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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

NATIONAL TREASURY

NO. 850

05 AUGUST 2020

**AMENDMENTS TO REGULATIONS IN TERMS OF FINANCIAL SECTOR REGULATION ACT,
2017**

The Minister of Finance has, in terms of sections 61(4), 288 and 304 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), made amendments to the Financial Sector Regulations which were published in Government Notice No. R. 405 of 29 March 2018, and amended by Notice No. 196 of 29 March 2019, as set out in the Schedule.

SCHEDULE**GENERAL EXPLANATORY NOTE:**

- [] Words in bold type in square brackets indicate omissions from existing Regulations.
- _____ Words underlined with a solid line indicate insertions in existing Regulations.
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Interpretation

1. In this Schedule, "Regulations" means the Financial Sector Regulations made in terms of sections 61(4), 288 and 304 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (FSRA), and published in Government Notice No. R405 of 29 March 2018, as amended.

Amendment of regulation 1

2. Regulation 1 of the Regulations is amended by the deletion of the definition of "Ministerial Panel".

Amendment of regulation 3

3. Regulation 3 of the Regulations is amended by—

(a) the substitution in subregulation (1) for paragraph (a) of the following paragraphs:

"(a) A transitional management committee is established **and continues in existence until a date determined by the Minister by notice in the *Gazette*.**

(aA) **The notice must be published at least 30 days before the date to be determined by the notice as contemplated in paragraph (a).**

(aB) **The date, referred to in paragraph (a), must be a date after the Commissioner and at least two Deputy Commissioners have been appointed**[],

which].

(aC) The transitional management committee must perform the functions of the Executive Committee of the Financial Sector Conduct Authority, to facilitate [the disestablishment of the Financial Services Board and] the functioning of the Financial Sector Conduct Authority in an efficient and effective manner [with the least disruption], until [the person appointed as the Commissioner has commenced service] the date determined in terms of paragraph (a).”;

(b) the substitution in subregulation (1)(b) for subparagraph (iii) of the following subparagraph:

“(iii) a person or persons, but not more than three persons, with knowledge and expertise relevant to the objective of the Financial Sector Conduct Authority set out in section 57 of the Act, nominated by the Minister;”;

(c) the insertion in subregulation (1) after paragraph (b) of the following paragraph:

“(bA) If a person nominated in terms of paragraph (b)(iii) are employed by another organ of state, that organ of state may second the person to the Financial Sector Conduct Authority, subject to subregulation (3)(b).”;

(d) the substitution in subregulation (1) for paragraph (d) of the following paragraphs:

“(d) The [Chairperson of the Financial Services Board] Minister must appoint a member of the transitional management committee referred to in paragraph (b) to perform the functions of the Commissioner in terms of the Act, until the person appointed as the Commissioner has commenced service.

(e) Until a member of the transitional management committee is appointed by the Minister to perform the functions of the Commissioner as contemplated in paragraph (d), the person who was the last Chairperson of the Financial Services Board must perform the functions of the Commissioner.”;

(e) the substitution in subregulation (3) for paragraph (b) of the following paragraph:

“(b) The remuneration and benefits of the member or members of the transitional management committee referred to in subregulation (1)(b)(iii), as determined by the Minister, must be paid from the funds of the Financial Sector Conduct Authority, unless otherwise provided in the secondment agreement of a member seconded in terms of subregulation (1)(bA).”;

(f) the substitution for subregulation (4) of the following subregulation:

“(4)(a) The terms of appointment of members of the transitional management committee—

(i) commence on the date of appointment indicated in their letter of appointment; and

(ii) continue, and existing contracts of employment, if applicable, are extended until the date determined in terms of subregulation (1)(a).

(b) Despite its termination, the transitional management committee remains responsible for the approval of the financial statements of the Financial Sector Conduct Authority for the financial year for which the transitional management

committee is responsible and the tabling of the annual report;” and

(g) the insertion after subregulation (5) of the following subregulation:

“(6) Any person may be seconded from another organ of state to a position in the Financial Sector Conduct Authority.”

Amendment of regulation 9

4. Regulation 9 of the Regulations is amended by—

(a) the substitution in subregulation (2)(a) for subparagraphs (ii) and (iii) of the following subparagraphs:

- “(ii) a Deputy Governor of the Reserve Bank or another employee of the Reserve Bank nominated by the Governor;
- (iii) the Commissioner of the National Consumer Commission appointed in terms of section 87(1) of the Consumer Protection Act, 2008 (Act No. 68 of 2008), a Deputy Commissioner designated to perform the functions of Commissioner in terms of section 87(6)(b) of that Act, or that Commissioner’s or Deputy Commissioner’s nominee;”;

(b) the deletion in subregulation (2) of paragraph (b);

(c) the insertion after subregulation (3) of the following subregulation:

“(3A)(a) If a vacancy arises on the Shortlisting Panel and a quorum as specified in subregulation (3)(b) is constituted, the functions and processes of the Shortlisting Panel are not affected, and the Panel may continue to perform its functions.

(b) If any member of the Shortlisting Panel is replaced by a new member, the functions and processes of the Shortlisting Panel continue with the participation of that new member.”;

(d) the substitution in subregulation (6)(a) for subparagraph (ii) of the following subparagraph:

“(ii) assess whether the **[interviewed]** candidates satisfy the appointment criteria; and”;

(e) the substitution in subregulation (6)(a) for subparagraph (iii) of the following subparagraph:

“(iii) submit a shortlist of one or more suitable candidates for each advertised position of Commissioner or Deputy Commissioner to the Minister for consideration for appointment.”; and

(f) the substitution in subregulation (6) for paragraph (c) of the following paragraph:

“(c) If the Shortlisting Panel determines that there are not sufficient

candidates that are suitable to be shortlisted for interviewing **[by the Ministerial Panel]** for an advertised position from the applications received by the date referred to in regulation 7(1)(c), to meet the requirements of paragraph (a), the Panel **[must without delay advise the Minister accordingly]** may utilise headhunting to identify additional suitable candidates for shortlisting[, and] or request the Director-General of the National Treasury **[must]** to re-advertise the position.”.

Substitution of regulation 10

5. The following regulation is hereby substituted for regulation 10:

“Appointment by Minister

10. (1) The Minister must consider the list submitted by the Shortlisting Panel referred to in regulation 9(6)(a)(iii), read with regulation 9(6)(c), when appointing the Commissioner or a Deputy Commissioner.

(2) If the Minister decides that there is no candidate on the list suitable for appointment as Commissioner or a Deputy Commissioner, the Minister may—

(a) request the Director-General of the National Treasury to re-advertise the position, and the Shortlisting Panel to identify additional suitable candidates for appointment; or

(b) appoint any suitable person meeting the criteria in regulation 11 who is not on the list submitted by the Shortlisting Panel referred to in regulation 9(6)(a)(iii), read with regulation 9(6)(c).

(3) Upon the appointment by the Minister of a candidate as the Commissioner or a Deputy Commissioner, the following must be made public:

(a) The recommendations made by the Shortlisting Panel regarding the appointment to the position; and

(b) if the Minister appoints a person referred to in subregulation (2)(b), the Minister’s reasons for making the appointment.”.

Amendment of regulation 11

6. Regulation 11 of the Regulations is amended by the substitution for the words preceding paragraph (a) of the following words:

“11. When determining whether a candidate is suitable to be shortlisted and recommended for appointment as the Commissioner or a Deputy Commissioner, the Shortlisting **[and Ministerial Panels]** Panel must, in addition to the appointment criteria in section 61 of the Act, assess whether a candidate has—”.

Commencement

7. These amendments of the Regulations come into effect on the date of publication in the *Gazette*.

DITLHABOLOLO TSA MELAWANATAOLO GO YA KA MOLAO WA TAOLO YA LEPHATA LA DITŠHELETE, 2017

Tona ya Matlotlo, go ya ka dikarolo 61(4), 288 le 304 tsa Molao wa Taolo ya Lephata la Ditšhelete, 2017 (Molao 9 wa 2017), o dirile ditlhabololo mo Melawanataolong ya Lephata la Ditšhelete e e neng ya phasalatswa mo Kitsisong ya Puso ya Nmr. R. 405 ya di 29 Mopitlwe 2018, le go tlhabololwa ka Kitsiso ya Nmr. 196 ya di 29 Mopitlwe 2019, jaaka go tlhagisitswe mo Šejuleng

ŠEJULE

NTLHA YA TLHALOSOKAKARETSO:

[] Mafoko a a kwetsweng ka bontsho a a mo masakaneng a sekwere a bontsha tse di tlogetsweng mo Melawanataolong e e leng teng.
 _____ Mafoko a a thaletsweng ka mola o o kopaneng a bontsha tse di tsentsweng mo Melawanataolong.

Tlhaloso

1. Mo Šejuleng eno, “Melawanataolo” e kaya Melawanataolo ya Lephata la Ditšhelete e e dirilweng go ya ka dikarolo 61(4), 288 le 304 tsa Molao wa Taolo ya Lephata la Ditšhelete, 2017 (Molao 9 wa 2017) (FSRA), le g phasalatswa mo Kitsisong ya Puso ya Nmr. R405 ya di 29 Mopitlwe 2018, jaaka e tlhabolotswe.

Tlhabololo ya molawanataolo 1

2. Molawanataolo 1 wa Melawanataolo o tlhabololwa ka phimolo ya tlhaloso ya “Panele ya Ditona”.

Tlhabololo ya molawanataolo 3

3. Molawanataolo 3 wa Melawanataolo o tlhabololwa ka—

(a) kemisetso mo molawanataolotlaleletsong (1) ya temana (a) ka ditemana tse di latelang:

“(a) Komiti ya nakwana ya taolo e a tlhonga le go tswelela go nna teng go fitlhela ka letlha le le tlhomamisitsweng ke Tona ka kitsiso mo Lokwalodikgannyeng la Puso.

(aA) Kitsiso e tshwanetse go phasalatswa bonnye matsatsi a le 30 pele ga

letlha le le tla tihomamiswang ka kitsiso jaaka go umakilwe mo temaneng (a).

(aB) Letlha, le le kailweng mo temaneng (a), le tshwanetse go nna letlha morago ga go thapiwa ga Khomišenara le bonnye Batlatsakhomišenara ba le ba bedi[, e leng].

(aC) Komite ya nakwana ya taolo e tshwanetse go dira ditiro tsa Komitikhuduthamaga ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, go nolofatsa [tlhomololo ya Boto ya Ditirelo tsa Ditšhelete le] go dira ga Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ka mokgwa [ka dikgoreletsi tse di nnye] o o matsetseleko o o nonofileng, go fitlhela [motho yo o thapiweng jaaka Khomišenara a sena go simolola ka tiro] letlha le le tihomamisitsweng go ya ka temaneng (a).”;

- (b) kemisetso mo molawanataolong (1)(b) ya temanatlaleletso (iii) ka temanatlaleletso e e latelang:

“(iii) motho kgotsa batho, mme ba se fete batho ba le bararo, ba ba nang le kitso le boitseanape jo bo maleba go maikaelelo a Bothati jwa Boitshwaro jwa Lefapha la Ditšhelete jo bo tlhagisitsweng mo karolong 57 ya Molao, yo o tlhophilweng ke Tona.”;

- (c) go tsenngwa mo molawanataolotlaleletsong (1) morago ga temana (b) ga temana e e latelang:

“(bA) Fa motho yo o tlhophilweng go ya ka temana (b)(iii) a thapilwe ke lekala le lengwe la puso, lekala leo la puso le ka tshegetsatshegetso motho kwa Bothating jwa Boitshwaro jwa Lephata la Ditšhelete, go latela molawanataolotlaleletso (3)(b).”;

- (d) kemisetso mo molawanataolotlaleletsong (1) ya temana (d) ka ditemana tse di latelang:

“(d) [Modulasetulo wa Boto ya Ditirelo tsa Ditšhelete] Tona o tshwanetse go thapa leloko la komiti ya nakwana ya taolo e e kailweng mo temaneng (b) go dira ditiro tsa Khomišenara go ya ka Molao, go fitlhela motho yo o thapilweng jaaka Khomišenara a sena go simolola ka tiro.

(e) Go fitlhela leloko la komiti ya nakwana ya taolo le thapiwa ke Tona go dira ditiro tsa Khomišenara jaaka go umakilwe mo temaneng (d), motho wa bofelo go nna Modulasetulo wa Boto ya Ditirelo tsa Ditšhelete o tshwanetse go dira ditiro tsa Khomišenara.”;

- (e) kemisetso ya molawanataolotlaleletso (3) wa temana (b) ka temana e e latelang:

“(b) Megolo le dikunomelemo tsa leloko kgotsa maloko a komiti ya nakwana ya taolo e e kailweng mo molawanataolotlaleletsong (1)(b)(iii), jaaka di thomamisitswe ke Tona, di tshwanetse go duelwa go tswa mo matloleng a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, ntle le fa ka mokgwa mongwe go laetswe mo tumalanong ya tshegetso ya leloko le le tshegeditsweng go ya ka molawanataolotlaleletso (1)(bA).”;

- (f) kemisetso ya molawanataolotlaleletso (4) ka molawanataolotlaleletso o o latelang:

“(4)(a) Dipeelo tsa tiro tsa maloko a komiti ya nakwana ya taolo—

(i) di simolola ka letlha la thapo le le tlhagisitsweng mo lekwalong la

tiro; le

(ii) di a tswelera, le dikonteraka tse di leng teng tsa tiro, fa go tlhokega, di a atoloswa go fitlhela ka letlha le le tlhomamisitsweng go ya ka molawanataolotlaleletso (1)(a).

(b) Go sa tlhokomologwe kemiso ya yona, komiti ya nakwana ya taolo e sala go rwala maikarabelo mabapi le thebolo ya dikanego tsa ditšhelete tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete tsa ngwaga wa ditšhelete o komiti ya nakwana ya ditšhelete e rwalang maikarabelo a yona le go tlhagiswa ga pegelo ya ngwaga;”;
le

(g) go tsenngwa morago ga molawanataolotlaleletso (5) ga molawanataolotlaleletso o o latelang:

“(6) Motho mongwe le mongwe o ka tshegetswa go tswa kwa lekaleng le lengwe la puso go nna mo maemong kwa Bothating jwa Boitshwaro jwa Lephata la Ditšhelete.”.

Tlhabololo ya molawanataolo 9

4. Molawanataolo 9 wa Melawanataolo o tlhabololwa ka—

(a) kemisetso mo molawanataolotlaleletsong (2)(a) ya ditemanatlaleletso (ii) le (iii) ka ditemanatlaleletso tse di latelang:

“(ii) Motlatsammusisi wa Banka ya Resefe kgotsa modiri mongwe wa Banka ya Resefe yo o tlhophilweng ke Mmusisi;

(iii) Khomišenara wa Khomišene ya Badirisi ya Bosetšhaba yo o thapilweng go ya ka karolo 87(1) ya Consumer Protection Act, 2008 (Molao 68 wa 2008), Motlatsakhomišenara yo o thapetsweng go dira ditiro tsa Khomišenara go ya ka karolo 87(6)(b) ya Molao oo, kgotsa motlhophiwa wa Khomišenara kgotsa Motlatsakhomišenara yoo;”;

(b) go phimolwa mo molawanataolotlaleletsong (2) ga temana (b).

(c) go tsenngwa morago ga molawanataolotlaleletso (3) ga molawanataolotlaleletso o latelang:

“(3A) (a) Fa go tlhagelela phatlhatiro mo Paneleng ya go Tlhopha e bile go fitlheletswe khoramo jaaka go tsepamisitswe mo molawanataolotlaleletsong (3)(b), ditiro le ditsamaiso tsa Panele ya go Tlhopha ga di amege, e bile Panele e ka tswelera go dira ditiro tsa yona.

(b) Fa leloko lefe la Panele ya go Tlhopha le emiseditswe ka leloko le lešwa, ditiro le ditsamaiso tsa Panele ya go Tlhopha di tswelera ka botsayakarolo jwa leloko le le lešwa.”;

(d) kemisetso mo molawanataolotlaleletsong (6)(a) ya temanatlaleletso (ii) ka temanatlaleletso e e latelang:

“(ii) sekaseka gore a bontlhopheng [ba ba botsoloditsweng] ba nepagetse go ya ka ditlhokego tsa go thapa; le”;

- (e) kemisetso mo molawanataotlaleletsong (6)(a) ya tematlaleletso (iii) ka tematlaleletso e e latelang:

“(iii) romelela Tona lenane le le khutswafaditsweng la ntlhopheng kgotsa bontlhopheng ba ba maleba mabapi le phatlhatiro nngwe le nngwe e e phasaladitsweng ya Khomišenara kgotsa Motlatsakhomišenara mabapi le kakanyetso ya thapo.”; le

- (f) kemisetso mo molawanataotlaleletsong (6) ya temana (c) ka temana e e latelang:

“(c) Fa Panele ya go Tlhophha e tlhomamisa gore ga go bontlhopheng ba ba lekaneng ba ba siametseng go ka tsenngwa mo lenaneng le le khutswafaditsweng mabapi le potsototso **[ka Panele ya Tona]** mabapi le phatlhatiro e e phasaladitsweng go tswa mo dikopong tsa tiro tse di amogetsweng ka letlha le le kailweng mo molawanataolong 7(1)(c), go fitlhelela ditlhokego tsa temana (a), Panele **[e tshwanetse ntle le tshenyoy ya nako go gakolola Tona ka nepagalo]** e ka dirisa tsela ya go tsoma batho ba ba maleba go supa bontlhopheng ba tlaleletso ba ba maleba mabapi le go tsenngwa mo lenaneng le le khutswafaditsweng **[, le]** kgotsa go kopa Mokaedikakaretso wa Matlotlo a Setšhaba **[o tshwanetse]** go bapatsa gape phatlhatiro.”.

Kemisetso ya molawanataolo 10

5. Molawanataolo o o latelang o emisetsa molawanataolo 10:

“Thapo ka Tona

10. (1) Tona o tshwanetse go tsaya tsia lenane le le rometsweng ke Panele ya go Tlhophha le le kailweng mo molawanataolong 9(6)(a)(iii), ka puisommogo le molawanataolo 9(6)(c), fa a thapa Khomišenara kgotsa Motlatsakhomišenara.

(2) Fa Tona a swetsa ka gore ga go na ntlhopheng ope mo lenaneng yo o siametseng go thapiwa jaaka Khomišenara kgotsa Motlatsakhomišenara, Tona o ka (a) kopa Mokaedikakaretso wa Matlotlo a Setšhaba go bapatsa gape phatlhatiro, le Panele ya go Tlhophha go supa bontlhopheng ba tlaleletso mabapi le go thapiwa; kgotsa

(b) thapa motho ofe yo o maleba yo o fitlhelelang ditlhokego mo molawanataolong 11 yo o seng mo lenaneng le le rometsweng ke Panele ya go Tlhophha e e kailweng mo molawanataolong 9(6)(a)(iii), ka puisommogo le molawanataolo 9(6)(c).

(3) Fa Tona a sena go thapa ntlhopheng jaaka Khomišenara kgotsa Motlatsakhomišenara, tse di latelang di tshwanetse go dirwa phatlhalatsa:

(a) Dikatlanegiso tse di dirilweng ke Panele ya go Tlhophha mabapi le thapo mo phatlhatirong eo; le

(b) fa Tona a thapa motho yo o kailweng mo molawanataotlaleletsong (2)(b), mabaka a Tona a go thapa motho yoo.”.

Tlhabololo ya molawanataolo 11

6. Molawanataolo 11 wa Molawanataolo o tlhabololwa ka kemisetso ya mafoko a a tlang pele ga temana (a) ka mafoko a a latelang:

“11. Fa go tihomamiswa gore a ntlhopheng o siametse go ka tsenngwa mo lenaneng le le khutswafaditsweng le go tshitsinngwa mabapi le go thapiwa jaaka Khomišenara kgotsa Motlatsakhomišenara, Panele ya go Tlhopha [**le Dipanele tsa Tona**] e tshwanetse, mo godimo ga ditlhokego tsa thapo mo karolong 61 ya Molao, go sekaseka gore ntlhopheng o na le—”.

Tsenyotirisong

7. Ditlhabololo tseno tsa Melawanataolo di tsema mo tirisong ka letlha la phasalatso mo Lokwalodikgannyeng la Puso.