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GOVERNMENT GAZETTE

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PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 459.

15 March 1996

No. 459.

15 Maart 1996

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 2 of 1996: South African Reserve Bank Amendment Act, 1996.

No. 2 van 1996: Wysigingswet op die Suid-Afrikaanse Reserwebank, 1996.

GENERAL EXPLANATORY NOTE:

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

ACT

To amend the South African Reserve Bank Act, 1989, so as to replace, insert or delete certain definitions; to redetermine the primary objective of the South African Reserve Bank; to further regulate the appointment of certain directors of the Bank; to replace or delete certain obsolete expressions and provisions; to supplement the powers of the Bank in respect of transactions in certain financial instruments; to prescribe corrective steps in the event of the acquisition of shares in the Bank in excess of the permissible maximum shareholding; and to extend the provisions regarding an offence in connection with gold coins; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 12 March 1996.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 90 of 1989, as amended by section 1 of Act 10 of 1993

1. Section 1 of the South African Reserve Bank Act, 1989 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of “bank” of the following definition: 5
 “ ‘bank’ means a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), and, for the purposes of section 10A, includes a [permanent mutual building society referred to in section 4(2)(a) of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965)] mutual bank”;
- (b) by the insertion after the definition of “Deputy Governor” of the following definition: 10
 “ ‘financial instrument’ means—
 (a) any security as referred to in the definition of ‘securities’ in section 1 15
of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);
 (b) any financial instrument as defined in section 1 of the Financial Markets Control Act, 1989 (Act No. 55 of 1989), irrespective, in the

- case of such instrument that is an instrument creating or acknowledging indebtedness, of the term for which it has been issued;
- (c) any right or other benefit in respect of or accruing to a security referred to in paragraph (a) or a financial instrument referred to in paragraph (b); and
- (d) any other instrument, right or benefit declared by the Minister by notice in the *Gazette* to be a financial instrument for the purposes of section 10(1)(h);”;
- (c) by the insertion after the definition of “Minister” of the following definition:
 “ ‘mutual bank’ means a mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993);”;
- (d) by the deletion of the definition of “mutual building society”;
- (e) by the deletion of the definition of “Republic”; and
- (f) by the deletion of the definition of “territory”.

Substitution of section 3 of Act 90 of 1989

2. The following section is hereby substituted for section 3 of the principal Act:

“Primary objective of Bank

3. The primary objective of the Bank shall be to protect the value of the currency of the Republic in the interest of balanced and sustainable economic growth in the Republic.”

Amendment of section 4 of Act 90 of 1989, as amended by section 9 of Act 51 of 1991, section 2 of Act 10 of 1993 and section 72 of Act 129 of 1993

3. Section 4 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) The Bank shall be managed by a board of fourteen directors, consisting of—
- (a) a Governor, three Deputy Governors (one of whom shall be designated by the [Minister] President of the Republic as Senior Deputy Governor) and three other directors, which Governor, Deputy Governors and other directors shall be appointed by the [Minister] President of the Republic after consultation with the Minister and the Board; and
- (b) seven directors elected by the shareholders.”;
- (b) by the deletion of paragraph (b) of subsection (2); and
- (c) by the substitution for subsection (4) of the following subsection:
 “(4) No person shall be appointed or elected as or remain a director—
- (a) if he or she is not [a South African citizen] resident in the Republic; or
- (b) if he or she is a director, officer or employee of a bank or a mutual [building society] bank; or
- (bA) if he or she is a Minister or a Deputy Minister in the Government of the Republic; or
- (c) if he or she is a member of—
- (i) Parliament; or
- (ii) [the legislative assembly of a self-governing territory as defined in section 38(1) of the National States Constitution Act, 1971 (Act No. 21 of 1971);] a provincial legislature referred to in section 125 of the Constitution.
- (iii) the National Assembly referred to in section 2 of the South West African Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation No. R. 101 of 1985); or
- (iv) the President’s Council.]”.

Amendment of section 6 of Act 90 of 1989, as amended by section 9 of Act 51 of 1991

4. Section 6 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) in the case of the Governor or a Deputy Governor or of a Government representative, by the appointment by the [Minister] President of the Republic of another person after consultation with the Minister and the Board; and”.

Amendment of section 10 of Act 90 of 1989, as amended by section 3 of Act 10 of 1993

5. Section 10 of the principal Act is hereby amended—

(a) by the substitution for paragraph (h) of subsection (1) of the following paragraph:

“(h) buy [and], sell or deal in [securities] financial instruments and, in accordance with the provisions of any law regulating the safe deposit of securities, hold such financial instruments in safe custody, or cause such financial instruments to be held in safe custody, for other persons;”;

(b) by the substitution for paragraph (v) of subsection (1) 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 [Building Societies Act, 1965 (Act No. 24 of 1965)] Banks Act, 1993 (Act No. 124 of 1993).”.

Amendment of section 11 of Act 90 of 1989, as amended by section 5 of Act 10 of 1993

6. Section 11 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Bank may appoint inspectors (in either a permanent or a temporary capacity) to carry out inspections of the affairs, or of any part thereof, of a bank [as defined in the Banks Act, 1990 (Act No. 94 of 1990),] or a mutual [building society as defined in the Mutual Building Societies Act, 1965 (Act No. 24 of 1965)] bank.”.

Substitution of section 12 of Act 90 of 1989, as substituted by section 6 of Act 10 of 1993

7. The following section is hereby substituted for section 12 of the principal Act:

“Inspection of affairs of person, partnership, close corporation, company or other juristic person not registered as bank or mutual bank

12. (1) If the Governor or a Deputy Governor has reason to suspect that any person, partnership, close corporation, company or other juristic person who or which is not registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), as a bank or in terms of the [Mutual Building Societies Act, 1965 (Act No. 24 of 1965)] Mutual Banks Act, 1993 (Act No. 124 of 1993), as a mutual [building society] bank, is carrying on the business of a bank or a mutual [building society] bank, he or she may direct the Registrar of Banks referred to in section 4 of the Banks Act, 1990, to cause the affairs or any part of the affairs of such person, partnership, close corporation, company or other juristic person to be inspected by an inspector appointed under section 11(1), in order to establish whether or not the business of a bank or mutual [building society] bank, as the case may be, is being carried on by that person, partnership, close corporation, company or other juristic person.

(2) The provisions of sections 4, 5, 8 and 9 of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984), shall apply *mutatis mutandis* in respect of an inspection carried out in terms of subsection (1).”.

Amendment of section 22 of Act 90 of 1989, as amended by section 16 of Act 85 of 1992

8. Section 22 of the principal Act is hereby amended by the addition of the following subsection:

“(6) If the number of shares held by a shareholder in the Bank increases to more than 10 000 shares, he or she shall as soon as practicable dispose of the number of shares held by him or her in excess of 10 000.” 5

Amendment of section 23 of Act 90 of 1989

9. Section 23 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 10

“(2) No shareholder referred to in subsection (2) or (6) of section 22 shall either directly or indirectly exercise any vote as a shareholder in respect of the number of shares in the Bank held by him or her in excess of 10 000, and no group of companies with interlocking directorates shall either directly or indirectly exercise any vote as shareholders in respect of the total number of shares in the Bank held by those companies in excess of 10 000.” 15

Amendment of section 34 of Act 90 of 1989

10. Section 34 of the principal Act is hereby amended by the substitution for paragraph (j) of subsection (1) of the following paragraph:

“(j) sells, exchanges or otherwise disposes of any metal reproduction of [the Krugerrand, 1/2-Krugerrand, 1/4-Krugerrand or 1/10-Krugerrand] any gold coin contemplated in Schedule 2, or uses the word “Krugerrand”, “Natura” or “Protea”, or any derivative thereof or any combination thereof with any other word, in the furtherance of the sale, exchange or disposal in any other manner of such a reproduction or of any metal article of commerce;” 25

Repeal of section 39 of Act 90 of 1989

11. Section 39 of the principal Act is hereby repealed.

Short title

12. This Act shall be called the South African Reserve Bank Amendment Act, 1996.