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# GOVERNMENT NOTICES

## GOEWERMENSKENNISGEWINGS

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### SOUTH AFRICAN RESERVE BANK SUID-AFRIKAANSE RESERWEBANK

No. R. 887

22 August 2008

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

I, Trevor Andrew Manuel, Minister of Finance, acting in terms of 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), hereby -

- (a) revoke Government Notice No. R671 of 1 January 2007; and
- (b) designate 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", subject to the conditions set out in paragraph 3 of the Schedule.

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

#### SCHEDULE

##### 1. Definitions

In this Schedule, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Banks Act, the Regulations relating to Banks or the Co-operatives Act shall bear the meaning so assigned, and -

"**Banks Act**" means the Banks Act, 1990 (Act No. 94 of 1990):

"**Co-operatives Act**" means the Co-operatives Act, 2005 (Act No. 14 of 2005);

"**member**" 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;

"**financial service co-operative**" means a primary co-operative whose main objective is to provide financial services to its members, -

- (a) accepts deposits from members; and

(b) advances loans to members.

**"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;

2. **Institution**

Any financial service co-operative.

3. **Conditions**

3.1 The activities of 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; and

3.1.2 in pursuit of such financial service co-operative's objective of providing banking-related financial services to its members, who are members of a community within a defined geographical district.

3.2 A financial service co-operative shall not -

3.2.1 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;

3.2.2 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;

3.2.3 despite any provisions to the contrary -

3.2.3.1 issue shares not fully paid up;

3.2.3.2 without the prior written approval of the South African Microfinance Apex Fund, register its statute with the Registrar of Co-operatives or register an amendment or replacement of its statute with the Registrar of Co-operatives;

3.2.4 pursue any objective or perform any function not authorised by its statute; or

3.2.5 at any time, hold deposits from members amounting in the aggregate to more than R20 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 5 of the Co-operatives Act; and

3.3.1.2 accounting records, accounting and auditing of co-operatives contained in Chapter 7 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 must at all times subject itself to supervision and regulation by the South African Microfinance Apex Fund, a trading entity established within the administration of Department of Trade and Industry under the Public Finance Management Act, 1999 (Act No. 1 of 1999).

4. **Exemption**

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