

**NATIONAL TREASURY****No. 511****17 April 2003****BANKS ACT, 1990****DESIGNATION OF INSTITUTION OF WHICH THE ACTIVITIES DO NOT FALL WITHIN THE MEANING OF "THE BUSINESS OF A BANK" ("ITHALA LIMITED", A WHOLLY OWNED SUBSIDIARY OF ITHALA DEVELOPMENT FINANCE CORPORATION LIMITED)**

Under paragraph (dd) (i) of the definition of "the business of a bank", in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), I, Trevor Andrew Manuel, Minister of Finance, hereby designate, for the period commencing 1 January 2003 and expiring on 31 December 2005, and subject to the conditions set out in paragraph 3 of the Schedule, an institution specified in paragraph 2 of the Schedule as an institution of which the activities do not fall within the meaning of "the business of a bank".

**T.A. MANUEL, MP****Minister of Finance**

Date: 31-03-03.

**SCHEDULE****1. Definitions**

In this Schedule "the Banks Act" means the Banks Act, 1990 (Act No. 94 of 1990), and any word or expression to which a meaning has been assigned in the Banks Act or the Regulations relating to Banks shall bear the meaning so assigned thereto and, unless the context otherwise indicates—

**"KwaZulu Natal Ithala Development Finance Corporation Act"** means the KwaZulu Natal Ithala Development Finance Corporation Act, 1999 (Act No. 2 of 1999);

**"Ithala Development Finance Corporation Limited"** formerly known as **"KwaZulu Finance and Investment Corporation Limited"** means the development corporation known as Ithala Development Finance Corporation Limited, referred to in section 2 of the KwaZulu Natal Ithala Development Finance Corporations Act;

**"Ithala Corporation"** means Ithala Development Finance Corporation Limited, a public company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973);

**"Ithala Limited"** means Ithala Limited, a wholly owned subsidiary of Ithala Corporation, being a public company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973);

**"Regulations relating to Banks"** means the Regulations relating to Banks published under Government Notice No. R. 1112 of 8 November 2000 and amended from time to time.

**2. Institution**

Ithala Limited.

**3. Conditions**

3.1 The activities of a Ithala Limited shall, in so far as they correspond to the activities contemplated in paragraphs (a), (b), (c) and (d) of the definition of "the business of a bank" in section 1 (1) of the Banks Act, be performed by virtue of the powers conferred in terms of the provisions of the KwaZulu Natal Ithala Development Finance Corporations Act: Provided that Ithala Limited may not, in the performance of its activities—

3.1.1 use, or refer to itself or any of its divisions by any name, description or symbol indicating, or calculated to lead persons to infer, that it or such a division is a bank registered as such under the Banks Act;

3.1.2 in respect of itself or any of its divisions or undertakings use a name or description that includes the word "bank", or any derivative thereof, or the words "building society", or any derivative thereof, unless such name or description is composed of words that include the word "bank" as part of a place-name or a personal name.

3.2 The activities of Ithala Limited shall be—

3.2.1 managed in such a way that the sum of its issued primary and secondary share capital and its primary and secondary unimpaired reserve funds in the Republic does not at any time amount to less than an amount which represents 10 (ten) per cent of the sum of the amounts calculated by multiplying the average amounts of such different categories of—

(i) assets; and

(ii) other risk exposures in the conduct of Ithala's business, as prescribed by the Regulations relating to Banks, by risk weights expressed as percentages, as so set forth, in respect of such different categories of assets and other risk exposures;

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- 3.2.2 performed whilst Ithala Limited at all times holds an average daily amount of liquid assets in the Republic that shall not be less than an amount equal to 5 (five) per cent of its total liabilities to the public.
- 3.3 Ithala Corporation maintains, at its own cost, to the satisfaction of the Registrar of Banks, the "ring-fencing" of any deposit-taking activities within a separately capitalised and limited corporation, Ithala Limited.
- 3.4 Ithala Corporation maintains a separation between the lending activities of Ithala Corporation, in particular the current loan and advances exposures, and any current and future deposit-taking activities, which deposit-taking activities will be conducted by Ithala Limited.
- 3.5 Ithala Limited shall fully comply with such prudential, reporting, and other regulatory requirements, which may be imposed by the Registrar of Banks, from time to time.

This Notice substitutes Government Notice No. 357 as published in *Government Gazette* No. 22248 dated 20 April 2001 as well as Government Notice No. 104 as published in *Government Gazette* No. 24257 dated 14 January 2003.

Signed at Cape Town on this the 31th day of March 2003.

**Mr T A MANUEL, MP**

**Minister of Finance**

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