



Government Gazette

REPUBLIC OF SOUTH AFRICA

Regulation Gazette

No. 7864

Vol. 462

Pretoria

29

December

2003

No. 25881



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

GOVERNMENT NOTICE

SOUTH AFRICAN RESERVE BANK

No. R. 1846

22 December 2003

**DESIGNATION OF INSTITUTION OF WHICH THE ACTIVITIES DO NOT
FALL WITHIN THE MEANING OF "THE BUSINESS OF A BANK"
("FINANCIAL SERVICE CO-OPERATIVE")**

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 2004 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,
Minister of Finance

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 -

"bank" includes a mutual bank;

"business arrangement" means a legally enforceable agreement, arrangement or understanding between a bank and a financial service co-operative, in terms of which -

- (a) the financial service co-operative, for purposes of conducting its business, maintains an account with the bank;
- (b) a bank/client relationship exists between the bank and the financial service co-operative; and
- (c) the bank provides support, training services and advice to the financial service co-operative;

"closed co-operative" means a co-operative that does not conclude transactions with persons who are not members thereof to a greater extent than is essential to the proper carrying out of the co-operative's objects;

"co-operative" means a trading co-operative incorporated in terms of the Co-operatives Act;

"Co-operatives Act" means the Co-operatives Act, 1981 (Act No. 91 of 1981);

"defined geographical area" means a geographical area as defined in the statute of a financial service co-operative;

"link bank" means a bank that has entered into a business arrangement with a financial service co-operative;

"member of a financial service co-operative" means a person to whom, in compliance with the requirements determined in the statute of a financial service co-operative, a share in that financial service co-operative has been issued or transferred;

"Regulations relating to Banks" means the Regulations relating to Banks published under Government Notice No. R.628 of 26 April 1996 and amended from time to time;

"financial service co-operative" means a closed co-operative, the members of which are not serviced by banks and who are members of a community within a defined geographical area, which -

- (a) with the objective of providing banking-related financial services to its members -
 - (i) accepts funds from such members against the issue of shares;
 - (ii) accepts deposits from members;
 - (iii) advances loans to members; and/or
 - (iv) provides for members to share in profits of the co-operative and to nominate management;
- (b) has entered into, and maintains, a business arrangement with a link bank; and
- (c) subject to the prior written consent of the Registrar of Banks, has been incorporated as a co-operative, as contemplated in this notice.

2. **Institution**

Any financial service co-operative.

3. **Conditions**

- 3.1 The activities of a financial service co-operative, 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, shall be performed solely -

- 3.1.1 in respect of its members;
 - 3.1.2 in pursuit of such financial service co-operative's objective of providing banking-related financial services to its members, which are not serviced by banks and are members of a community within a defined geographical area; and
 - 3.1.3 within the geographical area defined in respect of such financial service co-operative.
- 3.2 A financial service co-operative shall not -
- 3.2.1 conduct any business unless there is a business arrangement in force between such co-operative and a link bank
 - 3.2.2 in the performance of its activities, use, or refer to itself by, any name, description or symbol indicating, or calculated to lead persons to infer, that it is a bank.
 - 3.2.3 in respect of itself or any of its undertakings use a name or description that includes the word "bank", 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;
 - 3.2.4 notwithstanding any provisions to the contrary
 - 3.2.4.1 perform any of the acts provided for in paragraphs (d), (f), (g), (k), (o) and (sA) of subsection (1) of section 49 of the Co-operatives Act;
 - 3.2.4.2 advance any money as envisaged in section 52 of the Co-operatives Act;
 - 3.2.4.3 overdraw a banking account as envisaged in section 53 of the Co-operatives Act;
 - 3.2.4.4 issue shares not fully paid up;
 - 3.2.4.5 without the prior written approval of the Registrar of Banks, register its statute with the Registrar of Co-operatives, or register an amendment or replacement of its statute with the Registrar of Co-operatives;
 - 3.2.5 pursue any objective or perform any function not authorised by its statute; or
 - 3.2.6 at any time, hold deposits from members amounting in the aggregate to more than R10 million.
- 3.3 A financial service co-operative shall strictly comply with

3.3.1 the provisions relating to-

3.3.1.1 the management of co-operatives contained in Chapter VI of the Co-operatives Act; and

3.3.1.2 accounting records, accounting and auditing of co-operatives contained in Chapter VII of the Co-operatives Act;

3.3.2 any additional prescriptions of or conditions imposed by the Registrar of Co-operatives.

3.4 A financial service co-operative shall for purposes of self-regulation be a member of a regulatory body approved by the Registrar of Banks in writing.

4. **Exemption**

A financial service co-operative shall be exempt from the provisions of regulation 66 of the Regulations relating to Banks.

This notice substitutes Government Notice No. 1422 as published in Government Gazette No. 21941 dated 28 December 2000.
