

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
FINANCIAL INSTITUTIONS
(PROTECTION OF FUNDS) BILL**

[B 23—2001]

(As agreed to by the Portfolio Committee on Finance (National Assembly))

[B 23A—2001]

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AMENDMENTS AGREED TO
FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) BILL
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CLAUSE 1

1. On page 2, after line 38, to insert the following footnote:

1. In terms of section 1 of the Financial Services Board Act, 1990, a “financial institution” is defined as—

- ‘(a)(i) any pension fund organisation registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), or any person referred to in section 13B of that Act administering the investments of such a pension fund or the disposition of benefits provided for in the rules of such a pension fund;
- (ii) any friendly society registered in terms of the Friendly Societies Act, 1956 (Act No. 25 of 1956), or any person in charge of the management of the affairs of such a society;
- (iii) any ‘unit trust scheme’ as defined in section 1 of the Unit Trusts Control Act, 1981 (Act No. 54 of 1981), or any management company or trustee in relation to such a scheme;
- (iv) any ‘scheme’ as defined in section 1 of the Participation Bonds Act, 1981 (Act No. 55 of 1981), or any manager or nominee company in relation to such a scheme;
- (v) any ‘stock exchange’, ‘member’ or ‘stockbroker’ as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), or any person referred to in section 4(1) of that Act managing investments as contemplated in that section;
- (vi) any ‘financial exchange’, ‘member’ or ‘recognised clearing house’ as defined in section 1 of the Financial Markets Control Act, 1989 (Act No. 55 of 1989), or any person referred to in section 5(1) of that Act managing investments as contemplated in that section;
- (vii) any ‘registered insurer’ as defined in section 1(1) of the Insurance Act, 1943 (Act No. 27 of 1943);
- (viii) any agent, broker or other person contemplated in section 20*bis* of the Insurance Act, 1943;
- (ix) any person deemed, in terms of section 60 of the Insurance Act, 1943, to be carrying on insurance business in the Republic;
- (x) any person rendering or who is to render services contemplated in section 23A(1) of the Insurance Act, 1943;
- (xi) any ‘central securities depository’ or a ‘depository institution’ as defined in section 1 of the Safe Deposit of Securities Act, 1992 (Act No. 85 of 1992), or any member of such a securities depository;
- (b) (i) a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), or a mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993), which deals with trust property as a regular feature of its business; or
- (ii) any other person who or which deals with trust property as a regular feature of his, her or its business, but who is not registered, licensed, recognised, approved or otherwise authorised to deal so in terms of any Act, other than the Companies Act, 1973 (Act No. 61 of 1973), the Close Corporation Act, 1984 (Act No. 69 of 1984), and the Trust Property Control Act, 1988 (Act No. 57 of 1988);’

2. On page 2, from line 26, to omit paragraph (f) and to substitute:

(f) any unregistered person;

3. On page 3, after line 17, to insert:

“unregistered person” means any person, partnership, company or trust not registered, approved or otherwise authorised by the registrar under a relevant law to carry on the business of a financial institution,

but who or which carries on such business or a business corresponding to a business normally carried on by a financial institution.

CLAUSE 2

1. On page 3, in line 24, before “institution” to insert “financial”.

CLAUSE 3

1. On page 3, in line 39, before “institution” to insert “financial”.

CLAUSE 6

1. On page 5, in line 34, to omit “relevant”.
2. On page 5, in line 50, to omit “an institution” and to substitute “a person”.
3. On page 5, in line 54, to omit “institution” and to substitute “person”.
4. On page 5, in line 57, to omit “institution” and to substitute “person”.
5. On page 5, in line 58, to omit “notice” and to substitute “statement”.
6. On page 5, in line 60, to omit “institution” and to substitute “person”.

CLAUSE 7

1. On page 6, in line 26, to omit “such” and to substitute “the”.
2. On page 6, in line 30, before “institution” to insert “financial”.

CLAUSE 9

1. On page 6, in lines 44 and 45, to omit “he or she—”.
2. On page 6, in line 46, after “(a)” to insert “the person—”.

CLAUSE 10

1. On page 7, in line 3, to omit “is”.
2. On page 7, in line 4, to omit “10” and to substitute “15”.

NEW CLAUSE

1. That the following be a new Clause:

Status of footnote

12. (1) The footnote in section 1 has been inserted for ease of reference to the definition of ‘financial institution’ in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990).

(2) The footnote is not part of this Act and does not have the force of law.

LONG TITLE

1. On page 2, in the fourth line, after “Act,” to insert “1984”.
2. On page 2, in the fourth line, after “1984);” to insert:
to improve the enforcement powers of the registrar;