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KANTOOR VAN DIE STAATSPRESIDENT

No. 1070. 15 April 1992

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

No. 42 van 1992: Wysigingswet op Depositonemende Instellings, 1992.

STATE PRESIDENT'S OFFICE

No. 1070. 15 April 1992

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

No. 42 of 1992: Deposit-taking Institutions Amendment Act, 1992.

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 Deposit-taking Institutions Act, 1990, so as to further define certain expressions and to delete the definitions of certain expressions; to correct certain syntactical deficiencies; to further define the expression "associate"; to further regulate the procedure for the obtaining of permission for the acquisition of shares in a deposit-taking institution or controlling company; to delete a provision authorizing deposit-taking institutions to acquire shares in other deposit-taking institutions or in controlling companies without the prior permission of the Registrar of Deposit-taking Institutions or the Minister of Finance; to provide for the exercise of control over deposit-taking institutions by certain foreign institutions; to bring certain provisions thereof into line with new legislation; to further regulate certain functions of the auditors of deposit-taking institutions; to extend the powers of the curator appointed to a deposit-taking institution which is in financial difficulties; to clarify a certain provision relating to the calculation of the minimum share capital and unimpaired reserve funds required to be maintained by deposit-taking institutions; to delete a certain provision which is no longer applicable; to make other provision regarding the valuation of securities forming part of the liquid assets required to be held by deposit-taking institutions; to provide for the granting by a committee appointed by the board of directors of a deposit-taking institution of permission for certain large exposures; to further regulate the time of submission and the contents of certain returns to be furnished by deposit-taking institutions to the Registrar of Deposit-taking Institutions; and to exclude liabilities in respect of capital and reserves from the liabilities against which the permissible limits of certain investments by deposit-taking institutions are to be calculated; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 7 April 1992.)

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

Amendment of section 1 of Act 94 of 1990

1. Section 1 of the Deposit-taking Institutions Act, 1990 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the deletion of the word "or" at the end of paragraph (vi) of the definition of "deposit";

(b) by the insertion of the word "or" at the end of paragraph (vii) of the definition of "deposit";

(c) by the insertion in the definition of "deposit" of the following paragraph after paragraph (vii):

"(viii) paid to a benefit fund, as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), as a contribution or a subscription by or on behalf of a member of that fund,";

(d) by the deletion of the definition of "money broker" and "money broking", respectively; and

(e) by the substitution for paragraphs *(ee)* and *(ff)* of the definition of "the business of a deposit-taking institution" of the following paragraphs, respectively:

"*(ee)* the acceptance, subject to such conditions as the Registrar may from time to time determine by notice in the *Gazette*, of money against debentures, bills of exchange, promissory notes or other similar financial instruments, provided the money so accepted is not used, in the case of such acceptance of money by a person other than a deposit-taking institution, for the granting of money loans or credit (other than customary credit in respect of the sale of goods or the provision of services by the issuer of such financial instruments) to the general public; or

(ff) the effecting, subject to such conditions as the Registrar may from time to time determine by notice in the *Gazette*, of a money lending transaction directly between a lender and a deposit-taking institution as borrower through the intermediation of a third party who does not act as a principal to the transaction, provided such money lending transaction is so effected on the same day on which the third party concerned receives from the lender the funds to be lent in terms of the money lending transaction;".

Amendment of section 9 of Act 94 of 1990

2. Section 9 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to the provisions of section 13(4), any person aggrieved by a decision taken by the Registrar under a provision of this Act may within the prescribed period and in the prescribed manner and upon payment of the prescribed fees appeal against such decision to the board of appeal established by subsection (2).".

Amendment of section 36 of Act 94 of 1990

3. Section 36 of the principal Act is hereby amended—

(a) by the substitution for paragraph *(b)* of subsection (10) of the following paragraph:

"*(b)* in relation to a juristic person—

(i) which is a company, means any subsidiary or holding company of that company, any other subsidiary of that holding company and any other company of which that holding company is a subsidiary; **[or]**

(ii) which is a close corporation registered under the Close Corporations Act, 1984 (Act No. 69 of 1984), means any member thereof as defined in section 1 of that Act; **[and]**

(iii) which is not a company or a close corporation as contemplated in this paragraph, means another juristic person which would have been a subsidiary of the first-mentioned juristic person—

(aa) had such first-mentioned juristic person been a company; or

(bb) in the case where that other juristic person, too, is not a company, had both the first-mentioned juristic person and that other juristic person been a company;

(iv) means any person in accordance with whose directions or instructions the board of directors of or, in the case where such juristic person is not a company, the governing body of such juristic person is accustomed to act; and"; and

(b) by the substitution for paragraph *(c)* of subsection (10) of the following paragraph:

"*(c)* in relation to any person—

(i) means any juristic person of which the board of directors or, in the case where such juristic person is not a company, of which the governing body is accustomed to act in accordance with the directions or instructions of the person first-mentioned in this paragraph; and

(ii) includes any trust controlled or administered by that person.".

Amendment of section 37 of Act 94 of 1990

4. Section 37 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words following upon paragraph *(c)* of the following words:

"amounts to more than **[10]** 15 per cent of the total nominal value of all the issued shares of the deposit-taking institution or controlling company, without first having obtained permission in accordance with the provisions of subsection (2) for such acquisition.";

(b) by the substitution for paragraph *(a)* of subsection (2) of the following paragraph:

"*(a)* If, subject to the provisions of paragraph *(c)*—

(i) any person has for a period of 12 months or such shorter period as the Registrar may deem fit held so many shares in a deposit-taking institution or controlling company as he may in accordance with the provisions of subsection (1) hold therein, he may, if the Registrar has granted permission in writing thereto, acquire more than **[10]** 15 per cent, but not exceeding **[17,5]** 24 per cent, of those shares as contemplated in the said subsection;

(ii) the said person has for a period of 12 months or such shorter period as the Registrar may deem fit held **[17,5]** 24 per cent of those shares as so contemplated he may, if the Registrar has granted permission in writing thereto, acquire more than **[17,5]** 24 per cent, but not exceeding **[25]** 49 per cent, of those shares as contemplated in the said subsection (1);

(iii) **[the said person has for a period of 12 months or such shorter period as the Registrar may deem fit held 25 per cent of those shares as so contemplated he may, if the Registrar has granted permission in writing thereto, acquire more than 25 per cent, but not exceeding 30 per cent, of those shares as contemplated in the said subsection (1); and**

(iv)] the said person has for a period of 12 months or such shorter period as the Minister may deem fit held **[30]** 49 per cent of those shares as contemplated in the said subsection (1) he may, if the Minister has, through the Registrar, granted permission thereto in writing, acquire more than **[30]** 49 per cent, but not exceeding 74 per cent, of those shares as contemplated in the said subsection; and

(iv) the said person has for a period of 12 months or such shorter period as the Minister may deem fit held 74 per cent of those shares as contemplated in the said subsection (1) he may, if the Minister has, through the Registrar, granted permission

thereto in writing, acquire more than 74 per cent of those shares as contemplated in the said subsection.";

(c) by the addition of the following paragraph to subsection (2):

"*(c)* Notwithstanding the provisions of paragraph *(a)*, the Registrar or the Minister, as the case may be, may, if in a particular case he deems it fit to do so, grant permission for the acquisition of shares as contemplated in subparagraph (i), (ii), (iii) or (iv) of paragraph *(a)* without the applicant for such permission having held shares for the period of 12 months or any shorter period as required in any of the said subparagraphs.";

(d) by the substitution for subsection (3) of the following subsection:

"(3) If any person at the commencement of **[this]** the Deposit-taking Institutions Amendment Act, 1992, already holds more than **[10]** 15 per cent of the shares in a deposit-taking institution or controlling company as contemplated in subsection (1), he may not acquire more of those shares as contemplated in the said subsection before he has obtained the appropriate permission in terms of subsection (2).";

(e) by the substitution for subsection (5) of the following subsection:

"(5) If, in the case of a shareholding contemplated in—

(a) subsection (2)*(a)*(i) and (ii) **[and (iii)]**, the Registrar; or

(b) subsection (2)*(a)* (iii) and (iv), the Minister,

is of the opinion that the retention of such shareholding in a deposit-taking institution or controlling company by a particular shareholder will be to the detriment of the deposit-taking institution or controlling company concerned, he may by way of application on notice of motion apply to the division of the Supreme Court in whose area of jurisdiction the head office of the deposit-taking institution or controlling company is situated, for an order—

(i) compelling such shareholder to reduce, within a period determined by the court, his shareholding in that deposit-taking institution or controlling company to a shareholding, as contemplated in subsection (1), with a total nominal value of not more than **[10]** 15 per cent of the total nominal value of all the issued shares of that deposit-taking institution or controlling company; and

(ii) limiting, with immediate effect, the voting rights that may be exercised by such shareholder by virtue of his shareholding to **[10]** 15 per cent of the voting rights attached to all the issued shares of the deposit-taking institution or controlling company concerned."; and

(f) by the substitution for subsection (6) of the following subsection:

"(6) The provisions of subsection (1) shall not apply to the acquisition of shares in a deposit-taking institution by a controlling company registered as such in respect of that deposit-taking institution **[by another deposit-taking institution or by an institution which has been approved by the Registrar and which conducts business similar to the business of a deposit-taking institution in a country other than the Republic]**.".

Amendment of section 42 of Act 94 of 1990

5. (1) Section 42 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to the provisions of section 36(2), no person other than a deposit-taking institution or an institution which has been approved by the Registrar and which conducts business similar to the business of a deposit-taking institution in a country other than the Republic may exercise control over a deposit-taking institution, unless such person is a public company and is registered as a controlling company in respect of such deposit-taking institution.".

(2) Subsection (1) shall be deemed to have come into operation on the date of commencement of the principal Act.

Substitution of section 54 of Act 94 of 1990

6. The following section is hereby substituted for section 54 of the principal Act:

"Compromises, amalgamations, arrangements and affected transactions

54. (1) No compromise, amalgamation or arrangement **[or take-over]** referred to in Chapter XII of the Companies Act and which involves a deposit-taking institution as one of the principal parties to the relevant transaction, and no arrangement for the transfer of all or any part of the assets and liabilities of a deposit-taking institution to another person, shall have legal force unless the consent of the Minister, conveyed in writing through the Registrar, to the transaction in question has been obtained beforehand.

(2) The Minister shall not grant his consent referred to in subsection (1) unless—

(a) he is satisfied that the transaction in question will not be detrimental to the public interest;

(b) in the case of an amalgamation **[or a take-over]** referred to in subsection (1), the amalgamation is an amalgamation of deposit-taking institutions only **[or the take-over involves only the acquisition of shares in a deposit-taking institution by another deposit-taking institution or its controlling company]**; or

(c) in the case of a transfer of assets and liabilities referred to in subsection (1) which entails the transfer by the transferor deposit-taking institution of the whole or any part of its business as a deposit-taking institution, such transfer is effected to another deposit-taking institution only.

(3) Upon the coming into effect of a transaction effecting the amalgamation of one deposit-taking institution with another deposit-taking institution as contemplated in subsection (2)*(b)*, or a transaction effecting the transfer of assets and liabilities of one deposit-taking institution to another deposit-taking institution as contemplated in subsection (2)*(c)*—

(a) all the assets and liabilities of the amalgamating institutions or, in the case of such transfer of assets and liabilities, of the institution by which the transfer is effected, shall vest in and become binding upon the amalgamated institution or, as the case may be, the institution taking over such assets and liabilities;

(b) the amalgamated institution or, in the case of such transfer of assets and liabilities, the institution taking over such assets and liabilities, shall have the same rights and be subject to the same obligations as those which immediately before the amalgamation or transfer the amalgamating institutions or, as the case may be, the institution by which the transfer has been effected may have had or to which they or it may then have been subject to;

(c) all agreements, appointments, transactions and documents entered into, made, drawn up or executed with, by or in favour of any of the amalgamating institutions or, as the case may be, the institution by which the transfer has been effected, and in force immediately prior to the amalgamation or transfer, shall remain of full force and effect and shall be construed for all purposes as if they had been entered into, made, drawn up or executed with, by or in favour of the amalgamated institution or, as the case may be, the institution taking over the assets and liabilities in question; and

(d) any bond, pledge, guarantee or instrument to secure future advances, facilities or services by any of the amalgamating institutions or, as the case may be, by the institution transferring such assets and liabilities, which was in force immediately

prior to the amalgamation or transfer, shall remain of full force and effect and shall be construed as a bond, pledge, guarantee or instrument given to or in favour of the amalgamated institution or, as the case may be, the institution taking over such assets and liabilities, as security for future advances, facilities or services by that institution.

(4) Any compromise, amalgamation or arrangement **[or take-over]**, or any arrangement for the transfer of assets and liabilities, referred to in subsection (1), excluding a transfer other than a transfer referred to in subsection (2)*(c)*, shall be subject to confirmation at a general meeting of shareholders of each of the deposit-taking institutions concerned, and the notice convening such a meeting shall contain or have attached to it the terms and conditions of the relevant agreement or arrangement.

(5) Notice of the passing of the resolution confirming, as contemplated in subsection (4), any compromise, amalgamation or arrangement **[or take-over]**, or any arrangement for the transfer of assets and liabilities, together with a copy of such resolution and the terms and conditions of the relevant agreement or arrangement, duly certified by the chairman of the meeting at which such resolution was passed and by the secretary of the deposit-taking institution concerned, shall be sent to the Registrar by each of the deposit-taking institutions involved, and the Registrar shall, after having received such notices from all the deposit-taking institutions which are parties to the relevant agreement or arrangement, register such notices.

(6) Upon the registration by the Registrar of the notices referred to in subsection (5)—

(a) of any amalgamation of two or more deposit-taking institutions, the registration of the individual institutions which were parties to the amalgamation shall be deemed to be cancelled and the Registrar shall withdraw those registrations and, on payment by the institution created by the amalgamation of the prescribed registration fee, register such institution, subject to the provisions of subsection (7), as a deposit-taking institution; or

(b) of any arrangement for the transfer of all the assets and liabilities of a deposit-taking institution, the registration of such deposit-taking institution shall be deemed to be cancelled and shall be withdrawn by the Registrar.

(7) A registration by the Registrar in terms of subsection (6) shall—

(a) in the case where all the parties to the relevant amalgamation were finally registered as deposit-taking institutions at the time, be a final registration as a deposit-taking institution;

(b) in the case where all the parties to the relevant amalgamation were provisionally registered as deposit-taking institutions at the time, be a provisional registration as a deposit-taking institution; or

(c) in the case where some of the parties to the amalgamation were finally registered and some were provisionally registered as deposit-taking institutions at the time, be a final or a provisional registration as a deposit-taking institution, in the discretion of the Registrar,

and the Registrar shall upon such registration issue the applicable certificate of registration to the institution concerned.

(8) The Registrar of Companies, every Master of the Supreme Court and every officer in charge of a deeds registry or any other office in which—

(a) is registered any title to property belonging to, or any bond or other right in favour of, or any appointment of or by; or

(b) has been issued any licence to or in favour of,

any deposit-taking institution which has amalgamated with any other such institution or any deposit-taking institution which has trans-

ferred all its assets and liabilities to any other such institution, shall, if he is satisfied—

(i) **[if he is satisfied]** that the Minister has in terms of subsection (1) consented to the amalgamation or transfer; and

(ii) that such amalgamation or transfer has been duly effected,

and upon the production to him of any relevant deed, bond, certificate, letter of appointment, licence or other document, make such endorsements thereon and effect such alterations in his registers as may be necessary to record the transfer thereof and of any rights thereunder to the amalgamated institution or, as the case may be, the institution which has so taken over the said assets and liabilities.

(9) The provisions of this section shall not affect the rights of any creditor of a deposit-taking institution which has amalgamated with or transferred all its assets and liabilities to any other such institution or taken over all the assets and liabilities of any other such institution, except to the extent provided in this section.

(10) The conditions and any tax benefit which immediately prior to the date of a transfer, referred to in this section, of assets and liabilities were applicable in respect of an investment, referred to in section 10(1)*(i)*(xii), (xiiA) or (xiii), 10(1)*(v)*, (*v*A) or *(w)* or 19(5A) of the Income Tax Act, 1962 (Act No. 58 of 1962), with the transferor deposit-taking institution shall, notwithstanding such a transfer of assets and liabilities but subject to the provisions of the said Act, remain applicable to the investment until the expiration of a period of ten years as from the date on which it was initially made or until it is redeemed, whichever occurs first.

(11) Notwithstanding anything to the contrary contained in—

(a) Chapter XVA of the Companies Act;

(b) the Securities Regulation Code on Take-overs and Mergers published by *Government Notice* No. R.29 dated 18 January 1991, and any amendment thereof; or

(c) the Rules under section 440C(4)*(a)*, *(b)*, *(c)* and *(f)* of the Companies Act, published by the said *Government Notice* No. R.29, and any amendment thereof,

neither the Securities Regulation Panel established by section 440B of the Companies Act nor its executive committee or its executive director shall furnish any clearance, decision or ruling in respect of a matter submitted to it or him in terms of the provisions of the above-mentioned Code or Rules, and which matter relates to an affected transaction, as defined in section 440A(1) of the Companies Act, involving—

(i) the allotment, issuing or transfer of shares in a deposit-taking institution or controlling company for which an exemption under section 36(2) is a prerequisite; or

(ii) an acquisition of shares in a deposit-taking institution or controlling company for which permission under section 37(2)*(a)*(i), (ii), (iii) or (iv) is a prerequisite,

unless the person submitting the matter in question has furnished the said Panel, executive committee or executive director with written proof that such exemption or permission, as the case may be, has in fact been obtained.".

Amendment of section 63 of Act 94 of 1990

7. Section 63 of the principal Act is hereby amended—

(a) by the substitution in paragraph *(b)* of subsection (1) for the words preceding subparagraph (i), of the following words:
"**[may]** shall in writing inform the Registrar of any matter relating to the affairs of a deposit-taking institution—";

(b) by the substitution for subsection (3) of the following subsection:
"(3) The furnishing in good faith by an auditor of information in terms of subsection (1)*(b)* or *(c)* shall in no circumstances be held to

constitute a contravention of any provision of the law or a breach of any provision of a code of professional conduct to which such auditor may be subject **[nor shall such auditor incur any liability to any person in consequence of having so furnished such information]**."; and

(c) by the addition of the following subsection:

"(4) Nothing in subsection (1) contained shall be construed as conferring upon any person any right of action against an auditor which, but for the provisions of that subsection, he would not have had.".

Amendment of section 69 of Act 94 of 1990

8. Section 69 of the principal Act is hereby amended—

(a) by the addition to subsection (1) of the following paragraphs, the existing subsection becoming paragraph *(a)*:

"*(b)* The Registrar shall appoint a person, other than a person who is in the employ of the deposit-taking institution under curatorship, who in the opinion of the Registrar has wide experience of and is knowledgeable about the specific field of activities in which the deposit-taking institution under curatorship is predominantly engaged, to assist the curator in the management of the affairs of the deposit-taking institution under curatorship.

(c) The person appointed in terms of paragraph *(b)* shall in respect of the services rendered by him pursuant to his appointment be paid such remuneration out of the funds of the deposit-taking institution under curatorship as the Registrar may after consultation with the curator determine.";

(b) by the deletion of the word "or" at the end of paragraph *(b)* of subsection (3);

(c) by the addition of the following paragraphs to subsection (3):

"*(d)* to convene from time to time, in such manner as he may deem fit, a meeting of creditors of the institution concerned for the purpose of establishing the nature and extent of the institution's indebtedness to such creditors and for consultation with such creditors in so far as their interests may be affected by decisions taken by the curator in the course of the management of the affairs of the institution concerned;

(e) to negotiate with any individual creditor of the institution concerned with a view to the final settlement of the affairs of such creditor with the institution;

(f) to make and carry out, in the course of his management of the institution concerned, any decision which in terms of the provisions of the Companies Act would have been required to be made by way of a special resolution contemplated in section 199 of the said Act;

(g) to cancel any lease of movable or immovable property entered into by the institution concerned prior to its being placed under curatorship: Provided that, notwithstanding the provisions of subsection (6), a claim for damages in respect of such cancellation may be instituted against the institution after the expiration of a period of one year as from the date of such cancellation;

(h) to dispose, by public auction, tender or individual negotiation, of any asset of the institution concerned, including—

(i) any advance or any loan under a facility contemplated in paragraph *(c)*; and

(ii) any asset for the disposal of which an approval contemplated in section 228 of the Companies Act would have been a prerequisite; or

(i) to cancel any guarantee issued by the institution concerned prior to its being placed under curatorship, excluding such guarantee which the institution is required to make good within a period of 30 days as from the date of the appoint-

ment of the curator: Provided that, notwithstanding the provisions of subsection (6), a claim for damages in respect of any loss sustained by or damage caused to any person as a result of the cancellation of a guarantee in terms of this paragraph, may be instituted against the institution after the expiration of a period of one year as from the date of such cancellation."; and

(d) by the insertion of the following subsection after subsection (3):

"(3A) The curator shall duly record the nature of and the reasons for each act performed by him under any power conferred upon him in terms of subsection (3), and such records shall be examined as part of the normal audit performed in respect of the affairs of the institution concerned.".

Amendment of section 70 of Act 94 of 1990

9. Section 70 of the principal Act is hereby amended—

(a) by the substitution for paragraph *(b)* of subsection (3) of the following paragraph:

"*(b)* the sum of a deposit-taking institution's issued secondary share capital and secondary unimpaired reserve funds may, in the calculation of the aggregate amount which such institution is in terms of subsection (2) required to maintain by way of issued primary and secondary share capital and primary and secondary unimpaired reserve funds, be taken into account to an amount not exceeding 50 per cent of the above-mentioned aggregate amount.";

(b) by the substitution for subparagraph (iv) of paragraph *(a)* of subsection (5) of the following subparagraph:

"(iv) the value of assets lodged or pledged to secure liabilities incurred under any other law where **[all the liabilities, including contingent liabilities, so secured are not included in the calculation and where]** the effect of such lodging or pledging is that such assets are not available for the purpose of meeting the liabilities of the deposit-taking institution in terms of this Act;"; and

(c) by the substitution for subparagraph (vi) of paragraph *(a)* of subsection (5) of the following subparagraph:

"(vi) an amount equal to the book value of—

(aa) shares held by the deposit-taking institution in any other deposit-taking institution;

(bb) debentures held by the deposit-taking institution, which debentures have been issued by any other deposit-taking institution and the amounts of which may in terms of this section rank as secondary share capital of that other deposit-taking institution; and".

Amendment of section 72 of Act 94 of 1990

10. Section 72 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) For the purposes of this section securities shall be valued at their **[market value, as certified by the Public Investment Commissioners]** prices as quoted in a list of quotations of prices—

(a) of securities, as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), issued for publication on the authority of a licensed stock exchange, as so defined; or

(b) of financial instruments, as defined in section 1 of the Financial

Markets Control Act, 1989 (Act No. 55 of 1989), issued for publication on the authority of the executive committee of a financial exchange, as so defined,

as the case may be, and which list is in force at the time when the securities are so valued.".

Substitution of section 73 of Act 94 of 1990

11. The following section is hereby substituted for section 73 of the principal Act:

"Large exposures

73. (1) A deposit-taking institution shall not make investments with or grant loans or advances or other credit to any individual person, to an aggregate amount exceeding an amount representing a prescribed percentage of such deposit-taking institution's capital and reserves, without first having obtained the permission of its board of directors, or of a committee appointed for such purpose by its board of directors (at least one of the members of which committee shall be a director of the deposit-taking institution, not in its employ), to make such investments or to grant such loans, advances or other credit.

(2) A deposit-taking institution shall in such manner and on such a form as may be prescribed report to the Registrar **[if it proposes to enter into a transaction with]** whenever it makes an investment with or grants a loan or advance or other credit to any individual person, which transaction, either alone or together with any previous transaction or transactions entered into by it with that person, **[would result]** results in the deposit-taking institution being exposed up to an amount exceeding an amount representing a prescribed percentage of its capital and reserves.".

Amendment of section 75 of Act 94 of 1990

12. Section 75 of the principal Act is hereby amended—

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

"*(b)* the nature and amounts of the deposit-taking institution's assets, **[and]** liabilities and contingent liabilities,";

(b) by the substitution for subsection (5) of the following subsection:

"(5) **[Of the returns furnished in terms of subsection (1)*(b)* to the Registrar by a]** A deposit-taking institution shall, within such period as the Registrar may on the application of such institution approve, furnish the Registrar, in respect of that one of the returns referred to in subsection (1)*(b)* which most nearly coincides with the end of the financial year of the institution **[shall be accompanied by]** with a report by the auditor of the institution in which is stated whether or not that return fairly and in conformity with generally accepted accounting practice presents those affairs of the institution to which the return relates, and the Registrar may, if he deems it necessary, require **[that]** the institution so to furnish him with such a report in respect of any other of those returns furnished during the financial year **[be accompanied by such an auditor's report]**."; and

(c) by the substitution for subsection (6) of the following subsection:

"(6) A deposit-taking institution shall, at such times as may be prescribed, furnish the Registrar with the further prescribed information regarding its assets, **[and]** liabilities and contingent liabilities.".

Amendment of section 77 of Act 94 of 1990

13. Section 77 of the principal Act is hereby amended by the substitution in subsection (1) for the words following upon paragraph *(c)* of the following words:

"does not at any time exceed ten per cent of its liabilities, excluding its liabilities in respect of capital and reserves.".

Short title

14. This Act shall be called the Deposit-taking Institutions Amendment Act, 1992.