziswano ngokwalo Mthetho elimalungu alo— *(a)* aqeshwe ngumqeshi omnye okanye aqeshwe kwisithili esinye soshishino; 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 elingumfelanda-wonye'** ngumfelandawonye owamkela ukufakwa kwemali nokhetha ukwaziwa ngokusebenzisa igama elithi uMfelandawonye Wemali, uMfelandawonye Weenkonzo Zemali, uMbutho Wokukweleta okanye uMfelandawonye Wokulondoloza okanye Wokukweleta;'';

Act No. and year	Short Title	Extent of repeal or amendment
		(f) by the insertion after the definition of "executive officer" of the following definition: " **'Financial Sector Regulation Act'** means the Financial Sector Regulation Act, 2017;"; *(g)* by the insertion after the definition of "Fund" of the following definition: " **'joint standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(h)* by the deletion of the definition of "prescribed"; *(i)* by the insertion after the definition of "proposed co-operative bank" of the following definition: " **'prudential standard'** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;"; *(j)* by the insertion after the definition of "Public Finance Management Act" of the following definition: " **'Register'** means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;"; *(k)* by the deletion of the definition of "supervisor"; *(l)* by the insertion after the definition of "this Act" of the following definition: " **'Tribunal'** means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act."; and *(m)* by the addition in section 1 of the following subsection, the existing section becoming subsection (1): "(2) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.". **2.** The insertion after section 1 of the following sections: "**Relationship between Act and Financial Sector Regulation Act** **1A.** (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(f) ngokuthi emva kwenkcazelo yegama elithi "igosa lesigqeba" kufakelwe inkcazelo elandelayo: " **'i*Financial Sector Regulation Act'*** yi*Financial Sector Regulation Act* ka- 2017;"; *(g)* ngokuthi emva kwenkcazelo yegama elithi "ingxowa-mali" kufakelwe inkcazelo elandelayo: " **'**elithi **umlinganiselo wendibani-selwano'** linentsingiselo ekwanye elinikwe yona yi*Financial Sector Regulation Act*;"; *(h)* ngokuthi kucinywe inkcazelo yegama elithi "ukumisela"; *(i)* ngokuthi emva kwenkcazelo yegama elithi "ibhanki yentsebenziswano ecetywayo" kufakelwe inkcazelo elandelayo: " **'elithi umlinganiselo wobulumko'** linentsingiselo ekwanye elinikwe yona kwi*Financial 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 le*Financial 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 le*Financial Sector Regulation Act.*"; kunye *(m)* nangokuthi kwicandelo 1 kongezwe icandelwana elilandelayo, lize incandelo elikhoyo libe licandelwana (1): "(2) Ngaphandle kokuba okunye okubhaliweyo kubonisa ngenye indlela, amagama angachazwanga kwicandelwana (1) anentsingiselo ekwanye anikwe yona kwi*Financial Sector Regulation Act.*". **2.** Emva kwecandelo 1 kufakelwa icandelo elilandelayo: "**Ubudlelane phakathi kwalo Mthetho ne*Financial Sector Regulation Act*** **1A.** (1) Ngaphandle kwalapho utsho okwahlukileyo lo Mthetho okanye i*Financial Sector Regulation Act*,

Act No. and year	Short Title	Extent of repeal or amendment
		(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.

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		amagunya nemisebenzi yeGunya ngokwalo Mthetho yongezelela kumagunya nemisebenzi elinawo ngokwe*Financial Sector Regulation Act*. (2) Xa kulo Mthetho kuthethwa ngeGunya okanye ngeArhente eyenza isigqibo okanye epapasha udaba ngesihlokomiso kwi*Gazethi* makuthathwe oko njengokuquka neGunya okanye iArhente eyenza isigqibo okanye epapasha udaba ngesihlokomiso esipapashwe kwiRejista. (3) Ngaphandle kokuba kutshiwo ngokucacileyo kulo Mthetho, okanye ngaphandle kokuba lo Mthetho ufuna ukuba udaba lulawulwe ngummiselo ngokwecandelo 86, okanye ngaphandle kokuba uvumela udaba lulawulwe yiArhente, kuquka ukulawulwa ngumgaqo ngokwecandelo 57, xa kulo Mthetho kuthethwa ngokulawulwa kodaba, makuthathwe— *(a)* njengokuthetha ukulawulwa kodaba ngendlela yobulumko; okanye *(b)* njengokuthetha ukulawulwa kodaba liGunya elenza isigqibo ngodaba ngokubhala lize lisibhale isigqibo kwiRejista. (4) Nemicimbi ekunokuthi kwenziwe imimiselo ngayo ngeebhanki zentsebenziswano ngokwalo Mthetho kunokuthi kwenziwe imimiselo ngayo ngendlela yobulumko ngokwe*Financial Sector Regulation Act*. (5) Xa kuthethwa ngemigaqo eyenziwe liGunya ngokwecandelo 46 makuthathwe ngokuthi yimigaqo eyenziwe ngokwendlela yobulumko. (6) *(a)* Xa kuthethwa ngokuhlola okukwicandelo 47, makuthathwe ngokuthi kuthethwa ngokuhlola okungokweSahluko 9 se*Financial Sector Regulation Act.* *(b)* Xa kuthethwa ngophando olwenziwa yiArhente okanye nguMphathiswa ngokwecandelo 73 makungathathwa ngokuthi kuthethwa ngophando olungokweSahluko 9 se*Financial Sector Regulation Act*. (7) *(a)* Xa kulo Mthetho kuthethwa ngeGunya okanye ngeArhente evakalisa okanye epapasha ingcombolo okanye uxwebhu kwiwebsayithi makuthathwe ngokuthi kuthethwa kubhekiselwa kwiGunya okanye kwiArhente epapasha ingcombolo okanye uxwebhu kwiRejista. *(b)* Nalo iGunya okanye iArhente livumelekile ukuba liyipapashe ingcombolo okanye uxwebhu kwiwebsayithi yalo.

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		(8) *(a)* A reference in this Act to a prescribed fee, other than a reference to a fee prescribed by the Agency, must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act. *(b)* The Agency, when determining a fee in terms of this Act, must comply with the requirements of section 237 and Chapter 16 of the Financial Sector Regulation Act. (9) A reference in this Act to an appeal of a decision of the Authority or the Agency must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act. (10) *(a)* The Authority must publish the following in the Register— (i) each registration of a co-operative bank in terms of section 8 and each suspension and de-registration in terms of section 11; (ii) each conversion of registration in terms of section 28; (iii) each registration of a co-operative financial institution in terms of section 40C, and each suspension, lapsing and de-registration in terms of section 40D. *(b)* The Agency must publish the following in the Register— (i) each registration of a representative body in terms of section 33, and each cancellation or suspension of registration in terms of section 35; and (ii) each accreditation of a support organisation in terms of section 38, and each cancellation or suspension of accreditation in terms of section 40. **Regulatory instruments** **1B.** For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, the following are regulatory instruments: *(a)* existing rules made in terms of section 46 prior to the date on which this section comes into effect; and *(b)* prudential, conduct or joint standards made in terms of section 46 subsequent to the date on which this section comes into effect;".

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		(8) *(a)* Xa kulo Mthetho kuthethwa ngomrhumo ofunekayo, kodwa kube kungathethwa ngomrhumo ofunwa yiArhente, makuthathwe ngokuthi kuthethwa ngomrhumo ogqitywe ngokwecandelo 237 le*Financial Sector Regulation Act*. *(b)* Xa iArhente isenza isigqibo ngomrhumo ngokwalo Mthetho mayihlangabezane neemfuneko zecandelo 237 nezeSahluko 16 se*Financial Sector Regulation Act*. (9) Xa kulo Mthetho kuthethwa ngokubhena kwisigqibo seGunya makuthathwe ngokuthi kuthethwa ngokuqwalaselwa ngokutsha kwaso ngaBachopheli-matyala ngokwe*Financial Sector Regulation Act*. (10) *(a)* IGunya malipapashe okulandelayo kwiRejista— (i) ubhaliso ngalunye ngokwecandelo 8 nokunqunyanyi-swa ngakunye nokurhoxiswa kokubhaliswa ngokwecandelo 11; (ii) nesihlandlo ngasinye sokuguqulwa kobhaliso ngokwecandelo 28; (iii) nesihlandlo ngasinye sokubhaliswa kweziko lemali elingumfela-ndawonye ngokwecandelo 40C, nesihlandlo ngasinye sokunqunyanyiswa, ukuphelelwa nokurhoxiswa kokubhaliswa ngokwecandelo 40D. *(b)* IArhente mayipapashe oku kulandelayo kwiRejista— (i) isihlandlo ngasinye sokubhaliswa ngokwecandelo 33, nesihlandlo ngasinye sokurhoxiswa okanye ukunqunyanyiswa kokubhaliswa ngokwecandelo 35; (ii) nesihlandlo ngasinye sokuvunywa ngokwecandelo 38, nesihlandlo ngasinye sokurhoxiswa okanye ukunqunyanyiswa kokuvunywa ngokwecandelo 40. **Izixhobo zokulawula** **1B.** Ngenjongo yokuchaza elithi "izixhobo zokulawula" elikwicandelo 1(1) le*Financial Sector Regulation Act*, oku kulandelayo kuzizixhobo zokulawula: *(a)* imigaqo ekhoyo ngoku eyenziwe ngokwecandelo 46 ngaphambi komhla wokuqalisa ukusebenza kweli candelo; *(b)* nemigaqo yobulumko, nezenzo ezenziwe ngokwecandelo 46 emva komhla eliqalise ngawo ukusebenza eli candelo;".

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		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.". **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;**

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		3. Kwenziwa utshintsho kwicandelo 2 ngokuthi isiqendu *(b)* no-*(c)* zithatyathelw' indawo ziziqendu ezilandelayo: "*(b)* kukhuthazwe ukuphuculwa kweebhanki zentsebenziswano namaziko emali ayimifelandawonye; kananjalo *(c)* kusekwe amaziko afanelekileyo eebhanki eziyimifelandawonye namaziko emali entsebenziswano akhusela izinto eziluncedo zamalungu eebhanko zentsebenziswano, amaziko emali entsebenziswano, noluntu, ngokwenza ukuba— (i) kubhaliswe iibhanki ezamkela imali eluntwini zibe ziibhanki zentsebenziswano okanye amaziko emali ayimifelandawonye; (ii) **[ukumiselwa kwabaphathi]** ukulawulwa okufanelekileyo nangempumelelo kweebhanki zentsebenziswano namaziko emali entsebenziswano nokukhuselwa kwamalungu noluntu; kananjalo (iii) ukusekwa kweArhente Yophuhliso yeeBhanki Zentsebenziswano ukuphucula ukuqhubeka kweebhanki zentsebenziswano zisebenza namaziko emali entsebenziswano.". **4.** Kwenziwa utshintsho kwicandelo 3 ngokuthi elo candelo lithatyathelw' indawo licandelo elilandelayo: "**3. [(1)]** Lo Mthetho usebenza kuzo zonke iibhanki zentsebenziswano ezibhaliswe phantsi kwalo Mthetho nakuzo naziphi na **[—** ***(a)*** **umfelandawonye ophambili obhaliswe phantsi kwe*Co-operatives Act* othatha iimali ezifakwayo—** **(i) onamalungu angama-200 okanye ngaphezulu;** **(ii) noneemali ezifakwe ngamalungu ezifikelela kwisigidi seerandi okanye ngaphezulu; kwakunye** ***(b)*** **nomfelandawonye wesibini okanye wokongeza obhaliswe phantsi kwe*Co-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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		(ii) anemifelandawonye yeenkonzo zemali emibini nangaphezulu eyamkela imali ebantwini; **(iii) anebhanki enye yentsebenziswano nomfelandawonye omnye wenkonzo yemali owamkela imali ebantwini]** iziko lemali elingumfelandawonye elibhaliwe ngokwalo Mthetho. **[(2) Umfelandawonye ekuthethwe ngawo kwicandelwana (1) mawuthi, ngokulawulwa licandelo 91, zingekapheli iinyanga ezimbini uthe wahlangabezana neemfuneko ekuthethwe ngazo kwicandelwana (1) wenze isicelo sokubhaliswa njengebhanki yentsebenziswano ngokwalo Mthetho.]**". **5.** Kwenziwa utshintsho kwicandelo 4 ngokuthi indawo yecandelwana (1) ithathwe licandelwana elilandelayo: "(1) IC*o-operatives Act* isebenza kwiibhanki zentsebenziswano nakumaziko emali entsebenziswano ngaphandle kokuba icacisiwe into yokuba okutshiwo yinxalenye ethile yalo Mthetho akusebenzi okanye kwenziwe utshintsho.". **6.** Kwenziwa utshintsho kwicandelo 5 ngokuthi indawo yesiqendu *(c)* no-*(d)* ithatyathwe ziziqendu ezilandelayo: "*(c)* ibhanki yesibini yentsebenziswano emalungu ayo ubuncinane— (i) aziibhanki ezimbini nangaphezulu zentsebenziswano; (ii) angamaziko emali entsebenziswano amabini nangaphezulu; okanye (iii) ayibhanki enye yentsebenziswano neziko lemali lentsebenziswano elinye; kunye *(b)* ibhanki ephezulu yentsebenziswano emalungu ayo aziibhanki ezimbini nangaphezulu zentsebenziswano zokuncedisa.".

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		7. The insertion after section 40 in Chapter VII of the following Chapter: **"CHAPTER VIIA CO-OPERATIVE FINANCIAL INSTITUTIONS** **Application for registration as co-operative financial institution** **40A.** (1)A co-operative financial institution must apply to the Authority, or to the Agency if this function has been assigned or delegated to the Agency, for registration on the application form as prescribed. (2) The co-operative financial institution must submit copies of documents and any other information as prescribed, together with the application form referred to in subsection (1). **Requirements for registration** **40B.** (1) In order to qualify for registration, or to continue to be registered, a co-operative financial institution must demonstrate, to the satisfaction of the Authority, or to the Agency if this function has been assigned or delegated to the Agency, on an ongoing basis that— *(a)* it has the requisite experience, knowledge, qualifications and competence to give effect to its obligations; *(b)* it has sufficient human, financial, and operational capacity to function efficiently and competently; *(c)* it meets any prescribed threshold requirements in respect of membership, membership shares and deposits held; and *(d)* it meets any other applicable prescribed requirements. (2) *(a)* A co-operative financial institution must, once it has reached a prescribed amount of members' deposits, apply for registration as a co-operative bank in terms of this Act. *(b)* If the responsibility for the registration of a co-operative financial institution has been assigned or delegated to the Agency, the Agency must recommend to the Authority whether the application for registration as a co-operative bank should be approved or declined. *(c)* In the event that the application by a co-operative financial institution to register as a co-operative bank is declined—

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		7. Emva kwecandelo 40 kwiSahluko VII kufakelwa iSahluko esilandelayo: **"ISAHLUKO VIIA AMAZIKO EMALI ENTSEBENZISWANO** **Isicelo sokubhaliswa njengeziko lemali lentsebenziswano** **40A.** (1) Iziko lemali lentsebenziswano malenze isicelo kwiGunya, okanye kwiArhente ukuba lo msebenzi wabelwe iArhente, ukuze libhalise kwifomu yesicelo ngendlela efunekayo. (2) Iziko lemali lentsebenziswano malingenise iikopi zamaxwebhu kunye nayo yonke enye ingcombolo ngendlela efunekayo, kunye nefomu yesicelo ekuthethwe ngayo kwicandelwana (1). **Iimfuneko zokubhaliswa** **40B.** (1) Ukuze lifanelekele ukubhaliswa, okanye ukuqhubeka libhalisiwe, iziko lemali lentsebenziswano kufuneka libonise ngendlela eyanelisa 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 ezifakiweyo; *(d)* liyahlangabezana nazo zonke ezinye iimfuneko. (2) *(a)* Iziko lemali lentsebenziswano malithi, kwaoko lakuba linazo iimali ezilinani elifunekayo ezifakwe ngamalungu, lenze isicelo sokubhaliswa njengebhanki yentsebenziswano ngokwalo Mthetho. *(b)* Ukuba imbopheleleko yokubhaliswa kweziko lemali lentsebenziswano labelwe iArhente, iArhente mayicebise iGunya isicelo sokubhaliswa njengebhanki yentsebenziswano masamkelwe okanye sikhatywe kusini na. *(c)* Xa isicelo seziko lemali lentsebenziswano sokubhaliswa njengebhanki yentsebenziswano sikhatyiwe— (i) iGunya lisengagqiba kwelokuba iziko lemali lentsebenziswano alinakugcina iimali ezifakiweyo engaphezu kwesixa esithile; kananjalo

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		(i) the Authority may determine that the co-operative financial institution concerned may not hold members' deposits exceeding a specified amount; and (ii) the co-operative financial institution concerned must re-apply for registration as a co-operative bank once the requirements to register as a co-operative bank have been met. *(d)* An amount determined by the Authority in terms of paragraph *(c)*(i)— (i) must be based on the nature and size of the co-operative financial institution; and (ii) may not exceed the general maximum limit for holdings of deposits by any co-operative financial institution prescribed by the Authority. *(e)* An application by a co-operative financial institution for registration as a co-operative bank must be accompanied by a letter of recommendation from the Agency, if applicable. (3) On the date that this section comes into operation, a co-operative financial institution that qualifies to be registered in terms of this Act— *(a)* must apply for registration in terms of this Act within 12 months from the date on which this section comes into operation; and *(b)* that holds members' deposits exceeding a prescribed threshold, but which does not qualify to be registered as a co-operative bank, must not hold members' deposits exceeding an amount determined by the Authority, based on the nature and size of the co-operative financial institution. (4) If the registration of co-operative financial institutions has been assigned or delegated to the Agency in terms of the Act, the Agency must inform the Authority of the registration of a co-operative financial institution within 14 days of the registration. **Registration of co-operative financial institution** **40C.** (1) The Authority may grant an application for registration on payment of the fee, prescribed by the Authority, if the Authority is satisfied that— *(a)* the application has been made in accordance with this Act; and *(b)* the co-operative financial institution complies with the requirements for registration referred to in section 40B.

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		(ii) iziko lemali lentsebenziswano maliphinde lenze isicelo sokubhaliswa njengebhanki yentsebenziswano zakuba iimfuneko zokubhaliswa njengebhanku yentsebenziswano zifezekisiwe. *(d)* Isixa-mali esiqingqwe liGunya ngokwesiqendu *(c)*(i)— (i) masisekelwe kubunjani nakubungakanani beziko lemali lentsebenziswano; kwaye (ii) alivumelekanga ukuba ligqithe kumda obekiweyo weemali ezinokugcinwa oqingqwe liGunya. *(e)* Isicelo esenziwa liziko lemali lentsebenziswano sokubhaliswa njengebhanki yentsebenziswano masiphelekwe yincwadi ecebisa omakwenzeke evela kwiArhente, ukuba kuyasebenza oko kule meko. (3) Ngomhla eliqala ukusebenza ngawo eli candelo, iziko lemali lentsebenziswano elifanelekela ukubhaliswa ngokwalo Mthetho— *(a)* malenze isicelo sokubhaliswa ngokwalo Mthetho zingekapheli iinyanga ezili-12 ukususela kumhla eliqala ngawo ukusebenza eli candelo; kanye *(b)* eneemali ezifakwe ngabantu ezingaphaya komlinganiselo obekiweyo, kodwa libe lingafaneleki ukuba libhaliswe njengebhanki yentsebenziswano, malingagcini iimali ezifakwe ngabantu ezingaphaya komda oqingqwe liGunya, osekelwe kubunjani nobungakanani beziko lemali lentsebenziswano. (4) Ukuba ukubhaliswa kwamaziko emali entsebenziswano kwabelwe okanye kuphathiswe iArhente ngokwalo Mthetho, iArhente mayazise iGunya ngokubhaliswa kweziko lemali lentsebenziswano zingekapheli iintsuku ezili-14 libhalisiwe. **Ukubhaliswa kweziko lemali lentsebenziswano** **40C.** (1) IGunya linokuthi lisivume isicelo sokubhaliswa kusakuhlawulwa umrhumo, ofunwe liGunya, ukuba iGunya lanelisekile kwinto yokuba— *(a)* isicelo senziwe ngokuvumelana nalo Mthetho; kwaye *(b)* iziko lemali lentsebenziswano liyahlangabezana neemfuneko zokubhaliswa ekuthethwe ngazo kwicandelo 40B.

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		(2) The Authority must, on registration, issue a certificate of registration to the co-operative financial institution and publish a notice of the registration in the Register. **Suspension of registration or de-registration** **40D.** The Authority may, subject to subsection (4), de-register or, where appropriate, suspend the registration of a co-operative financial institution where the Authority is satisfied that the co-operative financial institution— *(a)* has not commenced operating as a co-operative financial institution six months after the date of its registration as a co-operative financial institution; *(b)* has ceased to operate; *(c)* obtained registration through fraudulent means; *(d)* no longer meets the requirements for registration referred to in section 40B; *(e)* is unable to meet or maintain its prudential requirements referred to in section 40B; *(f)* has failed to comply with any condition imposed under this Act; *(g)* has failed to comply with any directive issued under this Act; or *(h)* is de-registered or wound-up under the Co-operatives Act. (2) Where a co-operative financial institution has requested its de-registration, the Authority may on submission of such a request, along with any other prescribed or requested information, de-register the co-operative financial institution. (3) *(a)* Where the Authority suspends the registration of a co-operative bank under subsection (1), the Authority may do so subject to any condition that the Authority may determine. *(b)* The Authority may revoke any suspension under subsection (1) if the Authority is satisfied that the co-operative financial institution has complied with all the conditions to which the suspension was made subject. (4) *(a)* The Authority must publish a notice of such de-registration or suspension in the Register.

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		(2) IGunya malithi, lisakuba iziko libhalisiwe, likhuphe isiqinisekiso sokubhaliswa siye kwizko lemali lentsebenziswano lize lipapashe isihlokomiso sokubhaliswa kwalo kwiRejista. **Ukunqunyanyiswa kokubhaliswa okanye ukucinywa** **40D.** (1) Ngokulawulwa licandelwana (4), iGunya linokulicima iziko lemali lentsebenziswano ebelibhalisiwe, okanye, xa kufanelekile, likunqumamise ukubhaliswa kwalo, xa iGunya liqinisekile ukuba iziko lemali lentsebenziswano— *(a)* alikaqalisi ukusebenza njengeziko lemali lentsebenziswano sekuphele iinyanga ezintandathu ukususela kumhla elabhaliswa ngawo njengeziko lemali lentsebenziswano. *(b)* liyekile ukusebenza; *(c)* likufumene ukubhaliswa ngokusebenzisa ubuqhetseba; *(d)* alisahlangabezani neemfuneko zokubhaliswa ekuthethwe ngazo kwicandelo 40B; *(e)* alikwazi ukuhlangabezana okanye ukuqhubeka lihlangabezana neemfuneko zobulumko ekuthethwe ngazo kwicandelo 40B; *(f)* loyisakele ukufezekisa imiqathango efunwa ngulo Mthetho; *(g)* loyisakele ukwenza ngokomyalelo okhutshwe ngokwalo Mthetho; *(h)* licinyiwe ekubhalisweni kwalo okanye lathinjwa ngokwe*Co-operatives Act*. (2) Xa iziko lemali lentsebenziswa lizicelele ngokwalo ukucinywa ekubhalisweni, iGunya linokuthi kusakungeniswa isicelo esinjalo, kunye nenye ingcombolo efunekayo okanye eceliweyo, lilicime ekubhalisweni iziko lemali lentsebenziswano. (3) *(a)* Xa iGunya likunqumamisa ukubhaliswa kwebhanki yentsebenziswano ngokwecandelwana (1), iGunya linokwenza njalo ngokomqathango onokuthi ubekwe liGunya. *(b)* IGunya linokukuphelisa ukunqunyanyiswa okwenziwe ngokwecandelwana (1) ukuba iGunya liqinisekile ukuba iziko lemali lentsebenziswano liyifezile yonke imiqathango. (4) *(a)* IGunya malipapashe kwiRejista isaziso sokucinywa okanye sokunqunyanyiswa.

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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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		(b) Ukucinywa ekubhalisweni kweziko lemali lentsebenziswano kuqala ukusebenza ngomhla oxelwe kwisaziso ekuthethwe ngaso kwisiqendu *(a)*. *(c)* Xa iziko lemali lentsebenziswano lenze isicelo sokuqwalaselwa ngokutsha kwesigqibo seGunya ekuthethwe ngalo kwicandelwana (1), iGunya malingasipapashi isaziso ekuthethwe ngaso kwisiqendu *(a)* de kube kugqityiwe ukuqwalaselwa ngokutsha kwesigqibo. **Ukubuyiswa kweemali ebezifakiwe lisakucinywa iziko okanye kusakuphela ukubhaliswa kwalo** **40E.** (1) Xa iziko lemali lentsebenziswano licinywa ekubhalweni, iGunya linokuthi liyalele elo ziko lemali ukuba libuyise iimali ezafakwayo kulo, kuquka nenzala yazo, mali ezo ezisekwiziko ekupheleni komhla wokucinywa kwalo ekubhalisweni lingekapheli ixesha elixelwe kumyalelo. (2) Umyalelo ekuthethwe ngawo kwicandelwana (1) unokuthi— *(a)* usebenze kuzo zonke iimali ezifakiweyo; okanye *(b)* usebenze kuphela kwiintlobo ezithile nakwiimali ezithile ezifakiweyo. (3) Iziko lemali lentsebenziswano elingakwenziyo okufunwa ngumyolelo ngokwecandelwana (1) lithathwa ngokuthi liyoyisakala ukuhlawula amatyala alo. **Ukuthinjwa kweziko lemali lentsebenziswano** **40F.** (1) Kungakhathaliseki ukuba lithini icandelo 72(1), 73(1) nele-77(2) le*Co-operatives Act*— *(a)* iGunya linokuthi— (i) lenz' isicelo enkundleni sokuba iziko lemali lentsebenziswano lithinjwe; (ii) licebise uMphathiswa ophathiswe imifelandawonye ukuba iziko lemali lentsebenziswano lithinjwe; kananjalo (iii) lenz' isicelo enkundleni somyolelo wokuba iziko liphathwe ngabalawuli abamiselwe yinkundla; kananjalo *(b)* uMphathiswa ophathiswe imifelandawonye akavumelekanga ukuba ayalele ukuba iziko lemali lentsebenziswano lithinjwe

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		(2) Any application to a court for the winding-up, including the voluntary winding-up, of a co-operative financial institution must be served on the Authority. (3) Despite any other law, the Master of the High Court may only appoint a person recommended by the Authority as a provisional liquidator or liquidator of a co-operative financial institution, unless the Master is of the opinion that the recommended person is not fit and proper to be appointed as a provisional liquidator or liquidator of the co-operative financial institution concerned. (4) A liquidator of a co-operative financial institution that is voluntarily wound-up must submit to the Authority any documents that the co-operative financial institution being wound-up would have been obliged to submit in terms of this Act.". **8.** The repeal of sections 41 and 43. **9.** The amendment of section 44— *(a)* by the substitution for subsection (1) of the following subsection: "(1) The **[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 *(b)* by the insertion after subsection (3) of the following subsection: "(4) *(a)* To the extent that a power or function relating to the licensing of co-operative financial institutions has been delegated to the Agency, references in Chapter VIIA to "the Authority" must be read as a reference to "the Agency".

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		ngaphandle kwemvume ebhaliweyo yeGunya, okanye iArhente, ukuba imisebenzi yeGunya yabelwe okanye iphathiswe iArhente njengoko kuxelwe kulo Mthetho. (2) Isicelo esibhekiswa enkundleni sokuthinjwa, kuquka nokuthinjwa ngokuzithandela kweziko lemali lentsebenziswano malaziswe iGunya ngaso. (3) Kungakhathaliseki ukuba uthini na omnye umthetho, uMgcini-Mafa WeNkundla Ephakamileyo unokumisela kuphela umntu onconywe liGunya njengonothimba wexeshana okanye unothimba weziko lemali lentsebenziswano, ngaphandle kokuba uMgcini-Mafa unoluvo lokuba umntu onconyiweyo akafanelekanga ukuba amiselwe njengonothimba wexeshana okanye njengonothimba weziko lemali lentsebenziswano. (4) Unothimba weziko lemali lentsebenziswano elifunela ngokwalo ukuthinjwa makanike iGunya nawaphi na amaxwebhu ebeliya kunyanzeleka ukuba liwakhuphe elo ziko ngokwalo Mthetho.”. **8.** Kutshitshiswa icandelo 41 nelama-43. **9.** Kwenziwa utshintsho kwicandelo 44— *(a)* ngokuthi indawo yecandelwana (1) ithatyathwe licandelwana elilandelayo: “(1) **[Umphathi]** IGunya linokuthi, ngokubhala, liphathise okanye labele amagunya eliwaphathisiweyo liwabele iGunya ngokwalo Mthetho **[usekela-mphathi,]** nawuphi na umntu oqeshwe liGunya okanye yi*South African Reserve Bank*, kwi*Financial Sector Counduct Authority*, okanye, ngokuvumelana noMphathiswa, kwiArhente **[usekela-mphathi okanye omnye umntu]**.”; nangokuthi *(b)* emva kwecandelwana (3) kufakwe icandelwana elilandelayo: “(4) *(a)* Xa igunya okanye umsebenzi wokukhutshelwa ilayisensi kweziko lemali lentsebenziswano uphathiswe iArhente, xa kwisahluko VIIA kuthethwa nge-“Gunya” oko makuthathwe njengokubhekisela kwi-“Arhente”.

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		(b) A reference in Chapter VIIA to "prescribed" means "prescribed in prudential, conduct or joint standards". *(c)* To the extent that a power or function relating to the licensing of co-operative financial institutions has been assigned or delegated to the Agency— (i) the Agency may make rules in relation to the performance of that power or function; and (ii) "prescribed" must be read as referring to "rules made by the Agency".". **10.** The substitution for section 45 of the following section: "**45.** The **[supervisor]** Authority, in addition to other functions conferred on the **[supervisor]** Authority by or in terms of any other provision of this Act— *(a)* must take steps **[he or she]** that the Authority considers necessary to protect the public in their dealings with co-operative banks and co-operative financial institutions; *(b)* may, on the written request of a co-operative bank, co-operative financial institution, representative body, support organisation or auditor, extend any period within which any documentation, information or report must be submitted to **[him or her]** the Authority; *(c)* must determine the form, manner and period, if a period is not specified in this Act, within which any documentation, information or report that a co-operative bank, co-operative financial institution, **[a]** representative body, support organisation or auditor is required to submit to the **[supervisor]** Authority under this Act must be submitted; *(d)* may, despite the provisions of any law, furnish information acquired by **[him or her]** the Authority under this Act to any person charged with the performance of a function under any law; *(e)* may issue guidelines to co-operative banks, co-operative financial institutions, members, supporting institutions and auditors on the application and interpretation of this Act and provide them with information on market practices or market or industry developments within or outside the Republic;

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		(b) Xa kwiSahluko VIIA kukho igama elithi "emiselweyo" kuthethwa "emiselweyo kwizenzo zokuziphatha zobulumko okanye ngokwemilinganiselo yendibaniselwano". *(c)* Xa igunya okanye umsebenzi wokukhutshelwa ilayisensi kwamaziko emali entsebenziselwano wabelwe okanye uphathiswe iArhente— (i) iArhente inokuthi iqulunqe imigaqo engokwenza loo msebenzi ukusetyenziswa kwegunya; kwaye (ii) elithi "emiselweyo" malithathwe njengelibhekisela "kwimigaqo equlunqwe yiArhente"." **10.** Indawo yecandelo 45 ithatyathwa licandelo elilandelayo: "**45. [Umphathi]** IGunya, ukongezelela kweminye imisebenzi enikwe **[umphathi]** iGunya ngokwalo Mthetho— *(a)* malithabathe amanyathelo eliwabona lona liliGunya efanelekile ukukhusela uluntu ekusebenzelaneni neebhanki zentsebenziselwano namaziko emali entsebenziselwano; *(b)* unokuthi, ngesicelo esibhaliweyo sebhanki yentsebenziswano, amaziko emqu entsebenziswano iqumrhu elingummeli, axhase umbutho okanye umphicothi-zincwadi, olule ithuba lokungeniswa koxwebhu oluthile okanye ingcombolo ethile ingeniswa kwiGunya; *(c)* makenz' isigqibo ngohlobo, ngendlela, ngobude bexesha, ukuba ubude bexesha abuxelwanga kuMthetho, ekufuneka lingapheli ibhanki yentsebenziswano, iziko lemali lentsebenziswano, iqumrhu elingummeli, umbutho wenkxaso okanye umphicothi-zincwadi, ekufuneka angenise ngalo **[kumphathi]** kwiGunya ngokwalo Mthetho; *(d)* unokuthi, kungakhathaliseki ukuba uthini omnye umthetho, anikele ngengcombolo efunekayo kwiGunya ngokwalo Mthetho eyinika umntu ophathiswe umsebenzi ngokwalo Mthetho; *(e)* unokukhupha izikhokelo eziya kwiibhanki zentsebenziswano, kumaziko emali entsebenziswano, 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**

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		kwentsingiselo yalo Mthetho aze abanike ingcombolo ngeendlela ezisebenza ngayo iimarike ngaphakathi okanye ngaphandle kwemida yeRiphablikhi; *(f)* unokuthi apapashe ulindixesha okanye enye incwadi eziqulethe ingcombolo engeebhanki zentsebenziswano namaziko emali entsebenziswano; kwaye *(g)* unokuthabatha nawaphi na amanyathelo iGunya eliwabona efanelekile ukuze yenziwe kakuhle imisebenzi okanye asetyenziswe kakuhle amagunya eGunya ukuze usebenziseke lo Mthetho.”. **11.** Indawo yecandelo 46 ithatyathwa licandelo elilandelayo: “**Igunya lokuqulunqa [imigaqo] imilinganiselo** **46.** (1) **[Umphathi unokuqulunqa imigaqo ngokubhekiselele-]** Isenzo sobulumko okanye umlinganiselo wendibaniselwano weziko lemali lentsebenziswano sinokwenziwa ngawo nawuphi na kule micimbi ilandelyo: *(a)* **[nayiphi na]** Nawuphi na umcimbi ekufuneka okanye ekuvumelekileyo ukuba kwenziwe imimiselo ngawo; kwakunye *(b)* nawuphi na umcimbi wokusetye-nziswa bhetele kwalo Mthetho okanye umsebenzi okanye igunya eliqulethwe kulo Mthetho. (2) **[Imigaqo]** Imilinganiselo ekuthethwe ngayo kwicandelwana (1) inokuthi— *(a)* isebenze kwiibhanki zentsebenzi-swano okanye kumaziko emali entsebenziswano gabalala; okanye *(b)* ekusebenzeni kwayo ipheleliselwe kwibhanki ethile yentsebenziswano okanye iziko lemali lentsebenziswano, elingachazwa ngohlobo lwalo okanye ngobungakanani bebhanki yentsebenziswano okanye iziko lemali lentsebenziswano okanye ngokubhekiselele nakweyiphi na into. **[(3) *(a)* Ngaphambi kokuba umphathi aqulunqe nawuphi na umthetho ngokweli candelo—** **(i) makapapashe umgaqo ocetywayo oseluvavanyo awupapashe kwi*Gazethi* kunye nesihlokomiso esicela ukuba uluntu luvakalise izimvo ngokubhala lingekapheli**

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		(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).]**''. **12.** The substitution for section 47 of the following section: ''**Inspections** **47.** (1) **[**(*a*)**]** The **[supervisor]** Authority may at any time of **[his or her]** the Authority's own accord, on application by at least 10 per cent of the members of or at the request of the judicial manager of a co-operative bank or a co-operative financial institution, inspect the business of a co-operative bank or a co-operative financial institution if the **[supervisor]** Authority has reason to believe that the co-operative bank or co-operative financial institution is not conducting its affairs in accordance with the provisions of this Act or is contravening a provision of this Act. **[*(b)* The supervisor has for the purposes of subsection (2) the powers and duties conferred or imposed upon a registrar by the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), and any reference in that Act to "registrar" must be construed as a reference to "supervisor" and any reference to "financial institution" must be construed as a reference to "co-operative bank", provided that no warrant is required for search and seizure activities aimed at establishing regulatory compliance.]** (2) The **[supervisor]** Authority may take any measures and make any recommendation **[he or she]** that the Authority considers appropriate following an inspection in terms of subsection (1), including a recommendation to—

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		ixesha elixelwe kwisihlokomiso, xesha elo elingenakuba ngaphantsi kweentsuku ezingama-30 ukususela kumhla wokupapashwa kwesihlokomiso; kwaye **(ii) makafumane imvume ebhaliweyo yoMphathiswa.** ***(b)* Ukuba umphathi uyawutshi-ntsha umgaqo oseluvavanyo ngenxa yoluvo oluvakalisiweyo, akukho mfuneko yokuba alupapashe olo tshintsho ngaphambi kokuba awuqulunqe umgaqo.** **(4) Ukuba iimeko zifunisa ukuba upapashwe ngoko nangoko umgaqo, umphathi unokuwupapasha loo mgaqo ngaphandle kwemvume exelwe kwicandelwana (3)*(a)*(ii).]**". **12.** Indawo yecandelo 47 ithatyathwa licandelo elilandelayo: **"Ukuhlolwa** **47.** (1) **[*(a)*] [Umphathi]** iGunya linokuthi nangaliphi na ixesha, xa kwenziwe isicelo ubuncinane lishumi ekhulwini lamalungu okanye xa kucele umphathi ogwebayo webhanki yentsebenziswano okanye weziko lemali lentsebenziswano, ahlole ishishini lebhanki yentsebenziswano okanye leziko lemali lentsebenziswano ukuba **[umphathi]** iGunya linesizathu sokukholelwa ukuba ibhanki yentsebenziswano okanye iziko lemali lentsebenziswano aliqhubi ngokwalo Mthetho okanye laphula okutshiwo ngulo Mthetho. **[*(b)* Ngenjongo yokusebenza kwecandelwana (2) umphahi unamagunya nemisebenzi athiwe jize kumgcini-zifayile yi-*Inspection of Financial Institutions Act* 80 ka-1998, kwaye nanini na xa kuloo Mthetho kuthethwa ngo-"mgcini-zifayile" makuthathwe oko njengokubhekisela ku-"mphathi" kwaye nanini na xa kuthethwa nge-"ziko lemali" makuthathwe oko njengokuthetha "ibhanki yentsebenziswano", kodwa ke akufuneki sigunyazisi yokugqogqa nokuthatha ngenjongo yokufeza okufunwa yimimiselo.]** (2) **[Umphathi]** IGunya linokutha-batha nawaphi na amanyathelo lize lenze naziphi na iziphakamiso elizibona zifanelekile emva kokuhlola ngokwecandelwana (1), kuquka isiphakamiso esiya—

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		(a) the co-operative bank or the co-operative financial institution; and *(b)* the relevant prosecuting authority if the inspection was done on the authority of a warrant.''. **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:

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
		(a) kwibhanki yentsebenziswano okanye kwiziko lemali lentsebenziswano; *(b)* nakwigunya lotshutshiso elifanelekileyo ukuba ukuhlola kwenziwa ngesigunyazisi.”. **13.** Kwenziwa utshintsho kwicandelo 48— *(a)* ngokuthi amazwi awandulela isiqendu *(a)* kwicandelwana (1) athatyathelw’ indawo ngamazwi alandelayo: “**[Umphathi]** IGunya linokuthi, ukuze liqinisekise ukusetyenziswa kwalo Mthetho okanye liqinisekise ukukhuselwa kwamalungu noluntu ngokubanzi, linokuthi likhuphele ibhanki yentsebenziswano okanye iziko lemali lentsebenziswano umyalelo—”; nangokuthi *(b)* isiqendu *(a)* no-*(b)* kwicandelwana (2) zithatyathelw’ indawo ziziqendu ezilandelayo: “*(a)* isebenza kwiibhanki zentsebenziswano okanye kumaziko emali entsebenziswano ngokubanzi; okanye *(b)* ekusetyenzisweni kwawo upheleliselwe kwibhanki ethile yentsebenziswano okanye kwiziko lemali lentsebenziswano elithile, okanye kuhlobo oluthile lwebhanki yentsebenziswano okanye kwiziko lemali lentsebenziswano lohlobo oluthile, enokuthi ichazwe ngokohlobo lwayo okanye ngokobungakanani bebhanki yentsebenziswano okanye ngokobungakanani beziko lemali lentsebenziswano. **14.** Kwenziwa utshintsho kwicandelo 49— *(a)* ngokuthi indawo yecandelwana (1) ithathwe licandelwanda elilandelayo: “(1) **[Umphathi]** IGunya linokuthi, ukongezelela phezu kwenyathelo elithatyathiweyo elinokuthatyathwa liGunya ngokwalo Mthetho, likhuphe isohlwayo lisohwaya ibhanki yentsebenziswano okanye iziko lemali lentsebenziswano ngenxa yokungakwenzi okufunwa nguloMthetho.”; nangokuthi *(b)* ngokuthi icandelwana (4) lithatyathelw’ indawo licandelwana elilandelayo:

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		"(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.". **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: "*(l*A) 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: "*(a*A) the matters referred to in section 55(1)*(f)* to *(h)* and paragraph *(a*B*)* of this subsection, in consultation with the **[supervisor]** Authority;";

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		"(4) Ukuba ibhanki yentsebenziswano okanye iziko lemali lentsebenziswano liyoyisakala ukuhlawula isohlwayo ngexesha eliqingqiweyo **[umphathi]** iGunya linokuthi liyifune loo mali ngokumangala enkundleni.". **15.** Icandelo 50 lithatyathelw' indawo licandelo elilandelayo: "**Inkcazelo neengxelo** **50. [(1)]** *(a)* **[Umphathi]** IGunya linokuthi ngokwenza isaziso esibhaliweyo lifune ukuba ibhanki yentsebenziswano, iziko lemali lentsebenziswano, iqumrhu elingummeli okanye umbutho wenkxaso **[webhanki yentsebenziswano]** lingenise kulo iGunya— (i) inkcazelo exelwe kwisaziso; okanye (ii) ingxelo eyenziwe ngumphicothi-zincwadi okanye ngomnye umntu owufundeleyo umsebenzi wakhe, ochongwe **[ngumphathi]** liGunya, ngawo nawuphi na umcimbi oxelwe kwisaziso. *(b)* Ingxelo efunekayo **[ngokwecandelwana (1)]** ngokwesiqendu *(a)* mayiqulunqwe ngendleko yebhanki 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, kuquka imisebenzi yolawulo neyokuphatha, njengoko ixelwe ngokwalo Mthetho, okanye leyo iGunya elinokuthi, ngemvume yoMphathiswa, liyiphathise okanye liyabele iArhente;". **17.** Kwenziwa utshintsho kwicandelo 57— *(a)* ngokuthi kwicandelwana (1) isiqendu *(aA)* sithatyathelw' indawo sisiqendu esilandelayo: "*(a*A*)* imicimbi ekuthethwe ngayo kwicandelo 55(1)*(f)* ukuya ku-*(h)* nakwisiqendu *(a*B*) seli candelwana, ngokubonisana* **[nomphathi]** neGunya;";"

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		(b) by the insertion after paragraph *(a*A*)* of the following paragraph: "*(a*B*)* 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;"; *(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 **[or]**, support organisations or co-operative financial institutions generally; **[or]** *(b)* be limited in application to a particular co-operative bank, representative body **[or]**, support organisation or co-operative financial institution, or kind of co-operative bank or co-operative financial institution, which may be defined either in relation to a type or budgetary size of co-operative bank or co-operative financial institution, or to any other matter; and *(c)* only apply to co-operative financial institutions, in the case of rules referred to in subsection (1)*(a*B*)*.". **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 cooperative 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—

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(b) ngokuthi emva kwesiqendu *(a*A*)* kufakelwe isiqendu esilandelayo: "*(a*B*)* amaziko emali entsebenziswano, ukuze enze imisebenzi yeArhente emayela namaziko emali entsebenziswano, kuquka imisebenzi yolawulo nokuphatha, njengoko ixelwe kulo Mthetho, okanye leyo elinokuthi iGunya, ngokuvumelana noMphathiswa, liyiphathise okanye liyabele iArhente;"; *(c)* ngokuthi icandelwana (2) lithatyathelw' indawo licandelwana elilandelayo: "(2) Imigaqo ekuthethwe ngayo kwicandelwana (1) inokuthi— *(a)* isebenze kwiibhanki zentsebenziswano, kumaqumrhu angabameli **[okanye]**, kwimibutho yenkxaso okanye kumaziko emali entsebenziswano ngokubanzi; **[okanye]** *(b)* ekusetyenizsweni kwayo ipheleliselwe kwibhanki ethile yentsebenziswano, kwiqumrhu elingummeli **[okanye]**, kumbutho wenkxaso okanye kwiziko lemali lentsebenziswano, elinokuchazwa ngohlobo lwalo okanye ngobukhulu bebhanki yentsebenziswano okanye beziko lemali lentsebenziswano, okanye enye into; kwaye *(c)* isebenza kuphela kumaziko emali entsebenziswano, xa kuyimigaqo ekuthethwe ngayo kwicandelwana (1)*(a*B*)*.". **18.** Kutshitshiswa icandelo 75 nelama-76. **19.** Icandelo 77 lithatyathelw' indawo licandelo elilandelayo: "**Ukusetyenziswa ngokungekho mthethweni kwegama elithi 'ibhanki yentsebenziswano,' "iziko lemali lentsebenziswano" okanye ukwenza okungekho mthethweni kwamashishini [aziibhanki] ebhanki yentsebenziswano okanye eziko lemali lentsebenziswano.** **77.** (1) Kusisenzo esikukona ukuba umntu ongabhaliswanga njengebhanki yentsebenziswano okanye njengeziko

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		(a) in connection with any business conducted by him, her or it— (i) use or refer to himself, herself or itself by any name, description or symbol indicating, or calculated to lead persons to infer, that such person is a co-operative bank or a co-operative financial institution registered as such under this Act; or (ii) in any manner purport to be a co-operative bank or a co-operative financial institution registered as such under this Act; or *(b)* use in respect of any business a name or description that includes the expression "co-operative bank", "co-op bank", "co-operative financial institution" or any derivative thereof. (2) It is an offence for any person to conduct the business of any co-operative bank or co-operative financial institution unless such person is registered as a co-operative bank or a co-operative financial institution in terms of this Act. (3) *(a)* It is an offence for a co-operative bank to provide, participate in or undertake banking services other than the services authorised in respect of the type of co-operative bank it is registered as in terms of this Act. *(b)* It is an offence for a co-operative financial institution to provide, participate in or undertake services other than the services that it is authorised to provide as a registered co-operative financial institution in terms of this Act.". **20.** The substitution for section 78 of the following section: "**Untrue information in connection with applications** **78.** It is an offence for any person in connection with an application for registration as a co-operative bank or a co-operative financial institution to provide any information that to the knowledge of such person is untrue or misleading in any material respect.". **21.** The substitution for section 79 of the following section: "**Criminal liability of director, managing director, executive officer and other persons** **79.** (1) It is an offence for any director, managing director or executive

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		lemali lentsebenziswano ngokwalo Mthetho ukuba— *(a)* athi mayela neshishini eliqhutywa nguye— (i) athethe ngaye siqu okanye athethe ngebhanki leyo ngegama okanye ngendlela eyenzelwe ukuba yenze abantu bacinge ukuba iyibhanki yentsebenziswano okanye iliziko lemali lentsebenziswano elibhalisiweyo ngokwalo Mthetho; okanye (ii) nangayiphi na indlela azenze ibhanki yentsebenziswano okanye iziko lemali lentsebenziswano elibhalisiweyo ngokwaloMthetho; okanye *(b)* asebenzise kwishishini igama okanye inkcazelo equka intetho "ibhanki yentsebenziswano" "iziko lemali lentsebenziswano" ngokwalo Mthetho. (2) *(a)* Kusisenzo esikukona ukuba ibhanki yentsebenziswano inike iinkonzo zebhanki ezingezizo ezo zigunyazelwe uhlobo lwebhanki yentsebenziswano ebhaliselwe ukuba ibe yiyo ngokwalo Mthetho. *(b)* Kusisenzo esikukona ukuba iziko lemali lentsebenziswano linike iinkonzo ezingezizo ezo ligunyazelwe ukuba linike zona ngokwalo Mthetho.". **20.** Icandelo 78 lithatyathelw' indawo licandelo elilandelayo: "**Ingcombolo engeyonyani malunga nezicelo** **78.** Kusisenzo esikukona ukuba umntu athi xa esenza isicelo sokubhaliswa njengebhanki yentsebenziswano okanye iziko lemali lentsebenziswano anike ingcombolo ayaziyo ukuba ayiyonyani okanye iyinkohliso.". **21.** Icandelo 79 lithatyathelw' indawo licandelo elilandelayo: "**Ukuba netyala lolwaphulo-mthetho komlawuli, komlawuli ophetheyo, kwegosa eliphezulu eliququzelelayo nabanye abantu** **79.** (1) Kusisenzo esikukona ukuba umlawuli, umlawuli ophetheyo okanye igosa eliphezulu eliququzelelayo lebhanki yentsebenziswano okanye leziko lemali lentsebenziswano lithi ngokungqalileyo okanye ngokunga-ngqalanga libandakanyeke okanye

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		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.". **22.** The substitution for section 82 of the following section: "**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.". **23.** The substitution for section 85 of the following section: "**Indemnity** **85.** Neither the **[supervisor,]** Authority or the Agency **[or appeal board]**, or 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.".

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		lithabath' inxaxheba ekuphathweni kwebhanki yentsebenziswano okanye kweziko lemali lentsebenziswano ngoxa ishishini lebhanki yentsebenziswano okanye leziko lemali lentsebenziswano liqhutywa ngokungenankathalo, ngenjongo yokuqhatha abo libatyalayo. (2) Kusisenzo esikukona ukuba umntu ongenguye umlawuli, umnlawuli ophetheyo okanye igosa eliphezulu eliququzelelayo lithi lisazi, ngokungqalileyo okanye ngokungangqalanga, lizuze, libandakanyeke okanye lithabath' inxaxheba ekuphathweni kwebhanki yentsebenziswano okanye kweziko lemali lentsebenziswano ngoxa ishishini lebhanki yentsebenziswano okanye leziko lemali lentsebenziswano liqhutywa ngokungenankathalo, ngenjongo yokuqhatha abo libatyalayo.". **22.** Icandelo 82 lithatyathelw' indawo licandelo elilandelayo: "**Ukwenziwa kwezigqibo ngobulunguisa** **82. [Nasiphi na]** Xa isigqibo okanye elinye inyathelo elifunisa ukwenziwa kwesigqibo elithatyathwa **[ngumphathi,]** liGunya okanye yiArhente **[okanye ibhodi yezibheno]** malivisisane ne*Promotion of Administrative Justice Act* 3 ka-2000, ngaphandle kokuba kukho enye inkqubo yokwenziwa kwezigqibo enobulungisa ekuthiwe makulandelwe yona kulo Mthetho okanye ngokwe*Financial Sector Regulation Act*.". **23.** Icandelo 85 lithatyathelw' indawo licandelo elilandelayo: "**Ukungabi nabutyala** **85. [Umphathi]** IGunya okanye iArhente **[okanye ibhodi yezibheno]**, okanye ilungu lebhodi okanye umqeshwa okanye umlawuli ophetheyo walo, okanye ikomiti yeArhente okanye ilungu layo, akabekeki tyala ngokwenza okanye ngokusilela ukwenza xa oko bekungenganjongo imbi okanye xa oko bekungenxa yoko kutshiwo ngulo Mthetho, ngaphandle kokuba okwenzekileyo kube kukungakhathali okukhwankqisayo.".

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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";

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 elisebenza kwiNxili Yelizwe.". **25.** Amazwi achaza injongo yoMthetho athatyathelw' indawo ngamazwi alandelayo: "**Injongo kukuphucula intlalontle yabo bonke abantu baseMzantsi-Afrika kwicala loqoqosho ngokuba-fumanisa iinkonzo zeebhanki phantsi kweemeko ezintle; kukukhuthaza ukusebenzisana kweebhanki namaziko emali entsebenziswano; kukwenza ukuba zilawulwe ngokufanelekileyo iibhanki zentsebenziswano namaziko emali entsebenziswano kuze kukhuseleke amalungu eebhanki zentsebenziswano namaziko emali entsebenziswano; kukwenzela ukuba ibhaliswe imifelandawonye eyamkela iimali ebantwini njengeebhanki zentsebenziswano namaziko emali entsebenziswano; nokwenzela ukuba kubekho [abaphathi beebhanki zentse-benziswano] nearhente yophuhliso yeebhanki zentsebenziswano; nokulungiselela izinto eziyelele apho**". **26.** Naphi na kukho igama elithi "umphathi" indawo yalo ithatyathwa lelithi "iGunya". **27.** Kwenziwa utshintsho kulandele-lwano lwamacandelo ngokuthi— *(a)* emva ko-1 kufakelwa oku kulandelayo: "**1A.** Ubudlelane phakathi kwalo Mthetho ne*Financial Sector Regulation Act* **1B.** Izixhobo zolawulo"; *(b)* endaweni ka-18 no-19 kufakelwe oku kulandelayo: "**18.** Imisebenzi yoMphicothi-zincwadi ngokuhlobene neGunya **19.** Ukungeniswa kwamaxwebhu kwiGunya";

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		(c) the insertion after item 40 of the following heading and items: **"CHAPTER VIIA CO-OPERATIVE FINANCIAL INSTITUTIONS** **40A.** Application for registration as co-operative financial institution **40B.** Requirements for registration **40C.** Registration of co-operative financial institution **40D.** Suspension of registration or de-registration **40E.** Repayment of deposits on de-registration or lapsing of registration **40F.** Winding-up or judicial management of co-operative financial institution"; and *(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

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(c) emva ko-40 kufakelwe umxholo olandelayo namacandelo alandelayo: **"ISAHLUKO VIIA AMAZIKO EMALI ENTSEBENZISWANO** **40A.** Ukwenza isicelo sokubhaliswa njengeziko lemali lentsebenziswano **40B.** Iimfuneko zokubhaliswa **40C.** Ukubhaliswa kweziko lemali lentsebenziswano **40D.** Ukunqunyanyiswa kokubhaliswa okanye ukucinywa kwako **40E.** Ukubuyiswa kweemali ebezihlawulwe xa kucinywa ukubhaliswa okanye kuphelelwa **40F.** Ukuthinjwa kweziko lemali lentsebenziswano"; nangokuthi *(d)* u-77 athatyathelw' indawo koku kulandelayo: "**77.** Ukusetyenziswa ngokungekho mthethweni kwamazwi athi "ibhanki yentsebenziswano," "iziko lemali lentsebenziswano" okanye ukuqhutywa okungekho mthethweni kweshishini lebhanki yentsebenziswano okanye leziko lemali lentsebenziswano".
uMtsetfo Nom. 19 wanga-2012	Umtsetfo wetiMakethe teMnotfo, 2012	**1.** Kuchitjiyelwa kwesigaba 1— *(a)* ngekususa inchazelo ye-"ibhodi yetikhalo" esigatjaneni (1); *(b)* ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-"umsebentisi logunyatiwe": " **'Ligatja'** kushiwo liGatja leNchubo yeMkhakha wetetiMali lelisungulwe ngekwemigomo yesigaba 56 se-*Financial Sector Regulation Act*;"; *(c)* ngekususa inchazelo ye-"ibhodi" esigatjaneni (1); *(d)* ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-"libhange": " **'ligatja lelisemkhatsini letekuhweba'** kushiwo indlu legunyatako— *(a)* Letifaka emkhatsini wemagatja etetimali ngetekuhweba kumasheya, libe ngumtsengi kuye wonkhe lotsengisako phindze libe ngumtsengisi kuye

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		(b) becomes a counterparty to trades with market participants through novation, an open offer system or through a legally binding agreement;"; *(e)* by the substitution in subsection (1) for the definition of "clearing house directive" of the following definition: " **'clearing house directive'** means a directive issued by a licensed independent clearing house or a licensed central counterparty in accordance with its rules;"; *(f)* by the substitution in subsection (1) for the definition of "clearing house rules" of the following definition: " **'clearing house rules'** means the rules made by a licensed independent clearing house or a licensed central counterparty in accordance with this Act;"; *(g)* by the substitution in subsection (1) for paragraph *(b)* of the definition of "clearing member" of the following paragraph: "*(b)* in relation to a licensed independent clearing house or a licensed central counterparty, a person authorised by that independent clearing house to perform clearing services or settlement services or both clearing services and settlement services in terms of the clearing house rules,"; *(h)* by the insertion in subsection (1) after the definition of "Companies Act" of the following definition: " **'conduct standard'** has the same meaning ascribed to it in terms of the Financial Sector Regulation Act;"; *(i)* by the deletion in subsection (1) of the definition of "enforcement committee";

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		wonkhe lotsengako phindze khona lapho licinisekise kusebenta kwetinkontileka letivunako; phindze *(b)* iba ligatja letetimali kuteluhwebo nalabangenelelako bemakethe ngekuchibiyela, luhlelo lwekuphisa loluvunako nobe ngekwesivumelwano lesibopho ngekwemtsetfo;"; *(e)* ngekuntjintjwa kwenchazelo ye- "tinkhambiso tendlu legunyatako" esigatjaneni (1) ngenchazelo lelandzelako: " **'tinkhambiso tendlu legunyatako'** kushiwo inkhambiso leniketwe sikhungo lesitimele lesigunyatiwe nome ligatja lelisemkhatsini letekuhweba lelisemtsetfweni ngekuhambisana nemitsetfo yalo;"; *(f)* ngekuntjintjwa kwenchazelo ye- "imitsetfo yesikhungo lesigunyatako" esigatjaneni (1) ngenchazelo lelandzelako: " **'imitsetfo yesikhungo lesigunyatako'** kushiwo imitsetfo leyentiwe sikhungo lesigunyatako lesitimele nobe ligatja lelisemkhatsini letekuhweba lelisemtsetfweni ngekuhambisana naloMtsetfo;"; *(g)* ngekuntjintjwa kwenchazelo ye- "lilunga leligunyatako" kunzima *(b)* esigatjaneni (1) ngendzima lelandzelako: "*(b)* ngalokuphatselene nesikhungo lesitimele lesigunyatako nobe ligatja lelisemkhatsini letekuhweba leligunyatiwe, umuntfu loniketwe imvume kutsi ente umsebenti logunyatiwe noma imisebenti yekukhokhela noma kokubili umsebenti logunyatiwe newekukhokhelwa ngekwemitsetfo yesikhungo lesigunyatako, Kantsi kufaka ekhatsi lilunga lelitimele noma lelingasilo lesikhungo, lapho kufanele khona;"; *(h)* ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye- "i-*Companies Act*": " **'umtsetfo wenchubo'** Inenchazelo lefanako naleyo leniketwe yona ngekwemibandzela ye-*Financial Sector Regulation Act*;"; *(i)* ngekususwa kwenchazelo ye- "likhomidi lelibeka imitsetfo" esigatjaneni (1);

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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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		(j) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-"umsebentisi longaphandle logunyatiwe" " **'ligatja lelisemkhatsini letekuhweba lelisemtsetfweni langephandle'** Kushiwo umuntfu wangaphandle logunyatwe ligatja lelilawulako kutsi ente imisebenti lefanako naleyo yeligatja lelisemkhatsini letekuhweba njengoba kubekwe kuloMtsetfo futsi lohambisana nemitsetfo yelive ngaphandle kwalena yeRiphabhulikhi, Le kumitfeefo— *(a)* Lesungula sakhiwotsinchanti lesilawulako lesilingana naleso lesitfolwe nguloMtsetfo; phindze *(b)* lelawulwe ligatja lelilawulaako;"; *(k)* ngekufakwa kwale-nchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-"ligatja langaphandle" : " **'tinsitanchanti tetimakethe tangaphandle'** kushiwo ngakunye kwalolokulandzelako: *(a)* Ligatja langaphandle letetimali lelilamulako; *(b)* libhange langaphandle lelitimele kumasheya; *(c)* Indlu legunyatako yangaphandle; *(d)* ligatja langaphandle; *(e)* libhange langaphandle lekuhwebalana;"; *(l)* ngekufakwa kwenchazelo Lelandzelako "*Financial Intelligence Centre Act*" esigatjaneni (1) ngemuva kwenchazelo ye-kwaletinchazelo letilandzelako: " **'umtsetfo wemkhakha wetetimali'** unenchazelo lefanako naleyo leniketwe yona ngekwemibandzela yesigaba 1(1) se-*Financial Sector Regulation Act*; ***'Financial Sector Regulation Act'***, isho i-*Financial Sector Regulation Act*, 2017;"; *(m)* ngekususwa kwenchazelo ye-"*Financial Services Board Act*" esigatjaneni (1); *(n)* ngekuntjintja inchazelo ye-"ligatja lelitimele leligunyatako" ngalenchazelo lelandzelako esigatjaneni (1): " **'ligatja lelitimele leligunyatako'** kushiwo ligatja leligunyatako lelikhipha ematransekshini kumasheya ngalokuphatselene nanoma ngubani ngekuhambisana nemitsetfo yendlu yalo legunyatako, ibuye ilawule iphatse emalunga a Lo lagunyatiwe ngekuhambisana neligatja leligunyatako ngekuhambisana nemitsetfo yeligatja leligunyatako;";

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		(o) 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;"; *(p)* 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;"; *(q)* by the insertion in subsection (1) after the definition of "licensed exchange" of the following definitions: " **'licensed external central counterparty'** means an external central counterparty licensed under section 49A; **'licensed external trade repository'** means an external trade repository licensed under section 56A;"; *(r)* 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;"; *(s)* by the deletion in subsection (1) of the definition of "official website"; *(t)* 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;";

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		(o) ngekufakwa kwalenchazelo lelandzelako ngemuva kwenchazelo ye-"loniketako" esigatjaneni se(1): " **'umtsetfo wekuhlanganyela'** unenchazelo lefanako nalena laniketwe yona ngekwemibandzela yesigaba 1(1) se-*Financial Sector Regulation Act*;"; *(p)* ngekufakwa kwalenchazelo lelandzelako ngemuva kwenchazelo ye-"umtsengisi longumlamuli esigatjaneni (1): " **'ligatja lelisemkhatsini letekuhweba leligunyatiwe'** kushiwo ligatja lelisemkhathini letekuhweba ngaphasi kwesigaba 49;"; *(q)* ngekufakwa kwalenchazelo lelandzelako ngemuva kwenchazelo ye-"ligatja lelibhalisiwe" esigatjaneni (1): " **'ligatja lelisemkhatsini letekuhweba leligunyatiwe langaphandle'** kushiwo ligatja lelisemkhatsini letekuhweba langaphandle lesemtsetfweni ngaphasi kwesigaba 49A;"; **'Libhange langaphandle lekuhwebelana'** kushiwo libhange langaphandle lekuhwebelana leligunyatwe ngaphasi kwesigaba 56A;"; *(r)* ngekuntjintja esigatjaneni (1) enchazelweni ye-"sakhiwoncanti semakethe" ngalenchazelo lelandzelako: " **'sakhiwonchanti semakethe"** kushiwo ngakunye kwalolokulandzelako— *(a)* Ligatja langaphandle letetimali lelilamulako **[*(a)*]***(b)* Libhange lelingaphandle lelitimele kumasheya; **[*(b)*]***(c)* Indlu legunyatako yangaphandle; **[*(c)*]***(d)* Ligatja langaphandle; **[*(d)*]***(e)* Libhange langaphandle lekuhwebalana; *(s)* ngekususwa kwenchazelo ye-"iwebhusayithi lesemtsetfweni" esigatjaneni (1); *(t)* ngekuntjiintja inchazelo ye-"labangenelelako" ngalenchazelo lelandzelako esigatjaneni (1):" " **'labangenelelako'** kushiwo imuntfu logunyatwe silulu semasheya lesisemkhatsini lesibhalisiwey kutsi abe libambela kantsi futsi alawule leminye imisebenti noma imisebenti

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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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		yekucedzelela noma kokubili ngekuhambisana nemitsetfo yekusisa **[yekufakwa kwemasheya lasemkhatsini]**, kantsi kungafaki ekhatsi bangaphandle labangenelelako, lapho kunesidzingo khona;”; *(u)* ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye- ‘‘labangenelelako’’: “ **‘kuncunyiwe’** kushiwo lokuncunywe nguNgcongcoshe ngetimiso temtsetfo, nobe umtsetfo wenchubo, nobe ngemtsetfo 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 lelisungulwe ngekwesigaba 32 se-*Financial Sector Regulation Act*; **‘umtsetfo webungcweti’** unenchazelo lefanako lebekwe ngekwemibandzela yesigaba 1 se-*Financial Sector Regulation Act*; **‘iRejista’** kushiwo iRejista yemniningwane wemkhakha wetetimali lekukhulunywe ngawo esigabeni 256 se-*Financial Sector Regulation Act*;”; *(x)* ngekuntjintja inchazelo ‘‘yanobhala’’ esigatjaneni (1) ngalenchazelo lelandzelako: “ ‘nobhala’ kushiwo **[lomuntfu lekukhulunywa ngaye kusigaba 6]** nobhala nelisekela lanobhala wetinsita temasheya lekucondziswe kuye esigabeni 1A(1);”; *(y)* ngekuntjintja inchazelo ye-‘‘umuntfu losemtsetfweni’’ esigatjaneni (1) ngalenchazelo lelandzelako: “ **‘umuntfu losemtsetfweni’** kushiwo— *(a)* ligatja letetimali lelilamulako lelisemtsetfweni; **[*(a)*]***(b)* silulu semasheya lesisemkhatsini lesibhalisiwe; **[*(b)*]***(c)* ligatja leligunyatiwe lelibhalisiwe; **[*(c)*]***(d)* ligatja lelibhalisiwe; **[*(d)*]***(e)* indzawo yekuhwebelana; **[*(e)*]***(f)* umsebentisi losemtsetfweni; **[*(f)*]***(g)* lilunga leligunyatiwe; **[*(g)*]***(h)* lophakanyisiwe;

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		[*(h)*]*(i)* a participant; **[*(i)*]** *(j)* except for the purposes of section 3(6), sections 74 and 75, sections 89 to 92, and sections 100 to 103, an issuer; *(k)* except for the purposes of sections 89 to 92, and sections 100 to 103, a licensed external central counterparty and a licensed external trade repository; or **[*(j)*]** *(l)* any other person [**prescribed by the Minister in terms of section 5**] specified in regulations for this purpose;"; *(z)* by the substitution in subsection (1) in paragraph *(a)* of the definition of "securities" for subparagraph (v) of the following subparagraph: "(v) participatory interests in a collective investment scheme as defined in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), and units or any other form of participation in a foreign collective investment scheme approved by the **[Registrar of Collective Investment Schemes]** Authority in terms of section 65 of that Act; and"; *(z*A*)* by the substitution in subsection (1) in paragraph *(c)* of the definition of "settle" 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 meaning assigned in paragraph *(a)*;"; *(z*B*)* by the insertion in subsection (1) after the definition of "transfer" of the following definition: " **'Tribunal'** means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;";

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		[*(h)*]*(i)* labangenelelako; **[*(i)*]***(j)* ngaphandle kwetizatfu tesigaba 3(6), tigaba 74 kanye na 75, tigaba 89 kanye na 92 netigaba 100 kuya ku 103, loniketako; *(k)* ngaphandle ngekwetinjongo tesigaba 89 kuya ku-92, kanye nesigaba 100 kuya ku-103, ligatja ltetimali langaphandle lelilamulako futsi leligunyatiwe kanye nendzawo yekuhwebelana; nome **[*(j)*]***(l)* noma ngabe ngubani **[lobekwe nguNgcongcoshe ngekwesigaba 5]** lekucondziswe kuye kutimiso temtsetfo ngaletizatfu;"; *(z)* ngekuntjintja inchazelo ye- "emasheya" kundzima *(v)* yesigatjana (1) ngalenchazelo lelandzelao: "(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 saloMtsetfo; kanye"; *(z*A*)* ngekuntjintja inchazelo ye- "kubhadala konkhe" kundzima *(c)* nasendzinyaneni (ii) tesigatjana (1) ngaleyalendzinyana lelandzelako: "(ii) tinhlangano tibeke sikhungo lesigunyatako lesitimele, ligatja lelisemkhatsini letekuhweba noma silulu semasheya lesisemkhatsini lesibhalisiwe kutsi bacedzelele itransekshini, ngaleyo ndlela itawuba nenchazelo leniketwe kundzima *(a)*;"; *(z*B*)* ngekufaka esigatjaneni (1) kwenchazelo lelandzelako ngemuva kwenchazelo ye- "kudlulisela": " " **'iNkhundla'** kushiwo inkantolo yetinSita tetiMali leyasungulwa ngekwemibandzela yesigaba 219 ye-*Financial Sector Regulation Act*;";

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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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		*(z*C) Kuntjintjwa kwesigatjana (3) ngesigatjana lesilandzelako: "(3) lapho khona kuloMtsetfo lonkhe ligunya lekulawula libukwe kutsi litsatse sincumo ngekuchumana **[namabhalane]** neliGatja, sincumo lesinjalo sidzinga kuhlanganyela neliGatja."; futsi *(z*D) ngekungetwa kwalesigatjana lesilandzelako: "(4) ngaphandle nangabe ingcikitsi isho ngalenye indlela, emagama netinkhomba letingakachazwa esigatjaneni (1) kunenchazelo lefanako nalena lekuniketwe yona ngekwe-*Financial Sector Regulation Act*.". **3.** Kufakwa kwalesigaba lesilandzelako ngemuva kwesigaba sekucala (1): **Budlelwane emkhatsini weMtsetfo kanye neMtsetfo wekuLawulwa kweMkhakha wetetiMali** **1A.** (1) Nangabe Ngcongcoshe ancume ngesatiso kuGazethi kutsi tichibiyelo taloMtsetfo leticuketfwe kushejuli 4 ku-*Financial Sector Regulation Act* kufuna ticalise kusebenta ngaphambi ikwekucaliswa kwetimiso te-*Financial Sector Regulation Act* lekusungulwe ngayo leliGatja, kuze kuyoba lusuku lekubunjwa ngalo loGatja— *(a)* irefurensi "kuliGatja" kufuna ifundvwe njengerefurensi kusohhovisi lophetse kanye nasekela lekucondziswe kibo esigabeni 1 se-*Financial Sector Regulation Act*, lekunguNobhala wetiNsita teMasheya kanye nasekela wakhe pheceleti; futsi *(b)* Nobhala wetinsita temasheya kanye nasekela wakhe basebentisa emandla bente imisebenti yeliGatja. (2) Nangabe Ngcongcoshe ancume ngesatiso kuGazethi kutsi tichibiyelo taloMtsetfo leticuketfwe kushejuli 4 we-*Fincial Sector Regulation Act* kufuna ticale kusebenta ngaphambi kwetimiso te-*Financial Sector Regulation Act* ngekwendlela liGatja leBungcwethi lisungulwe ngayo licale kusebenta ngayo, kuze kuyoba lusuku lekubunjwa kweliGatja lebuNgcwethi— *(a)* irefurensi kuliGatja lebungcwethi kufuna ifundvwe njengerefurensi kunobhala wemabhange; 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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		(b) Nobhala wemabhange locokwe ngaphasi kwesigaba 4 we-*Banks Act* (Umtsetfo Nom. 94 wanga 1990) usebentisa emandla ente imisebenti yeliGatja leBungcwethi. (3) Ngaphandle uma ngabe kuniketwe kuMtsetfo nobe i-*Financial Sector Regulation Act*, emandla nemisebenti yeliGatja ngekwemibandzela yalomtsetfo angetwa kulawo lesevele linawo ngekwemibandzela ye-*Financial Sector Regulation Act*. (4) Iriferensi kuloMtsetfo leya kuliGatja lencuma nobe leshicilela ludzaba ngesatiso kuGazethi kufanele ifundvwe njengoba kufaka ekhatsi iriferensi leya kuliGatja lencuma nobe leshicilela loludzaba ngesatiso kuRejista. (5) Ngaphandle nangabe kuloMtsetfo kushiwo ngalenye indlela, nome lomtsetfo udzinga loludzaba luncunywe ngemtsetfosimiso, irefurensi kuloludaba— *(a)* loluncunyiwe ifundvwe njengerefurensi kuloludzaba loluncunywe kumitsetfo yebungcwethi, imitseto yenchubo, nome imitsetfo yekuhlanganyela; noma *(b)* nakungabi njalo, iriferensi kuliGatja lencuma loludzaba ngembhalo kanye nekubhalisa leso sincumo kuniBhala. *(a)* Irefurensi kuloMtsetfo ekuvakashelweni kwesayithi, kuhlolwa, nobe kuphenya ngaphasi kwalokushiwo nguloMtsetfo, kufuna ifundvwe njengerefurensi ekulawulweni kuhlolwa kwesayithi nobe kuphenywa ngekwemibandzela ye-*Financial Sector Regulation Act.* (6) *(b)* Irefurensi kuluhlolo ngekwetimiso taloMtsetfo ngaphandle kwesigaba ngekwetimiso taloMtsetfo ngaphandle kwetesigaba 79*(b)* kufuna ifundvwe njengerefurensi kuluphenyo ngekwe-*Financial Sevtor Regulation Act*. (7) *(a)* Irefurensi kulomtsetfo kuliGatja lebikako nome leshicilela lwatiso nome umcudlwana kuwebhusayithi kufuna ifundvwe njengerefurensi kuliGatja leshicilela lolwatiso nome lomcudlwana. *(b)* liGatja lingaphindze lishicilele lomniningwane nobe umculu kuwebhusayithi yalo. (8) Irefurensi ngemali lefanele lencunyiwe kuloMtsetfo kumele ifundvwe njengereurensi lefanele kumali lencunyiwe ngekwemibandzela yesigaba 237 se-*Financial Sector Regulation Act*.

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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;";

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(9) Iriferensi kuloMtsetfo ngekubuyeketwa kwesincumo seliGatja kubhodi yetikhalo kufanele ifundvwe njengeriferensi yekubuyeketa leso sincumo yiNkantolo ngekwemibandzela ye-*Financial Sector Regulation Act*. (10) Ngetizatfu te-*Financial Sector Regulation Act*, imtsetfo wenchubo lowentiwe ngekwesigaba 74 itinkhomba letilawulako.”. **4.** kuchitjiyelwa kwesigaba 3— *(a)* ngekuntjintjwa kwesigatjana (3) ngesigatjana lesilandzelako: “(3) Ngaphandle kwanoma miphi imitsetfo, **[kungasiyo i-*Financial Intelligence Centre Act*,]** uma ngabe kunekungcubutana kunoma ngabe nguyiphi imibandzela yaloMtsetfo noma imibandzela yanoma ngabe nguwuphi umtsetfo lomisiwe velonkhe, ngaphandle kwe-*Financial Intelligence Centre Act* kanye ne-*Financial Sector Regulation Act*, kutawuma loMtsetfo.”; futsi *(b)* ngekuntjintjwa kwesigatjana (5) ngesigatjana lesilandzelako: “(5) Ngaphandle kwanoma miphi imitsetfo, uma ngabe umtsetfo lomisiwe velonkhe uniketa emandla noma uniketa umsebenti kumtimba wahulumende, kungasilo liBhange Ngodla laseNingizimu Afrika nobe ligatja lebungcwethi ngalokuphatselene neludzaba lolulawulwa ngaphansi kwaloMtsetfo, lawo mandla noma umsebenti kufanele kwentiwe noma kusetjentiswe ngekutsintsana **[nanobhala]** neliGatja, kantsi noma ngabe ngusiphi sincumo lesitsatfwe ngekuhambisana nalawo mandla noma umsebenti kufanele sitsatfwe ngekuvumelana **[tfola imvume] [yanobhala]** neliGatja.”; **5.** kuchitjiyelwa kwesigaba 4— *(a)* ngekuntjintjwa kwendzima *(e)* esigatjaneni (1) ngalendzima lelandzelako: “*(e)* asebente njengelilunga leligunyatiwe ngaphandle kwekutsi agunyatwe ligatja lelibhalisiwe **[noma]**, ligatja leligunyatako lelitimele nobe ligatja lelisemkhatsini letekuhweba, ligatja letetimali langaphandle lelilamulako nome ligatja lelisemkhatsini letekuhweba lelikhululiwe kulokudzingekile kute ligunyatwe ngekwesigaba 49A njengoba kungabe kubekiwe;”;

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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

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
		(b) ngekuntjintjwa kwendzima *(g)* yesigatjana (1) ngalendzima lelandzelako: "*(g)* yente imisebenti ye-, nome isebente njengemhwebeli (indzawo yekuhwebelana), ngaphandle nangabe loyo muntfu ugunyatwe ngaphasi kwesigaba 56 nome sigaba 56A njengobe kungabe kubekiwe; nome"; *(c)* ngekuntjintja sigatjana (2) ngesigatjana lelandzelako: "(2) Umuntfu— *(a)* longenayo imvume njengeligatja, sikhungo semasheya lesisemkhatsini, indzawo yekuhwebelana **[noma]**, sikhungo lesigunyatako noma ligatja lelisemkhatsini letekuhweba; *(b)* longangeneleli; *(c)* longasuye umsebentisi losemtsetfweni; *(d)* longasilo lilunga leligunyatiwe; *(e)* longakaphakanyiswa; noma *(f)* longanayo imvume yekuniketela ngemasheya labhalisiwe, *(g)* longakagunyatwa njengemlamuli wetetimali wangaphandle nome lokhululwe kulokudzingekile kuze ugunyatwe ngekwesigaba 49A; nome *(h)* longakagunyatwa njengemhwebeli wangaphandle (indzawo yekuhwebelana yangaphandle) angeke wafaka sicelo sekutsi abe ligatja, sikhungo semasheya lesisemkhatsini, indzawo yekuhwebelana, sikhungo lesigunyatako, ligatja lelisemkhatsini letekuhweba, libhange lelisemkhatsni letekuhweba langaphandle, umhwebeli wangaphandle (indzawo yekuhwebelana yangaphandle), labangenelelako, umsebentisi losemtsetfweni, lilunga leligunyatiwe, lophakanyisiwe losemtsetfweni noma loniketa f emasheya labhalisiwe, njengoba kungabe kubekiwe, noma kutiphatsa ngendlela noma kusebentisa ligama noma inchazelo lephakamisa kutsi, lekhombisa noma lechaza kutsi kunebudlelwano emkhatsini walowo muntfu neligatja, sikhungo semasheya lesisemkhatsini, indzawo yekuhwebelana, sikhungo lesigunyatako, ligatha letetimali lelilamulako, ligatja lelisemkhatsini

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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;

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		letekuhweba langaphandle, umhwebeli wangaphandle (indzawo yekuhwebelana yangaphandle), labangenelelako, umsebentisi losemtsetfweni noma lilunga leligunyatiwe, njengoba kungabe kubekiwe, lapho khona akunabudlelwano lobukhona.”; futsi *(d)* kuntjintjwa kwesigatjana (5) ngesigatjana lesilandzelako: “(5)*(a)* Lilunga leligunyatiwe linganiketa tinsita tekugunyata noma tekukhokhela ngalokugcwele letiniketwe imvume yekwenta ligatja lelibhalisiwe **[noma]**, sikhungo lesitimele lesigunyatiwe lesinemvume, noma libhange lelisemkhatsni letekuhweba leligunyatiwe, njengoba kungabe kubekiwe, ngekuhambisana nemitsetfo yeligatja noma imitsetfo yesikhungolesigunyatako, njengoba kungabe kubekiwe. *(b)* Lilunga leligunyatiwe linganika tinsita tekugunyata kuphela nome tinsita tekubhadala lapho ligunyatwe khona libhange lelisemkhatsni letekuhweba langaphandle leligunyatiwe nome ligatja lelisemkhatsini letekuhweba langaphandle lelikhululiweugu-nyatwe ngekwesigaba 49A, ngekuvumela lokubhalwe ngekuhlanganyela phambilini kweliGatja, Umtsetfo weBungcwethi kanye neliBhange Ngodla laseNingizimu Afrika.”. **6.** kuchitjiyelwa kwesigaba 5— *(a)* ngekuntjintja tindzima *(b)* kanye ne-*(c)* ngaletindzima letilandzelako esigatjaneni (1): “*(b)* luhla lwebantfu labalawulwako, ngaphandle kwalabo labalawulwe ngekwaloMtsetfo, uma ngabe imisebenti yemasheya iniketiwe futsi kusebenta nemisebenti yentiwe, noma ngabe kuya ngalabhalisiwe noma langakabhaliswa, **[uma ngabe]** labo bantfu basengakalawulwa kulowo mkhakha ngekwaloMtsetfo, uma ngabe umbono waNgcongcoshe, utawuchubekisa tinjongo taloMtsetfo 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—

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(c) lemisebenti yemasheya lenganiketwa kanye nemisebenti lengentiwa ngumsebentisi longaphandle, ligatja lelitimele, bangeneleli labatimele, libhange lemasheya lelitimele langaphandle, indlu yangaphandle legunyatako, lilunga leligunyatako, ligatja lelisemkhatsini letekuhweba langaphandle, lilunga langaphandle leligunyatako noma ligatja langaphandle lekuhwebelana, njengoba kungabe kubekiwe.”; futsi *(b)* ngekuntjintja sigatjana (2) ngesigatjana lesilandzelako: “(2) Umsebentisi wangaphandle logunyatiwe, ligatja langaphandle, longenelelako wangaphandle, sikhungo semasheya lesitimele sangaphandle, indlu yangaphandle legunyatako, noma lilunga Langaphandle leligunyatako **[noma libhange langaphandle lekuhwebelana]** lingahle linikete leto tinsita temasheya noma kusebentisa imisebenti, njengoba kungabe kubekiwe, kubekwe nguNgcongcoshe ngekuya ngalesigatjana (1)*(c)*.”. **7.** Kuchitjiyelwa kwesigaba 6: *(a)* ngekuntjintja sihloko salesigaba ngalesihloko lesilandzelako: “**[Nobhala nasekela waNobhala] liGatja**”; *(b)* Ngekususwa kwetigatjana (1) kanye na (2); *(c)* ngekuntjintjwa kwemagama langaphambikwendzima *(a)* ngemagama lalandzelako esigatjaneni (3): “Ekwenteni **[le]**imisebenti yalo ngekwemibandzela yaloMtsetfo, liGatja—”; *(d)* ngekushintjwa kwendzima *(k)* ngendzima lelandzelako esigatjaneni sesi-(3): “*(k)* anganiketa **[tinkhombandlela]** lwati loluholako ngekusetjentiswa nekuhunyushwa kwaloMtsetfo;”; *(e)* ngekuntjintja indzima *(m)* ngalendzima lelandzelako esigatjaneni (3): “*(m)* ngesikhatsi lesitsite lesingaphindze sivusetelwe **[angavumela]** angakhulula bantfu nome tinhlobo tsite tebantfu kuletimiso talesigaba saloMtsetfo **[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)]**(i) 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 co-operate 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;";

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
		bantfu labatsite kutsi bangatsintfwa nguloMtsetfo] uma ngabe **[nobhala]** liGatja **[a]**line**[l]**tiseka kutsi— **[(i) lokusetjeniswa kwaleso sigaba lekukhulunywa ngaso sitawenta kutsi lofaka sicelo noma emaklayenti alofaka sicelo ngekwetimali nomalobunye bumatima noma kungalungi; kanye]** **[(ii)]**(i) kuniketwa kwemvume yekungatsintseki angeke— *(aa)* kwangcubutana netishinsekelo tahulumende; noma *(bb)* kuhlukumete kuphumelela kwaletinjongo taloMtsetfo; futsi (ii) kusetjentiswa kwalesigaba kutawubangela umfakisicelo nome emaklayenthi emfakisicelo bumatima ngekwetimali nome ngalenye indlela nome umonakalo tsite; futsi (iii) ngalekuyamene netakhiwonchanti tetimakethe tangaphandle, kanye nangekuhlanganyela kweliBhange Ngodla laseNingizimu Afrika kanye nelibhange lebungcwethi, umfakisicelo— *(aa)* ungeluhlelo lwemtsetfo lolulinganako ngekwesigaba 6A phindze futsi ugunyatwe ligatja lelilawulako lwemtsetfo lonjalo; *(bb)* uhambisana nanone luphi luhlelo loluncunywe kumtsetfo wekuhlanganyela kwentela kukhululwa kwemuntfu lonjalo; futsi *(cc)* utsatsa sibopho sekutibandzakanya aphindze abe ngelwati kuliGatja, liBhange Ngodla

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		(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]**;"; *(g)* by the deletion in subsection (3) of paragraph *(o)*; *(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."; *(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—"; *(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;";

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
		laseNingizimu Afrika kanye neli-bhange lebungcwethi kuncedzisa ngekwe-ntiwa kwemisebenti kanye nekusetje-ntiswa kwemandla ngekwemtsetfo wemkhakha wetetimali;"; *(f)* ngekuntjintjwa kwendzima *(n)* ngalendzima lelandzelako esigatjaneni (3): "*(n)* kufanele kwatiswe Ngco-ngcoshe kanye neMbusi nganoma ngaluphi ludzaba Le- ngekwembono **[wanobhala]** weliGatja kungaletsa bungoti **[kutinhlelo tetimakethe temnotfo; kanye]**;"; *(g)* ngekususwa kwendzima *(o)* esigatjaneni (3); *(h)* ngekuntjintjwa kwesigatjana (5) ngalesigatjana lesilandzelako: "(5) **[nobhala]** liGatja kufanele, lapho kunekuniketwa kungasebenti noma umyalelo ufaka ekhatsi bonkhe bantfu, bantfu labasemtse-tfweni noma netinsita temasheya ngalokutayelekile, kukhishwe lomlayelo kuGazethi kuwebhusayithi yeliGatja **[lesemtsetfweni]**, kantsi ikhophi yalokuvunyelwa noma umyalelo kufanele yetfulwe ePhalamende."; *(i)* ngekuntjintjwa kwemagama landvulela indzima *(a)* ngemagama lalandzelako esigatjaneni (7): "**[nobhala]** liGatja ngekuhlanga nyela neliGatja lebuNgcwethi, nangekuhambisana netidzingo letibekwe nguNgcongcoshe ngaphansi kwesigaba 5(1)*(a)*, kunchubo lesezingeni nemtsetfo wekuhlanganyela, nobe ngekwemisebenti yemasheya—"; *(j)* ngekuntjintjwa kwendzima *(b)* esigatjaneni (7) ngendzima lelandzelako: "*(b)* abeke imibandzela netidzingo ngendlela lekufanele kutsi imisebenti yemasheya ngalokuphatselene nalatsite langakabhaliswa lekufanele aniketwe, kufaka ekhatsi,kutsi kungashiyi **[ngaphandle, ngekusho indlela yekuti phatsa]** kugunyata nekukho-kheleka kwalawo masheya kufanele kwenteke ngayo;";

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		(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;"; *(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—"; *(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;"; *(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 *(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.".

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
		(k) ngekuntjintjwa kwendzima *(d)* ngalendzima lelandzelako esigatjaneni (7): "*(d)* abeke imibandzela netidzingo ngendlela lekufanele kutsi imisebenti yemasheya ngalokuphatselene nalatsite langakabhaliswa lekufanele aniketwe, kufaka ekhatsi,**[kutsi kungashiyi ngaphandle]**, indlela kugunyata nekukhokheleka kwalawo masheya kufanele kwenteke ngayo;"; *(l)* ngekuntjintjwa kwemagama landvulela indzima *(a)* esigatjaneni (8) ngalamagama lalandzelako: "Ngalokuphatselene nalabantfu lababalwe kulomkhakha lobekwe **[nguNgcongcoshe ngaphansi]** ngekwesigaba 5(1)*(b)*, **[nobhala]** inchubo yemtsetfo inga—"; *(m)* ngekushintjwa kwendzima *(b)* ngalendzima lelandzelako esigatjaneni (8): "*(b)* kubeka imibandzela netidzingo talemibandzela yemisebenti yemasheya ngulabo bantfu kufaka ekhatsi**[, kungashiyi ngaphandle,]** kubeka **[indlela]** umtsetfo wenchubo **[Y]**wekutiphatsa nekubeka lokudzingekako uma ngabe kubikwa;"; *(n)* ngekuntjintjwa kwendzima *(d)* ngalendzima lelandzelako esigatjaneni (8): "*(d)* kuvimbela bantfu labanjalo ekuniketeni imisebenti yemasheya noma kwenta noma ngabe miphi imisebenti lengasebentisa kabi tinjongo taloMtsetfo noma ye-*Financial Sector Regulation Act*."; futsi *(o)* ngekungetwa kwalesigatjana lesilandzelako: "(9) ngekuhambelana nemisebenti yemasheya lengabe iniketwe ku-, kanye nemisebenti lengentiwa ngumsebentisi wangaphandle logunyatiwe, lushintjo lwangephandle, longenelelako wangaphandle, indlu yangaphandle yetekuhwejwa kwemasheya, ligatja lelisemkhatsini letekuhweba langaphandle, njengobe ludzaba lungaba njalo, njengobe kuncunywe ngungcongcoshe ngaphasi kwesigaba 5(1)*(c)*, liGatja kukratheriya yemtsetfo wekuhlanganyela, kugunyata, kunaka, kufaka emtsetfweni nobe kukhululwa kwalabantfu kuRiphabhulikhi, kanye nekwatiwa ngekulingana kwelive lelifanele langaphandle.".

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		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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		8. Ngekufakwa kwalesigaba lesilandzelako ngemuva kwesigaba 6: "**Kwatiwa ngalokulinganako kwetinhlelo temtsetfo tangaphandle** **6A.** (1) ekusetjentisweni lilunga lelidzingile, liGatja, ngekuhlanganyela neliBhange Ngodla laseNingizimu Afrika nemtsetfo webungweti, liGatja lingancuma kutsi sakhiwonchanti lesilawulako selive langaphandle lelilinganako (kugunyata lokulinganako) kulusitonchanti lwemtsetfotimiso loluncunywe ngekwemtsetfo wemkhakha wetetimali, nangabe lolusinchanti lekushaywa nekumiswa kwemtsetfo loluncunywe kulelo live langaphandle uhambisana netinjongo temtsetfo wemkhakha wetetimali. (2) Kwatiwa ngekwesigaba 6A(1) kufuna kushicilelwe kuwebhusayithi yeligatja kanye nakurejista. (3) liGatja kufuna ligcine luhlu lwawo onkhe emave angaphandle latiwako ngaphasi kwalesigaba. (4) Nakuhlolisiswa kulingana kwelusitonchantilwe lolulawulako lwelive langaphandle, ligatja, liBhange Ngodla laseNinginzimu Afrika kanye nemtsetfo webungcweti kufuna banake nanaku lokulandzelako— *(a)* luhlobo kanye nemandla eluhlelo lekuhlolisisa kweligatja lelilawulako, kufaka ekhatsi kucatsanisa lokucondzile neluhlelo lolusetjentiswa ligatja, ligatja lebungcweti kanye neliBhange Ngodla laseNingizimu Afrika; *(b)* kweyamaniswa kwelusitonchanti lwekulawula lwelive langaphandle kanye nemitsetfo lefanele lesungulwe mitimba yavelonkhe lancuma umtsetfo losebenta kusakhiwonchanti setimakethe; *(c)* imiphumela leboniwe yelusitonchanti lolulawulako lolusebenta kutakhiwonchanti letihlobene naleto letiseNingizimu Afrika; futsi *(d)* sidzingo sekuvimbela luhwebo lwematfuba. **Kukhishwa kwekwatiwa** **6B.** liGatja ngekuhlanganyela neliBhange Ngodla laseNingizimu Afrika kanye neligatja lebungwethi kunganyomula kwatiwa lapho indlela lencunywe kusigaba 6A ingasalandzelwa.

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		Principles of co-operation **6C.** (1) The Authority must enter into a supervisory co-operation arrangement with the relevant supervisory authority from the equivalent jurisdiction for the purpose of performing its functions in terms of this Act. (2) A supervisory co-operation arrangement referred to in subsection (1) must at least specify— *(a)* the mechanism for the exchange of information between the Authority, the South African Reserve Bank, the Prudential Authority, and the relevant supervisory authorities (''the authorities''), including access to all information requested by the Authority regarding a licensed external market infrastructure; *(b)* the mechanism for prompt notification to the Authority, the South African Reserve Bank and the Prudential Authority where the supervisory authority deems an external market infrastructure which it is supervising to be in breach of the conditions of its authorisation or of other law to which it is subject, or any other matter which may have an effect on the authorisation of the market infrastructure; *(c)* the procedures concerning the coordination of supervisory activities including, where appropriate, for collaboration regarding the timing, scope and role of the authorities with respect to any cross-border supervisory on-site inspections; *(d)* the processes the authorities should use if an authority subsequently determines that it needs to use requested supervisory information for law enforcement or disciplinary purposes, such as obtaining the consent of the requested authority and handling such information in accordance with the terms of existing memoranda 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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		Imitsetfo yekubandzakanyeka **6C.** liGatja kufuna lingene ehlelweni lekubambisana ngekulawula likanye nemagatja lafanele lalawulako ehlelweni lwemtsetfo lolulinganako ngetinjongo tekwenta umsebenti walo ngekwaloMtsetfo. (2) Luhlelo lokubambisana ngekulawula lekucondziswe kilo esigatjaneni (1) kufuna lokungenani lucacise— *(a)* indlela yekuntjintjana ngemniningwane emkhatsini weligatja, liBhange Ngodla laseNingizimu Afrika, ligatja lebungcwethi kanye nemaGatja ekulawula, kufaka ekhatsi kufinyelela kuwo wonkhe umniningwane locelwe liGatja lomayelana netinsitanchanti tetimakethe letisemtsetfweni; *(b)* indlela yekukhishwa kwesatiso ngesikhatsi lesifanele kuliGatja, umtstefo webungcwethi kanye neliBhange Ngodla laseNingizimu Afrika lapho khona liGtja lelilawulako litsatsa tinsitanchanti tetimakethe tangaphandle letitila-wulako kutsi tibe sekwephuleni kwetimo tekugunyatwa kwato nobe kwalomunye umtsetfo letibekelwe wona, nome lokunye lokungaba nemtselelaekugunyatweni kwetinsitanchanti tetimakethe; *(c)* tindlela letiphatselene nekutibandza-kanya kwekulawula lefaka ekhatsi, lapho kufanele khona, kuhlanganyela lokuphatselene nekubona ngesikhats, umtlamo kanye nelichaza leligatja ngekuhambisana nekuhlolisisa kulawulwa kwangekhatsi kwalamanye emave; *(d)* tindlela emagatja lekufanele lekufanele atisebentise lapho ligatja selincuma kutsi kufanele lisebentise imininingwane yekulawula leceliwe kusimamisa umtsetfo nobe ngenhloso yekucondzisa tigwegwe, njengekutfola imvumo yeligatja leliceliwe kanye nekubamba umniningwane lonjalo ngekuhambisana nemibandzela yememoranda lesekhona yekuvisisa kusinyanyiswa kwekutibandzakanya; *(e)* tindlela yekutibandzakanya, kufaka ekhatsi, lapho kwenteka khona, kucocisana ngemibiko yekuhlola lefanele, kuncedzisa ekuhlatiyeni imiculu nobe kutfola lwati

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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:

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		kulusitonchanti lwetimakethe kanye nemalunga emtimba lolawulako nome labaphetse; futsi *(f)* lizinga ligatja lelilawulako lelingabela ngalo nalenye inhlangano umniningwane wekulawula leliwutfole kulelinye ligatja kanye netindlela tekwenta njalo. (3) liGatja kanye nemagatja lalawulako langene langenele emalungiselelo ekutibandzakanya ngekwemibandzela yesigatjana se(1) kufanele— *(a)* asungule aphindze agcine kulondza lokuyimfihlo kuze kuvikeleke yonkhe umniningwane wekulawula longakadzingeki kubantfu lotfolwe kulamanye emagatja ekulawula; *(b)* kucociswane kuphindze kwatjelwane ngelucwaningo lekuhlatiya bungoti kanye nemniningwane wekweseka kutfolwa, kucwaninga kanye nekuncishiswa kwebungoti kutimakethe nalabatibandzakanye ngoba balindzele kuzuza; *(c)* bacocisane, batibandzakanye phindze kufike lapho bangagcina khona babelana ngelwati loluphatselane nemagatja ekubaluleka kwetinhlelo nobe kusebenta kwawo kunemtselela lohleleke tsite etimakethe; *(d)* batibandzakanye ngalokufanako malanga onkhe ekuphatfweni njalo kwetinsitanchanti tetimakethe tangaphandle letigunyatiwe letisebenta velonkhe; *(e)* batise kusanesikhatsi baphindze bacocisane, nakwentekile, nobe-ke masisha nakukhonakala, kuphatse-lane netinkinga letingatsikabeta sidzingo sekulawula kwalelinye ligatja; *(f)* kwecanjwe indlela yekutibandza-kanye lokwentelwa kulawula khona kutoniketa ngelwati lwako kokubili, tinhloso tekulawula njalo kanye nasetikhatsini tebumatima; futsi *(g)* kutsatsa sibopho setekuchumana njalo nebasebenti ngetinsitanchanti tetimakethe letisebentako tangaphandle letisemtsetfweni kanjalo nemihlangano yangetikhatsi tonkhe leyenteka njalo lapho kucubuka tinkinga letinsha tekulawula ngekuhlanganyela.”. **9.** Kuchitjiyelwa kwesigaba 7— *(a)* ngekuntjintjwa 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

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		"*(a)* sentiwe ngendlela kanye nekucuketsa lwati lolubekwe **[ngunobhala]** liGatja;"; *(b)* ngekuntjintjwa kwaletindzinyana *(v)* esigatjaneni (3)*(c)* ngendzinyana lelandzelako: "(v) linani lemali yekufaka sicelo **[lebekwe ngunobhala]** lencunywe ngekwe-*Financial Sector Regulation Act*;"; *(c)* ngekuntjintjwa kwendzima *(a)* ngalendzima lelandzelako kusigatjana (4): "*(a)* **[nobhala]** liGatja kufanele **[a]**likhiphe satiso sesicelo sekuba nelayisensi yeligatja kumaphephandzaba lamabili lafundvwa velonkhe lokutawuba tindleko talona lofaka sicelo, kanye nakuwebhusayithi yeliGatja **[lesemtsetfweni]**."; *(d)* ngekuntjintjwa kwendzinyana (ii) kanye nendzinyana (iii) esigatjaneni (4)*(b)* ngetindzinyana letilandzelako: "(ii) **[lapho]** kutsi lakufanele kuhlolwe khona lemitsetfoyeligatja lephakanyisiwe kanye nalokudzingekako **[kute ubhaliswe ngalokuhlolwe]** kuyatfolakala kuwebhusayithi yeliGatja kute emalunga emmango abeke imibono; futsi (iii) isho lesikhatsi, kanye nenchubo, lapho kungabekwa khona lokuphikisa sicelo nome Imitsetfo kanye nalokudzingekile kungaletfwa ngaphambi kweliGatja **[lesibekwe ngunobhala]**."; futsi *(e)* ngekungeta lendzima lelandzelako esigatjanneni (4); "*(c)* liGatja kufanele lishicilele lemitsetfo yeligatja lephakanyisiwe kanye nalokudzingekile lekukhulunywe ngako endzimeni 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 lofanele, lofake sicelo uyatifeza, noma ligatja lelibhalisiwe, njengoba kungabe kubekiwe, **[bacondzisi]** bemalunga emtimba lolawulako **[balo]** kanye nebaphatsi labasetulu;"; futsi

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		(b) by the addition of the following subsection: "(3) *(a)* Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force. *(b)* In respect of regulations prescribed in terms of subsection (1)*(a)*, the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards. *(c)* Paragraph *(b)* does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)*(a)*. *(d)* Requirements prescribed in terms of subsection (1)*(c)* or (2)*(c)* before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.". **11.** The amendment of section 9(4) by the substitution for paragraph *(a)* of the following paragraph: "*(a)* The **[registrar]** Authority must publish a notice of an application for an amendment of the terms of an exchange licence or the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the **[official]** Authority's website.". **12.** The amendment of section 10— *(a)* by substitution in subsection (2) for paragraph *(f)* of the following paragraph: "*(f)* must, as soon as it becomes aware **[thereof]**, inform the **[registrar]** Authority of any matter that it reasonably believes may **[pose systemic risk to the financial markets]** give rise to, or increase systemic risk;"; and *(b)* by the substitution in subsection (2)(i) for subparagraph (ii) of the following subparagraph: "(ii) may appoint **[an associated or independent]** a clearing house or central counterparty licensed under Chapter V to clear or settle transactions or both clear and settle transactions on behalf of the exchange;".

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(b) ngekungetwa kwalesigatjana lesilandzelako: "(3) *(a)* Ngekunganakwa kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwe-kucala kwalesigatjana kuchubeka kudzingeke. *(b)* Ngekwetimiso temtsetfo letincunywe ngekwemibandzela wesigatjana (1)*(a)*, Ngcongcoshe angacitsa timiso temtsetfo, bese kutsi lokudzingekile lokusha kungabese sekuncunywa emitsetfweni yekuhlanganyela nobe umtsetfo wenchubo. *(c)* Indzima *(b)* ayitsikabeti nobe ivimbele emandla aNgcongcoshe kuncuma nobe kuchibiyela timiso temtsetfo ngekwemibandzelaye-sigatjana (1)*(a)*. *(d)* Lokudzingekile lokuncunyiwe ngekwemibandzela yesigatjana (1)*(c)* nobe (2)*(c)* ngembikwekucala kwalesigatjana kungachitjiyelwa nobe kucitfwe ngekwenchubo nobe umtsetfo wekuhlanganyela.". **11.** Kuchitjiyelwa kwesigaba 9(4) ngekuntjintjwa kwendzima *(a)* ngalendzima lelandzelako: "*(a)* kufanele akhiphe satiso sesicelo kwentela kuchibiyela imitsetfo yelayisensi yeligatja noma imibandzela ngekuya ngekutsi nguyiphi ilayisesni leyanikwa kumaphephandzaba avelonkhe lamabili, ngetindleko talona lofake sicelo, kanye nakuwebhusayithi yeliGatja **[lesemtsetfweni]**.". **12.** Kuchitjiyelwa kwesigaba10 *(a)* ngekuntjintjwa kwendzima *(f)* esigatjaneni (2) ngalendzima lelandzelako: "*(f)* ngekushesha ngalesikhatsi sebati kufanele batise **[nobhala]** liGatja kanye neMbusi nganoma luphi ludzaba labatsemba ngalokufanele kutsi **[lolungabangela bungoti kuloluhlelo kutimakethe temnotfo]** lungakhulisa nobe lunyuse bungoti beluhlelo;"; futsi *(b)* ngekuntjintjwa kwendzinyana (ii) ngendzinyana lelandzelako esigatjaneni (2)(i) "(ii) angabeka ligatja leligunyatiwe lelibhalisiwe nome ligatja letetimali leligunyatiwe

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		13. The amendment of section 11— *(a)* by the substitution in subsection (2) for paragraph *(c)* of the following paragraph: "*(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."; *(b)* by the substitution in subsection (6) by the substitution for paragraphs *(c)* and *(d)* of the following paragraphs: "*(c)* The **[registrar]** Authority must, as soon as possible after the receipt of a proposed amendment, publish — (i) the amendment on the **[official]** Authority's website; and (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. *(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 — (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 of the listing requirements has been approved;

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		[lelihambisanako noma Lelitimele] ngaphansi kweSehluko V kugunyata noma kubhadala ematra-nsekshini noma kokubili kugunyata nekubhadala ngekumelela ligatja;”. **13.** Kuchitjiyelwa kwesigaba 11— *(a)* ngekuntjintjwa kwendzima *(c)* ngendzima lelandzelako esigatjaneni (2): “*(c)* ligatja linganaka ngalesikhatsi kutsanyelwe licala lwatiso **[lebelutfolakele]** lelitfolwekuluphenyo ngaphansi kwesigaba 84 sifundvwe nesigaba 85.”; *(b)* ngekuntjintjwa kwetindzima *(c)* neye *(d)* ngaletindzima letilandzelako esigatjaneni (6): “*(c)* **[nobhala]**liGatja, ngemuva kwekutfola kwetichibiyelo letiphakanyisiwe kufanele lishicilele masisha loku lokulandzelako— (i) tichibiyelo kuwebhusayithi yeligatja; futsi (ii) satiso kuGazethi lesishoko kutsi tichibiyelo letiphakanyisiwe tiyatfolakala kuwebhusayithi yeliGatja, sibite bonkhe bantfu labadzinga kuphakamisa imibono yabo ngaletichibiyelo letiphakanyisiwe kutsi bente njalo kuliGatja ekhatsi kwemalanga langu 14 kushicikekwe satiso. *(d)* Nangabe tingekho tiphakamiso, nome nangabe liGatja litsatsa tiphakamiso letikhona, nangabe kudzingekile lachumana nebekuhweba kanye nebantfu labaphakamise leto tiphakamiso labese lincuma kutivumela kusebenta nome kuchibiyela tichibiyelo lebetiphakanyisiwe, ligatja kufuna lishicilele— (i) sichibiyelo kuwebhusayithi kanye nelusuku lekufuna sicale ngalo kusebenta yeligatja; futsi (ii) satiso kuGazethi, lekufuna siho— *(aa)* kutsi tichibiyelo talokudzingekile kweluhlu tivunyelwe kusebenta.

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		(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."; *(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 *(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.". **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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		(bb) Kutsi lokudzingekako kute kubhaliswe njengobe njengobe kuchitjiyelwe kuyatfolakala kuwebhusayithi yeligatja kanye nakuwebhusayithi yetekuhweba; futsi *(cc)* Lusuku lekuyawucala kusebenta ngalo tichibiyelo talokudzingekako kute kubhaliswe."; *(c)* Ngekuntjintjwa kwemagama landvulela indzinyana (i) ngalamagama lalandzelako kusigatjana 7*(a)*: "*(a)* **[nobhala]** liGtatja **[a]**lingachibiyela lokudzingekako kute kubhaliswe ligatja, ngekwesatiso kuGazethi nakuwebhusayithi yeliGatja, **[*lesemtsetfweni*]**—"; futsi *(d)* Ngekuntjintjwa kwendzinyana (ii) ngendzinyana lelandzelako kusigatjana 7*(b)*: "(ii) nekukhipha tizatfu tekuchibiyela, kanye nekubaluleka kwaloko kuchibiyela kuGazethi kanye nakuwebhusayithi yeliGatja **[lesemtsetfweni]**.". **14.** Kuchitjiyelwa kwesigaba 12(6) ngekuntjintja indzima *(b)* ngalendzima lelandzelako: "*(b)* Uma ngabe lokwala kutsi kufakwe emasheya eluhleni kubangelwe kukhohlakala noma bugebengu lobentiwe ngolonikelako, noma lenye yetintfo letikhiphe kabi sitatimende lesikhuluma ngesimi setimali noma kungavetwa noma yini lephatselene nemphahla, noma kukhishwa kwemasheya kubangelwe kuhluleka kuhambisana nalokudzingekako kute ubhaliswe kuligatja, alikho lelinye ligatja eRiphabhulikhi lelinga, sikhatsi lesingalinganiselwa kutinyanga letisitfupha kusukela ngalolusuku lolubalwe kundzima *(a)*, anikete sicelo sekutsi kufakwe emasheya latsintsekako kuloluhla lolugcinwe ngilo, livumele kutsengiswa kwalawo masheya, ngaphandle kwekutsi lokwala noma lokukhishwa kususwe ligatja lekucala noma kubekelwe eceleni **[ngekufaka]** ngekubuyeketwa yinkhundla yetemacala futsi **[sikhalo] [lobhodi letikhalo ngekuya ngesigaba 105]**.".

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		15. The amendment of section 17— *(a)* by the substitution for subsection (1) of the following subsection: "(1) The exchange rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act."; *(b)* by the insertion after subsection (2) of the following subsection: "(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the exchange rules."; and *(c)* by the substitution in subsection (4) for paragraph *(a)* of the following paragraph: "*(a)* Subject to section 5(1)*(c)* and (2) and the requirements prescribed **[by the registrar]** in joint standards, the exchange rules may provide for the approval of external authorised users to be authorised users of the exchange.". **16.** The amendment of section 25(2) by the substitution for the words preceding paragraph *(a)* of the following words: "The **[registrar]** Authority may**[,]** prescribe standards in respect of **[a report]** reports referred to in subsection (1)**[, prescribe]** specifying—". **17.** The amendment of section 27— *(a)* by the substitution in subsection (4) for paragraph *(a)* of the following paragraph: "*(a)* The **[registrar]** Authority must publish a notice of an application for a central securities depository licence in two national newspapers, at the expense of the applicant, and on the **[official]** Authority's website."; and *(b)* by the addition in subsection (4) of the following paragraph: "*(c)* The Authority must publish the proposed depository rules referred to in paragraph *(b)*(ii) on the Authority's website.".

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		15. Kuchitjiyelwa kwesigaba 17— *(a)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: "(1) Lemitsetfo yeligatja kufanele ihambisane naloMtsetfo, ne-*Financial Sector Regulation Act* kanye nayo yonkhe imitsetfo leyentiwe ngekwalomtsetfo nome i-*Financial Sector Regulation Act*."; *(b)* ngekufakwa kwalesigatjana lesilandzelako ngemuva kwesigatjana (2): "(2A) Umtsetfotimiso nome umtsetfo ungancuma tindzaba letingetiwe kuleto letibaliwe esigatjaneni (2) lekufuna litfolakale emitsetfweni yeligatja."; futsi *(c)* ngekushintja indzima *(a)* ngalendzima lelandzelako esigatjaneni (4): "*(a)* Ngekuya ngesigaba 5(1)*(c)* na (2) kanye netidzingo **[letibekwe ngunobhala]** kumtsetfo wekuhla-nganyela, imtsetfo yeligatja inganiketela kuvumeleka kwebasebentisi labagunyatiwe labangaphandle kutsi babe basebentisi labagunyatiwe beligatja.". **16.** Kuchitjiyelwa kwesigaba 25(2) ngekuntjintjwa kwemagama landvulela indzima *(a)* ngalamagama lalandzelako: "**[nobhala]** ligatja linga**[**,]ncuma imihambo ngekuhambisana **[nembiko]** lobalwe kusigatjana (1)**[, abeke]** lochazisisako—". **17.** Kuchitjiyelwa kwesigaba 27— *(a)* ngekuntjintjwa kwendzima *(a)* esigatjaneni (4) ngendzima lelandzelako: "*(a)* **[nobhala]** liGatja kufanele **[akhiphe]** lishicilele satiso sesicelo selayisensi yesikhungo semasheya lesisemkhatsini kumaphephandzaba lamabili avelonkhe, ngetindleko letitawukhokhelwa ngulofake sicelo, kanye nakuwebhu-sayithi yeliGatja."; futsi **[lesemtsetfweni]**. *(b)* ngekungetwa kwalendzima esigatjaneni (4): "*(c)* liGatja kufuna lishicilele lemitsetfo yekusisa lephakanyisiwe lekukhulunywe ngayo endzimeni *(b)*(ii) kuwebhusayithi yeliGatja.".

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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

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		18. Kuchitjiyelwa kwesigaba 28— *(a)* ngekuntjintjwa kwendzima *(c)* esigatjaneni (1) ngalendzima lelandzelako: "*(c)* kukhombisa lokudzingekako nalokulungele lokubekwe **[ngunobhala]** kunchubo yemtsetfo lefanele, lofake sicelo uyafinyelela kulo, kusilulu semasheya lesisemkhatsini lesibhalisiwe njengoba kungabe kubekiwe, **[bacondzisi]** kumalunga emtimba wabo lolawulako **[babo]** kanye nebaphatsi labaphakeme;"; futsi *(b)* ngekungetwa kwalesigatjana lesilandzelako: "(3)*(a)*ngekunganakwa kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwekucala kwalesigatjana kuchubeka kudzingeke. *(b)* Ngekwetimiso temtsetfo letincunywe ngekwemibandzela wesigatjana (1)*(a)*, Ngcongcoshe angacitsa timiso temtsetfo, bese kutsi lokudzingekile lokusha kuyancunya liGatja emitsetfweni yekuhlanganyela nobe yekulingana. *(c)* Indzima *(b)* ayitsikabeti nobe ivimbele emandla aNgcongcoshe kuncuma nobe kuchibiyela timiso temtsetfo ngekwemibandzela-yesigatjana (1)*(a)*. *(d)* Lokudzingekile lokuncunyiwe ngekwe sigatjana (1)*(c) nobe* (2)*(c)* ngembikwekucala kwalesigatjana kungachitjiyelwa nobe kucitfwe ngekwenchubo nobe umtsetfo wekuhlanganyela.". **19.** Kuchitjiyelwa kwesigaba 29— *(a)* ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako: "(2) Lelayisensi kufanele ibhalwe lelihhovisi lelibhalisiwe kusikhungo semasheya lasemkhatsini eRiphabhulikhi naletindzawo lapho khona lesikhongo semasheya lesisemkhatsini kufanele sibe khona, nekutsi lesikhungo semasheya lesisemkhatsini angeke sasetjentiswa kunoma ngabe nguyiphi indzawo ngaphandle kwemvume ngekuhlanganyela yangaphambilini lebhalwe **[ngunobhala]** liGatja, liGatja lebuNgcwethi kanye neliBhange Ngodla laseNingizimu.";

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		(b) 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.". **20.** 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;". **21.** 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—". **22.** 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.";"

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		(b) Ngekuntjintjwa kwendzima *(a)* ngalendzima lelandzelako esigatjaneni (4): "*(a)* **[nobhala]** liGatja kufanele **[a]**likhiphe satiso ngekuchitjiyelwa kwemigomo yelayisensi yesikhungo semasheya lesisemkhatsini nemibandzela lapho khona ilayisensi beyiniketiwe kumaphephandzaba lamabili avelonkhe ngekwetindleko talofake sicelo kanye nakuwebhusayithi yeliGatja **[lesemtsetfweni]**.". **20.** kuchitjiyelwa kwesigaba 30(2) ngekuntjintjwa kwendzima *(h)* ngenzima lelandzelako: "*(h)* kufanele ngekushesha uma ngabe bacala kwati, atise **[nobhala]** liGataja nganoma luphi ludzaba lebalukholwako **[lolungabangela luhlelo lolunebungoti kutimakethe temnotfo]** lolungakhulisa nobe lunyuse, bungoti beluhlelo;"; **21.** kuchitjiyelwa kwesigaba 33 ngekuntjintjwa kwemagama landvulela indzima *(a)* ngalamagama lalandzelako esigatjaneni (1): "Loniketako angagucula Emasheya **[acinisekisiwe]** lanesitifiketi **[Angaguculwa]** abe emasheya langekho emtsetfweni, ekucoweni kwaloniketako nome umbambeli wemasheya lasemtsetfweni, futsi loniketako **[nemnikeli anga]**, ngekuya ngesigatjana (2)**[,]** anganiketa e**[]**masheya langekho emtsetfweni noma kungahambisani nembandzela—". **22.** kuchitjiyelwa kwesigaba 35— *(a)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: "(1) imitsetfo yesikhungo kufanele ihambisane naloMtsetfo, i-*Financial Sector Regulation Act* kanye nemitsetfo leyentiwe ngekwalomtsetfo nome i-*Financial Sector Regulation Act*."; *(b)* ngekungeta lesigatjana lesilandzelaka ngemuva kwesigatjana (2): "(2A) Umtsetfotimiso nome umtsetfo kungancuma tindzaba letingetiwe kuleto lesetibaliwe esigatjaneni (2) lekufuna tibe khona kumtsetfo wekugcina."; **[lesemtsetfweni]**.". **20.** kuchitjiyelwa kwesigaba 30(2) ngekuntjintjwa kwendzima *(h)* ngenzima lelandzelako: "*(h)* kufanele ngekushesha uma ngabe bacala kwati, atise **[nobhala]** liGataja nganoma luphi ludzaba lebalukholwako **[lolungabangela luhlelo lolunebungoti kutimakethe temnotfo]** lolungakhulisa nobe lunyuse, bungoti beluhlelo;"; **21.** kuchitjiyelwa kwesigaba 33 ngekuntjintjwa kwemagama landvulela indzima *(a)* ngalamagama lalandzelako esigatjaneni (1): "Loniketako angagucula Emasheya **[acinisekisiwe]** lanesitifiketi **[Angaguculwa]** abe emasheya langekho emtsetfweni, ekucoweni kwaloniketako nome umbambeli wemasheya lasemtsetfweni, futsi loniketako **[nemnikeli anga]**, ngekuya ngesigatjana (2)**[,]** anganiketa e**[]**masheya langekho emtsetfweni noma kungahambisani nembandzela—". **22.** kuchitjiyelwa kwesigaba 35— *(a)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: "(1) imitsetfo yesikhungo kufanele ihambisane naloMtsetfo, i-*Financial Sector Regulation Act* kanye nemitsetfo leyentiwe ngekwalomtsetfo nome i-*Financial Sector Regulation Act*."; *(b)* ngekungeta lesigatjana lesilandzelaka ngemuva kwesigatjana (2): "(2A) Umtsetfotimiso nome umtsetfo kungancuma tindzaba letingetiwe kuleto lesetibaliwe esigatjaneni (2) lekufuna tibe khona kumtsetfo wekugcina."; **[lesemtsetfweni]**.".

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		(c) by the substitution in subsection (4) for paragraph *(a)* of the following paragraph: "(4) *(a)* Subject to section 5(1)*(c)* and (2) and requirements prescribed **[by the registrar]** in conduct standards or joint standards, the depository rules may provide for the approval of external participants or external central securities depositories to be participants of the central securities depository."; and. *(d)* by the substitution in subsection (4)*(b)* for subparagraph (ii) of the following subparagraph: "(ii) where a central securities depository has approved an external central securities depository as a participant, for the identification of the relevant laws or depository rules that apply to each aspect of the participation, including, but not limited to, the laws regulating effectiveness against third parties and insolvency proceedings.**[—** ***(aa)* the identification of the supervisory authority that supervises that external central securities depository;** ***(bb)* the identification of the relevant laws or depository rules that apply to each aspect of the participation, including, but not limited to, the laws regulating effectiveness against third parties and insolvency proceedings.]**". **23.** The amendment of section 36 by the substitution for subsection (1) of the following subsection: "(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.".

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		(c) ngekuntjintja indzima *(a)* ngalendzima lelandzelako esigatjaneni (4): "(4) *(a)* Ngekuya ngesigaba 5(1)*(c)* na (3) kanye netidzingo letibekwe **[ngunobhala]** kumtsetfo wenchubo nome wekuhlanganyela, imitsetfo yesikhungo inga, niketela labangenelele bangaphandle kanye nelibhange lelisemkhatsini langaphandle lemasheya kokutsi babe ngulabangenelelako besikhungo semasheya lesisemkhatsini.". futsi *(d)* ngekuntjintjwa kwendzinyana (ii) ngalendzinyana lelandzelako esigatjaneni (4)*(b)*: "(ii) Lapho**[i]** sikhungo semasheya lesisemkhatsini sivumele sikhungo semasheya lesisemkhatsini lesitimele njengalabangenelelako, ngetinjongo tekutfolwa kwemitsetfo lefanele nome imitsetfo yesikhungo lesebenta kuko konkhe lekuphatselene nekungenelela, kufaka ekhatsi imitsetfo lelawula kanye nakumalunga lamanye netinchubo letingakalungiseki.**[**— ***(aa)*** **lokubonwa kwalone-ligunya lekuphatsa kanye nebaphatsi baleso sikhungo semasheya lesisemkhatsini lesitimele;** ***(bb)*** **kubona imitsetfo lefanele noma imitsetfo yesikhungo leebenta kuko konkhe kusebenta, kufaka ekhatsi, ingavimbi lemitsetfo lelawula kusebenta kahle kwebesitsatfu netindlela tekuhlakata.]**". **23.** kuchitjiyelwa kwesigaba 36 ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: "(1) **[nobhala]** liGatja **[angasho]** lincuma kutsi noma waphi emasheya kumabhange lasemkhatsini labanjwa sikhungo semasheya lesisemkhatsini kufanele, ngaphandle kwekutsi amathulusi, emasheya asemakethe yetimali noma barekhode emasheya langekho emtsetfweni kurejista ngekuhambisana nesigaba 50 *se-Companies Act* nemitsetfo yesikhungo, abhaliswe ngaleligama laleskhungo

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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.";

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		semasheya lesisemkhatsini noma lababanikati baso, njengoba kuchazwe kusigaba 1 *se-Companies Act*, kwavunywa **[ngunobhala]** liGatja.”. **24.** Kuchitjiyelwa kwesigaba 39 ngekuntjintjwa kwesigatjana (3) ngalesigaba lesilandzelako: “(3) Intalo ngalokuphatselene nemasheya langakabhaliswa inganiketwa ngaphansi kwalesigaba, uma kufanele, nangendlela lekubekwe ngayo kulomtsetfo wemabhange, kantsi kusebenta ngekumelana nemacembu esitsatfu, ngalokuphatselene ne-akhawunti yemasheya lasemkhatsini nome ne-akhawunti yemasheya, lapho khona lenshisekelo ichubekela kuw**[b]**o onkhe emasheya langakacinisekiswa lamele kuba yinzuzo ye-akhawunthi 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 emtsetfweni kwendlu legunyatako neligatja lelisemkhatsini letekuhweba”; **26.** kuchitjiyelwa kwesigaba 47— *(a)* ngekuntjintjwa kwesihloko salesigaba nganasi lesilandzelako: **“kufaka sicelo selayisensi yendlu legunyatako neyeligatja lelisemkhatsini letekuhweba**”; *(b)* ngekuntjintja sigatjana (1) ngalesigatjana lesilandzelako: “(1) Indlu legunyatako kanye neligatja lelisemkhatsini letekuhweba kufanele **[i]**kuniketwe ilayisensi ngaphansi kwesigaba 49.”; *(c)* ngekufaka lesigaba lesilandzelako ngemuva kwesigatjana (1): “(1A) ngekuya ngesigaba 110(6), ligatja lelisemkhatsini letekuhweba kufuna libe yindlu legunyata ngekutimela.”; *(d)* ngekuntjintja sigatjana (2) ngalesigatjana lesilandzelako: “(2) Umuntfu losemtsetfweni angafaka **[kufanele afake]** sicelo selayisensi yendlu legunyatako nome ligatja lelisemkhatsini letekuhweba **[kunobhala]** kuliGatja **[kwentela indlu legunyatako]**.”;

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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"; 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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		(e) ngekuntjintja emagama landvulela sigaba *(a)* esigatjaneni (3) ngalamagama lalandzelako: "Sicelo selayisensi yendlu legunyatako nome selayisensi yeligatja lelisemkhatsini letekuhweba kufanele—"; *(f)* ngekuntjintjwa kwendzinyana (iii) ngalendzinyana lelandzelako esigatjaneni (3)*(c)*: "(iii) imali yesicelo **[lebekwe ngunobhala]** lencunywe ngekwemibandzela ye-*Financial Sector Regulation Act*;"; *(g)* ngekuntjintjwa kwendzinyana *(v)* ngalendzinyana lelandzelako esigatjaneni (3)*(c)*: "(v) nekuhambisana nesicelo lesiphatselene nelayisensi yendlu legunyatako nobe ilayisensi yeligatja lelisemkhatsini letekuhweba, ikhophi yemitsetfo yendlu legunyatako lekufanele kuhambisane nesigaba 53; kanye"; *(h)* ngekuntjintjwa kwendzima *(a)* ngalendzima lelandzelako esigatjaneni (4): "*(a)* **[nobhala]** liGatja kufanele **[a]**likhiphe satiso sesicelo selayisensi yendlu legunyatako kumaphephandzaba lamabili avelonkhe ngetindleko talofake sicelo kanye nakuwebhuwebhusayithi yeliGatja **[lesemtsetfweni]**."; *(i)* ngekuntjintjwa kwendzinyana (ii) ngalendzinyana lelandzelako esigatjaneni (4)*(b)*: "(ii) ngalokuphatselene nendlu legunyatako letimele nobe ligatja lelisemkhatsini letekuihweba, **[lapho khona]** ngekutsi imitsetfo yendlu legunyatako **[ingahlolwa]** iyatfolakala kuwebhusayithi yeliGatja kwentela kubekwa kwemibono lephuma kumalunga emmango; kanye;"; kanye *(j)* ngekungeta lendzima lelandzelako esigatjaneni (4): "*(c)* liGatja kufuna lishicilele kuwebhusayithi yalo imitsetfo lephakanyisiwe yendlu legunyatako lekukhulunywe ngayo kundzima *(b)*(ii).".

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		27. The amendment of section 48— *(a)* by the substitution for the heading of the section of the following heading: "**Requirements applicable to applicants for clearing house licence, central counterparty licence [and], licenced clearing house and licensed central counterparty**"; *(b)* by the substitution for subsection (1) of the following subsection: "(1) An applicant for a clearing house licence and a licensed clearing house, and an applicant for a central counterparty licence and a licensed central counterparty must— *(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; *(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; *(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; *(d)* comply with the requirements prescribed **[by the registrar]**in the joint standards for the clearing or settlement of transactions in securities, or both;

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		27. kuchitjiyelwa kwesigaba 48— *(a)* ngekuntjintjwa kwesihloko sesigaba ngalesihloko lesilandzelako: "**[Tidzingo letikhona] lokudzingekile kulabafaka sicelo sekuba nelayisensi [yeligatja] [l] yendlu legunyatako, yeligatja lelisemkhatsini letekuhweba, yendlu legunyata ngalokusemtsetfweni kanye neyeligatja lelisemkhatsini letekuhweba lelisemtsetfweni**"; *(b)* ngekuntjintja sigatjana (1) ngalesigatjana lesilandzelako: "(1) Lofaka**[e]** sicelo selayisensi yendlu legunyatako kanye neseligatja leligunyatiwe lelibhalisiwe, kanye nalofaka sicelo selayisensi yeligatja lelisemkhatsini letekuhweba kanye neyeligatja lelisemkhatsini letekuhweba leligunyatiwe kufanele— *(a)* ngekuya ngetidzingo letibhalwe nguNgcongcoshe, sibe nemathulusi kanye nemitfombo-lusito leyanele, letifaka ekhatsi imali, kulawula netebasebenti nelati lwemsebenti lolufanele, kwenta imisebenti yabo njengoba kubekiwe kuloMtsetfo; *(b)* kube nekuhlelwa kwekulawula lokucacile nalokukhanyako, kutfutfukisa kuphepha nekuphumelela kwendlu legunyatako nome ligatja lelisemkhatsini letekuhweba, nekusekela kusimama kwetimali tonkhana, naletinye tinshisekelo temmango letifanele tinake, kanye netinjongo talabatsintsekako labafanele; *(c)* kukhombisa kutsi letidzingo letingenako naletifanele **[letibalwe ngunobhala]** letincunywe kumtsetfo wekuhlanganyela lofanele tiyatfolakala kulona lofake sicelo **[noma]**, ligatja leligunyatiwe lelibhalisiwe nome ligatja lelisemkhatsini letekuhweba leligunyatiwe, njengoba kungabe kubekiwe, **[baholi bayo]** emalunga emtimba wayo lolawulako kanye nebaphatsi labasetulu; *(d)* kuhambisana netidzingo **[letibekwe ngunobhala]** letincunywe kumtsetfo wekuhlanganyela kwentela kugunyata noma kucedzelelwa kwematransekshini kumasheya, noma kokubili;

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		(e) implement an effective and reliable infrastructure to facilitate the clearing of securities cleared by the clearing house or central counterparty; *(f)* implement effective arrangements to manage the material risks associated with the operation of a clearing house or central counterparty; *(g)* have made arrangements for security and back-up procedures to ensure the integrity of the records of transactions cleared, settled or cleared and settled through the clearing house or central counterparty; and *(h)* in relation to an applicant for an independent clearing house licence**[or]**, a central counterparty licence, a licensed independent clearing house or a licensed central counterparty, have made arrangements for the efficient and effective supervision of clearing members so as to ensure compliance with the clearing house rules and clearing house directives and this Act."; *(c)* by the insertion after subsection (1) of the following subsection: "(1A) Subject to subsection (1) and the regulations prescribed by the Minister, a central counterparty must— *(a)* implement a margin system that establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and market it serves; *(b)* collect and manage collateral held for the due performance of the obligations of clearing members or clients of clearing members;

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		(e) kusebentisa indlela**[s]** lekahle naletsembekile yetinsita kuhambisana nekugunyatwa kwemasheya lagunyatwe sikhungo lesigunyatako nome ligatja lelisemkhatsini letekuhweba; *(f)* kusebentisa tivumelwano letikahle kulawula lokuyimphahla lenebungoti lehambisana nekusebenta kwendlu legunyatako nome ligatja lelisemkhatsini letekuhweba; *(g)* abe **[sewente]**sekente emalungiselelo ekuvikela kanye netindlela tekulandzelela kucinisekisa sitfunti semerekhodi ematransekshini lagunyatiwe, lakhishiwe noma lagunyatiwe akhokhelwa kulendlu legunyatwako nome ligatja lelisemkhatsini letekuhweba; kanye *(h)* ngekuhambisana nekufaka sicelo selayisensi yendlu legunyatiwe letimele **[noma]**, yeligatja lelisemkhatsini letekuhweba, yesikhungo lesitimele lesigunyatiwe lesinemvume nome yeligatja lelisemkhatsini letekuhweba leligunyatiwe, abe ente emalungiselelo [kanye ne]ngekuLawulwa kwelilunga leligunyatiwe kute kutsi kucinisekise kuhambisana nemitsetfoyendlu legunyatako kanye nemibandzela yendlu legunyatako kanyenalo-Mtsetfo.”; *(c)* ngekufakwa kwalesigatjana lesilandzelako ngemuva kwesigatjana (1): “(1A) ngekuya ngekwesigatjana (1) kanye netimiso temtsetfo letincunywe nguNgcongcoshe, ligatja lelisemkhatsini letekuhweba kufanele— *(a)* isungule luhlelo lekweseka lelimisa kulingana kwemazinga ekweseka kanye nebungoti kanye netimfanelo letitsito temkhicito ngamunye, ema-Phothifoliyo, kanye netimakethe letisebentelako; *(b)* icokelele iphindze iphatse lokumele emasheya lokuba-njelwe kuncunywa kwemsebenti wekutibophelela kwemalunga lagunyatako;

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		(c) establish and maintain a default fund to mitigate the risk should there be a default by a clearing member and to ensure, where possible, that the obligations of that clearing member continue to be fulfilled; *(d)* maintain initial capital as prescribed, including an appropriate buffer; *(e)* have a clearly defined default waterfall where the obligations of the defaulting clearing member, other clearing members and the central counterparty are legally and clearly managed; *(f)* provide an appropriate segregation and portability regime to protect the positions of clients of a defaulting clearing member; and *(g)* provide the necessary infrastructure, resources and governance to facilitate its post trade management functions and, in the event of default of one or more of the clearing members— (i) ensure that sufficient risk policies, procedures and processes are in place; and (ii) have sound internal controls for robust transaction processing and management."; *(d)* by the substitution in subsection (2) for paragraphs *(a)* and *(b)* of the following paragraphs: "(2) The **[registrar]** Authority may— *(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; *(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

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		(c) isungule iphindze igcine sikhwama lesifanele kunciphisa bungoti lapho kungaba khona nekuphambana lokungentiwa lilunga leligunyatako, phindze nekucinisekisa, lapho kukhonakala khona, kutsi sibopho selilunga leligunyatako siyachubeka siyagcwaliswa; *(d)* igcine imali yekucala iphindze ichube njengoba kuncunyiwe, kufaka ekhatsi kulindza lokufanele; *(e)* Yati kahle lokungakahanjiswa kahle lapho khona lilunga leligunyatako lelente loko, lamanye emalunga lagunyatako kanye neligatja lelisemkhatsini letekuhweba kuphetfwe ngalokusemtsetfweni futsi ngalokucacako; *(f)* Ivumele lushintjo nekuhlukanisa lokufanele kuvikela indzawo yebatsengi belilunga leligunyata ngendlela lengasiyo; futsi *(g)* Inikete ngetinsitanchanti letifanele, tinsita kanye nekulawulwa kwentela umsebenti wayo wekuphatsa tekuhweba, nasetimeni lapho khona munye nobe labanyenti kumalunga lagunyataka baphule sibopho. (i) Kucinisekisa kutsi imigomo yebungoti, inchubo kanye nemihambo kusendzaweni lefanele; phindze (ii) Ibe nekulawula, kubukisisa nekuphatsa umsindvo wangekhatsi.”; 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 lelisemkhatsini letekuhweba lelisemtsetfweni kutsi **[a]**liletse lolwatiso lolungetiwe, noma adzinge lolwatiso kutsi lucinisekiswe, njengoba liGatja **[nobhala] [a]**lingakubona kufanele; **[kanye]** futsi *(b)* nekunaka noma luphi lwatiso lolususelwa kunome wuphi umtfombo loluphatselene nalofake sicelo, indlu legunyatako lebhalisiwe nome ligatja lelisemkhatsini letekuhweba lelisemtsetfweni,

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		(e) 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.". **28.** The amendment of section 49— *(a)* by the substitution for the heading of the section of the following heading: "**Licensing of clearing house and central counterparty**"; *(b)* by the substitution for subsection (1) of the following subsection: "(1) The **[registrar]** Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank and after consideration of any objection received as a result of the notice referred to in section 47(4) and subject to the conditions which the **[registrar]** Authority may consider appropriate, grant a clearing house licence to perform the functions referred to in section 50, if—";

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		[noma ligatja leligunyatiwe lelibhalisiwe, uma ngabe lolo lwatiso luvetiwe kulolofake sicelo, ligatja leligunyatiwe lelibhalisiwe,] kufaka ekhatsi lamanye emagatja lalawulako, uma ngabe lolo lwatiso luvetwe kumfakisicelo nome indlu legunyatiwe lebhalisiwe futsi nencwadzi iniketwe litfuba lelifanele lekuphendvula ngaloko; kanye *(e)* ngekungetwa kwalesigatjana lesilandzelako: "(3) *(a)* ngekunganakwa kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwekucala kwalesigatjana kuchubeka kudzingeke. *(b)* Ngekwetimiso temtsetfo letincunywe ngekwemibandzela wesigatjana (1)*(a)*, Ngcongcoshe angacitsa umtsetfotimiso, lokudzingekile lokusha kungabese kuyancunya kumtsetfo wekuhlanganyela nome kumtsetfo wenchubo. *(c)* Indzima *(b)* ayitsikabeti nobe ivimbele emandla aNgcongcoshe kuncuma nobe kuchibiyela timiso temtsetfo ngekwemibandzelayesigatjana (1)*(a)*. *(d)* Lokudzingekile lokuncunyiwe ngekwemibandzela yesigatjana (1)*(c)* nobe (2)*(c)* ngembikwekucala kwalesigatjana kungachitjiyelwa nobe kucitfwe ngekwemtsetfo wenchubo nome umtsetfo wekuhlanganyela.". **28.** Kuchitjiyelwa kwesigaba 49— *(a)* ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako: **"ilayisensi yendlu legunyatako kanye neligatja lelisemkhatsini kutekuhweba"** *(b)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: "(1) **[nobhala]** liGatja, ngekuhlanganyela kweligatja lebungwcethi kanye neliBhange Ngodla laseNingizimu Afrika phindze nangemuva kwekunaka kwanoma ngukuphi lokungakavunywa lokutfolakele ngekuhambisana nesatiso lesibalwe kusigaba 47(4) nangekuya

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		(c) by the insertion after subsection (1) of the following subsection: "(1A) Subject to the regulations or joint standards, the Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, and after consideration of any objection received as a result of the notice referred to in section 47(4) and subject to the conditions which the Authority may consider appropriate, grant a central counterparty licence to perform the functions referred to in section 50, if— *(a)* the applicant complies with the relevant requirements of this Act; and *(b)* the objects of this Act referred to in section 2 will be furthered by the granting of the licence."; *(d)* by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words: "The clearing house licence and the central counterparty licence —"; *(e)* by the substitution in subsection (2) for paragraphs *(a)* and *(b)* of the following paragraphs: "*(a)* must specify the functions that may be performed by the clearing house and central counterparty, and the securities in respect of which those functions may be performed, any other terms and conditions of the licence, the registered office of the clearing house and central counterparty, and the places where the clearing house and central counterparty may be operated, and stipulate that the clearing house and central counterparty, may not be operated at any other place without the joint prior written approval of the **[registrar]**Authority, the Prudential Authority and the South African Reserve Bank; and

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		ngemibandzela lapho khona **[nobhala]** liGatja **[a]**lingakubona kufanele, **[a]**linikete ilayisensi yendlu legunyatako kutsi kwentiwe umsebenti lobalwe kusigaba 50 uma ngabe—"; *(c)* ngekufakwa kwalesigatjana lesilandzelako ngemuva kwesigatjana (1): "(1A) ngekuya ngemtsetfotimiso nome umtsetfo wekuhlanganyela, liGatja ngekuhlanganyela neliGatja lebungcweti kanye neliBhange Ngodla laseNingizimu Afrika ngemuva kwekucabanga nganome kuphi kuphikisa lokumukelwe ngemiphumela yesatiso lekucondziswe kiso kusigaba sema-47(4) nangekuya ngetimo liGatja lelitibona tifanele, linganiketa ligatja lelisemkhatsini letekuhweba ilayisensi yekwenta imisebenti lekucondziswe kiyo kusigaba 50, nangabe— *(a)* lofaka sicelo uhambisana nako konkhe lokudzingekile kwalomtsetfo; phindze *(b)* tinjongo taloMtsetfo lekukhu-lunywe ngato kusigaba 2 titawuchutjekiswa ngekuniketwa kwelayisensi."; *(d)* ngekuntjintjwa kwemagama landvulela indzima *(e)* ngalamagama lalandzelako esigatjaneni (2): "ilayisensi yendlu legunyatako nelayisensi yeligatja lelisemkhatsini letekuhweba" *(e)* ngekuntjintjwa kwetindzima *(a)* na *(b)* ngaletindzima letilandzelako kusigatjana (2): "*(a)* kufanele ichaze lemisebenti lekufanele yentiwe ngulendlu legunyatako neligatja lelisemkhatsini letekuhweba, kanye nalamasheya lapho khona lemisebenti ingentiwa khona, noma ngabe nguyiphi leminye imibandzela yalelayisensi, lelihovisi lalendlu legunyatako lelibhalisiwe neligatja lelisemkhatsini letekuhweba, kanye naletindzawo lapho khona lendlu legunyatako neligatja lelisemkhatsini letekuhweba kufanele ikusebentele khona, nekuchaza kutsi lendlu legunyatako neligatja lelisemkhatsini letekuhweba **[i]**angeke **[i]**kusebentele kunoma ngabe

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		(b) may specify that insurance, a guarantee, compensation fund, or other warranty must be in place to enable the clearing house and central counterparty to provide compensation, subject to the clearing house rules, to clients of clearing members."; *(f)* by the substitution in subsection (3) of the following subsection: "(3) A clearing house and a central counterparty, may at any time apply to the **[registrar]** Authority for an amendment of the terms of the licence and the conditions subject to which the licence was granted."; and *(g)* by the substitution in subsection (4) for paragraph *(a)* of the following paragraph: "*(a)* The **[registrar]** Authority must publish a notice of an application for an amendment of the terms of a clearing house licence and central counterparty licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the **[official]** Authority's website.". **29.** The insertion after section 49 of the following section: "**Licensing of external central counterparty** **49A.** (1) An external central counterparty must be licensed under this section to perform functions or provide services, unless it is exempt from the requirement to be licensed in terms of section 6(3)*(m)*. (2) An external central counterparty from an equivalent jurisdiction may apply to the Authority for a licence.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		nguyiphi indzawo ngaphandle kwemvume lebhalwe phansi yinhlanganyela yeliGatja, ligGatja lebungcwethi kanye neliBhange Ngodla laeNingizimu Afrika **[yanobhala]**; kanye *(b)* angachaza kutsi umshwalensi, siciniseko, sikhwama sesincepheteliso, noma siphi lesinye sicinisekiso kufanele sibekwe kahle kwentela kutsi imitsetfoyendlu ndlu legunyatako kanye neligatja lelisemkhatsini letekuhweba, kumaklayenti elilunga leligunyatiwe."; *(f)* ngekuntjintjwa kwesigatjana (3) ngalesigatjana lesilandzelako: "(3) Indlu legunyatiwe neligatja lelisemkhatsini letekuhweba, nome nini kungafaka sicelo kuliGatja **[ingasebentisa noma ngabe ngasiphi sikhatsi ifake sicelo kunobhala kwentela]** sekuchitjiyelwa kwemibandzela yelayisesi nemibandzela lekwaniketwa ngaphansi kwayo lelayisensi."; futsi *(g)* Ngekushintjwa kwendzima *(a)* ngalendzima lelandzelako esigatjaneni (4): "*(a)* **[nobhala]** liGatja kufanele **[a]**likhiphe satiso sesicelo **[sekuchibiyela]** sekuchitjiyelwa kwemibandzela yendlu legunyatako kanye neyeligatja lelisemkhatsini letekuhweba, kanjalo **[kanye]** nemibandzela lekwaniketwa ilayisensi ngaphansi kwayo kumaphephandzaba lamabili avelonkhe ngekwetindleko talona lofake sicelo kanye nakuwebhusayithi yeliGatja **[lesemtsetfweni]**.". **29.** Kufakwa kwalesigaba lesilandzelako ngemuva kwesigaba 49: "**Kufakwa emtsetfweni kweligatja lelisemkhatsini letekuhweba langaphandle** **49A.** (1) ligatja lelisemkhatsini letekuhweba kufuna lifake emtsetfweni ngaphasi kwalesigaba kute lente imisebenti nome linikete ngetinsita, ngaphandle nangabe likhululiwe kulokudzingekile kokufaka emtsetfweni ngaphasi kwesigaba 6(3)*(m)*. (2) Libhange lelilamulako letekuhweba langaphandle — ekugunyatweni lokulinganako lingafaka sicelo selayisensi kuliGatja.

Act No. and year	Short Title	Extent of repeal or amendment
		(3) An application for a licence in terms of this section must— *(a)* be made in the manner and contain information determined by the Authority; *(b)* be accompanied by a copy of the proposed rules; *(c)* be accompanied by the application fee determined in terms of the Financial Sector Regulation Act; and *(d)* be supplemented by any additional information that the Authority may reasonably require. (4) *(a)* The Authority must publish a notice of an application for a licence in two national newspapers at the expense of the applicant and on the Authority's website. *(b)* The notice must state— (i) the name of the applicant; and (ii) the availability of the operating rules of the external central counterparty on the Authority's website, for members of the public. (5) An applicant for a licence or a licensed external central counterparty must be either— *(a)* a company as defined in section 1(1) of the Companies Act; or *(b)* an external company as defined in section 1(1) of the Companies Act that is registered as required by section 23 of that Act. (6) The Authority may— *(a)* require an applicant or a licensed external central counterparty to furnish such information, or require such information to be verified, as the Authority may deem necessary in connection with the application; and *(b)* take into consideration any other information regarding the applicant or the external central counterparty, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or the external central counterparty, as the case may be, and the latter is given a reasonable opportunity to respond thereto. (7) Regulations or joint standards may prescribe additional criteria for the licensing or exemption of an external central counterparty.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(3) Kufaka sicelo selayisensi ngekwalesigaba kufanele— *(a)* kwentiwe ngendlela phindze sicukatse lwati lelincunywe liGatja; *(b)* kuhambisane nekhophi yemitsetfo lephakanyisiwe; *(c)* kuphekeletelwe yimali yekufaka sicelo ngtekwemibandzela ye-*Financial Sector Regulation Act*; futsi *(d)* kusekwe nanobe nguluphi lolunywe lwati lolungetwe liGatja lelingalidzinga. (4) *(a)* liGatja kufanele lishicilele satiso sesicelo setincwadzi letigunyatako emaphephandzabeni lamabili avelonkhe ngetindleko talofaka sicelo kanye nakuwebhusayithi yeliGatja. *(b)* Inothisi kufanele isho— (i) ligama lalofaka sicelo; kanye (ii) bukhona kwemitsetfo lesetjentiswako yeligatja lelisemkhatsini letekuhweba langaphandle kuwebhusayithi yeliGatja, kwentelwe emalunga emphakatsi. (5) Lofaka sicelo selayisensi nome ligatja lelisemkhatsini letekuhweba kufanele kuba— (i) yinkapani njengoba kushiwo esigabeni 1(1) we-*Companies Act*; nobe (ii) inkapani yangaphandle njengoba kushiwo esigabeni 1(1) we-*Companies Act* lebhaliswe njengoba bekudzinge sigaba 23 salowo Mtsefo (6) liGatja linga— *(a)* funa Lofake nome libhange lelilamulako letekuhweba langaphandle kutsi linikete ngelwatiso lolunjalo nome lidzinge kutsi lolwatiso lucinisekiswe, njengobe liGatja lingakubona kubalulekile ekufakweni kwesicelo; futsi *(b)* buka futsi nalolunye lwatiso loluphatselene nalofaka sicelo nome ligatja lelisemkhatsini letekuhweba lolususelwa kunome nguwuphi umtfombo, kufaka ekhatsi nome liphi lelinye ligatja lelilawulako, nangabe lolo lwatiso luvetwe kulofaka sicelo nome kuligatja lelisemkhatsini letekuhweba, sekutsi incwadzi iniketwa litfuba lelifanele kuphendvula. (7) Imitsetfotimiso nome imitsetfo yekuhlanganyela ingancuma tinhlobo letengetiwe tekufaka emtsetfweni nome kukhululwa kweligatja lelisemkhatsini letekuhweba.

Act No. and year	Short Title	Extent of repeal or amendment
		(8) The Authority may, with the concurrence 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.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(8) liGatja ngekuhlanganyela neliBhange Ngodla laseNingizimu Afrika neliGatja leBungcwethi kunganiketa ilayisensi nome kukhulula nangabe— *(a)* lofaka sicelo nome ligatja lelisemkhatsini letekuhweba kutsatsa sibopho sekutsatsa lichaza nekwaba ngelwatiso kuliGatja ligatja lebungcwethi kanye neliBhange Ngodla laseNingizimu Afrika kuncedzisa ngekwenta imisebenti nekusebentisa emandla ngekwemibandzela yemtsetfo wemikhakha wetetimali; kanye *(b)* tinjongo talomtsetfo lekhukhulunywe ngato esigabeni 2 titawuchutjwa ngekuniketa iolayisensi. (9) ilayisensi nome kukhululwa kunganiketwa kuphela ngemuva kwekubukwa kaloku lokulandzelako: *(a)* Tinchubo tavelonkhe letifanele; *(b)* luhlobo nebukhulu beligatja lelisemkhatsini letekuhweba; *(c)* umtselela wemisebenti weligatja lelisemkhatsini letekuhweba ehlelweni lwetetimali eNingizimu Afrika; *(d)* umtsamo weluhlelo lwebungoti lobekwa misebenti yeligatja lelisemkhatsini letekuhweba; futsi *(e)* nome ngukuphi lokunye lokungabonwa kufanele kunakwa nguNgconcgoshe, liGatja, liBhange Ngodla laseNingizimu Afrika nome liGatja lebungcwethi. (10) ligatja lelisemkhatsini letekuhweba lelisemtsetfweni kufuna lilandzele nome kuphi lokubalulekile lokudzingwa nguloMtsetfo kanye naleminye imigomo nemibandzela yalelayisensi. (11) lelayisensi leniketwe ngekwesigatjana (8) kufuna isho leyo misebenti nome tinsita letinganiketwa nguleligatja lelisemkhatsini letekuhweba kanye nemasheya lekungentiwa ngawo leyo misebenti. (12) liGatja lelisemkhatsini letekuhweba langaphandle lelisemtsetfweni, nome kunini lingafaka sicelo sekuchitjiyelwa kwemigomo yelayisensi netimo indlela ilayisensi yaniketwa ngato. (13) *(a)* liGatja kufuna lishicilele satiso sesicelo sekuchitjiyelwa kwemigomo yelayisensi netimo indlela ilayisensi yaniketwa ngato kumaphephandzaba lamabili ngetindleko lephuma kumfakisicelo kanye nakuwebhusayithi yeliGatja.

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		(b) The notice must state— (i) the name of the applicant; (ii) the nature of the proposed amendments; and (iii) the period within which objections to the application may be lodged with the Authority. (14) The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, amend the terms of a licence or the conditions subject to which the licence was granted. (15) *(a)* In respect of regulations that may be prescribed in terms of subsection (7), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards. *(b)* Paragraph *(a)* does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (7). *(c)* Joint standards may be prescribed to address any matters that are not prescribed in regulations, or to provide detail that is additional to, but not inconsistent with, regulations prescribed by the Minister in terms of subsection (7).". **30.** The amendment of the heading in Chapter V preceding section 50 by the substitution for the heading of the following heading: "***Functions of licensed clearing house and licensed central counterparty***". **31.** The amendment of section 50— *(a)* by the substitution for the heading of the section of the following heading: "**Functions of licensed clearing house and licensed central counterparty, and power of Authority to assume responsibility for functions**"; *(b)* by the substitution for subsection (1) of the following subsection: "(1) A licensed clearing house and a licensed central counterparty must conduct its business in a fair and transparent manner with due regard to the rights of clearing members and their clients.";"

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(b) satiso kufuna sisho— (i) ligama lemfakisicelo; (ii) luhlobo lwesichibiyelo lesiphakanyisiwe ; (iii) sikhatsi lekungaphakanyiswa ngaso imibono kuliGatja mayelana nalesicelo lesifakiwe. (14) liGatja ngekuvumelana neliBhange Ngodla laseNingizimu Afrika kanye neliGatja lebuNgcweti kungachibiyela imigomo yelayisensi nome timo ilayisensi leyaniketwa ngato. (15) *(a)* ngeMtsetfotimiso letingancunywa ngekwesigatjana (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 ngekwesigatjana (7). *(c)* umtsetfo wekuhlanganyela ungancunyelwa kulungisa tindzaba letingakancunywa kumtsetfotimiso, nome kuniketa ngemniningwane longetiwe kodvwa ungakagcili kumtsetfotimiso letincunywe nguNgcongcoshe ngekwesigatjana (7).”. **30.** Kuchitjiyelwa kwesihloko kuSehluko V lesandvulela sigaba 50 ngekuntjintjwa kwaso ngalesihloko lesilandzelako: “***Imisebenti yeligatja legunyatako le[li]bhalisiwe kanye neligatja lelisemkhatsini letekuhweba lelisemtsetfweni***”; **31.** Kuchitjiyelwa kwesigaba 50— *(a)* ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako: “**Imisebenti [yeligatja] le[li]gunyatiwe le[li]bhalisiwe kanye neyeligatja lelisemkhastini letekuhweba kanjalo nemandla [anobhala] eliGatja ekucala Umsebenti**”; *(b)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: “(1) Indlu legunyatako yemasheya kanye neligatja lelisemkhatsini letekuhweba kufanele **[y]**kwenta umsebenti wa**[y]**ko ngendlela lengavuni licala nangendlela lekhanyako ngalokuphatselene nemalungelo emaalunga lagunyatako nemaklayenti abo.”;

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		(c) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words: "A licensed clearing house and a licensed central counterparty—"; *(d)* by the substitution in subsection (2) for paragraph *(b)* of the following paragraph: "*(b)* must, as soon as it becomes aware thereof, inform the **[registrar]** Authority of any matter that it reasonably believes may **[pose systemic risk to the financial markets]** give rise to, or increase, systemic risk;"; *(e)* by the substitution in subsection (3) for the words preceding paragraph *(a)* of the following words: "A licensed independent clearing house and a licensed central counterparty, in addition to the functions referred to in subsection (2)—"; *(f)* by the insertion after subsection (3) of the following subsection: "(3A) A central counterparty, in addition to the functions referred to in subsections (1), (2) and (3), must— *(a)* interpose itself between counterparties to transactions in securities through the process of novation, legally binding agreement or open offer system; *(b)* manage and process the transactions from the date the central counterparty interposes itself between counterparties to transactions, becoming the buyer to every seller and seller to every buyer, to the date of fulfilment of the legal obligations in respect of such transactions; and *(c)* facilitate its post-trade management functions."; and *(g)* by the substitution in subsection (4) for paragraph *(b)* of the following paragraph: "*(b)* The **[registrar]** Authority must, before assuming responsibility as contemplated in paragraph *(a)*—

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
		(c) ngekuntjintjwa kwemagama landvulela indzima *(a)* ngalamagama lalandzelako kusigatjana (2): "Indlu legunyatako lesemtsetfweni kanye neligatja lelisemkhatsini letekuhweba—"; *(d)* ngekuntjintjwa kwendzima *(b)* ngalendzima lelandzelako esigatjaneni (2): "*(b)* kufanele ngalesikhatsi bakwati kutsi, batise **[nobhala]** liGatja nganoma luphi ludzaba lek**[a]**ukholelwa ekutseni lungahle **[lubange tingoti teluhlelo kutimakethe temnotfo]** lukhulise nome lwenyuse bungoti;"; *(e)* ngeshintjwa kwemagama landvulela indzima *(a)* ngalamagama lalandzelako esigatjaneni (3): "Indlu legunyatwako le**[ng]**bhalisiwe letimele kanye neligatja lelisemkhatsini letekuhweba lelisemtsetfweni, **[ngekuhambisana]** kwengeta kumisebenti lekucondziswe kiyo esigatjaneni **[nemisebenti ngalokubalwe kusigatjana]** (2)—"; *(f)* ngekufaka lesigatjana lesilandzelako ngemuva kwesigatjana (3): "(3A) ligatja lelisemkhatsini letekuhweba, kungeta kumisebenti lekukhulunywe ngayo esigatjaneni (1), (2) na-(3) kufanele— *(a)* litigcushe emkhatsini kwemagatja etetimali kuhwebelana kumasheya ngemihambo yekuvumelana, ngesivumelwano lesisibopho semtsetfo nobe luhlelo lwekuvumela loluvulekele wonkhewonkhe; *(b)* liphatse liphindze libuyekete luhwebo kusuka ngelusuku libhange lelisemkhatsini litifake ekhatsi kwetekuhweba kuya kuluhwebo, ekubeni ngumtsengi kuye wonkhe umtsengisi nekuba ngumtsengisi kuye wonkhe umtsengi, esukwini lekucwatjiswa kwetibopho temtsetfo neluhwebo lolunjalo; futsi *(c)* lilungiselele kusebenta kwekuphatfwa kweteluhwebo lwayo lwangaphambilini."; futsi *(g)* ngekuntjintjwa kwendzima *(b)* ngalendzima lelandzelako esigatjaneni (4): "*(b)* **[nobhala]** liGatja kufanele, ngembi kwekucala umsebenti njengoba kuvetwe kundzima *(a)*—

Act No. and year	Short Title	Extent of repeal or amendment
		(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.".

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(i) latise **[le]**ndlu legunyatako nome ligatja lelisemkhatsini letekuhweba ngetinjongo **[tanobhala]** teliGatja tekutsi **[a]**licale kwenta umsebenti; (ii) anikete indlu legunyatako nome ligatja lelisemkhatsini letekuhweba tizatfu talokucala lokuhlosiwe; kanye (iii) kubita lendlu legunyatako nome ligatja lelisemkhatsini letekuhweba kutsi **[i]**kukhombise kungakapheli sikhatsi lesibek**[i]**we **[ngunobhala]** liGatja ngalesikhatsi **[se]**kutsi kungani umsebenti kungafaneli **[uncunywe]** ucalwe **[ngunobhala]** liGatja.”. **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 longenelela kutransekshini 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 tiphi timali letitfolwe noma letibanjwe yindlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba kwentela tizatfu tekugcina umshwalensi, siciniseko, sikhwama sekuncephetelisa noma lenye iwaranti lebalwe kusigaba 49(2)*(b)*, **[kwentelwa]** tetizatfu letitsatfwa njngemphahla yebatsenjwa njengoba kuchazwe ku-*Financial Institutions (Protection of Funds) Act* kantsi lowo Mtsetfo usebenta kuleto timali.”.

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PART 5 OF 5

THE PRESIDENCY

No. 853 22 August 2017

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

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Act No. and year	Short Title	Extent of repeal or amendment
		33. The amendment of section 52 by the substitution for the section of the following section: "**Funds of mutual independent clearing house or central counterparty**"; "A mutual independent clearing house or a central counterparty may require its clearing members to contribute towards the funds of the clearing house for the purpose of carrying on the business of the clearing house.". **34.** The amendment of section 53— *(a)* by the substitution for subsection (1) of the following subsection: "(1) The clearing house rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act."; *(b)* by the substitution in subsection (2) for paragraph *(u)* of the following paragraph: "*(u)* for the administration of securities and funds held for own account or on behalf of a client by a clearing member, including the settlement of unsettled transactions, under insolvency proceedings in respect of that clearing member; and"; *(c)* by the substitution in subsection (2) for paragraphs *(z)* and *(aa)* of the following paragraphs: "*(z)* for the segregation and portability of funds and securities held as collateral; **[and]** *(aa)* that clearing members must notify the clearing house as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it; and"; *(d)* by the addition in subsection (2) of the following paragraph: "*(bb)* in the case of a central counterparty, for the default procedures to be followed, including close-out procedures, in the event of a default of a clearing member;";

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		33. Kuchitjiyelwa kwesigaba 52 ngekuntjintjwa kwalesigaba ngalesigaba lesilandzelako: "**Timali tendlu legunyatako letimele nome ligatja lelisemkhatsini letekuhweba**"; "Indlu legunyatako letimele nome ligatja lelisemkhatsini letekuhweba **[i]**kungadzinga kutsi **[li]**emalunga ako**[leli]**lagunyatiwe kutsi **[b]**afake sandla kuletimali tendlu legunyatako kwentela tizatfu tekuhambisa ibhizinisi yendlu legunyatako.". **34.** Kuchitjiyelwa kwesigaba 53— *(a)* ngekuntjintjwa 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)* Ngekuntjintjwa kwendzima *(u)* ngalendzima lelandzelako kusigatjana (2): "*(u)* Kwentela kulawulwa kwemasheya kanye netimali labatibambele yona **[laphatselwe wena]** noma lilunga leligunyatiwe leliyibambele liklayenthi **[ngekuhambisana neklayenti lilunga leligunyatiwe]**, kufaka ekhatsi kucedzela kwematransekshini langakacedzelelwa, kngaphansi kwencubo yekuhlakatwa ngekuhambisana nelilunga leligunyatiwe; kanye"; *(c)* ngekuntjintjwa kwetindzima *(z)* na *(aa)* ngaletindzima letilanadzelako kusigatjana (2): "*(z)* kwentela kuhlukanisa nekusebentiseka kwetimaliu nemasheya labanjwe ndzawonye; **[kanye]** *(aa)* nekutsi emalunga lagunyatako kufanele atise lendlu legunyatako ngekushesha uma ngabe icala inchubo yekuhlakata noma inchubo yekuhlakata ngekumelana nayo**[.]**; futsi "; *(d)* ngekungetwa kwalendzima lelandzelako esigatjaneni(2): "*(bb)* eludzabeni lwelibhange lelisemkhatsni letekuhweba, kuze kulandzelwe inchubo lejwayelekile, kufaka ekhatsi

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		(e) by the insertion after subsection (2) of the following subsection: "(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the clearing house rules."; and *(f)* by the substitution in subsection (4) for paragraph *(a)* of the following subsection: "*(a)* Subject to section 5(1)*(c)* and (2) and the requirements prescribed **[by the registrar; the]** in joint standards, clearing house rules may provide for the approval of external clearing members to be clearing members of the clearing house.". **35.** The amendment of section 54— *(a)* by the substitution for subsection (1) of the following subsection: "(1) **[Subject to the regulations prescribed by the Minister, a]** A trade repository must be licensed under section 56."; *(b)* by the substitution in subsection (3)*(c)* for subparagraph (iii) of the following subparagraph: "(iii) the application fee **[prescribed by the registrar]** determined in terms of the Financial Sector Regulation Act;"; and *(c)* by the substitution in subsection (4) for paragraph *(a)* of the following paragraph: "*(a)* The **[registrar]** Authority must publish a notice of an application for a trade repository licence in two national newspapers, at the expense of the applicant, and on the **[official]** Authority's website.". **36.** The amendment of section 55— *(a)* by the substitution in subsection (1) for paragraph *(c)* of the following paragraph: "*(c)* demonstrate that the fit and proper requirements prescribed **[by the registrar]** in the joint standards are met by the applicant, **[its directors]**members of its controlling body and senior management;";

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		levalelwe etimeni tendlu legunyatiwe lejwayelekile;”; *(e)* ngekungetwa kwalesigatjana lesilandzelako ngemva kwesigatjana (2): “(2A) iMitsetfotimiso nome imitsetfo lebekiwe ingancuma letinye tindzaba lekufuna tibe khona kumitsetfo yendlu legunyatako kuleto lesetivele tibalwe kusigatjana (2).”; futsi *(f)* ngekuntjintjwa kwendzima *(a)* ngalendzima lelandzelako esigatjaneni (4): “*(a)* Ngekuya ngesigaba 5(1)*(c)* na (2) kanye nalokudzingekile lokuncunywe kumtsetfo wekuhlanganyela, **[lem]**itsetfo y**[al]**endlu legunyatako ingahle inikete kutsi kuvunyelwe lilunga leligunyatiwe langaphandle kutsi libe lilunga leligunyatiwe lendlu legunyatako.”. **35.** Kuchitjiyelwa kwesigaba 54— *(a)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: “(1) **[Ngekuya ngemitsetfo lemisiwe lebekwe nguNgco-ngcoshe]** Indzawo yekuhwebelana kufanele iniketwe ilayisensi ngaphansi kwesigaba 56.”; *(b)* ngekuntjintjwa kwendzinyana (iii) ngalendzinyana lelandzelako esigatjaneni (3)*(c)*: “(iii) Imali yekufaka sicelo **[lebekwe Ngunobhala]** letfolwe ngekwe-*Financial Sector Regulation Act*;”; futsi *(c)* ngekuntjintjwa kwendzima *(a)* ngalendzima lelandzelako esigatjaneni (4): “*(a)* **[nobhala]** liGatja kufanele akhiphe satiso sesicelo selayisensi yendzawo yekuhwebelana kumaphepha-ndzaba lamabili avelonkhe, ngekwetindleko tesicelo, kanye nakuwebhusayithi yeliGatja **[lesemtsetfweni]**.”. **36.** Kuchitjiyelwa kwesigaba 55— *(a)* ngekuntjintjwa kwendzima *(c)* ngalendzima lelandzelako esigatjaneni (1): “*(c)* kukhombisa kutsi **[letidzingo lekungito naletifanako letibhalwe ngunobhala]** tidzingo lekungitona tifanele letincunywe kumtsetfo

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		(b) by the substitution for subsection (2) of the following subsection: "(2) The **[registrar]** Authority may **[—** ***(a)*** **require an applicant to furnish such additional information, or require such information to be verified, as the registrar may deem necessary;** ***(b)*]** take into consideration any other information regarding the applicant, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant and the latter is given a reasonable opportunity to respond thereto **[; and** ***(c)*** **prescribe any of the requirements referred to in subsection (1) in greater detail]**."; and *(c)* by the addition of the following subsection: "(3)*(a)* Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force. *(b)* In respect of regulations prescribed in terms of subsection (1)*(a)*, the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards. *(c)* Paragraph *(b)* does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)*(a)*. *(d)* Requirements prescribed in terms of subsection (1)*(c)* before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.".

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		wekuhlanganyela umfakisicelo umfakisicelo unato, kanye nemalunga emtimba wakhe lolawulako nebaphatsi labasetulu **[kufinyelelwa kuto ngulofake sicelo, bacondzisi bakhona nebaphatsi labasetulu]**;”; *(b)* ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako: “(2) **[nobhala]** liGatja **[a]**linga**[—** ***(a)* kudzingeka kutsi lofaka sicelo kutsi anikete lolwatiso lolungetiwe, noma kudzingeka lolwatiso kutsi lucinisekiswe, njengoba nobhala angakubona kufanele[; kanye** ***(b)*]** Kunakisiswa nanoma luphi lwatiso loluphatselene nalofake sicelo, lokutfolakala kunoma muphi umtfombo, kufaka ekhatsi noma liphi ligunya lekulawula, uma ngabe lolo lwatiso luvetwa kulofake sicelo kanye nalokunye kuniketwe litfuba lelifanele kutsi baphendvule kuloko**[; kanye** ***(c)* Kubeka noma tiphi taleti-dzingo letibalwe kusigatjana (1) ngemininingwane Leyanele]**.”; kantsi *(c)* ngekungetwa kwalesigatjana lesilandzelako: “(3) *(a)* ngekunganakwa kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwe-kucala kwalesigatjana kuchubeka kudzingeke. *(b)* ngekuhlonishwa kwetimiso temtsetfo letincunywe ngekwemi-bandzela yesigatjana (1)*(a)*, Ngcongcoshe angacitsa umtsetfo lomisiwe, kantsi lokusha lokudzi-ngekile kungabese kuncunywa kumtsetfo wekuhlanganyela nome kumtsetfo wenchubo. *(c)* Indzima *(b)* ayitsikabeti nobe ilamate emandla aNgcongcoshe kutsi ancume nobe achibiyele umtsetfo lomisiwe ngekwemibandzela yesigatjana (1)*(a)*. *(d)* Lokudzingekile lokuncunyiwe ngekwemibandzela yesigatajana (1)*(c)* ngembikwekucala kwalesigatjana kungachitjiyelwa nobe kucitfwe yinchubo nome umtsetfo wekuhlanganyela.”.

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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.". **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.

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		37. kuchitjiyelwa kwesigaba 56— *(a)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: "(1) Ngekuya ngesigatjana (2) kanye **[nemitsetfotimiso lebekwe nguNgcongcoshe]** liGatja, **[nobhala anga]** linga, ngemuva kwekutsatsa noma kuphi kungavumelani lokutfolakele ngenca yesatiso lesivetwe kusigaba 54(4), nangekuhambisana netimo lapho khona **[nobhala]** liGatja **[a]**lingakubona kufanele, kuniketa ilaytisensi yendzawo yekuhwebelana kutsi kwentiwe umsebenti lobalwe kusigaba 57."; futsi *(b)* ngekuntjintjwa kwendzima *(a)* ngalendzinyana lelandzelako esigatjaneni (6): "*(a)* **[nobhala]** LiGatja kufanele **[a]**likhiphe satiso sesicelo sekuchitjiyelwa kwemibandzela selayisensi yendzawo yekuhwebelana kanjalo nemigomo ilayisensi leyaniketwa ngayo kumaphephandzaba lamabili avelonkhe, ngetindleko **[kwetindleko]** tesicelo letiphuma kumfaki sicelo, kanye nakuwebhusayithi yeliGatja **[lesemtsetfweni]**.". **38.** Kufakwa kwalesigaba lesilandzelako ngemuva kwesigaba 56: "**Kwenta libandla langaphandle letekuhweba lelisisako libe semtsetfweni.** **56A.** (1) Ligatja langaphandle letekuhweba kufanele libe semtsetfweni ngaphasi kwalesigaba kute lente imisebenti nobe linikete ngetinsita ngekwesigaba 6(3)*(m)*. (2) Letekuhweba lelisisako ekugunyatweni lokulinganako lingafaka sicelo selayisensi kuliGatja. (3) Sicelo selayisensi ngekwalesigaba kufanele— *(a)* sentiwe ngendlela futsi sicukatse umniningwane lobekwe ligatja; *(b)* sibe sihamba nemali yekufaka sicelo lebekwe ngekwemibandzela ye-*Financial Sector Regulation Act*; phindze *(c)* sigcwaliswe nganobe ngumuphi lomunye umniningwane liGatja lelingahle 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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		(4) *(a)* liGatja kufanele lishicilele satiso sekufaka sicelo setincwadzi letigunyata kusebenta kwelibandla langaphandle letekuhweba lelisisako ngetindleko talofaka sicelo kumaphephandzaba lamabili avelonkhe, futsi nakuwebhusayithi yeliGatja. *(b)* Satiso lekukhulunywa ngaso endzimeni *(a)* kufanele sichaze— (i) ligama lalofaka sicelo; kanye (ii) sikhatsi kanye nedlela lokungasetjentiswa kubeka kuliGatja ngekuphikisana nesicelo. (5) imitsetfotimiso nobe imitsetfo yekuhlanganyela ingancuma tinhlobo letengetiwe tekufakwa emtsetfweni-kweliGatja langaphandle letekuhweba. (6) liGatja ngekuhlanganyela neligatja lebungcwtehi kanye neliBhange Ngodla laseNingizimu Afrika, kunganiketa ilayisensi nangabe— *(a)* lofaka sicelo utibophelela ngekutinikela kanye nekwabelana ngelwati neliGatja, ligatja lebungcwethi kanye neliBhange Ngodla laseNingizimu Afrika kuncedzisa ekusebenteni kanye nasekusebentiseni emandla ngekwemibandzela yemtsetfo wemkhakha wetetimali; futsi *(b)* tinjongo talomtsetfo lekukhulunywa ngato esigabeni 2 titawuchutjekiswa ngekuniketwa kwaletimphepha letigunyatako. (7) Ilayisensi nome kukhululwa kunganiketwa kuphela ngemuva kwekubukisisiswa kwaloku lokulandzelako: (i) Tinchubo letibekiwe letifanele tavelonkhe; (ii) luhlobo nebukhulu beliGatja langaphandel letekuhweba; (iii) umtselela wemisebenti yeligatja langaphandle letekuhweba kuluhlelotimali lwaseNingizimu Afrika; (iv) umtsamo webungoti lobekwa misebenti yeligatja langaphandle letekuhweba; futsi (v) nalokunyelokubonwa kubalulekile nguNgcongcoshe, liBhange Ngodla laseNingizimu Afrika nome liGatja lebungcweti. (8) ligatja letekuhweba langaphandle lelisemtsetfweni kufuna lente konkhe lokudzingwa ngulomtsetfo naleminye imigomo nemibandzela yelayisensi. (9) Ilayisensi leniketwe ngekwesigatjana (46) kufanele isho ngetinsita letinganiketwa nguleligatja lekuhweba langaphandle kanye nemasheya lekuyawentiwa ngawo leto tinsita.

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		(10) A licensed external trade repository may at any time apply to the Authority for an amendment of the terms of its licence or the conditions subject to which the licence was granted. (11)*(a)* The Authority must publish a notice of an application for an amendment of the terms of a licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the Authority's website. *(b)* The notice must state— (i) the name of the applicant; (ii) the nature of the proposed amendments; and (iii) the period within which objections to the application may be lodged with the Authority. (12) The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, amend the terms of a licence or the conditions subject to which the licence was granted. (13) *(a)* In respect of regulations that may be prescribed in terms of subsection (5), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards. *(b)* Paragraph *(a)* does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (5). *(c)* Joint standards or conduct standards may be prescribed to address any matters that are not prescribed in regulations, or to provide detail that is additional to, but not inconsistent with, regulations prescribed by the Minister in terms of subsection (5).". **39.** The amendment of section 57— *(a)* by the substitution in subsection (2) for paragraph *(b)* of the following paragraph: "*(b)* make **[the]** information **[prescribed by the registrar]** prescribed by the Authority in joint standards made with the concurrence of the South African Reserve Bank available to the **[registrar]** Authority, the Prudential Authority, the South African Reserve Bank, other relevant supervisory authorities and other persons, subject to the requirements prescribed by the **[registrar]** Authority in joint standards made with the

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		(10) ligatja langaphandle letekuhweba lelisemtsetfweni lingafaka sicelo sekuchitjiyelwa kwemibandzela yelayisensi yayo nome timo ilayisensi leniketwe ngato. (11) *(a)* liGatja kufuna lishicilele satiso sekufakwa kwesicelo sekuchitjiyelwa kwemibandzela yelayisensi kanye netimo lekuniketwe ngato lelayisensi kumaphephandzaba lamabili avelonkhe ngetindleko talona lofaka sicelo, phindze futsi nakuwebhusayithi yeliGatja. *(b)* Lesatiso kufuna sichaze— (i) ligama lalofaka sicelo; kanye (ii) neluhlobo letichibiyelo letiphakanyisiwe; (iii) sikhatsi lekungaphakanyiswa ngaso imibono kuliGatja mayelana nalesicelo lesifakiwe. (12) liGatja ngekuvumelana neliBhange Ngodla laseNingizimu Afrika kanye neliGatja lebuNgcweti kungachibiyela imigomo yelayisensi nome timo ilayisensi leyaniketwa ngato. (13)*(a)* ngeMtsetfotimiso letingancunywa ngekwesigatjana (5), 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 ngekwesigatjana (5). *(c)* imitsetfo yekuhlanganyela ingancunyelwa kulungisa tindzaba letingakancunywa kumtsetfotimiso, nome kuniketa ngemniningwane longetiwe kodvwa ungakagcili kumtsetfotimiso letincunywe nguNgcongcoshe ngekwesigatjana (5).”. **39.** Kuchitjiyelwa kwesigaba 57— *(a)* ngekuntjintjwa kwendzima *(b)* esigatjaneni (2) ngalendzima lelandzelako: “*(b)* Kwenta **[lo]**lwatiso lolubekwe **[ngunobhala]** liGatja kumtsetfo wekuhlanganyela lowentiwe ngekuhlanganyela **[nemtsetfo webungcwethi kanye]** neliBhange Ngodla laseNingizimu Afrika, lutfolakale **[kunobhala]** kuliGatja, ligatja lebungcwethi, liBhange Ngodla laseNingizimu Afrika, **[kanye Na]**leminye imitsetfo lefanele kanye nalabanye bantfu ngekuya ngalokudzingekile lekuncunywe liGatja kumtsetfo

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		concurrence of the South African Reserve Bank under section 58 **[regarding]** as to the manner, form, and frequency of disclosure;"; and *(b)* by the substitution for subsection (3) of the following subsection: "(3) **[The registrar]** Joint standards may prescribe **[additional]** duties additional to those referred to in subsection (2) **[in greater detail]**.". **40.** The amendment of section 58 by the addition of the following subsection, the existing section becoming subsection(1): "(2) *(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), 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). *(d)* Requirements other than those that were prescribed in regulations referred to in paragraph *(b)* that were prescribed terms of subsection (1) before the commencement of this subsection, may be amended or repealed by conduct standards or joint standards.". **41.** The substitution for section 59 of the following section: **"Annual assessment** **59.** The **[registrar]** Authority, in consultation 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;

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		wekuhkanganyela lowentiwe ngekuhlanganyela **[nemtsetfo webungcwethi nobe]** neliBhange Ngodla laseNingizimu Afrika ngaphasi kwesigaba sema58 njengobo kungakhona, indlela, kanye nekuvetwa kaningi;''; futsi *(b)* ngekuntjintjwa kwesigatjana (3) ngalesigatjana lesilandzelako: ''(3) **[Nobhala]** Umtsetfo wekuhlanganyela **[a]**ungabeka **[leminye]** imisebenti lengetiwe kulena lebalwe kusigatjana (2) **[ngalokucacile]**.''. **40.** Kuchitjiyelwa kwesigaba 58 ngekungetwa kwaletigatjana letilandzelako, sigaba besesivele sikhona siba sigatjana (1): ''(2) *(a)* Ngekunganakwa kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwekucala kwalesigatjana kuchubeka kudzingeke. *(b)* Ngekwetimiso temtsetfo letincunywe ngekwemibandzela wesigatjana (1), Ngcongcoshe angacitsa timiso temtsetfo, bese kutsi lokudzingekile lokusha kungabese sekuncunya kumitsetfo yekuhlanganyela nobe yenchubo. *(c)* Indzima *(b)* ayitsikabeti nobe ivimbele emandla aNgcongcoshe kuncuma nobe kuchibiyela timiso temtsetfo ngekwemibandzelayesigatjana (1). *(d)* Lokunye lokudzingekile ngaphandle kwaloko lokuncunyiwe etimisweni temtsetfo lekukhulunywe ngato endzimeni *(b)*, letancunywa ngekwemibandzela yesigatjana (1) ngaphambili kwekucala kwalesigatjana, tingachitjiyelwa nobe ticitfwe ngemtsetfo wenchubo nome wekuhlanganyela.''. **41.** Ngekushintjwa kwesigaba 59 ngalesigaba lesilandzelako: ''**Kuhlolwa minyaka yonkhe** **59. [Nobhala]** LiGatja ngekucocisana neligatja lebungcwethi kufuna njalo ngemnyaka kuhlole kutsi tinsitanchanti tetimakethe— *(a)* tiyahambisana naloMtsetfo **[kanye nemitsetfo yetinsitanchanti temakethe]**, i-*Financial Sector Regulation Act* kanye nemitsetfo yesakhiwonchanti setimakethe;

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		(b) where applicable, complies with directives, and with requests, conditions or requirements of the **[registrar]** Authority in terms of **[this Act]** a financial sector law; or *(c)* where applicable, gives effect to decisions of the **[appeal board in terms of section 105]** Tribunal.''. **42.** The amendment of section 60— *(a)* by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words: ''The **[registrar]** Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, cancel or suspend a licence if—''; *(b)* by the substitution in subsection (1)*(a)* for subparagraphs (ii) and (iii) of the following subparagraphs: ''(ii) comply with a directive, request, condition or requirement of the **[registrar]** Authority in terms of **[this Act]** a financial sector law; or (iii) give effect to a decision of the **[appeal board in terms of section 105]** Tribunal;''; *(c)* by the substitution in subsection (1)*(b)* for the words preceding subparagraph (i) of the following words: ''*(b)* after an **[inspection in terms of section 95 of the affairs of the market infrastructure]** investigation, the **[registrar]** Authority is satisfied on reasonable grounds that the manner in which it is operated is—'';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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		(b) lapho kufanele khona, kuhambisana nemiyalelo, ticelo, imibandzela noma tidzingo **[tanobhala]** teliGatja **[ngekwaloMtsetfo]** ngekwemibandzela yemtsetfo wemkhakha wetetimali; noma *(c)* lapho kufanele khona, kuphumeleliswe tincumo **[talebhodi yetikhalo ngekwesigaba 105]** teNkhundla yemacala.”. **42.** kuchitjiyelwa kwesigaba 60— *(a)* ngekuntjintjwa kwemagama landvulela indzima *(a)* esigatjaneni (1) ngalamagama lalandzelako: “**[Nobhala]** LiGatja anga, ngemvumo yeliGatja lebungcwethi kanye neliBhange Ngodla laseNingizimu Afrika **[khansela]** susa noma amise ilayisensi uma ngabe—”; *(b)* ngekuntjintjwa kwaletindzinyana (ii) kanye neye (iii) esigatjaneni (1)*(a)* ngaletindzinyana letilandzelako: “(ii) Kuhambisana netinkhomba, sicelo, simo noma tidzingo **[tanobhala]** teliGatja **[ngekuhambisana naloMtsetfo]** Ngekwemtsetfo wemkhakha wetetimali; noma (iii) Kuhambisana nesincumo **[sebhodi yetikhalo ngekuhambisana nesigaba 105]** seNkhundla yemacala;”; *(c)* ngekuntjintjwa kwemagama landvulela indzinyana (i) esigatjaneni (1)*(b)*: “*(b)* Ngemuva **[kwelucwaningo]** kweluphenyo **[ngekuhambisana [nesigaba 95] neSehluko 9 se-*Financial Sector Regulation Act* [se] kutindzaba tetinsitanchanti temakethe] [nobhala]** liGatja **[u]**liyaneliseka ngetizatfu letivakalako kutsi lendlela lekusetjentwa ngayo i—”; futsi *(d)* ngekuntjintjwa kwendzinyana (i) esigatjaneni (1)*(b)* ngalendzinyana lelandzelako: “(i) Akukho kunshisekelo lebalulekile yelilunga leligunyatiwe yendlu legunyatako letimele nobe emagatja etetetimali lalamulako, basebentisi labagunyatiwe noma labangenelelako noma basebentisi noma emalunga etinsitanchanti temakethe, njengoba kungabe kubekiwe, kanye nemaklayenti abo; noma;”.

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		43. The amendment of section 61— *(a)* by the substitution for subsection (1) of the following subsection: "(1) A market infrastructure may not conduct any additional business **[which may introduce]** if to do so would create or increase systemic risk."; *(b)* by the substitution in subsection (3) for the words preceding paragraph *(a)* of the following words: "The **[registrar]** Authority may, if **[the registrar is of the opinion]** it considers that [**the**] a business, function or service referred to in subsection **[(1)]** (2) may—"; *(c)* by the substitution for the words following paragraph *(b)* of the following words: "**[prohibit or lay down requirements in respect of the]** after consultation with the Prudential Authority and the South African Reserve Bank, make a determination specifying requirements in relation to the market infrastructure carrying on of such business, function or service."; *(d)* by the insertion after subsection (3) of the following subsection: "(3A) The Authority may not make a determination in terms of subsection (3) in respect of a particular market infrastructure unless— *(a)* a draft of the determination has been given to the market infrastructure; *(b)* the market infrastructure has had a reasonable period of at least 14 days to make submissions to the Authority about the matter; and *(c)* the Authority had regard to all submissions made to it in deciding whether or not to make the determination. (3B) If the Authority considers on reasonable grounds that it is necessary to make the determination urgently, it may do so without having complied, or complied fully, with subsection (3A).''; 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) Tinsitanchanti 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]linga, uma ngabe **[nobhala analomcondvo]** iyakubala kwewekutsi **[le]**ibhizinisi, **[lomsebenti]** kusebenta, nobe lomsebenti lobalwe kusigatjana **[(1)]**(2) unga—"; *(c)* ngekuntjintjwa kwalamagama lalandzela indzima *(b)* ngalamagama lalandzelako: "**[kuvimbela noma kubeka kucace lokudzingekako ngalokuphatse-lene]** ngemuva kwekutsintsana neliGatja lebungcwethi neliBhange Ngodla laseNingizimu Afrika, kwenta tincumo letichasisisa ngalokudzingekile ngekuhambisana netinsitanchanti tetimakethe nekuhambisa lelo bhizinisi, umsebenti noma tinsita."; *(d)* ngekufakwa kwalesigatjana lesilandze-lako ngemuva kwesigatjana (3): "(3A) LiGatja angeke lente sincumo ngekwemibandzela yesigatjana (3) ngekwetinsitanchanti tetimakethe ketitsite ngaphandle uma ngabe— *(a)* luhlaka lwaletincumo seluniketwe tinsitanchanti tetimakethe; *(b)* tinsitanchanti tetimakethe tibe nesikhatsi lesifanele lesilingana nemalanga la-14 lokungenani ekumikisa kuliGatja ngaloludza; futsi *(c)* liGatja ngako konkhe lokumi-kiswe kilo ekwenteni sincumo sekutsi liyasitsatsa nobe cha sincumo. (3B) Uma ngabe liGataja libala ngetimo tekutsi kubalulekile kwenta sicumo ngekushesha, lingenta njalo ngaphandle kwekuhambisana ngalokuphele nesigatjana (3)."; phindze *(e)* ngekuntjintjwa kwesigatjana (4) ngalesigatjana lesilandzelako: "(4) LiGatja kufanele, ekhatsi kwemalanga la-14 ngemuva kwekwenta sincumo ngekwemi-bandzela yesigatjana (3), linikete

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		44. The amendment of section 62 by the substitution for paragraph *(b)* of the following paragraph: "*(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.". **45.** The amendment of section 63— *(a)* by the substitution for the heading of the section of the following heading: "**Demutualisation of exchange, central securities depository[or], independent clearing house or central counterparty**"; *(b)* by the substitution for subsection (1) of the following subsection: "(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."; *(c)* by the substitution in subsection (2) for paragraphs *(a)* to *(k)* of the following paragraphs: "*(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;

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		tinsitanchanti tetimakethe sitatimende setizatfu tekwenta sincumo ngekemibandzela yesigatjana (3), phindze nesitatimende lesinemaciniso lekwentiwe ngawo lesincumo.”. **44.** Kuchitjiyelwa kwesigaba 62 ngekuntjintjwa kwendzima *(b)* ngalendzima lelandzelako: “*(b)* kuhlola ngemnyaka ngekuhambisana nemtsetfo wenchubo nome wekuhlanganyela kwalamalungiselelo labalwe kundzima *(a)*, imiphumela yakhona kufanele ikhishwe.”. **45.** kuchitjiyelwa kwesigaba 63— *(a)* ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako: **“Kuguculwa kwetinhlangano letilawulako, libhange lemasheya lelisemkhatsini, nendlu legunyatako letimele nome ligatja lelisemkhatsini letekuhweba**”; *(b)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: “(1) LiGatja, libhange lemasheya lelisemkhatsini, **[noma]** indlu letimele legunyatako nobe ligatja lelisemkhatsini letekuhweba Lekungasi**[l]**yo inkhapani yahulumende noma inkhapani letimele njengoba kuchazwe kusigaba 1 se-*Companies Act* kungaguculwa kuba yinkhapani yahulumende noma letimele ngemvume **[yanobhala]** yeliGatja nangekuya **[ngemibandzela yekutsi nobhala angakubona kufanele]** ngalokudzingekile lokubekwe liGatja.”; *(c)* ngekuntjintjwa kwetindzima *(a)* kuya ku-*(k)* ngaletindzima letilandzelako esigatjaneni (2): “*(a)* kuliGatja, libhange lemasheya lelisemkhatsini, **[noma]** indlu letimele legunyatako nome liGatja lelisemkhatsini letekuhweba **[le]**lokubalwe kusigatjana (1) ivunyelwe kutsi kube liGatja, libhange lemasheya lelisemkhatsini, **[noma]** indlu letimele legunyatako nome ligatja lelisemkhatsini lelitimele **[le]**lokubalwe kusigatjana (1) ifanele kutsi ibe yinkhapani lehlanganiswe ngekuhambisana ne-*Companies Act* kusukela

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		(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)*; *(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; *(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; *(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

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		ngelusuku loluncunywe **[ngunobhala]** liGatja ngekutsintsana nenhlangano letilawulako; *(b)* leTinkhapani kanye neNkhomishana Yemphahla Yebuhlakani, lesungulwe ngekwesigaba 185 se-*Companies Act*, kufanele atsatse lesatiso lesifakiwe sekuhlanganisa sale ligatja, libhange lemasheya lelisemkhatsini, **[noma]** indlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba ngekwalesigaba 13 saloMtsetfo nekubhalisa lenhlangano lekukhulunywa ngayo njengenkhapani ngekwesigaba 14 saloMtsetfo ngalolusuku lolubalwe kundzima *(a)*; *(c)* lokuchubeka kube khona kwelibhizinisi leligatja, libhange lemasheya lelisemkhatsini, **[noma]** indlu letimele legunyatako nome ligatja lelisemkhatsini leteku-hweba kusukela ngalolusuku leyaniketwa ngalo ilayisensi yekucala **[ngunobhala]** ngekwaloMtsetfo alikatsintseki naleminye imisebenti yalenhlangano letilawulako ngembi kwekuguculwa kuhlala kunemandla; *(d)* **[lemibandzela yekusebenta kwebasebenti labatilawulako ayitsintseki;]** imogomo nemibandzela yetinsita tebasebenti beligatja letekuhweba, ligatja lelisemkhatsini letekuhweba, indlu legunyata ngekutimela nome ligatja lelisemkhatsini letekuhweba ayitsikabeteki; *(e)* tonkhe timphahla kanye nemitfwalo kweligatja, libhange lelisemkh atsini lemasheya, indlu legunyata ngekutimela nome libhange lelisemkhatsini, kufaka ekhatsi nanome yiphi imishwalensi, siciniseko, sikhwama sekuncephetelisa nome letinye ticiniseko letilawulwa ligatja letekuhweba, libhange lelisemkhatsini lemasheya, indlu legunyata ngekutimela nome ligatja lelisemkhatsini letekuhweba kwentela tibophelelo temsebentisi

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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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		logunyatiwe wetindlu letigunyatwe ngekutimela nome emagatja lasemkhatsini etekuhweba, basebentisi labagunyatiwe nome labangenelelako, njengobe kungaba njalo, kumaklayenthi agcinwa phindze asibopho kunkapani nome lelinye ligatja lelivunyelwako kuliGatja njengoba inkapani ingancuma; **[tonkhe timphahla kanye nemitfwalo yenkhapani letilawulako , kufaka ekhatsi noma muphi umshwalense, siciniseko, sikhwama sekuncephetelisa noma lenye iwaranti lephetfwe noma legcinwe yinhlangano kuvala noma muphi umtfwalo yalelilunga leligunyatiwe yendlu legunyatako letimele, basebentisi labagunyatiwe noma Labangenelelako, njengoba kungabe kubekiwe, kumaklayenti, kutawuhlala kubekwe futsi kusibopho kulenkhapani noma kulesinye sikhungo lesivumelekile kunobhala njengoba inkhapani ingabeibekile]**; *(f)* inkhapani inemalungelo lafanako kantsi iya ngemisebenti lebeyiphetfwe noma isibopho kuligatja, libhange lemasheya lelisemkhatsini, **[noma]** indlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba ngekushesha ngembi kwekuhlangana; *(g)* tonkhe tivumelwano, kuncuma ngetinsuku, ematransekshini kanye nemiculu lekukhulunywa ngayo, leyentiwe, lesunguliwe noma ledvwetjiwe, ngekuhambisana neligatja, libhange lemasheya lelisemkhatsini, **[noma]** indlu letimele legunyatako noma ligatja lelisemkhatsini letekuhweba nal**[e]**okusebenta ngekushesha ngembi kwalokugucula lokuhlala kukhona nalokunemphumelelo, kantsi kwentelwa tonkhe tidzingo njengoba kungabe kuvunyelwene, kwentiwe, kucalisiwe noma kudvwetjwe ngu, ngekumelana nenkhapani, njengoba kungabe kubekiwe;

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		(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; *(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; *(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

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		(h) **[noma yini lehlanganisiwe, sifungo, siciniseko noma lelinye lithulusi kucinisekisa lokungenteka ngalokutako, tindzawo noma imisebenti lekwentiwa tinhlangano letimele lebeyisebenta ngekushesha ngembi kwetingucuko letitawuhlala tikhona, kantsi kutsatfwa njengebhondi, sifungo, siciniseko noma lithulusile-liniketwe ngekuhambisana nenkhapani, njengoba kungabe kubekiwe;]** noma yini lehlanganisiwe, sifungo, siciniseko noma lelinye lithulusi kucinisekisa lokungenteka ngalokutako, tindzawo noma imisebenti lekwentiwa ligatja, libhange lemasheya lelisemkhatsini, libhange lelisemkhatsini letekuhweba nome yindlu legunyata ngekutimela lebeyisebenta ngekushesha ngembi kwetingucuko letitawuhlala tikhona, kantsi kutsatfwa njengebhondi, sifungo, siciniseko noma lithulusi leliniketwe ngekuhambisana nenkhapani, njengoba kungabe kubekiwe; *(i)* noma yiphi ikleyimu, lilungelo, sikweleti, umtfwalo noma umsebenti lotalela noma bani ngekumelana naligatja, libhange lemasheya lelisemkhatsini, **[noma]** indlu letimele legunyatako noma ligatja lelisemkhatsini letekuhweba noma lekukweletwa ngunoma ngubani kuleyo nhlangano nome ligatja lelisemkhastini letekuhweba kutawuci-ndzetelwa ngekumelana noma kukweletwa ngunoma ngubani kulenkhapani, ngekuya nganoma ngumuphi umtsetfo lolawula lolokubekiwe; *(j)* noma ngabe nguyiphi inchubo lesemtsetfweni lebeyingaka-pheleli noma ingabe ibekiwe ngekumelana naleligatja, libhange lemasheya lelise-mkhatsini, **[noma]** indlu letimele legunyatako nome ligatja lelisemkhatsni letekuhweba ngembi

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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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		kwaletingcogco kungachu-tjekwa noma letibekwe ngekumelana nenkhapani, ngekuya nganoma muphi umtsetfo lolawula lokube-kwako; kanye *(k)* ilayisensi yaleligatja, libhange lemasheya lelisemkhatsini, **[noma]** indlu letimele legunyatako nobe ligatja lelisemkhatsini letekuhweba kuyawuhlala kubekwe emandleni alenkapani uma ngabe lenkhapani ihambisana nato tonkhe tidzingo talo-Mtsetfo ngekuya ngenhlangano letilawulako, indlu legunyatako letimele nobe libhange lelisemkhatsini letekuhweba.”. **46.** Kuchitjiyelwa kwesigaba 64 ngekuntjintjwa kwendzima *(a)* ngalendzima lelandzelako esigatjaneni (5): “*(a)* yonkhe imphahla kanye nemitfwalo yalokuhlanganiswa kwetinhlangano (noma uma ngabe kunalokudluliselwako lkuyimphahla noma umtfwalo, walenhlangano lapho khona lokudluliselwa kusetjentiswa khona), kufaka ekhatsi noma muphi umshwalense, siciniseko, sikhwama sekuncephetelisa noma iwaranti lekungeyalomunye wabo noma loyilawulako kutsi ifake ekhatsi noma miphi imitfwalo yelilunga leligunyatiwe **[y]**lendlu yekugunyata **[le]**ngekutimela**[e]** nome emagatja lasemkhastini etekuhweba, basebentisi labagunyatiwe noma Labangenelelako, njengoba kungabe kubekiwe, kumaklayenti, kutawuhlala futsi kutawuba sibopho kulenhlangano lehlanganisiwe noma, njengoba kungabe kubekiwe, lenhlangano letawube isebentisa leto timphahla nemitfwalo noma lokunye lokukhona kuleligatja lokuvumelekile **[kubobhala]** kuliGatja njengobaletinhlangano kulokuhlanganiswa kungabekwa;”. **47.** Kuchitjiyelwa kwesigaba 65— *(a)* ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako: “(2) Lamalunga alomtimba lophetse tinsitanchanti tetimakethe **[le]**akweleta budlelwano

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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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		emkhatsini walabanemasheya **[kute]** kanye **[ba]**nekunakekela nelikhono kuletinsitanchanti tetimakethe, ekwenteni imisebenti njengenhlangano letimele.”. **48.** Kuchitjiyelwa kwesigaba 66— *(a)* ngekuntjintja indzima *(c)* ngalendzima lelandzelako esigatjaneni sekucala: “*(c)* akufinyeleli kuletidzingo tekuvele ungene letibekwe **[ngunobhala]** kumtsetfo wekuhlanganyela lofanele.”; *(b)* ngekususwa kwetigatjana (8) kanye nese (9). **49.** Kuchitjiyelwa kwesigaba 67— *(a)* ngekuntjintjwa kwetigatjana (4) ngaletigatjana letilandzelako: “(4) Umuntfu angeke, ngaphandle kwemvume yangaphambilini **[yanobhala]** yeliGatja, afune emasheya noma lenye intalo kutinsitanchanti tetimakethe, kutfola loko lokuvunyelwe ngaphansi kwesigatjana (3)**[, kodvwa kungandluli kumaphesenti langema-49]**.”; *(b)* ngekuntjintjwa kwemagama landvulela indzima *(a)* esigatjaneni (6) ngalamagama lalandzelako: “**[Le]**Imvume lecondziswe kusigatjana (3), (4) noma (5)—”; *(c)* ngekuntjintjwa kwendzima *(a)* esigatjaneni (7) ngalendzima lelandzelako: “*(a)* acindzetele lowo muntfu kutsi anciphise, ngesikhatsi lesincunywe yinkhantolo, lokuba nemasheya noma lenye intalo kuletinsitanchanti tetimakethe kulonemasheya lonelizinga lelilinganisiwe lelingandluli **[emaphesenti lali-15 noma 49]**— (i) esimeni lapho khona sigatjana (3) sisebenta, emaphesenti la-15; nobe (ii) emaphesenti langema-49 nasekaphelele, **[njengoba kungabe kubekiwe]** kulelizinga lelilinganisiwe leliphelele yawo onkhe emasheya laniketiwe kutinsitanchanti tetimakethe; kanye”; kanye *(d)* ngekuntjintjwa kwesigatjana (8) ngalesigatjana lesilandzelako: “(8) Sicelo lesibalwe ku**[s]**tigatjana (3), (4) noma (5) kufanele sentiwe ngendlela lebekwe **[Ngunobhala]** liGatja.”.

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		50. The substitution for section 69 of the following section: "**Report to [registrar] Authority** **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.". **51.** The amendment of section 71— *(a)* by the insertion after subsection (1) of the following subsection: "(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."; *(b)* by the substitution in subsection (2) for paragraph *(b)* of the following paragraph: "*(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."; *(c)* by the substitution in subsection (3) for paragraphs *(b)* and *(c)* of the following paragraphs: "*(b)* The **[registrar]** Authority must as soon as possible after the receipt of a proposed amendment publish— (i) the amendment on the **[registrar's]** Authority's website; and (ii) a notice in the *Gazette* that the proposed amendment is available on the **[registrar's]** Authority's website,

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		50. Ngekuntjintjwa kwesigaba 69 ngalesigaba lesilandzelako: "**Umbiko [wanobhala] kuliGatja [wenhlangano letilawulako]** **69.** Ekhatsi kwetinyanga letine nasekuphele umnyaka timali wetinsitanchanti tetimakethe, letinsitanchanti tetimakethe kufanele tetfule **[kunobhala]** kuliGatja umbiko wemnyaka wonkhe locuketse imininingwane **[lebhalwe ngunobhala]** letfolwe kuma-Joint standards kan0ye netitatimende temnyaka temali letihloliwe letikhombisa simo setimali kanye nesimo saletinsitanchanti tetimakethe.". **51.** Kuchitjiyelwa kwesigaba 71- *(a)* ngekufakwa kwalesigatjana lesilandzelako ngemuva kwesigatjana (1) "(1A) Imitsetfo leyentiwe tinsitanchanti tetimakethe tingete tashayisana nanobe ngutiphi timiso temtstefo, umtsetfo wenchubo, ligatja lebungcwethi, umtsetfo wekuhlanganyela lokhoshwe ngekwemibandzela yaloMtsetfo nome i-*Financial Sector Regulation Act*."; *(b)* ngekuntjintjwa kwendzima *(b)* ngalendzima lelandzelako esigatjaneni (2): "*(b)* **[Nobhala anga, ngekuya ngalesigaba, kuchibiyela lemitsetfo noma kukhipha umtsetfo wesikhashane.]** LiGatja ngemuva kwekucocisana nemtsetfo webungcwethi kanye neliBhange Ngodla laseNingizimu Afrika, ngekuya ngalomtsetfo lingachibiyela imitsetfo nome linikete ngemtsetfo wesikhashane."; *(c)* ngekuntjintjwa kwetindzima *(b)* na *(c)* ngaletindzima letilandzelako esigatjaneni (3): "*(b)* **[Nobhala]** liGatja kufanele ngekushesha ngemuva kwekutfola **[t]**sichibiyelo le**[t]**siphakanyisiwe **[tikhishiwe]** lishicilele— (i) **[kuchitjiyela]** sichibiyelo kwewebhusayithi yeliGatja **[lesemtsetfweni]**; kanye (ii) satiso kuGazethi kutsi lokuchibiyela lokuphakanyisiwe kuyatfolakala kuwebhusayithi yeliGatja **[lesemtsetfweni]**, kubita bonkhe bantfu labanenshisekelo labaphikisanako naletichibiyelo letiphakanyisiwe kutsi bafake

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		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. *(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 amendment, and explain the imperative referred to in paragraph *(a)*(i), in the *Gazette* and on the **[official]** Authority's website.";

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		tikhalo tabo **[nganobhala]** kuliGatja kungakapheli emalanga lali-14 kusukela ngalelilanga lekushicilelwa kwalesatiso. *(c)* Uma ngabe kungekho lokuphikiswako, noma uma ngabe **[nobhala]** liGatja **[a]**likutsetse loku lokuphikiswako kanye, uma kufanele, **[a]**litsintsene netinsitanchanti tetimakethe kanye nalomuntfu lophikisako kanye naloncume kuvuma noma kuphakamisa sichibiyelo, **[nobhala]** liGatja kufanele **[a]**lishicilele— (i) **[okuchibiyela]** kuchibiyela nelusuku lapho kucala khona kusebenta kuwebhusayithi yeliGatja **[lesemtsetfweni]**; kanye (ii) ngesatiso kugazethi, lapho khona lesatiso kufanele sisho kutsi— *(aa)* lokuchibiyela kwalemitsetfo kuvunyelwe; *(bb)* kutsi lemitsetfo njengoba ichitjiyelwe ikhona kuwebhusayithi yeliGatja **[lesemtsetfweni]** yaletinsitanchanti tetimakethe; kanye:"; *(cc)* lolusuku lokuchitjiyelwa lekutawusetjentiswa ngalo. *(d)* ngekuntjintjwa kwendzima *(a)* ngalendzima lelandzelako esigatjaneni (4): "*(a)* **[Nobhala]** LiGatja ngemuva, ngemuva kwekucocisana neliGatja lebuNgcwethi kanye neliBhange Ngodla laseNingizimu Afrika lingachibiyela Imitsetfo yaleso sakhiwonchanti setimakethe, ngekwesatiso kuGazethi kanye nakuwebhusayithi yeliGatja **[lesemtsetfweni, kungachitjiyelwa lemitsetfo yaletinsitanchanti tetimakethe]—** *(e)* ngekuntjintjwa kwendzima *(b)* ngalendzima lelandzelako esigatjaneni (4): "*(b)* Lapho khona **[nobhala]** liGatja **[a]**lichibiyel**[e]**a imtsetfo yetinsitanchanti tetimakethe ngaphansi kwendzima *(a)*, **[nobhala]** liGatja kufanele—"; *(f)* ngeshintjwa kwendzinyana (ii) ngalendzinyana lelandzelako esigatjaneni (4)*(b)*: "(ii) kuniketa tizatfu talokuchibiyela, nekuchaza kubaluleka lokubalwe kusigaba *(a)*(i),

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		(g) by the substitution in subsection (5) for paragraphs *(a)* and *(b)* of the following paragraphs: "*(a)* Subject to prior approval of the **[registrar]** Authority, a market infrastructure may suspend any of the rules of that organisation for a period not exceeding 30 days at a time after reasonable notice of the proposed suspension has been advertised on the **[official]** Authority's website. *(b)* The **[registrar]** Authority may after consultation with the Prudential Authority and the South African Reserve Bank, for the period of such suspension, issue an interim rule by notice in the *Gazette* to regulate the matter in question."; *(h)* by the substitution in subsection (6)*(a)* for subparagraphs (iv) to (vii) of the following subparagraphs: "(iv) suspension or cancellation of the right to be a clearing member of an independent clearing house or central counterparty, an authorised user or a participant; (v) disqualification, in the case of a natural person, from holding the office of a director or officer of a clearing member of an independent clearing house or central counterparty, an authorised user or a participant, as the case may be, for any period of time; (vi) a restriction on the manner in which a clearing member of an independent clearing house or central counterparty, an authorised user or a participant may conduct business or may utilise an officer, employee or agent;

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		kuGazethi kanye nakuwe-bhusayithi yeliGatja **[lesemtsetfweni]**;"; *(g)* ngekuntjintjwa kwetindzima *(a)* na *(b)* ngaletindzima letilandzelako esigabenni (5): "*(a)* Ngekuya ngemvume yangaphambilini **[yanobhala]** yeliGatja, tinsitanchanti Tetimakethe ingamisa noma muphi yalemitsetfo yalenhlangano kwentela sikhatsi lesingadluli emalanga langema-30 ngesikhatsi ngemuva kwesatiso lesivakalako salokumiswa lokuphakanyisiwe kukhangiswe kuwebhu **[lesemtsetfweni]**. *(b)* **[Nobhala]** LiGatja, ngemuva kwekucocisana neliGatja lebuNgcwethi kanye neliBhange Ngodla laseNingizimu Afrika **[a]**lingakhokha umtsetfo wesikhashana ngesatiso kuGazethi kwentela kulawula loludzaba. **[kulesikhatsi sekumiswa, kube khona umtsetfo wesikhashane ngekwesatiso kugazethi kulawula loludzaba lekukhulunywa ngalo.]**"; *(h)* ngekuntjintjwa kwetindzinyana *(iv)* kuya ku-(vii) ngaletindzinyana letilandzelako esigatjaneni (6)*(a)*: "(iv) kumiswa noma kukhanselwa kwelilungelo lekuba lilunga leligunyatiwe lendlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba, umsebentisi losemtsetfweni noma labangenelelako; (v) kungasavumeli, uma ngabe kungumuntfu, kutsi aphatse lihhovisi lemcondzisi noma abe sisebenti selilunga leligunyatiwe sendlu letimele legunyatiwe nome ligatja lelisemkhatsini letekuhweba, umsebentisi losemtsetfweni noma labangenelelako, njengoba kungabe kubekiwe, nganoma sikhatsi lesingakanani; (vi) imitsetfo levimbela indlela lilunga leligunyatiwe yendlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba, umsebentisi losemtsetfweni noma labangenelelako bangenta umsebenti noma bangasebentisa umsebenti, sisebenti ne ejenti;

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		(vii) suspension or cancellation of the authorisation of an officer or employee of a clearing member of an independent clearing house or central counterparty, an authorised user or a participant to perform a function in terms of the rules;"; and *(i)* by the substitution in subsection (6)*(b)* for subparagraph (iii) of the following subparagraph: "(iii) a market infrastructure may take into account at a disciplinary hearing any information obtained by the **[registrar]**Authority in the course of an inspection conducted **[under section 95]** in terms of the Financial Sector Regulation Act;". **52.** The amendment of the heading for Chapter VIII by the substitution for the heading of the following heading: "**[CODE OF CONDUCT]** **CHAPTER VIII** **CONDUCT STANDARDS**". **53.** The amendment of section 74— *(a)* by the substitution for the heading of the section of the following heading: "**[Code of conduct] Conduct standards for regulated persons**"; *(b)* by the substitution for subsection (1) of the following subsection: "(1) **[The registrar may in an appropriate consultative manner prescribe a code of conduct for]** Conduct standards may prescribe requirements in relation to— **[(i)]***(a)* authorised users, participants or clearing members of independent clearing houses or central counterparties; or **[(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

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		(vii) kumisa noma kukhansela kweligunya lesisebenti noma umsebenti welilunga leligunyatiwe wendlu letimele legunyatiwe nome ligatja lelisemkhatsini letekuhweba, an umsebentisi losemtsetfweni noma labangenelelako kutsi bente umsebenti ngekuhambisana nalemitsetfo;"; futsi *(i)* ngekuntjintjwa kwendzinyana (iii) ngalendzinyana lelandzelako esigatjaneni (6)*(b)*: "(iii) tinsitanchanti tetimakethe tingatsatsa noma luphi lwatiso lekutsetfwa kwelicala tsite **[lelicala lelitsetsiwe]** l**[o]**elutfolwe **[ngunobhala]** liGatja ekuhlolweni lokwentiwe ngekwemibandzela ye-Financial Sector Regulation Act **[ngalesikhatsi kuhlolwa ngaphansi kwesigaba 95]**;". **52.** Kuchitjiyelwa kwesihloko seSehluko VIII ngekuntjintjwa kwalesihloko ngalesihloko lesilandzelako: "**[INDLELA YEKUTIPHATSA] SEHLUKO VIII UMTSETFO WENCHUBO**" 53. Kuchitjiyelwa kwesigaba-74— *(a)* ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako: "**Umtsetfo wenchubo webantfu labalawulwako**"; *(b)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: "(1) **[Nobhala angenta ngendlela lefanele yekutsintsana anikete indlela Yekutiphatsa]** Umtsetfo wenchubo ungancuma lokudzingekile ngalokuphatselene— **[(i)]***(a)* nebasebentisi labagunyatiwe, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako nobe emagatja etetimali lalamulako; nobe **[(ii)]***(b)* noma ngabe ngubani umuntfu losemtsetfweni, lapho khona lizinga lelidzingekako lekutiphatsa **[alikabekwa nobe] alikancunywa 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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		indlela yekutiphatsa], **[kantsi]** phindze futsi **[indlela yekutiphatsa]** nemtsetfo wenchubo **[i]**uyadzingeka noma **[i]**uyaphutfuma kwentela kuphumelela kwaletinjongo taloMtsetfo.”; futsi *(c)* ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako: “(2) **[Indlela yekutiphatsa]** Umtsetfo wenchubo **[i]**uyabopha kubasebentisi labagunyatiwe, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba noma lomunye umuntfu lolawulwako lekunguye umtsetfo wancunyelwa yena **[losemtsetfweni] [lona lewakhishelwa indlela yekutiphatsa],** njengoba kungabe kubekiwe, nakutisebenti kanye nebasebenti nemaklayenti.”. **54.** Kuchitjiyelwa kwesigaba 75— *(a)* ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako: “**Imigomo yekuchutjwa kwemtsetfo [yekutiphatsa]**”; *(b)* ngekuntjintjwa kwemagama landvulela indzima *(a)* ngalamagama lalandzelako esigatjaneni (1): “**[Indlela yekutiphatsa]** umtsetfo wenchubo **[y]**webasebentisi labasemtsetfweni, labangenelelako, noma emalunga lagunyatiwe latimele endlu legunyatako nome ligatja lelisemkhastini letekuhweba kufanele icondziswe kulomgomo wekutsi—”; *(c)* ngekuntjintjwa kwendzima *(a)* ngalendzima lelandzelako esigatjaneni (1): “*(a)* umsebentisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba kufanele—”; *(d)* ngekuntjintjwa kwemagama landvulelaindzima *(a)* ngalamagama lalandzelako esigatjaneni (2): “**[Indlela yekutiphatsa]** umtsetfo wenchubo **[y]**webaqntfu labasemtsetfweni, ngaphandle kwalaba labasemtsetfweni lababalwe kusigatjana (1), kufanele icondziswe kumigomo yekutsi lomuntfu losemtsetfweni kufanele—”;

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		(e) by the substitution in subsection (3) for the words preceding paragraph *(a)* of the following words: "A **[code of conduct]** conduct standard may provide for—"; and *(f)* by the substitution in subsection (3) for paragraph *(f)* of the following paragraph: "*(f)* any other matter which is necessary or expedient to be regulated in a **[code of conduct]** conduct standard for the achievement of the objects of this Act.". **55.** The amendment of section 76— *(a)* by the substitution for subsection (2) of the following subsection: "(2) The criteria for the approval of a nominee of an authorised user or a participant and the ongoing requirements applicable to it must be equivalent to **[that applied by the registrar when approving a nominee under subsection (3)]** criteria determined in conduct standards for nominees."; and *(b)* by the substitution for subsection (3) of the following subsection: "(3) *(a)* **[The registrar may prescribe requirements for—** **(i) the approval of a nominee that is not approved as a nominee in terms of subsection (1); and** **(ii) approved nominees.]** A nominee that is not approved as a nominee in terms of subsection (1) must— (i) be approved by the Authority; and (ii) comply with conduct standards determined by the Authority. *(b)* The **[registrar]** Authority must maintain a list of all nominees approved under this section.". **56.** The amendment of section 77— *(a)* by the deletion of the definition of "claims officer";

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		(e) Ngekuntjintjwa kwemagama landvulela indzima *(a)* ngalamagama lalandzelako esigatjaneni (3): "**[Indlela yekutiphatsa]** Umtsetfo wenchubo **[i]**unganiketa—"; futsi *(f)* Ngekuntjintjwa kwendzima *(f)* ngalendzima lelandzelako esigatjaneni (3): "*(f)* noma ngabe yiphi lenye indzaba lefanele noma lekufanele ilawulwe ngekushesha **[yendlela yekutiphatsa]** kumtsetfo wenchubo ngekuphumelelisa tinjongo taloMtsetfo.". **55.** Kuchitjiyela kwesigaba 76— *(a)* ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako; "(2) Lendlela yekuvunyelwa kwalophakanyisiwe wemsebentisi losemtsetfweni noma labangenelelako kanye nalokudzingeka njalo lokusebenta kibo kufanele kuhambisane **[nalolokubhalelwe ngunobhala ngalesikhatsi avumela lophakanyisiwe ngaphansi kwesigatjana (3)]** nendlela yalabakhetsiwe lencunywe mtsetfo wenchubo."; futsi *(b)* ngekuntjintjwa kwesigatjana (3) ngalesigatjana lesilandzelako: "(3) **[*(a)* Nobhala angabeka tidzingo—** **(i) tekuvunyelwa kwalophakanyisiwe longakavunyelwa kutsi aphakanyiswe ngekwesigatjana (1), kanye** **(ii) labaphakanyisiwe labavunyiwe** ***(b)* Nobhala kufanele agcine luhla lwako konkhe lokuvunyelwe kwa lophakanyisiwe ngaphansi kwalesigaba.]** *(a)* lophakanyisiwe longakavunyelwa njengalophakanyisiwe ngekwemibandzela yesigatjana (1) kufanele— (i) avunyelwe liGatja; futsi (ii) ahambisane nemtsetfo wenchubo loncunywe liGatja ngaphasi kwe-*Financial Sector Regulations Act*. *(b)* **[Nobhala]** liGatja kufanele ligcine luhlu lwabo bonkhe labaphakanyisiwe labavunyelwe ngaphasi kwalesigaba.". **56.** Kuchitjiyelwa kwesigaba 77— *(a)* ngekususwa kwenchazelo ye-"lihhovisi lemakleyimu";

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		(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 *(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". **57.** The amendment of section 78— *(a)* by the substitution in subsection (1) for paragraph *(a)* of the following paragraph: "*(a)* An insider who knows that he or she has inside information and who deals, directly or indirectly or through an agent for his or her own account, in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence."; *(b)* by the substitution in subsection (2) for paragraph *(a)* of the following paragraph: "*(a)* An insider who knows that he or she has inside information and who deals, directly or indirectly or through an agent for any other person, in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence."; *(c)* by the substitution in subsection (3) for paragraph *(a)* of the following paragraph: "*(a)* Any person who deals for an insider, directly or indirectly or through an agent, in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information possessed by the insider relates or which are likely to be affected by it, who knew that such person is an insider, commits an offence.";

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		(b) ngekuntjintjwa kwendzima *(b)* enchazelweni ye— "lwati lwangekhatsi" ngalendzima lelandzelako: "*(b)* uma ngabe bekwatiwa nguwonkhe umuntfu bekungaba nemtselela wemphahla kulelinani noma bungako banoma maphi emasheya kumakethe lelawulwako nobe-ke ngukuphi lokususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo;"; phindze *(c)* ngekuntjintjwa kwendzinyana (i) enchazelweni ye- "ngekhatsi" lesendzimeni *(a)* ngalendzinyana lelandzelako: "(i) angumcondzisi, umsebenti noma lonemasheya kantsi angumniketi wemasheya labhalisiwe kumakethe lesemtsetfweni nobe lolususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo lapho lolwatiso lwangekhatsi luhambisana khona; noma". **57.** Kuchitjiyelwa kwesigaba 78— *(a)* ngekuntjintjwa kwendzima *(a)* esigatjaneni (1) ngalendzima lelandzelako: "*(a)* Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalosebenta ngconoma pheceleti noma ngekuha-mbisana ne-ejenti kutentela yena kumasheya labhalisiwe kumakethe lesemtsetfweni lapho khona lolwatiso lolungekhatsi luhambisana nobe lolususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo, lutawubangela kutsi abe nelicala."; *(b)* ngekuntjintjwa kwendzima *(a)* esigatjaneni (2) ngalendzima lelanzdelako: "*(a)* Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalotsengisa, ngalokucondzile noma lokuncikile noma ngekumelela i-ejenti yanoma ngumuphi umuntfu kulamasheya labhaliwe kumakethe lesemtsetfweni lapho khona lolwatiso lolungekhatsi luhlose khona noma nalekungafanele lutsintfwe ngiyo, nobe lolususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo kubangela licala."; *(c)* ngekuntjintjwa kwendzima *(a)* esigatjaneni (3) ngalendzima lelandzelako;

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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—

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		(d) Noma ngabe ngubani lotsengiselana nemuntfu longekhatsi noma ngekumelela yena noma ngekusebentisa i-ejenti kulamasheya labhalisiwe kumakethe lesemtsetfweni lapho khona lwatiso lalosekhatsi lolucuketfwe ngulolosekhatsi luhambelana nalo noma lutawutsintfwa ngilo, nobe lolususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo lowatiko kutsi umuntfu lonjalo ungekhatsi, unelicala. *(e)* ngekuntjintjwa kwendzima *(b)* esigatjaneni (4) ngalendzinyana lelandzelako: "*(b)* Umuntfu longekhatsi, kkungabukwa indzima *(a)*, akanacala lelivetwe kundzima uma ngabe lona longekhatsi uyacinisekisa ngalokwanele kutsi uluvetile lolwatiso lolungekhatsi ngoba bekufanele kutsi ente njalo kute kutsi kusebenteke kahle emsebentini wakhe, ehhovisi noma emsebentini kutintfo letingahlobananga nekuhwebelana kunoma nguwaphi emasheya lahambisanako laseluhlweni lwasemakethe lesemtsetfweni nobe luhwebo ngeku suselwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo nekutsi ngaleso sikhatsi uvete kutsi lolwatiso bekulwatiso lwangekhatsi. *(g)* ngekuntjintjwa kwesigatjana (5) ngalesigatjana lesilandzelako: "(5) Umuntfu longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalogcugcutela noma abangele lomunye umuntfu kutsi ahwebelane noma advumate noma amise lomunye umuntfu kutsi ahwebelane kulamasheya laseluhlweni kumakethe lesemtsetfweni nobe lolususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo lapho lolwatiso lwangekhatsi lubhekise khona noma uma kungatsintfwa ngilo **[nobe lolususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo] angaba nelicala**.". **58.** kuchitjiyelwa kwesigaba 82— *(a)* ngekuntjintjwa kwekuvetwa kwe "likomidi lelibeka imitsetfo" ngeligama lelitsi "liGatja" nobe"; kukuphi lapho livela khona kulesigaba; *(b)* ngekuntjintjwa kwesigatjana (4) ngalesigatjana lesilandzelako: "(4) Noma ngabe nguliphi linani lelibekwe **[yibhodi]** liGatja njengemphumela walenchubo

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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"; 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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		levetwe kulesigaba kufanele ifakwe ku-akhawunti leyakhelwe loko **[yibhodi]** liGatja kube yi-akhawunti **[yebatsenjwa]** yesikhwama semfelandzawonye futsi— *(a)* **[ibhodi]** liGatja, njengoba ngiyo yekucala lemelene ne-akhawunti yebatsenjwa,inemvume yekuntjintjela tonkhe tindleko letitfolakele ngalokungakho-nakala ngekutsi yenta leto tinchubo nangekulawula lokusatjalaliswa lokwentiwe ngulabafake tikhalo temali ngekwesigatjana (5); *(b)* lelinani lelisele, uma likhona, kufanele lisatjalaliswe **[sisebenti semakleyimu]** liGatja kulabo labafake tikhalo lababalwe kusigatjana (5) ngekuhambisana nesigatjana (6); kantsi futsi *(c)* noma ngabe nguliphi linani lelingakakhokhelwa ngekwendzima *(b)* nentalo **[Kubhodi]** kuliGatja.”; *(c)* ngekuntjintjwa kwendzima *(a)* esigatjaneni (5) ngalendzima lelandzelako: “*(a)* batfumelo emakleyimu **[ehhovisi]** kuliGatja kungakapheli emalanga lali-90 kusukela ngalelilanga lekukhishwe ngalo satiso ephephandzabeni lavelonkhe noma kuwebhusayithi **[lesemtsetfweni] [yalo]** yeliGatja kumenywa bantfu labatsintsekako ngekuhwebelana lokubalwe kusigaba 78(1) kuya (5) kutsi batfumele emakleyimu; kanye”; futsi *(d)* ngekuntjintjwa kwemagama landvulela indzinyana (i) esigatjaneni (5)*(b)* ngalamagama lalandzelako; “bavumele ngekwenetiseka lokufanele **[kusisebenti semakleyimu]** kuliGatja **[lekufanele]** kutsi—”. **59.** Kuntjintjwa kwesigaba 83 ngalesigaba lesilandzelako: “**Lokufakiwe netivimbo** **83.** Ngesicelo lesifakwe **[yibhodi]** liGatja, inkhantolo inganiketa incwadzi yekubitela enkhantolo ngalokuhambe-lana naloludzaba lolubalwe kuSehluko X noma ngeluhlelo lwalemphahla lefakiwe noma bufakazi bekuvikela lokufihliwe, lokukhishiwe, lokungahambi kahle noma lokuphatamisako.”.

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		60. The substitution for section 84 of the following section: "**Additional powers of Authority** **84.** The Authority may— *(a)* after consultation with the relevant regulated markets in the Republic,— (i) make conduct standards, or (ii) give regulator's directives for the implementation of such systems as are necessary for the effective monitoring and identification of possible contraventions of this Chapter; and *(b)* make conduct standards for the disclosure of inside information.". **61.** The substitution for section 85 of the following section: "**Composition and functions of directorate** **85.** (1) *(a)* The Directorate established by section 12 of the Insider Trading Act, 1998 (Act No. 135 of 1998), and that continued to exist under the Securities Services Act, 2004 (Act No. 36 of 2004), continues to exist under the name Directorate of Market Abuse, despite the repeal of those Acts. *(b)* A reference to the Insider Trading Directorate in any law must, unless clearly inappropriate, be construed as a reference to the Directorate of Market Abuse. *(c)* The Authority may determine the functions, powers and duties of the directorate, which may include to consider and make recommendations relating to investigations into offences referred to in sections 78, 80 and 81 of this Act and section 135(2) of the Financial Sector Regulation Act. (2)*(a)* The directorate consists of members and alternate members appointed by the Authority. *(b)* The members of the directorate holding office at the date that Part 6 of Chapter 17 of the Financial Sector Regulation Act comes into force remain as members for the terms and subject to the conditions applicable to them on their respective appointments.

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		60. Kushintjwa kwesigaba 84 ngalesigaba lesilandzelako "**Emandla langetiwe eliGatja** **84.** liGatja linga— *(a)* ngemuva kwekubuta kutimakethe letifanele letilawuliwe kuRiphabhulukhi, (i) ente umtsetfo wenchubo, nome (ii) anikete ngemandla kute kusungulwe tinhlelo letinjalo njengobe tibalululekile ekunakweni nasekutfolweni kwekwaphulwa lokungahle kube khona kuleSehluko; futsi; *(b)* ente umtsetfo wenchubo wekuvetwa kwelwati lwangekhatsi.".
		61. Kushintjwa kwesigaa 85 ngalesigaba lesilandzelako "**Kwakheka nekusebenta kwebhodi yebacondzisi**" **85.** (1) *(a)* iBhodi yeBacondzisi lesungulwe sigaba 12 *Insider Trading Act*, 1998 (Umtsetfo Nom. 135 wanga 1998), futsi lechubeke yaphila ngaphasi kwe-*Securities Services Act*, 2004 (Umtsetfo Nom. 36 wanga 2004), uyachubeka kusebenta ngaphasi kweligama iBhodi yebaCondzisi bekuHlukunyetwa kwetiMakethe ngisho nome seyicitsiwe leMitsetfo. *(b)* Irefusensi kubhodi yebhodi yebacondzisi beteluhwebo lwangekhatsi kunome nguwuphi umtsetsetfo kufuna yakhiwe njengerefurensi kuBhodi yebaCondzisi bekuHlukunyetwa kwetiMakethe. *(c)* liGatja lingancuma imisebenti, emandla nekusebenta kwebhodi yebacondzisi, lokungafaka ekhatsi nekucabanga nekwenta tincomo lokuphatselene nekuphenya kuhlukubeta lekucondziswe kuko kutigaba 70, 80 kanye na-81taloMtsetfo kanye nesigaba 135(2) se-*Financial Sector Regulation Act*. (2)*(a)* Lebhodi yebacondzisi yakhiwa malunga nemalunga langetiwe lacokwe liGatja. *(b)* Emalunga lebhodi yebacondzisi lasehhovisi ngelusuku lolushiwo kuSehluko 17 se-*Financial Sector Regulation Act*, achubeka abe ngemalunga ngekwemigomo netimo lababekelwe kona ngekucokwa kwabo.

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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.

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		(c) Lilunga kanye nelilunga lelingetiwe bababa lihhovisi iminyaka lengedluli kulemitsatfu, njengoba ligatja lingancuma esikhatssini sekucokwa kwelilunga, futsi ligunyatiwe kubuyisela lilunga futsi lapho sekuphele sikhatsisalo sekubamba ehhovisini. (d) Nangabe lilunga lingacokwa futsi lapho liphelelwe sikhatsi ehhovisi, lelo lunga kufuna lihlale hhovisi tinyanga letinye letingedluli kuletisitfupha. *(e)* liGatja lingasusa lilunga lebhodi yebancondzisi ehhovisi ngesihle phindze nangemuva kwekuniketa lelo lunga litfuba lelanele kukhombisa kutsi kungani kufanele lingasuswa. (3) Emalunga ebhodi yebacondzisi ingakhiwa— *(a)* malunga langadluli kulamabili ebasebenti beliGatja; *(b)* umuntfu loyedvwa kanye nalongetiwe bemagatja etekuhweba lasemtsetfweni kuRiphabhuliki; *(c)* ummeli wetemnotfo leyedvwa lonelwati lolwanele kanye nemlekeleli; *(d)* ngcwethi wetemnotfo nonelwati lolufanele kanye nemlekeleli; *(e)* umuntfu loyedvwa lonelwati lolufanele nemlekeleli labaphuma kumkhakha wemishwalensi; *(f)* umuntfu leyedvwa lonelwati lolufanele nemlekeleli labaphuma kumkhakha wetekubhanga; *(g)* umuntfu loyedvwa lonelwati lolufanele nemelekeleli labaphuma kumkhakha wekulawulwa kwelusitotimali; *(h)* umuntfu loyedvwa lonelwati lolufanele kanye nemelekeleli labamele basisi kutikhungo; *(i)* umuntfu loyedvwa lonelwati lolufanele kanye nemelekeleli labacokwe liBhange Ngodla laseNingizimu Afrika; *(j)* umuntfu loyedvwa lonelwati lolufanele kanye nemelekeleli labacokwe ngumtsetfo webungcweti; futsi *(k)* bantfu labanye lababili labanekwati lolufanle kanye nebalekeleli, kucinisekisa kutsi lebhodi yebacondzisi yakhiwe yinhlanganisela yemakhono nelwati. (4) labantfu lekucondziswe kibo kusigatjana (3) labacokiwe— *(a)* kufuna babe khona ekusebenteni njengemalunga ebhodi yebacondzisi; *(b)* kufuna babe nelwati lolufanele ngetimakethe temnotfo; futsi *(c)* angeke babe basebentisis 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.''.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(5) LiGatja kufuna licoke sihlalo, longeke abe ngukomishi weliGatja, nasekelasihlalo lowenta imisebenti yasihlalo lapho kungekho muntfu ehhovisi lasihlalo nome lapho sihlalo angakhoni kwenta imisebenti yakhe njengasihlalo. (6) Onkhe emalunga ebhodi yeticondziso, ngaphandle kwemalunga lanagetiwe aneliviti lelilodvwa etindzabeni letiphakanyiswa yibhodi yebacondzisi, kepha lilunga lelingetiwe liba nelivoti kuphela nangabe lona lelimmele angekho kumhlangano. (7) Umhlangano webhodi yebacondzisi uhlanganiswa ngusihlalo. (8) Nangabe emalunga lamane ngekubhala acela sihlalo kutsi ahlanganise umhlangano webhodi yebacondzisi, lomhlangano kufuna ubanjwe ekhatsi kwemalanga lasikhombisa ekusebenta kusuka ngelusuku sihlalo latfole ngalo lesicelo. (9) Umhlangano webhodi yebacondzisi uphatfwa ngusihlalo nome, lapho angekho sihlalo, kuma sekela wakhe etintsanjeni nome lelinye lilunga lelicokwe ngusihlalo nome-ke lamanye emalungo lakhona. (10) Ibhodi yebacondzisi incuma tinchubo tayo ngekwetindlela teliGatja. (11) Sincumo selinyenti lemalunga ebhodi yebacondzisi sakha sincumo sebhodi. (12) LiGatja kufanele licinisekise kutsi emaminitsi labhaliwe emhlangano ngamunye webhodi yebacondzisi agcinwe ngendlela lencunywe liGatja. (13) Lilunga lebhodi yeticondziso kufuna livete kubhodi, nome ngekubhalela ngamunye wemalunga ebhodi nome siphi sifiso eludzabeni loluphakanyisiwe nome lolusatawuphakanyiswa yibhodi, kungaba sifiso— *(a)* lilunga lelinaso; nome *(b)* umuntfu lanaso lohlobene nalelilunga. (14) Kuveta ngekwesigatjana (13) kufuna kwentiwe masisha ngemuva kwekuba lelo lunga selati ngalesifiso. (15) Lilunga lekucondziswe kulo kusigatjana (13) angeke labamba lichaza lapho ibhodi iphakamisa nome incuma ngaloludzaba, ngaphandle nangabe— *(a)* lelilunga livete lesifiso ngekuhambisana nesigatjana (13); futsi *(b)* lamanye emalunga ebhodi ancume kutsi lesifiso asitsikabeti tinchubo letifanele tekusebenta kwelilunga ngalokuyamene naloludzaba.”.

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		62. The repeal of section 86. **63.** The substitution for section 88 of the following section: "**Confidentiality and sharing of information** **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]** Takeover 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.". **64.** The amendment of section 90 by the substitution for paragraphs *(a)* and *(b)* of the following paragraphs: "*(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; *(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".

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		62. Kucitfwa kwesigaba 86 **63.** Kuntjintjwa kwesigaba 88 ngalesigaba lesilandzelako: "**Kubamba imfihlo nekwabelana ngelwatiso** **88. [Lihhovisi]** liGatja lingabelana ngelwatiso loluhambisana nanoma nguluphi ludzaba lekusetjentwe ngalo ngekwaleSehluko ne**[tikhungo letinebantfu labakhetselwe kulelihhovisi, le]**Litsimba Lekudlulisela Umsebenti**[,]** lelisungulwe ngekwesigaba 196 se-*Companies Act*, Libhange Ngodla lase Ningizimu Afrika, liGatja lebuHlakani, Ibhodi yeligatja lelinemvume, libhange lemasheya lelisemkhatsini, noma indlu letimele lenemvume yekugunyata Yebahloli Mabhuku leyakhiwe ngekwe *Auditing Profession Act*, **[tonkhe tinhlangano letitibusako]** simonchanti semakethe, i-*Financial Intelligence Centre Act*, Betimali Telive, Ngcongcoshe kanye nebantfu, lapho khona ekhatsi eRiphabhulikhi noma kulenye indzawo, losebenta kulawula. Kuphenya noma kushisa kuhwebelana ngekhatsi, kutsengiselana lokungakavunyelwa kanye nalokunye kuhlukunyetwa kwetimakethe.". **64.** Kuchitjiyelwa kwesigaba 90 ngekuntjintjwa kwetindzima *(a)* neye *(b)* esigabeni 90 ngaletindzima letilandzelako: "*(a)* agcine njalo emarekhodi etimali **[lekakhishwe] [ngunobhala]** lancunywe ngekwemtsetfo wekuhlanganyela abuye alungi**[ng]**se titatimende temali temnyaka wonkhe lekuhambisana nalokubika ngetimali lokubekwe ngaphansi kwe-*Companies Act* kantsi kube nalolwatiso **[lolungakhishwa] [ngunobhala]** lolungancunywa ngekwenchubo yemtsetfo; futsi *(b)* abangele kutsi lawo marekhodi etimali kanye netitatimende temnyaka wonkhe tihlolwe ngumhloli mabhuku locashwe ngaphansi kwesigaba 89, ngesikhatsi **[lesibekwe] [ngunobhala]** lesincunywe ngekwemtsetfo wekuhlanganyela noma lolo lusuku lwamuva lolungavunyelwa **[ngunobhala]** liGatja ngesicelo lesifakwe ngumuntfu losemtsetfweni; kanye".

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		65. The amendment of section 91— *(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.". **66.** The substitution in Chapter XII for the heading preceding section 94 of the following heading: "***Powers of [registrar] Authority and court***". **67.** The substitution for section 94 of the following section: "**General powers of [registrar] Authority** **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;**

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		65. Kuchitjiyelwa kwesigaba 91 *(a)* ngekuntjintjwa kwemagama landvulela indzima *(a)* ngalamagama lalandzelako: "Nangabe umhleli timali wemuntfu lolawulwako ente kuhlela timali ngekwesigatjana (1), umhleli timali kufanele ngekwesigatjana (3), abike kuloyo muntfu lolawulwako nobe kuteluhhwebo, libhange lelisemkhatsini lemasheya, indlu legunyata ngekutimela nome ligatja lelilamulako lekungayo, nangabe umhleli timali wemsebentisi logunyatiwe, longenelelako nome lilunga leligunyatiwe lendlu legunyata ngekutimela nome ligatja lelilamulako, futsi ngefaka sicelo kuliGatja—"; futsi *(b)* ngekuntjintja indzima (b) ngalendzima lelandzelako: "*(b)* ngaletindzaba letibekiwe **[ngunobhala, kufaka ekhatsi tindzaba letiphatselene nalophakanyisiwe walabo bantfu labasemtsetfweni]** kunchubo yemtsetfo.". **66.** Ngekuntjintjelwa kuSahluko XII sihloko lesandvulela sigaba 94 ngalesihloko lesilandzelako: **[Kushintjwa kwesigaba 94 ngalesigaba lesilandzelkao:]** ***"Emandla [anobhala] eliGatja nenkhantolo"*** **67.** Kuntjintjwa kwesigaba 94 ngalesigaba lesilandzelkao: "**Emandla latayelekile [anobhala] liGatja** **94.** (1) Uma ngabe **[nobhala]** liGatja lingatfola sikhalo, kubekwa licala noma kucatjangelwa kutsi umuntfu (lapha njengoba abekwe njengalotiphendvulelako) loniketa umsebenti wemasheya (noma ngabe lona lophendvulako unelayisensi noma ugunyatiwe ngekwaloMtsetfo noma cha) uphula noma uyahluleka kuhambisana nanoma miphi imibandzela yaloMtsetfo, noma uma ngabe **[nobhala]** liGatja **[a]**linesizatfu sekukholwa kutsi lokungenelela noma lokuhluleka kuyenteka, **[nobhala]** liGatja **[a]**lingaphenya loludzaba **[ngekutsi acondzise lolophendvulako ngekumbalela kutsi—** **(i) anikete nobhala noma luphi lwatiso, imiculu noma emarekhodiladzinga ngunobhala ngalemisebenti;**

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		(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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		(ii) avele ngembi kwanobhala ngesikhatsi nendzawo layibekile.] ngekwemibandzela ye-*Financial Sector Regulation Act*. (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 **[iyalahlekisa Noma]** langanoma siphi sizatfu iyaphikiseka**[, ngoba lesikhangiso, incwajana noma lomunye umsculu ungakakhishwa noma lokukhishwa kwawo kumiswe noma letio tichibiyelo njengoba nobhala akubona kufanele kwentiwe]**.”. **68.** Kucitfwa kwesigaba 95. **69.** Kuchitjiyelwa kwesigaba 96— *(a)* Ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako **[ngalesihloko lesilandzelako]**: “**Emandla [anobhala] eliGatja ngemuva kwkuphatsa kuhlolwa nobe kuphenywa kwesayithi [kwekuvakashela] kwesayithi [noma]**”; *(b)* Ngekuntjintjwa kwemagama lalendzela indzima *(a)* ngalamagama lalandzelako: “Ngemuva kwekuhlola kuphatfwa **[kwekuvakashela]** kwangekhatsi nobe luphenyo **[noma kuhlola]** se**[k]**lwentiwe **[ngekwesigaba 95,] ngekwemibandzela yeSehluko 9 se-*Financial Sector Regulation Act,* /nobhala]** liGatja **[a]**lingenta loku kute kutsi **[a]**lifinyelele kuletinjongo taloMtsetfo letibalwe kusigaba 2—”; futsi *(c)* Ngekuntjintjwa kwendzima *(c)* ngalesigabga lesilandzelako: “*(c)* acondzise lolophendvulako kutsi atsatse noma tiphi tinyatselo, noma angasenti noma achubeke kwena noma yini, kute acedze noma alungise okungakahambi kahle noma simo setintfo letivetwe kuphatfwa kweluhlolo **[ngulebebavakashele]** lwangekhatsi nobe luphenyo **[noma labatohlola: Uma ngabe nobhala angeke ente siphakamiso lesivetwe**

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		70. The repeal of section 97. **71.** The amendment of section 98 by the addition of the following subsection: "(5) This section does not affect Part 5 of Chapter 10 of the Financial Sector Regulation Act.". **72.** The deletion of the following heading in Chapter XII preceding section 99: "***Enforcement Committee***". **73.** The repeal of section 99. **74.** The amendment of section 105— *(a)* by the substitution for subsection (1) of the following subsection: "(1) A person aggrieved by a decision of— *(a)* the **[registrar]**Authority under a power conferred or a duty imposed upon the **[registrar]** Authority by or under this Act or the Financial Sector Regulation Act; *(b)* an exchange to refuse an application by that person to be admitted as an authorised user; *(c)* an exchange to withdraw the authorisation of an authorised user or to direct an authorised user to terminate the access to the exchange by an officer or employee of such authorised user; *(d)* an exchange to defer, refuse or grant an application for the inclusion of securities in the list or to remove securities from the list or to suspend the trading in listed securities; *(e)* a central securities depository to refuse an application by a person to be accepted as a participant; *(f)* a central securities depository to terminate the participation of a participant or to direct a participant to terminate the access to the central securities depository by an officer or employee of a participant;

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		kusigaba 6D(2)***(b)* se-*Financial Institutions (Protection of Funds) Act.***]$_2$;”. **70.** Kucitfwa kwesigaba sema-97. **71.** Kuchitjiyelwa kwesigaba 98 ngekungetwa kwalesigatjana lesilandzelako; “(5) lesigaba lesi asiyitsikabeti incenye 5 yeSehluko 10 se*Financial Sector Regulation Act*.”. **72.** Kususwa kwalesihloko lesilandzelako kuSehluko XII lesandvulela sigaaba 99: “***Likomidi lelicinisekisako***”. **73.** Kucitfwa kwesigaba 99. **74.** Kuchitjiyelwa kwesigaba 105— *(a)* ngekuntjintjwa kwesigatjana (1) ngalesigatjana lelandzelako: “(1) Umuntfu longakaphatfwa kahle sincumo se— *(a)* **[nobhala]** liGatja ngaphasi kwemandla leliftwese wona noma umseenti lobekwe kilo yi-, nome ngaphasi kwaloMtsetfo nome i-*Financial Sector Regulation Act*.”; *(b)* tingcoco tekuncatjelwa kwesicelo lesentiwa nguloyo muntfu sekumukelwa njengemsebentisi logunyatiwe; *(c)* tingcoco tekususwa kwekugunyatwa kwemsebentisi lokunyatiwe noe kucondzisa umsebentisi logunyatiwe kutsi acitse kufinyelela etingcigcweni temphatsi nome sisebenti saloyo msebentisi loguyatiwe; *(d)* tingcogco tekuhlehlisa, kuncabela nome kuniketa sicelo ngekubandzakanya kwemasheya lakuloluhlu nome kususa emasheya kuloluhlu nome kumisa loluhwebo kumasheya labaliwe; *(e)* libhange lelisemkhatsini lemasheya ngekwalela sicelo lesentiwa ngumuntfu lekufuna amukelwe njengalongenelelako; *(f)* libhange lelisemkhatsini lemesheya ngekucitsa kungenelela kwalongenelelako 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.''; 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

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		(g) indlu legunyata ngekutimela nome ligatja lelilamulako ngekuncabela sicelo lesentiwa ngumuntfu lofuna kumukelwa njengelilunga leligunyatako; *(h)* indlu legunyata ngekutimela nome ligatja lelilamulako ngekususa kugunyatwa kwelilunga leligunyatako nome kucondzisa lilunga leligunyatako kutsi liyewuncamula kufinyelela endlini legunyata ngekutimela nome ligatja lelilamulako ngemphatsi nome sisebenti salelo lunga leligunyatako; *(i)* tingcogco, libhange lelisemkhatsini lemasheya, indlu legunyata ngekutimela nome ligatja lelilamulako ngekuhlawulisa umsebentisi logunyatiwe, umsebentisi, longenelelako nome lilunga leligunyatako lendlu legunyata ngekutimela nome ligatja lelilamulako, nome kusohhovisi nome sisebenti semsebentisi logunyatiwe, loniketako, longenelelako nome lilunga leligunyatako lendlu legunyata ngekutimela nome ligatja lelilamulako; *(j)* sohhovisi wetikhalo lekucondziswe kuye kuSehluko X, angaya enkhundleni ngekubuyeketwa kwesincumo.”; futsi *(b)* Ngekususwa kwesigatjana (2) **75.** Kuchitjiyelwa kwesigaba 108 Ngekushintjwa esigatjaneni (1) ngalesigatjana lesilandzelako: “(1) liGatja lingancuma timali ngekwetindzaba letibekwe kulomtsetfo phindze, ngekuyamana naleto timali umuntfu lekufuna abhadale leto timali, indlela yekubhadala, futsi lapho kufanele khona, nentalo lebhadalwa lapho timali tidlulelwe sikhatsi.”. **76.** Kuchitjiyelwa kwesigaba 109 ngekuntjintjwa kundzima *(c)* ngalendzima lelandzelako: “*(c)* kuphula nome kuhluleka kulandzela lokushiwo sigaba 4, 7(1), 24, 25(1), 27(1), 49A(1), 54(1), 56A(1), nome kuvimbela lokwentiwa **[ngunobhala]** ligatja lekucondziswe kuko ngekwesigaba 6(7), kulicala nome ufanele kuhlawula imali lengedluli R10 tigidzi nome kuboshwa iminyaka lengedluli iminyaka lesihlanu nome

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		to both such fine and such imprisonment.''. **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).

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		kokubili kuhlawula kanye nako kuvalelwa.”. **77.** Kuchitjiyelwa kwesigaba 110 *(a)* ngekususwa kwesigatjana (5); futsi *(b)* ngekungetwa kwalesigatjana lesilandzelako: “(6) Indlu legunyatako leyenta umsebentiweligatja lelilamulako kufanele ihambisane nanome ngukuphi lokudzingekile lokushiwo ngumtsetfotimiso nome lokufanele, phindze kufanele— *(a)* Kuze kube ngumhla tingema- 31 Ingongoni 2021, ibe isemtsetfweni ngalokuyamene nendlu legunyatako nome nendlu legunyata ngekutimela, bese igunyatwa liGatja, liBhange Ngodla laseNingizimu Afrika, liGatja lebuhlakani ngendlela lencunywe liGatja kwenta imisebenti yeligatja lelilamulako; *(b)* Kusuka ngamhla tingema- 22 Bhimbidvwane igunyatwe kuko kokubili njengendlu legunyata ngekutimela kanye neligatja lelilamulako.”. **78.** Kuntjintjwa kwesihloko lesidze kufakwe lesihloko lesidze lesilandzelako: “**Kuniketela kumtsetfotimiso wetimaketye tetimali; kugunyata kuphindze kulawulwe kuhwebelana, libhange lelisemkhatsini lemasheya, indlu legunyatako, emagatja lalamulako kanye neluhwebo lwetemasheya; kulawula kuhwebelana ngemasheya, kugunyata nekucedzel, nekubanjwa nekuphatfwa kwemasheya; kuvimbela kuhweba kwabangekhatsi nalokunye kuhlukumeteka kwemakethe; kuniketa ligunya lalabakhetsiwe; kuniketa nge[nchubomgomo] inchubo lefanele; kususa i-*Securities Services Act*, 2004 njengoba ichitjiyelwa yi-*Financial Services Laws General Amendment Act*, 2008, kute iyamanise lomtsetfo nemitsetfo yavelomkhe; nekuniketa ngekwetinkinga letiyamene naloko.**”. **79.** Kushintjwa kwekuvetwa **nga “nobhala”** ngekuvetwa **nge “liGatja”** nobe kukuphi lapho kuvetwe khona**[.]**, Ngaphandle kwasesigabeni 1(1) kanye na 1A(1).

Act No. and year	Short Title	Extent of repeal or amendment
		80. The amendment of the arrangement of sections— *(a)* by the insertion after item 1 of the following item: "**1A.** Relationship between Act and Financial Sector Regulation Act"; *(b)* by the substitution for item 6 of the following item: "**6.** Authority"; *(c)* by the insertion after item 6 of the following items: "**6A.** Criteria for recognition of external market infrastructures. **6B.** Withdrawal of recognition. **6C.** Principles of co-operation"; *(d)* by the substitution for the heading in Chapter V preceding item 47 of the following heading: "***Licensing of clearing house and central counterparty***"; *(e)* by the substitution for item 47 of the following item: "**47.** Application for clearing house licence and central counterparty licence"; *(f)* by the substitution for item 48 of the following item: "**48.** Requirements applicable to applicants for clearing house licence, central counterparty licence, licenced clearing house and licensed central counterparty"; *(g)* by the insertion after item 49 of the following item: "**49A.** Licensing of external central counterparty"; *(h)* by the substitution for the heading in Chapter V preceding item 50: "***Functions of licensed clearing house and licensed central counterparty***";

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		80. Kuchitjiyelwa kwendlela yekuhlelwa kwetigaba— *(a)* ngekufakwa kwaloluhlavu lolulandzelako ngemuva kweluhlavu 1: "**1A.** Budlelwane emkhatsini weMtsetfo kanye neMtsetfosimiso weMkhakha weteMnotfo"; *(b)* ngekuntjintja luhlavu 6 ngaloluhlavu lolulandzelako: "**6.** liGatja"; *(c)* ngekufakwa kwaletinhlavu letilandzelako ngemuva kweluhlavu 6: "**6A.** Luhlelo lekwatiwa kwesakhiwonchanti semakethe yangaphandle. **6B.** Kusulwa kwekwatiwa. **6C.** Tinchubo tekuncedzisa"; *(d)* ngekuntjintja sihloko kuSehluko V lesandvulela luhlavu 47 ngalesihoko lesilandzelako: "***kufakwa emtsetfweni kwendlu legunyatako kanye neligatha letekuhweba lelisemkhatsini***"; *(e)* ngekuntjintja luhlavu 47 ngaloluhlavu lolulandzelako: "**47.** Sicelo selayisensi yendlu legunyatako kanye nelayisensi yeligatja letekuhweba lelisemkhatsini"; *(f)* ngekuntjintja luhlavu 48 ngaloluhlavu lolulandzelako: "**48.** Lokudzingekile lokusetjentiswako kulabafaka ticelo telayisensi yendlu legunyatako, ligatja letekuhweba lelisemkhatsini, indlu legunyatiwe lesemtsetfweni kanye neligatja letekuhweba lelisemkhatsini lelisemtsetfweni"; *(g)* ngekufakwa kwaloluhlavu lolulandzelako ngemuva kweluhlavu 49: "**49A.** Kufakwa emtsetfweni kweligatja letekuhweba lelisemkhatsini langaphandle"; *(h)* ngekuntjintja sihloko kuSehluko V lesandvulela luhlavu 50 : "***Imisebenti yendlu legunyatako lesemtsetfweni kanye neligatja letekuhweba lelisemkhatsini lelisemtsetfweni***";

Act No. and year	Short Title	Extent of repeal or amendment
		(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"; *(j)* by the insertion after item 56 of the following item: "**56A.** Licensing of external trade repository"; *(k)* by the substitution for item 63 of the following item: "**63.** Demutualisation of exchange, central securities depository, independent clearing house or central counterparty"; *(l)* by the substitution for item 69 of the following item: "**69.** Report to Authority"; *(m)* by the substitution for the heading of Chapter VIII of the following heading: "**CHAPTER VIII** **CONDUCT STANDARDS**"; *(n)* by the substitution for item 74 of the following item: "**74.** Conduct standards for regulated persons"; *(o)* by the substitution for item 75 of the following item: "**75.** Principles for Conduct standards"; *(p)* by the substitution for item 84 of the following item: "**84.** Additional powers of Authority"; *(q)* by the substitution for the heading in Chapter XII preceding section 94 of the following heading: "***Powers of Authority and court***"; *(r)* by the substitution for item 94 of the following item: "**94.** General powers of Authority"; *(s)* by the substitution for item 96 of the following item: "**96.** Powers of Authority after supervisory on-site inspection or investigation"; and *(t)* by the deletion of the following heading in Chapter XII preceding item 99: "***Enforcement Committee***".

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		(i) ngekuntjintja luhlavu 50 ngaloluhlavu lolulandzelako: "**50.** Imisebenti yendlu legunyatako lesemtsetfweni kanye neligatja letekuhweba lelisemkhatsini lelisemtsetfweni, kanye nemandla eliGatja kwentela kucalisa tidzingo temisebenti"; *(j)* ngekufakwa kwaloluhlavu lolulandzelako ngemuva kweluhlavu 56: "**56A.** Kufakwa emtsetfweni kwelibhange letekucopha lelisemkhatsini"; *(k)* ngekuntjintja luhlavu 63 ngaloluhlavu lolulandzelako: "**63.** Kuguculwa kwebuniyo kuteluhwebo, libhange lemasheya lelisemkhatsini, indlu legunyatako letimele nome ligatja letekuhweba lelisemkhatsini"; *(l)* ngekuntjintja luhlavu 69 ngaloluhlavu lolulandzelako: "**69.** Bika kuliGatja"; *(m)* ngekuntjintjwa kwesihloko seSehluko VIII ngalesihloko lesilandzelako: "**SEHLUKO VIII UMTSETFO WENCHUBO**"; *(n)* ngekuntjintja luhlavu 74 ngaloluhlavu lolulandzelako: "**74.** Imitsetfo yenchubo yebantfu labalawulwako"; *(o)* ngekuntjintja luhlavu 75 ngaloluhlavu lolulandzelako: "**75.** Timiso temtsetfo weNchubo"; *(p)* ngakuntjintja luhlavu 84 ngaloluhlavu lolulandzelako: "**84.** Emandla lengetiwe eliGatja"; *(q)* ngekuntjintjwa kwesihloko kuSehluko XII lesandvulela sigaba 94 ngalesihloko lesilandzelako: "***Emandla eliGatja nenkantolo***"; *(r)* ngekuntjintja luhlavu 94 ngaloluhlavu lolulandzelako: "**94.** Emandla jikelele eliGatja"; *(s)* ngekuntjintja luhlavu 96 ngaloluhlavu lolundzelako: "**96.** Emandla eligatja ngemuva kwelucwaningo lolulawulwako kusayithi nome luphenyo"; futsi *(t)* ngekususwa kwalesihloko lesilandzelako kuSehluko XII lesandvulela luhlavu 99: "***kuciniswa kwekomidi***".

Act No. and year	Short Title	Extent of repeal or amendment
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

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
Mulayo wa nomboro ya. 24 wa 2012	Mulayo wa zwa Tshumelo dza u Kala Zwikolodo, 2012	**1.** U khwiṋiswa ha khethekanyo ya vhu 1— *(a)* nga u dzhenisa kha khethekanyo ṭhukhu ya vhu (1) nga murahu ha ṭhalutshedzo ya ipfi "mushumisani" hu tshi khou dzheniswa ṭhalutshedzo i tevhelaho: " '**Maanḏalanga'** zwi amba Maanḏalanga a Vhuḏifari kha Sekithara ya Masheleni o thomiwaho hu tshi khou tevhedzwa khethekanyo ya vhu 56 ya Mulayo *wa Financial Sector Regulation Act*;"; *(b)* nga u dzhenisa kha khethekanyo ṭhukhu ya vhu (1) nga murahu ha ṭhalutshedzo ya ipfi "Mulayo wa zwa Dzikhamphani" hu tshi khou dzheniswa ṭhalutshedzo i tevhelaho: " **'tshiṭandadi tsha vhuḏifari'** ipfi iḽi ḽi na ṭhalutshedzo ine ya fana na yo vhofhekanywaho na ipfi iḽi u ya nga khethekanyo ya vhu 1(1) ya Mulayo wa *Financial Sector Regulation Act*;"; *(c)* nga u thutha kha khethekanyo ṭhukhu ya vhu (1) hu tshi khou thuthwa ṭhalutshedzo ya ipfi "muthusare-dzhisṭra"; *(d)* nga u dzhenisa kha khethekanyo ṭhukhu ya vhu (1) nga murahu ha ṭhalutshedzo ya ipfi "zhendedzi ḽa u kala zwikolodo ḽa nnḏa" hu tshi khou dzheniswa ṭhalutshedzo i tevhelaho: " **'Mulayo wa *Financial Sector Regulation Act*'** zwi amba Mulayo wa *Financial Sector Regulation Act*, 2017;"; *(e)* nga u thutha kha khethekanyo ṭhukhu ya vhu (1) hu tshi thuthwa ṭhalutshedzo ya maipfi "Mulayo wa Bodo ya Tshumelo dza zwa Masheleni", "webusaithi ya tshiofisi ya Bodo ya Tshumelo dza zwa Masheleni *(FSB)*" na ipfi "u randela"; *(f)* nga u dzhenisa kha khethekanyo ṭhukhu ya vhu (1) nga murahu ha ṭhalutshedzo ya ipfi "khethekanyo ya u kala" hu tshi dzheniswa ṭhalutshedzo i tevhelaho: " **'Redzhisiṭara'** zwi amba Redzhisiṭara ya Mafhungo a Sekithara ya zwa Masheleni yo ambiwaho kha khethekanyo ya vhu 256 ya Mulayo wa *Financial Sector Regulation Act*;"; *(g)* nga u thutha kha khethekanyo ṭhukhu ya vhu (1) hu tshi thuthwa ṭhalutshedzo ya ipfi "redzhisṭra"; *(h)* nga u dzhenisa kha khethekanyo ṭhukhu ya vhu (1) nga murahu ha ṭhalutshedzo ya ipfi "uyu Mulayo" hu

Act No. and year	Short Title	Extent of repeal or amendment
		(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.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		tshi dzhineswa ṭhalutshedzo i tevhelaho: " **'Khothe'** zwi amba Khothe ya Tshumelo dza zwa Masheleni ' u ya nga khethekanyo ya vhu 219 ya Mulayo wa *Financial Sector Regulation Act*;"; na *(i)* nga u engedza khethekanyo ṭhukhu i tevhelaho; "(7) Nga nnḓa ha musi zwo sumbedzwa nga iṅwe nḓila, maipfi na kuambele hu songo ṭalutshedzwaho kha khethekanyo ṭhukhu ya vhu (1) ṭhalutshedzo kana zwine a amba zwi fana na zwe zwa vhofhekanywa nazwo u ya nga Mulayo wa *Financial Sector Regulation Act*." **2.** U dzheniswa nga murahu ha khethekanyo ya vhu 1 ya khethekanyo dzi tevhelaho: "**Vhushaka vhukati ha Mulayo na Mulayo wa *Financial Sector Regulation Act*** **1A.** (1) Kha uyu Mulayo musi hu tshi ambiwa nga redzhisṭra hu vha hu khou ambiwa Maanḓalanga. (2) Nga nnḓa ha musi zwo vhetshelwa nga iṅwe nḓila nga uno Mulayo kana Mulayo wa *Financial Sector Regulation Act*, maanḓa na mishumo zwa Maanḓalanga u ya nga uno Mulayo ndi u tou engedza maanḓa na mishumo zwa Maanḓalanga u ya nga Mulayo wa *Financial Sector Regulation Act*. (3) Kha uno Mulayo Maanḓalanga a lavhelesaho kana u anḓadza fhungo nga nḓivhadzo kha Gazete zwi tea u vhalwa zwi tshi katela Maanḓalanga a lavhelesaho kana ane a anḓadza fhungo nga nḓivhadzo kha Redzhisiṭara. (4) Nga nnḓa ha musi zwo vhetshelwa kha uno Mulayo, kana uno Mulayo u tshi ṭoḓa fhungo ḽi tshi randelwa, zwo ambiwaho kha uyu Mulayo kha fhungo ḽine ḽa khou— *(a)* randelwa ḽi tea u vhalwa sa zwo ambiwaho kha fhungo ḽine ḽa khou randelwa kha tshiṭandadi tsha vhuḓifari; kana *(b)* tiwa ḽi tea u vhalwa na zwine zwa khou ambiwa kha Maanḓalanga a lavhelesaho fhungo nga u tou ṅwala na u ṅwalisa ndavheleso kha Redzhisiṭara. (5) Zwi ambiwaho kha uno Mulayo zwi tshi kwama u dalela hune ha khou shuṅwa hone hu tshi tevhedzwa mbetshelo ya uno Mulayo zwi tea u

Act No. and year	Short Title	Extent of repeal or amendment
		(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)*.

Nomoro ya Molao le ngwaga	Setlhogo se se khutshwane	Bogolo jwa phimolo kgotsa tlhabololo
		vhalwa sa zwo ambiwaho nga vhulavhelesi ha fhethu hune ha khou shumelwa hone u ya nga Mulayo wa *Financial Sector Regulation Act*. (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*. (7) *(a)* Kha uno Mulayo Maanḓalanga ane a ḓivhadza kana u anḓadza mafhungo kana ḽiṅwalwa kha webusaithi a tea u vhalwa sa Maanḓalanga a anḓadzaho mafhungo kana ḽiṅwalwa kha Redzhisiṯara. *(b)* Maanḓalanga a nga anḓadza-vho mafhungo kana ḽiṅwalwa kha webusaithi yao. (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*. (9) Zwi ambiwaho kha uno Mulayo u ṯola tsheo ya Maanḓalanga zwi tea u vhalwa sa u lavheleswa hafhu ha tsheo yo dzhiiwaho nga Khothe u ya nga Mulayo wa *Financial Sector Regulation Act.*". **Zwishumiswa zwa ndangulo** **1B.** Hu tshi itelwa ndivho dza ṯhalutshedzo ya "tshishumiswa tsha ndangulo" kha khethekanyo ya vhu 1(1) ya Mulayo wa *Financial Sector Regulation Act*, tshiṅwe na tshiṅwe tsho randelwaho nga Maanḓalanga malugana na nḓivhadzo kha Gazete zwi ṯoḓwa nga uyu Mulayo une wa vha wone u langulaho.". **3.** U khwiṋiswa ha khethekanyo ya vhu 5(1) nga u imelwa kha khethekanyo ṯhukhu kha phara ya *(e)* ya phara i tevhelaho: "*(e)* mbadelo yo randelwaho ya u ita khumbelo **[nga redzhisṯra];** 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
		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".

Nomoro ya Molao le ngwaga	**Setlhogo se se khutshwane**	**Bogolo jwa phimolo kgotsa tlhabololo**
		6. U khwiṋiswa ha khethekanyo ya vhu 24— *(a)* nga u imelwa kha khethekanyo ṭhukhu ya vhu (1) ya maipfi a rangelwaho nga phara ya *(a)* ya maipfi a tevhelaho: "Tshiṭandadi tsha vhuḓifari kha kana malugana na mazhendedzi a u kala zwikolodo tshi nga itwa kha mafhungo a tevhelaho:"; na *(b)* nga u imelwa kha khethekanyo ṭhukhu ya vhu (2) kha maipfi a rangelaho phara ya *(a)* ya maipfi a tevhelaho: "**[milayo]** tshiṭandadi tsha vhuḓifari tsho ambiwaho kha khethekanyo ṭhukhu ya vhu (1) tshi nga—". **7.** U thutha kha khethekanyo ya vhu 24 ya khethekanyo ṭhukhu dza vhu (3) na (4). **8.** U fheliswa ha khethekanyo dza vhu 25, 26, 27, 28, 30, 31 na 33. **9.** U thuthwa kha khethekanyo ya vhu 34 ya khethekanyo ṭhukhu ya vhu (2). **10.** U khwiṋiswa ha nzudzanyo ya khethekanyo nga u dzhenisa tshiteṅwa tshi tevhelaho nga murahu ha zwiteṅwa zwa: "**1A.** Vhushaka vhukati ha Mulayo na Mulayo wa *Financial Sector Regulation Act* **1B.** Zwishumiswa zwa ndangulo".

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