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

Act No. 9 of 2017: Financial Sector Regulation Act, 2017

Mo go tsebiswa gore Mo-Presidente o dumetse molao o latelago, wona o tla gatiswa e le tsebiso ya kakaretso:—

Nmr 9 ya 2017: Molao wa Taolo ya Lephata la Ditshelete, 2017
To establish a system of financial regulation by establishing the Prudential Authority and the Financial Sector Conduct Authority, and conferring powers on these entities; to preserve and enhance financial stability in the Republic by conferring powers on the Reserve Bank; to establish the Financial Stability Oversight Committee; to regulate and supervise financial product providers and financial services providers; to improve market conduct in order to protect financial customers; to provide for co-ordination, co-operation, collaboration and consultation among the Reserve Bank, the Prudential Authority, the Financial Sector Conduct Authority, the National Credit Regulator, the Financial Intelligence Centre and other organs of state in relation to financial stability and the functions of these entities; to establish the Financial System Council of Regulators and the Financial Sector Inter-Ministerial Council; to provide for making regulatory instruments, including prudential standards, conduct standards and joint standards; to make provision for the licensing of financial institutions; to make comprehensive provision for powers to gather information and to conduct supervisory on-site inspections and investigations; to make provision in relation to significant owners of financial institutions and the supervision of financial conglomerates in relation to eligible financial institutions that are part of financial conglomerates; to provide for powers to enforce financial sector laws, including by the imposition of administrative penalties; to provide for the protection and promotion of rights in the financial sector as set out in the Constitution; to establish the Ombud Council and confer powers on it in relation to ombud schemes; to provide for coverage of financial product and financial service providers by appropriate ombud schemes; to establish the Financial Services Tribunal as an independent tribunal and to confer on it powers to reconsider decisions by financial sector regulators, the Ombud Council and certain market infrastructures; to establish the Financial Sector Information Register and make provision for its operation; to provide for information sharing arrangements; to create offences; to provide for regulation-making powers of the Minister; to amend and repeal certain financial sector laws; to make transitional and savings provisions; and to provide for matters connected therewith.

ARRANGEMENT OF SECTIONS

CHAPTER 1

INTERPRETATION, OBJECT AND ADMINISTRATION OF ACT

Part 1

Interpretation

1. Definitions
2. Financial products
MOLAO

Go tlhoma thulaganyo ya taolo ya ditšhelete ka go tlhoma Bothati jwa Tlhokomelo le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, le go nay a ditheo tseo maatl; go boloka le go oketsa tlhomamo ya ditšhelete mo Rephaboliking ka go nay a Banka ya Resefe dithata; go tlhoma Komiti ya Keotlhoko ya Tlhomamo ya Ditšhelete; go laola le go tlhokomela batlamedi ba dikuno ts’a ditšhelete le batlamedi ba ditirelo ts’a ditšhelete; go tokafatsa boitshwaro jwa mmarakaka go sireletsia badirelwa ba ditšhelete; go tlamela ka kgolagano, tirisanommogo, kopano le therisana magareng ga Banka ya Resefe, Bothati jwa Tlhokomelo, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, Molaodi wa Bosthhaba wa Sekoloto, Senthara ya Bothlodi jwa Ditšhelete le ditheo ts’o puso mabapi le tlhomamo ya ditšhelete le ditiro ts’a ditheo tsono; go tlhoma Khansele ya Balaodi ba Thulaganyo ya Ditšhelete le Khansele ya Ditona ya Lephata la Ditšhelete; go tlamela ka go dira didiriswa ts’a taolo, go akaretsa le maemo a tlhokomelo, maemo a boitshwaro le maemo a a kopantsweng; go dira kabelo ya go abela ditheo ts’a ditšhelete dilese; go dira kabelo e e tseneleletsang ditatha ts’a kgobokanya tshedimosetso le go dira ditlhathobo ts’a bothlokomedi ts’a kwa tironed e dipatlisiso; go dira kabelo mabapi le beng ba ba bothokwa ba ditheo ts’a ditšhelete le tlhomolo ya ditheo ts’a ditšhelete tse di kopantsweng mabapi le ditheo ts’a ditšhelete tse di matshwandedi tseo e leng karolo ya ditheo ts’a ditšhelete tse di kopantsweng; go tlamela mabapi le ditlhata ts’a go gatelela melao ya lephata la ditšhelete, go akaretsa le go pateletsa dikotlhao ts’a tsamaiso; go tlamela mabapi le tšireletsö le tšweletso ya ditshwanelo mo lephateng la ditšhelete jaaka go tšhagisitšwe mo Molaoteheng; go tlhoma Khansele ya Ombud le go e nay a ditlhata mabapi le dikema ts’a ombud; go tlamela mabapi le tšireletsö ya kuno ya ditšhelete le batlamedi ba ditirelo ts’a ditšhelete ke, dikema tse di maleba ts’a ombud; go tlhoma Lekgotla la Ditirelo ts’a Ditšhelete jaaka lekgotla le le ikemetseng le go le nay a ditlhata ts’a go sekasekagape ditshwetso ts’a balaodi ba lephata la ditšhelete, Khansele ya Ombud le ditshulaganyetsö tse di rileg tsa pogeotho ye mmarakaka; go tlhoma rejisetara ya Tshedimosetso ya Lephata la Ditšhelete le go dira kabelo ya go dira ga yona; go tlamela ka ditshulaganyo ts’a go aragana tshedimosetsö; go tshama ditlolo; go tlamela ka ditlhata ts’a go dira melawana ga Tona; go tlabolola le go phimola melao e e rileg ya lephata la ditšhelete; go dira dikabelo ts’a kgabaganyo le ditshomarelo; le go tlamela mabapi le merero e e amanang le ona.

THULAGANYO YA DIKAROLO

KGAOLO 1

TLHALOSO, MAITLHOMO LE TSAMAISO YA MOLAO ONO

Karolo 1

Thalosoo

1. Ditlhaloso
2. Dikuno ts’a ditšhelete
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

3. Financial services
4. Financial stability
5. Responsible authorities
6. Financial institutions that are juristic persons

Part 2

Object and administration of Act

7. Object of Act
8. Administration of Act

Part 3

Application of other legislation

9. Inconsistencies between Act and other financial sector laws
10. Application of other legislation

CHAPTER 2

FINANCIAL STABILITY

Part 1

Powers and functions of Reserve Bank

11. Responsibility for financial stability
12. Monitoring of risks by Reserve Bank
13. Financial stability review

Part 2

Managing systemic events and risks in relation to systemic events

14. Determination of systemic events
15. Functions of Reserve Bank in relation to systemic events
16. Information to Minister
17. Responsibilities of financial sector regulators
18. Directives to financial sector regulators
19. Exercise of powers by other organs of state

Part 3

Financial Stability Oversight Committee

20. Establishment of Financial Stability Oversight Committee
21. Functions of Financial Stability Oversight Committee
22. Membership
23. Administrative support by Reserve Bank
24. Meetings and procedure

Part 4

Financial Sector Contingency Forum

25. Financial Sector Contingency Forum
3. Ditirelo tsa ditshelete  
4. Tlhomamo ya ditshelete  
5. Bothari jo bo rwalang maikarabelo  
6. Ditho tsa ditshelete tseo e leng ditho tsa molao  

**Karolo 2**  
*Maitlhomo le tsamaiso ya Molao*  
7. Maitlhomo a Molao  
8. Tsamaiso ya Molao  

**Karolo 3**  
*Tiragatso ya molao o mongwe*  
9. Go sa tlhomamang magareng ga Molao le melao e mengwe ya lephata la ditshelete  
10. Tiragatso ya molawana o mongwe  

**KGAOLO 2**  
**TLHOMAMO YA DITŠHELETE**  

**Karolo 1**  
*Dithata le ditšo tsa Banka ya Resefe*  
11. Maikarabelo a tlhomamo ya ditshelete  
12. Go lekolwa ga dikotsi ke Banka ya Resefe  
13. Thadiso ya tlhomamo ya ditshelete  

**Karolo 2**  
*Go laola ditiragalo tse di rulaganeng le dikotsi mabapi le ditiragalo tse di rulaganeng*  
14. Tlhomamiso ya ditiragalo tse di rulaganeng  
15. Ditiro tsa Banka ya Resefe mabapi le ditiragalo tse di rulaganeng  
16. Tshedimosetso go Tona  
17. Maikarabelo a balaodi ba lephata la ditshelete  
18. Ditaelo go balaodi ba lephata la ditshelete  
19. Tiragatso ya dithata ka maphata a mangwe a puso  

**Karolo 3**  
*Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete*  
20. Go tlhongwa ga Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete  
21. Ditiro tsa Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete  
22. Boloko  
23. Tshegetso ya tsamaiso ka Banka ya Resefe  
24. Dikopano le tsamaiso  

**Karolo 4**  
*Foramo ya Tshoganyetso ya Lebhatla la Ditšhelete*  
25. Foramo ya Tshoganyetso ya Lebhatla la Ditšhelete
Roles of financial sector regulators and other organs of state in maintaining financial stability

27. Memoranda of understanding relating to financial stability
28. Roles of other organs of state in relation to financial stability

Part 6

Systemically important financial institutions

29. Designation of systemically important financial institutions
30. Prudential standards and regulator’s directives in respect of systemically important financial institutions
31. Winding-up and similar steps in respect of systemically important financial institutions

CHAPTER 3

PRUDENTIAL AUTHORITY

Part 1

Establishment, objective and functions

32. Establishment
33. Objective
34. Functions

Part 2

Governance

35. Overall governance objective
36. Appointment of Chief Executive Officer
37. Role of Chief Executive Officer
38. Term of office of Chief Executive Officer
39. Removal of Chief Executive Officer
40. Acting Chief Executive Officer
41. Establishment of Prudential Committee
42. Role of Prudential Committee
43. Meetings of Prudential Committee
44. Decisions of Prudential Committee
45. Governance and other subcommittees
46. Duties of members of Prudential Committee and members of subcommittees
47. Regulatory strategy
48. Delegations
49. Disclosure of interests

Part 3

Staff, resources and financial management

50. Staff and resources
51. Resources provided by Reserve Bank
52. Duties of staff members
53. Financial management duties of Chief Executive Officer
54. Information by Chief Executive Officer
55. Annual reports and financial accounts
Karolo 5

Botsayakarolo jwa balaodi ba lephata la diišhelete le maphata a mangwe a puso mo go tshegetseng tlhomamo ya diišhelete

26. Tirisanommogo magareng ga Banka ya Resefe le balaodi ba lephata la diišhelete mabapi le tlhomamo ya diišhelete
27. Memorantamo wa tumalano o o mabapi le tlhomamo ya diišhelete
28. Botsayakarolo jwa maphata a mangwe a puso mabapi le tlhomamo ya diišhelete

Karolo 6

Ditheo tsa diišhelete tse di bothokwa tse di rulaganeng

29. Tshupo ya diitheo tsa diišhelete tse di bothokwa tse di rulaganeng
30. Maemo a a bothokwa le ditaeno tsa bolaodi mabapi le diitheo tsa diišhelete tse di bothokwa tse di rulaganeng
31. Go swetsa le dikgato tse di tshwanang mabapi le diitheo tsa diišhelete tse di bothokwa tse di rulaganeng

KGAOLO 3

BOTHATI JWA TLHOKOMELO

Karolo 1

Go tlhongwa, maitlhomo le ditiro

32. Go tlhongwa
33. Maitlhomo
34. Ditiro

Karolo 2

Puso

35. Maitlhomo ka kakareto a puso
36. Go thapiwa ga Motlhankedimogolo wa Khuduthamaga
37. Botsayakarolo jwa Molthankedimogolo wa Khuduthamaga
38. Paka ya Tiro ya Molthankedimogolo wa Khuduthamaga
39. Go tloswa ga Motlhankedimogolo wa Khuduthamaga
40. Molthankedimogolo wa Khuduthamaga wa nama-o-tshwere
41. Go tlhongwa ga Komiti ya Tlhokomelo
42. Botsayakarolo jwa Komiti ya Tlhokomelo
43. Dikopano tsa Komiti ya Tlhokomelo
44. Ditslwetsa tsa Komiti ya Tlhokomelo
45. Puso le dikomititlaleletso tse dingwe
46. Ditiro tsa maloko a Komiti ya Tlhokomelo le maloko a dikomititlaleletso
47. Leana la balaodi
48. Ditholelo
49. Tshenolo ya dikgatlhegelo

Karolo 3

Badiri, ditlamelo le taolo ya diišhelete

50. Badiri le ditlamelo
51. Ditlamelo tse di tlamlwang ke Banka ya Resefe
52. Ditiro tsa maloko a badiri
53. Ditiro tsa taolo ya diišhelete tsa Molthankedimogolo wa Khuduthamaga
54. Tshedimosetso ka Motlhankedimogolo wa Khuduthamaga
55. Dipegelo tsa ngwaga le diakhaonto tsa diišhelete
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FINANCIAL SECTOR CONDUCT AUTHORITY

Part 1
Establishment, objective and functions

56. Establishment
57. Objective
58. Functions

Part 2
Governance

59. Overall governance objective
60. Establishment and role of Executive Committee
61. Commissioner and Deputy Commissioners
62. Roles of Commissioner and Deputy Commissioners
63. Terms of office
64. Service conditions
65. Removal from office
66. Meetings of Executive Committee
67. Decisions of Executive Committee
68. Governance and other subcommittees
69. Duties of Commissioner, Deputy Commissioners and other subcommittee members
70. Regulatory strategy
71. Delegations
72. Disclosure of interests

Part 3
Staff and resources

73. Staff and resources
74. Duties of staff members
75. Information by Commissioner

CHAPTER 5
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Part 1
Co-operation and collaboration

76. Co-operation and collaboration between financial sector regulators and Reserve Bank
77. Memoranda of understanding
78. Other organs of state

Part 2
Financial System Council of Regulators

79. Financial System Council of Regulators
80. Meetings
81. Working groups and subcommittees
82. Support for Financial System Council of Regulators
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**KGAOLO 4**

**BOTHATI JWA BOITSHWARO JWA LEPHATA LA DITŠHELETE**

**Karolo 1**

* Tlhomo, maithlhomo le ditiro *

56. Tlhomo  
57. Maithlhomo  
58. Ditiro

**Karolo 2**

* Puso *

59. Maithlhomo ka kakaretso a puso  
60. Tlhomo le botsayakarolo jwa Komitikhuduthamaga  
61. Khomišenara le Batlatsakhomišenara  
62. Botsayakarolo jwa Khomišenara le Batlatsakhomišenara  
63. Paka ya tiro  
64. Mabaka a tirelo  
65. Go tloswa mo tirong  
66. Dikopano tsa Komitikhuduthamaga  
67. Ditshweto tsa Komitikhuduthamaga  
68. Puso le dikomititlaleletso tse dingwe  
69. Ditiro tsa Khomišenara, Batlatsakhomišenara le maloko a mangwe a komititlaleletso  
70. Leano la bolaodi  
71. Ditholelo  
72. Tshenolo ya dikgatlhegelo

**Karolo 3**

* Badiri le ditlamelo *

73. Badiri le ditlamelo  
74. Ditiro tsa maloko a badirimomo  
75. Tshedimosetso ka Khomišenara

**KGAOLO 5**

**TIRISANOMMOGO LE KOPANO**

**Karolo 1**

* Tirisanommogo le kopano *

76. Tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete le Banka ya Resefe  
77. Memorantamo wa tumalano  
78. Maphata a mangwe a puso

**Karolo 2**

* Khanele ya Balaodi ba Thulaganyo ya Ditšhelete *

79. Khanele ya Balaodi ba Thulaganyo ya Ditšhelete  
80. Dikopano  
81. Ditlhopha tse di dirang le dikomititlaleletso  
82. Tshegetso ya Khanele ya Balaodi ba Thulaganyo ya Ditšhelete
Part 3

Financial Sector Inter-Ministerial Council

83. Financial Sector Inter-Ministerial Council
84. Meetings
85. Protection for financial customers in terms of financial sector laws, National Credit Act and Consumer Protection Act
86. Independent evaluation of effectiveness of co-operation and collaboration

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Part 1

Administrative action committees

87. Establishment and membership
88. Terms of membership
89. Meetings
90. Application of Part to Ombud Council

Part 2

Administrative justice

91. Applicability of Promotion of Administrative Justice Act to administrative action by financial sector regulators
92. Procedures for specific administrative action in terms of Act
93. Processes for determining or amending administrative action procedures
94. Review of administrative action procedures
95. Revocation of decisions
96. Interpretation

CHAPTER 7

REGULATORY INSTRUMENTS

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Regulatory instruments

97. Interpretation
98. Process for making regulatory instruments
99. Substantially different regulatory instrument
100. Urgent regulatory instruments
101. Part does not limit other consultation
102. Making, publication and commencement of regulatory instruments
103. Submission of regulatory instruments to Parliament
104. Reports on consultation processes

Part 2

Standards

105. Prudential standards
106. Conduct standards
107. Joint standards
108. Additional matters for making standards
109. Standards requiring concurrence of Reserve Bank
110. General
Karolo 3

Khansele ya Ditona ya Lephata la Ditšhelete

83. Khansele ya Ditona ya Lephata la Ditšhelete
84. Dikopano
85. Tshireletso ya barekedi ba ditšhelete go ya ka melao ya lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto le Consumer Protection Act
86. Tekanyetso e e ikemetseng ya nonofo ya tirisanommogo le kopano

KGAOLO 6

DITIRO TSA TSAMAI SO

Karolo 1

Dikomiti tsa tiro ya tsamaiso

87. Go tlhongwa le botokololo
88. Dipeelo tsa botokololo
89. Dikopano
90. Tiriso ya Karolo go Khansele ya Ombud

Karolo 2

Bosiamisi jwa tsamaiso

91. Tirego ya Promotion of Administrative Justice Act go tiro ya tsamaiso ka baloaci ba lephata la ditšhelete
92. Ditsamaiso mabapi le tiro ya tsamaiso e e tsepameng go ya ka Molao
93. Dikgato tsa go tlhomamisa kgotsa go tlahololaditsamaiso tsa tiro ya tsamaiso
94. Thadiso ya ditsamaiso tsa kgato ya tsamaiso
95. Kgogelomorago ya ditshweto
96. Tlhaloso

KGAOLO 7

DIDIRISWA TSA BOLAODI

Karolo 1

Didiriswa tsa bolaodi

97. Tlhaloso
98. Dikgato tsa go dira didiriswa tsa bolaodi
99. Didiriswa tsa bolaodi tsa pharologano e kgolo
100. Didiriswa tsa bolaodi tsa potlako
101. Karolo ga e lekanyetse ditherisano tse dingwe
102. Go dirwa, go phasalatswa le tshimololo ya didiriswa tsa bolaodi
103. Thomelo ya didiriswa tsa bolaodi kwa Palamenteng
104. Dipegeo ka ga dikgato tsa therisano

Karolo 2

Maemo

105. Maemo a tlhokomelo
106. Maemo a boitshwaro
107. Maemo a a kopantsweng
108. Merero ya tlaleletso ya go dira maemo
109. Maemo a a tlhokang tumelelo ya Banka ya Resefe
110. Kakaretso
CHAPTER 8

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Part 1

Licensing requirements

111. Licence requirement in respect of providers of financial products and financial services, and market infrastructures

Part 2

Licences required in terms of section 111(1)(b) or (2) or section 162

112. Interpretation
113. Power to grant licences
114. Request for further information or documents by responsible authority
115. Relevant matters for application for licence
116. Determination of applications
117. Reporting obligations of licensee
118. Licences not transferable
119. Variation of licences
120. Suspension of licences
121. Revocation of licences
122. Continuation of licensed activity despite suspension or revocation of licence
123. Procedure for varying, suspending and revoking licences
124. Applications for licences

Part 3

Provisions relating to all licences under financial sector laws

125. Application
126. Concurrence of financial sector regulators on licensing matters
127. Compulsory disclosure of licences
128. Publication

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INFORMATION GATHERING, SUPERVISORY ON-SITE INSPECTIONS AND INVESTIGATIONS

Part 1

Application and interpretation

129. Application and interpretation of Chapter
130. Legal professional privilege

Part 2

Information gathering

131. Information gathering
Molao wa Taolo ya Lephata la Ditšelete, 2017

KGAOLO 8

KABO YA LAESENSE

Karolo 1

Di祐hokegotsa kaboyalaesense

111. Tlhokegotsa ya lasense mabapi le batlamedi bi dikuno tsa ditšelete, ditirelo tsa ditšelete le ditlhelaganyetsa tsa popegotheo ya mebara ka.

Karolo 2

Dilaesense tse di tlhokesang go ya ka karolo III(1)(b) kgotsa (2) kgotsa karolo 162

112. Tlhaloso
113. Thata ya go aba dilaesense
114. Kopo ya tshedimosetso e nngwe kgotsa dikwalo ba bothati jo bo rweleng maikarabelo
115. Merero e e maleba ya go dira kopo ya lasense
116. Tlhomatisko ya dikopo
117. Go baga ditlamego tsa moabelwalaesense
118. Dilaesense tse di sa sutiisiweng
119. Pharologantsho ya dilaesense
120. Kemiso ya dilaesense
121. Phediso ya dilaesense
122. Go tselwa pele ga tiro e e abetsweng lasense go sa kgathalesege tshegotsa kgotsa phediso ya laesense
123. Tsamaiso mabapi le go farologanya, go sekega le go fedisa dilaesense
124. Go dira kopo ya laesense

Karolo 3

Dikabelo tse di amanang le dilaesense tsotho tse di ka fa tlae ga melao ya lephata la ditšelete

125. Tiragatso
126. Tumalano ya balaodi ba lephata la ditšelete ka ga merero ya kabo ya laesense
127. Tshenolo ya pateletso ya dilaesense
128. Phasalatso

KGAOLO 9

KGOBOKANYO YA TSHEDIMOSETSO, DITLHATLHOBO TSA BOTLHOKOMEDI TSA KWA TIRONG LE DIPATLISISO

Karolo 1

Tiragatso le tlahoso

129. Tiragatso le tlahoso ya Kgaolo
130. Tshwanelo ya badiredi bi tsa molao

Karolo 2

Kgobokanyo ya tshedimosetso

131. Kgobokanyo ya tshedimosetso

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132. Powers to conduct supervisory on-site inspections
133. Interference with supervisory on-site inspections

Part 4

Investigations

134. Investigators
135. Powers to conduct investigations
136. Powers of investigators to question and require production of documents or other items
137. Powers of investigators to enter and search premises
138. Warrants
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Part 5

Protections

140. Protections

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ENFORCEMENT

Part 1

Guidance notices and interpretation rulings

141. Guidance notices
142. Interpretation rulings

Part 2

Directives by financial sector regulators

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145. Removal of person from position
146. Consultation requirements
147. Period for compliance
148. Revoking directives
149. Compliance with directives
150. Application and interpretation

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Enforceable undertakings

151. Enforceable undertakings

Part 4

Court orders

152. Compliance with financial sector laws
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Karo 3

Ditlhatlhobo tsa botlhokomedi kwa tirong

132. Ditlhatlhobo tsa go dira ditlhatlhobo tsa botlhokomedi kwa tirong
133. Go ithunyatshunya mo ditlhatlhobong tsa botlhokomedi kwa tirong

Karo 4

Dipatlisiso

134. Babatlisisi
135. Ditlhatlhobo tsa go dira dipatlisiso
136. Ditlhatlhobo tsa babatlisisi tsa go botsolotsa le go kopa go tlhagiswa ga makwalo kgotsa dintilha tse dingwe
137. Ditlhatlhobo tsa babatlisisi tsa go tseeno le go phuruphutsa mo mafelong
138. Dithebolelo
139. Go ithunyatshunya mo dipatlisisong

Karo 5

Ditshireletso

140. Ditshireletso

KGAOLO 10

KGATELELO

Karo 1

Dikitsiso tsa kaelo le ditshwetso tsa tlhaloso

141. Dikitsiso tsa kaelo
142. Ditshwetso tsa tlhaloso

Karo 2

Ditaelo tsa balaodi ba lephata la ditšhelete

143. Ditaelo ka Bothati jwa Tlhokomelo
144. Ditaelo ka Bothati jwa Boitshwaro jwa Lephata la Ditšhelete
145. Go ntshiwa ga batho mo maemong
146. Ditlhokego tsa ditherisano
147. Paka ya go ikamany
148. Kgogelomorago ya ditaelo
149. Boikamanyo le ditaelo
150. Tiragatso le tlhaloso

Karo 3

Ditumalano tse di gatelelwang

151. Ditumalano tse di gatelelwang

Karo 4

Ditaelo tsa Kgotlatshekelo

152. Go ikamany le melao ya lephata la ditšhelete
Part 5

Debarment

153. Debarment
154. Consultation requirements
155. Where person cannot be located

Part 6

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156. Leniency agreements

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Significant owners

157. Significant owners
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Financial conglomerates

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161. Notification by eligible financial institution
162. Licensing requirements for holding companies of financial conglomerates
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164. Standards for financial conglomerates
165. Directives to holding companies
166. Approval and prior notification of acquisitions and disposals

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Kganelo

153. Kganelo
154. Ditlhokego tsa therisano
155. Fa motha a sa kgone go fitlhelelwa

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156. Ditumalano tsa kutwelobotlhoko

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157. Beng ba ba botlhokwa
158. Dithebolo le dikitsiso tse di amanang le beng ba ba botlhokwa
159. Maemo mabapi le, le ditaelo tsa molaoedi go, beng ba ba botlhokwa

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160. Go tlhongwa ga ditheo tsa ditšhelete tse di kopaneng
161. Kitisiso ka setheo sa ditšhelete se se matshwane
162. Tilhoko ya kabo ya laesene go dikgwebo tse di okameng tse dingwe tsa ditheo tsa ditšhelete tse di kopaneng
163. Dikgwebo tse di okameng tse dingwe tse di sa direng tsa ditheo tsa ditšhelete tse di kopaneng
164. Maemo a ditheo tsa ditšhelete tse di kopaneng
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215. Tlamego ya go ikamanyo le melawana e e laolang ya dikema tse di amogelesegang tsa bodirelo jwa ombud
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**ŠEJULE 1**

*MELAO YA LEPHATA LA DITŠHELETE*

**ŠEJULE 2**

*BOTHATI JO BO RWALANG MAIKARABELO*

**ŠEJULE 3**

*MAKWALOA ATLA PHASALATSWANG MO REJISETARENG*

**ŠEJULE 4**

*DITLHABOLOLO LE DIPHADESISO*
BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

CHAPTER 1

INTERPRETATION, OBJECT AND ADMINISTRATION OF ACT

Part I

Definitions

1. (1) In this Act, unless the context indicates otherwise—
   “administrative action” has the same meaning ascribed to it in terms of section 1 of the Promotion of Administrative Justice Act;
   “administrative action committee” means a committee established in terms of section 87;
   “administrative action procedure” means a procedure determined in terms of section 92;
   “administrative penalty order” means an order in terms of section 167;
   “Banks Act” means the Banks Act, 1990 (Act No. 94 of 1990);
   “benchmark” means any index—
     (a) by reference to which the amount payable under a financial instrument or a financial contract, or the value of a financial instrument, is determined; or
     (b) that is used to measure the performance of an investment fund with the purpose of tracking the return of such index or of defining the asset allocation of a portfolio or of computing the performance fees;
   “business document” means a document held by a person in connection with carrying on a business;
   “business premises” means premises, including a building or a part of a building, used by a person for carrying on a business;
   “Chairperson” means the person holding the office of the Chairperson of the Tribunal in terms of section 220(4), and includes a person acting as the Chairperson;
   “Chief Executive Officer” means the Chief Executive Officer of the Prudential Authority appointed in terms of section 36(1), and includes a person acting as the Chief Executive Officer;
   “Chief Ombud” means a person appointed as the Chief Ombud of the Ombud Council in terms of section 188;
   “collective investment scheme” has the same meaning ascribed to it in terms of section 1 of the Collective Investments Schemes Control Act, 2002 (Act No. 45 of 2002);
   “Commissioner”, in relation to the Financial Sector Conduct Authority, means the Commissioner of the Financial Sector Conduct Authority appointed in terms of section 61(1), and includes a person acting as the Commissioner;
   “Companies Act” means the Companies Act, 2008 (Act No. 71 of 2008);
   “company” has the same meaning ascribed to it in terms of section 1 of the Companies Act;
   “Competition Commission” means the Competition Commission established in terms of section 19 of the Competition Act, 1998 (Act No. 89 of 1998);
   “conduct standard” means a standard made in terms of section 106;
   “Consumer Protection Act” means the Consumer Protection Act, 2008 (Act No. 68 of 2008);
   “contractor” means a person with whom a financial institution has entered into an outsourcing arrangement but does not include an independent contractor as described in the definition of “staff member”;}
A O TSENNGWE MO TAOLONG ke Palamente ya Rephaboliki ya Aforika Borwa, jaana:—

KGAOLO 1

TLHALOSO, MAITLHOMO LE TSAMAIISO YA MOLAO

Karolo 1

Thaloso

Ditlhaloso

1. (1) Mo Molaong ono, ntle le fa bokao bo tlhalosa ka mokgwa mongwe—
   “tiro ya tsamaiso” e na le bokao jo bo tshwanang le jo e tlhalositsweng ka jona go ya ka karolo 1 ya Promotion of Administrative Justice Act;  
   “komiti ya tiro ya tsamaiso” e kaya komiti e e tlhomilweng go ya ka karolo 87;  
   “kgato ya tiro ya tsamaiso” e kaya kgato e e tlhomamisitsweng go ya ka karolo 92;  
   “taelo ya kotlha yo tsamaiso” e kaya taelo go ya ka karolo 167;  
   “Banks Act” o kaya Banks Act, 1990 (Molao 94 wa 1990);  
   “kaelo” e kaya tshupanekelo ngwe le ngwe—
   (a) ka tshupetsotso e mo go yona tuelo e e duelwang ka fa tlase ga sediriso sa ditšelhele kgotsa konteraka ya ditšelhele, kgotsa boleng jwa sediriso sa ditšelhele, bo tlhomamiswang; kgotsa  
   (b) e e dirisetsweng go lekanyetsa tiro ya letšela ka peletso ka maitlhomo a go sala morago mofthala wa poelo ya tshupanekelo eo kgotsa ya go tlhalosa kabo ya tho yo phothelelo kgotsa go tdseya tiragatso ya dituelelo mo khomputareng;  
   “lokwalo la kgwebo”, mabapi le motho, le kaya lokwalo le le tshwenengke le motho mabapi le go tsweletse pele kgwebo;  
   “mafelela a kgwebo” a kaya mafelela, go akaretsa le moa kgotsa karolo ya maogo, e e diriswang ke motho go tsweletse kgwebo pele;  
   “Modulasetilo” o kaya motho yo o mo ofising ya Modulasetilo wa Lekgotla go ya ka karolo 220(4), le go akaretsa nama-o-sa-tshwere wa Modulasetilo;  
   “Motlhankedimo go la Khuduthama” o kaya Motlhankedimo go la Khuduthama go la Bothathi jwa Thokomelos ya o thapilweng go ya ka karolo 36(1), le go akaretsa nama-o-sa-tshwere wa Motlhankedimo go Khuduthama;  
   “Ombud yo Mogolo” o kaya motho yo o thapilweng jaaka Ombud yo Mogolo wa Khansele ya Ombud go ya ka karolo 188;  
   “sekema sa peletsonnomo” se na le bokao jo bo tshwanang le jo se tlhalositsweng ka jona mo karolong 1 ya Collective Investments Schemes Control Act, 2002 (Molao 45 wa 2002);  
   “Khominya” o kaya le Bothathi jwa Boitshwarrow jwa Lephata la Ditšelhele, o kaya Khomišenara wa Bothathi jwa Boitshwarrow jwa Lephata la Ditšelhele yo o thapilweng go ya ka karolo 61(1), le go akaretsa nama-o-sa-tshwere wa 40 Khomišenara;  
   “Companies Act” o kaya Companies Act, 2008 (Molao 71 wa 2008);  
   “setlamo” se na le bokao jo bo tshwanang le jo se tlhalositsweng ka jona mo karolong 1 ya Companies Act;  
   “Khominya e ka Gaisano” e kaya Khomišene ya Gaisano e e tlhomilweng go ya ka karolo 19 ya Competition Act, 1998 (Molao 89 wa 1998);  
   “maemo a boitshwarrow” a kaya maemo a a dirilweng go ya ka karolo 106;  
   “Moloato” o kaya Moloato ya Rephaboliki ya Aforikaborwa, 1996;  
   “Consumer Protection Act” o kaya Consumer Protection Act, 2008 (Molao 68 wa 2008);  
   “mokonteraka” o kaya motho yo setheo sa ditšelhele se dirileleng thulaganyo ya kabelano ya ka ditirelo go tswa kwa ntle nme fela a sa akaretsa mokonteraka yo o ikemetseng jaaka go bonetswe pele mo tlhalosong ya “leloko la badiri”;  
   “tiro ya taolo” e kaya ngwe le ngwe ya tse di latelang:  
   (a) Tiro ya boloadi jwa kotsi;  
   (b) tiro ya boikamanyi;
“control function” means each of the following:
(a) The risk management function;
(b) the compliance function;
(c) the internal audit function; and
(d) the actuarial function;

“Council for Medical Schemes” means the Council for Medical Schemes established in terms of section 3 of the Medical Schemes Act;

“Court” means a Superior Court as defined in section 1 of the Superior Courts Act, 2013 (Act No. 10 of 2013);

“credit” has the same meaning ascribed to it in section 1 of the National Credit Act;

“credit agreement” has the same meaning ascribed to it in section 1 of the National Credit Act;

“debarment order” means an order made in terms of section 153 or 205;

“Deputy Commissioner” means a person appointed as a Deputy Commissioner in terms of section 61(2), and includes a person acting as a Deputy Commissioner;

“Deputy Governor” means a person appointed in terms of section 4 or 6(1)(a) of the Reserve Bank Act as a Deputy Governor of the Reserve Bank;

“Director-General” means the Director-General of the National Treasury, and includes a person acting as the Director-General;

“disqualified person” means a person who—
(a) is engaged in the business of a financial institution, or has a direct material financial interest in a financial institution, except as a financial customer;
(b) is a member of the Cabinet, a member of the Executive Council of a province, a member of the National Assembly, a permanent delegate to the National Council of Provinces, a member of a provincial legislature or a member of a municipal council;
(c) is an office-bearer of, or is in a remunerated leadership position in, a political party;
(d) has at any time been removed from an office or position of trust;
(e) is or has been subject to debarment in terms of a financial sector law;
(f) is or has at any time been sanctioned for contravening a law relating to the regulation or supervision of financial institutions, or the provision of financial products or financial services or a corresponding law of a foreign jurisdiction;
(g) is or has at any time been convicted of—
(i) theft, fraud, forgery, uttering of a forged document, perjury or an offence involving dishonesty, whether in the Republic or elsewhere; or
(ii) an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Parts 1 to 4, or section 17, 20 or 21 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or a corresponding offence in terms of the law of a foreign country;
(h) is or has been convicted of any other offence committed after the Constitution came into effect, where the penalty imposed for the offence is or was imprisonment without the option of a fine;
(i) is subject to a provisional sequestration order or is an unrehabilitated insolvent;
(j) is disqualified from acting as a member of a governing body of a juristic person in terms of applicable legislation; or
(k) is declared by the High Court to be of unsound mind or mentally disordered, or is detained in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002);

“document” includes—
(a) a book, record, security, invoice, account and any other information appearing on a physical object;
(b) information stored or recorded electronically, digitally, photographically, magnetically or optically; and
(c) any device on, or by means of, which information is recorded or stored;
(c) tiro ya boruni jwa ka fu gare; le

(d) tiro ya bogakolodi;

“Khansele ya Dikema ts'a Kalafi” e kaya Khansele ya Dikema ts'a Kalafi e e tlhomilweng go ya ka karolo 3 ya *Medical Schemes Act*;

“Kgotlatshekelo” e kaya Kgotlatshekelokgolo jaaka e tlahalotswe mo karolong 1 ya *Superior Courts Act*, 2013 (Molao 10 wa 2013);

“sekolo” se na le bokao jo bo tshwanang le jo bo fithelwang mo karolong 1 ya Molao wa Sekolo wa Bosetšhaba;

“tumalano ya sekolo” e na le bokao jo bo tshwanang le jo bo fithelwang mo karolong 1 ya Molao wa Sekolo wa Bosetšhaba;

“taelo ya kganelo” e kaya taelo e e dirilweng go ya ka karolo 153 kgotsa 205;

“Motlatsakomišenara” o kaya motho yo o thapilweng jaaka Motlatsakomišenara go ya ka karolo 61(2), le go akaretsa nama-o-sa-tshwere wa Motlatsakomišenara;

“Motlatsammmusisi” o kaya motho yo o thapilweng go ya ka karolo 4 kgotsa 6(1)(a) ya *Reserve Bank Act* jaaka Motlatsammmusisi wa Banka ya Resefe;

“Mokaedikakaretso” o kaya Mokaedikakaretso wa Matlolo a Bosetšhaba, le go akaretsa nama-o-sa-tshwere wa Mokaedikakaretso;

“motho yo o ileditsweng” o kaya motho yo—

(a) o samaganeng le kgwebo ya setheo sa ditshelete, kgotsa yo o nang le kgalathego e e thhamaleseng mo setheong sa ditšhelete, ntle le fa e se jaaka morekedi wa ditšhelete;

(b) e leng leloko la Kabinete, leloko la Khanselekhuduthama nga yo porofense, leloko la Kokoano Bosetšhaba, kemedi ya leruri ya Khansele ya Bosetšhaba ya Diporofense, leloko la kgotlathemolao la yo porofense kgotsa leloko la khanele ya yamakgagaga;

(c) e leng modiredi wa, kgotsa o mo amemong a a duelang a boetledipole wa, mokgatlho wa sepolotiki;

(d) ka nako ngwe le ngwe a kileng a tloswa mo ofising kgotsa maemong a terasete;

(e) o kgotsa kileng a ganelweng go ya ka molao wa lephata la ditšhelete;

(f) o kgotsa kileng ka nako ngwe le ngwe a othaiwa semmuso ka nthha ya go tliola molao o o amanang le taolo kgotsa tlhathiboho ya ditheo ts'a ditšhelete, kgotsa dikabelo ts'a dikuno ts'a ditšhelete kgotsa ditirelo ts'a ditšhelete kgotsa ditšheletše le molao o o tsamaelanang le wa taolo wa boditshešo;

(g) o kgotsa a kileng ka nako ngwe le ngwe a bonwa molato wa—

(i) bogodu, tsietsi, kutso ka leina, tlhagiso ya lokwalo le le utsitsweng, maikano a maaka kgotsa tlolemolao e e tshedimosetso nngwe le nngwe e e tlhagelelang mo selong ka namana;


(h) o kgotsa a kileng a bonwa molato wa tlolemolao ngwe le ngwe e e a dirileng morago ga fa Molaotše o sena go tsengwana mo tirišeng, moo kotlhao e e neng e pateleditswe mo tlolemolao ke kgotsa e e le e lekatšholo ya go ya kgolegelong ntle le boikgethelo jwa tseko la ditšhelete;

(i) o lebanwe ke taelo ya kamogotho ya nakonyana kgotsa ke molotšo o sa kgopoleng;

(j) o ileditswes go ka na leloko la mokgatlho o o busang wa setheo go ya ka molawana o o maleba; kgotsa

(k) o tlhomaritswes go ke Kgotlatshekelokgolo go sa itekanelang mo tlhaloga-nyweng kgotsa setseno, kgotsa o emitswes go ya ka *Mental Health Act*, 2002 (Molao 17 wa 2002);

“lokwalo” le akaretsa—

(a) buka, rekoto, tho, lenanetheko, akhaonto le tshedimosetso ngwe le ngwe e e tlhagelelang mo selong ka namana;

(b) tshedimosetso e e bolokiweng kgotsa gatisitsweng seileketeroni, tshedimo-setsopalo, mo ditshwantsho, semakenete kgotsa ka pono; le

(c) sediriswa sengwe le sengwe ka ga, kgotsa ka, se tshedimosetso e gatisitsweng kgotsa bolokiweng;
“eligible financial institution” means each of the following:
(a) A financial institution licensed or required to be licensed as a bank in terms of the Banks Act;
(b) a financial institution licensed or required to be licensed as a long-term insurer in terms of the Long-term Insurance Act or a short-term insurer in terms of the Short-term Insurance Act;
(c) a market infrastructure; and
(d) a financial institution prescribed in Regulations for the purposes of this definition;
“enforceable undertaking” means an undertaking referred to in section 151 or 203;
“Executive Committee” means the Committee established in terms of section 60;
“Financial Advisory and Intermediary Services Act” means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);
“financial conglomerate” means a group of companies designated as a financial conglomerate in terms of section 160;
“financial crime” includes an offence in terms of—
(a) a financial sector law;
(b) sections 2, 4, 5 and 6 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);
(c) the Financial Intelligence Centre Act; or
(d) section 4 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004);
“financial customer” means a person to, or for, whom a financial product, a financial instrument, a financial service or a service provided by a market infrastructure is offered or provided, in whatever capacity, and includes—
(a) a successor in title of the person; and
(b) the beneficiary of the product, instrument or service;
“financial inclusion” means that all persons have timely and fair access to appropriate, fair and affordable financial products and services;
“financial institution” means any of the following, other than a representative:
(a) A financial product provider;
(b) a financial service provider;
(c) a market infrastructure;
(d) a holding company of a financial conglomerate; or
(e) a person licensed or required to be licensed in terms of a financial sector law;
“financial instrument” means—
(a) a share as defined in section 1 of the Companies Act;
(b) a depository receipt and other equivalent instruments;
(c) a debt instrument such as a debenture or a bond, but not a credit agreement;
(d) money market securities as defined in section 1(1) of the Financial Markets Act;
(e) a derivative instrument as defined in section 1(1) of the Financial Markets Act; or
(f) a warrant, certificate, securitisation instrument or other instrument acknowledging, conferring or creating rights to subscribe to, acquire, dispose of, or convert, the financial instruments referred to in paragraphs (a) to (e);
“Financial Intelligence Centre” means the Financial Intelligence Centre established in terms of section 2 of the Financial Intelligence Centre Act;
“Financial Intelligence Centre Act” means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);
“Financial Markets Act” means the Financial Markets Act, 2012 (Act No. 19 of 2012);
“financial product” means a financial product as defined in section 2;
“financial product provider” means a person that, as a business or as part of a business, provides a financial product;
“ditheo tsa ditšhelete tse di matshwaneli” di kaya nngwe le nngwe ya tse di latelang:

(a) Setheo sa ditšhelete se se abetsweng laesense kgotsa se tlhoka go abelwa laesense jaaka banka go ya ka Banks Act;

(b) setheo sa ditšhelete se se abetsweng laesense kgotsa se tlhoka go abelwa laesense jaaka motlamedi wa inšorensa wa paka e e telele go ya ka Long-term Insurance Act kgotsa motlamedi wa inšorensa wa paka e e khutshwane go ya ka Short-term Insurance Act;

(c) thulaganyeto ya popegotheo ya mmara ка;

(d) setheo sa ditšhelete se se neetsweng mo Melawaneng go ya ka maithhomo a tihalošo eno;

“tumalano e e gatelelwang” e kaya tumalano e e kaílweng mo karolong 151 kgotsa 203;

“Komiti ya Khuduthamaga” e kaya Komiti e e tlhornilweng go ya ka karolo 60;

“Financial Advisory and Intermediary Services Act” o kaya Financial Advisory and Intermediary Services Act, 2002 (Molao 37 wa 2002);

“ditheo tsa ditšhelete tse di kopaneng” di kaya setlhopho sa ditlamo tse di thapilweng jaaka setheo sa ditšhelete go ya ka karolo 160;

“bosenyi jwa ditšhelete” bo akaretse tolomolao go ya ka—

(a) molao wa lephata la ditšhelete;

(b) dikarlo 2, 4, 5 le 6 tsa Prevention of Organised Crime Act, 1998 (Molao 121 wa 1998);

(c) Financial Intelligence Centre Act; kgotsa
d) karolo 4 ya Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Molao 33 wa 2004);

“morekedi wa ditšhelete” o kaya moθho yo, kuno ya ditšhelete, sediriswa sa ditšhelete, tirelo ya ditšhelete kgotsa tirelo e e tlametsweng ke thulaganyeto ya popegotheo ya mmara ka abelwang kgotsa tlamelweng, kgotsa boemong jwa, ka maemo afe kgotsa afe, gape o akaretse—

(a) mothathami wa maemo a moθho; le

(b) moamogela ditshwanelo tsa kuno, sediriswa kgotsa tirelo;

“tsenyeletso yatsa ditšhelete” e kaya gore batho botlhie ba na le phitshleleo e e mo nakong e e bie e lelameng go dikumo le ditirelo tsa ditšhelete tse di siameng, lolameng le go rekega;

“setheo sa ditšhelete” se kaya nngwe le nngwe ya tse di latelang, e sele go na le kemedi:

(a) Moabi wa kuno ya ditšhelete;

(b) Moabi wa tirelo ya ditšhelete;

(c) thulaganyeto ya popegotheo ya mmara ka;

(d) kgwebo e e okameng tse dingwe ya ditheo tse di kopantsweng tsa ditšhelete; kgotsa

(e) moθho yo o abetsweng laesense kgotsa yo o tlhokang go abelwa laesense go ya ka molao wa lephata la ditšhelete;

“sediriswa sa ditšhelete” se kaya—

(a) šere jaaka e tihalositswe mo karolong 1 ya Companies Act;

(b) setlankan sa peeleto le didiriswa tse dingwe tse di lekanang;

(c) sediriswa sa molato se se jaaka tshupamolato kgotsaibontse, mme e seng tumalano ya sekolo;

(d) tshireletso ya mmara ka wadi jaaka e tihalositswe mo karolong 1(1) ya Financial Markets Act;

(e) sediriswa se se tswang jaaka go tihalositswe mo karolong 1 (1) ya Financial Markets Act;

(f) thebolo, setfšiketi, sediriswa sa bosireletsi kgotsa sediriswa sengwe se se amogelaŋ, abelang kgotsa tlhamang ditshwanelo tsa go nna tokololo go, fitšilela, rulaganya, kgotsa fetola, didiriswa tsa ditšhelete tse di kaílweng mo ditemaneng (a) go fitši go (e);

“Senthara ya Bothhodi ba tsa Ditšhelete” e kaya Senthara ya Bothhodi ba tsa Ditšhelete e e thomilweng go ya ka karolo 2 ya Financial Intelligence Centre Act;

“Financial Intelligence Centre Act” e kaya Financial Intelligence Centre Act, 2001 (Molao 38 wa 2001);

“Financial Markets Act” e kaya Financial Markets Act, 2012 (Molao 19 wa 2012);
“financial sector body” means each of the following:
(a) The Prudential Authority;
(b) the Financial Sector Conduct Authority;
(c) the Tribunal;
(d) the Ombud Council;
(e) the Office of the Pension Funds Adjudicator; and
(f) the Office of the Ombud for Financial Services Providers;
“Financial Sector Conduct Authority” means the authority established in terms of section 56;
“financial sector law” means—
(a) this Act;
(b) a law listed in Schedule 1;
(c) a Regulation made in terms of this Act or made in terms of a law referred to in Schedule 1; or
(d) a regulatory instrument made in terms of this Act or made in terms of a law referred to in Schedule 1;
“financial sector regulator” means—
(a) the Prudential Authority;
(b) the Financial Sector Conduct Authority;
(c) the National Credit Regulator, but only in respect of Parts 2, 3 and 5 of Chapter 2, and Parts 1, 2 and 3 of Chapter 5; or
(d) the Financial Intelligence Centre, but only in respect of Parts 2, 3 and 5 of Chapter 2, and Parts 1, 2 and 3 of Chapter 5;
“financial service” means a financial service as defined in section 3;
“financial service provider” means a person that, as a business or as part of a business, provides a financial service;
“financial stability” means financial stability as defined in section 4;
“Financial Stability Oversight Committee” means the committee established in terms of section 20;
“financial system” means the system of institutions and markets through which financial products, financial instruments and financial services are provided and traded, and includes the operation of a market infrastructure and a payment system;
“Financial System Council of Regulators” means the council established in terms of section 79(1);
“financial year” means a period of 12 months commencing on 1 April of each year;
“foreign financial instrument” means an instrument provided outside the Republic, or provided by a person outside the Republic, that is similar to, or corresponds to, a financial instrument;
“foreign financial product” means a facility or arrangement provided outside the Republic, or provided by a person outside the Republic, that is similar to, or corresponds to, a financial product;
“Friendly Societies Act” means the Friendly Societies Act, 1956 (Act No. 25 of 1956);
“governing body” means—
(a) in relation to a financial institution, a person or body of persons, whether elected or not, that manages, controls, formulates the policy and strategy of the financial institution, directs its affairs or has the authority to exercise the powers and perform the functions of the financial institution, and includes—
(i) the general partner of an en commandite partnership or the partners of any other partnership;
(ii) the members of a close corporation;
(iii) the trustees of a trust;
(iv) the board of directors of a company; and
(v) the board of a pension fund referred to in section 7A of the Pension Funds Act; and
(b) in relation to an ombud scheme, the body of persons that oversees the affairs of the ombud scheme;
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“kuno ya ditšhelete” e kaya kuno ya ditšhelete jaaka e tlhalositswe mo karolong 2;

“moabi wa dikuno tsa ditšhelete” o kaya motho yo, jaaka kgwebo kgotsa karolo ya kgwebo, a tlamelang ka kuno ya ditšhelete;

“mokgatlhoo walephata la ditšhelete” o kaya ngwe le ngwe ya tse di latelang: 5
(a) Bothati jwa Tlhokomelo;
(b) Bothati jwa Boitshwara jwa Lephata la Ditšhelete;
(c) Lekgotla;
(d) Khansele ya Oumbd;
(e) Ofisi ya Moatlhodi wa Matlole a Penšene; le
(f) Ofisi ya Oumbd wa Batlamedi ba Ditirelo tsa Ditšhelete;

“Bothati jwa Boitshwara jwa Lephata la Ditšhelete” bo kaya bothati jo bo tlhomilweng go ya ka karolo 56;

“molao wa lephata la ditšhelete” o kaya—
(a) Molao ono;
(b) molao o o neetsweng mo Šejuleng 1;
(c) Molawana o o dirilweng go ya ka Molao ono kgotsa o o dirilweng go ya ka molao o o o kailweng mo Šejuleng 1; kgotsa
(d) sediriswa sa taolo se se dirilweng go ya ka Molao ono kgotsa se se dirilweng go ya ka molao o o kailweng mo Šejuleng 1; 20

“molaodi wa lephata la ditšhelete” o kaya—
(a) Bothati jwa Tlhokomelo;
(b) Bothati jwa Boitshwara jwa Lephata la Ditšhelete;
(c) Molaodi wa Bosetšhaba wa Sekoloto, fela mabapi le Dikarolo 2, 3 le 5 tsa Kgalo 2, le Dikarolo 1, 2 le 3 tsa Kgalo 5; kgotsa
(d) Senthara ya Bothlodi jwa Ditšhelete, fela mabapi le Dikarolo 2, 3 le 5 tsa Kgalo 2, le Dikarolo 1, 2 le 3 tsa Kgalo 5;

“tirelo ya ditšhelete” e kaya tirelo ya ditšhelete jaaka e tlhalositswe mo karolong 3;

“moabi wa tirelo ya ditšhelete” o kaya motho yo, jaaka kgwebo kgotsa karolo ya kgwebo, a tlamelang ka tirelo ya ditšhelete;

“tlhomamo ya ditšhelete” e kaya tlhomamo ya ditšhelete jaaka e tlhalositswe mo karolong 4;

“Komiti ya Kelothoho ya Tlhomamo ya Ditšhelete” e kaya komiti e e tlhomilweng go ya ka karolo 20;

“thulaganyo ya ditšhelete” e kaya thulaganyo ya ditheo le mebaraka eo ka yona dikuno tsa ditšhelete, didiriswa tsu ditšhelete le ditirelo tsa ditšhelete di tlamelweng le go gweba ka tsona, le go akaretso go dira ga thulaganyetso ya popegotheo ya mmaraka le thulaganyo ya tefo;

“Khansele ya Balaodi ba Thulaganyo ya Ditšhelete” e kaya khansele e e tlhomilweng go ya ka karolo 79(1);

“ngwaga wa ditšhelete” e kaya paka ya dikgwedi tse 12 go simolola ka 1 Moranang wa ngwaga ngwe le ngwe;

“kuno ya ditšhelete ya boditšhaba” e kaya sediriso kgotsa thulaganyo e e tlamelweng kwa ntše ga Rephaboliki, kgotsa e e tlamelweng ke motho kwa ntše ga Rephaboliki, e e tshwanang le kgotsa e e tsamaelang le le tshwarena le kgotsa ya ditšhelete;

“Friendly Societies Act” o kaya Friendly Societies Act, 1956 (Molao 25 wa 1956);

“mokgatlhoo o o busang” o kaya—
(a) mabapi le setheo sa ditšhelete, motho kgotsa mokgatlho wa batho, ba tlhomilweng kgotsa ba sa tlhomilweng, ba ba laoleng, tsemaisaneng, thamang 50 pholisi le leamo tsu, lebisa merero ya bona kgotsa ba na le thetha ya go dirisa ditheo le go le dirisa tsu, setheo sa ditšhelete, le go akaretso—
(i) mogwebisani wa kakaretso wa se lekanyeditsweng kgotsa bagwebisani ba sempхо go sengwe le sengwe;
(ii) maloko a setlamotetanyetsobeng; 55
(iii) batlhokomedi ba terasele;
(iv) bolo ya bakaedi ba setlamo; le
(v) bolo ya letlele la penšene le le kailweng mo karolong 7A ya Pension Funds Act; le
(b) mabapi le sekema sa oumbd, o kaya mokgatlho wa batho o o tlhomelang merero ya sekema sa oumbd;
“Governor” means the person appointed in terms of section 4 or 6(1)(a) of the Reserve Bank Act as the Governor of the Reserve Bank;

“group of companies” has the same meaning ascribed to it in terms of section 1 of the Companies Act;

“head of a control function” means a person appointed by a financial institution to ensure the performance of a control function, and includes a person so appointed through an outsourcing arrangement;

“holding company” means a holding company as defined in section 1 of the Companies Act, being a company incorporated in the Republic;

“index” means any figure—
(a) that is published or made available to the public; and
(b) that is regularly determined—
(i) entirely or partially by the application of a formula or any other method of calculation, or by an assessment; and
(ii) on the basis of the value of one or more underlying assets or prices, and any derivative thereof; and
(c) is determined to be an index for this purpose by the Financial Sector Conduct Authority;

“industry ombud scheme” means an arrangement with the following characteristics:
(a) The arrangement is established by one or more financial institutions;
(b) the purpose of the arrangement is to facilitate mediation and resolution of complaints from financial customers about financial institutions that are members of the ombud scheme; and
(c) mediation or resolution of the complaints in terms of the ombud scheme is undertaken by an ombud appointed in terms of the ombud scheme’s governing rules;

“Inter-Ministerial Council” means the Financial Sector Inter-Ministerial Council established in terms of section 83(1);

“interpretation ruling” means a statement in terms of section 142;

“inter-related” has the same meaning ascribed to it in terms of section 1 of the Companies Act;

“investigator” means a person appointed as an investigator in terms of section 134;

“joint standard” means a standard made in terms of section 107;

“juristic person” includes—
(a) a company, close corporation or co-operative incorporated or registered in terms of legislation whether in the Republic or elsewhere;
(b) an association, partnership, club or other body of persons of whatever description, corporate or unincorporated;
(c) a trust or trust fund;
(d) an entity referred to in paragraph (a), (b) or (c) that is in liquidation, under business rescue proceedings or under judicial management; and
(e) the estate of a deceased or insolvent person;

“key person”, in relation to a financial institution, means each of the following:
(a) A member of the governing body of the financial institution;
(b) the chief executive officer or other person in charge of the financial institution;
(c) a person other than a member of the governing body of the financial institution who makes or participates in making decisions that—
(i) affect the whole or a substantial part of the business of the financial institution; or
(ii) have the capacity to affect significantly the financial standing of the financial institution;
(d) a person other than a member of the governing body of the financial institution who oversees the enforcement of policies and the implementation of strategies approved or adopted by the governing body of the financial institution;
(e) the head of a control function of the financial institution; and
(f) the head of a function of the financial institution that a financial sector law requires to be performed;
“Mmusisi” o kaya motha yo o thapilweng go ya ka karolo 4 kgotsa 6(1)(a) ya Reserve Bank Act jaaka Mmusisi wa Banka ya Resefe;

“setlophsa sa ditlamo” se na le bokao jo bo tshwanang le jo se tlhalosisweng ka jona mo karolong 1 ya Companies Act;

“tlhogo ya tiro ya taolo” o kaya motha yo o thapilweng ke setheo sa ditšhelete go netefatsa go dira ga tiro ya taolo, le go akaretsa motha yo o thapilweng jalo ka thulaganyo ya go batla tirelo go tswa kwa ntle;

“kgweso e e okameng tse dingwe” e kaya kgweso e e okameng tse dingwe jaaka e tlhalosiswse mo karolong 1 ya Companies Act, e leng setlamo se se tsentsweng mo Rephaboliking;

“tshepanekelelo” e kaya pala ngwe le ngwe—
(a) e e phasaladitsweng kgotsa e e fitlhelelwang ke setšhaba; le
(b) e e tlhomamiswang nako le nako—
   (i) ka botlalo kgotsa e seng ka botlalo ka tiriso ya fomula kgotsa mokgwa mongwe le mongwe wa palelo, kgotsa ka tekolo; lo
   (ii) ka go leaega mo boleng jwa thoto kgotsa ditlhotlhwa tse di fitlhegileng, kgotsa ditswa dinwe le dingwe tsa tsona; le
(c) e tlhomamiswa go nna tshepanekelelo mabapi le maitlhomotho ano ke Bothati jwa Boitshwabor jwa Lebapha la Ditšhelete;

“sekema sa ombud wa bodirelo” se kaya thulaganyo ya dipharologantsho tse di latelang:
(a) Thulaganyo e tlhomilwe ke setšeo sa ditšhelete se le esi kgotsa go feta;
(b) maitlhomotho a tlhanego ke go holofatsa tsereganyo le tharabololo ya dingongorego ya tswe go badirisi ba ditšhelete ka ga dikuno tse di tsepameng tsa ditšhelete kgotsa ditire tsa ditšhelete; le
(c) tsereganyo kgotsa tharabololo ya dingongorego go ya ka sekema sa ombud e dirwa ke ombud yo o thapilweng go ya ka Melawana ya taolo ya sekema sa ombud;

“Khansele ya Ditona” e kaya Khansele ya Ditona ya Lebapha la Ditšhelete e e tlhomilweng go ya ka karolo 83(1);

“tshweto ya tlhalo” e kaya kanego go ya ka karolo 142;

“amanang” e na le bokao jo bo tshwanang le jo e tlhalosisweng ka jona mo karolong 1 ya Companies Act;

“mmatlisisi” o kaya motha yo o thapilweng jaaka mmatlisisi go ya ka karolo 134;

“maemo a a kopantsweng” a kaya maemo a a diirilweng go ya ka karolo 107;

“setheo se se mo molaong” se akaretsa—
(a) setlamo, setlamotekanyetsobeng kgotsa kgwebo tirisano e e tsonyeleditsweng kgotsa e e kwaditsweng go ya ka molawana o o ka tswang o le mo Rephaboliking kgotsa gongwe le gongwe;
(b) mokgatlho, semphato, kgotsa setlophsa kgotsa mokgatlho wa batho wa tlhalosito efe, tlhwaragano kgotsa go sa tlhwaraganang;
(c) terasete ya letlole la terasete;
(d) setheo se se ka faheng mo temaneng (a), (b) kgotsa (c) o o se lebaganeng le tswalokgwebo, ka fa tlase ga ditsamaisa tsa phaloso ya kgwebo kgotsa fa tlase ga taolo ya bothlodi; le
(e) ditlhotso tsa moswi kgotsa motha yo o phuthameng;

“motha yo o bothokwa”, mabapi le setheo sa ditšhelete, o kaya ngwe le ngwe ya tse di latelang:
(a) Leloko la mokgatlho o o busang wa setheo sa ditšhelete;
(b) mothankaedimogolo wa khuduthamaga kgotsa motha mongwe yo o laalong setheo sa ditšhelete;
(c) motha yo mongwe kwa ntle ga leloko la mokgatlho o o busang setheo sa ditšhelete yo o dirang kgotsa yo o tsayang karolo mo go tsayeng ditshweto tse di—
   (i) amang kgwebo yo thabile kgotsa karolo e e bothokwa ya kgwebo ya setheo sa ditšhelete; kgotsa
   (ii) nang le bokgoni jwa go ama segolo maemo a ditšhelete a setheo;
(d) motha yo mongwe kwa ntle ga leloko la mokgatlho o o busang setheo sa ditšhelete yo o bayang leitlhgo go gatalela ga dipholisi le go fetseng kgwebo tirisong ga mana a a dumeletseng (kgotsa amogetsweng) ke mokgatlho o o busang wa setheo sa ditšhelete;
(e) tlhogo ya tiro ya taolo ya setheo sa ditšhelete; le
“legal practitioner” means a legal practitioner as defined in section 1 of the Legal Practice Act, 2014 (Act No. 28 of 2014);

“leniency agreement” means an agreement referred to in section 156;

“levy” means a levy imposed by a financial sector body in terms of legislation that empowers the imposition of a levy, and includes interest payable on an unpaid levy;

“licence” includes a written licence, registration, approval, recognition, permission, consent or any other authorisation in terms of a financial sector law, however it is described in that law, to provide a financial product, financial service or a market infrastructure;

“Long-term Insurance Act” means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);

“market infrastructure” means each of the following, as they are defined in section 1(1) of the Financial Markets Act:

(a) A central counterparty;
(b) a central securities depository;
(c) a clearing house;
(d) an exchange; and
(e) a trade repository;

“Medical Schemes Act” means the Medical Schemes Act, 1998 (Act No. 131 of 1998);

“Minister” means the Minister of Finance;

“National Credit Act” means the National Credit Act, 2005 (Act No. 34 of 2005);

“National Credit Regulator” means the National Credit Regulator established in terms of section 12 of the National Credit Act;

“National Payment System Act” means the National Payment System Act, 1998 (Act No. 78 of 1998);

“National Treasury” means the National Treasury established in terms of section 5 of the Public Finance Management Act;

“ombud” means each of the following:

(a) The Adjudicator as defined in section 1(1) of the Pension Funds Act;
(b) the Ombud for Financial Services Providers as defined in section 1(1) of the Financial Advisory and Intermediary Services Act;
(c) a person declared by a specific financial sector law to be a statutory ombud; and
(d) a person who has the function, in terms of the rules of a recognised industry ombud scheme, of mediating or resolving complaints to which the scheme applies;

“Ombud Board” means the Board of the Ombud Council established in terms of section 179(1);

“Ombud Council” means the Ombud Council established in terms of section 175;

“Ombud Council rule” means a rule made by the Ombud Council in terms of section 201;

“ombud scheme” means—

(a) an industry ombud scheme; or
(b) a statutory ombud scheme;

“organ of state” has the same meaning ascribed to it in terms of section 239 of the Constitution;

“outsourcing arrangement”, in relation to a financial institution, means an arrangement between a financial institution and another person for the provision to or for the financial institution of any of the following:

(a) A control function;
(b) a function that a financial sector law requires to be performed or requires to be performed in a particular way or by a particular person; and
(c) a function that is integral to the nature of a financial product or financial service that the financial institution provides, or is integral to the nature of the market infrastructure, but does not include—

(i) a contract of employment between the financial institution and a person referred to in paragraph (a) or (b) of the definition of “staff member”; or
(ii) an arrangement between a financial institution and a person for the person to act as a representative of the financial institution;
(f) motho yo o dirang tiro mo kgotsa go setheo sa ditšhelete e molao wa lephata la ditšhelete o batlang gore e dirwe; “modirakamolao” o kaya modirakamolao jaaka go tlhalositse mo karolong 1 ya Molao wa Tiragatso ya ts a Molao, 2014 (Molao 28 wa 2014);
“tumalano ya kutweloobotlhoko” e kaya tumalano e e kailweng mo karolong 156;
“lekgethwana” le kaya lekgethwana lengwe le lengwe le le duelweng ke mokgatlhoo wa lephata la ditšhelete go ya ka molawana o o nayang thata ya tuediso ya lekgethwana, e bile le akaretsa morokotsa o o duelweng mo lekgethwangeng le le sa duelweng;
“laesense” e akaretsa laesense e e kwetsweng, kwadiso, thebolo, kamogelo, tetelelo, tumelelo kgotsa tumelelo ngwe le ngwe go ya ka molao wa lephata la ditšhelete, mme fela go tlhalositse mo molawong oo, go tlamelaa kuno ya ditšhelete, tirelo ya ditšhelete kgotsa tlhaloanyeto ya popegotheo ya mmaraka;
“Long Term Insurance Act” o kaya Long-term Insurance Act, 1998 (Molao 52 wa 1998);
“thulaganyeto ya popegotheo” e kaya ngwe le ngwe ya tse di latelang, jaaka di tlhalositse mo karolong 1(1) ya Financial Markets Act:
(a) Mokgatlhoo o o kga thangeng le tiriso ya ditšheleta wa magarenga;
(b) Bobeelo jwa magareng jwa ditlhoto;
(c) setheo sa kgwebo sa dibanka;
(d) kananyo; le
(e) setheo sa kgwebo;
“Medical Schemes Act” o kaya Medical Schemes Act, 1998 (Molao 131 wa 1998);
“Tona” o kaya Tona ya Matlotlo;
“National Credit Act” o kaya 2005 (Molao 34 wa 2005);
“Bolaodi jwa Bosets’haba jwa Sekoloto” bo kaya Bolaodi jwa Bosetshaba jwa Sekoloto jo bo tlhomi lweng go ya ka karo 12 ya Molao wa Bosets’haba wa Sekoloto;
“National Payment System Act” o kaya National Payment System Act, 1998 (Molao 78 wa 1998);
“Matlotlo a Bolaodi” a kaya Matlotlo a Bosets’haba a a tlhomi lweng go ya ka karo 5 ya Public Finance Management Act;
“ombud” o kaya ngwe le ngwe ya tse di latelang:
(a) Mokgatlhoo jaaka go tlhalositse mo karolong 1(1) ya Pension Funds Act;
(b) Ombud wa Batlamedi ba Ditirelo ts a Ditšheleta jaaka go tlhalositse mo karolong 1(1) ya Financial Advisory and Intermediary Services Act;
(c) motho yo o tlhamamisitsweng ke molao o o tsemapeng wa lephata la ditšhelete go nna o ombud wa semolao; le
(d) motho yo o nang le tiro, go ya ka melawana ya sekema se amogelelseng sa o ombud wa bodirelo, ya go tsereganyama kgotsa raborbolo lingongoreng tep sekema se diragatsweng go tsona;
“Boto ya Ombud” e kaya Boto ya Khansele ya Bolaodi jwa Ombud e e tlhomi lweng go ya ka karo 179(1);
“Khansele ya Bolaodi ya Ombud” e kaya Khansele ya Bolaodi ya Dikema tsa Ombud wa lephata la Ditšheleta e e tlhomi lweng go ya ka karo 175;“molao wa Khansele ya Bolaodi ya Ombud” o kaya molao o o diri lweng ke Khansele ya Bolaodi ya Ombud go ya ka karo 201; “sekema sa ombud” se kaya—
(a) sekema sa ombud wa bodirelo; kgotsa
(b) sekema sa semolao sa ombud;
“setheo sa puso” se na le bokao jo bo ts skewana le jo se tlhalositswana kena jona mo karolong 239 ya Molaatheo;
“thulaganyo ya go bona tirolo kwa ntle”, mabapi le setheo sa ditšhelete, e kaya thulaganyo magareng ga setheo sa ditšhelete le motho yo mongwe mabapi le go tlamelaa kgotsa mabapi le setheo sa ditšhelete sa ngwe le ngwe ya tse di latelang:
(a) Tiro ya go laola;
(b) tiro e e tlhokweng go dirwa kgotsa go dirwa ka mokgw a o o ri lweng ke molao wa lephata la ditšhelete kgotsa ka motho yo o ri lweng; le
(c) tiro e e leng botlhokwa mo go nseng teng ga kuno ya ditšhelete kgotsa tirolo ya ditšhelete e e abelwang ke setheo sa ditšhelete, kgotsa e e leng botlhokwa
“panel” means a panel of the Tribunal constituted in terms of section 224;
“panel list” means the list referred to in section 225;
“panel member” means a member of a panel;
“party”, to proceedings on a reconsideration of a decision by the Tribunal, means—
(a) the person who applied for the reconsideration; and
(b) the decision-maker that made the decision;
“payment service” means a service provided to a financial customer to facilitate payments to, or from, the financial customer;
“payment system” has the same meaning ascribed to it in terms of section 1 of the National Payment System Act;
“Pension Funds Act” means the Pension Funds Act, 1956 (Act No. 24 of 1956);
“person” means a natural person or a juristic person, and includes an organ of state;
“Promotion of Administrative Justice Act” means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);
“Protection of Personal Information Act” means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
“provision of a benchmark” includes—
(a) administering the arrangements for determining a benchmark;
(b) collecting, analysing or processing input data for the purpose of determining a benchmark; and
(c) determining a benchmark through the application of a formula or other method of calculation or by an assessment of input data provided for that purpose;
“Prudential Authority” means the authority established in terms of section 32;
“Prudential Committee” means the committee established in terms of section 41;
“prudential standard” means a standard made in terms of section 105;
“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
“qualifying stake” means, in respect of a financial institution that—
(a) is a company, that a person, directly or indirectly, alone or together with a related or inter-related person—
(i) holds at least 15% of the issued shares of the financial institution;
(ii) has the ability to exercise or control the exercise of at least 15% of the voting rights attached to securities of the financial institution;
(iii) has the ability to dispose of or control the disposal of at least 15% of the financial institution’s securities; or
(iv) holds rights in relation to the financial institution that, if exercised, would result in the person, directly or indirectly, alone or together with a related or inter-related person—
(aa) holding at least 15% of the securities of the financial institution;
(bb) having the ability to exercise or control at least 15% of the voting rights attached to shares or other securities of the financial institution; or
(cc) having the ability to dispose of or direct the disposal of at least 15% of the financial institution’s securities;
(b) is a close corporation, that a person, directly or indirectly, alone or together with a related or inter-related person, holds at least 15% of the members’ interests or controls, or has the right to control, at least 15% of members’ votes in the close corporation;
(c) is a trust, that a person has, directly or indirectly, alone or together with a related or inter-related person—
(i) the ability to exercise or control the exercise of at least 15% of the votes of the trustees; or
(ii) the power to appoint at least 15% of the trustees; or
(iii) the power to appoint or change any beneficiaries of the trust;
mo go mmeng teng ga thulaganyetsa ya popegotho ya mmaraka, mme ga e akaretsa—
(i) konteraka ya tiro magareng ga setheo sa ditshelete le motho yo o kailiweng mo temaneng (a) kgotsa (b) ya tlhalosso ya leholo ka badirimmogolo; kgotsa
(ii) thulaganyo magareng ga setheo sa ditshelete le motho mbapi le gore motho a dire jaaka kemedi ya setheo sa ditshelete;
“panele” e kaya panele ya Lekgotla e e bopilweng go ya ka karolo 224;
“lenane la panele” le kaya lenane le le kailiweng mo karolong 225;
“ileloko la panele” le kaya ileloko la panele;
“moamegi”, mo ditsamaisong mo tshkekatshekopoletsong ya tshwetso ka Lekgotla, o kaya—
(a) motho yo o dirileng kopo ya tshhekatshekopoletseto; le
(b) motsayatshwetso yo o tseng tshwetso;
“tirelo ya tuelo” e kaya tirelo e e tlametsweng go morekedi wa ditshelete go nolofatsa tuelo go, kgotsa go tswa go, morekedi wa ditshelete;
“thulaganyo ya tuelo” e na le bokao jo bo tshwanang le jo e tlhalositsweng ka jona mo karolong 1 ya National Payment System Act;
“Pension Fund Act” o kaya Pension Funds Act, 1956 (Molao 24 wa 1956);
“motho” o kaya motho wa tloholego kgotsa setheo, le go akaretsa setheo sa puso;
“Protection of Administrative Justice Act” o kaya Promotion of Administrative Justice Act, 2000 (Molao 3 wa 2000);
“Protection of Personal Information Act” o kaya Protection of Personal Information Act, 2013 (Molao 4 wa 2013);
“kabelo ya kaelo” e akaretsa—
(a) tsamaiso ya dithulaganyo tsa go tlhomamisa kaelo;
(b) go kgobokanya, go sekaseka kgotsa go tsamaisa tsenyo ya tshediomonse tsetlako le maemola na go tlhomamisa ka elo; le
(c) go tlhomamisa ka elo ka tiriso ya fomula kgotsa mokgwwe mongwe wale palelo kgotsa tekanyetsa ya tshediomonsei e e tsemotsweng e e tlametsweng le maitlhomo le maitlhomo ao;
“Bothati jwa Tlhokomelo” bo kaya bothati jo bo tlhomilweng go ya ka karolo 32;
“Komiti ya Tlhokomelo” e kaya komiti e e tlhomilweng go ya ka karolo 41;
“maemo a Tlhokomelo” a kaya maemo a a dirileng go ya ka karolo 105;
“Public Finance Management Act” o kaya Public Finance Management Act, 1999 (Molao 1 wa 1999);
“maemo a bokgoni” a kaya, mabapi le setheo sa ditshelete se—
(a) e leng setlamo, seo motho, ka tlhamalalo kgotsa seng ka tlhamalalo, ka esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano—
(i) a nang le bonnye 15% ya diše tsa setheo sa ditshelete;
(ii) a nang le bokgoni jwa go diragatsa kgotsa go laola tiragatsa ya 15% ya ditshwanelo tsa go tlhopha tse di patagantsweng le ditsho tsa setheo sa ditshelete;
(iii) a nang le bokgoni jwa go ntsha kgotsa go laola go nishiwa ga bonnye 15% ya ditsho tsa setheo sa ditshelete; kgotsa
(iv) yo o nang le ditshwanelo mabapi le setheo sa ditshelete tse, fa di diragatsa, di ka nnang le ditlamorago tse motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano—
(aa) a nang le bonnye 15% ya ditsho tsa setheo sa ditshelete;
(bb) a nang le bokgoni jwa go diragatsa kgotsa go laola tiriso 15% ya ditshwanelo tsa go tlhopha tse di patagantsweng le diše kgotsa ditsho tse dingwe tsa setheo sa ditshelete; kgotsa
(cc) a nang le bokgoni jwa go ntsha kgotsa go laola go nishiwa ga bonnye 15% ya ditsho tsa setheo sa ditshelete; kgotsa
(b) e leng setlamo, se motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, ka esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano, a nang le bonnye 15% ya dikgatlhego kgotsa ditaoelo tsa diboutu maloko mo setlamo, se motho, ka tlhamalalo kgotsa e seng ka tlhamalalo, a le esi kgotsa mmogo le motho yo o amanang kgotsa wa kamano—
“recognised industry ombud scheme” means an industry ombud scheme that is recognised in terms of section 194;

“Regulation” means a Regulation made in terms of section 288;

“regulator’s directive” means a directive issued by a financial sector regulator in terms of section 143, 144 or 159;

“regulatory instrument” means each of the following:
(a) A prudential standard;
(b) a conduct standard;
(c) a joint standard;
(d) an Ombud Council rule;
(e) a determination of fees in terms of section 237(1)(a);
(f) an instrument identified as a regulatory instrument in a financial sector law; and
(g) an instrument amending or revoking an instrument referred to in paragraphs (a) to (f);

“related party”, in relation to a person (the “first person”), means a person connected to the first person in a manner described in section 2(1)(a), (b) or (c) of the Companies Act;

“Register” means the Financial Sector Information Register referred to in section 256;

“representative”, in relation to a financial institution, means a representative of the institution in terms of the Financial Advisory and Intermediary Services Act;

“Reserve Bank” means the South African Reserve Bank as referred to in section 223 of the Constitution, read with the Reserve Bank Act;

“Reserve Bank Act” means the South African Reserve Bank Act, 1989 (Act No. 90 of 1989);

“responsible authority”, for a financial sector law, means the responsible authority for the financial sector law as defined in section 5;

“section 27 memorandum of understanding” means a memorandum of understanding referred to in section 27;

“section 77 memorandum of understanding” means a memorandum of understanding referred to in section 77;

“securities services” has the same meaning ascribed to it in terms of section 1(1) of the Financial Markets Act;

“service provided by a market infrastructure” means business conducted or a function or duty performed by a market infrastructure in terms of the Financial Markets Act, and “services provided by market infrastructures” has a similar meaning;

“Short-term Insurance Act” means the Short-term Insurance Act, 1998 (Act No. 53 of 1998);

“significant owner”, of a financial institution, means a significant owner of the institution as described in section 157;

“special levy” means a levy imposed as a special levy by a financial sector body in terms of legislation that empowers the imposition of a levy;

“specific financial sector law” means a financial sector law, other than this Act, regulating a specific type of financial product, financial service or market infrastructure;

“staff member”, of a person, means—
(a) an employee, as defined in section 213 of the Labour Relations Act, 1995 (Act No. 66 of 1995);
(b) a natural person who is seconded to the person;
(c) a natural person who is engaged by the person on contract as an independent contractor to provide goods or services to the person or to perform functions or duties on behalf of the person under terms specified in the contract, but not in terms of an outsourcing arrangement;

“standard” means any of the following:
(a) A prudential standard;
(b) a conduct standard; and
(c) a joint standard;
(i) a rang le bokgoni jwa gpo diragatsa kgotsa go laola tiragatso ya bonnye 15% ya diboutu tsa badisi;  
(ii) thata ya go thapa bonnye 15% ya badisi; kgotsa  
(iii) thata ya go thapa kgotsa go fetola baamogeladitshwanelo bangwe le bangwe ba terasete.

“sekema sa ombud wa bodirelo se se amogetsweng” se kaya sekema sa ombud wa bodirelo se se amogetsweng go ya ka karolo 194;  
“Molawana” o kaya Molawana o o dirilweng go ya ka karolo 288;  
“taelo ya molaodi” e kaya taelo e e rebotsweng ke molaodi wa lephata la ditšelete go ya ka karolo 143, 144 kgotsa 159;  
“sediriswa sa bolaodi” se kaya nngwe le nngwe ya tse di latelang:  
(a) Maemo a tlhokomelo;  
(b) maemo a boitshwaro;  
(c) maemo a a kopantsweng;  
(d) molao wa Khansele ya Bolaodi jwa Ombud;  
(e) tlhomamiso ya dituediso go ya ka karolo 237(1)(a);  
(f) sediriswa se se supilweng jaaka sediriswa sa bolaodi mo molaong wa lephata la ditšelete; le  
(g) sediriswa se se thlabololang kgotsa gogelang morago sediriswa se se ka lwelweng mo ditemangeng  
“lethakore la kamano”, mabapi le motho (“motho wa nthla”), le kaya motho yo o amanang le motho wa nthla go ya ka mokgwa o o thalositsweng mo karolong 2(1)(a), (b) kgotsa (c) ya Companies Act;  
“Rejisetara” e kaya Rejisetara ya Tshedimosetso ya Lephata la Ditšelete e e kailweng mo karolong 256;  
“kemedi”, mabapi le setheo sa ditšelete, e kaya kemedi ya setheo go ya ka Financial Advisory and Intermediary Services Act;  
“Banka ya Resefo” e kaya Banka ya Resefo ya Aforikaborwa jaaka e kailwe mo karolong 223 ya Molaetheo, buisa mmogo le Reserve Bank Act;  
“Reserve Bank Act” o kaya South African Reserve Bank Report, 1989 (Molao 90 wa 1989);  
“bothati jo bo rwalang maikarabelo” bo kaya bothati jo bo rwalang maikarabelo jaaka bo tlahalositse mo karolong 5;  
“karolo 27 memorantamo wa tumalano” e kaya memorantamo wa tumalano o o kailweng mo karolong 27;  
“karolo 77 memorandum wa tumalano” e kaya memorandum wa tumalano o o kailweng mo karolong 77;  
“ditirelo tsa dithoto” di na le bokao jo bo tshwanang le bo tshlahalositseweng ka jona mo karolong 1(1) ya Financial Markets Act;  
“tirelo e tlametsweng ke thulaganyetso ya popegotheo ya mmaraka” e kaya kgwebo e e dirilweng kgotsa tiro e e dirilweng ka thulaganyetso ya popegotheo ya mmaraka go ya ka Financial Markets Act, le “ditirelo tse di tlamelwang ke thulaganyetso ya popegotheo ya mmaraka” di na le bokao jo bo tshwanang;  
“Short Term Insurance Act” e kaya Short-term Insurance Act, 1998 (Molao 53 wa 1998);  
“mong yo o botlhokwa”, o kaya mong yo o botlhokwa wa setheo jaaka go tlahalositse mo karolong 157;  
“lekgethwana le le kgethegileng” le kaya lekgethwana le le duediweng jaaka lekgethwana le le kgethegileng ke mokgatlhlo wa lephata la ditšelete go ya ka molawana o o neelanang ka maatla a tuediso ya lekgethwana;  
“molao o o tsepmang wa lephata la ditšelete” o kaya molao wa lephata la ditšelete, ntle le Molao ono, o o laolang mofuta o o tsepmang wa kuno ya ditšelete, tirelo ya ditšelete kgotsa thulaganyetso ya popegotheo ya mmaraka;  
“leloko la badiri” leo e leng motho, le kaya—  
(a) modiri, jaaka go tlahalositse mo karolong 213 ya Labour Relations Act, 1995  
(Molao 66 wa 1995);  
(b) motho fela yo o boneng tshegetso mo mothong;  
(c) motho fela yo o tsentsweng ke motho mo konterakeng jaaka mokonteraka yo o ikemetseng go tlamela dithepo le ditirelo go motho kgotsa go dira ditiro mo boemong jwa motho ka fa tlae ga dipelo tse di tlahalositsweng mo  
konterakeng, fela ntle le go ya ka thulaganyo ya go batla tirelo kwa ntle;  
“Maemo” a kaya nngwe le nngwe ya tse di latelang:  
(a) Maemo a tlhokomelo;
“statutory ombud” means each of the following:
(a) the Adjudicator as defined in section 1(1) of the Pension Funds Act;
(b) the Ombud for Financial Services Providers as defined in section 1(1) of the Financial Advisory and Intermediary Services Act; and
(c) a person declared by a specific financial sector law to be a statutory ombud;
“statutory ombud scheme” means a scheme declared by a specific financial sector law to be a statutory ombud scheme;
“supervised entity” means each of the following:
(a) A licensed financial institution;
(b) a person with whom a licensed financial institution has entered into an outsourcing arrangement; and
(c) a representative of a financial institution;
“supervisory on-site inspection” means an inspection as contemplated in Part 3 of Chapter 9;
“systemic event” means an event or circumstance, including one that occurs or arises outside the Republic, that may reasonably be expected to have a substantial adverse effect on the financial system or on economic activity in the Republic, including an event or circumstance that leads to a loss of confidence that operators of, or participants in, payment systems, settlement systems or financial markets, or financial institutions, are able to continue to provide financial products or financial services, or services provided by a market infrastructure;
“systemically important financial institution” means a financial institution designated in terms of section 29;
“taxable income” has the same meaning ascribed to it in terms of section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);
“this Act” includes the Regulations and regulatory instruments made in terms of this Act;
“transformation of the financial sector” means transformation as envisaged by the Financial Sector Code for Broad-Based Black Economic Empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
“Tribunal” means the Financial Services Tribunal established in terms of section 219(1);
“Tribunal member” means a member of the Tribunal referred to in section 220;
“Tribunal rules” means rules made in terms of section 227;
“trust” has the same meaning ascribed to it in terms of section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988);
“trustee” has the same meaning ascribed to it in terms of section 1 of the Trust Property Control Act, 1988 (Act No. 57 of 1988);
“website” means a website as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002); and
“winding-up” means the process of dissolving a financial institution that includes the selling of all assets, the paying off of creditors and the distribution of any remaining assets.

(2) In this Act, unless the context indicates otherwise, a word or expression derived from, or that is another grammatical form of, a word or expression defined in this Act has a corresponding meaning.

(3) A reference in a financial sector law, or in an instrument made or issued in terms of a financial sector law, to compliance with financial sector laws or to compliance with a particular financial sector law includes a reference to compliance with requirements in instruments made or issued in terms of the relevant financial sector laws.

Financial products

2. (1) In this Act “financial product” means—
(a) a participatory interest in a collective investment scheme;
(b) a long-term policy as defined in section 1(1) of the Long-term Insurance Act;
(b) maemo a boitshwaro; le
(c) maemo a a kopantsweng;

“ombud wa semolao” o kaya nngwe le nngwe ya tse di laletang:
(a) Moatlhodi jaaka go thalositswe mo karolong 1(1) ya Pension Funds Act;
(b) Ombud wa Batlameda ba Ditirelo tsa Ditšhelete jaaka go thalositswe mo karolong 1(1) ya Financial Advisory and Intermediary Services Act; le
(c) motho yo o tšhomamisitsweng ka molao o o tsepameng wa lephata la ditšhelete go nna ombud wa semolao;

“sekema sa ombud sa semolao” se kaya sekema se se tšhomamisitsweng ke molao o o tsepameng wa lephata la ditšhelete go nna sekema sa ombud sa semolao;

“setheo se se tšhokometsweng” se kaya nngwe le nngwe ya tse di laletang:
(a) Setheo sa ditšhelete se se abetsweng laaesense;
(b) motho yo setheo sa ditšhelete se se abetsweng laaesense se dirileng thulaganyo ya go bona tirelo kwa ntle le ena; le
(c) moemedi wa setheo sa ditšhelete;

“tšhathobohobo ya tšhokomelwelo kwa tširong” e kaya tšhathobohobo jaaka e kailwe mo Karolong 3 ya Kgao 9;

“tširagalo e e rulaŋaneng” e kaya tiragalo kgotsa lebaka, go akaretsa le le le diragalong kgotsa simololang kwa ntle ga Rephaboliki, lego go ka solo felwango go lere ditlamorago tse di sa siamang mo thulaganyo ya ditšhelete kgotsa tiro ya ikononi mo Rephaboliking, go akaretsa tiragalo kgotsa lebaka le le tšisang go tšhoka boikanyego jwa gore badirisi ba, kgotsa batsayakarolo mo, ditulaganyo tsa tšuelo, ditulaganyo tsa tšhetseleng kgotsa mebaraka ya ditšhelete, kgotsa ditheo tsa ditšhelete, ba kgona go tšwelwa pele go tšmela dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete;

“setheo sa ditšhelete sa botlhokwao jo bo rulaŋaneng” se kaya setheo sa tshele se se tšhomilweng go ya ka karolo 29;

“lotseno le le duidisweng lekgetho” le na le bokao jo le bo neilweng mo karolong 1 ya Income Tax Act, 1962 (Molao 58 wa 1962);

“Molao ono” o oaretsa Melawanu le didiriswa tsa tša tšo tse di dirilweng go ya ka Molao ono;

“phetolo ya lephata la ditšhelete” e kaya phetolo jaaka e bonetswe pele ke Khotso ya Lephata la Ditšhelete mabapi le Maatla Fetaso ya Ikononi ya Motheo o o Anameng ya Batho ba Bantsho e e rebootseng go ya ka karolo 9(1) ya Broad-Based Black Economic Empowerment Act, 2003 (Molao 53 wa 2003);

“Lekgotla” le kaya Lekgotla la Ditirelo tsa Ditšhelete le le tšhomilweng go ya ka karolo 219(1);

“leloko la Lekgotla” le kaya leloko la Lekgotla le le kailwe mo karolong 220;

“melawanu ya Lekgotla” e kaya melawanu e e dirilweng go ya ka karolo 227;

“tersaete” e na le bokao jo bo tšhwanang le jo e tšhlsitsweng ka jona mo karolong 1 ya Trust Property Control Act, 1988 (Molao 57 wa 1988);

“motšhokomedi” o na le bokao jo bo tšhwanang le jo o tšhlositsweng ka jona mo karolong 1 ya Trust Property Control Act, 1988 (Molao 57 wa 1988);

“webesaete” e kaya webesaete jaaka e tšhlositswe mo karolong 1 ya Electronic Communications and Transactions Act, 2002 (Molao 25 wa 2002); le

“phediso” e kaya kgato ya go phatlalatsa setheo sa ditšhelete go akaretsa le thekiso ya dittho tšotsiile, tšuelo ya banayamolato le kabo phatlalatsa dittho tse di setseng.

(2) Mo Molaong ono, ntle le fa tiriso e kaya ka mokgwa mongwe, lefoko kgotsa tšhagiso e e tswang mo, kgotsa e e lengo mokgwa mongwe wa thutapuo, lefoko kgotsa tšhagiso e e tšhlositsweng mo Molaong ono le na le bokao jo bo tšhwanang.

(3) Tshepetso mo molaong wa lephata la ditšhelete, kgotsa mo sediriweng se se dirilweng kgotsa rebootseng go ya ka molao wa lephata la ditšhelete, go ikamanya le melao ya lephata la ditšhelete kgotsa molao o o rileng wa lephata la ditšhelete e akaretsa tšhpetso ya go ikamanya le ditšhokego mo didiriweng tse di dirilweng kgotsa rebootseng go ya ka melao e e maleba ya setheo sa ditšhelete.

Dikuno tsa ditšhelete

2. (1) Mo Molaong ono “dikuno tsa ditšhelete” di kaya—
(a) kgatlhego ya botsayakarolo mo sekema sa peele somogo;
(b) pholisi ya nako e e tšele jaaka e tšhlositswe mo karolong 1(1) ya Long-term Insurance Act;
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(c) a short-term policy as defined in section 1(1) of the Short-term Insurance Act;
(d) a benefit provided by—
   (i) a pension fund organisation, as defined in section 1(1) of the Pension Funds Act, to a member of the organisation by virtue of membership; or
   (ii) a friendly society, as defined in section 1(1) of the Friendly Societies Act, to a member of the society by virtue of membership;
(e) a deposit as defined in section 1(1) of the Banks Act;
(f) a health service benefit provided by a medical scheme as defined in section 1(1) of the Medical Schemes Act;
(g) except for the purposes of Chapter 4 and section 106, the provision of credit provided in terms of a credit agreement regulated in terms of the National Credit Act;
(h) a warranty, guarantee or other credit support arrangement as provided for in a financial sector law;
(i) a facility or arrangement designated by Regulations for this section as a financial product; and
(j) a facility or arrangement that includes one or more of the financial products referred to in paragraphs (a) to (i).

(2) The Regulations may designate as a financial product any facility or arrangement that is not regulated in terms of a specific financial sector law if—

(a) doing so will further the object of this Act set out in section 7; and

(b) the facility or arrangement is one through which, or through the acquisition of which, a person conducts one or more of the following activities:
   (i) Lending;
   (ii) making a financial investment; and
   (iii) managing financial risk.

(3) For the purposes of subsection (2)(b)(ii), a person makes a financial investment when the person (the "investor")—

(a) gives a contribution, in money or money's worth, to another person and any of the following apply:
   (i) The other person uses the contribution to generate a financial return for the investor;
   (ii) the investor intends that the other person will use the contribution to generate a financial return for the investor, even if no return, or a loss, is in fact generated;
   (iii) the other person intends that the contribution be used to generate a financial return for the investor, even if no return, or a loss, is in fact generated; and

(b) has no day-to-day control over the use of the contribution.

(4) For the purposes of subsection (2)(b)(iii), a person manages financial risk when the person—

(a) manages the financial consequences to the person of particular events or circumstances occurring or not occurring; or

(b) avoids or limits the financial consequences of fluctuations in, or in the value of, receipts or costs, including prices and interest rates.

(5) Regulations designating a financial product in terms of subsection (2) may specify the financial sector regulator that is the responsible authority for the designated product.

Financial services

3. (1) In this Act “financial service” means—

(a) any of the following activities conducted in the Republic in relation to a financial product, a foreign financial product, a financial instrument, or a foreign financial instrument:
   (i) Offering, promoting, marketing or distributing;
   (ii) providing advice, recommendations or guidance;
   (iii) operating or managing;
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(c) pholisi ya nako e e khutshwane jaaka e tlhalositswe mo karolong 1(1) ya Short-term Insurance Act;

(d) kunomolemo e e tlametsweng ke—
   (i) mokgathlo wa letlole la penësene, jaaka o tlhalositswe mo karolong 1(1) ya Pension Funds Act, go leloko la mokgathlo go ya ka botokololo; 5
ekotsa
   (ii) mokgathlo wa botsalano, jaaka o tlhalositswe mo karolong 1(1) ya Friendly Societies Act, go leloko la mokgathlo go ya ka botokololo;

(e) depositi jaaka e tlhalositswe mo karolong 1(1) ya Banks Act;

(f) kunomolemo ya tirelo ya boitekanelo e e abilweng ke sekema sa kalafi jaaka go tlhalositswe mo karolong 1(1) ya Medical Schemes Act;

(g) ntle le maitlhomo a a mabapi le Kgaolo 4 le karolo 106, dikabelo tsa sekoloto tse di tlametsweng go ya ka tumalano ya sekoloto e e laolweng go ya ka Molao wa Bosethaba wa Sekoloto;

(h) tsholofetsi, tshireletsego kgotsa tse di kailweng mo molaong wa lephata la ditshelete;

(i) sediriswa kgotsa thulaganyo e e dirilweng ya Melawana malebana le karolo eno jaaka kuno ya ditshelete; le

(j) sediriswa kgotsa thulaganyo e e akaretsang kuno kgotsa dikunoxa ditshelete tse di kailweng mitemane nga fite fite le lao tsepameng wa setheo sa ditshelete fa—

(a) go direng jalo, seno se tla ntshetsa pele maitlhomo a Molao ono a a tlhagisitsweng mo karolong 7; le

(b) sediriswa kgotsa thulaganyo ke ka yona, kgotsa go nmeng le yona, motho o ka dirang e le ngwe kgotsa go feta ya ditiro tse di latelang:
   (i) Kadimo;
   (ii) go dira peelotso ya ditshelete; le
   (iii) go laola dikotsi tsadishelete.

(2) Melawana e ka tlhoma jaaka kuno ya ditshelete sediriswa kgotsa thulaganyo ngwe le ngwe e e sa laolweng go ya ka molao o o tsepameng wa setheo sa ditshelete fa—

(a) go direng jalo, seno se tla ntshetsa pele maitlhomo a Molao ono a a tlhagisitsweng mo karolong 7; le

(b) sediriswa kgotsa thulaganyo ke ka yona, kgotsa go nmeng le yona, motho o ka dirang e le ngwe kgotsa go feta ya ditiro tse di latelang:
   (i) Kadimo;
   (ii) go dira peelotso ya ditshelete; le
   (iii) go laola dikotsi tsadishelete.

(3) mabapi le maitlhomo a karolotlaleletso (2)(b)(ii), motho ("mmeletsi") o dira peelotso ya ditshelete fa a—

(a) etleetsa, ka tšhelete kgotsa boleng jwa tšhelete, go motho yo mongwe mme ngwe le ngwe ya tse di latelang e e diragatsa:
   (i) Motho yo mongwe o dirisa keteletsi go tlisa poelo ya ditshelete go mmeletsi;
   (ii) mmeletsi o ikaelela gore motho yo mongwe o tšwanetsa go dirisa keteletsi go tlisa poelo ya ditshelete go mmeletsi, le fa go sena poelo, kgotsa tšatšhele, e e dirilweng; le
   (iii) motho yo mongwe o ikaelela gore keteletsi e dirisetswe go direla mmeletsi poelo ya ditshelete, le fa go sena poelo, kgotsa tšatšhele, e e dirilweng; le

(b) sena taolo ya letsatsi le letsatsi mo tirisong ya ketelets.

(4) Mabapi le maitlhomo a karolotlaleletso (2)(b)(iii), motho o laola dikotsi tsadi shelete fa a—

(a) laola ditlamorago tsa tšhelete go motho wa ditiragalo kgotsa mabaka a a nileng a diragala kgotsa a sa diragale; kgotsa

(b) tšila kgotsa lekanyetsa ditlamorago tsa ditshelete tsa go ya godimo le tšase mo, kgotsa mo boleng jwa, dirasiti kgotsa ditshenyegelo, go akaretsa ditlhotlhwa le dikelo tsa moloko tšo.

(5) Melawana e e tlhoma kuno ya ditshelete go ya ka karolotlaleletso (2) e ka totobaletsi boloa dies lephata la ditshelete gore ke jona bothati jo bo rewele ng maikarabelo a go laola batlamedi ba kuno ya ditshelete.

Ditirelo tsa ditshelete

3. (1) Mo Molaong ono “tirelo ya ditshelete” e kaya—

(a) ngwe le ngwe ya ditiro tse di latelang tse di dirwang mo Rephaboliking mabapi le kuno ya ditshelete, kuno ya ditshelete ya boditšaba, sediriswa sa ditshelete, kgotsa sediriswa sa ditshelete sa boditšaba:
   (i) Kabelo, tšeletsetso, papatsi kgotsa phatlalatlo;
   (ii) go tšamela ka kgakololo, dikatlanegiso kgotsa kaelo;
   (iii) go dirisa ka kgotsa tsadi shelete;
(iv) providing administration services;
(b) dealing or making a market in the Republic in a financial product, a foreign financial product, a financial instrument or a foreign financial instrument;
(c) a payment service;
(d) securities services;
(e) an intermediary service as defined in section 1(1) of the Financial Advisory and Intermediary Services Act;
(f) a service related to the buying and selling of foreign exchange;
(g) a service related to the provision of credit, including a debt collection service, but excluding the services of—
   (i) a debt counsellor registered in terms of section 44 of the National Credit Act who provides the services of a debt counsellor as contemplated in that Act;
   (ii) a payment distribution agent as defined in section 1 of the National Credit Act; or
   (iii) an alternative dispute resolution agent, as defined in section 1 of the National Credit Act;
(h) a service provided to a financial institution through an outsourcing arrangement;
(i) any other service provided by a financial institution, being a service regulated by a specific financial sector law; and
(j) a service designated by the Regulations for this section as a financial service.

(2) A service provided by a market infrastructure is not a financial service unless designated by Regulations in terms of subsection (3).

(3) If doing so will further the object of this Act set out in section 7, the Regulations may designate as a financial service—
(a) any service that is not regulated in terms of a specific financial sector law if the service, that is provided in the Republic, relates to—
   (i) a financial product, a foreign financial product, a financial instrument or a foreign financial instrument;
   (ii) an arrangement that is in substance an arrangement for lending, making a financial investment or managing financial risk, all as contemplated in section 2(2) to (4); or
   (iii) the provision of a benchmark or index; or
(b) a service provided by a market infrastructure.

(4) For the purposes of subsection (1)(b) of the definition of “financial service” in subsection (1)—
   “dealing” means any of the following, whether done as a principal or as an agent:
   (a) In relation to securities or participatory interests in a collective investment scheme, underwriting the securities or interests; and
   (b) the buying or selling of the securities or interests for own account or on behalf of another person as a business, a part of a business or incidental to conducting a business;

   “making a market” in a financial instrument takes place when—
   (a) a person, through a facility, at a place or otherwise, states the prices at which the person offers to acquire or dispose of financial instruments, whether or not on the person’s own account; and
   (b) other persons reasonably expect that they can enter into transactions for those instruments at those prices.

(5) Regulations designating a financial service in terms of subsection (3) may specify the financial sector regulator that is the responsible authority for the designated financial service.

Financial stability

4. (1) For the purposes of this Act, “financial stability” means that—
(a) financial institutions generally provide financial products and financial services, and market infrastructures generally perform their functions and duties in terms of financial sector laws, without interruption;
(iv) go tlamelwa ka ditirelo tsatšamaiso;
(b) go samagana kgotsa go dira mmaraka mo Rephaboliking mo kunong ya ditšhelete, kuno ya ditšhelete ya bodišhaba, sediriwa sa ditšhelete kgotsa sediriwa sa ditšhelete sa bodišhaba;
(c) tirelo ya tuelo;
(d) ditirelo tsa dithoto;
(e) tirelo ya magareng jaaka e tšhalositswe mo karolong (1) ya Financial Advisory and Intermediary Services Act;
(f) tirelo e e amanang le theko le thekiso ya kananyo ya bodišhaba;
(g) tirelo e e amanang le kabelo ya sekoloto, go akaretsa le tirelo ya kgobokanyo ya molato, mme ga e akaretsa ditirelo tsa—
(i) magakolodi wa tsa sekoloto yo o kwadisitsweng go ya ka karolo 44 ya Molao wa Bostšhaba wa Sekoloto yo o tšamelang ka ditirelo tsa magakolodi wa tsa sekoloto jaaka go tšhalositswe mo Molaong oo;
(ii) modiredi yo o phatlalatsang tuelo jaaka go tšhalositswe mo karolong 1 ya Molao wa Bostšhaba wa Sekoloto; kgotsa
(iii) moemedi yo mongwe wa thabotšhaba ya dithulano, jaaka go tšhalositswe mo karolong 1 ya Molao wa Bostšhaba wa Sekoloto;
(h) tirelo e e tlamelwang kwa setheong sa ditšhelete ka tšhalanayo ga ya bona tirelo kwa ntle;
(i) tirelo nngwe le nngwe e e tlamelwang ke setheo sa ditšhelete, e leng tirelo e e laolwang ke molao o o tsepameng wa lephata la ditšhelete; le
(j) tirelo e e tšholiweng ka Melawana ya karolo eno jaaka ya ditšhelete ya ditšhelete,
(2) Tirelo e e tlamelwang ke thulaganyetso ya popegotheo ya mmaraka ga se ya tirelo ya ditšhelete, ntle le fa e tšholiwwe ka Melawana go ya ya karolotlaleletsu (3).
(3) Fa go dira jalo go tsa tšwetoletsa maikaelelo a Molao ono jaaka a tšhalositswe mo karolong 7, Melawana e e tlhoma jaaka tirelo ya ditšhelete—
(a) tirelo nngwe le nngwe e e sa laolweng go ya ka molao o o tsepameng wa lephata la ditšhelete fa tirelo, e e tlamelwang mo Rephaboliking, e amana-le—
(i) kuno ya ditšhelete, kuno ya bodišhaba ya ditšhelete, sediriwa sa ditšhelete kgotsa; sediriwa sa ditšhelete sa bodišhaba
(ii) thulaganyo eo e leng ka boyona thulaganyo ya kadimo, go dira peeleletsu ya ditšhelete kgotsa tuelo ya dikotsi tsa ditšhelete, tšolihje jaaka di kailwe mo dikarolong 2(2) go fitlha go (4); kgotsa
(iii) kabelo ya kaelo kgotsa tšuhanekelo; kgotsa
(b) tirelo e e tlamelwang ke thulaganyetso ya popegotheo ya mmaraka.
(4) Mabapi le maithlomo a karolo (1)/(b) a tšhaloslo ya “tširelo ya ditšhelete” mo karolotlaleletsuong (1)—
“go dirisa li”, go kaya nngwe le nngwe ya tse di latelang, e diriwe jaaka moookamedi kgotsa moemedi:
(a) Mabapi le dipolo tsa ditlhelotšo kgotsa botsakaryoko ja va kgatlehego mo sekemeng sa peeleletsommogo, go tsaisma ditlhelotšo kgotsa dipolo; le
(b) go reka le go rekisa ditlhelotšo kgotsa mokotšotso mabapile le maikarabelo bobona kgotsa mo boemong ja va motho yo mongwe jaaka kgwebo, karolo ya kgwebo kgotsa go tsa melao tsa melao tsa melao tsa melao ya tsamaiso.
“go dira mmaraka” mo sediriweng sa ditšhelete go diragala fa—
(a) motho, ka tiriso ya sediriwa, kwa lefelsong kgotsa ka gongwe, a tšhalaga ditlholiwho tse motho a di beileng go fitlhelela kgotsa go rulaganyo sediriwa sa ditšhelete, e ka tsa e ka kgotsa e ka akhaanto ya motho yoo; le
(b) batho ba bangwe ka mabaka ba solofela gore ba ka tšena mo kgwebisanong ya didiriwga tseo ka ditlholiwho tseo.
(5) Melawana e e tlhonom tirelo ya ditšhelete go ya ka karolotlaleletso (3) e ka tsepamisa boludji ja va lephata la ditšhelete joo e leng bothati jo bo rweleng maikarabelo a go laola batlami, ka ditirelo.

Tlhomamo ya ditšhelete

4. (1) Mabapi le maithlomo a Molao ono, “tlhomon ya ditšhelete” e kaya gore—
(a) ditheo tsa ditšhelete ka kakaretso di tšamale dikuno tsa ditšhelete le ditirelo tsa ditšhelete, le ditlholaganietso tsa popegotheo ya mmaraka di dira ka kakaretso ditirlo le maikarabelo a tsona go ya ka melao ya lephata la ditšhelete, ntle le kgoreletso;
(b) financial institutions are capable of continuing to provide financial products and financial services, and market infrastructures are capable of continuing to perform their functions and duties in terms of financial sector laws, without interruption despite changes in economic circumstances; and

(c) there is general confidence in the ability of financial institutions to continue to provide financial products and financial services, and the ability of market infrastructures to continue to perform their functions and duties in terms of financial sector laws, without interruption despite changes in economic circumstances.

(2) A reference in this Act to maintaining financial stability includes, where financial stability has been adversely affected, a reference to restoring financial stability.

**Responsible authorities**

5. (1) Subject to subsection (2), the responsible authority for a financial sector law is the financial sector regulator identified in Schedule 2 as the responsible authority for that financial sector law.

(2) Despite subsection (1) and sections 2(5) and 3(5), if a section 77 memorandum of understanding provides for one of the financial sector regulators to delegate its functions and powers in relation to a provision of a financial sector law for which it is the responsible authority to another financial sector regulator, the other financial sector regulator is, to the extent of the delegation, the responsible authority for the provision.

**Financial institutions that are juristic persons**

6. Where a financial sector law imposes an obligation to be complied with by an entity that is a juristic person, the members of the governing body of that juristic person must ensure that the obligation is complied with.

**Part 2**

**Object and administration of Act**

**Object of Act**

7. (1) The object of this Act is to achieve a stable financial system that works in the interests of financial customers and that supports balanced and sustainable economic growth in the Republic, by establishing, in conjunction with the specific financial sector laws, a regulatory and supervisory framework that promotes—

(a) financial stability;

(b) the safety and soundness of financial institutions;

(c) the fair treatment and protection of financial customers;

(d) the efficiency and integrity of the financial system;

(e) the prevention of financial crime;

(f) financial inclusion;

(g) transformation of the financial sector; and

(h) confidence in the financial system.

(2) When seeking to achieve the object of this Act, the Reserve Bank and the financial sector regulators must not be constrained from achieving their objectives and responsibilities as set out in sections 11, 33 and 57.

**Administration of Act**

8. The Minister is responsible for the administration of this Act.
(b) ditheo tsa ditsšhelete di na le bokgoni jwa go tswelela pele go tlamela dikuno tsa ditsšhelete, le dithulaganyetsa tsa dipopegotheo tsa nmaraka di na le bokgoni jwa go dira ka kakaretso ditiro le maikarabelo a tsona go ya ka melao ya lephata la ditsšhelete, ntle le kgorelelo le fa go na le diphetogo mo mabakeng a ikonomi; le
t(c) go na le bokanyego ka kakaretso mo bokgoning jwa ditheo tsa ditsšhelete go tswelela pele go tlamela dikuno tsa ditsšhelete le ditirelo tsa ditsšhelete, le bokgoni jwa dithulaganyetsa tsa dipopegotheo go tswelela go dira ditiro le maikarabelo a tsona go ya ka melao ya lephata la ditsšhelete, ntle le kgorelelo le fa go na le diphetogo mo mabakeng a ikonomi.

(2) Kaelo mo Molaong ono ya go tsegetsa tlhomamo ya ditsšhelete e akaretsa, mo tlhomamo ya ditsšhelete e amegileng thata, kaelo ya go busetsa tlhomamo ya ditsšhelete.

Bothati jo bo rwalang maikarabelo

5. (1) Go tsamalana le karotloleletso (2), bothati jo bo rwalang maikarabelo a mola a lephata la ditsšhelete ke molaodi wa lephata la ditsšhelete yo o kalwengo mo ŝeu 2 jaaka bothati jo bo rwalang maikarabelo a mola wa lephata la ditsšhelete.  
(2) Ntle le karotloleletso (1) le dikarolo 2(5) le 3(5), fa karolo 77 ya Memorantamo wa tumalano o tlamela mabapi le ngwe wa bokgoni jwa lephata la ditsšhelete go rolela ditiro tsa yona le dithata mabapi le kabelo ya mola a lephata la ditsšhelete oo e leng bothati jo bo rwalang maikarabelo a bokgoni jo bongwe jwa lephata la ditsšhelete, bokgoni jo bongwe jwa lephata la ditsšhelete ke, go ya ka bogo lo jwa tholelo, bothati jo bo rwalang maikarabelo mabapi le kabelo.

Ditheo tsa ditsšhelete tseo e leng ditheo tsa mola

6. Fa mola a lephata la ditsšhelete o patelets a tlamego e e tshwanetseng go diragatswe ka setheo seo se leng mo molaong, maloko a mokgatlho o o busang wa setheo se se mo molaong a tshwanetseng go netefatsa gore go ikamangwela le palaletsego.

Karolo 2

Maithlomo le tsamaiso ya Mola

Maithlomo a Mola

7. (1) Maithlomo a Mola ono ke go fitlhelela tsamaiso e e tlhomameng ya ditsšhelete e e dirang go ya ka dikgatlehelo tsa barekedi ba ditsšhelete e bile e tshgetsa kgolo ya ikonomi e e lekalekanang e e tswelelswang mo Rephaboliing, ka go tlhoma, mmogoe le melao e e tsepmeng ya lephata la ditsšhelete, letlhomeso la bokgoni le tlhokomelo le le nishetsang pele—
(a) tlhomameng ya ditsšhelete; 35
(b) polokego le iletakelo ya ditheo tsa ditsšhelete;
(c) tsholo e e lolameng le tshirele tsa barekedi ba ditsšhelete;
(d) bokgoni le tshiismo ya thulaganyo ya ditsšhelete;
(e) thiblelo ya bosenyi jwa ditsšhelete;
(f) tsepologetsa mo go tsa ditsšhelete;
(g)phetolo ya lephata la ditsšhelete; le
(h) boikanyego mo thulaganyong ya ditsšhelete.
(2) Fa go batlwa go fitlhelelwa maithlomo a Mola a Banka ya Resefe le bokgoni le lephata la ditsšhelete ga ba a thswanela go thibelwa mo go fitlheleleng maithlomo a bona le maikarabelo jaaka go thagisitswe mo dikarolong 11, 33 le 57.

Tsamaiso ya Mola

8. Tona o rwalang maikarabelo a tsamaiso ya Mola ono.
Part 3

Application of other legislation

Inconsistencies between Act and other financial sector laws

9. (1) In the event of any inconsistency between a provision of this Act, other than a Regulation or a regulatory instrument made under this Act, and a provision of another Act that is a financial sector law, the provision of this Act prevails.

(2) In the event of any inconsistency between a provision of a Regulation or a regulatory instrument made in terms of this Act and a provision of a Regulation or a regulatory instrument made in terms of a specific financial sector law, the provision of the Regulation or regulatory instrument made in terms of this Act prevails.

Application of other legislation

10. (1) The Consumer Protection Act does not apply to, or in relation to—

(a) a function, act, transaction, financial product or financial service that is subject to the National Payment System Act or a financial sector law, and which is regulated by the Financial Sector Conduct Authority in terms of a financial sector law; or

(b) the Reserve Bank, the Prudential Authority, the Financial Sector Conduct Authority, the Prudential Committee, the Executive Committee, the Chief Executive Officer, the Commissioner or a Deputy Commissioner.

(2) (a) Section 18(2) and (3) of the Competition Act, 1998 (Act No. 89 of 1998) applies, with the necessary changes required by the context, to a merger which requires the approval of the Minister, the Prudential Authority or the Financial Sector Conduct Authority in terms of a financial sector law.

(b) For the purposes of paragraph (a), “merger” means a merger as defined in section 12 of the Competition Act.

(c) Section 116(4) and (9) of the Companies Act applies, with the necessary changes required by the context, to an amalgamation or a merger which requires the approval of the Minister, the Prudential Authority or the Financial Sector Conduct Authority in terms of a financial sector law.

(d) For the purposes of paragraph (c), “amalgamation or merger” means an “amalgamation or merger” as defined in section 1 of the Companies Act.

CHAPTER 2

FINANCIAL STABILITY

Part 1

Powers and functions of Reserve Bank

Responsibility for financial stability

11. (1) The Reserve Bank is responsible—

(a) for protecting and enhancing financial stability; and

(b) if a systemic event has occurred or is imminent, for restoring or maintaining financial stability.

(2) When fulfilling its responsibility in terms of subsection (1), the Reserve Bank—

(a) must act within a policy framework agreed between the Minister and the Governor;

(b) may utilise any power vested in it as the Republic’s central bank or conferred on it in terms of this Act or any other legislation; and
Molao wa Taolo ya Lephata la Ditšhelete, 2017

Karolo 3

Tiragatso ya molao o mongwe

Go sa tlhomamang magareng ga Molao le melao e mengwe ya lephata la ditšhelete

9. (1) Fa ka gongwe go na le go sa tlhomamang magareng ga kabelo ya Molao ono le kabelo ya Molao o mongwe oo e leng molao wa lephata la ditšhelete, kabelo ya Molao ono e a diragatswa.  
(2) Fa ka gongwe go na le go sa tlhomamang magareng ga kabelo ya Molawana kgotsa sediriswa sa taolo se se dirilweng go ya ka Molao ono, le kabelo ya Molawana kgotsa sediriswa sa taolo se se dirilweng go ya ka molao o o tsepmang wa lephata la ditšhelete, kabelo ya Molawana kgotsa sediriswa sa taolo se se dirilweng go ya ka Molao ono e a diragatswa.

Tiragatso ya molawana

10. (1) Consumer Protection Act ga e diragatswe go, kgotsa mabapi le—
(a) tiro, tiragatso, kuno ya ditšhelete kgotsa tirelo ya ditšhelete tse di leng ka fa tšla se National Payment System Act kgotsa molao wa lephata la ditšhelete, e bile di laoiwla ke Bothati jwa Boitshwara jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete; kgotsa
(b) Banka ya Reseфе, Bothati jwa Thokomelo, Bothati jwa Boitshwara jwa Lephata la Ditšhelete, Komiti ya Thokomelo, Komiti Khuduthamaga, Motlhankedimigolo wa Khuduthamaga, Khomšenara kgotsa Motlatsakho-mišenara.

(2) (a) Karolo 18(2) le (3) ya Competition Act, 1998 (Molao 89 wa 1998), e diragatsa, mmogo le diphetogo tse di maleba tse di tlhokwang ke maemo, go tšwaraganyo e e tlhokang thebolo go tswana go Tona, Bothati jwa Thokomelo kgotsa Bothati jwa Boitshwara jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete.  
(b) Mahapi le maitlhomo a temana (a), ”tšwaraganyo” e kaya tšwaraganyo jaaka e tlhalositswe mo karolong 12 ya Competition Act.
(c) Karolo 116 (4) le (9) ya Companies Act e diragatsa, le diphetogo tse di tlhokwang ke maemo, go kopano kgotsa tšwaraganyo e e tlhokang thebolo ya Tona, Bothati jwa Thokomelo kgotsa Bothati jwa Boitshwara jwa Lephata la Ditšhelete go ya ka molao wa lephata la ditšhelete.
(d) Mahapi le maitlhomo a temana (c), ”kopanyo kgotsa tšwaraganyo” e kaya ”kopanyo kgotsa tšwaraganyo” jaaka e tlhalositswe mo karolong 1 ya Companies Act.

KGAOLO 2

TLHOMAMO YA DITŠHELETE

Karolo 1

Dithata le diitiro tsa Banka ya Reseфе

Maikarabelo tlhomamo ya ditšhelete

11. (1) Banka ya Reseфе e rwala maikarabelo a—
(a) go sireletsa le go oketsa tlhomamo ya ditšhelete; le
(b) fa tiragalo ya thulaganyo e dirageše kgotsa e ka diragala, go busetsa le go tshegetsa tlhomamo ya ditšhelete.

(2) Fa e diragatsa maikarabelo a yona go ya ka karolotlaletso (1), Banka ya Reseфе e—
(a) tšwanetsa go dira go ya ka lethlhomose la pholisi le go dumalanweng ka lona magareng ga Tona le Mmusisi;
(b) ka diragatsa thate e e e neiwlweng jaaka banka ya bogareng ya Rephaboliki kgotsa eo e e abetsweng go ya ka Molao ono kgotsa molawana mongwe le mongwe; le
(c) must have regard to, amongst other matters, the roles and functions of other organs of state exercising powers that affect aspects of the economy.

Monitoring of risks by Reserve Bank

12. The Reserve Bank must—
(a) monitor and keep under review—
(i) the strengths and weaknesses of the financial system; and
(ii) any risks to financial stability, and the nature and extent of those risks, including risks that systemic events will occur and any other risks contemplated in matters raised by members of the Financial Stability Oversight Committee or reported to the Reserve Bank by a financial sector regulator;
(b) take steps to mitigate risks to financial stability, including advising the financial sector regulators, and any other organ of state, of the steps to take to mitigate those risks; and
(c) regularly assess the observance of principles in the Republic developed by international standard setting bodies for market infrastructures, and report its findings to the financial sector regulators and the Minister, having regard to the circumstances and the context within the Republic.

Financial stability review

13. (1) The Reserve Bank must, at least every six months, make an assessment of the stability of the financial system, herein referred to as the “financial stability review”.
(2) A financial stability review must set out—
(a) the Reserve Bank’s assessment of financial stability in the period under review;
(b) its identification and assessment of the risks to financial stability in at least the next 12 months;
(c) an overview of steps taken by it and the financial sector regulators to identify and manage risks, weaknesses or disruptions in the financial system during the period under review and that are envisaged to be taken during at least the next 12 months; and
(d) an overview of recommendations made by it and the Financial Stability Oversight Committee during the period under review and progress made in implementing those recommendations.
(3) Information which, if published may materially increase the possibility of a systemic event, only needs to be published in a financial stability review after the risk of a systemic event subsides, or has been addressed.
(4) The Reserve Bank must—
(a) submit a copy of each review to the Minister and the Financial Stability Oversight Committee for information and comment, and allow the Minister or the Financial Stability Oversight Committee at least two weeks to make comments, should they wish to do so;
(b) publish the review, after having taken into account any comments that may have been received in terms of paragraph (a); and
(c) table a copy of the review in Parliament.

Part 2

Managing systemic events and risks in relation to systemic events

Determination of systemic events

14. (1) The Governor may, after having consulted the Minister, determine that a specified event or circumstance, or a specified combination of events or circumstances, is a systemic event.
(c) tshwanetse go tsaya tsia, magareng ga mbakaba a mangwe, botsayakarolo le ditiro tsa maphata a mangwe a puso tse di diragatsang ditshata tse di amang dintlha tsakonomi.

Go lekolwa ga dikotsi ke Banka ya Resefe

12. Banka ya Resefe e tshwanetse—
(a) go ela tlhoko le go baya ka fa tlase ga thadiso—
(i) dikgono le mako a thulaganyo ya dišhelete; le
(ii) dikotsi dingwe le dingwe go tlhomo ya dišhelete, le tlhoblego le bogolo jwa dikotsi tseo, go akaretsa le dikotsi tsa gore dirigatolo tse di rulaganeng di tla diragala le dikotsi dingwe le dingwe tse di ka lilekeng mo mabakeng a a tlhagisitsweng ke maloko a Komiti ya Keletlhoko ya Thlomamo ya Dišhelete kgotsa a begilwe go Banka ya Resefe ke molaodi wa lephata la dišhelete;
(b) go tsaya dikgato go fokotsa dikotsi go tlhomo ya dišhelete, go akaretsa le go gakolola ba lephata la dišhelete, le lephata lense le lense la puso, le ka dikgato tse di ka tsewang go fokotsa dikotsi tseo; le
(c) nako le nako go lekanyetsa temogo ya ditheo mo Rephaboliking tse di tlhakotlo tse 12 tse di latelang; le

Thadiso ya tlhomo ya dišhelete

13. (1) Banka ya Resefe e tshwanetse, bonnye dikgwedi dingwe le dingwe tse thataro, go dira tekanyetsa yo tlhomo ya thulaganyo ya dišhelete, eo e ka kwalko fano jaaka “thadiso ya tlhomo ya dišhelete”.
(2) Thadiso ya tlhomo ya dišhelete e tshwanetse go thagisa—
(a) tekanyetsa yo Banka ya Resefe ya tlhomo ya dišhelete mo pakeng e ka fa tlase ga thadiso;
(b) tlhagiso le tekanyetsa yo dikotsi go tlhomo ya dišhelete mo bonnyeng dikgwedi tse 12 tse di latelang;
(c) tshosobanyo ya dikgato tse e di tsweng mmogo le ba lephata la dišhelete le tlhagisa le go laola dikotsi, mako a kgotsa dikotsi mo thulaganyo ya dišhelete mo pakeng e ka fa tlase ga thadiso le ao go bonelweng pele gore a tla diragala mo dikgwedle tse 12 tse di latelang; le
(d) tshosobanyo ya dikatlanegiso tse e di dirileng mmogo le Komiti ya Keletlhoko ya Thlomamo ya Dišhelete mo pakeng e ka fa tlase ga thadiso le tswelelope e e fihleletsweng mo go tsenyeng tse 12 tse di latelang; le
(3) Tshedimoseto e, fa e ka phasalatswa e ka gakatsang kgonagalo ya tiragalo e e rulaganeng, e tlhoka go phasalatswa mo thadiso ya tlhomo ya dišhelete morago ga go foketsega ga kotsi ya tiragalo e e rulaganeng, kgotsa e sekasekilwe.
(4) Banka ya Resefe e tshwanetse go—
(a) romelga kgatiso ya thadiso mmgo le ngwe go Tona le Komiti ya Keletlhoko ya Thlomamo ya Dišhelete go bona tshedimoseto e tshwaelo, go le lela Tona kgotsa Komiti ya Keletlhoko ya Thlomamo ya Dišhelete go dire ditshwaelo bonnye dibiki le mopo ba eletsa go dire jalo; le
(b) phasalatsa thadiso, morago ga go tsaya tsia ditshwaelo dingwe le dingwe tse di ka tswang di amogotswe go ya ka temana (a); le
(c) go baya fa pele ga Palamente khopi ya thadiso.

Karolo 2

Go laola ditiragalo tse di rulaganeng le dikotsi mahapi le ditiragalo tse di rulaganeng

Thlomamiso ya ditiragalo tse di rulaganeng

14. (1) Mmusisi o ka, morago ga go rerisana le Tona, tlhomonina gore tiragalo kgotsa lebaka le le tsepatse, kgotsa kopano e e tsepatse ya ditiragalo kgotsa mbakaba, ke tiragalo e e rulaganeng.
Act No. 9 of 2017

Financial Sector Regulation Act, 2017

(2) The Governor may, before making a determination in terms of subsection (1), consult the Financial Stability Oversight Committee.

(3) A determination in terms of subsection (1) may be made whether or not the event or circumstance, or combination of events or circumstances, has already occurred or arisen.

(4) The Governor may, after having consulted the Minister, determine that a specified systemic event has occurred or is imminent.

(5) The Governor—
   (a) must notify the Minister of a determination made in terms of subsection (1) or (4);
   (b) must keep the determination under review;
   (c) may, at any time, after having consulted the Minister, amend or revoke a determination in writing; and
   (d) must notify the Minister of any amendment or revocation of a determination made in terms of subsection (1) or (4).

(6) The Reserve Bank must notify the financial sector regulators of a determination in terms of this section, and of an amendment or revocation of such a determination.

(7) The Reserve Bank must, in respect of a determination made in terms of subsection (1) or (4), and any amendment or revocation of such a determination—
   (a) table the determination, or the amendment or revocation of the determination, in Parliament; and
   (b) publish the determination, or the amendment or revocation of the determination, on the Reserve Bank’s website.

Functions of Reserve Bank in relation to systemic events

15. (1) The Reserve Bank must take all reasonable steps—
   (a) to prevent systemic events from occurring; and
   (b) if a systemic event has occurred or is imminent, to—
      (i) mitigate without delay the adverse effects of the event on financial stability; and
      (ii) manage the systemic event and its effects.

(2) When acting in terms of subsection (1), the Reserve Bank must have regard to the need to—
   (a) minimise adverse effects on financial stability and economic activity;
   (b) protect, as appropriate, financial customers; and
   (c) contain the cost to the Republic of the systemic event and the steps taken.

Information to Minister

16. (1) If the Governor has in terms of section 14(4) determined that a systemic event has occurred or is imminent, the Governor must ensure that the Minister is kept informed of the event and of any steps being taken or proposed to manage the event and the effects of the event.

(2) The Reserve Bank may not, except with the Minister’s approval, take a step in terms of section 15 that will or is likely to—
   (a) bind the National Revenue Fund to any expenditure;
   (b) have a material impact on the cost of borrowing for the National Revenue Fund; or
   (c) create a future financial commitment or a contingent liability for the National Revenue Fund.

Responsibilities of financial sector regulators

17. If the Governor has in terms of section 14(4) determined that a systemic event has occurred or is imminent, each financial sector regulator must—
(2) Mmusisi o ka, pele ga go tlhomamisa go ya ka karolotlaleletso (1), rerisana le Komiti ya Keletlhoko ya Tlhomamo ya Ditšhelete.

(3) Tlhomamiso go ya ka karolotlaleletso (1) e ka dirwa fa ka gongwe tiragalo kgotsa lebaka, kgotsa kopano ya ditiragalo kgotsa mabaka, di diragetse kgotsa di simolotse.

(4) Mmusisi o ka, morago ga go rerisana le Tona, tlhomamisa gore tiragalo e e rulaganeng e e tsepameng e diragetse kgotsa e ka diragala.

(5) Mmusisi—

(a) o tshwanetse go itsise Tona ka ga tlhomamiso e e dirilweng go ya ka karolotlaleletso (1) kgotsa (4);

(b) o tshwanetse go bayla tlhomamiso ka fa tlase ga thadiso;

(c) o ka, nako ngwe le ngwe, morago ga go rerisana le Tona, tlhabolola, kgotsa gogela morago tlhomamiso ka go kwala; le

(d) o tshwanetse go itsise Tona ka ga tlhabololo kgotsa kgogelomorago ya tlhomamiso e e dirilweng go ya ka karolotlaleletso (1) kgotsa (4).

(6) Banka ya Resefe e tshwanetse go itsise balaodi balaodi e lephata la ditšhelete ka ga tlhomamiso go ya ka karolo eno, le ka ga tlhabololo kgotsa kgogelomorago ya tlhomamiso eo.

(7) Banka ya Resefe e tshwanetse, mabapi le tlhomamiso e e dirilweng go ya ka karolotlaleletso (1) kgotsa (4), le tlhabololo ngwe le ngwe kgotsa kgogelomorago ya tlhomamiso eo—

(a) go bayla fa pele ga Palamente tlhomamiso, kgotsa tlhabololo kgotsa phimolo ya tlhomamiso; le

(b) go phasalatsa tlhomamiso, kgotsa tlhabololo kgotsa phimolo ya tlhomamiso, mo webesaeteng ya Banka ya Resefe.

Ditiro tsa Banka ya Resefe mabapi le ditiragalo tse di rulaganeng

15. (1) Banka ya Resefe e tshwanetse go tsaya dikgato tsothle tse di maleba—

(a) go thibela ditiragalo tse di rulaganeng go direga; le

(b) fa tiragalo e e rulaganeng e diregile kgotsa e ka direga, go—

(i) thibela ntle le tshenyo ya nako ditlamorago tse di masisi tsa tiragalo mo tlhomamonya ya ditšhelete; le

(ii) laola tiragalo e e rulaganeng le ditlamorago tsa yona.

(2) Fa e diragatsa go ya ka karolotlaleletso (1), Banka ya Resefe e tshwanetse go tsaya tsa thokego ya ga—

(a) fokotsa ditlamorago tse di masisi mo tlhomamonya ya ditšhelete le tiro ya ekonomi; le

(b) sireletsa, jaaka go tshwanetse, barekedi ba ditšhelete; le

(c) laola ditshenyegelo tsa tiragalo e e rulagantsweng go Rephaboliki le dikgato tse di tserveng.

Tshedimosetso go Tona

16. (1) Fa Tona go ya ka karolo 14(4) a tlhomamisisite gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, Mmusisi o tshwanetse go netefatsa gore Tona o itsisiwe ka ga tiragalo le dikgato dingwe le dingwe tse di tsewang kgotsa tshitsintsweng go laola tiragalo le ditlamorago tsa yona.

(2) Banka ya Resefe e ka se, ntle le thebolo ya Tona, tseye kgato go ya ka karolo 15 e e ka kgotsa e e nang le kgongalo ya ga—

(a) tlamelela Letlole la Bosetšaba la Lotseno go ditshenyegelo dingwe le dingwe;

(b) nna le kulwalo e e botlhokwa mo ditlhotlhwakadimong go Letlole la Bosetšaba la Lotseno; kgotsa

(c) tlhola boitlamo jwa ditšhelete jwa isago kgotsa molato wa tshoganyetsgo go Letlole la Bosetšaba la Lotseno.

Maikarabelo a balaodi ba lephata la ditšhelete

17. Fa Mmusisi go ya ka karolo 14(4) a tlhomamisisite gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, molaodi mongwe le mongwe wa lephata la ditšhelete o tshwanetse—
(a) provide the Reserve Bank with any information in the possession of the financial sector regulator, which may be relevant for the Bank to manage the systemic event or the effects of the systemic event; and
(b) consult the Reserve Bank before exercising any of their powers in a way that may compromise steps taken or proposed in terms of section 15 to manage the systemic event or the effects of the systemic event.

Directives to financial sector regulators

18. (1) The Governor may direct a financial sector regulator, in writing, to provide the Reserve Bank with information specified in the directive that the Reserve Bank or the Governor needs for exercising their powers in terms of section 14 or 15, that is in the possession of the financial sector regulator or obtainable by it.
(2) (a) If the Governor has in terms of section 14(4) determined that a systemic event has occurred or is imminent, the Governor may, in writing, direct a financial sector regulator to assist the Reserve Bank in complying with section 15 by acting in accordance with the directive when exercising its powers.
(b) A directive in terms of paragraph (a) may include directions aimed at—
(i) supporting the restructuring, resolution or winding-up of any financial institution;
(ii) preventing or reducing the spread of risk, weakness or disruption through the financial system; or
(iii) increasing the resilience of financial institutions to risk, weakness or disruption.
(3) The Prudential Authority, Financial Sector Conduct Authority and the Financial Intelligence Centre must comply with a directive issued to it in terms of subsection (1) or (2).
(4) The National Credit Regulator must comply with a directive issued to it in terms of subsection (1) or (2), provided that the Minister has consulted the Minister responsible for consumer credit matters on the directive.

Exercise of powers by other organs of state

19. (1) If the Governor has in terms of section 14(4) determined that a systemic event has occurred or is imminent, an organ of state exercising powers in respect of a part of the financial system may not, without the approval of the Minister, acting in consultation with the Cabinet member responsible for that organ of state, exercise its powers in a way that is inconsistent with a decision or steps taken by the Governor or the Reserve Bank in terms of this Part, in order to manage that systemic event or the effects of that systemic event.
(2) Any unresolved issues between the Minister and that Cabinet member must be referred to Cabinet.
(3) Subsection (1) does not apply to the financial sector regulators.

Part 3

Financial Stability Oversight Committee

Establishment of Financial Stability Oversight Committee

20. (1) A committee called the Financial Stability Oversight Committee is hereby established.
(2) The primary objectives of the Financial Stability Oversight Committee are to—
(a) support the Reserve Bank when the Reserve Bank performs its functions in relation to financial stability; and
(b) facilitate co-operation and collaboration between, and co-ordination of action among, the financial sector regulators and the Reserve Bank in respect of matters relating to financial stability.
(a) tlamele Banka ya Resefe ka tshepidimose to mga le mga e e mo diatleng tsa balaodi ba lephata la ditshelete, eo e ka kqomtshang Banka go lela tiragalo e e rulaganeng kgotsa ditlamorago tsa tiragalo e e rulaganeng; le
(b) go rerisana le Banka ya Resefe pele ba ka diragatsa dithata dingwe le dingwe tsa bona ka mokgwa o o o ka amang dikgato tse di tserweng kgotsa tsheetsintsweng go ya ka karo 15 go lela tiragalo e e rulaganeng kgotsa ditlamorago tsa yona.

Ditaelo go balaodi ba lephata la ditshelete
18. (1) Mmusisi o ka laela molaodi wa lephata la ditshelete, ka go kwala, go tlamele Banka ya Resefe ka tshepidimose to e e thalositsweng mo taelong e Banka ya Resefe kgotsa Mmusisi a e tlhokang go diragatsa dithata tsa gagwe go ya ka karo 14 kgotsa 15, eo e leng mo diatleng tsa molaodi wa lephata la ditshelete kgotsa e fitlhelelwang ke jona.
(2) (a) Fa Mmusisi go ya ka karo 14(4) a tlhomamisetse gore tiragalo e e rulaganeng e diregile kgotsa e ka diragala, Mmusisi o ka, ka go kwala, laela molaodi wa lephata la ditshelete, go thusa Banka ya Resefe go ikamanya le karo 15 ko ka go dira go tsamela la tealo fa bo diragatsa dithata tsa jona.
(b) Tealo go ya ka temana (a) e ka akaretsa dintlhla tse di ikakelaeng go—
(i) tshegetsa kagoセイ、tharabololo kgotsa tshwetso ya setheo sengwe le sengwe sa ditshelete;
(ii) thibela kgotsa fokotsa go anama ga dikotsi, makoa kgotsa dikgoreletsi mo thulaganyong ya ditshelete; kgotsa
tsa diateleletsi.
(iii) oketsa bokgoni jwa ditheo tsa ditshelete go emelana le dikotsi, makoa kgotsa dikgoreletsi.
(3) Bothati jwa Thlhomotelo, Bothati jwa Boitshwaro jwa Lehpatla la Ditshelete le Senthara ya Bothodi jwa Ditshelete di tshwanetsa go ikamanya le tealo e e rebotsweng go tsone go ya ka karolotlaletjoro (1) kgotsa (2).
(4) Bolaodi jwa Botesha jwa Sekolo bo tshwanetsa go ikamanya le tealo eo e e reboletsweng go ya ka karolotlaletjoro (1) kgotsa (2), fela fa Tona a rerisane le Tona e e rulaganeng kgotsa ditlamorago tsa tiragalo eo e e rulaganeng.

Tiragatsa go dithata ka maphata a mangwe a pusso
19. (1) Fa Mmusisi go ya ka karo 14(4) a tlhomamisetse gore tiragalo e e rulaganeng e diregile kgotsa e ka direga, lephata la pusso le le diragatsang dithata tsa lona mabapi le thulaganyo ya ditshelete le ka se, ntle le thebolo ya Tona, ka go dira ka therisano le leloko la Kabinetse le le rueleng maikarabelo a lephata le Tona le mabapi le reboletsweng kgotsa ditlamorago tsa tiragalo e e rulaganeng.
(2) Dintlhla dingwe le dingwe tse di sa rarabololwanga magareng ga Tona le leloko le Tona a rerisane le Kabineteng.
(3) Karolotlaletjoro (1) ga e diragatswe mo balaoding ba lephata la ditshelete.

Karolo 3
Komiti ya Kelotlhoko ya Thlhomamo ya Ditshelete
Go tlhongwa ga Komiti ya Kelotlhoko ya Thlhomamo ya Ditshelete
20. (1) Komiti e e bidiwang Komiti ya Kelotlhoko ya Thlhomamo ya Ditshelete e a tlhongwa.
(2) Matlhonomagolo a Komiti ya Kelotlhoko ya Thlhomamo ya Ditshelete ke go—
(a) tshegetsa Banka ya Resefe fa Banka ya Resefe e dira ditiro tsa yona mabapi le thlhomamo ya ditshelete; le
(b) nolofatsa tirisanommogo le kgolagano magareng ga, le kopanyo ya tiro magareng ga, balaodi ba lephata la ditshelete le Banka ya Resefe mabapi le merero e e amangang le thlhomamo ya ditshelete.
Functions of Financial Stability Oversight Committee

21. The Financial Stability Oversight Committee has the following functions:

(a) To serve as a forum for representatives of the Reserve Bank and of each of the financial sector regulators to be informed, and to exchange views, about the activities of the Reserve Bank and the financial sector regulators regarding financial stability;

(b) to make recommendations to the Governor on the designation of systemically important financial institutions;

(c) to advise the Minister and the Reserve Bank on—
   (i) steps to be taken to promote, protect or maintain, or to manage or prevent risks to, financial stability; and
   (ii) matters relating to crisis management and prevention;

(d) to make recommendations to other organs of state regarding steps that are appropriate for them to take to assist in promoting, protecting or maintaining, or managing or preventing risks to financial stability; and

(e) any other function conferred on it in terms of applicable legislation.

Membership

22. (1) The Financial Stability Oversight Committee consists of the following members:

(a) The Governor;

(b) the Deputy Governor responsible for financial stability matters;

(c) the Chief Executive Officer;

(d) the Commissioner;

(e) the Chief Executive Officer of the National Credit Regulator;

(f) the Director-General;

(g) the Director of the Financial Intelligence Centre; and

(h) a maximum of three additional persons appointed by the Governor.

(2) A member of the Financial Stability Oversight Committee referred to in terms of subsection (1)(h) holds office for the period, and on the terms, determined by the Governor.

Administrative support by Reserve Bank

23. (1) The Reserve Bank must provide administrative support, and other resources, including financial resources, for the effective functioning of the Financial Stability Oversight Committee.

(2) The Reserve Bank must ensure that minutes of each meeting of the Financial Stability Oversight Committee are kept in a manner determined by the Governor.

Meetings and procedure

24. (1) The Financial Stability Oversight Committee must meet at least every six months.

(2) The Governor—

(a) may convene a meeting of the Financial Stability Oversight Committee at any time; and

(b) must convene a meeting if requested to do so by the Chief Executive Officer, the Commissioner or the Chief Executive Officer of the National Credit Regulator.

(3) (a) The Governor chairs a meeting of the Financial Stability Oversight Committee at which the Governor is present.

(b) If the Governor is not present at a meeting, the Deputy Governor responsible for financial stability matters chairs the meeting.

(4) (a) A member of the Financial Stability Oversight Committee who is unable to attend a meeting may, after notice to the other members and with the concurrence of the person who will chair the meeting, nominate an alternate to attend that meeting in the member’s absence.
Ditiro tsa Komiti ya Kelothlhoko ya Thlomamo ya Ditšhelete

21. Komiti ya Kelothlhoko ya Thlomamo ya Ditšhelete e na le ditiro tse di latelang:
   (a) Go dira jaaka foramo ya baemedi ba Banka ya Resefe gape balaodi bongwe le bongwe jwa lephata la ditšhelete bo tshwanetse go itsisiwe, le go refosana dikakanyo, ka ga ditirwana tsa Banka ya Resefe le balaodi le lephata la ditšhelete mabapi le thlomamo ya ditšhelete;
   (b) go dira dikatlane giso go Mmusisi ka ga ga thlo miwa ga ditheo tse di rulaganeng tsa ditšhelete tse di botlhokwa;
   (c) go gakolola Tona le Banka ya Resefe ka ga—
      (i) dikgato tse di ka tsewang go tlhatlosa, sireletsa kgotsa tlamela, kgotsa go laola kgotsa thibela dikotsi go, thlomamo ya ditšhelete; le
      (ii) merero e e amangang le taolo ya dikotsi le thibelo;
   (d) go dira dikatlane giso go maphata a mangwe a puso mabapi le dikgato tse di maleba go bona go ka di isaya go thusa mo go thlhatloseng, sireletseng kgotsa tlameleng, kgotsa laoleng kgotsa thibela dikotsi go thlomamo ya ditšhelete; le
   (e) tiro nngwe le nngwe eo e e neetsweng go ya ka molawana o o maleba.

Boloko

22. (1) Komiti ya Kelothlhoko ya Thlomamo ya Ditšhelete e na le maloko a a latelang:
   (a) Mmusisi; 20
   (b) Motlatsammasu si ya o o rwalang maikarabelo a merero ya thlomamo ya ditšhelete;
   (c) Motlhankedimo golo wa Khuduthamaga;
   (d) Khomošenara;
   (e) Motlhankedimogolo wa Khuduthamaga wa Bolaodi jwa Bostšhaba jwa Sekolo;
   (f) Mokaedikakaretso;
   (g) Mokaedi wa Senthara ya Botlhodi jwa Ditšhelete; le
   (h) tekanyetsa ya batho be le bararo ba tlaleletso ba ba thapilweng ke Mmusisi.

(2) Lelo lo la Komiti ya Kelothlhoko ya Thlomamo ya Ditšhelete e e kailweng go ya ka karolo tla leletso (1)/(h) le dira go ya ka paka, le ka dipeelo, tse di thlomamisitsweng ke Mmusisi.

Tshegetso ya tsamaiso ka Banka ya Resefe

23. (1) Banka ya Resefe e tshwanetse go tlamela tshegetso ya tsamaiso, le ditlamelwana tse dingwe, go akaretsa le ditlamelwana tsa ditšhelete, gore Komiti ya Kelothlhoko ya Thlomamo ya Ditšhelete e dire ka matsetseleko.

(2) Banka ya Resefe e tshwanetse go netefatsa gore metsotsa ya kopano nngwe le nngwe e a tsewa, ka mokgwa o o thlomamisitsweng ke Mmusisi.

Dikopano le tsamaiso

24. (1) Komiti ya Kelothlhoko ya Thlomamo ya Ditšhelete e ditšhelete e tshwanetse go kopana 40 bonnye mo dikgweding dingwe le dingwe tse thataro.

(2) Mmusisi—
   (a) o ka bitsa kopano ya Komiti ya Kelothlhoko ya Thlomamo ya Ditšhelete nako nngwe le nngwe; le
   (b) o tshwanetse go bitsa kopano fa a kopilwe go dira jalo ke Motlhankedimogolo wa Khuduthamaga, Khomošenara kgotsa ke Motlhankedimogolo wa Khuduthamaga ya Bolaodi jwa Bostšhaba jwa Sekolo.

(3) (a) Mmusisi o okamela kopano ya Komiti ya Kelothlhoko ya Thlomamo ya Ditšhelete eo Mmusisi a leng teng mo go yona.
   (b) Fa Mmusisi a seyo mo kopanong, Motlatsammasu si ya o o rweleng maikarabelo a merero ya thlomamo ya ditšhelete o okamela kopano.

(4) (a) Lelo lo la Komiti ya Kelothlhoko ya Thlomamo ya Ditšhelete le le sa kgoneg go tselena kopano le ka, morago ga go itise maloko a mangwe le ka tumalano ya motho yo o tla okamelang kopano, tlhopha mongwe yo o refo sanang nae go tselena kopano eo boemong jwa gagwe.
(b) An alternate referred to in paragraph (a) has, for that meeting, the same rights as the member of the Financial Stability Oversight Committee.

(5) The Financial Stability Oversight Committee may determine its procedures, including quorum requirements.

(6) The person chairing a meeting may invite any person, including a representative of an organ of state or a financial institution, to attend the meeting.

(7) The Financial Stability Oversight Committee may establish separate working groups or subcommittees.

(8) In the event of an equality of votes on a matter that may be voted upon by the Financial Stability Oversight Committee, the person chairing a meeting has a casting vote in addition to a deliberative vote.

Part 4

Financial Sector Contingency Forum

Financial Sector Contingency Forum

25. (1) The Governor must establish a forum called the Financial Sector Contingency Forum.

(2) The primary objective of the Financial Sector Contingency Forum is to assist the Financial Stability Oversight Committee with—

(a) the identification of potential risks that systemic events will occur; and

(b) the co-ordination of appropriate plans, mechanisms and structures to mitigate those risks.

(3) The Financial Sector Contingency Forum is composed of at least eight members, including—

(a) a Deputy Governor designated by the Governor, which Deputy Governor is the Chairperson;

(b) representatives of each of the financial sector regulators;

(c) representatives of other organs of state, as the Chairperson may determine; and

(d) representatives of financial sector industry bodies and any other relevant person, as the Chairperson may determine.

(4) The Financial Sector Contingency Forum must meet at least every six months.

(5) The Financial Sector Contingency Forum must be convened and must function in accordance with procedures determined by the Governor.

(6) The Reserve Bank must provide administrative support, and other resources, including financial resources, for the effective functioning of the Financial Sector Contingency Forum.

Part 5

Roles of financial sector regulators and other organs of state in maintaining financial stability

Co-operation among Reserve Bank and financial sector regulators in relation to financial stability

26. (1) The financial sector regulators must—

(a) co-operate and collaborate with the Reserve Bank, and with each other, to maintain, protect and enhance financial stability;

(b) provide such assistance and information to the Reserve Bank and the Financial Stability Oversight Committee to maintain or restore financial stability as the Reserve Bank or the Financial Stability Oversight Committee may reasonably request;

(c) promptly report to the Reserve Bank any matter of which the financial sector regulator becomes aware that poses or may pose a risk to financial stability; and

(d) gather information from, or about, financial institutions that concerns financial stability.
Molao wa Taolo ya Lephata la Ditšhelete, 2017

(b) Mongwe yo o refosanang nae yo o kailweng mo temaneng (a), mo kopanong eo, o na le ditšhwanelo tse di tshwanang le tsa leloko la Komiti ya Kelothoko ya Thlomamo ya Ditšhelete.

(5) Komiti ya Kelothoko ya Thlomamo ya Ditšhelete e ka tlhomamisa ditsamaiso tsa yona, go akaretsa le ditlhokego tsa kboramo.

(6) Motho yo o okametseng kopano o ka laletsa motho mongwe le mongwe, go akaretsa le moemedi wa lephata la puso kgotsa setheo sa ditšhelete, go tsetela kopano.

(7) Komiti e ka tlhoma ditlhopha tse di farologaneng tsa tiro kgotsa dikomiti tlaleletso.

(8) Mo lebakeng la fa diboutu di lekana mo morerong o o ka boulwango le Komiti, motho yo o okametseng kopano o ka dira boutu e e kgethegileng mo godimo ga boutu e e dirilweng ke botlhe.

Karolo 4

Foramo ya Tshoganyetso ya Lephata la Dišhelete

Foramo ya Tshoganyetso ya Lephata la Dišhelete

25. (1) Mmusisi o tshwanetse go tlhoma foramo, e e bidiwang Foramo ya Tshoganyetso ya Lephata la Dišhelete.

(2) Maithlhomamagolo a Foramo ya Tshoganyetso ya Lephata la Dišhelete ke go thusa Komiti ya Kelothoko ya Thlomamo ya Dišhelete ka—

(a) go thagasa dikotsi tsa kgongagalo ya go direga ga ditiragalo tse di rulagang; le

(b) kopanyo ya maano a a maleba, mekgwa le dipopego go fokotsa dikotsi tseo.

(3) Foramo ya Tshoganyetso ya Lephata la Dišhelete e bopilwe ka bonnye maloko a le robedi, go akaretsa le—

(a) Molatlasamunvisi yo o thapihweng ke Mmusisi, yo e leng Modulasetilo;

(b) dikemedi tsa balaodi bangwe le bangwe ba lephata la dišhelete;

(c) dikemedi tsa maphata a mangwe a puso, jaaka Modulasetilo a ka tlhomamisa;

(d) dikemedi tsa mekgatlho ya madirelo a lephata la dišhelete le motho mongwe le mongwe yo o maleba, jaaka Modulasetilo a ka tlhomamisa.

(4) Foramo ya Tshoganyetso ya Lephata la Dišhelete e tshwanetse go kopana mo dkgweding dingwe le dingwe tse thataro.

(5) Foramo ya Tshoganyetso ya Lephata la Dišhelete e tshwanetse go kopana mo e tshwanetse go tšamaelana le ditsamaiso tse di tlhomamisitsweng ke Mmusisi.

(6) Banka ya Resefe e tshwanetse go tšamaelana tse dingwe, go akaretsa le ditlamelwana tse ditšhelete, gore Foramo ya Tshoganyetso ya Lephata la Dišhelete e dire ka matsetseleko.

Karo lo 5

Botsayakarolo jwa balaodi ba lephata la ditšhelete le maphata a mangwe a puso mo go tshegetseng tlhomamo ya dišhelete

Tirisannonmomo magareng ga Banka ya Resefe le balaodi ba lephata la ditšhelete mabapi le tlhomamo ya dišhelete

26. (1) Balaodi ba lephata la ditšhelete ba tšwanetse—

(a) go dirisannonmomo le go kopana le Banka ya Resefe, le ka bobona, go tšhegetsa, sireleta le go oketsa tlhomamo ya ditšhelete;

(b) go neelana ka thuos eo le tšhegomesetso go Banka ya Resefe le Komity ya Kelothoko ya Thlomamo ya Dišhelete go tšhegetsa kgotsa busetsa tlhomamo ya dišhelete, jaaka go kopile Banka ya Resefe kgotsa Komity ya Kelothoko ya Thlomamo ya Dišhelete;

(c) go bega ka potlako go Banka ya Resefe morero mongwe le mongwe o o lemogwang ke molaodi wa lephata la ditšhelete e le o o tšisan kgotsa o o ka tšisan dikotsi mo tlhomamong ya ditšhelete; le

(d) go kgobokanyi tshedimosetso go tswa go, kgotsa ka ga, ditheo tsa ditšhelete tse di amang tlhomamo ya ditšhelete.
(2) The Reserve Bank must, when exercising its powers in terms of this Chapter, take into account—
   (a) any views expressed and any information reported by the financial sector regulators; and
   (b) any recommendations of the Financial Stability Oversight Committee.

Memoranda of understanding relating to financial stability

27. (1) The financial sector regulators and the Reserve Bank must, not later than six months after this Chapter takes effect, enter into one or more memoranda of understanding with respect to how they will co-operate and collaborate with, and provide assistance to, each other and otherwise perform their roles and comply with their duties relating to financial stability.
   (2) The financial sector regulators and the Reserve Bank must review and update the memoranda of understanding as appropriate, but at least once every three years.
   (3) A copy of a memorandum of understanding must, without delay after being entered into or updated, be provided to the Minister and the Cabinet member responsible for consumer credit matters.
   (4) The validity of any action taken by a financial sector regulator in terms of a financial sector law, the National Credit Act or the Financial Intelligence Centre Act is not affected by a failure to comply with this section or a memorandum of understanding contemplated in this section.

Roles of other organs of state in relation to financial stability

28. An organ of state, other than a financial sector regulator, must—
   (a) in performing its functions, have regard to the implications of its activities on financial stability; and
   (b) provide such assistance and information to the Reserve Bank and the Financial Stability Oversight Committee so as to maintain and restore financial stability as the Bank or the Committee may reasonably request.

Part 6

Systemically important financial institutions

Designation of systemically important financial institutions

29. (1) (a) The Governor may, by written notice to a financial institution, designate the institution as a systemically important financial institution.
   (b) The power of the Governor in terms of paragraph (a) may not be delegated.
   (2) Before designating a financial institution in terms of subsection (1) as a systemically important financial institution, the Governor must—
      (a) give the Financial Stability Oversight Committee notice of the proposed designation and a statement of the reasons why the designation is proposed, and invite the Committee to provide advice on the proposal within a specified reasonable period; and
      (b) if, after considering the Committee’s advice, the Governor proposes to designate the financial institution in terms of subsection (1), invite the financial institution to make submissions on the matter, and give it a reasonable period to do so.
   (3) In deciding whether to designate a financial institution in terms of subsection (1), the Governor must take into account at least the following:
      (a) The size of the financial institution;
      (b) the complexity of the financial institution and its business affairs;
      (c) the interconnectedness of the institution with other financial institutions within or outside the Republic;
      (d) whether there are readily available substitutes for the financial products and financial services that the financial institution provides or, in the case of a market infrastructure, the market infrastructure;
      (e) recommendations of the Financial Stability Oversight Committee;
      (f) submissions made by or for the institution; and
      (g) any other matters that may be prescribed by Regulation.
(2) Banka ya Resefe e tshwanetse, fa e diragatsa ditihata tsa yona go ya ka Kgaolo eno, go tsaya tsia—
(a) dikakanyo dingwe le dingwe tse di tlagisitsweng le tshedimosetso ngwe le ngwe e e begilweng ke balaodi ba lephata la ditšhelete; le
(b) dikatanegiso dingwe le dingwe tsa Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete.

Memorantamao wa tumalano o o mabapi le tlhomamo ya ditšhelete

27. (1) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse, e seng mo sebakeng sa dikgwedi tse thataro morago ga go tsenngwa tirisong ga Kgaolo eno, go tsena mo memorantamong wa tumalano o le esi kgotsa go feta mabapi le ka mokgwao o ba tla dirisanang le go kopana ka teng, le go thusana, le go dira ditiro tsa bona le go ikamanywa le ditiro tsa bona tse di amanang le tlhomamo ya ditšhelete.
(2) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse go tlhatlhoba le go tlhabolola memorantamo wa tumalano jaaka go tshwanetse, fela bonnye gangwe mo dingwageng tse thoro.
(3) Kgatiso ya memorantamao wa tumalano e tshwanetse ntle le tshenyo o ya nako fa go sena go tsenwa mo go yona kgotsa tlhabololwa, go romelwa go Tona le lelolo la Kabinete le le rwalang maikarabelo a merero ya sekolotse ba badirisi.
(4) Kamogelesego ya tiro ngwe le ngwe e e dirilweng ke molaodi wa lephata la ditšhelete go ya ka molaolwana lephata la ditšhelete, Molaolwana le Botlhodi a Botlholo ya Ditšhelete ga e angwe ke go tlhologa go ikamanywa le karolo eno kgotsa memorantamo wa tumalano o o kailweng mo karolong eno.

Botsayakarolo jwa maphata a mangwe a puso mabapi le tlhomamo ya ditšhelete

28. Leplhata la puso, ntle le molaodi wa lephata la ditšhelete, le tshwanetse—
(a) mo go direng ditiro tsa lona, go tsaya tsia bokao jwa ditiro tsa lona mo tlhomamong ya ditšhelete; le
(b) go neelana ka thuso eo le tshedimosetso go Banka ya Resefe le Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete go thegetsa le go busetsa tlhomamo ya ditšhelete, jaaka Banka kgotsa Komiti e kopa.

Karlole 6

 Ditheo tsa ditšhelete tse di bolthokwa mo thulaganyong

Go tlhongwa ga ditheo tsa ditšhelete tse di bolthokwa tse di rulaganeng

29. (1) (a) Mmusisi o ka, ka kitsiso e e kwaletsweng setheo sa ditšhelete, tlhoma setheo jaaka setheo sa ditšhelete se se bolthokwa mo thulaganyong, Mmusisi o tshwanetse go—
(b) Thata ya Mmusisi go ya ka temana (a) ga e rolelwe.
(2) Pele go tlhongwa setheo sa ditšhelete go ya ka karolotlaleletso (1) jaaka setheo sa ditšhelete se se bolthokwa mo thulaganyong, Mmusisi o tshwanetse go—
(a) naya Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete, morago ga moo setheo sa ditšhelete, kitsiso ya tlhomo e e tshihsintsweng le polelo ya mbaka a gore goreng tlhomo e tshihsintsw; le
(b) laletsa setheo sa ditšhelete go dira ditlhagiso ka ga meroro, le go se naya nako e e lekaneng go diro seo.
(3) Mo go swetseng ka ga go tlhongwa ga setheo sa ditšhelete go ya ka karolotlaleletso (1), Mmusisi o tshwanetse go tsaya tsia bonnye tse di latelang:
(a) Bogolo jwa setheo sa ditšhelete;
(b) tharaano ya setheo sa ditšhelete le meroro ya sona ya kgwebo;
(c) kgokgano ya setheo le ditheo tse dingwe tsa ditšhelete mo gare ga kgotsa kwa ntle ga Rephaboliki;
(d) a go na le dikemisetso tse di baakantsweng tsa dikuno tsa ditšhelete le ditirelo tsa ditšhelete tse di tlamelwang ke setheo sa ditšhelete;
(e) dikatanegiso tsa Komiti ya Kelothhoko ya Tlhomamo ya Ditšhelete;
(f) ditlhagiso tse di dirilweng ke kgotsa mababi le setheo; le
(g) merero mengwe le mengwe e e ka newang ke Molawana.
(4) (a) If the Governor has determined in terms of section 14(4) that a systemic event has occurred or is imminent, the Governor may designate a financial institution as a systemically important financial institution without complying, or complying fully, with subsection (2) or (3).

(b) If the Governor acts in terms of paragraph (a) and designates a financial institution without complying, or complying fully, with subsection (2) or (3), the financial institution may make submissions on the designation to the Governor within 30 days after being notified of the designation.

(c) The Governor must consider any submissions in terms of paragraph (b) and, by notice to the financial institution, either confirm or revoke the designation.

(5) The designation of a financial institution as a systemically important financial institution does not imply, or entitle the financial institution to, a guarantee or any form of credit or other support from any organ of state.

(6) The Governor may, in writing, revoke a designation made in terms of this section.

(7) A designation, and the revocation of a designation, in terms of this section must be published.

Prudential standards and regulator’s directives in respect of systemically important financial institutions

30. (1) To mitigate the risks that systemic events may occur, the Reserve Bank may, after consulting the Prudential Authority, direct the Prudential Authority to impose, either through prudential standards or regulator’s directives, requirements applicable to one or more specific systemically important financial institutions or to such institutions generally in relation to any of the following matters:

(a) Solvency measures and capital requirements, which may include requirements in relation to counter-cyclical capital buffers;

(b) leverage ratios;

(c) liquidity;

(d) organisational structures;

(e) risk management arrangements, including guarantee arrangements;

(f) sectoral and geographical exposures;

(g) required statistical returns;

(h) recovery and resolution planning; and

(i) any other matter in respect of which a prudential standard or regulator’s directive may be made that is prescribed by Regulations made for this section on the recommendation of the Governor.

(2) The Prudential Authority may make prudential standards or issue regulator’s directives as contemplated in subsection (1).

(3) The Prudential Authority must notify the Reserve Bank and the Financial Stability Oversight Committee of any steps taken to enforce a prudential standard made or a regulator’s directive issued in terms of subsection (2), and the effect of those steps.

Winding-up and similar steps in respect of systemically important financial institutions

31. (1) None of the following steps may be taken in relation to a systemically important financial institution or a systemically important financial institution within a financial conglomerate without the concurrence of the Reserve Bank:

(a) Suspending, varying, amending or cancelling a licence issued to that financial institution;

(b) adopting a special resolution to wind up the financial institution voluntarily;

(c) applying to a court for an order that the financial institution be wound up;

(d) appointing an administrator, trustee or curator for the financial institution;

(e) placing the financial institution under business rescue or adopting a business rescue plan for the financial institution;
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(4) (a) Fa Mmusisi a tlhomamisitse go ya ka karolo 14(4) gore tiragalo e e rulaganeng e dirigile kgotsa e ka direga, Mmusisi o ka tlhoma setheo sa ditšhelete jaaka setheo sa ditšhelete te se bothokwa mo thulaganyong ntle le go ikamanaya, kgotsa go ikamanya ka gothle, le karolotlaleletso (2) kgotsa (3).

(b) Fa Mmusisi a dira go ya ka temana (a) le go tlhoma setheo sa ditšhelete ntle le go ikamanaya, kgotsa go ikamanya ka gothle, le karolotlaleletso (2) kgotsa (3), setheo sa ditšhelete se ka dira ditlhagiso ka ga go tlhongwa go Mmusisi mo matsatsing a le 30 morago ga go itsiiswe ka ga go tlhongwa.

(c) Mmusisi o tshwane setse ga tsya tsia ditlhagiso dingwe le dingwe go ya ka temana

(5) Go tlhongwa ga setheo sa ditšhelete jaaka setheo sa ditšhelete se se bothokwa mo thulaganyong ga go ka gore, kgotsa go go neye setheo sa ditšhelete tetla ya, tshireletseng kgotsa mokgwa mongwe le mongwe wa sekoloto kgotsa tshegetso ngwe go tswa go lephata lengwe le lengwe la puso.

(6) Mmusisi o ka, ka go kwala, ga pe le go ya ka kgato e e tlhokegang, gogela morago tlhomo e e dirilweng go ya ka karolo eno.

(7) Tlhomo, le kgogelomorago ya tlhomo, go ya ka karolo eno e tshwane setse go phasalatswa.

Maemo a a bothokwa le ditaelo tsalolaodi mabapi le ditheo tsal ditšhelete tsal di bothokwa tse di rulaganeng

30. (1) Go fokotsa dikotsa tsal gore ditiragalo tse di rulaganeng di ka diragala, Banka ya Resefo e ka, morago ga go rerisana le Bothati jwa Tlhokomelo, laela Bothati jwa Tlhokomelo go pateletsa, ka ditaelo kgotsa maemo a tlhokomelo, ditheo tse di diragatsweng go e e ngwe kgotsa go feta ya ditheo tse ditašhelete tse di bothokwa mo thulaganyong kgotsa go ditheo tse di ka kakaretse mabapi le ngwe le ngwe ya dirilweng tse di latelang:

(a) Dilekanyo tsa phutlhamo le ditlhokego tsa khapetlele, tse di ka akaretse ditlhokego mabapi le disireletsi tsa khapetlele tse di sa tlwaeleng;

(b) dikamano magareng ga khapetlele ya kadimo le dišere;

(c) phathalatso kgwebo;

(d) dibopego tsa setheo;

(e) ditlulhanyo tsa tsalo ya dikotsi, go akaretse ditlhulhanyo tsa tshireletseng;

(f) ditlhagiso tsa lephata le kgato;

(g) dipoelo tse di tlhokeng tse dipalopalo;

(h) togamaano ya poelo le tharabololo; le

(i) morero mongwe le mongwe o o mabapi le maemo a thlhomokelo kgotsa tao mo molaodi e e ka dirwang e e neetsweng ka Melawana e e dirilweng mo katlaneisong ya Mmusisi.

(2) Bothati jwa Tlhokomelo bo ka dira maemo a tlhokomelo kgotsa bo ka rebola ditaelo tsa molaodi jaaka go kalwe mo karolotlaleletsong (1).

(3) Bothati jwa Tlhokomelo bo tshwane setse go itsise Banka ya Resefo le Komiti ya Kelotlhoko ya Tlhomo ya Ditšhelete ka ga dikgato dingwe le dingwe tse di tserweng go gatelela tao e e ntsitsweng kgotsa maemo a tlhokomelo a a dirilweng go ya ka karolotlaleletso (2), le ditllumorago tsa dikgato tse.

Go swetsa le dikgato tse di bothokwa tse di molaodi mabapi le ditheo tse ditašhelete tse di bothokwa tse di rulaganeng

31. (1) Ga go epe ya dikgato tse di latelang e e ka tsewang mabapi le setheo sa ditšhelete se se bothokwa mo thulaganyong kgotsa setheo sa ditšhelete se se bothokwa mo thulaganyong mo gare ga ditheo tse ditšhelete tse di kopantsweng ntle le thebolo ya Banka ya Resefo:

(a) Go sekago, go fetola, go tlhabolola kgotsa go phimola laesense e e reboletseng setheo se o ditšhelete;

(b) go dirisa tharabololo e e kgethegileng go konotelela setheo sa ditšhelete ka boithaopo;

(c) go dira kopgo go kgotlatshekelo ya gore setheo sa ditšhelete se konotelelwe;

(d) go thapa motsamaisi, mohlhokomedi kgotsa motsahegami mo setheong sa ditšhelete;

(e) go baya setheo sa ditšhelete ka fa tlase ga phaloso ya kgwebo kgotsa tiriso ya leano la phaloso ya kgwebo mo setheong sa ditšhelete;
(f) entering into an agreement for amalgamation or merger of the financial institution with a company; and

(g) entering into a compromise arrangement with creditors of the financial institution.

(2) A step referred to in subsection (1) that is taken without the Reserve Bank’s concurrence is void.

CHAPTER 3

PRUDENTIAL AUTHORITY

Part 1

Establishment, objective and functions

Establishment

32. (1) An authority called the Prudential Authority is hereby established.

(2) The Prudential Authority is a juristic person operating within the administration of the Reserve Bank.

(3) The Prudential Authority is not a public entity in terms of the Public Finance Management Act.

Objective

33. The objective of the Prudential Authority is to—

(a) promote and enhance the safety and soundness of financial institutions that provide financial products and securities services;

(b) promote and enhance the safety and soundness of market infrastructures;

(c) protect financial customers against the risk that those financial institutions may fail to meet their obligations; and

(d) assist in maintaining financial stability.

Functions

34. (1) In order to achieve its objective, the Prudential Authority must—

(a) regulate and supervise, in accordance with the financial sector laws—

(i) financial institutions that provide financial products or securities services; and

(ii) market infrastructures;

(b) co-operate with and assist the Reserve Bank, the Financial Stability Oversight Committee, the Financial Sector Conduct Authority, the National Credit Regulator and the Financial Intelligence Centre, as required in terms of this Act;

(c) co-operate with the Council for Medical Schemes in the handling of matters of mutual interest;

(d) support sustainable competition in the provision of financial products and financial services, including through co-operating and collaborating with the Competition Commission;

(e) support financial inclusion;

(f) regularly review the perimeter and scope of financial sector regulation, and take steps to mitigate risks identified to the achievement of its objective or the effective performance of its functions; and

(g) conduct and publish research relevant to its objective.

(2) The Prudential Authority must also perform any other function conferred on it in terms of any other provision of this Act or other legislation.

(3) The Prudential Authority may do anything else reasonably necessary to achieve its objective, including—

(a) co-operating with its counterparts in other jurisdictions; and

(b) participating in relevant international regulatory, supervisory, financial stability and standard setting bodies.
(f) go tsena mo tumalanong ya kopanyo kgotsa tshwaraganyo ya setheo sa ditšhelete le setlamo; le
(g) go tsena mo thulaganyong ya tumalano le banayasekoloto ba setheo sa ditšhelete.

(2) Kgato e e kailweng mo karolotlaleletsong (1) e e tserweng ntle le thebolo ya Banka ya Resefe ga e na pateletso ya semolo.

KGAOLO 3

BOTHATI JWA TLHOKOMELO

Karolo 1

Go thomiwa, maitlhomo le ditho

Go thongwa

32. (1) Bothati jo bo bidiwang Bothati jwa Thhokomelo bo a thongwa.
(2) Bothati jwa Thhokomelo ke setheo se se dirang mo tsamaisong ya Banka ya Resefe.
(3) Bothati jwa Thhokomelo ga se setheo sa setšhaba go ya ka Public Finance Management Act.

Maitlhomo

33. Maitlhomo a Bothati jwa Thhokomelo ke go—
(a) tsheletsa le go oketsa pabaleseo le tshiamo ya ditheo tsatšhelete tse di tlamelang ka dikuno tsa ditšhelete le ditirelo tsa dithoto; le
(b) tsheletsela le go oketsa pabaleseo le itekanelo ya thulaganyetso ya popegotheo ya mmaraka;
(c) siresetsa barekedi ba ditšhelete kgathamang le kotsi ya gore ditheo tseo tsa ditšhelete di ka palelwa ke go fitšeletsa ditlamego tsa tsone; le
(d) thusa mo go tshegetseng tlhomamo ya ditšhelete.

Ditiro

34. (1) Gore bo fitšhelela maitlhomo a jona, Bothati jwa Thhokomelo bo tshwanetse—
(a) go laola le go thhokomela, go tsamaelana le melao ya lephata la ditšhelete—
(i) ditheo tsatšhelete tse di tlamelang ka dikuno tsa ditšhelete kgotsa ditirelo tsa dithoto; le
(ii) ditšheletsanyetsa tse popegotheo ya mmaraka;
(b) go dirisana mmoego le, le go thusa Banka ya Resefe, Komiti ya Kelothhoko ya Thhokomomy la Ditšhelete, Bothati jwa Botšhwaro jwa lephata la Ditšhelete, Bolaodi jwa Bošetšhaba jwa Sekoloto le Senthara ya Bothodi jwa Ditšhelete, jaaka go thhekega go ya ka Molao ono;
(c) go dirisa mmoego le Khasele ya Dikema tsa Kalafi mo go sekasekeng merero ya dikgatlhegelo tse ditshwanang;
(d) go thshegtsa kgaisano ya leruri mo kabelo ya dikuno tsa ditšhelete le ditirelo tsa dithoto, go akaretsa le tirisanommogo le kopano le Khomišene ya Kgaisano;
(e) go tshegetsa tseanyeletsyo ya ditšhelete;
(f) thadiso ya ka gale ya modiko le boteng jwa Bolaodi jwa lephata la ditšhelete, le go tsaya dikgato go fokotsa dikotsi tse di supilweng mo go fitšeletsegone maitlhomo a bona kgotsa mo go direng ditiro tsa bona ka matsetselope; le
(g) go dira le go phalalatsa patlisiso e e tseamaelang le maitlhoma a jona.
(2) Bothati jwa Thhokomelo bo thshwetseg mo dira tiro ngewe le ngewe e bo e abetsweng go ya ka kabelo ngewe le ngewe ya Molao ono kgotsa molawana mongwe le mongwe.

(3) Bothati jwa Thhokomelo bo ka dira sengwe le sengwe se se thlokengang go fitšhelela maitlhomo a jona, go akaretsa le—
(a) go dirisana mmoego le badiri-ka-bona mo ditaalong tse dingwe; le
(b) go tsaya karolo mo bolaoding jwa boditšhabatšhaha, bothhokomeding, tsepamong ya ditšhelete le mo mkgatlheng e e bayang maemo.
(4) When performing its functions, the Prudential Authority must—
   \(a\) take into account the need for a primarily pre-emptive, outcomes focused and
   risk-based approach, and prioritise the use of its resources in accordance with
   the significance of risks to the achievement of its objective; and
   \(b\) to the extent practicable, have regard to international regulatory and
   supervisory standards set by bodies referred to in subsection (3)(b), and
   circumstances in the Republic.

(5) The Prudential Authority must perform its functions without fear, favour or
prejudice.

Part 2

Governance

Overall governance objective

35. The Prudential Authority must manage its affairs in an efficient and effective way,
and establish and implement appropriate and effective governance systems and
processes, having regard to, among other things, internationally accepted standards and
practices in these matters.

Appointment of Chief Executive Officer

36. (1) The Governor must, with the concurrence of the Minister, appoint a Deputy
Governor who has appropriate expertise in the financial sector, other than the Deputy
Governor responsible for financial stability, as the Chief Executive Officer of the
Prudential Authority.

   (2) When appointing a Deputy Governor as the Chief Executive Officer, that Deputy
Governor and the Governor must agree, in writing, on—
   \(a\) the performance measures that will be used to assess the Deputy Governor’s
   performance as the Chief Executive Officer; and
   \(b\) the level of performance to be achieved against those performance measures.

   (3) A person may not be appointed or hold office as the Chief Executive Officer if the
person—
   \(a\) is a disqualified person; or
   \(b\) is not ordinarily resident in the Republic.

Role of Chief Executive Officer

37. (1) The Chief Executive Officer—
   \(a\) is responsible for the day-to-day management and administration of the
   Prudential Authority; and
   \(b\) subject to section 42(b), must perform the functions of the Prudential
   Authority, including exercising the powers and carrying out the duties
   associated with those functions.

   (2) When acting in terms of subsection (1), the Chief Executive Officer must
implement the policies and strategies adopted by the Prudential Committee.

Term of office of Chief Executive Officer

38. (1) A person appointed as the Chief Executive Officer—
   \(a\) holds office for a term no longer than five years, as the Governor may
determine;
   \(b\) is, at the expiry of that term, eligible for re-appointment for one further term;
   and
   \(c\) must vacate office before the expiry of a term of office if that person—
   \(i\) resigns as Chief Executive Officer, by giving at least three months
   written notice to the Governor, or a shorter period that the Governor may
   accept;

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(4) Fa bo dira ditiro ts’bona, Bothati jwa Tlhokomelo bo tshwanetse—
  (a) go tsaya tsia tlhokoego ya tsamaiso e e bonelang pele segolosegolo, e e ikategile e dia dipolo le e e ishellelegile ka mokgwa o o thei lweng mo dikotsing, le go baya kwa pele tiriso ya ditlamelwana tsa bona go tsamaelana le bothokwa jwa dikotsi mo go fitlheleleng maitlhomo a jona; le 5
  (b) go ya ka moo go kgonagalang, go tsaya tsia maemo a taolo le tlhokomelo a bodithabatshaba a a thei lweng ke mekgatliho e e kailweng mo karolo- tlaletsong (3)(b), le maemo mo Rephaboliking.

(5) Bothati jwa Tlhokomelo bo tshwanetse go dira ditiro tsa jona ntle le poifo, tseoletlhakore le kgobelelo.

Karolo 2

Puso

Maithlomo ka kakaretso a puso

35. Bothati jwa Tlhokomelo bo tshwanetse go laola merero ya bona ka bokgoni le nonofo, le go thloma le go tsenya tirisong dikgato le dithulaganyo tse di maleba e bile di nonofilie ts’puso, go ka ela tlhoko, mo gare ga dilo tse dingwe, maemo le ditiragatso tse di amogetsweng bodithabatshaba mo mabakeng ano.

Go thapiwa ga Motlhankedimogolo wa Khuduthamaga

36. (1) Mmusisi o tshwanetse, ka tumalano le Tona, go thapa Motlatsammusisi yo o leng motiseanape mo lepateng la ditšetele, ntle le Motlatsammusisi yo o rwalang maikarabelo a tlhomamo ya ditšetele, jaaka Motlhankedimogolo wa Khuduthamaga wa Bothati jwa Tlhokomelo.

(2) Fa go thapiwa Motlatsammusisi jaaka Motlhankedimogolo wa Khuduthamaga, Motlatsammusisi yoo le Mmusisi ba tshwanetse go dumalana, ka go kwala, ka—
  (a) ditekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiro ya Motlatsammusisi jaaka Motlhankedimogolo wa Khuduthamaga; le 25
  (b) boemo jwa tiro jo bo tshwanetseng go fitlhelelwa kgatlhanong le ditekanyetsotiro tseo.

(3) Motho a ka se thapiwe kgotsa go tshwara maemo a Motlhankedimogolo wa Khuduthamaga fa motho—
  (a) e le motho yo o ileditweng; kgotsa 30
  (b) e se moagi wa tlholego wa Rephaboliki.

Botsayakarolo jwa Motlhankedimogolo wa Khuduthamaga

37. (1) Motlhankedimogolo wa Khuduthamaga—
  (a) o rwala maikarabelo a taolo ya letsatsi le letsatsi le tsamaiso ya Bothati jwa Tlhokomelo; le 35
  (b) go tsamaelana le karolo 42(b), o tshwanetse go dira ditiro ts’Bothati jwa Tlhokomelo, go akaretsa le go diragatsa ditlhata le go dira ditiro tse di tsamaelanang le ditiro tseo.

(2) Fa a dira go ya ka karolotlaletso (1), Motlhankedimogolo wa Khuduthamaga o tshwanetse go diragatsa dipholisi le maano tse di amogetsweng ke Komiti ya Thllokomelo.

Paka ya tiro ya Motlhankedimogolo wa Khuduthamaga

38. (1) Motho yo o thapi lweng jaaka Motlhankedimogolo wa Khuduthamaga—
  (a) o thapiwa paka e e sa feteng dingwaga tse tlhano, jaaka Mmusisi a ka tlhomamisa; 45
  (b) o, kwa bokhutlong jwa paka eo, na le tshwanelo ya go ka thapiwa gape sebaka sa paka e le es e e okeditsweng; le
  (c) o tshwanetse go tswa mo ofising pele ga bokhutlo jwa paka ya tiro fa motho yoo—
    (i) a rola tiro jaaka Motlhankedimogolo wa Khuduthamaga, ka go naya Mmusisi kisisiso e e kwetsweng ya sebaka sa bonnye dikgwedi tse tharo, kgotsa paka e e khutshwane e e ka amogelwang ke Mmusisi; 50
(ii) ceases to hold office as Deputy Governor; or
(iii) is removed from office as Chief Executive Officer.

(2) The Governor must, at least three months before the end of the Chief Executive Officer’s first term of office, inform the Chief Executive Officer whether the Governor proposes to re-appoint the person as Chief Executive Officer.

Removal of Chief Executive Officer

39. (1) The Governor must, subject to due process, remove the Chief Executive Officer from office if the Chief Executive Officer becomes a disqualified person.

(2) The Governor may, with the concurrence of the Minister, remove the Chief Executive Officer from office if an independent inquiry, established by the Governor with the concurrence of the Minister, has found that the Chief Executive Officer—

(a) is unable to perform the duties of office for health or other reasons;
(b) has failed in a material way to achieve the level of performance against the performance measures agreed to in terms of section 36(2);
(c) has failed in a material way to discharge any of the responsibilities of office, including any responsibilities entrusted in terms of legislation; or
(d) has acted in a way that is inconsistent with continuing to hold the office.

(3) If an independent inquiry has been established in terms of subsection (2), the Governor may suspend the Chief Executive Officer from office pending a decision on the removal of the Chief Executive Officer.

(4) Without limiting subsection (2)(c), the Chief Executive Officer must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the Prudential Committee without the leave of the Prudential Committee.

(5) If the Chief Executive Officer is removed from office in terms of subsection (2), the Minister must, within 30 days, submit the report and findings of the independent inquiry to the National Assembly.

Acting Chief Executive Officer

40. The Governor may appoint a senior staff member of the Prudential Authority or a Deputy Governor to act as Chief Executive Officer when the Chief Executive Officer is absent from office, suspended or is otherwise unable to perform the functions of office.

Establishment of Prudential Committee

41. (1) A committee called the Prudential Committee is hereby established for the Prudential Authority.

(2) The Prudential Committee consists of the Governor, the Chief Executive Officer and the other Deputy Governors.

Role of Prudential Committee

42. The Prudential Committee must—

(a) generally oversee the management and administration of the Prudential Authority to ensure that it is efficient and effective; and
(b) act for the Prudential Authority in the following matters:
   (i) Authorising the Chief Executive Officer to sign, on behalf of the Prudential Authority, a section 27 or section 77 memorandum of understanding and any amendment to such a memorandum;
   (ii) delegating powers of the Prudential Authority to the Financial Sector Conduct Authority in terms of a section 77 memorandum of understanding;
   (iii) adopting the regulatory strategy of the Prudential Authority, and any amendment to the strategy;
   (iv) adopting the administrative action procedures of the Prudential Authority, and any amendment to those procedures;
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(ii) a ilo gala tsego jaaka Motlatsamnusisi; kgotsa
(iii) a ilo gdi jiga jaaka Motlhankedimogolo wa Khuduthamaga.

(2) Mmusisi o tshwanetse, bonnye dikgwedi tse tharo pele ga bokhutlo jwa paka ya tiro ya Motlhankedimogolo wa Khuduthamaga, go itise Motlhankedimogolo wa Khuduthamaga fa e le gore Mmusisi o tsitsinya go thapa motho yoo gape jaaka Motlhankedimogolo wa Khuduthamaga.

Go tloswa ga Motlhankedimogolo wa Khuduthamaga

39. (1) Mmusisi o tshwanetse, go tsemaela le kgato e e maleba, go tloja Motlhankedimogolo wa Khuduthamaga mo tirong fa Motlhankedimogolo wa Khuduthamaga a nna motho yo o ileditlweng.

(2) Mmusisi o ka, ka tumalano le Tona, tloja Motlhankedimogolo wa Khuduthamaga mo tirong fa patlisiso e e ikemetseng, e e tshilimilweng ke Mmusisi ka tumalano le Tona, e fitlheletse gore Motlhankedimogolo wa Khuduthamaga—

(a) ga a kgone go dira ditiro tsu ofisi ka nilha ya boitekanelo kgotsa mabaka mangwe;
(b) a paletswa ka gothle go fitlhelelo boemo jwa tiro kgathanong le ditekanyetsotiro tse go dumalanweng ka tsona go ya ka karolo 36(2);
(c) a paletswa ka gothle go diragatsa ngwe le ngwe ya maikarabelo a ofisi, go akaretsa ngwe le ngwe ya maikarabelo ao a a neilweng go ya ka molavana; kgotsa

(d) a dirile a mokgwa o o sa tsamaelaneng le go tsewela go nna no tirong.

(3) Fa patlisiso e e ikemetseng e tshilimilweng go ya ka karolotlaleletso (2), Mmusisi o ka segeka Motlhankedimogolo wa Khuduthamaga mo tirong fa go sa nte go letlwe tshwetse ya go tloja Motlhankedimogolo wa Khuduthamaga.

(4) Ntle le go lekanyetsa karolotlaleletso (2)(c), Motlhankedimogolo wa Khuduthamaga o tshwanetse go tsewa jaaka a paletswa ka gothle go diragatsa maikarabelo a tirofa a sa nna teng mo dikopanong tse pedi tse di latelanang tsa Komiti ya Tlhokomelo ntle le khunulogo ya Komiti ya Tlhokomelo.

(5) Fa Motlhankedimogolo wa Khuduthamaga a tlositswe mo tirong go ya ka karolotlaleletso (2), Tona o tshwanetse go romela pegelo le diphithelelo tse patlisiso e e ikemetseng go Kokoano Bosets isha mo matsatsing a le 30.

Motlhankedimogolo wa Khuduthamaga wa nama-o-tshwere

40. Mmusisi o ka thapa lelolo le legolwane la badirammogo ba Bothathi jwa Tlhokomelo kgotsa Motlatsamnusisi go ka tshwara marapo jaaka Motlhankedimogolo wa Khuduthamaga fa Motlhankedimogolo wa Khuduthamaga a seyo mo tirong, a sekeg ilwe kgotsa ka gongwe a sa kgone go dira ditiro tsu ofisi.

Go tlhongwa ga Komiti ya Tlhokomelo

41. (1) Komiti e e bidiwang Komiti ya Tlhokomelo e tshomelwa fano Bothathi jwa Tlhokomelo.

(2) Komiti ya Tlhokomelo e na le Mmusisi, Motlhankedimogolo wa Khuduthamaga le Batlatsamnusisi ba bangwe.

Botsayakarolo jwa Komiti ya Tlhokomelo

42. Komiti ya Tlhokomelo e tshwanetse—

(a) ka kakaretsa go ela tlhoko tla o le tsamaiso ya Bothathi jwa Tlhokomelo go netefatsa gore bo na le bokgoni le nnofo; le
(b) go direla Bothathi jwa Tlhokomelo mo mabakeng a a latelang:
(i) Go dumelela Motlhankedimogolo wa Khuduthamaga go saena, mo boemong jwa Bothathi jwa Tlhokomelo, memorantamo wa tshwara marapo jaaka Motlhankedimogolo wa Khuduthamaga a seyo mo tirong, a sekeg ilwe kgotsa ka gongwe a sa kgone go dira ditiro tsu ofisi.
(ii) go rolela dithata tsa Bothathi jwa Tlhokomelo go Bothathi jwa Botshwabo jwa Lephata la Ditshetele go ya ka karolo 77 ya memorantamo wa tshwara marapo ya karolo 27 kgotsa karolo 77 le tlhabololo ngwe le ngwe ya memorantamo oo;
(iii) go amogela leano la taolo la Bothathi jwa Tlhokomelo, le tlhabololo ngwe le ngwe ya leano;
(iv) go amogela ditismaise tsa tiro ya tsamaiso ya Bothathi jwa Tlhokomelo, le tlhabololo ngwe le ngwe go ditismaise tseo;
Meetings of Prudential Committee

43. (1) (a) The Prudential Committee must meet as often as necessary for the performance of its functions.
   (b) An audio or audio-visual conference among a majority of the members of the Prudential Committee, which enables each participating member to hear and be heard by each of the other participating members, must be regarded as a meeting of the Prudential Committee, and each participating member must be regarded as being present at such a meeting.

(2) Meetings of the Prudential Committee are held at times and, except where subsection (1)(b) applies, at places determined by the Governor.

(3) A quorum for a meeting of the Prudential Committee is a majority of its members.

(4) (a) The Governor chairs meetings of the Prudential Committee at which the Governor is present.
   (b) If the Governor is not present at a meeting, a Deputy Governor other than the Chief Executive Officer, who is nominated by the Governor, or selected in accordance with a procedure determined by the Governor, chairs the meeting.

(5) The Governor or the Deputy Governor chairing a meeting of the Prudential Committee may invite or allow any other person, including a representative of the Financial Sector Conduct Authority or the National Credit Regulator, to attend a meeting of the Prudential Committee, but a person who is invited has no right to vote at the meeting.

(6) The members may regulate proceedings at Prudential Committee meetings as they consider appropriate.

(7) The Chief Executive Officer must ensure that minutes of each meeting of the Prudential Committee are kept in a manner determined by the Chief Executive Officer.

Decisions of Prudential Committee

44. (1) (a) A proposal before a meeting of the Prudential Committee becomes a decision of the committee if a majority of the members present, or regarded as being present, and voting on the proposal, vote for the proposal.
   (b) In the event of an equality of votes on a proposal, the person chairing the meeting has a casting vote in addition to a deliberative vote.

(2) The Prudential Committee may, in accordance with procedures determined by it, make a decision on a proposal outside a meeting of the Prudential Committee.

(3) A decision of the Prudential Committee is not invalid merely because—
   (a) there was a vacancy in the office of a member when the decision was taken; or
   (b) a person who was not a member participated in the decision, as long as such person did not vote.

Governance and other subcommittees

45. (1) The Prudential Committee must establish—
   (a) a subcommittee to review, monitor and advise the Prudential Committee on the risks faced by the Prudential Authority and plans for managing those risks; and
   (b) a subcommittee to advise the Prudential Committee on measures that must be taken to ensure that the Prudential Authority complies with its obligations in relation to auditing and financial management.
Molao wa Taolo ya Lephata la Ditšhelete, 2017

(v) go thapa maloko a dikomitiitleletso tsa Bothati jwa Tlhokomelo a a tlihokeang kgotsa a a dumetsweng ke molao, le go bontsha tsele mabapi le maisholo a tiro a komitiitleletso mgwe le mngwe;
(vi) go dira maemo a tlhokomelo, maemo a thlakanelo le didiriswa tse dingwe tsa taolo go latela melao ya lephata la ditšhelete;
(vii) go dira dithhomamiso tsa dituelo go ya ka molao wa lephata la ditšhelete; le
(viii) morerong tengwe le mngwe o o abetsweng go ya ka molao wa lephata la ditšhelete kwa Komiting ya Tlhokomelo.

Dikopano tsa Komiti ya Tlhokomelo

43. (1) (a) Komiti ya Tlhokomelo e tshwanetse go kopana kgapetsakgapetsa fa go tlihokega go dira ditiro tsana yona.
(b) Khonference ya kutlo kgotsa kutlopono magareng ga bonetsi jwa maloko a Komiti ya Tlhokomelo, e kgontshang leloko lengwe le lengwe le le tsayang karolo go utla le go utlwelela ke mngwe le mngwe wa maloko a mangwe a a tsayang karolo, e tshwanetse go tsewa jaaka kopana yona ya Komiti ya Tlhokomelo, e biele leloko lengwe le lengwe le le tsayang karolo le tshwanetse go tsewa jaaka fe le le teng kwa kapanong eo.
(2) Dikopano tsa Komiti ya Tlhokomelo di tshwarwa ka nako le, ntle le moo karolotlaleletso (1)/(b) e diragatsvang, kwa mafelong a tlohamsisitsweng ke Mmusisi.
(3) Khoramo ya kopana ya Komiti ya Tlhokomelo ke bonetsi jwa maloko a yona.
(4) (a) Mmusisi o okamela dikopano tsa Komiti ya Tlhokomelo tse a leng teng mo go tsona.
(b) Fa Mmusisi a se teng kwa kapanong, Motlatsummusisi, yo mngwe yo e seng Mthahkanedi mogolo wa Khuduthamaga, yo o supilweng ke Mmusisi kgotsa yo o tshophiilweng go ya ka tsaaimo a e tlohamasitsweng ke Mmusisi, o okamela kopano.
(5) Mmusisi kgotsa Motlatsummusisi yo o okametseng kopano ya Komiti ya Tlhokomelo o ka laletsa kgotsa letla motho mngwe le mngwe, go akaretsa le kemedi ya Bothati jwa Boitshwaro a Lephata la Ditšhelete kgotsa Bolaodi jwa Bosetšhaba jwa Sekoloto, go tla kopana ya Komiti ya Tlhokomelo, fela motho yo o laleditsweng ga a na tshwanelo ya go tlhopha ka kapanong.
(6) Maloko a ka laola ditsumaiso kwa dikopano tsa Komiti ya Tlhokomelo jaaka bana go le maleba.
(7) Mthahkanedi mogolo wa Khuduthamaga o tshwanetse go netefatsa gore metsotsa ya kopana e gatiswa ko go abetsweng ke Mthahkanedi mogolo wa Khuduthamaga.

Ditshwetso tsa Komiti ya Tlhokomelo

44. (1) (a) Tshitsinyo e e dirilweng kwa kapanang kwa Komiti ya Tlhokomelo e nna tshwetso ya komiti e e kailweng fa bonetsi jwa maloko a a tilleng kapanong, kgotsa a a tseetsweng go nna teng kwa kapanong, le ao a ka tsayang karolo mo tshekaitshedong ya tshitsinyo, a boutela tshitsinyo.
(b) Mo lebakeg la fa diboutu tsa tshitsinyo di lekana, motho yo o okametseng kopano o dira boutu ya makgoatlakgang mo godimo ga boutu ya tlwaelo.
(2) Komiti ya Tlhokomelo e ka, go tsaaimelana le ditsumaiso tse di tlohamasitsweng ke komiti e e kailweng, dira ditshwetso ka ga tshitsinyo kwa ntle ga kopana ya komiti.
(3) Tshwetso ya Komiti ya Tlhokomelo ga e tloke camogeleseg o fela ka nthla ya gore—
(a) go nnile le phatlatiro mo ofising ya leloko fa tshwetso e ne e tsewa; kgotsa
(b) motho yo o neng e se leloko o tsele karolo mo tshwetso, fela motho yoo a sa bouta.

Puso le dikomitiitleletso tse dingwe

45. (1) Komiti ya Tlhokomelo e tshwanetse go tlhoma—
(a) komitiitleletso go sekaseka, leloka le go gakolola Komiti ya Tlhokomelo ka ga dikotshi tse Bothati jwa Tlhokomelo bo lebaganeng le tsona le maano a go laola dikotshi tseo; le
(b) komitiitleletso go gakolola Komiti ya Tlhokomelo ka ga dikgato tse di tshwanetseng go tsewa go netefatsa gore Bothati jwa Tlhokomelo bo ikamanya le ditlamego tsa jona mabapi le boruni le taolo ya ditšhelete.
(2) The Prudential Committee may establish one or more other subcommittees for the Prudential Authority, with functions that the Prudential Committee may determine.

(3) (a) The Prudential Committee determines the membership of a subcommittee established in terms of this section.

(b) The majority of the members of a subcommittee established in terms of subsection (1) may not be staff members of the Prudential Authority or the Reserve Bank.

(c) A subcommittee established in terms of subsection (2) may include persons who are neither members of the Prudential Committee nor staff members of the Prudential Authority.

(d) A disqualified person may not be a member of a subcommittee established in terms of this section.

(4) The Prudential Committee may, instead of establishing a subcommittee referred to in subsection (1), assign the subcommittee’s function to a committee of the Reserve Bank performing a similar function.

(5) A member of a subcommittee established in terms of this section, including a member who is not in the service of an organ of state, holds office for the period, and on the terms and conditions, and terms regarding remuneration, as determined by the Prudential Committee.

(6) A subcommittee established in terms of subsection (1) must be chaired by a person who is not the Governor, a Deputy Governor, the Chief Executive Officer or a staff member of the Prudential Authority.

(7) A subcommittee established in terms of this section determines its procedures subject to any directions by the Prudential Committee.

(8) The Chief Executive Officer must ensure that minutes of each meeting of each subcommittee established in terms of this section are kept in a manner determined by the Prudential Committee.

Duties of members of Prudential Committee and members of subcommittees

46. (1) A member of the Prudential Committee or of a subcommittee established in terms of section 45(1) must—

(a) act honestly in all matters relating to the Prudential Authority; and

(b) perform the functions of office as a member—

(i) in good faith;

(ii) for a proper purpose; and

(iii) with the degree of care and diligence that a reasonable person in the member’s position would exercise.

(2) A person who is or has been a member of the Prudential Committee or of a subcommittee established in terms of section 45(1) may not use that position or any information obtained as such a member to—

(a) improperly benefit himself or herself or another person;

(b) impede the Prudential Authority’s ability to perform its functions; or

(c) cause improper detriment to another person.

(3) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

Regulatory strategy

47. (1) The Prudential Committee must, within six months after the date on which this Chapter takes effect, adopt a regulatory strategy for the Prudential Authority to give general guidance to the Prudential Authority in the achievement of its objective and the performance of its regulatory and supervisory functions.

(2) A regulatory strategy must—

(a) state—

(i) the regulatory and supervisory priorities for the Prudential Authority for the next three years; and

(ii) the intended key outcomes of the strategy;

(b) set guiding principles for the Prudential Authority on—

(i) how it should perform its regulatory and supervisory functions;
(2) Komiti ya Tlhokomelo e ka tlhoma komiti e le esi kgotsa go feta e e nang le ditiro tse di tla tlhomamisiwang ke Komiti ya Kelothoko ya Bothati jwa Tlhokomelo.

(3) (a) Komiti ya Tlhokomelo e tlhomamisa botokolo lo jwa komititlaleletso e e thlomilweng go ya ka karolo eno.
   (b) Bontsi jwa maloko a komititlaleletso e e thlomilweng go ya ka karolotlaleletso (1) bo ka se nne badirammo ba Bothati jwa Tlhokomelo kgotsa Banka ya Resefé.
   (c) Komititlaleletso e e thlomilweng go ya ka karolotlaleletso (2) e ka akaretsa batho bao e seng maloko a Komiti ya Tlhokomelo kgotsa badirammo ba Bothati jwa Tlhokomelo.
   (d) Motho yo o iledisiweng o ka se nne leloko la komititlaleletso e e thlomilweng go ya ka karolo eno.

(4) Komiti ya Tlhokomelo e ka, boemong jwa go tlhoma komititlaleletso e e kailweng mo karolotlaleleletso (1), naya tiro ya komititlaleletso go komiti ya Banka ya Resefé e e dirang tiro e e tshwanang.

(5) Lelo la komititlaleletso e e thlomilweng go ya ka karolo eno, go akaretsa le leloko le le seng mo tirelong ya lephata la puso, o thapiwa mo pakeng, le go ya ka mabaka le dipeelo, le dipeelo tse di amanang le mogolo, jaaka go tlhomamisitsen Komiti ya Tlhokomelo ya Tlhokomelo.

(6) Komiti e e thlomilweng go ya ka karolotlaleleletso (1) e tshwanetseng go okamela ke motho yo o seng Mmusisi, Motlatsummusisi, Motlhankedimogolo wa Khuduthamaga kgotsa leloko la badirammo ba Bothati jwa Tlhokomelo.

(7) Komititlaleletso e e thlomilweng go ya ka karolo eno e tlhomamisa ditsamaaiso tsa yona go tsmaelanana le kaeo ya Komiti ya Tlhokomelo.

(8) Motlhankedimogolo wa Khuduthamaga o tshwanetseng go netefatsa gore metsotsa ya kopano ngwwe le ngwwe ya komititlaleletso ngwwe le ngwwe e e thlomilweng go ya ka karolo eno e tsholwa go ya ka mokgwa o o tlhomamisitseng ke Komiti ya Tlhokomelo.

Ditiro tsa maloko a Komiti ya Tlhokomelo le maloko a dikomititlaleletso

46. (1) Lelo la Komiti ya Tlhokomelo kgotsa komititlaleletso e e thlomilweng go ya ka karolo 45(1) le tshwanetseng go—
   (a) dira ka botshepegi mo mererong yotlh e e amanang le Bothati jwa Tlhokomelo; le
   (b) dira ditiro tsa ofisi jaaka leloko—
   (i) le le ikanyegang;
   (ii) mabapi le maitlhomo a nnete; le
   (iii) ka thlhokomelo e e tseneletseng le matsetseleko tse motho yo o mo maemong a leloko a ka di diragatsang.
   (2) Motho yo e leng kgotsa yo o kileng a nna leloko la Komiti ya Tlhokomelo kgotsa komititlaleletso e e thlomilweng go ya ka karolo 45(1) o ka se dirise maemo ao kgotsa tshedimosetse ngwwe le ngwwe e a e fitlheleletseng jaaka leloko leo go—
   (a) una molemo ka boena kgota go dira motho yo mongwe a une molemo ka tseen e e sa siamang;
   (b) kgoreletsa Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa
   (c) thatafaletsa motho yo mongwe.
   (3) Mabapi le maitlhomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletsa ya ditšhelete.

Leano la bolaodi

47. (1) Komiti ya Tlhokomelo e tshwanetseng, mo dikgweding tse thataro morago ga lethla la go tsengwa tirisong ga Kgaoelo eno, go amogela leano la bolaodi gore Bothati jwa Tlhokomelo bo neye kgakololo e e akaretsang go Bothati jwa Tlhokomelo mo go fitlheleleleng maikaelelo le go di diri ditso tsa jona tsa bolaodi le bothhokomedi.

(2) Leano la bolaodi le tshwanetseng go—
   (a) tlaŋisa—
   (i) ditlapele tsa bolaodi le bothhokomedi tsa Bothati jwa Tlhokomelo mo dingweng tse tharo tse di latelang; le
   (ii) dipelo tse di bothhokwa tse di lebeleletseng tsa leano;
   (b) tlhama ditheo tsa kaelo boemong jwa Bothati jwa Tlhokomelo ka ga—
   (i) mokgwa o bo tshwanetseng go dira ditri tsa jona tsa bolaodi le bothhokomedi;
(ii) the matters to which it should have regard in performing those functions;
(iii) its approach to administrative actions; and
(iv) how it should give effect to the requirements applicable to it with respect to—
   (aa) transparency;
   (bb) openness to consultation; and
   (cc) accountability; and
(c) be aimed at giving effect to section 34(4).
(3) The Prudential Committee must review the regulatory strategy at least annually, and may amend it at any time.
(4) (a) Before the Prudential Committee adopts a regulatory strategy or an amendment to a regulatory strategy, it must—
   (i) provide a copy of the draft of the strategy or amendment to the Minister, the Financial Sector Conduct Authority and the National Credit Regulator; and
   (ii) invite comments from the Minister, the Financial Sector Conduct Authority and the National Credit Regulator, on the draft, to be made within a period specified by the Prudential Committee.
   (b) The period referred to in paragraph (a)(ii) must be at least one month.
(5) In deciding whether to adopt a regulatory strategy or an amendment of a regulatory strategy, the Prudential Authority must have regard to all comments made on the draft.
(6) The Prudential Committee must seek to minimise, to the extent that is practicable and appropriate, inconsistencies between the Prudential Authority’s regulatory strategy and the Financial Sector Conduct Authority’s regulatory strategy.
(7) The Chief Executive Officer must—
   (a) provide a copy of the Prudential Authority’s regulatory strategy, and each amendment, as adopted, to the Minister, the Financial Sector Conduct Authority and the National Credit Regulator; and
   (b) publish the regulatory strategy and each amendment.

Delegations

48. (1) The Prudential Committee may, in writing—
   (a) delegate any power or duty referred to in section 42(b)(viii) to the Chief Executive Officer or another staff member of the Prudential Authority; and
   (b) at any time, amend a delegation made in terms of paragraph (a).
(2) The Chief Executive Officer may, in writing—
   (a) delegate to a staff member of the Prudential Authority or an official or staff member of the Reserve Bank any power or duty assigned or delegated to the Chief Executive Officer in terms of a financial sector law, except the power to delegate contained in this subsection;
   (b) delegate to an administrative action committee the power to impose administrative penalties that are specified in the delegation, if the Prudential Authority establishes an administrative action committee; and
   (c) at any time amend a delegation made in terms of paragraph (a) or (b).
(3) A delegation in terms of subsection (1)(a) or (2)(a) may be to a specific person or to a person holding a specific position.
(4) Any power or duty of the Prudential Authority may be delegated to the Financial Sector Conduct Authority by a section 77 memorandum of understanding in accordance with a framework and system of delegation developed by the financial sector regulators to ensure that any delegation does not constrain the Prudential Authority or the Financial Sector Conduct Authority from achieving their respective objectives as set out in sections 33 and 57.
(5) A delegation in terms of this section—
   (a) is subject to the limitations and conditions specified in the delegation;
(ii) merero e bo tshwanetseng go e ela tlhoko mo go direng ditiro tsa jona;
(iii) ithagiso ya jona go ditiro tsa tsamaiso; le
(iv) ka moo bo ka neelanang ka ditlhokoego tse di maleba go jona mabapi le—

(aa) ponaletshego;

(bb) ditherisano tse di seng bofihla; le

(cc) boikarabelo; le

(c) go lebiswa wa go tsamaelang le ditheo tsal o karolo 34(4).

(3) Komiti ya Tlhokomelo e tshwanetse go sekaseka leano la bolaodi bonnye ngwaga le ngwaga, le go ka le tlhabolola nako ngwe le ngwe.

(4) (a) Pele ga Komiti ya Tlhokomelo e ka amogela leano la bolaodi kgotsa tlhabololo go leano la bolaodi, e tshwanetse—

(i) go tlamelwa kgatiso ya thalo ya leano kgotsa tlhabololo go Tona, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le Bolaodi jwa Bosesitšaba jwa Sekolo; le

(ii) go laletsa disitshwaelo go tswa go Tona, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le Bolaodi jwa Bosesitšaba jwa Sekolo, ka ga thalo, gore di dirwe mo pakeng e e kailweng ke Komiti ya Tlhokomelo.

(b) Paka e e kailweng mo temaneng (a)(ii) e tshwanetse go nna bonnye kgwedi e le esi.

(5) Mo go swetseng ka go amogela leano la bolaodi kgotsa tlhabololo ya leano la bolaodi, Bothati jwa Tlhokomelo bo tshwanetse go tsaya tsia disitshwaelo tsothile tse di dirilweng mo thalong.

(6) Komiti ya Tlhokomelo e tshwanetse go leko ka gothle go fokotsa, ka moo go kgonagalong e bile go tshwanetse, go sa tsamaelang magareng ga leano la bolaodi la Bothati jwa Tlhokomelo le leano la bolaodi la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

(7) Motlhankedimogolo wa Khuduthamaga o tshwanetse—

(a) go tlamelwa kgatiso ya leano la bolaodi la Bothati jwa Tlhokomelo, le tlhabololo ngwe le ngwe jaaka e amogetswe, go Tona, Bota ti jwa Boitshwaro jwa Lephata la Ditšhelete le Bolaodi jwa Bosesitšaba jwa Sekolo; le

(b) go phasalatsa leano le tlhabololo ngwe le ngwe.

Ditholelo

48. (1) Komiti ya Tlhokomelo e ka, ka go kwala—

(a) rolela thata ngwe le ngwe kgotsa tiro e e kailweng mo karolong 42(b)(viii) go Motlhankedimogolo wa Khuduthamaga kgotsa modirammogomo mongwe wa Bothati jwa Tlhokomelo; le

(b) ka nako ngwe le ngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a).

(2) Motlhankedimogolo wa Khuduthamaga o ka, ka go kwala—

(a) rolela go modirimmogo wa Bothati jwa Tlhokomelo kgotsa mokantorl kgotsa motlhankedi kgotsa modirammogo wa Banka ya Resefe thate ngwe le ngwe kgotsa tiro e e neilweng kgotsa roletsweng Motlhankedimogolo wa Khuduthamaga go ya ka molao wa lephata la ditšhelete, ntle le thate ya tholelo e e umakilweng mo karolotlatoleletsong eno;

(b) rolela go komiti ya tiro ya tsamaiso thate ya go pateletsa dikotlhao tsamaiso tse di tsemapisitsweng mo tholelog, fa Bothati jwa Tlhokomelo bo tlhoma komiti ya tiro ya tsamaiso; le

(c) ka nako ngwe le ngwe go tlhabolola tholelo e e dirilweng go ya ka temana (a) kgotsa (b).

(3) Tholelo go ya ka karolotlatoletsosoa(1)(a) kgotsa (2)(a) e ka dirwa go motho yo o tsemapeng kgotsa go motho yo o tshweng maemo a a tsemapeng.

(4) Thate ngwe le ngwe kgotsa tiro ya Bothati jwa Tlhokomelo e ka rolelwa go Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ka memorantamo wa tulumano wa karolo 77 go tsamaelana le lethlomese le thulaganyo ya tholelo e e tlhabolotseng ke balaodi ba lephata la ditšhelete go netefatsa goe tholelo ngwe le ngwe ga e tibele Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mo go filtheleleni matlhimo a jona a a thalositsweng mo dikarolong 33 le 57.

(5) Tholelo go ya ka karolo eno—

(a) e tsamaelana le ditekanyetso le dipeelo tse di tlhalositsweng mo tholelog;
(b) does not divest the Prudential Authority, the Prudential Committee or the
Chief Executive Officer of responsibility in respect of the delegated power or
duty; and

(c) may be revoked at any time, but a revocation does not affect any rights or
liabilities accrued because of the acts of the delegate.

(6) Anything done by a delegate in accordance with a delegation in terms of this
section must be regarded as having been done by the Prudential Authority.

(7) This section does not affect a power under a specific financial sector law to
decorate a power of the Prudential Authority.

Disclosure of interests

49. (1) A member of the Prudential Committee or of a subcommittee established in
terms of section 45(1) must disclose, at a meeting of the Prudential Committee or
subcommittee, as the case may be, or in writing to each of the other members of that
committee or subcommittee, any interest in any matter that is being or may be
considered by the relevant committee that—

(a) the member has; or

(b) a person who is a related party to the member has.

(2) A disclosure referred to in subsection (1) must be given as soon as practicable after
the member becomes aware of the interest.

(3) (a) A member who has, or who has a related party who has, an interest that is
required to be disclosed in terms of subsection (1), may not participate in the
consideration of, or decision on, a matter to which the interest relates unless—

(i) the member has disclosed the interest as required by subsection (1); and

(ii) the other members of the Prudential Committee or subcommittee have decided
that the interest does not affect the proper execution of that member’s functions
in relation to the matter.

(b) Any consideration of, or decision on, a matter which does not comply with
paragraph (a) is void and must be reconsidered or decided without the member present.

(4) (a) Each member of the Prudential Authority’s staff and each person to whom a
power or function of the Prudential Authority has been delegated must make timely,
proper and adequate disclosure of their interests, including the interests of a related
party, that could reasonably be seen as interests that may affect the proper execution of
their functions of office or the delegated power.

(b) The Chief Executive Officer must ensure that paragraph (a) is complied with.

(5) For the purposes of this section, it does not matter—

(a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or

(b) when the interest was acquired.

(6) For the purposes of this section, a person does not have to disclose—

(a) the fact that that person, or a person who is a related party to that person, is—

(i) an official or employee of the Reserve Bank; or

(ii) a financial customer of a financial institution; or

(b) an interest that is not material.

(7) A failure by a person to disclose a material interest in accordance with this section
and any guidelines that may be prescribed by the Minister in terms of section 288(3)
constitutes—

(a) a breach of the duties in section 46 or 52, whichever section is applicable to
the person; and

(b) an offence in terms of section 265.

(8) When a person has failed to disclose a material interest in terms of this section, the
Prudential Committee must publish a notice on the Prudential Authority’s website that
a failure to disclose a material interest occurred, which notice must include the details of
the failure.

(9) The Chief Executive Officer must maintain a register of all disclosures made in
terms of this section and of all decisions made in terms of this section.
Molao wa Taolo ya Lephata la Ditšhelete , 2017  Nmr 9 ya 2017

(b) ga e amoge Bothati jwa Tlhokomelo, Komiti ya Tlhokomelo kgotsa Motlhankedimogolo wa Khuduthamaga maikaarabelo mabapi le thelo; e roletsweng kgotsa tiro; le e ka gogela morago nako ngwele ngwe, mme kgogelomor ago ga e ame ditshwanelo dipe kgotsa melato tse di bonweng ka nthla ya ditlamarago tsa tholoelo.

(6) Sengwe le sengwe se se dirweng ke moroledi go tsaamela le tholelo go ya ka karolo eno se tshwanetse go tsewa jaaka se setse se dirilwe ke Bothati jwa Tlhokomelo. (7) Karolo eno ga e ame thela ka fa tlase ga molao o o rileng wa lephata la ditšhelete ya go rolela thela kwa Bothating jwa Tlhokomelo.

Tshenolo ya dikgatlhegelo

49. (1) Leloko la Komiti ya Tlhokomelo kgotsa komititlaleletso e e tlhomilweng go ya ka karolo 45(1) le tshwanetse go senola, kwa kopanong ya Komiti ya Tlhokomelo kgotsa komititlaleletso, go ya ka mabaka, kgotsa go kwalela mongwe le mongwe wa maloko a mangwe a komiti eo kgotsa komititlaleletso, kgatlhegelo ngwe le ngwe mo morerong o o tseng kgotsa o o tla tseeng tsia ke komiti e e maleba ya gore—

(a) leloko le na le yona; kgotsa
(b) motho yo o amanang le leloko o na le yona.

(2) Tshenolo e e kailweng mo karolotlaleletsong (1) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le sena go itse ka ka kgatlhegelo.

(3) (a) Leloko le lenang le, kgotsa le wa losika la gagwe a nang le, kgatlhegelo e e tshwanetseg go senolwa go ya ka karolotlaleletso (1), le ka se tseye karolo mo tshhekatshekong ya, kgotsa mo tshwetsong ya, morero o kgatlhegelo e amanang le ona ntle le fa—

(i) leloko le senotsa kgatlhegelo jaaka go tlhokega go ya ka karolotlaleletso (1); le maloko a mangwe a komiti eo a swedaditse gore kgatlhegelo e e tseng gore e ame ogula tiyo go go siameng ga leloko leo mabapi le morero.

(b) Tshhekatsheko ngwe le ngwe ya, kgotsa tshwetsya ya, morero o o sa ikamanyeng le temana (a) ga e amogelesege e bile e tshwanetse go sekasekwa gape kgotsa go swetswa ntle le go nna teng ga leloko.

(4) (a) Mongwe le mongwe wa leloko la badiri ba Bothati jwa Tlhokomelo le mongwe le mongwe yo o roletsweng thata ya Bothati jwa Tlhokomelo o tshwanetse go dira tshenolo ya dikgatlhegelo tsa gagwe ka nako, tshiamo le tekane go akaretsa le dikgatlhegelo tsa lethakore le a amanang le lona, tseo di ka tseang jaaka dikgatlhegelo tse di di ka ba amang mo go direng ditiro tsa ofisi ka tlhomamoro kgotsa thele e e roletsweng.

(b) Motlhankedimogolo wa Khuduthamaga o tshwanetse go netefatsa gore temana (a) e a obamelwa.

(5) Mabapi le maithlomo a karolo eno, ga go kgathalesege—

(a) gore kgatlhegelo ke e e thlamaletseg, motsopodia, ya tshelele kgotsa e seng ya tshelele; kgotsa
(b) gore kgatlhegelo e fihleletswe leng.

(6) Mabapi le maithlomo a karolo eno, ga go tlhokege gore motho a senole—

(a) nthla ya gore motho yoo, kgotsa motho yo e leng lethakore la kamano go motho yoo, ke —

(i) motlhankedi kgotsa modiri wa Banka ya Resefe; kgotsa
(ii) morekedi wa kgatlhegelo ya setheto sa diragetsweng kgotsa

(b) kgatlhegelo e e senang boleng.

(7) Go palelwa ga motho go senola ka ga kgatlhegelo go tsamela la ke karolo eno le dikaelo dinge le dinge tse di ka nelweng ke Tona go ya ka karolo 288(3) go nna le ditlamarago tsa—

(a) tloalo ya ditlamego mo karolong 46 kgotsa 52, karolo ngwele ngwele e e diragetsweng mo mothong; le
(b) tloalo ya molao go ya ka karolo 265.

(8) Fa motho a paletswe ka go senola kgatlhegelo ya gagwe go ya ka karolo eno, Komiti ya Tlhokomelo e tshwanetse go phasalatsa kisisiso me webesaenteng ya Bothati jwa Tlhokomelo e e ka ga go diragala ga go palelwa ke go senola kgatlhegelo.

(9) Motlhankedimogolo wa Khuduthamaga o tshwanetse go tshola rejisetara ya ditshenolo tsothle tse di dirilweng go ya ka karolo eno le ya ditshwetsyo tsothle tse di dirilweng go ya ka karolo eno.
Staff, resources and financial management

Staff and resources

50. (1) The Prudential Authority must determine the personnel, accommodation, facilities, use of assets, resources and other services that it requires to function effectively.

(2) The Prudential Authority may—
   (a) enter into secondment arrangements in respect of persons;
   (b) engage persons on contract otherwise than as employees;
   (c) enter into contracts;
   (d) acquire or dispose of property;
   (e) insure itself against any loss, damage, risk or liability that it may suffer or incur; and
   (f) do anything else necessary for the performance of its functions.

(3) The Prudential Authority may not enter into a secondment arrangement in respect of a person, or engage persons on contract, unless the person and the Prudential Authority have agreed in writing on—
   (a) the performance measures that will be used to assess that person’s performance; and
   (b) the level of performance that must be achieved against those measures.

Resources provided by Reserve Bank

51. (1) The Reserve Bank must provide the Prudential Authority with the personnel, accommodation, facilities, use of assets, resources and other services determined in accordance with section 50(1) and as agreed to by the Reserve Bank.

(2) The Reserve Bank must second the personnel that it provides in terms of subsection (1) to the Prudential Authority.

Duties of staff members

52. (1) A person who is or has been a staff member of the Prudential Authority may not use that position or any information obtained as a staff member to—
   (a) improperly benefit himself or herself or another person;
   (b) impede the Prudential Authority’s ability to perform its functions; or
   (c) cause improper detriment to another person.

(2) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

Financial management duties of Chief Executive Officer

53. The Chief Executive Officer must—
   (a) recommend to the Prudential Committee fees for prudential supervision by, and other services provided by, the Prudential Authority in terms of this Act and other financial sector laws, and levies in terms of levies legislation;
   (b) exercise the utmost care to protect the assets and records of the Prudential Authority;
   (c) act with fidelity, honesty, integrity and in the best interests of the Authority in managing the financial affairs of the Prudential Authority;
   (d) on request, disclose to the Minister or the Governor all material facts relating to the affairs of the Prudential Authority, including those reasonably discoverable, that in any way may influence decisions or actions of the Minister or the Governor;
   (e) seek, within the Chief Executive Officer’s sphere of influence, to prevent any prejudice to the financial interests of the Republic;
Karolo 3

Badiri, ditlamelo le taolo ya ditšhele

Badiri le ditlamelo

50. (1) Bothati jwa Tlhokomelo bo tshwanetsē go thlhomamisa badiri, marobalo, didiriswa, tiriso ya ditho, ditlamelwana le ditirelo tse dingwe tseo bo batlang gore di dire ka nono.

(2) Bothati jwa Tlhokomelo bo ka—
   (a) tšena mo ditšulaganyong tša go tla tsa mabapi le batho;
   (b) go thapa batho jaaka bakonteraka go na le jaaka badiri;
   (c) go tšena mo dikonterakeng;
   (d) go reka le go rekisa thoto;
   (e) go inshora kgatlhanong le ditatlhegelo, ditshenyegelo, kotsi kgotsa molato eo bo ka lebaganang le yona kgotsa ba nna le yona; le
   (f) go dira sengwe le sengwe se se thlokegang go dira ditiro tsa jona.

(3) Bothati jwa Tlhokomelo bo ka se tšene mo thulaganyong ya go tla tsa mabapi le motho, kgotsa go tsenya batho mo konterakeng, ntšle le fa motho le Bothati jwa Tlhokomelo ba dumalane ka go kwala ka—
   (a) ditekanyetsotiro tse di tla diriswang go lekanyetsa tiro ya motho yoo; le
   (b) boemo jwa tiro jo bo tshwanetseng go fihlelelwa kgatlhanong le ditekanyetsotse.

Ditlamelo tse di tlamelwang ke Banka ya Resefe

51. (1) Banka ya Resefe e tshwanetsē go tlama Bothati jwa Tlhokomelo ka badiri, marobalo, didiriswa, tiriso ya ditho, ditlamelwana le ditirelo tse dingwe tše di thlhomamisitsweng go tsamaelana le karolo 50(1) le jaaka go dumetswe ke Banka ya Resefe.

(2) Banka ya Resefe e tshwanetsē go tla tsa badiri bao e tlamelanang ka bona go ya ka karolotlalelelso (1) go Bothati jwa Tlhokomelo.

Ditiro tsa maloko a badiri

52. (1) Motho yo e leng kgotsa yo o kileng a nna leloko la badiri ba Bothati jwa Tlhokomelo o ka se dirise maemo ao kgotsa tshedimose tse le nngwe e e bonweng fa e ne e le leloko la badiri go ka—
   (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tšela e e sa siamang;
   (b) kgoreletsa Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa
   (c) thatafaletsa motho yo mongwe.

(2) Mabapi le maithlomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a lekanyetsa go kunomolemo ya ditšhelele kgotsa thatafaletso ya ditšhelele.

Ditiro tsa taolo ya ditšhelele tsa Motlhankedimogolo wa Khuduthamaga

53. Motlhankedimogolo wa Khuduthamaga o tshwanetsē—
   (a) go atlanegisa go Komiti ya Tlhokomelo dituelo tsa tlhokomelo ya bothokomedi ka, le ditirelo tse dingwe tše di tlamelwang ke, Bothati jwa Tlhokomelo go ya ka Molao ono le melao e mengwe ya lephata la ditšhelele, le makgethwana go ya ka molawana wa makgethwana;
   (b) go bonitsa tlhokomelo e kgo e goreletsa ditho le direkoto tsa Bothati jwa Tlhokomelo;
   (c) go dira ka boikanye, botshepeg, tšiamo le ka kgatlhegelo e e tseneletseng ya Bothati mo go laoleng merero ya ditšhelele ya Bothati jwa Tlhokomelo;
   (d) ka kopo, go senolela Tona kgotsa Mmusisi ditilha ka bololalo tse di amanang le Bothati jwa Tlhokomelo, go akaretsa le tseo di ribolotsweng ka mabaka, tseo ka mokgwa mongwe di ka susumetsang ditshwetseng kgotsa ditiro tsa Tona kgotsa Mmusisi;
   (e) go batla, mo tshusumetsong ya Motlhankedimogolo wa Khuduthamaga, go thibela kgobelelo nngwe le nngwe go dikgatlhegelo tsa ditšhelele tsa Repaboliki;
(f) ensure that the Prudential Authority has and maintains—
   (i) effective, efficient and transparent systems of financial and risk management;
   (ii) an effective, efficient and transparent system of internal audit; and
   (iii) a procurement and provisioning system that is fair, equitable, transparent, competitive and cost-effective;

(g) take appropriate and cost-effective steps to—
   (i) collect revenue due to the Prudential Authority;
   (ii) prevent losses resulting from criminal conduct and expenditure that is not in accordance with the Prudential Authority’s operational policies; and
   (iii) manage available working capital efficiently and economically;

(h) manage and safeguard the assets of the Authority, and manage the revenue, expenditure and liabilities of the Authority;

(i) establish systems and processes to ensure that effective and appropriate disciplinary steps are taken against any staff member of the Authority who—
   (i) contravenes a law relevant to the performance of the Authority’s functions; or
   (ii) engages in conduct that undermines the financial management and internal control systems of the Authority; and

(j) generally ensure that the Authority complies with its legal obligations.

Information by Chief Executive Officer

54. (1) The Chief Executive Officer must provide the Prudential Committee and the National Treasury with the information, returns, documents, explanations and motivations that may be prescribed by Regulation for this section or that the Prudential Committee or the National Treasury may request.

(2) Subsection (1) does not require or permit the provision of information about persons identifiable from the information.

Annual reports and financial accounts

55. (1) The Chief Executive Officer must—

   (a) ensure that full and proper records of the financial affairs of the Prudential Authority are kept and maintained;
   (b) prepare financial accounts for the Prudential Authority for each financial year which will form part of the annual report of the Reserve Bank; and
   (c) submit to the Minister, within five months after the end of each financial year, for tabling in the National Assembly an annual report on the activities of the Prudential Authority during that financial year, including particulars of any matters that may be prescribed by Regulation for this section.

(2) The financial accounts of the Prudential Authority referred to in subsection (1)(b)—

   (a) must be disclosed in the annual report of the Reserve Bank in a manner that reflects the direct costs that accrue to the Prudential Authority; and
   (b) may be disclosed in the form of an annexure to the annual report of the Reserve Bank.
(f) go netefatsa gore Bothati jwa Tlhokomelo bo na le gape bo tshegetsa—
   (i) dithulaganyo tsa taolo ya ditšhelete le kotsi tse di nonofileng, di na le
   bokgoni le ponalatsego;
   (ii) thulaganyo ya boruni jwa ka fa gare e e nonofileng, e na le bokgoni le
   ponalatsego; le
   (iii) thulaganyo ya tshenkelo le kabelo e e lolameng, lekalekanang,
   bonalatsegang, gaisanang le tlhotlhwa e e nonofileng;
(g) go tsaya dikgato tse di maleba gape di le tlhotlhwa e e nonofileng go—
   (i) kgobokanya lotseno le le kolotwang Bothati jwa Tlhokomelo;
   (ii) thibela ditatlhegelo tse di bakilweng ke maïthsholo a bosenyi le
   ditshenyegelo tse di sa tsamaelaneng le dipholisisi tsa tsamaiso tsa Bothati
   jwa Tlhokomelo; le
   (iii) laola khapetelele ya tiro e e leng teng ka nonofo le tshomarello;
(h) laola le go sireletsa ditsho tsa Bothati; le go laola lotseno, ditshenyegelo le
   melato ya Bothati;
(i) tlhoma dithulaganyo le ditsamaiso go netefatsa gore dikgato tsa kgalemo tse
   di nonofileng e bile di le maleba di a tsewa kgathanong le leloko la
   badirimmogo ba Bothati le le—
   (i) tlolang molao o o malebana le tiragatso ya ditrilo tsa Bothati; kgotsa
   (ii) amegang mo maïthsholong a a nyenye tsa Bothati ya ditšhelete le
   dithulaganyo tsa ka fa gare tsa taolo tsa Bothati; le
   (j) netefatsa ka kakaretsa gore Bothati bo ikamanya le dithlamego tsa jona tsa
   semolao.

Tshedimosetso ka Motlhankedimogolo wa Khuduthamaga

54. (1) Motlhankedimogolo wa Khuduthamaga o tshwanetse go tlamela Komiti ya
   Tlhokomelo le Matloilo a Bosethhaba ka tshedimosetso, dipolo, dikwalo, dithaloso le
   ditshegotsetse tse di ka neelwang ke Molawana wa karolo eno kgotsa e e ka kopiwang ke
   Komiti ya Tlhokomelo kgotsa Matlotlo a Bosethhaba.
   (2) Karolotlaleletso (1) ga e tlhoke kgotsa dumelele kabelo ya tshedimosetso ka ga
   batho ba ba ka supiwang go tswe mo tshedimosetsong.

Dipegelo tsa ngwaga le diakhaonto tsa ditšhelete

55. (1) Motlhankedimogolo wa Khuduthamaga o tshwanetse go—
   (a) netefatsa gore direkoto tse di feletseng tsa nnete tsa merero ya ditšhelete tsa
   Bothati jwa Tlhokomelo di a tsholwa le go thokomelwa;
   (b) baaka ya diakhango tsa ditšhelete tsa Bothati jwa Tlhokomelo ngwaga
   mongwe le mongwe wa ditšhelete tse di tla nnang karolo ya pegelo ya ngwaga
   ya Banka ya Resef; le
   (c) romelela Tona mo dikgweding tse tlhano morago ga bokhutlo jwa ngwaga
   mongwe le mongwe wa ditšhelete, mabapi le go di baya fele ga Kokoa
   Bosethhaba pegelo ya ngwaga e e ka ga ditiro tsa Bothati jwa Tlhokomelo mo
   ngwageng oo wa ditšhelete , go akaretsa le dinthla tsa morero mongwe le
   mongwe tse di ka neelwang ke Molawana wa karolo eno.
   (2) Diakhango tsa ditšhelete tsa Bothati jwa Tlhokomelo tse di kailweng mo
   karolotlaleletsony (1)(b)—
   (a) di tshwanetse go senolwa mo pegelong ya Banka ya Resef ka mokgwa o o
   bonitshang ditshenyegelo ka tšhamalalo tse di tswang kwa Bothating jwa
   Tlhokomelo; e bile
   (b) di ka senolwa ka mokgwa wa mameletlelelo go pegelo ya ngwaga ya Banka ya
   Resef.
CHAPTER 4
FINANCIAL SECTOR CONDUCT AUTHORITY

Part 1

Establishment, objective and functions

Establishment

56. (1) The Financial Sector Conduct Authority is hereby established, as a juristic person.

(2) The Authority is a national public entity for the purposes of the Public Finance Management Act, and despite section 49(2) of the Public Finance Management Act, the Commissioner is the accounting authority of the Financial Sector Conduct Authority for the purposes of that Act.

Objective

57. The objective of the Financial Sector Conduct Authority is to—

(a) enhance and support the efficiency and integrity of financial markets; and

(b) protect financial customers by—

(i) promoting fair treatment of financial customers by financial institutions; and

(ii) providing financial customers and potential financial customers with financial education programs, and otherwise promoting financial literacy and the ability of financial customers and potential financial customers to make sound financial decisions; and

(c) assist in maintaining financial stability.

Functions

58. (1) In order to achieve its objective, the Financial Sector Conduct Authority must—

(a) regulate and supervise, in accordance with the financial sector laws, the conduct of financial institutions;

(b) co-operate with, and assist, the Reserve Bank, the Financial Stability Oversight Committee, the Prudential Authority, the National Credit Regulator, and the Financial Intelligence Centre, as required in terms of this Act;

(c) co-operate with the Council for Medical Schemes in the handling of matters of mutual interest;

(d) promote, to the extent consistent with achieving the objective of the Financial Sector Conduct Authority, sustainable competition in the provision of financial products and financial services, including through co-operating and collaborating with the Competition Commission;

(e) promote financial inclusion;

(f) regularly review the perimeter and scope of financial sector regulation, and take steps to mitigate risks identified to the achievement of its objective or the effective performance of its functions;

(g) administer the collection of levies and the distribution of amounts received in respect of levies;

(h) conduct and publish research relevant to its objective;

(i) monitor the extent to which the financial system is delivering fair outcomes for financial customers, with a focus on the fairness and appropriateness of financial products and financial services and the extent to which they meet the needs and reasonable expectations of financial customers; and

(j) formulate and implement strategies and programs for financial education for the general public.

(2) In relation to a financial institution that is a credit provider regulated in terms of the National Credit Act, the Financial Sector Conduct Authority may, in addition to regulating and supervising the financial institution in respect of the financial services...
KGAOLO 4

**BOTHATI JWA BOITSHWARO JWA LEPHATA LA DITŠHELETE**

**Karolo 1**

*Thlomo, maikaelelo le ditiro*

56. (1) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo a tlhongwa, jaaka setheo se se mo molaong.

(2) Bothati ke setheo sa setšhaba sa bosetšhaba mabapi le maithlomo a Public Finance Management Act le, ntle le karolo 49(2) ya Public Finance Management Act, le kwa ntle ga karolo 49(2) ya Public Finance Management Act, Khomišenara ke moitšeanape yo o ikarabelang wa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete mabapi le maithlomo a Molao ono.

**Maikaelelo**

57. Maikaelelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ke go—

(a) oketsa le go tshegetsa nonofo le tshiamo ya thulaganyo ya ditšhelete; le

(b) sreleetsa barekedi ba ditšhelete ka go—

(i) ntšhetse pele tsholo e e lolameng ya badirelwa ba ditšhelete ka ditheo tsa ditšhelete; le

(ii) tlamel a barekedi ba ditšhelete le bao ba tla nnang barekedi ba ditšhelete ka mananeo a thuto ya tsa ditšhelete, le ka go tsheletsa bobuisokwalo jwa tsa ditšhelete le bokgoni jwa barekedi ba ditšhelete le bao ba tla nnang barekedi ba ditšhelete go tsaya ditšhwetsa tse di nepagetseng tsa ditšhelete; le

(c) thusa go tshegetsa tlhomamo ya ditšhelete.

**Ditiro**

58. (1) Go fitlhelela maikaelelo a jona, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go—

(a) laola le go tlhokomela, go tsamaelana le melao ya lephata la ditšhelete, boitshwaro jwa ditheo tsa ditšhelete;

(b) dirisana mmogo le, le go thusa, Banka ya Resefe, Komiti ya Kelotlhoko ya Tlhomamo ya Ditšhelete, Bothati jwa Thlokomelo le Bolaodi jwa Bosetšhaba jwa Sekoloto, jaaka go tlhokega go ya ka Molao ono;

(c) dirisana mmogo le Khansele ya Dikema tsa Kalafi mo go sekasekeng merero eo ka bobe di e nang le kgatlhego di go gona; le

(d) ntšhetse pele, go fitlhelene go mo tsamaisaneng le phitlhelelong ya maikaelelo a Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, kgaisano e e tsweletseng wagono ya dikuno tsa ditšhelete le ditirelo tsa ditšhelete, go akaretsa le ka go dirisana mmogo le go kopana le Khomišene ya Kgaisano;

(e) ntšhetse pele tseletso ya ditšhelete;

(f) tlhathloba nako le nako modiko le seelo tsa bolaodi jwa lephata la ditšhelete, le go tsaya dikgato go fokotsa dikotsi tse di supilweng go fitlhelana maikaelelo a jona kgotsa tiragato e e nonofiling ya ditiro tsa jona;

(g) tsaama ma kgobokangwga ga makgethewana le go phatlalatsa madi a a amogetsweng mabapi le makgethewana;

(h) dira le go phaslatsa patsisise e e malebana le maikaelelo a jona;

(i) tlhokomela seelo se thulaganyo ya ditšhelete e abalong barekedi ba ditšhelete dipolo tse di lolameng ka teng, ka go tsepama mo tlameng le tshiamong ya dikuno tsa ditšhelete le ditirelo tsa ditšhelete le seelo se o bo tla fitlhel lang ditlhokego le ditsholofolelo tse di amogelesegang tsa barekedi ba ditšhelete; le

(j) tlhama le go tsenya tirisong maano le mananeo a a mabapi le thuto ya tsa ditšhelete mo setšhabeng ka kakaretsa.

(2) Mabapi le setheo sa ditšhelete se o e leng batlamedi ba sekoloto se lao wolw ng go ya ka Molao wa Bosetšhaba wa Sekoloto, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo ka, mo godimo ga ga laola le go tlhokomela setheo sa ditšhelete mabapi
that the financial institution provides, and notwithstanding section 2(1)(g), regulate and supervise the financial institution’s conduct in relation to the provision of credit under a credit agreement only in respect of those matters referred to in section 108.

(3) The Financial Sector Conduct Authority must also perform any other function conferred on it in terms of any other provision of this Act or other legislation.

(4) The Financial Sector Conduct Authority may do anything else reasonably necessary to achieve its objective, including—

(a) co-operating with its counterparts in other jurisdictions; and
(b) participating in relevant international regulatory, supervisory, financial stability and standard setting bodies.

(5) When performing its functions, the Financial Sector Conduct Authority must—

(a) take into account the National Credit Act and regulatory requirements for financial institutions that are authorised and regulated under that Act;
(b) take into account the need for a primarily pre-emptive, outcomes focused and risk-based approach, and prioritise the use of its resources in accordance with the significance of risks to the achievement of its objective; and
(c) to the extent practicable, have regard to international regulatory and supervisory standards set by bodies referred to in subsection (4)(b), and circumstances prevalent in the Republic.

(6) The Financial Sector Conduct Authority must perform its functions without fear, favour or prejudice.

Part 2

Governance

Overall governance objective

59. The Financial Sector Conduct Authority must manage its affairs in an efficient and effective way, and establish and implement appropriate and effective governance systems and processes, having regard, among other things, to internationally accepted standards in these matters.

Establishment and role of Executive Committee

60. (1) A committee called the Executive Committee is hereby established for the Financial Sector Conduct Authority.

(2) The Executive Committee consists of the Commissioner and the Deputy Commissioners.

(3) The Executive Committee must—

(a) generally oversee the management and administration of the Financial Sector Conduct Authority to ensure that it is efficient and effective; and
(b) act for the Financial Sector Conduct Authority in the following matters:

(i) Authorising the Commissioner to sign, on behalf of the Financial Sector Conduct Authority, a section 27 or section 77 memorandum of understanding and any amendments to such a memorandum;
(ii) delegating powers of the Financial Sector Conduct Authority to the Prudential Authority in terms of a section 77 memorandum of understanding;
(iii) adopting the regulatory strategy of the Financial Sector Conduct Authority, and any amendments to the strategy;
(iv) adopting the administrative action procedures of the Financial Sector Conduct Authority, and any amendments to those procedures;
(v) appointing members of subcommittees of the Financial Sector Conduct Authority required or permitted by a law, and giving directions regarding the conduct of the work of any subcommittee;
le ditirelo tsa ditišhelete tse di tlamelwang ke setheo sa ditišhelete, le go sa nyatswe karolo 2(1)(g), laolo le go tlhokomela maitšholo a setheo sa ditišhelete mabapi le kabelo ya sekoloto ka fa tlase ga tumalano ya sekoloto fela mabapi le merero e e kailweng mo karolong 108.

(3) Bothati jwa Boitšhwaro jwa Lephalale Dišhelete bo tshwanetse gape go dira tiro ngwe le ngwe e bo e neetsweng go ya ka kabelo ngwe le ngwe ya Molao ono kgotsa molawana mongwe le mongwe.

(4) Bothati jwa Boitšhwaro jwa Lephalale Dišhelete bo ka dira sengwe le sengwe se se tlhokegang go fithlelela maikaelo a jona, go akaretsa go—

(a) dirisana mmogo lebadirikabona motiato long tse dingwe; le

(b) tsayoa karolo mo bolaoding jwa bodišhabetšhaha bo bo maleba, tlhokomelo, thlomomo ya ditišhelete le mekgatlho e e bayang maemo.

(5) Mo go direng ditiro tsa jona, Bothati jwa Boitšhwaro jwa Lephalale Dišhelete bo tshwanetse go—

(a) tsayoa Molao wa Bosedšhaha wa Sekoloto le dithlhokego tsa taolo tsa ditheo tsa ditišhelete tse di dumeletsweng le go laošwa ka fa tlase ga Molao oo;

(b) tsayoa tlhokego ya ithlagise e bogolo e tlhelo, e e tsepameng mo dipeloeleng le mokgwa o o theilweng mo dikotsing, le go tšisa pele tirišo ya ditišhelela tsa jona go tsamaelana le botlhokwa jwa dikotsi mo go fihleleleny maikaelo a jona; le

(c) go ya ka moo go ka kgonegeng, go tsayoa tsia boleadi jwa bodišhabetšhaha le maemo a tlhokomelo a a beilweng e e mekgatlho e e kailweng mo karolotlaleletšong (3)(b), le maemo a a renang mo Rephaboliking.

(6) Bothati jwa Boitšhwaro jwa Lephalale Dišhelete bo tshwanetse go dira ditiro tsa jona ntle le letshogo, tseoletlhakore kgotsa kgobelelo.

Karolo 2

Puso

Maithlomo ka Kakaretso a puso

59. Bothati jwa Boitšhwaro jwa Lephalale Dišhelete bo tshwanetse go laola merero ya jona ka noñofo le bokgoni, le go tlhoma le go tsenywa mo tirisong dithulaganyo tsima le ditemrego tse di maleba gape di na le bokgoni, ka go elwa tlhoko, mo gare ga tse dingwe, ga maemo a a amogelegese bodišhabetšhaha mo mererong eno.

Thlome lebotsayakarolo jwa Komiti Khuduthamaga

60. (1) Komiti e e bideiwa Komiti Khuduthamaga e tlhongwa mabapi le Bothati jwa Boitšhwaro jwa Lephalale Dišhelete.

(2) Komiti Khuduthamaga e na le Khomisšenara le Batlatsakomisšenara.

(3) Komiti Khuduthamaga e tshwanetse go—

(a) baya leitlhoo ka kakaretso taolo le tsamaio ya Bothati jwa Boitšhwaro jwa Lephalale Dišhelete go netefatsa gore bo nonofile e bile bo na le bokgoni; le

(b) dira boemong jwa Bothati jwa Boitšhwaro jwa Lephalale Dišhelete mo mererong e e latelang:

(i) Go dumelela Khomisšenara go saena, mo boemong jwa Bothati jwa Boitšhwaro jwa Lephalale Dišhelete, memorantamo wa tumalano wa karolo 27 kgotsa karolo 77 le dithlabololo dingwe le dingwe go memorantamo oo;

(ii) go rolela dithhula tsa Bothati jwa Boitšhwaro jwa Lephalale Dišhelete go Bothati jwa Thlomomo ya tsa Bothati jwa Lephalale Dišhelete go ya ka karolo 77 ya memorantamo wa tumalano;

(iii) go amogela leano la taolo la Bothati jwa Boitšhwaro jwa Lephalale Dišhelete, le dithlabololo dingwe le dingwe go leano;

(iv) go amogela ditsamaio tsa tiro ya tsamaio ya Bothati jwa Boitšhwaro jwa Lephalale Dišhelete, le dithlabololo dingwe le dingwe go ditsamaio tseo;

(v) go thapa maloko a dikomiti tsa Bothati jwa Boitšhwaro jwa Lephalale Dišhelete tse di tlhokegang kgotsa letleletsweng ke molao, le go neelana ka dikaelo mabapi le tiragatso ya tiro ya komiti ngwe le ngwe;
(vi) making conduct standards, joint standards and other regulatory instru-
ments in terms of financial sector laws for which it is the responsible
authority;
(vii) granting, varying, suspending and revoking licences in terms of a
financial sector law;
(viii) making determinations of fees in terms of financial sector laws;
(ix) any other matter assigned in terms of a financial sector law to the
Executive Committee.

Commissioner and Deputy Commissioners

61. (1) The Minister must appoint a person who is fit and proper and has appropriate
expertise in the financial sector as the Commissioner of the Financial Sector Conduct
Authority.
(2) The Minister must appoint at least two, but no more than four, persons who have
appropriate expertise in the financial sector as Deputy Commissioners.
(3) The Commissioner and Deputy Commissioners serve in a full-time executive
capacity.
(4) A process for the selection of persons for appointment as Commissioner or Deputy
Commissioner must be prescribed by Regulation.
(5) (a) The Commissioner may designate a Deputy Commissioner to act as
Commissioner when the Commissioner is absent from office.
(b) If the Commissioner is unable to designate an acting Commissioner in terms of
paragraph (a), or if the office of Commissioner is vacant, the Minister may designate a
Deputy Commissioner to act as Commissioner during the Commissioner’s absence or
pending the appointment of a Commissioner.
(6) A person may not be appointed or hold office as Commissioner or Deputy
Commissioner if the person—
(a) is a disqualified person; or
(b) is not ordinarily resident in the Republic.
(7) When appointing the Commissioner or Deputy Commissioner, the Minister and
the person appointed must agree, in writing, on—
(a) the performance measures that must be used to assess the person’s
performance; and
(b) the level of performance to be achieved against those performance measures.

Roles of Commissioner and Deputy Commissioners

62. (1) The Commissioner—
(a) is responsible for the day-to-day management and administration of the
Financial Sector Conduct Authority; and
(b) subject to section 60(3)(b), must perform the functions of the Financial Sector
Conduct Authority, including exercising the powers and carrying out the
duties associated with those functions.
(2) The roles of the Deputy Commissioners are determined by the Executive
Committee.
(3) When acting in terms of subsection (1) or (2), the Commissioner or a Deputy
Commissioner must implement the policies and strategies adopted by the Executive
Committee.

Terms of office

63. (1) A person appointed as Commissioner or Deputy Commissioner—
(a) holds office for a term determined by the Minister, which term may not be
longer than five years;
(b) is, at the expiry of that term, eligible for re-appointment for one further term; and
(c) must vacate office before the expiry of a term of office if that person—
(i) resigns by giving at least three months written notice to the Minister, or
a shorter period that the Minister may accept; or
(ii) is removed from office as Commissioner or Deputy Commissioner, as the
case may be.
(vi) go dira maemo a boitshwara kgotsa maemo a kopanelo, le didiriswa tse dingwe tsa bolaodi go ya ka melao ya lephata la ditšhelele eo e leng boloaodi jo bo rwalang maikarabelo;

(vii) go neelana, go farologantsha, go sekega le go gogela morago dilationgwa se go ya ka melao wa lephata la ditšhelele;

(viii) go tlhomamisa dituelo go ya ka melao ya lephata la ditšhelele;

(ix) morero mongwe le mongwe o o abetsweng go ya ka melao wa lephata la ditšhelele go Komiti Khuduthamaga.

Khomsišenara le Batlatsakhomišenara

61. (1) Tona o tshwanetse go thapa motho yo o nang le boitseanape jo bo malebo mo lepateng la ditšhelele jaaka Khomsišenara wa Bothati jwa Boitshwara jwa Lephata la Ditšhelele.

(2) Tona o tshwanetse go thapa bonnye batho ba le babedi, mme e seng go feta ba le bane, ba ba nang le boitseanape jo bo malebo mo lepateng la ditšhelele jaaka Batlatsakhomišenara.

(3) Khomsišenara le Batlatsakhomišenara ba dira mo maemong a nako e e tletseng a khuduthamaga.

(4) Kgato ya go tlhopho batho ba ba tla thapiwang jaaka Khomsišenara kgotsa batlatsakhomišenara e ka kaelwa ka Molawana.

(5) (a) Khomsišenara o ka thapa Motlatsakhomišenara go tshwara marapo nakwana jaaka Khomsišenara fa Khomsišenara a seyo mo ofising. 

(b) Fa Khomsišenara a sa kgone go thapa Khomsišenara wa nama-o-tshwere go ya ka temana (a), kgotsa fa go go na le phathatlhato mo ofising ya Khomsišenara, Tona o ka thapa Motlatsakhomišenara go tshwara marapo nakwana jaaka Khomsišenara ka nako e Khomsišenara a seng teng kgotsa go fitlhela go thapiwa Khomsišenara.

(6) Motho a ka se tshwape, kgotsa go nna go nna mo tirong jaaka, Khomsišenara kgotsa Motlatsakhomišenara fa motho—

(a) a ileditswe; kgotsa

(b) e se moagi wa Rephaboliki ka tlhago.

(7) Fa a thapa Khomsišenara kgotsa Motlatsakhomišenara, Tona le motho yo o thapilweng ba tshwanetse go dumalana, ka go kwala, ka—

(a) ditsekanyetsotiro tse ditsekanyetsotiro tse tira ya motho yoo; le

(b) boemojwatairo jwa thapiwang jaaka Khomsišenara kgotsa Motlatsakhomišenara, go ya ka boemo.

Botsayakarolo jwa Khomsišenara le Batlatsakhomišenara

62. (1) Khomsišenara—

(a) o rvala maikarabelo a taolo le tsamaiso ya letsatsi le letsatsi ya Bothati jwa Boitshwara jwa Lephata la Ditšhelele; le

(b) go tsamaisa le karo 60(3)(b), o tshwanetse go dira ditiro tsa Bothati jwa Boitshwara jwa Lephata la Ditšhelele, go akaretse le go diragatsa ditlahe le maikarabelo a a tsamaisa le ditiro tseo.

(2) Ditiro tsa Batlatsakhomišenara di tlhomamiswa ke Komitikhuduthamaga.

(3) Fa a dira go ya ka karolotlaletso (1) kgotsa (2). Khomsišenara kgotsa Motlatsakhomišenara o tshwanetse go tsenya mo tirong dipholisi le maano tse di amogetsweng ke Komitikhuduthamaga.

Paka ya ofisi

63. (1) Motho yo o thapilweng jaaka Khomsišenara kgotsa Motlatsakhomišenara—

(a) o dira sebaka sa paka e e tlhomamisitsweng ke Tona, paka eo e ka se fetseng dingwaga tse thlano;

(b) o, ka nako ya bokhutlo jwa paka eo ya tiro, na le tshwanelo ya go tshophiwa gape sebaka sa paka e nngwe gape; le

(c) o tshwanetse go tlogela tiro pele ga paka e ya bokhutlong fa motho yoo—

(i) a rola tiro ka go kwalela Tona kitsiso ya bonnye dikgwedi tse tharo,

(kgotsa nako e khutshwane e Tona o ka e amogelang; kgotsa

(ii) o beleseditswe mo tirong jaaka Khomsišenara kgotsa Motlatsakhomišenara, go ya ka boemo.
(2) The Minister must, at least three months before the end of a person’s first term of office as Commissioner or Deputy Commissioner, inform the person whether the Minister proposes to re-appoint that person as Commissioner or Deputy Commissioner, as the case may be.

Service conditions

64. (1) Subject to this Act, the Commissioner and the Deputy Commissioners hold office on the terms and conditions determined in writing by the Minister.

(2) The terms and conditions of office of the Commissioner or a Deputy Commissioner may not be reduced during that person’s term of office.

Removal from office

65. (1) The Minister must, subject to due process, remove the Commissioner from office if the Commissioner becomes a disqualified person.

(2) The Commissioner must, subject to due process and with the concurrence of the Minister, remove a Deputy Commissioner from office if the Deputy Commissioner becomes a disqualified person.

(3) The Minister may remove the Commissioner from office if an independent inquiry established by the Minister has found that the Commissioner—
   (a) is unable to perform the duties of office for health or other reasons;
   (b) has failed in a material way to achieve the level of performance against the performance measures agreed to in terms of section 61(7);
   (c) has failed in a material way to discharge any of the responsibilities of office, including any responsibilities entrusted in terms of legislation; or
   (d) has acted in a way that is inconsistent with continuing to hold the office.

(4) If an independent inquiry has been established in terms of subsection (3), the Minister may suspend the Commissioner from office pending a decision on that person’s removal from office.

(5) The Commissioner may, with the concurrence of the Minister, remove a Deputy Commissioner from office if an independent inquiry established by the Commissioner, with the concurrence of the Minister, has found that the Deputy Commissioner—
   (a) is unable to perform the duties of office for health or other reasons;
   (b) has failed in a material way to achieve the level of performance against the performance measures agreed to in terms of section 61(7);
   (c) has failed in a material way to discharge any of the responsibilities of office, including any responsibilities entrusted in terms of legislation; or
   (d) has acted in a way that is inconsistent with continuing to hold the office.

(6) If an independent inquiry has been established in terms of subsection (5), the Commissioner may suspend the Deputy Commissioner from office pending a decision on that person’s removal from office.

(7) Without limiting subsection (3)(c) or (5)(c), the Commissioner or a Deputy Commissioner, as the case may be, must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the Executive Committee without the leave of the Executive Committee.

(8) If the Commissioner or a Deputy Commissioner is removed from office in terms of this section, the Minister must, within 30 days, submit the report and findings of the independent inquiry to the National Assembly.

Meetings of Executive Committee

66. (1) (a) The Executive Committee must meet as often as necessary for the performance of its functions.

(b) An audio or audio-visual conference among a majority of the members of the Executive Committee, which enables each participating member to hear and be heard by each of the other participating members, must be regarded as a meeting of the Executive Committee, and each participating member must be regarded as being present at such a meeting.
Mabaka a tirelo

64. (1) Go tsamaelana le Molao ono, Khomišenara le Motsatsakhomišenara ba thapiwa go ya ka dipeelo le mabaka tse di thlomamisitsweng ka go kwalwa ke Tona.

(2) Dipelo le mabaka tsa go thapiwa ga Khomišenara kgotsa Motsatsakhomišenara di ka se fokotswe ka paka ya tiro ya motho yoo.

Go tloswa mo ofising

65. (1) Tona o tshwanetse, go tsamaelana le dikgato tse di maleba, go tlosa Khomišenara mo tirong fa Khomišenara a nna motho yo o iledisweng.

(2) Khomišenara o tshwanetse, go tsamaelana le dikgato tse di maleba le tumalano le Tona, go tlosa Motsatsakhomišenara mo tirong fa Motsatsakhomišenara a nna motho yo o iledisweng.

(3) Tona o ka tlosa Khomišenara mo tirong fa patlisiso e e ikemetseng e e thlomilweng gore Tona e filheletse gore Khomišenara—

(a) ga a kgone go dira ditiro tse a di thapetsweng ka nthla ya boitekanelo kgotsa mabaka a mangwe;

(b) o paletswe ka gotlhe go fithelela boemo jwa tiro kgathanong le ditekanyetsi tse go dumalanweng ka tsonga go ya ka karolo 61(7);

(c) o paletswe ka gotlhe go diragatsa ngwe le ngwe ya maikarabelo a tiro, go akaretsa ngwe le ngwe ya maikarabelo a a abilweng go ya ka molawana; kgotsa

(d) o dirile ka mokgwa o o sa tsamaelaneleng le go ka tswelela pele go dira.

(4) Fa patlisiso e e ikemetseng e thlomilwye go ya ka karolotlaleletso (3), Tona o ka sekega Khomišenara mo tirong go letilwe tshwetso ya go tlosa motho yoo mo tirong.

(5) Khomišenara o ka, ka tumalano le Tona, tlosa Motsatsakhomišenara mo tirong fa patlisiso e e ikemetseng e e thlomilweng ke Khomišenara, ka tumalano le Tona, e filheletse gore Motsatsakhomišenara—

(a) ga a kgone go dira tiro e a e thapetsweng ka nthla ya boitekanelo kgotsa mabaka a mangwe;

(b) o paletswe ka gotlhe go fithelela boemo jwa tiro kgathanong le ditekanyetsi tse go dumalanweng ka tsonga go ya ka karolo 61(7);

(c) o paletswe ka gotlhe go diragatsa ngwe le ngwe ya maikarabelo a tiro, go akaretsa ngwe le ngwe ya maikarabelo a a abilweng go ya ka molawana; kgotsa

(d) o dirile ka mokgwa o o sa tsamaelaneleng le go ka tswelela pele go dira.

(6) Fa patlisiso e e ikemetseng e thlomilwye go ya ka karolotlaleletso (5), Khomišenara o ka emisa Motsatsakhomišenara mo tirong go letilwe tshwetso ya go tlosa motho yoo mo tirong.

(7) Ntle le go lekanyetsa karolotlaleletso (3)(c) kgotsa (5)(c), Khomišenara kgotsa Motsatsakhomišenara, go ya ka maemo, o ka tseelwa gore o paletswe ka gotlhe go diragatsa maikarabelo a tiro fa a sa nna teng kwa dikopanong tse pedi tse di latelanang tsa Komitikhuduthamaga ntle le khunologo ya Komitikhuduthamaga.

(8) Fa Khomišenara kgotsa Motsatsakhomišenara a beleseditswe mo tirong go ya ka karolo eno, Tona o tshwanetse; mo matsatsing a le 30, go romela pegelo le diphiri lehelo tsa patlisiso e e ikemetseng go Kokoano Bosetšaba.

Dikopano tsa Komitikhuduthamaga

66. (1) (a) Komitikhuduthamaga e tshwanetse go kopana kgapetsakgapetsa ga go thokego go dira ditiro tsa yona.

(b) Khonferense ya kutlo kgotsa kutlopono magareng ga bontsi jwa maloko a Komitikhuduthamaga, e e kgotshang leloko lengwe le lengwe le le tsayang karolo go utwla le go utlwelela ke mongwe le mongwe wa maloko a mangwe a a tsayang karolo, e tshwanetse go tsewa jaaka kopano ya Komiti ya Khuduthamaga, e bile leloko lengwe le lengwe le le tsayang karolo le tshwanetse go tseelwa gore le teng kwa kopanong eo.
(2) Meetings of the Executive Committee must be held at times and, except where subsection (1)(b) applies, at places determined by the Commissioner.

(3) A quorum for a meeting of the Executive Committee is a majority of its members.

(4) (a) The Commissioner chairs the meetings of the Executive Committee at which the Commissioner is present.

(b) If the Commissioner is not present at a meeting, a Deputy Commissioner nominated by the Commissioner or selected in accordance with a procedure determined by the Commissioner, chairs the meeting.

(5) The Commissioner or Deputy Commissioner chairing a meeting of the Executive Committee may invite or allow any other person, including a representative of the Prudential Authority, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes or the National Credit Regulator, to attend the meeting, but a person who is invited has no right to vote at the meeting.

(6) The members may regulate proceedings at Executive Committee meetings as they consider appropriate.

(7) The Commissioner must ensure that minutes of each meeting of the Executive Committee are kept in a manner determined by the Commissioner.

Decisions of Executive Committee

67. (1) (a) A proposal before a meeting of the Executive Committee becomes a decision of the Executive Committee if a majority of the members present, or regarded as being present, and who may participate in the consideration of the proposal, vote for the proposal.

(b) In the event of an equality of votes on a proposal, the person chairing the meeting has a casting vote in addition to a deliberative vote.

(2) The Executive Committee may, in accordance with procedures determined by it, make a decision on a proposal outside a meeting of the Executive Committee.

(3) A decision of the Executive Committee is not invalid merely because—

(a) there was a vacancy in the office of a member when the decision was taken; or

(b) a person who was not a member participated in the decision, as long as such person did not vote.

Governance and other subcommittees

68. (1) The Director-General must establish—

(a) a subcommittee to review, monitor and advise the Executive Committee on the remuneration policy of the Financial Sector Conduct Authority; and

(b) a subcommittee to review, monitor and advise the Executive Committee on the risks faced by the Financial Sector Conduct Authority and plans for managing those risks.

(2) The Executive Committee may establish one or more other subcommittees for the Financial Sector Conduct Authority, with functions that the Executive Committee may determine.

(3) (a) The Director-General determines the membership of each subcommittee established in terms of subsection (1).

(b) The majority of the members of a subcommittee established in terms of subsection (1) may not be staff members of the Financial Sector Conduct Authority.

(c) The Executive Committee determines the membership of each subcommittee established in terms of subsection (2).

(d) A subcommittee established in terms of subsection (2) may include persons who are neither members of the Executive Committee nor staff members of the Financial Sector Conduct Authority.

(e) A disqualified person may not be or remain a member of a subcommittee established in terms of this section.

(4) A member of a subcommittee established in terms of this section, including a person who is not in the service of an organ of state, holds office for the period, and on the terms and conditions, including terms regarding remuneration, determined by the Director-General or the Executive Committee, as the case may be, who established the subcommittee.
2. Dikopanota Komitikhuduthamaga di tshwanetse go tshwarwa ka nako le, ntle le mo karoolotlaleletso (1)/(b) e diragatswang, kwa mafelong a a tlhomasitsweng ke Khoｍišenara.


4. (a) Khoｍišenara o okamela dikopanota Komitikhuduthamaga tseo Khoｍišenara a leng kwa go tsona.

(b) Fa Khoｍišenara a se teng kwa kopano, Motlatsakhomišenara yo o tlophiweng ke Khoｍišenara kgotsa a tlophiwile go tsamaelana le tsamaiso e e tlhomasitsweng ke Khoｍišenara, o okamela kopano.

5. Khoｍišenara kgotsa Motlatsakhomišenara yo o okametseng kopano ya Komitikhuduthamaga o ka laleta kgotsa letlelela motho mongwe le mongwe, go akaretse moemedi wa Bothati jwa Thlokomelo, Banka ya Resefe, Senthara ya Botlhodi jwa tsa Ditšhelete, Khaanse ya Dikema tsa Kalafi kgotsa Bolaoedi jwa Botselanyaba jwa Sekolo, go tsenela kopano, mme motho yo o tlaeditsweng o ka tsaya karolo mme ga a na tsbwanelo ya go bota mo kopano.

6. Maloko a ka laola ditseta kwa dikopanong tsa Komitikhuduthamaga jaaka a bona go tshwanetse.

7. Khoｍišenara o tshawanetse go neteafia gore metoseto ya kopano ngwwe le ngwwe ya Komiti e tsholwa ka mokgwbo o o tlhomasitsweng ke Khoｍišenara.

**Ditshwetso tsa Komitikhuduthamaga**

67. (1) (a) Tshitsinyo pele ga kopano ya Komitikhuduthamaga e nna tshwetse ya Komitikhuduthamaga fa bontsi jwa maloko a a leng teng, kgotsa a a tselweng gore a teng, le ao a ka tsayang karolo mo go sekasekeng tshitsinyo, a bontsi tshitsinyo.

(b) Fa go diragala gore diboutu tsa tshitsinyo di lekane, motho yo o akamatse kopano o ka dira bontsi e e kgethegileng mo godimo ga bontsi e e tlhosaleng.

(2) Komiti ya Khuduthamaga e ka, go tsamaelana le ditsefeng tse di tlhomasitsweng ke Komitikhuduthamaga, tsaya tshwetse ka ga tshitsinyo kwa ntle ga kopano ya Komitikhuduthamaga.

(3) Tshwetse ya Komitikhuduthamaga e amogelesega fela ka ntle ya—

(a) Fa go nmile le phatlatiro kwa tirong ya leloko fa tshwetse; kgotsa la leloko a tsere karolo mo tshwetsong, fa fela motho yo o lalelo mo mme yo o se nne.

(b) Fa go diragala gore diboutu tsa tshitsinyo di lekane, motho yo o akamatse kopano o ka dira bontsi e e kgethegileng mo godimo ga bontsi e e tlhosaleng.

(4) Lelela o lela tshwetsong, fa fela motho yo o lalelo mo mme yo o se nne.

**Puso le dikomiti tlaeleletso dingwe**

68. (1) Mokaedikakaretso o tshwanetse go tlhoma—

(a) komiti tlaeleletso go thadisa, lekola le go gakolola Komitikhuduthamaga ka ga pholisi ya moputso ya Bothati jwa Botshwaro jwa Lephata la Ditšhelete; le

(b) komiti tlaeleletso go thadisa, lekola le gakolola Komitikhuduthamaga ka ga dikotsi tse Bothati jwa Botshwaro jwa Lephata la Ditšhelete le bologang le tsona le maano a go laola dikotsi tseo.

(2) Komitikhuduthamaga e ka ntha Bothati jwa Botshwaro jwa Lephata la Ditšhelete komiti tlaeleletso le ngwwe kgotsa go feta, eo ditiro tsa yona di ka tlhomasitsweng ke Komitikhuduthamaga.

(3) (a) Mokaedikakaretso o tlhomasitsa botokololo jwa komiti tlaeleletso ngwwe le ngwwe e e tlhomasitsweng go ya ka karoolotlaleletso (1).

(b) Botokololo jwa karoolotlaleletso e e tlhomasitsweng go ya ka karoolotlaleletso (1) bo ka se nne maloko a badirammogo ba Bothati jwa Botshwaro jwa Lephata la Ditšhelete.

(c) Komitikhuduthamaga e tlhomasitsa botokololo jwa komiti tlaeleletso ngwwe le ngwwe e e tlhomasitsweng go ya ka karoolotlaleletso (2).

(d) Komiti tlaeleletso e e tlhomasitsweng go ya ka karoolotlaleletso (2) e ka akaretse bapho be nne maloko a Komitikhuduthamaga kgotsa badirammogo ba Bothati jwa Botshwaro jwa Lephata la Ditšhelete.

(e) Motho yo o ileeditsweng o ka se nne kgotsa o ka se tswelele go nna leloko la komiti tlaeleletso e e tlhomasitsweng go ya ka karolo eno.

(4) Leloko a komiti tlaeleletso e e tlhomasitsweng go ya ka karolo eno go akaretse a lelela o se nne mo tirelong ya lephata la puso, yo o dirang sebaka sa paka, le go ka dipelo le mabaka, le dipelo mabapi le moputso, tse di tlhomasitsweng ke Mokaedikakaretso kgotsa Komitikhuduthamaga, jaaka mabaka a ntse, yo o tlhomasitsweng komiti tlaeleletso.
(5) A subcommittee established in terms of subsection (1) must be chaired by a person who is not the Commissioner, a Deputy Commissioner or a staff member of the Financial Sector Conduct Authority.

(6) A subcommittee established in terms of this section determines its procedures, subject to any directions of the Director-General or the Executive Committee, as the case may be, who established the subcommittee.

(7) The Commissioner must ensure that minutes of each meeting of each subcommittee established in terms of this section are kept in a manner determined by the Executive Committee.

**Duties of Commissioner, Deputy Commissioners and other subcommittee members**

69. (1) The Commissioner, each Deputy Commissioner and each member of a subcommittee of the Financial Sector Conduct Authority established as contemplated in section 51(1)(a)(ii) of the Public Finance Management Act or of section 68 of this Act must—

(a) act honestly in all matters relating to the Financial Sector Conduct Authority; and

(b) perform the functions of office as a member—

(i) in good faith;

(ii) for a proper purpose; and

(iii) with the degree of care and diligence that a reasonable person in that person’s position would exercise.

(2) A person who is or has been a person mentioned in subsection (1) must not use the position, or any information obtained because of the position, to—

(a) improperly benefit himself or herself or another person;

(b) impede the Financial Sector Conduct Authority’s ability to perform its functions; or

(c) cause improper detriment to another person.

(3) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

**Regulatory strategy**

70. (1) The Executive Committee must, within six months after the date on which this Chapter takes effect, adopt a regulatory strategy for the Financial Sector Conduct Authority to give general guidance in the achievement of its objective and the performance of its regulatory and supervisory functions.

(2) A regulatory strategy must—

(a) state—

(i) the regulatory and supervisory priorities for the Financial Sector Conduct Authority for the next three years; and

(ii) the intended key outcomes of the strategy;

(b) set guiding principles for the Financial Sector Conduct Authority on—

(i) how it should perform its regulatory and supervisory functions;

(ii) the matters which it should have regard to in performing those functions;

(iii) its approach to administrative actions; and

(iv) how it should give effect to the requirements applicable to it with respect to—

(aa) transparency;

(bb) openness to consultation; and

(cc) accountability; and

(c) be aimed at giving effect to section 58.

(3) The Executive Committee must review its regulatory strategy at least annually, and may amend it at any time.
(5) Komititlaleletso e e tlhomilweng go ya ka karololaleletso (1) e tshwanetse go okamelwa ke motho yo o seng Khomišenara, Motlatsakhomišenara kgotsa leloko la badiramlogo ba Bothati jwa Boitshwaro jwa Lephatla la Ditšhelete.

(6) Komititlaleletso e e tlhomilweng go ya ka karolo eno e thomamisa tsamaiso ya yona, go tsamaelana le kaelo ya Mokaedikakaretso kgotsa Komitikhuduthamaga, jaaka mabaka a nte, yo o tlhomileng komititlaleletso.

(7) Khomišenara o tshwanetse go netefatsa gore metsotsa ya kopano ngwwe le ngwwe ya komititlaleletso e e tlhomilweng go ya ka karolo eno e tsholwa ka mokgwa o o tlhomamisitsweng ke Komitikhuduthamaga.

**Ditiro tsa Khomišenara, Batlatsakhomišenara le maloko a mangwe a komititlaleletso**

69. (1) Khomišenara, Motlatsakhomišenara mongwe le mongwe le leloko lengwe le lengwe la komititlaleletso ya Bothati jwa Boitshwaro jwa Lephatla la Ditšhelete e e tlhomilweng jaaka go kaikwe mo karolong 51(1)(a)(ii) ya *Public Finance Management Act* kgotsa karolo 68 ya Molao ono ba tshwanetse go—

(a) dira ka botshepegi mo mererong yotlhle e e amanang le Bothati jwa Boitshwaro jwa Lephatla la Ditšhelete; le

(b) dira ditiro tsa ya ka o a tshepang; le

(i) a a maitlhomo a a siamang; le

(ii) a tlhomoleng komititlaleletso e e tlhomilweng jaaka mo ka di diragatsang.

(2) Motho yo kaiwang kgotsa yo o a tshwanetse go dirisa maemo, kgotsa tsedimosetsa ngwwe le ngwwe e a e fitlheletseng ka nthla ya maemo, go—

(a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tselo e e sa siamang; le

(b) go kgoreletsa Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa

(c) thatafaletsa motho yo mongwe.

(3) Mabapi le maitlhomo a karolo eno, “*kunomolemo*” le “*thatafaletso*” ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

**Leano la bolaodi**

70. (1) Komitikhuduthamaga e tshwanetse, mo dikgweding tse thataro morago ga letlha la go tsemgewa tirisinga ya Gkaolo eno, go amogela leano la bolaodi la Bothati jwa Boitshwaro jwa Lephatla la Ditšhelete go neelana ka kaelo ya kakaretso mo go fitlheleleng maikaelelo a Bothati jwa Boitshwaro jwa Lephatla la Ditšhelete le go dira ditiro tsa yona tsa bolaodi le botlhokomedi.

(2) Leano la bolaodi le tshwanetse—

(a) go tlhagisa—

(i) ditlapele tsa bolaodi le botlhokomedi tsa Bothati jwa Boitshwaro jwa Lephatla la Ditšhelete tsa dingwaga tse tharo tse di tiang; le

(ii) dipoelo tse di botlhokwa tse di ikaeletseng tsa leano;

(b) go tlhagisetsa Bothati jwa Boitshwaro jwa Lephatla la Ditšhelete ditheo tsa kaelo ka ga—

(i) mokgwa o b tshwanetseng go dira ditiro tsa bolaodi le botlhokomedi ka ona;

(ii) merero e e tshwanetseng go e e tloko mo go direng ditiro tseo;

(iii) tlhagisetsa ya jona go ditiro tsa tsamaiso; le

(iv) ka mokgwa o e tshwanetseng go diragatsa ditlhokego tse di diragatsweng go jona mabapi le—

(aa) ponalatshego;

(bb) go kgona go rerisana; le

(cc) boikarabelo; le

(c) go nna le maikaelelo a go kgontha go nna teng ga karolo 58.

(3) Komitikhuduthamaga e tshwanetse go thadisa leano la yona la bolaodi bonnye ngwaga le ngwaga, e bile ka le thabolola nako ngwwe le ngwwe.
(4) (a) Before the Executive Committee adopts a regulatory strategy or an amendment to a regulatory strategy, it must—
   (i) provide a copy of the draft of the strategy or amendment to the Minister, the Prudential Authority and the National Credit Regulator; and
   (ii) invite comments from the Minister, the Prudential Authority and the National Credit Regulator, on the draft, to be made within a period specified by the Executive Committee.

(b) The period referred to in paragraph (a)(ii) must be at least one month.

(5) In deciding whether to adopt a regulatory strategy or an amendment of a regulatory strategy, the Executive Committee must have regard to all comments made on the draft.

(6) If the Minister agrees, the Financial Sector Conduct Authority’s adopted regulatory strategy may be incorporated into its corporate plan in terms of section 52(b) of the Public Finance Management Act.

(7) The Executive Committee must seek to minimise, to the extent that is practicable and appropriate, inconsistencies between the Financial Sector Conduct Authority’s regulatory strategy and the Prudential Authority’s regulatory strategy.

(8) The Commissioner must—
   (a) provide a copy of the Financial Sector Conduct Authority’s regulatory strategy, and each amendment, as adopted, to the Minister, the Prudential Authority and the National Credit Regulator; and
   (b) publish the regulatory strategy and each amendment.

Delegations

71. (1) The Executive Committee may, in writing—
   (a) delegate any power or duty of, or delegated to, the Financial Sector Conduct Authority in terms of a financial sector law to the Commissioner or a Deputy Commissioner, except—
      (i) the power to delegate contained in this subsection; and
      (ii) the powers referred to in section 60(3)(b)(i) to (viii);
   (b) delegate to an administrative action committee the power to impose administrative penalties that are specified in the delegation, if the Financial Sector Conduct Authority establishes an administrative action committee; and
   (c) at any time, amend a delegation made in terms of paragraph (a) or (b).

(2) The Commissioner may, in writing—
   (a) delegate any power or duty assigned or delegated to the Commissioner in terms of a financial sector law, except the power to delegate contained in this subsection, to—
      (i) a Deputy Commissioner; or
      (ii) a staff member of the Financial Sector Conduct Authority; and
   (b) at any time, amend a delegation made in terms of paragraph (a).

(3) A Deputy Commissioner may, in writing—
   (a) delegate any power or duty delegated to that Deputy Commissioner in terms of a financial sector law, except the power to delegate contained in this subsection, to a staff member of the Financial Sector Conduct Authority; and
   (b) at any time, amend a delegation made in terms of paragraph (a).

(4) A delegation in terms of subsection (2)(a)(ii) or (3)(a) may be made to a specified person or to a person holding a specified position.

(5) Any power or duty of the Financial Sector Conduct Authority may be delegated to the Prudential Authority by a section 77 memorandum of understanding in accordance with a framework and system of delegation developed by the financial sector regulators to ensure that any delegation does not constrain the Prudential Authority or the Financial Sector Conduct Authority from achieving their respective objectives as set out in sections 33 and 57.

(6) A delegation made in terms this section—
   (a) is subject to the limitations and conditions specified in the delegation;
(4) (a) Pele Komitikhuduthamaga e ka amogela leano la bolaodi kgotsa tlhabololo ya leano la btaoedi, e tshwanetse go—

(i) lamela Tona, Bothati jwa Tlhokomelo le Bolaodi jwa Bosetšhaba jwa Sekoloto ka kgotisoe ya leano kgotsa tlhabololo e e thadiiweng; le

(ii) laletsa ditshwaelo go tswa go Tona, Bothati jwa Tlhokomelo le Bolaodi jwa Bosetšhaba jwa Sekoloto, ka ga thadiso, tseo di tshwanetseng go dirwa mo pakeng e e tsepamitsiweng ke Komitikhuduthamaga.

(b) Paka e e kailweng mo temaneng (a)(ii) e tshwanetse go mma boyne kgwedi e le esi.

(5) Mo go tseyeng tshwetso ka ga go amogela leano la bolaodi kgotsa tlhabololo ya leano la btaoedi, Komitikhuduthamaga e tshwanetse go tsaya tsia ditshwaelo tsothle tse di dirilweng mo thaleng.

(6) Fa Tona a dumela, leano la bolaodi la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le le amogetsweng le ka tsenyetlswa mo leanong la setlamo go ya ka karolo 52(b) ya Public Finance Management Act.

(7) Komitikhuduthamaga e tshwanetse go isa tlae, go ya ka boemo jo bo kgonagaleng e b'le bo le maleba, go sa thomang magareng ga leano la bolaodi la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le leano la bolaodi la Bothati jwa Tlhokomelo.

(8) Komishiwenara o tshwanetse go—

(a) lamela Tona, Bothati jwa Tlhokomelo le Bolaodi jwa Bosetšhaba jwa Sekoloto ka kgotisoe ya leano labolaodi la Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le

(b) phasalatsa leano la bolaodi le tlhabololo nngwe le nngwe.

**Ditholelo**

71. (1) Komitikhuduthamaga e ka, ka go kwala—

(a) rolela thata nngwe kgotsa tiro ya, kgotsa go rolela go, Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go Khomišenara kgotsa Motlatsakomishiwenara, ntle le—

(i) thata ya go romeletsa e e tlhagelelang mo karolotlaleletsong eno; le

(ii) dithata tse di kailweng mo karolong 60(3)(b) go filha go (viii); le

(b) rolela go komiti ya tsamaiso ya tiro thata ya go lefisa dikotlhao tsa tsamaiso tse di tsepamisitsiweng mo thomeletsong, fa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tlhoma komiti ya tsamaiso ya tiro; le

(c) ka nako nngwe le nngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a) kgotsa (b).

(2) Khomišenara o ka, ka go kwala—

(a) rolela thata kgotsa tiro nngwe e e neetsweng kgotsa neetsweng Khomišenara go ya ka mloa wa lepha la ditšhelete, ntle le thata ya go rumeletsa e e tlhagelelang mo karolotlaleletsong eno, go—

(i) Motlatsakomishiwenara; kgotsa

(ii) leloko la badirimmogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le

(b) ka nako nngwe le nngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a).

(3) Motlatsakomishiwenara o ka, ka go kwala—

(a) rolela thata kgotsa tiro nngwe le nngwe e e roletsweng go Motlatsakomišenara yoo go ya ka mloa wa lepha la ditšhelete, ntle le thata ya go rumeletsa e e tlhagelelang mo karolotlaleletsong eno, go leloko la badirimmogo ba Bothati jwa Boitshwaro jwa Lephata la Ditšhelete; le

(b) ka nako nngwe le nngwe, tlhabolola tholelo e e dirilweng go ya ka temana (a).

(4) Tholelo go ya ka karolotlaleletsos (2)(a)(ii) kgotsa (3)(a) e ka direlwa motho yo o supilweng kgotsa go motho yo o tshwereng maem o a tsepameng.  

(5) Tholelo kgotsa tiro nngwe ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete e ka rolelwa go Bothati jwa Tlhokomelo ka karolo 77 ya memorantamo wa tumalano go tsamaelana la lethejone le thulaganyo ya tholelo e e tlhabolotsweng ke btaoedi ba lepha la ditšhelete go netefatsa gore tholelo nngwe le nngwe ga e thibele Bothati jwa Tlhokomelo kgotsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete gore bo fitlebile maikaelelo a jona jaaka a thagisitswe mo dikarolong 33 le 57.  

(6) Tholelo e e dirilweng go ya ka karolo eno—

(a) e go ya ka ditsekanyetso le dipelo tse di tlhalositsiweng mo tholelo e eno;
(b) does not divest the Financial Sector Conduct Authority, the Commissioner or the Deputy Commissioner concerned of responsibility in respect of the delegated power or duty; and

c) may be revoked in writing at any time, but a revocation does not affect any rights or liabilities accrued because of the acts of the delegate.

(7) Anything done by a delegate in terms of the delegation must be regarded as having been done by the Financial Sector Conduct Authority.

(8) This section does not affect a power under a specific financial sector law to delegate a power of the Financial Sector Conduct Authority.

Disclosure of interests

72. (1) A member of the Executive Committee must disclose, at a meeting of the Executive Committee, or in writing to each of the other members, any interest in any matter that is being or is intended to be considered by him or her, whether or not at a meeting of the Executive Committee, being an interest that—

(a) the member has; or

(b) a person who is a related party to the member has.

(2) A disclosure in terms of subsection (1) must be given as soon as practicable after the member concerned becomes aware of the interest.

(3) (a) A member referred to in subsection (1) may not perform a function in relation to the matter concerned unless—

(i) the member has disclosed the interest as required by subsection (1); and

(ii) the other members of the Executive Committee have decided that the interest does not affect the proper execution of the member’s functions in relation to the matter.

(b) Any consideration of, or decision on, a matter which does not comply with paragraph (a) is void and must be reconsidered or decided without the member present.

(4) A member of a subcommittee of the Financial Sector Conduct Authority established as contemplated in section 51(1)(a)(ii) of the Public Finance Management Act or section 68(1) of this Act must disclose, at a meeting of the subcommittee, or in writing to each of the other members of that subcommittee, any interest in a matter that is being or is intended to be considered by that subcommittee, being an interest that—

(a) the member has; or

(b) a person who is a related party to the person has.

(5) A disclosure in terms of subsection (4) must be given as soon as practicable after the member concerned becomes aware of the interest.

(6) A member referred to in subsection (4) may not participate in the consideration of or decision on that matter by the subcommittee unless—

(a) the member has disclosed the interest in accordance with subsection (4); and

(b) the other members of that subcommittee have decided that the interest does not affect the proper execution of the member’s functions in relation to the matter.

(7) (a) Each member of the Financial Sector Conduct Authority’s staff and each other person to whom a power or function of the Financial Sector Conduct Authority has been delegated must make timely, proper and adequate disclosure of their interests, including the interests of a related party, that could reasonably be seen as interests that may affect the proper execution of their functions of office or the delegated power.

(b) The Commissioner must ensure that paragraph (a) is complied with.

(8) For the purposes of this section, it does not matter—

(a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or

(b) when the interest was acquired.

(9) For the purposes of this section, a person does not have to disclose—

(a) the fact that that person, or a person who is a related party to that person, is—

(i) an official or employee of the Financial Sector Conduct Authority; or

(ii) a financial customer of a financial institution; or

(b) an interest that is not material.

(10) The Commissioner must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.
(b) ga e amoge Bothathi jwa Boitshwara jwa Lephata la Ditšhelete, Khomišenara kgotsoa Motšatsakhomišenara yo o amegang mabapi le thata kgotsoa tiro e e roletsweng; le
e ka gogelwa morago ka go kwala nako ngwe le ngwe, go latela ditšhwenelo dingwe le dingwe tse di ka tswang di fitlheletswe.

(7) Sengwe le sengwe se se dirilweng ke baemedi go ya ka tholelo se tshwanetseng go tsewa jaaka se dirilwe ke Bothathi jwa Boitshwara jwa Lephata la Ditšhelete.

(8) Karolo eno ga e ame thata e e ka fa tlaše ga molao wa le phapra la ditšhelete o o rieng wa go roleda thata ya Bothathi jwa Boitshwara jwa Lephata la Ditšhelete.

### Tšenolo ya dikgatlhegelo

72. (1) Leloko la Komitikhuduthamaga le tshwanetse go senola, mo kapanong ya Khuduthamaga, kgotsoa ka go kwalela go mongwe le mongwe wa maloko, kgatlhego ngwe le ngwe mo morerong o o kgotsoa o a ikaelentseng go o tsaya tsia, kwa kapanong kgotsoa e seng kwa kapanong ya Komitikhuduthamaga, go ka nna kgatlhegelo e—

(a) leloko le nang le yona; kgotsoa
(b) motho yo o amanang le leloko a nang le yona.

(2) Tšenolo go ya ka karolotlaletseto (1) e tshwanetse go dirwa ka bonako jo bo kgonagalan morago ga fa leloko le le amegang le sena go lemoga ka kgatlhegelo.

(3) (a) Leloko le le kaileweng mo karolotlaletseto (1) le ka se dire tiro mabapi le morero o o kailweng fa fela—

(i) leloko le senotsie kgatlhegelo go tsamaelana le karolotlaletseto (1); le
(ii) maloko a mangwe a Komitikhuduthamaga a sweditse gore kgatlhegelo ga e ame ka gope go dira tiro ka matsetseleko ga leloko mabapi le morero o o amegang.

(b) Tšekatshekgo ngwe le ngwe ya, kgotsoa tshwetsos ka ga, morero o o sa ikamanyeng le temana (a) ga e amobelesege e bile e tshwanetse go sekasekwa gape kgotsos go swetswa leloko le se teng.

(4) Leloko la komitiitlaleletso ya Bothathi jwa Boitshwara jwa Lephata la Ditšhelete jo bo tlholiweng go ya ka karolo 51(1)(a)(ii) ya Public Finance Management Act kgotsoa karolo 68(1) ya Molao ono le tshwanetse go senola, kwa kapanong ya komitiitlaleletso, kgotsoa ka go kwalela mongwe le mongwe wa maloko a komitiitlaleletso, kgatlhegelo ngwe le ngwe mo morerong o o kgotsoa o komitiitlaleletse e ikaelelang go o sekasea, e le kgatlhego e—

(a) leloko le nang le yona; kgotsoa
(b) motho yo o amanang le leloko a nang le yona.

(5) Tšenolo go ya ka karolotlaletseto (4) e tshwanetse go dirwa ka bonako jo bo kgonagalan morago ga fa leloko le le amegang le sena go lemoga ka kgatlhegelo e.

(6) Leloko le le kaileweng mo karolotlaletseto (4) le ka se tseye karolo mo tšekatshekong ya kgotsoa tshwetsos ya morero oo ke komitiitlaleletse fa fela—

(a) leloko le senotsie kgatlhegelo go tsamaelana le karolotlaletseto (4); le
(b) maloko a mangwe a komitiitlaleletseto (4) o a sweditse gore kgatlhegelo e e o ka se ame ka gope go dira ditiro ka matsetseleko ga leloko mabapi le morero o o amegang.

(7) (a) Leloko lengwe le lengwe la badirimmogo ba Bothathi jwa Boitshwara jwa Lephata la Ditšhelete le moto mongwe le mongwe ya o amegang mo go direng tiro ya Bothathi jwa Boitshwara jwa Lephata la Ditšhelete kgotsoa tiragatsos ya dithata tsja o tshwanetse go senola ka nako, nepagalo le tlholomo, dikgatlhegelo, go akaretse le dikgatlhegelo tsja losika, tsee di ka amang go dira ditiro tsja bona ka matsetseleko kgotsoa thata e e roletsweng.

(b) Khomišenara o tšwanetse go netefatsa gore temana (a) e e diragatswa.

(8) Mabapi le maithlomo a karolo eno, ga go kgathalesege—

(a) gore kgatlhegelo e tšhameletse, ga e a tlhamalala, ya tšhetele kgotsoa e e seng ya tšhetele; kgotsoa
(b) fa kgatlhegelo e e ne e fitlheletswa.

(9) Mabapi le maithlomo a karolo eno, motho go a tšhanelo go senola—

(a) ntlha ya gore motho yoo, kgotsoa motho yo o a amangle le ena, ke—

(i) mothankedi kgotsoa mothapiwa wa Bothathi jwa Boitshwara jwa Lephata la Ditšhelete; kgotsoa
(ii) morekedi wi ditšhelete wa setheo sa ditšhelete; kgotsoa
(b) kgatlhegelo e e seng ya bohokwa.

(10) Khomišenara o tšwanetse go tšhola rejetasa ya ditšhenolo tšothle tše di dirilweng go ya ka karolo eno le ka ga ditšhswetso tšothle tše di dirilweng go ya ka karolo eno.
Staff and resources

73. (1) The Financial Sector Conduct Authority may, in accordance with applicable law—
   (a) for the work of the Financial Sector Conduct Authority—
      (i) appoint persons as employees;
      (ii) enter into secondment arrangements; or
      (iii) engage persons on contract otherwise than as employees;
   (b) enter into contracts;
   (c) acquire and dispose of property;
   (d) insure itself against any loss, damage, risk or liability that it may suffer or incur; and
   (e) do anything else necessary for the performance of its functions.

(2) The Financial Sector Conduct Authority may not enter into a secondment arrangement in respect of a person, or engage persons as employees or on contract, unless the person and the Authority have agreed in writing on—
   (a) the performance measures that must be used to assess that person’s performance; and
   (b) the level of performance that must be achieved against those measures.

Duties of staff members

74. (1) A person who is or was a staff member of the Financial Sector Conduct Authority may not use that position or any information obtained as a staff member to—
   (a) improperly benefit himself or herself or another person;
   (b) impede the Financial Sector Conduct Authority’s ability to perform its functions; or
   (c) cause improper detriment to another person.

(2) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

Information by Commissioner

75. (1) The Commissioner must provide the Executive Committee and the National Treasury with the information, returns, documents, explanations and motivations that may be prescribed by Regulation for this section or that the Executive Committee or the National Treasury may request.

(2) Subsection (1) does not require or permit the provision of information about persons identifiable from the information.

CHAPTER 5

CO-OPERATION AND COLLABORATION

Part I

Co-operation and collaboration

76. (1) The financial sector regulators and the Reserve Bank must co-operate and collaborate when performing their functions in terms of financial sector laws, the National Credit Act, and the Financial Intelligence Centre Act, and must for this purpose—
Karolo 3

**Badiri le ditlamelwana**

73. (1) Bothati jwa Boitshwarlo jwa Lephata la Ditšhelete bo ka, go tsamaelana le molao o o maleba—
   
   (a) mabapi le tiro ya Bothati jwa Boitshwarlo jwa Lephata la Ditšhelete—
      
      (i) thapa batho jaaka badiri;
      
      (ii) tsena mo thulaganyong ya kadimisano; kgotsa
      
      (iii) rerisana le batho ka ga konteraka fela e seng jaaka bathapiwa;
   
   (b) tsena mo dikonterakeng;  
   
   (c) fitlhelela le go fetisa theto;  
   
   (d) inšora kgatlhanong le tatlhegelo, tshenyego, dikotsi kgotsa molato e bo ka e itemogelang kgotsa ya nna ka fa thase ga yona; le  
   
   (e) dira sengwe le sengwe se se tlhokeng go dira ditiro ts jaona.

(2) Bothati jwa Boitshwarlo jwa Lephata la Ditšhelete bo ka se tsene mo thulaganyong ya kadimisano mabapi le motho, kgotsa go rerisana le batho jaaka bathapiwa kgotsa mo konterakeng, fa fela motho yoo le Bothati ba dumalane ka go kwala ka—
   
   (a) ditekanyetsotiro tse di tshwanetseng go diriswa go tlhatlhoba tiro ya motho yoo; le  
   
   (b) boemo jwa tiro jo bo tshwanetseng go fitlhelelwa kgatlhanong le ditekanyetso tseo.

**Ditiro ts a maloko a badirimmog o**

74. (1) Motho yo e leng kgotsa yo e neng e le leloko la badirimmog o ba Bothati jwa Boitshwarlo jwa Lephata la Ditšhelete o kase dirise maemo ao kgotsa tshedimosetso ngwe le ngwe e a e boneng jaaka leloko la badirimmog o go—
   
   (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka tsela e e sa siamang;  
   
   (b) kgoreletsa Bothati jwa Tlhokomelo go dira tiro ya jona; kgotsa  
   
   (c) thatafaleltsa motho yo mongwe.

(2) Mabapi le maitlhomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a lekanyetswa go kunomolemo ya ditšhelete kgotsa thatafaletso ya ditšhelete.

**Tshedimosetso ka Khomišenara**

75. (1) Khomišenara o tshwanetse go tlamela Komitikhuduthamaha le Matlotlo a Bosetšhaba ka tshedimosetso, dipolo, dikwalo, ditlhaloso le ditšhegetso tse di ka neelwang ke Molawana mabapi le karolo eno kgotsa tshedimosetso e Komiti Khuduthamaha kgotsa Matlotlo a Bosetšhaba a ka e kopang.

(2) Karolotlalelelelo (1) ga e tlhoke kgotsa neye tetla kabelo ya tshedimosetso ka ga batho ba ba ka supiwang go tswa mo tshedimosetso song.

KGAOLO 5

**TIRISANOMMGO LE KOPANO**

Karolo 1

**Tirisanommogo le kopano**

Tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete le Banka ya Resefe

76. (1) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tshwanetse go dirisanommogo le go kopana fa ba dira ditiro tsa bona go ya ka melao ya lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto, le Financial Intelligence Centre Act, ba tshwanetse mabapi le maitlhomo ano——
(a) generally assist and support each other in pursuing their objectives in terms of financial sector laws, the National Credit Act and the Financial Intelligence Centre Act;

(b) inform each other about, and share information about, matters of common interest;

(c) strive to adopt consistent regulatory strategies, including addressing regulatory and supervisory challenges;

(d) co-ordinate, to the extent appropriate, actions in terms of financial sector laws, the National Credit Act and the Financial Intelligence Centre Act, including in relation to—

(i) standards and other regulatory instruments, including similar instruments provided for in terms of the National Credit Act and the Financial Intelligence Centre Act;

(ii) supervisory on-site inspections and investigations;

(iv) actions to enforce financial sector laws, the National Credit Act and the Financial Intelligence Centre Act;

(v) information sharing;

(vi) recovery and resolution; and

(vii) reporting by financial institutions, including statutory reporting and data collection measures;

(e) minimise the duplication of effort and expense, including by establishing and using, where appropriate, common or shared databases and other facilities;

(f) agree on attendance at relevant international forums; and

(g) develop, to the extent that is appropriate, consistent policy positions, including for the purpose of presentation and negotiation at relevant South African and international forums.

(2) The financial sector regulators and the Reserve Bank must, at least annually as part of their annual reports, or on request, report to the Minister, the Cabinet member responsible for administering the National Credit Act and the National Assembly on measures taken to co-operate and collaborate with each other.

Memoranda of understanding

77. (1) The financial sector regulators and the Reserve Bank, must, as soon as practicable but not later than six months after the date on which this Chapter comes into effect, enter into one or more memoranda of understanding to give effect to their obligations in terms of section 76.

(2) A delegation of a power or duty by a financial sector regulator to another financial sector regulator must be effected by a memorandum of understanding entered into in terms of this section.

(3) The validity of any action taken by a financial sector regulator, the Reserve Bank or the Governor in terms of a financial sector law, the National Credit Act and the Financial Intelligence Centre Act is not affected by a failure to comply with this section or a memorandum of understanding in terms of this section.

(4) The financial sector regulators and the Reserve Bank must review the memoranda of understanding at least once every three years and amend them as appropriate.

(5) The financial sector regulators and the Reserve Bank must provide a copy of each memorandum of understanding entered into in terms of this section, and each amendment of such a memorandum of understanding, to the Minister and the Cabinet member responsible for administering the National Credit Act.

(6) The financial sector regulators and the Reserve Bank must each publish each memorandum of understanding in terms of this section and each amendment thereof.

Other organs of state

78. (1) An organ of state that has a regulatory or supervisory function in relation to financial institutions must, to the extent practicable, consult the financial sector regulators and the Reserve Bank in relation to the performance of that function.
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(a) ka kakaretsa go thusana le go tshegetsana mo go fitheleleleng maikaelelo a bona go ya ka melao ya lephata la ditšhelete le, Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act;

(b) go sedimosetsana ka, le go arogana tshedimosetsa ka merero ya kgatlhego e e tshwanang;

(c) go leka ka thata go amogela maano a taolo a a thhomameng, go akaretsa le go rarabolola dikgwetlho tsa taolo le thlokomoelo;

(d) go rulaganya, ka mokgwa o o maleba, ditiro mabapi le melao ya lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act, go akaretsa mabapi le—

(i) maemo le didiriswa tse dingwe tsa taolo, go akaretsa didiriswa tse di tshwanang le tse di tlametsweng go ya ka, Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act;

(ii) kabo ya dilae sense;

(iii) didithathobho tsa bothokomedi tsa kwa tirong le dipatlisiso;

(iv) ditiro tsa go gatelela melao ya lephata la ditšhelete le Molao wa Bosetšhaba wa Sekoloto;

(v) karogano ya tshedimosetsa;

(vi) pusetso le tharabololo; le

(vii) pegelo ka ditheo tsa ditšhelete, go akaretsa pegelosemola le mokgwa ya go kgobokanyana tshedimosetsa;

(e) go isa tsase sebedi sa matsapa le ditshenyegelo, go akaretsa le go tlhoma le go dirisa, mo go tshwanetseng, didethabese tse di tshwanang kgotsa tse di aroganwang le dibebobafatsi tse dingwe;

(f) go dumalana ka go mneng teng kwa diforamong tsa boditšhábatšába tse di maleba; le

(g) go tšhábolólo, go ya ka mokgwa o o maleba, maemo a a thhomameng a pholisi, go akaretsa mabapi le tšlagisgo le therisano kwa diforamong tse di maleba tsa Aforikaborwa le tsa boditšhábatšába.

(2) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tšwanetse, bonnye ka ngwaga, jaaka karolo ya dipegele tsa bona tsa ngwaga kgotsa go kopilwe, go begela Tona, maloko a Kabinete a a diragatsang Molao wa Bosetšhaba wa Sekoloto le Kokoano Bosetšhaba ka ga dikgato tse di tserweng go dirisa mnogo le go kopana.

Memorantamo wa tumalano

77. (1) Balaodi ba lephata la ditšhelete le Banka ya Resefe, ba tšwanetse, ka bonako jo bo kgonagalong fela e seng morago ga dikgwedi tse thataro tsa go tšengeng tirisong ga Kgaolo eno, go dira memorantamo wa tumalano o le esi kgotsa go feta go diragatsa ditlamego tsa bona go ya ka karolo 76.

(2) Tholelo ya thata kgotsa tiro ke molaodi wa lephata la ditšhelete go molaodi yo mongwe wa lephata la ditšhelete go tšwanetse go tšengeng tirisong ka memorantamo wa tumalano o o dirilweng go ya ka karolo eno.

(3) Kamogelegeso ya kgato ngwwe le ngwwe e e tserweng ke molaodi, Banka ya Resefe kgotsa Mnusiisi go ya ka melao ya lephata la ditšhelete kgotsa Molao wa Bosetšhaba wa Sekoloto le Financial Intelligence Centre Act ga e angwe ke go palelwa ke go ikamanya le karolo eno kgotsa memorantamo wa tumalano go ya ka karolo eno.

(4) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tšwanetse go thadisa memorantamo wa tumalano bonnye gangwe mo dingwageng dingwe le dingwe tse tharo le go o tšhábolólo jaaka go tšwanetse.

(5) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tšwanetse go tšamelga Tona le maloko a Kabinete a a tšamaisang Molao wa Bosetšhaba wa Sekoloto ka kgatiso ya memorantamo wa tumalano mongwe le mongwe o o dirilweng go ya ka karolo eno, le tšhábolólo ngwwe le ngwwe ya memorantamo oo wa tumalano.

(6) Balaodi ba lephata la ditšhelete le Banka ya Resefe ba tšwanetse go phalaatsa memorantamo mongwe le mongwe wa tumalano o o o dirileng le tšhábolólo ngwwe le ngwwe ya ona.

Maphata a mangwe a puso

78. (1) Lephata la puso le le nang le tiro ya balaodi kgotsa bothokomedi mabapi le ditheo tsa ditšhelete le tšwanetse, ka mokgwa o o kgonagalong, go rerisana le balaodi ba lephata la ditšhelete mabapi le go dira tiro eo.
(2) A financial sector regulator or the Reserve Bank may, in writing, request an organ of state referred to in subsection (1) to provide information about any action that the organ of state has taken or proposes to take in relation to a financial institution specified in the request.

(3) The organ of state must comply with a request in terms of subsection (2), but this subsection does not require or permit an organ of state to do something that contravenes a law.

Part 2

Financial System Council of Regulators

Financial System Council of Regulators

79. (1) The Financial System Council of Regulators is hereby established.

(2) The objective of the Financial System Council of Regulators is to facilitate co-operation and collaboration, and, where appropriate, consistency of action, between the institutions represented on the Financial System Council of Regulators by providing a forum for senior representatives of those institutions to discuss, and inform themselves about, matters of common interest.

(3) The Financial System Council of Regulators must be composed of the following members:

(a) The Director-General;
(b) the Director-General of the Department of Trade and Industry;
(c) the Director-General of the Department of Health;
(d) the Chief Executive Officer;
(e) the Commissioner;
(f) the Chief Executive Officer of the National Credit Regulator;
(g) the Registrar of Medical Schemes;
(h) the Director of the Financial Intelligence Centre;
(i) the Commissioner of the National Consumer Commission;
(j) the Commissioner of the Competition Commission;
(k) the Deputy Governor responsible for financial stability matters; and
(l) the head, however described, of any organ of state or other organisation that the Minister may determine.

Meetings

80. (1) Meetings of the Financial System Council of Regulators must be held at least twice a year, or more frequently as determined by the Director-General.

(2) The Director-General, or an alternate nominated by the Director-General, chairs the meetings of the Financial System Council of Regulators.

(3) The Director-General must convene a meeting at the request of a member of the Financial System Council of Regulators.

(4) A member of the Financial System Council of Regulators may, with the concurrence of the Director-General, nominate a senior official of the member’s institution to act as an alternate for the member.

(5) Meetings of the Financial System Council of Regulators must be conducted in accordance with procedures determined by it.

Working groups and subcommittees

81. (1) The Financial System Council of Regulators must establish working groups or subcommittees in respect of the following matters:

(a) Enforcement and financial crime;
(b) financial stability and resolution;
(c) policy and legislation;
(d) standard-setting;
(e) financial sector outcomes;
(2) Molaodi wa lephata la dišišelete kgotsa Banka ya Resefe o ka, ka go kwala, kopa lephata la puso le le kailweng mo karolotlaleleetsong (1) go neelana ka tshedimosetso ka ga kgato ngwwe le ngwwe e e tserweng ke lephata la puso kgotsa e e tsihsiya nylon go ka e tsaya mabapi le setheo sa dišišelete se se tsepamisitsweng mo kopong.

(3) Lephata la puso le tshwanetse go ikamanya le kopo go ya ka karolotlaleleets (2), mme karolotlaleleets eno ga e tlhoke kgotsa neye tetla lephata la puso go dira sengwe se se kgatlhanong le molao.

Karolo 2

Khansele ya Balaodi ba Thulaganyo ya Dišišelete

Khansele ya Balaodi ba Thulaganyo ya Dišišelete

79. (1) Khansele ya Balaodi ba Thulaganyo ya Dišišelete e a tlhongwa.

(2) Maikaelelo a Khansele ya Balaodi ba Thulaganyo ya Dišišelete ke go nolofatsa tirisanomomogla le kopano, le, mo go tlhokegang, tlhomamonya ya tiro, magareng ga ditlhe o ditlheo tse di emetsweng mo Khanseleng ya Balaodi ba Thulaganyo ya Dišišelete ka go abelana ka foramo ya baemedi ba bagolo ba ditlheo tse go buisana, le go itsedimosoka ka, merero ya kgatlhego e e tshwanang.

(3) Khansele ya Balaodi ba Thulaganyo ya Dišišelete e tshwanetse go nna le maloko a a latelang:

(a) Mokaedikakaretso;
(b) Mokaedikakaretso wa Lefapha la Kgwebisano le Madirelo;
(c) Mokaedikakaretso wa Lefapha la Boitsekanelo;
(d) Molthankedimogolo wa Khuduthamaga;
(e) Khomisenara;
(f) Molthankedimogolo wa Khuduthamaga wa Balaodi jwa Bosetšhaba jwa Sekoloto;
(g) Mokwadisi wa Dikema tsa Kalafi;
(h) Mokaedi wa Senthara ya Botlhodi ya Balaodi ya Dišišelete;
(i) Khomisenara wa Khomisenene ya Bosetšhaba ya Badirisi;
(j) Khomisenara wa Khomisenene ya Kgaisano;
(k) Molatsammusisi yo o rweleng maikarabelo a merero ya tlhomamonya ya 30 dišišelete; le
(l) tlhogo, ka mokgwa o e tlhalositsweng, ya lephata lengwe le lengwe la puso kgotsa mokgatlho mongwe o Tona a ka o tlhomamisang.

Dikopano

80. (1) Dikopano tsa Khansele ya Balaodi ba Thulaganyo ya Dišišelete di tshwanetse go tshwarwa bonnye gabedi mo ngwageng, kgotsa kgapetsakagapetsa jaaka go tlhomamistsweng ke Mokaedikakaretso.

(2) Mokaedikakaretso, kgotsa mongwe yo o tlhophilweng ke Mokaedikakaretso, o okamela dikopano tsa Khansele ya Balaodi ba Thulaganyo ya Dišišelete.

(3) Mokaedikakaretso o tshwanetse go tshwarwa kopano ka kopo ya leloko la Khansele ya Balaodi ba Thulaganyo ya Dišišelete.

(4) Lelo ko la Khansele ya Balaodi ba Thulaganyo ya Dišišelete le ka, ka tulumano le Mokaedikakaretso, tlhopho molthankedi yo mogolo wa setheo sa leloko go dira jaaka morefsoni wa leloko.

(5) Dikopano tsa Khansele ya Balaodi ba Thulaganyo ya Dišišelete di tshwanetse go tshwarwa go tsa maela le ditsemaiso tse di tlhomamistsweng ke yona.

Dithopho tsa didirang

81. (1) Khansele ya Balaodi ya Thulaganyo ya Dišišelete e tshwanetse go tlhoma dithopho tsaa tiro tse di kwa thoko kgotsa dikomititiileleetso mabapi le merero e e latelang:

(a) Kgatelo le bosenyi jwa dišišelete;
(b) Tlhomamonya dišišelete le tharabololo;
(c) Pholisi le molao;
(d) Peo ya maemo;
(e) Dipolo tsa lephata la dišišelete;
(f) financial inclusion;
(g) transformation of the financial sector; and
(h) any other matter that the Director-General may determine after consulting the
other members of the Financial System Council of Regulators.

(2) The Financial System Council of Regulators must determine the membership,
terms of reference and procedure of a working group or subcommittee.

Support for Financial System Council of Regulators

82. (1) The Financial Sector Conduct Authority must provide administrative support
and other resources for the Financial System Council of Regulators and its working
groups and subcommittees.
(2) The Financial Sector Conduct Authority must ensure that minutes of each meeting
of the Financial System Council of Regulators, and of each meeting of a working group
or subcommittee, are kept in a manner determined by the Financial Sector Conduct
Authority.

Part 3

Financial Sector Inter-Ministerial Council

83. (1) The Financial Sector Inter-Ministerial Council is hereby established.
(2) The objective of the Inter-Ministerial Council is to facilitate co-operation and
collaboration between Cabinet members responsible for administering legislation
relevant to the regulation and supervision of the financial sector by providing a forum
for discussion and consideration of matters of common interest.
(3) The members of the Inter-Ministerial Council are—
   (a) the Minister;
   (b) the Cabinet members responsible for consumer protection and consumer
       credit matters;
   (c) the Cabinet member responsible for health; and
   (d) the Cabinet member responsible for economic development.

Meetings

84. (1) Meetings of the Inter-Ministerial Council take place at times and places
determined by the Minister.
(2) The Minister, or another Cabinet member nominated by the Minister, chairs the
meetings of the Inter-Ministerial Council.
(3) The Minister must convene a meeting at the request of a member of the
Inter-Ministerial Council.
(4) A member of the Inter-Ministerial Council may nominate a Deputy Minister to act
as alternate for the member at a particular meeting of the Inter-Ministerial Council.
(5) The Minister may invite any Cabinet member who is not a member of the
Inter-Ministerial Council to attend a meeting of the Inter-Ministerial Council.
(6) Meetings of the Inter-Ministerial Council are conducted in accordance with
procedures determined by it.

Protection for financial customers in terms of financial sector laws, National Credit
Act and Consumer Protection Act

85. (1) The Cabinet members responsible for consumer protection and consumer
credit matters may request the Inter-Ministerial Council to consider whether or not a
provision in a financial sector law, or in a proposed financial sector law, Regulation or
regulatory instrument, provides or would provide for a standard of protection for
financial customers that is equivalent to, or higher than, the protection provided for them
in terms of the National Credit Act or the Consumer Protection Act.
(2) The Inter-Ministerial Council—
   (a) must comply with the request; and
(f) tsenyeletso ya ditšhelete; le
(g) phetolo ya lephata la ditšhelete; le
(h) morero mongwe le mongwe o o ka thhomamiswaŋ ke Mokaedikakaretsa morago ga go rerisana le maloko a mangwe a Khanse ya Balaodi ba Thulaganyo ya Ditšhelete.

(2) Khanse ya Balaodi ba Thulaganyo ya Ditšhelete e tshwanetse go thhomamisa botokololo, mabaka a kaelo le tsamaiso ya setlhophsa sa tiro kgotsa komititlaleletso.

Tshegetso go Khansele ya Balaodi ba Thulaganyo ya Ditšhelete

82. (1) Bothathi jwa Boitshwara jwa Lephata la Ditšhelete bo tshwanetse go tlamlamela ka tshegetso ya tsamaiso le ditlamarolo tse dingwe go Khansele ya Balaodi ba Thulaganyo ya Ditšhelete le ditlhopha tsa yona tsa tiro le dikomititlaleletso.

(2) Bothathi jwa Boitshwara jwa Lephata la Ditšhelete bo tshwanetse go netefatsa gore metsotso ya kopano ngwe le ngwe ya Khansele ya Balaodi ba Thulaganyo ya Ditšhelete, le ya kopano ngwe le ngwe ya setlhophsa sa tiro kgotsa komititlaleletso, e tsholwa ka mokgwa o o thhomamisitsweng ke Bothathi jwa Boitshwara jwa Lephata la Ditšhelete.

Karolo 3

Khansele ya Ditona ya Lephata la Ditšhelete

83. (1) Khansele ya Ditona ya Lephata la Ditšhelete e a tlhongwa. 20

(2) Maikaelelo a Khansele ya Ditona ya Lephata la Ditšhelete ke go noloafsata tirisanommogo le kopano magareng ga maloko a Kabinete a a tsamaaisang molao o o maleba go taolo le tlhokomelo ya lephata la ditšhelete ka ga tlamelam ka foramo ya dipuisano le tsekatshheko ya merero ya kgatlhegelo e e tshwanang.

(3) Maloko a Khansele ya Ditona ya Lephapha la Ditšhelete ke— 25

(a) Tona;
(b) maloko a Kabinete a a rwalang maikarabelo a tshireletso ya badirisi le merero ya sekoloto sa badirisi;
(c) leloko la Kabinete le le rwalang maikarabelo a boitekanelo; le
(d) leloko la Kabinete le le rwalang maikarabelo a thabololo ya ikonomi.

Dikopano

84. (1) Dikopano tsa Khansele ya Ditona ya Lephapha la Ditšhelete di diragala ka dinako le kwa mafelang a a thhomamisitsweng ke Tona. 30

(2) Tona, kgotsa leloko le lengwe la Kabinete le le le tlhophilweŋ ke Tona, le okamela dikopanotsa Khansele ya Ditona.

(3) Tona o tshwanetse go bıtsa kopano ka kopo ya leloko la Khansele ya Ditona.

(4) Leloko la Khansele ya Ditona le ka tlhophal Motsatsamoporesidente go dira jaaka morefosani go leloko kwa kopanong e e rıleng ya Khansele ya Ditona.

(5) Tona o ka laletsa leloko lengwe le lengwe la Kabinete leo e seng leloko la Khansele ya Ditona go tla kopanang ya Khansele ya Ditona.

(6) Dikopano tsa Khansele ya Ditona di tshwarwa go tsamaelana le ditsamaiso tse di thhomamisitsweng ke yona.

Tshireletso ya barekedi ba ditšhelete go ya ka melao ya lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto le Molao wa Tshireletso ya Badirisi

85. (1) Maloko a Kabinete a a rwalang maikarabelo a merero ya tshireletso ya badirisi le sekoloto sa badirisi a ka kopa Khansele ya Ditona go sekasæka fa ka gongwe kabelo e e maleba mo molaong wa lephata la ditšhelete, kgotsa mo molaong o o tshišitsweng wa lephata la ditšhelete, Molawana kgotsa sediriso sa taolo, se tlamelam kgotsa se tla tlamelam ka maemo a tshireletso go barekedi ba ditšhelete a a lekanang, kgotsa a a fetang, tshireletso e e e tlametsweng go ya ka Molao wa Bosetšhaba wa Sekoloto kgotsa Molao wa Tshireletso ya Badirisi.

(2) Khansele ya Ditona— 45

(a) e tshwanetse go ikamanye le kopo; le
Independent evaluation of effectiveness of co-operation and collaboration

86. (1) (a) The Inter-Ministerial Council must, as soon as practicable following the expiration of the six month period described in section 77(1), commission an independent evaluation of the establishment of co-operative and collaborative mechanisms between the financial sector regulators, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes and the Competition Commission.

(b) The Inter-Ministerial Council must, every two years after the initial independent evaluation referred to in paragraph (a), commission an independent evaluation of the effectiveness of co-operative and collaborative mechanisms between the financial sector regulators, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes and the Competition Commission.

(2) An evaluation in terms of this section must at least contain an analysis and evaluation of the memoranda of understanding required in terms of section 77, the outcome of any and all consultations in terms of section 78, and compliance with those sections.

(3) The Inter-Ministerial Council may on its own initiative, or at the request of a financial sector regulator, at any time commission an independent evaluation of the effectiveness of co-operation and collaboration between the financial sector regulators, the Reserve Bank, the Financial Intelligence Centre, the Council for Medical Schemes and the Competition Commission.

(4) When a financial sector regulator makes a request for an evaluation, the Inter-Ministerial Council must consider the request and the concerns raised in the request regarding the effectiveness of co-operation and collaboration, and, if the Council rejects the request, provide the financial sector regulator that made the request with the reasons for rejecting the request.

(5) Any evaluation commissioned by the Inter-Ministerial Council in terms of this section must be tabled in Parliament immediately following the Council’s consideration of the evaluation, and must be accompanied by a report from the Council on the evaluation’s contents.

CHAPTER 6

ADMINISTRATIVE ACTIONS

Part 1

Administrative action committees

Establishment and membership

87. (1) A financial sector regulator may establish an administrative action committee to consider and make recommendations to the financial sector regulator on matters that are referred to it by that financial sector regulator.

(2) The members of an administrative action committee—

(a) must include—

(i) a retired judge; or

(ii) an advocate or attorney with at least 10 years relevant legal experience; and

(b) may include persons who are not members of the Prudential Committee or the Executive Committee or staff members of the financial sector regulator.

(3) A person referred to in subsection (2)(a) must be appointed as chairperson of an administrative action committee.

(4) A disqualified person may not be appointed to, or remain a member of, an administrative action committee.
(b) e ka, fa e tsaya gore kabelo e e maleba ga e tlanele maemo ao a tshireletsyo go badiri bi diîshelete, dira dikatlanegiso go tlhabolola kabelo e e maleba, kgotsa go tsaya dikgato tse dingwe tsa semoalo tse di matshwandedi, go netefatsa gore bonnye tshireletsyo e lekane.

Tekanyetsa e e ikemetseng ya nonofo ya tirisanommogo le kopano

86. (1) (a) Khansele ya Ditona e tshwenetse, ka bonako jo bo kgonegang go latela go ya bokhutlong ga paka ya dikgwedii tse thataro e e tlhalositsweng mo karolong 77(1), go dira tshekatsheko e e ikemetseng ya tlhomo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete, Banka ya Resefe, Senthara ya Bothlodi jwa Ditšhelete, Khaenale ya Dikema tsa Kalali le Khoïsiene ya Kgaisano.

(b) Khansele ya Ditona e tshwenetse, mo dingwageng dingwe le dingwe tse pedi morago ga tshekatsheko ya nthla e e ikemetseng e e kailweng mo temaneng (a), go dira tshekatsheko e e ikemetseng ya nonofo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete, Banka ya Resefe, Senthara ya Bothlodi jwa Ditšhelete, Khaenale ya Dikema tsa Kalali le Khoïsiene ya Kgaisano.

(2) Tshekatsheko go ya ka karolo ene e tshwenetse go ma le bonnye kanoko le tshekatsheko ya memorantamo wa tumalano o o tlhokegang go ya ka karolo 77, ditlamorago tsa ditherisano dingwe le dingwe tsothe go ya ka karolo 78, le boikamanyo le dikarolo tseo.

(3) Khansele ya Ditona ka boitlhamedi jwa yona, kgotsa ka kopo ya molaoi wa lephata la ditšhelete, ka nako ngwe le ngwe e ka dira tshekatsheko e e ikemetseng ya nonofo ya mekgwa ya tirisanommogo le kopano magareng ga balaodi ba lephata la ditšhelete, Banka ya Resefe, Senthara ya Bothlodi jwa Ditšhelete, Khaenale ya Dikema tsa Kalali le Khoïsiene ya Kgaisano.

(4) Fa balaodi jwa lefapha la ditšhelete bo dira kopo ya tshekatsheko, Khaenale ya Ditona e tshwenetse go tsaya tsia kopo le matshwényego a a tlhagisitsweng mo kopong mabapi le nonofo ya tirisanommogo le kgolagano, e bile, fa Khaenale e gana kopo, go lamela balaoli jwa lephata la ditšhelete jo bo dirileng kopo ka mabaka a go gana kopo.

(5) Tshekatsheko ngwe le ngwe e e dirilweng ke Khansele ya Ditona go ya ka karolo ene e tshwenetse go tlhagiswa kwa Palamenteng ka bonako go latela tshekatsheko ya kanoko, e bile e tshwenetse go patwa ke pegelo go tswa kwa Khanselega ya tshekatsheko ya diteng.

KGAOLO 6

DITIRO TSA TSAMAISO

Karolo 1

Dikomiti tsa tiro ya tsamaiso

Go tlhongwa le botokololo

87. (1) Molaoi wa lephata la ditšhelete o ka tlhama komiti ya tiro ya tsamaiso go sekaseka le go dira dikatlanegiso go molaoi wa lephata la ditšhelete ka ga ditiro tsa tsamaiso tse di rometsweng go ena ke molaoi wa lephata la ditšhelete.

(2) Maloko a komiti ya tiro ya tsamaiso—

(a) a tshwenetse go akaretsa-

(i) moatlhodi yo o rotseng tiro; kgotsa

(ii) mmuuledi kgotsa ramolao a le esi yo o nang le maimeng a molao a a maleba a dingwaga tse 10; le

(b) a ka akaretsa batho ba e seng maloko a Komiti ya Tlhokomelo kgotsa Komiti Khuduthamagga kgotsa maloko a badirammoso a balaoli jwa lephata la ditšhelete.

(3) Motho yo o kailweng mo karolotloleletsong (2)(a) o tshwenetse go thapiwa jaaka modulasetilo wa komiti ya tiro ya tsamaiso.

(4) Motho yo o ileditisweng a ka se thapiwe go, kgotsa go nna leloko la, komiti ya tiro ya tsamaiso.

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Terms of membership

88. (1) A person appointed as a member of a financial sector regulator’s administrative action committee who is not a member of the Prudential Committee, the Executive Committee or a staff member of a financial sector regulator holds office for a period not exceeding five years, and on the terms, including terms regarding remuneration, determined by the financial sector regulator.

(2) A member of an administrative action committee whose term expires may be reappointed.

(3) The financial sector regulator that established an administrative action committee may, subject to due process, remove a member of the administrative action committee from office if the member—

(a) is unable to perform the functions of the office effectively;
(b) has failed in a material way to discharge any of the responsibilities of the office; or
(c) has acted in a way that is inconsistent with continuing to hold the office.

(4) Without limiting subsection (3)(b), a member must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the administrative action committee without the leave of the administrative action committee.

Meetings

89. (1) A meeting of an administrative action committee—

(a) is convened by the chairperson of the committee; and
(b) is chaired by the chairperson or, in the chairperson’s absence, by another member designated by the chairperson or the remaining members.

(2) An administrative action committee determines its procedures, subject to any directions of the financial sector regulator that established the administrative action committee.

(3) The financial sector regulator must ensure that written minutes of each meeting of its administrative action committee are kept in a manner determined by the financial sector regulator.

Application of Part to Ombud Council

90. This Part applies, with the necessary changes required by the context, in relation to the Ombud Council.

Part 2

Administrative justice

Applicability of Promotion of Administrative Justice Act to administrative action by financial sector regulators

91. The Promotion of Administrative Justice Act applies to any administrative action taken by a financial sector regulator in terms of this Act or a specific financial sector law.

Procedures for specific administrative action in terms of Act

92. (1) A financial sector regulator may, by notice in the Register, determine procedures for administrative action to be taken by it in terms of a financial sector law, which procedures must—

(a) be aimed at promoting a fair and consistent approach to administrative action taken by the financial sector regulator in terms of the financial sector laws; and
(b) be consistent with—

(i) the principles of the Promotion of Administrative Justice Act; and
(ii) any applicable requirements of a financial sector law.

(2) If it is reasonable and justifiable in the circumstances, procedures for administrative action may depart from specific requirements of the Promotion of Administrative Justice Act, in accordance with sections 3(4), 4(4) and 5(4) of that Act.
Dipeelo tsa botokololo

88. (1) Motho yo o thapilweng jaaka leloko la komiti ya tiro ya tsamaiso ya bolaodi jwa lephata la ditšhelete yo e seng leloko la Komiti ya Tlhokomelo, Komiti Khuduthamaga kgotsha leloko la badirimmoego ba bolaodi jwa lephata la ditšhelete o thapiwa sebaka se se sa feteng dingwaga tse tlhano, le ka dipeelo, go akaretsa le dipeelo tse di amanang le tuelo, tse di tlhomamisitsweng ke bolaodi jwa lephata la ditšhelete.

(2) Leloko la komiti ya tiro ya tsamaiso yo paka ya gagwe e yang bokhutlong o ka thapiwa gape.

(3) Molaodi jwa lephata la ditšhelete yo o tlhomileng komiti ya tiro ya tsamaiso o ka, go tsamaelanana le kgato e e maleba, tlosa leloko la komiti ya tiro ya tsamaiso mo ofising fa leloko le—

(a) sa kgone go dira tiro e le e thapetsweng ka nonofo;
(b) paletswe ka gotlhile go diragatsa ngwye ya maikarabelo a tiroi; kgotsha
(c) le dirile ka mokgwaa o o sa tsamaelaneng le diilhokekgo tsa go tswelela go dira.

(4) Ntle le go lekanyetsa karolotlalelelo (3)(b), leloko le tshwanetsa go tselewa gore le paletswe ka gotlhile go diragatsa maikarabelo a ofisi fa le ka se mme teng mo dikopanong tse pedi tse di latelanang tsa komiti ya tiro ya tsamaiso ntle le khunulogo ya komiti ya tiro ya tsamaiso.

Dikopano

89. (1) Kopano ya komiti ya tiro ya tsamaiso—

(a) e kokoamngwa ke modulasetilo wa komiti; le
(b) e okamelwa ke modulasetilo kgotsa, fa modulasetilo a se teng, ke leloko le lengwe le le thapilweng ke modulasetilo kgotsa maloko a a setseng.

(2) Komiti ya tiro ya tsamaiso e e thapilweng ka maikarabelo, go tsamaelanana le dikaela tsa maikarabelo wa lephata la ditšhelete yo o thapiwa gape, go tsamaelanana le dikao e leloko ya komiti ya tiro ya tsamaiso e e dirilweng ke ke e tshwanetsa go o tshetsha ya maikarabelo.

(3) Molaodi wa lephata la ditšhelete o tshwanetsa go tshwanetsa gore metosoto e e kwetsweng ya kopano ngwye le ngwye ya komiti ya bona ya tiro ya tsamaiso a tsholwa.

Tiriso ya Karolo go Khansele ya Ombud

90. Karolo eno e diragatsa, ka diphetogo tse di tlhokegang go ya ka bokao, mabapi le Khansele ya Ombud.

Karolo 2

Bosiamisi jwa tsamaiso

Tirego ya Promotion of Administrative Justice Act go tiro ya tsamaiso ka balaodi ba lephata la ditšhelete

91. Promotion of Administrative Justice Act e diragatswa mo tirong ngwye le ngwye ya tsamaiso e e dirilweng ke maikarabelo wa lephata la ditšhelete go ya ka Molao ono kgotsa molao o o tsemangeng wa lephata la ditšhelete.

Ditsamaiso mabapi le tiro ya tsamaiso e e tsemangeng go ya ka Molao

92. (1) Bolaodi jwa lephata la ditšhelete bo ka, ka kitisiso mo Rejisetareng, thomamisa ditsamaiso tsa tiro ya tsamaiso e e dirilweng ke jona go ya ka molao wa lephata la ditšhelete, o o tshwanetseng—

(a) go ikaelela go tswelela go kgato e e lolameng le go tlhomama mo tiroeng ya tsamaiso e e dirilweng ke bolaodi jwa lephata la ditšhelete ya ka molao ya lephata la ditšhelete; le
(b) go tlhomama mabapi le—

(i) meono ya Promotion of Administrative Justice Act; le
(ii) diilhokekgo dingwge le dingwge tse di maleba tsa molao wa lephata la ditšhelete.

(2) Fa go utlwalela e bile go na le lebaka mo maemong, ditsamaiso mabapi le tiro ya tsamaiso di ka tswa mo diilhoekogong tse di tsemangeng tsa Promotion of Administrative Justice Act, go tsamaelanana le karolo 3(4), 4(4) le 5(4) ya Molao oo.
(3) Different procedures may be determined for different types of administrative actions and different circumstances.

Processes for determining or amending administrative action procedures

93. (1) Before a financial sector regulator determines or amends an administrative action procedure in terms of section 92, the financial sector regulator must—

(a) publish on its website—
   (i) a draft of the proposed procedure or amendment; and
   (ii) a notice calling for written public comment within a period stated in the notice, which must be at least 30 days from the date of publication of the notice;

(b) submit a draft of the proposed procedure or amendment to the Director-General and the other financial sector regulator; and

(c) consider any comments received.

(2) If a financial sector regulator intends to make an administrative action procedure or amendment that is materially different in form from the draft procedure or amendment that was previously published in terms of subsection (1), the regulator must, before making the procedure or amendment, repeat the process referred to in subsection (1).

Review of administrative action procedures

94. A financial sector regulator must review its administrative action procedures at least once every three years.

Revocation of decisions

95. (1) A financial sector regulator may, by notice to a person in relation to whom the regulator made a decision in terms of a financial sector law (or, if more than one such person, all of them), revoke the decision if—

(a) the decision was made as a result of fraud or illegality;
(b) the information on which the decision was made was inaccurate or incomplete and the financial sector regulator would not have made the decision if it had had accurate and complete information; or
(c) the decision is, for any reason, invalid.

(2) A revocation of a decision in terms of subsection (1) has effect from the date on which the revoked decision was made.

(3) A financial sector regulator may not take action in terms of subsection (1)—

(a) if the action would adversely affect the existing or accrued rights of any person (except the person in relation to whom the regulator made the decision); or
(b) if—
   (i) the financial sector regulator has been notified that an application to the Tribunal or a court in relation to the decision will be made; or
   (ii) proceedings have commenced in the Tribunal or a court in relation to the decision.

(4) Before a financial sector regulator takes action in terms of subsection (1), it must—

(a) notify its intention to do so to the person in relation to whom the regulator made a decision; and

(b) give the person a reasonable period, of at least 14 days, to make submissions to the regulator.

(5) In determining whether to take action in terms of subsection (1), the financial sector regulator must take into account all the submissions received during the period referred to in subsection (4)(b).

Interpretation

96. In this Part “financial sector regulator” includes the Ombud Council.
(3) Ditsamaiso tse di farologaneng di ka tlhomamisetswa ditiro tse di farologaneng tsa tsamaiso.

**Dikgato tsa go tlhomamisa kgotsa go tlhabolola ditsamaiso tsa tiro ya tsamaiso**

93. (1) Pele molaodi wa lephata la ditšhelete a tlhomamisa kgotsa tlhabolola tsamaiso ya tiro ya tsamaiso go ya ka karolo 92, bolaodi jwa lephata la ditšhelete bo tshwanetse go—

(a) phasalatsa mo webesaeteng ya jona—
   (i) thalo ya tsamaiso kgotsa tlhabololo e e tshitsintsweng; le
   (ii) kitiiso e e laletsang tshwaelo e e kwetsweng ya setšhaba mo pakeng e e neetsweng mo kitisisong, eo e tshwanetseng go nna bonnye matsatsi a le 30 go simolola ka letsatsi la phasalatso ya kitiiso; 

(b) gorosa thalo ya tsamaiso kgotsa tlhabololo e e tshitsintsweng go Mokaedika-karetso le molaodi yo mongwe jwa lephata la ditšhelete; le 

(c) sekaseka ditshwaelo dingwe le dingwe tse di amogetsweng.

(2) Fabolaodi jwa lephata la ditšhelete bo ikae nno go dira tsamaiso kgotsa tlhabololo ka mokgwa go o farologaneng go tswa go tsamaiso e e thadilweng kgotsa tlhabololo e e phasaladitsweng go ya ka karololalelelelo (1), molaodi o tshwanets, pele a dira tsamaiso kgotsa tlhabololo, go boleetsa dikgato tse di kailweng mo karolotlalelelelo (1).

**Thadiso ya ditsamaiso tsa kgata ya tsamaiso**

94. Bolaodi ba lephata la ditšhelete bo tshwanetse go thadisa ditsamaiso tsa jona tsa tiro bonnye gangwe mo dingwageng dingwe le dingwe tse tharo.

**Kgogelomorago ya ditshwetsa**

95. (1) Bolaodi jwa lephata la ditšhelete bo ka, ka kitiiso go motho wa kamano yo bolaodi bo dirileng tshwetsa ka ena go ya ka mola wa lephata la ditšhelete (kgotsa, fa batho ba ba feta bongwe, botlh), gogela morago tshwetsa fa—

(a) tshwetsa e dirilwe ka nthla ya tsietso kgotsa e seng ka mola; 

(b) tshedimosotso e tshwetsa e dirilweng ka yona e e ne sa nepagala kgotsa e sa felela e bile bolaodi jwa lephata la ditšhelete bo ne bo ka se dire tshwetsa bo bo ne bo na le tshedimosotso e e nepagalseng e bile e feletse; kgotsa 

(c) tshwetsa e, ka lebaka lengwe, sa amogelesege.

(2) Kgogelomorago ya tshwetsa go ya ka karolotlalelelo (1) e tsena mo tirisong go simolola ka letlha le tshwetsa e e gogetsweng morago ka lona.

(3) Molaodi wa lephata la ditšhelete o ka se tseye kgata go ya ka karolotlalelelo (1)—

(a) fakgato e ka ama bose ditshwanelo tse di leng teng kgotsa tse di bonweng tsa motho mongwe le mongwe (ntle le motho yo molaodi a dirileng tshwetsa mabapi le ena); kgotsa 

(b) faka— 

(i) bolaodi jwa lephata la ditšhelete bo itsisitswe gore kopo go Lekgotla kgotsa kgotlatshekelo mabapi le tshwetsa e tla dirwa; kgotsa 

(ii) ditsamaiso di simolote kwa Lekgotleng kgotsa kgotlatshekelong mabapi le tshwetsa.

(4) Pele bolaodi jwa lephata la ditšhelete bo tsaya kgata go ya ka karolotlalelelo (1), bo tshwanetse go—

(a) itsise ka ga maikaelo e a jona a go dira jalo go motho yo tshwetsa e dirilweng mabapi le ena; le 

(b) naya motho sebaka se se lekaneng, sa bonnye matsatsi a le 14, go dira ditlhagiso kwa bolaoding.

(5) Mo go tlhomamiseng gore kgato e tsewe go ya ka karolotlalelelo (1), bolaodi jwa lephata la ditšhelete bo tshwanetse go tsaya tsia ditlhagiso tsothle tse di amogetsweng ka nako e e kailweng mo karolotlalelelelo (4)/(b).

**Thhaloso**

96. Mo Karolong eno “molaodi wa lephata la ditšhelete” o akaretsa Khansele ya Ombud.
CHAPTER 7
REGULATORY INSTRUMENTS

Part 1

Regulatory instruments

Interpretation

97. In this Part, “maker”, in relation to a regulatory instrument, means the person that proposes to make the regulatory instrument.

Process for making regulatory instruments

98. (1) A regulatory instrument must not be made unless the maker—
   (a) has published—
      (i) a draft of the regulatory instrument;
      (ii) a statement explaining the need for and the intended operation of the regulatory instrument;
      (iii) a statement of the expected impact of the regulatory instrument; and
      (iv) a notice inviting submissions in relation to the regulatory instrument and stating where, how and by when submissions are to be made; and
   (b) has, once submissions referred to in paragraph (a)(iv) have been received and considered, submitted the regulatory instrument to Parliament in terms of section 103(1).

   (2) The period allowed for making submissions referred to in subsection (1)(a)(iv) must be at least six weeks.

   (3) If the maker is a financial sector regulator, the maker must, when complying with subsection (1), provide a copy of the documents referred to in that paragraph to—
      (a) the other financial sector regulator, the Reserve Bank, the National Credit Regulator, the Council for Medical Schemes and the Director-General; and
      (b) if the regulatory instrument would impose requirements on providers of securities services, the market infrastructure that has the function of licensing those providers in terms of a financial sector law.

   (4) If the maker is the Ombud Council, the maker must, when complying with subsection (1), provide a copy of the documents referred to in that subsection to the financial sector regulators, the Council for Medical Schemes, the National Credit Regulator and the Director-General.

Substantially different regulatory instrument

99. If a maker of a regulatory instrument intends, whether or not as a result of a consultation process, to make a regulatory instrument in a materially different form from the draft regulatory instrument published in terms of section 98, the maker must, before making the regulatory instrument, repeat the process referred to in section 98.

Urgent regulatory instruments

100. (1) If the maker of a regulatory instrument determines that compliance with section 98 or 99 is likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed regulatory instrument, the maker must before making the instrument—
   (a) publish—
      (i) a draft of the regulatory instrument and a statement explaining the need for and the intended operation of the regulatory instrument;
      (ii) a notice inviting submissions in relation to the regulatory instrument and stating where, how and by when submissions are to be made; and
      (iii) a statement of the reasons why the delay involved in complying with sections 98 and 99 is considered likely to lead to prejudice to financial
KGAOLO 7

DIDIRISWA TSA BOLAODI

Karolo 1

Didiriswa tsa bolaodi

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Tlhaloso

97. Mo Karolong eno “modiri”, mabapi le sediriswa sa bolaodi, o kaya motho yo o tshitsinyang go dira sediriswa sa bolaodi.

Dikgato tsa go dira didiriswa tsa bolaodi

98. (1) Sediriswa sa bolaodi ga se a tshwanela go dirwa ntle le fa modiri

(a) a phasaladitse—

(i) thalo ya sediriswa sa bolaodi;
(ii) polelo e e tlhalosang tlhokego ya le tiro e e ikaeletsweng ya sediriswa sa bolaodi;
(iii) polelo ya kutfwalo e e solefetsweng ya sediriswa sa bolaodi; le
(iv) kitiso e e leletsang dithlagiso mabapi le didiriswa tsa bolaodi le tlhaloso ya gore dithlagiso di ka dirwa kaec, jang le gore leng; le

(b) a, fa dithlagiso tse di kailweng mo temaneng (a)(iv) di sena go amogelwa le go sekasekwe, rometse sediriswa sa bolaodi kwa Palamenteng go ya ka karolo 103(1).

(2) Paka e e dumeletseng ya go dira dithlagiso e e kailweng mo karolotlaleletsong

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(1)(a)(iv) e tshwanetse go mma bonnye dibeke tse thataro.

(3) Fa modiri le e molao di lephata la ditšhelete, modiri o tshwanetse go, fa a ikamanya le karolotlaleletso (1)(a), neclana ka kgatiso ya dikaewa se dikaewa tse di kailweng mo temaneng eo go—

(a) molao di yongwe ya lephata la ditšhelete, Banka ya Resefe, Bolaodi jwa Bosetšhaba jwa Sekoloto, Khansele ya Dikema tsa Kalali le Mokaedikakaretso; le

(b) fa sediriswa sa bolaodi se ka gobelela ditlhokego mo batlameding ba ditirelo tsa ditbota, dithulaganyetsa tsa popegotheo ya mmaraka tse di nang le tiro.

(4) Fa modiri e le Khansele ya Ombud, modiri o tshwanetse, fa a ikamanya le karolotlaleletso (1)(a), lamela kgatiso ya dikaewa tse di kailweng mo karolotlaleletsong eo go bolaodi ba lephata la ditšhelete, Bolaodi jwa Bosetšhaba jwa Sekoloto le Mokaedikakaretso.

Didiriswa tsa bolaodi tsa pharologano e kgolo

99. Fa modiri wa sediriswa sa bolaodi a ikaeleta, e le ka ntlha ya kgato ya therisano kgotsa mnyaa, go dira sediriswa sa bolaodi ka mokgwana o o farologaneng thata go tswe mo sedirisong sa bolaodi se se thadilweng se se phasaladitsweng go ya ka karolo 98, modiri o tshwanetse, pele a dira sediriswa sa bolaodi, go boeletsu kgato ya therisano e e kailweng mo karolong 98.

Didiriswa tsa bolaodi tsa Potlako

100. (1) Fa modiri wa sediriswa sa bolaodi a tlhomamisa gore go ikamanya le karolo 98 kgotsa 99 go na le bokgoni jwa go isa kwa kgobelelong ya barekedi ba ditšhelete kgotsa go ka ama segolo thulaganyo ya ditšhelete, kgotsa go fenya matlhomo a sediriswa sa bolaodi se se tshitsintsweng, modiri o tshwanetse go, pele a dira sediriswa—

(a) phasalatsa—

(i) thalo ya sediriswa sa bolaodi le polelo e e tlhalosang tlhokego ya le tiriso e e ikaeletsweng ya sediriswa sa bolaodi;
(ii) kitiso e e leletsang dithlagiso mabapi le sediriswa sa bolaodi le tlhaloso ya gore dithlagiso di ka dirwa kaec, jang le gore leng; le
(iii) polelo ya mabaka a a tlhalosang gore goreng go tswe mo go ikamanye le dikarolo 98 le 99 e tseelelwa gore e ka isa kwa
customers or harm to the financial system, or defeat the object of the proposed regulatory instrument; and

(b) submit the regulatory instrument to Parliament in terms of section 103(2).

(2) The period allowed for making submissions in terms of subsection (1)(a)(ii) must be at least seven days.

(3) A maker must, after making an instrument pursuant to subsection (1), as soon as possible, but not later than within 30 days of making the instrument—

(a) submit to Parliament a report of the consultation process, which report must include a general account of the issues raised in the submissions and a response to the issues raised in the submissions.

(b) if the maker is a financial sector regulator, provide a copy of the documents referred to in paragraph (a) to—

(i) the other financial sector regulator, the Reserve Bank, the National Credit Regulator, the Council for Medical Schemes and the Director-General; and

(ii) if the regulatory instrument would impose requirements on providers of securities services, the market infrastructure that has the function of licensing those providers in terms of a financial sector law.

(c) if the maker is the Ombud Council, provide a copy of the documents referred to in that subsection to the financial sector regulators, the National Credit Regulator and the Director-General.

Part does not limit other consultation

101. This Part does not prevent a maker of a regulatory instrument from engaging in consultations in addition to those required in terms of this Part.

Making, publication and commencement of regulatory instruments

102. (1) In deciding whether to make a regulatory instrument, the maker must take into account all submissions received by the expiry of the period referred to in section 98(2) or 100(2) and any deliberations of Parliament.

(2) A regulatory instrument must be published in the Register after it is made.

(3) A regulatory instrument comes into effect—

(a) on the date the instrument is published in the Register; or

(b) if the instrument provides that it comes into effect on a later date, on the later date.

Submission of regulatory instruments to Parliament

103. (1) Before making a regulatory instrument in terms of section 98 or 99, the maker of the regulatory instrument must submit the regulatory instrument to Parliament, for a period of at least 30 days while Parliament is in session, together with—

(a) the documents mentioned in section 98(1)(a); and

(b) a report on the consultation process referred to in section 104.

(2) Before making a regulatory instrument in terms of section 100, the maker of the regulatory instrument must submit to Parliament, whether in session or not, the documents mentioned in section 100(1)(a) for a period of at least seven days (which period may run concurrently with the seven days referred to in section 100(2)).

Reports on consultation processes

104. (1) With each regulatory instrument, the maker must publish a consultation report.

(2) A consultation report must include—

(a) a general account of the issues raised in the submissions made during the consultation; and

(b) a response to the issues raised in the submissions.
kgobelelong ya barekedi ba ditšhelete kgotsa e ka ama segolo thulanygo ya ditšhelete, kgotsa ya fenya maithlomo a sediriswa sa bolaodi se se tshitsintsweng; le

(b) romela sediriswa sa bolaodi kwa Palamenteng go ya ka karolo 103(2).

(2) Nako e e letlelelwang go dira ditlhagiso go ya ka karolotlaleletso (1)(a)(ii) e tshwanetse go nna bonnye matsatsi a le supa.

(3) Modiri o tshwanetse, morago ga go dira sediriso se se tsamaelanang le karolotlaleletso (1), ka bonako jo kgonagalcon, fela e seng morago ga mo matsatsing a le 30 a go dira sediriswa—

(a) go romelela Palamente pegelo ya kgato ya therisano, co e tshwanetseng go akaretsa maikarabelo ka kakaretso a morero o o tlhagisitsweng mo ditlhagisong le tsibogelo go merero e e tlhagisitsweng mo ditlhagisong;

(b) fa modiri e le bolaodi jwa lephata la ditšhelete, go tlamela ka kgatiso ya makwalo a a kailweng mo temaneng (a) kwa—

(i) bolaoding jo bongwe jwa ditšhelete, Banka ya Resefe, Bolaodi jwa Bosetšhaba jwa Sekoloto, Khansele ya Dikema tsa Kalafi le Mokaedikakaretsa; le

(ii) fa sediriso sa bolaodi se ka patelets ditlhokoego mo batlameding ba ditirelo ts a dithoto, thulanyetso ya popegotheo ya mmanaka e e nang le maikarabelo a go abela batlamedi bao ba dilaesenseng go ya ka molao wa lephata la ditšhelete.

(c) fa modiri e le Khansele ya Ombud, go tlamela ka kgatiso ya makwalo a a kailweng mo karolotlaleletsong go go bolaodi ba lephata la ditšhelete, Molao wa Bosetšhaba wa Sekoloto le Mokaedikakaretsa.

Karolo ga e lekanyetse ditherisano tse dinngwe

101. Karolo eno ga e thibele modiri wa sediriswa sa boaodi mo go rerisaneng le mo godimo ga tseo di tlhokegang go ya ka Karolo eno.

Go dira, phasalatso le tshimologo ya didiriswa ts a bolaodi

102. (1) Mo go swetseng ka ga go dira sediriswa sa bolaodi, modiri o tshwanetse go ela tlhoko ditlhagisong tsotho tse di amogetsweng ka nako ya go ya bokhutlong gap aka e e ka kailweng mo karolotlaleletsong 98(2) kgotsa 100(2) le dipuwisa dingwe le dingwe tsa Palamenteng.

(2) Sediriswa sa bolaodi se tshwanetse go phasalatwa mo Rejisetareng fa se sena go dirwa.

(3) Sediriswa sa bolaodi se tsena mo tirisong—

(a) ka letlha le sediriswa si phasaladitsweng mo Rejisetareng ka lona, kgotsa

(b) fa sediriswa se tlamela gore se tsengwaa mo tirisong mo letlheng le le kwa moragnyana, ka letlha le le kwa moragnyana.

Thomelo ya didiriswa ts a bolaodi kwa Palamenteng

103. (1) Pele go dirwa sediriswa sa bolaodi go ya ka karalo 98 kgotsa 99, modiri wa sediriswa sa bolaodi o tshwanetse go romela sediriswa sa bolaodi kwa Palamenteng, mo matsatsing a le 30 fa Palamente e kokoane, mmogo le—

(a) makwalo a a kailweng mo karolong 98(1)(a); le

(b) pegelo ka ga kgato ya therisano e e kailweng mo karolong 104.

(2) Pele go dirwa sediriswa sa bolaodi go ya ka karolo 100, modiri wa sediriswa sa bolaodi o tshwanetse go romela Palamente, e kokoane kgotsa e sa kokoana, makwalo a a kailweng mo karolong 100(1)(a) mo matsatsing a le supa (paka e e tsamaelanang mmogo le matsatsi a le supa a a kailweng mo karolong 100(2)).

Dipegele ka ga kgato tsa therisano

104. (1) Ka sediriswa sengwe le sengwe sa bolaodi, modiri o tshwanetse go phasalatsa pegelo ya kgato ya ditherisano.

(2) Pegelo ya ditherisano e tshwanetse go akaretsa—

(a) karabelo ka kakaretso ya merero e e tlhagisitsweng mo ditlhagisong tse di dirilweng ka nako ya ditherisano; le

(b) tsibogelo go merero e e tlhagisitsweng mo ditlhagisong.
(3) If the maker did not comply with section 98 or 99 for the reason stated in section 100, the consultation report must be published 30 days after the instrument was made and the report must include a statement of the reasons why the delay involved in complying, or complying fully, with sections 98 and 99 was considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the regulatory instrument.

Part 2

Standards

Prudential standards

105. (1) The Prudential Authority may make prudential standards for, or in respect of—
(a) financial institutions that provide financial products or securities services;
(b) financial institutions that are market infrastructures; and
(c) key persons of such financial institutions.

(2) A prudential standard must be aimed at one or more of the following:
(a) Ensuring the safety and soundness of those financial institutions;
(b) reducing the risk that those financial institutions and key persons engage in conduct that amounts to, or contributes to, financial crime; and
(c) assisting in maintaining financial stability.

(3) Without limiting subsection (1), a prudential standard may be made on any of the following matters:
(a) Financial soundness requirements, including requirements in relation to capital adequacy, minimum liquidity and minimum asset quality;
(b) matters on which a regulatory instrument may be made by the Prudential Authority in terms of a specific financial sector law;
(c) matters that may in terms of any other provision of this Act be regulated by prudential standards, including matters as contemplated in section 30; and
(d) any other matter that is appropriate and necessary for achieving any of the aims set out in subsection (2).

Conduct standards

106. (1) The Financial Sector Conduct Authority may make conduct standards for or in respect of—
(a) financial institutions;
(b) representatives of financial institutions;
(c) key persons of financial institutions; and
(d) contractors.

(2) A conduct standard must be aimed at one or more of the following:
(a) Ensuring the efficiency and integrity of financial markets;
(b) ensuring that financial institutions and representatives treat financial customers fairly;
(c) ensuring that financial education programs, or other activities promoting financial literacy are appropriate;
(d) reducing the risk that financial institutions, representatives, key persons and contractors engage in conduct that is or contributes to financial crime; and
(e) assisting in maintaining financial stability.

(3) Without limiting subsections (1) and (2), a conduct standard may be made on any of the following matters:
(a) Efficiency and integrity requirements for financial markets;
(b) measures to combat abusive practices;
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(3) Fa modiri a sa ikamanya le karolo 98 kgotsa 99 ka mabaka a a tshhalositsweng mo karolong 100, pegelo ya dithiserano e tshwanetse go phasalatswa mo matsatsing a la 30 morago ga go dirwa ga sediriswa e bile pegelo e tshwanetse go akaretsa polelo ya mabaka a gore gore 98 kgotsa 99 go diega mo ga ikamanyeng, kgotsa go ikamanyeng ka botlalo, le dikarolo 98 le 99 go seetsewse gore go ka isa kwa kgoebeleng ya morekedi wa ditšhelete kgotsa go ama bole thulaganyo ya ditšhelete, kgotsa go fenya maitlhomo a sediriswa sa boloa di.

Karolo 2

Maemo

Maemo a tlhokomelo

105. (1) Bothati jwa Tlhokomelo bo ka dira maemo a tlhokomelo mabapi le, kgotsa maleba le—

(a) ditheo tsa ditšhelete ts di tlamelang ka dikuno tsa ditšhelete kgotsa ditirelo tsa ditsho;

(b) ditheo tsa ditšhelete ts e leng dithulaganyetsygo popegotheo ya mmaraka; le

(c) batho ba bothlokwa ba ditheo tse o tsa ditšhelete.

(2) Maemo a tlhokomelo e tshwanetse go nna le maikaelelo a e le ngwwe kgotsa go feta ya tse di latelang:

(a) Go netefatsa poloko le tolomo ya ditheo tseo tsa ditšhelete;

(b) fokotsa kotsi ya gore ditheo tseo tsa ditšhelete, le batho ba ba bothlokwa ba itshotse ka mokgwa o o ka tisang, kgotsa o o bakang, bosenyi jwa ditšhelete; le

(c) go thuza go tsehegetsa tlhomanyo ya ditšhelete.

(3) Ntle le go lekanyetsa karolotlaleletso (1), maemo a tlhokomelo a ka dirwa mo go ngwwe le ngwwe ya merero e e latelang:

(a) Ditlhokogo tsa ditšhelete tse di nepagetseng, go akaretsa ditlhokogo mabapi le tekano ya khapetlele, maemotlase a thekiso le theko ya ditsho le maemotlase a boleng jwa ditsho;

(b) merero e mo go yona go ka dirwang sediriso sa boloa di le Bothati jwa Tlhokomelo go ya ka mola o wa ditšhelete o o teepamisitsweng;

(c) merero e go ya ka kabelo ngwwe le ngwwe ya Molao ono e ka laolwang ke maemo a tlhokomelo, go akaretsa le merero e e ka kailweng mo karolong 30; le

(d) morero mongwe le mongwe o o maleba le bothlokwa go fithlelela ngwwe le ngwe ya maikaelelo a a tshagisitsweng mo karolotlaleletseng (2).

Maemo a boitshwaro

106. (1) Bothati jwa Boitshwaro jwa Lephata la Ditshelete bo ka dira maemo a boitshwaro go, kgotsa mabapi le—

(a) ditheo tsa ditšhelete;

(b) dikemedi tsa ditheo tsa ditšhelete;

(c) batho ba ba bothlokwa ba ditheo tsa ditšhelete; le

(d) bakonteraka.

(2) Maemo a boitshwaro a tshwanetse go nna le maikaelelo a e le ngwwe kgotsa go feta ya tse di latelang:

(a) Go netefatsa nonefo le tshiamo ya mebaraka ya ditšhelete;

(b) go netefatsa gore ditheo tsa ditšhelete le baemedi ba tshola barekedi ba ditšhelete ka tolomo;

(c) go netefatsa gore mananego a thuto ya tsa ditšhelete, kgotsa ditiro tse dingwe tse di tsweletshang kitso ya tsa ditšhelete di nepagets;

(d) go fokotsa kotsi ya gore ditheo tsa ditšhelete, dikemedi, batho ba ba bothlokwa le bakonteraka ba tsaya karolo mo boitshwarong jwa kgotsa jo bo nang le seabe mo bosenying jwa ditšhelete; le

(e) go thuza mo go tsehegetseng tshomanyo ya ditšhelete.

(3) Ntle le go lekanyetsa dikarolotlaleletso (1) le (2), maemo a boitshwaro a ka dirwa mo go ngwwe le ngwwe ya merero e e latelang:

(a) Ditlhokogo tsa nonefo le tshiamo sa mebaraka ya ditšhelete;

(b) mekgwá ya go lwantsha ditiragatse tse di bothaswa;

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requirements for the fair treatment of financial customers, including in relation to—
(i) the design and suitability of financial products and financial services;
(ii) the promotion, marketing and distribution of, and advice in relation to, those products and services;
(iii) the resolution of complaints and disputes concerning those products and services, including redress;
(iv) the disclosure of information to financial customers; and
(v) principles, guiding processes and procedures for the refusal, withdrawal or closure of a financial product or a financial service by a financial institution in respect of one or more financial customers, taking into consideration relevant international standards and practices, and subject to the requirements of any other financial sector law or the Financial Intelligence Centre Act, including—
(aa) disclosures to be made to the financial customer; and
(bb) reporting of any refusal, withdrawal or closure to a financial sector regulator;
(d) the design, suitability, implementation, monitoring and evaluation of financial education programs, or other initiatives promoting financial literacy;
(e) matters on which a regulatory instrument may be made by the Financial Sector Conduct Authority in terms of a specific financial sector law;
(f) matters that may in terms of any other provision of this Act be regulated by conduct standards; and
(g) any other matter that is appropriate and necessary for achieving any of the aims set out in subsection (2).

(4) A conduct standard may declare specific conduct in connection with a financial product or a financial service to be unfair business conduct if the conduct—
(a) is or is likely to be materially inconsistent with the fair treatment of financial customers;
(b) is deceiving, misleading or is likely to deceive or mislead financial customers;
(c) is unfairly prejudicing or is likely to unfairly prejudice financial customers or a category of financial customers; or
(d) impedes in any other way the achievement of any of the objectives of a financial sector law.

(5) (a) In relation to a credit provider regulated in terms of the National Credit Act, a conduct standard may only be made in relation to a financial service provided in relation to a credit agreement and matters provided for in section 108.
(b) A conduct standard referred to in paragraph (a) may only be made after consultation with the National Credit Regulator.

Joint standards

107. The Prudential Authority and the Financial Sector Conduct Authority may make joint standards on any matter in respect of which either of them have the power to make a standard.

Additional matters for making standards

108. (1) To achieve the respective objectives of the financial sector regulators as set out in sections 33 and 57, the standards referred to in sections 105, 106 or 107 may be made on any of the following additional matters:
(a) fit and proper person requirements, including in relation to—
(i) personal character qualities of honesty and integrity;
(ii) competence, including experience, qualifications and knowledge; and
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(c) ditlhokego tsa go tshola barekedi ba ditšhelete ka tolamo, go akaretsa le mabapi le—
(i) go tlhanga le go tshwanela ga dikuno tsa ditšhelete le ditirelo tsa ditšhelete;
(ii) tsweletso pele, papatso le phatlalatso ya, le kgakololo mabapi le, dikuno tseo le ditirelo;
(iii) tharabololo ya dingongorego le ditlhalano mabapi le dikuno tseo le ditirelo, go akaretsa le go busetsa mo maemong;
(iv) tshenono ya tshedimosetso go barekedi ba ditšhelete; le
(v) meeno e e kaangel dikgato le ditšamaiso mabapi le go ganwa, go gogelwa morago kgotsa go tswalwa ga tlhagiso ya ditšhelete kgotsa tirelo ya ditšhelete ka setheo sa ditšhelete mabapi le morekedi a le leši kgotsa go feta wa ditšhelete, go entswe tlhoko maemo a a maleba a bodišhabatišhaba le ditiragatsa, le go laletla ditlhokego tsa molao bo mongwe le mongwe wa lephata la ditšhelete kgotsa Financial Intelligence Centre Act, go akaretsa le—
(aa) ditšhenono tse di tshwanetseng go dirwa kwa morekeding wa ditšhelete; le
(bb) pegelo ya kgano nngwe le nngwe, kgogelomorago kgotsa tswalo go molaodi wa lephata la ditšhelete;
(d) tlhamo, tshwanelo, tsenyotrisong, tlhokomelo le tekanyetsa ya mananeo a thuto ya tsā ditšhelete, kgotsa mananeo a mangwe a a tsweletso akgotšo ya tsā ditšhelete;
(e) merero e mo go yona sediriswa sa boloaodi se ka dirwang ke Bothati jwa Boitshwara jwa Lephata la Ditšhelete go ya ka molao o o tsepmang wa lephata la ditšhelete;
(f) merero e go ya ka kabelo nngwe le nngwe ya Molao ono e ka laolweng ke maemo a boitshwara; le
(g) morero mongwe le mongwe o o maleba le bothokwa mo go fithleleleng nngwe le nngwe ya maikaelelo a a tlhalositsweng mo karolotlaleletsong (2).
(4) Maemo a boitshwara a ka tlhomamisa boitshwara jo bo tsepmang mabapi le kuno ya ditšhelete kgotsa tirelo ya ditšhelete go nna boitshwara jwa kgwebo jo bo sa lolamang fa boitshwara joo—
(a) bo kgotsa bo ka tlhoka tlhomamo ya bothokwa ka go tshola barekedi ba ditšhelete ka tolamo;
(b) bo tsetlsa kgotsa bo fapos kgotsa bo ka tsetlsa kgotsa bo ka fapos barekedi ba ditšhelete;
(c) bo gobelele e seng ka tolamo kgotsa bo ka gobelele e seng ka tolamo barekedi ba ditšhelete kgotsa selihopho sa badirisi ba ditšhelete; kgotsa
(d) bo kgoreletsa ka mokgwa ofe fithleleleng ya nngwe ya maikaelelo a molao wa lephata la ditšhelete.
(5) (a) Mabapi le motlamedi wa sekoloto yo o laolweng ke Molao wa Botšešaba wa Sekoloto, maemo a boitshwara a ka dirwa fela mabapi le tirelo ya ditšhelete e e tlametsweng mabapi le tumalano ya sekoloto le merero e e tlametsweng mo karolong 108.
(b) Maemo a boitshwara a a kailweng mo tšemang (a) a ka dirwa fela morago ga therisano le Molao di Botšešaba wa Sekoloto.

Maemo a a kopantsweng

107. Bothati jwa Thlokomelo le Bothati jwa Boitshwara jwa Lephata la Ditšhelete bo ka dira maemo a a kopantsweng mo merorong mongwe le mongwe mabapi le gore mongwe le mongwe wa bona o na le thela ya go ka dira maemo.

Mereto ya tlaleletso ya go dira maemo

108. (1) Go fithlelela maemo a a kailweng a boloaodi jwa lephata la ditšhelete jaaka a tlhagisiswe mo dikarolong 33 le 57, maemo a a kailweng mo dikarolong 105, 106 kgotsa 107 a ka dirwa mo go nngwe le nngwe ya dirlinha tse di latelang tsā tlaleletso: 
(a) Ditlhokego tsa motho yo o itekeletseng a le matshwanedi, go akaretsa mabapi le—
(i) boleng jwa semelo sa motho jwa boikanyego le tshiamo;
(ii) bokgoni, go akaretsa le maitemogelo, borutegi le kitso; le
(iii) financial standing;

(b) governance, including in relation to—
   (i) the composition, membership and operation of governing bodies and of
       substructures of governing bodies; and
   (ii) the roles and responsibilities of governing bodies and their substructures;

(c) the appointment, duties, responsibilities, remuneration, reward, incentive
    schemes and, subject to applicable labour legislation, the suspension and
    dismissal of, members of governing bodies and of their substructures;

(d) the appointment, duties, responsibilities, remuneration, reward, incentive
    schemes and, subject to applicable labour legislation, the suspension and
    dismissal of, key persons;

(e) the operation of, and operational requirements for, financial institutions;

(f) financial management, including—
   (i) accounting, actuarial and auditing requirements;
   (ii) asset, debt, transaction, acquisition and disposal management; and
   (iii) financial statements, updates on financial position, and public reporting
        and disclosures;

(g) risk management and internal control requirements;

(h) the control functions of financial institutions, including the outsourcing of
    control functions;

(i) record-keeping and data management by financial institutions and representa-
    tives;

(j) reporting by financial institutions and representatives to a financial sector
    regulator;

(k) outsourcing by financial institutions;

(l) insurance arrangements, including reinsurance, of financial institutions;

(m) the amalgamation, merger, acquisition, disposal and dissolution of financial
    institutions;

(n) recovery, resolution and business continuity of financial institutions;

(o) requirements for identifying and managing conflicts of interest;

(p) requirements for the safekeeping of assets, including requirements pertaining
    to the approval and supervision of nominees and custodians.

(2) A standard may—
   (a) provide for a financial sector regulator or the Reserve Bank to make
       determinations, in accordance with procedures defined in a standard, for the
       purposes of the standard; and
   (b) impose requirements for approval by a financial sector regulator in respect of
       specified matters.

(3) A standard made by a financial sector regulator may amend or revoke another
    standard made by the financial sector regulator.

Standards requiring concurrence of Reserve Bank

109. (1) The Financial Sector Conduct Authority may not make a standard that
    imposes requirements on providers of payment services without the concurrence of the
    Reserve Bank.

    (2) A financial sector regulator may not make a standard aimed at assisting in
    maintaining financial stability without the concurrence of the Reserve Bank.

General

110. (1) Different standards may be made for, or in respect of—
    (a) different categories of financial institutions, representatives, contractors or
        key persons; or
    (b) different circumstances.

    (2) A standard may be made applicable to existing actions, activities, transactions,
        policies and appointments.

    (3) A standard must be published on the maker’s website.
(iii) kemo ya ditšhelete;

(b) puso, go akaretsa mabapi le—
   (i) popego, botokololo le tsamaiso ya mokgatlho o o busang le wa ditlhophatlaletso tsa mokgatlho e e busang; le
   (ii) ditiro le maikarabelo a mokgatlho e e busang le ditlhophatlaletso tsa yona;

(c) go thapiwa, ditiro, maikarabelo, tuelo, tebogo, dikema tsa thotloeto, le go ya ka melawana ya tiro, go sekekwa le go belebetswa ga maloko a mokgatlho ya puso le ditlhophatlaletse tsa yona;

(d) go thapiwa, ditiro, maikarabelo, tuelo, tebogo, dikema tsa thotloeto, le go ya ka melawana ya tiro, go sekekwa le go belebetswa ga batho ba ba bothlokwa;

(e) tiro ya, le ditlhokoegoe tsa tiro tsa, ditheo tsa ditšheletse;

(f) taolo ya ditšhelete, go akaretsa le—
   (i) ditlhokoego tsa palotlotlo, bogakolodi le boruni;
   (ii) taolo ya dithoto, sekoloto, tirisano, kgobokanyo le tatlho; le
   (iii) dikanegeo tsa ditšhelete, dicepokong tsa maemo a ditšhelete, le pegelo go setšhaba le ditšhenoi;

(g) taolo ya dikotsi le ditlhokoego tsa taolo ya ka fa gere;

(h) ditiro tsa taolo tsa ditheo tsa ditšhelete, go akaretsa le go batla tirole ya konteraka ya ditiro tsa taolo go tswa kwa nlele;

(i) tsholo ya direkoto le taolo ya tshedimoseto ke ditheo tsa ditšhelete le dikemedi;

(j) pegelo ka ditheo tsa ditšhelete le dikemedi go bolaoedi jwa lephata la ditšhelete;

(k) ditlhulaganoyo tsa go bona tirole ya konteraka go tswa kwa nlele ke ditheo tsa ditšhelete;

(l) ditlhulaganoyo tsa inšorenense, go akaretsa le go inšorwa gapé, ga ditheo tsa ditšhelete;

(m) kopano, tlhakano, tirisano, tatlho le phatlalatso ya ditheo tsa ditšhelete;

(n) namolo ya kgwebo le tswelelo ya ditheo tsa ditšhelete;

(o) ditlhokoego tsa go supa le go laola tufelo ya dikgatlhego; le

(p) ditlhokoego tsa go boloka dithoto ka tsheireletsego, go akaretsa le ditlhokoego mabapi le thebolo le tlhomohelo ya ba ba kgethišweleng le basisi.

(2) Maemo a ka—

(a) tlamela mabapi le bolaoedi jwa lephata la ditšhelete kgotsa Banka ya Resefe go dira ditlhönamisë se go tsaclaena le ditšamaiso tse di tshimosesetso ke ditheo tsa ditšhelete;

(b) mabaka a a farologaneng.

(3) Maemo a a dirilweng ke bolaoedi jwa lephata la ditšhelete a ka tlhabolola kgotsa a gogela morago maemo a mangwe a a dirilweng ke bolaoedi jwa lephata la ditšhelete.

Maemo a a tlhokang tumelelo ya Banka ya Resefe

109. (1) Bothati jwa Boitshwarlo jwa Lephata la Ditšhelete bo ka se dire maemo a a gobelelang ditlhokoego mo batameding ba ditirelo tsa tuelo nle le tumalano ya Banka ya Resefe.

(2) Molaodi wa lephata la ditšhelete o ka se dire maemo a a ikaelelang go thusa go tshegetsa tlhomamo ya ditšhelete nle le tumalano ya Banka ya Resefe.

Kakaretso

110. (1) Maemo a a farologaneng a ka direlwé, kgotsa mabapi le—

(a) ditlhophá tse di farologaneng tsa ditheo tsa ditšhelete, baemedi, beng ba ba bothlokwa, bakonteraka kgotsa batho ba ba bothlokwa; kgotsa

(b) mabaka a a farologaneng.

(2) Maemo a ka dirwa go tsamaela le dikgato, ditiro, ditirisano, dipholisi le dithapo.

(3) Maemo a tshañegetse go phusalatswe mo webedaeteng ya modiri.
CHAPTER 8

LICENSING

Part 1

Licensing requirements

Licence requirement in respect of providers of financial products and financial services, and market infrastructures

111. (1) A person may not provide, as a business or part of a business, a financial product, financial service or market infrastructure except—

(a) in accordance with a licence in terms of a specific financial sector law, the National Credit Act or the National Payment System Act; or

(b) if no specific financial sector law provides for such a licence, in accordance with a licence in terms of this Act.

(2) A person may not provide, as a business or part of a business, a financial product designated in terms of section 2, or a financial service designated in terms of section 3, except in accordance with a licence in terms of this Chapter.

(3) Subsections (1) and (2) only apply to a contractor if a responsible authority specifically, in a standard, requires that contractor to be licensed.

(4) A person may not describe or hold itself out as being licensed in terms of a financial sector law, including being licensed to provide particular financial products, financial services or market infrastructure, unless that person is so licensed.

(5) A person may not permit another person to identify the first person as licensed in terms of a financial sector law, including licensed in terms of a financial sector law to provide particular financial products, financial services or market infrastructure, unless the first person is so licensed.

(6) For the purposes of subsections (4) and (5), a person whose licence has been suspended or revoked is not licensed.

(7) Except to the extent expressly provided by this Act, this Act does not affect the provisions of the specific financial sector laws with respect to licensing in relation to financial products, financial services and market infrastructures.

Part 2

Licences required in terms of section 111(1)(b) or (2) or section 162

Interpretation

112. In this Part—

“application” means an application for a licence required in terms of section 111(1)(b) or (2) or section 162;

“licence” means a licence required in terms of section 111(1)(b) or (2) or section 162;

“licensee” means a person licensed in terms of section 111(1)(b) or (2) or section 162.

Power to grant licences

113. (1) The responsible authority may, on application, grant a licence.

(2) The application must—

(a) be in writing and in a form approved or accepted by the responsible authority; and

(b) include or be accompanied by the information and documents—

(i) required in the form; or

(ii) required by the responsible authority.
KGAOLO 8

KABO YA LAESENSE

Karolo 1

Ditlhokego tsa kabo ya laesense

Tlhokego ya laesense mabapi le batlamedi ba dikuno tsa ditšhelele, ditirelo tsa ditšhelele, le ditšulaganyetso tsa popegotheo ya mmaraka

111. (1) Motho o ka se tlamele, jaaka kgwebo kgotsa karolo ya kgwebo, kuno ya tšhelele, tirelo ya tšhelele kgotsa thulaganyetso ya popegotheo ya mmaraka ntle le—
   (a) go isamaelana le laesense go ya ka molao o o tsepameng wa lephata la ditšhelele kgotsa Molao wa Bosetšhaba wa Sekoloto kgotsa National Payment System Act; kgotsa
   (b) fa go se molao o o tsepameng wa lephata la ditšhelele o o tlamelang ka laesense eo, go isamaelana le laesense go ya ka Molao ono.

(2) Motho o ka se tlamele, jaaka kgwebo kgotsa karolo ya kgwebo, kuno ya ditšhelele e e thapiliweng go ya ka karolo 2, kgotsa kuno ya ditšhelele e e tšhomilweng go ya ka karolo 3, ntle le go isamaelana le laesense go ya ka Kgaolo eno.

(3) Dikarolotlaleletso (1) le (2) di diriswa fela go mokonteraka fa bothati jo bo rwalang maikarabelo ka tsepamo, mo maemong, bo tlhoka gore mokonteraka a abelwe laesense.

(4) Motho o ka se ithalose kgotsa ga tsewa gore o abetswe laesense go ya ka molao wa lephata la ditšhelele, go akaretsa le go abelwa laesense go tlamela ka dikuno tse di rileng tsa ditšhelele, ditirelo tsa ditšhelele kgotsa thulaganyetso ya popegotheo ya mmaraka, fa fela motho yoo a abetswe laesense jalo.

(5) Motho o ka se lethe motho yo mongwe go supa motho wa nthla jaaka yo o abetsweng laesense go ya ka molao wa lephata la ditšhelele, go akaretsa le go abelwa laesense go ya ka molao wa lephata la ditšhelele go tlamela ka dikuno tse di rileng tsa ditšhelele, ditirelo tsa ditšhelele kgotsa thulaganyetso ya popegotheo ya mmaraka, ntle le fa motho wa nthla a abetswe laesense jalo.

(6) Mabapi le matšilhomo a dikarolotlaleletso (4) le (5), motho yo laesense ya gagwe e sekegiliweng kgotsa phimotsweng ga a abelwe laesense.

(7) Ntle le ka moo go tlametsweng ka thamalaloko ke Molao ono, Molao ono ga o ame dikabelo tsa melao e e tsepameng ya lephata la ditšhelele mabapi le kabo ya laesense e e amanang le dikuno tsa ditšhelele le ditirelo tsa ditšhelele le thulaganyetso ya popegotheo ya mmaraka.

Karolo 2

Laesense e e tlhokegang go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162

Thaloso

112. Mo Karolong eno—
   “kopo” e kaya kopo ya laesense e e tlhokegang go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162;
   “laesense” e kaya laesense e e tlhokegang go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162;
   “moabelwalaesense” o kaya motho yo o abetsweng laesense go ya ka karolo 111(1)(b) kgotsa (2) kgotsa karolo 162.

Thata ya go aba dilaesense

113. (1) Bothati jo bo rwalang maikarabelo bo ka, ka kopo, aba laesense.
   (2) Kopo e tshwanetse—
      (a) go kwalwa le go nna mo foromong e e rebotsweng kgotsa amogetsweng ke bothati jo bo rwalang maikarabelo; le
      (b) go akaretsa kgotsa go romelwa le tshedimosetso le dikwalo—
         (i) tse di tlhokwang mo foromong; kgotsa
         (ii) tse di tlhokwang ke bothati jo bo rwalang maikarabelo.
Request for further information or documents by responsible authority

114. (1) The responsible authority may, by notice in writing, require an applicant for a licence to—
   (a) give the responsible authority additional information or documents specified by the responsible authority; and
   (b) verify any information given by the applicant in connection with the application in a manner specified by the responsible authority.

(2) The responsible authority need not deal further with the application until the applicant has complied with the notice.

Relevant matters for application for licence

115. The matters to be taken into account in relation to an application for a licence include—
   (a) the objective of the responsible authority as set out in section 33 or 57;
   (b) the financial and other resources of and available to the applicant;
   (c) fit and proper person requirements applicable to the applicant and to any key person or significant owner of the applicant;
   (d) the governance and risk management arrangements of the applicant; and
   (e) whether the applicant made a statement that is false or misleading, including by omission, in or in relation to the application.

Determination of applications

116. (1) The responsible authority to which an application for a licence has been made must determine the application by—
   (a) granting the application and issuing a licence to the applicant; or
   (b) refusing the application and notifying the applicant accordingly.

(2) The responsible authority may not grant a licence to an applicant unless satisfied that—
   (a) the applicant has or has available to it sufficient resources and capacity to ensure that it will comply with the requirements of financial sector laws in relation to the licence; and
   (b) issuing the licence to the applicant will not be contrary to the interests of financial customers, the financial sector or the public interest.

(3) (a) The responsible authority must determine an application as contemplated in subsection (1) and notify the applicant within three months after the application is made.
   (b) The responsible authority may, by notice to the applicant, extend the period of three months in paragraph (a) for one or more further periods, but the total period may not be more than nine months.
   (c) In working out when the period mentioned in paragraph (a) or (b) expires, any period between the responsible authority giving the applicant a notice in terms of section 114 and the requirements in the notice being satisfied is not to be counted.

Reporting obligations of licensee

117. (1) A licensee must promptly report any of the following to the responsible authority that issued the licence:
   (a) The fact that the licensee has contravened or is contravening, in a material way—
      (i) a financial sector law;
      (ii) a regulator’s directive or a directive in terms of section 202;
      (iii) an enforceable undertaking;
      (iv) an order of a court made in terms of a financial sector law; or
      (v) a decision of the Tribunal;
Kopo ya tshedimose tso e ngwe kgotsa dikhwalo ka bothati jo bo rweleng maikarabelo

114. (1) Bothati jo bo rwalang maikarabelo bo ka, ka kitsiso e e kwetsweng, kopa modirakopo ya laesense mo—
   (a) neela bothati jo bo rwalang maikarabelo tshedimose tso e ngwe kgotsa dikwalo tse di tsepamisitsweng ke bothati jo bo rwalang maikarabelo; le
   (b) netefatsa tshedimose tso e ngwe le e ngwe e e neielweng le modirakopo mabapi le kopo ka mokgwa o o tsepamisitsweng ke bothati jo bo rwalang maikarabelo.

(2) Bothati jo bo rwalang maikarabelo bo ka nna jwa se sekegele kopo tsebe go filhela modirakopo a ikamanya le kitsiso.

Merero e e maleba ya go dira

115. Ditlha tse di tshwanetseng go tsewa tsia mabapi le kopo ya kabelo ya laesense di akaretsa—
   (a) maikaelelo a bothati jo bo rwalang maikarabelo jaaka go tlhagisitswe mo karolong 33 kgotsa 57;
   (b) ditlamelelo tsia ditshesile le tse dingwe tsia, le tse di leng teng go, modirakopo;
   (c) ditlhoko kego tsa batho ba ba itekanetseng e bile ba le matshwamede tse di diragatswang go modirakopo le go motho mongwe le mongwe yo o bothokwa kgotsa mong yo o bothokwa wa modirakopo;
   (d) ditshulaganyo tsia puso le tlaolo ya dikotsi tsia modirakopo; le
   (e) gore a modirakopo o dirile polele e e fosagetseng kgotsa e e timetsang, go akaretsa le ka tlogelo, ka kgotsa mabapi le kopo.

Tlhomamiso ya dikopo

116. (1) Bothati jo bo maleba mabapi le kopo ya laesense bo tshwanetse go tlhomamisa kopo ka go—
   (a) sekegela kopo le go rebola laesense go modirakopo; kgotsa
   (b) sa amogele kopo le go itsise modirakopo ka tshwanelo.

(2) Bothati jo bo rwalang maikarabelo bo ka se abele modirakopo laesense ntle le fa bo kgotsofetse gore—
   (a) modirakopo o na le ditlamelelo tse di lekaneng le bokgoni go netefatsa gore o tla ikamanya le ditlhoko kego tsia melao ya lephata la ditshesile mabapi le laesense; le
   (b) go rebola modirakopo laesense go ka se nne kgatlhanong le dikgatlhengo tsa barekedi ba ditshesile kgotsa lephata la ditshesile kgotsa dikgatlhengo tsa setšhaba.

(3) (a) Bothati jo bo rwalang maikarabelo bo tshwanetse go go tlhomamisa kopo jaaka go thalositswe mo karololtaleletsong (1) le go itsise modirakopo mo dikgewedi tse tharo morago ga fa kopo e sena go dirwa.
   (b) Bothati jo bo rwalang maikarabelo bo ka, ka kitsiso go modirakopo, oketsa paka ya dikgewedi tse tharo mo temaneng (a) go paka ele ngwe kgotsa go feta, fela paka yotlhe e se fete dikgewedi tse robongwe.
   (c) Mo go batleng go itse gore paka e e kailweng mo temaneng (a) kgotsa (b) e ya bokhutlong leng, paka ngwe le ngwe magareng ga nako e bothati jo bo rwalang maikarabelo bo nayang modirakopo kitsiso go ya ka karolo 114 le nako e ditlhoko kego tse di mo kitsisong di kgotsofatsawng ka yona ga e baleliwe.

Go bega Ditlamego tsa moabelwalaesense

117. (1) Moabelwalaesense o tshwanetse go begela bothati jo bo rwalang maikarabelo jo bo rebotseng laesense ka potlako ngwe le ngwe ya tse di lateleeng:
   (a) Nthla ya gore laesense e tlotse kgotsa e tlola, ka mokgwa o o fetang tekano—
       (i) molao le lephata la ditshesile;
       (ii) taelo ya molaodi kgotsa taelo go ya ka karolo 202;
       (iii) tumalano e e gatelelewang;
       (iv) taelo ya kgotlatshikelo e e dirilweng go ya ka molao le lephata la ditshesile; kgotsa
       (v) tshwetso ya Lekgotla;
It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

Act No. 9 of 2017: Financial Sector Regulation Act, 2017
(b) the fact that the licensee has become aware that information given in connection with the application for the licence was false or misleading.

(2) Subsection (1) also applies in relation to events and circumstances that occur while a licence is suspended.

(3) Information that is reported in terms of this section is not admissible in evidence in any criminal proceedings, except in criminal proceedings for perjury.

Licences not transferable

118. A licence is not transferable from the licensee to another person.

Variation of licences

119. (1) The responsible authority that issued a licence may, by notice to the licensee, vary the licence if to do so will assist in achieving the objective of the responsible authority as set out in section 33 or 57.

(2) A variation of a licence may include—
   (a) removing or varying a condition of the licence, or adding a condition; and
   (b) changing the categories of financial products, financial services or financial customers to which the licence relates.

(3) A variation of a licence takes effect on a date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

Suspension of licences

120. (1) The responsible authority that issued a licence may, by notice to the licensee, suspend the licence, for the period specified in the notice, if—
   (a) the licensee applies for suspension of the licence;
   (b) a condition of the licence has been contravened or not been complied with in a material way;
   (c) the licensee has contravened in a material way—
      (i) a financial sector law;
      (ii) a prudential standard, a conduct standard or a joint standard;
      (iii) a regulator’s directive or a directive in terms of section 202;
      (iv) an enforceable undertaking;
      (v) an order of a court made in terms of a financial sector law; or
      (vi) a decision of the Tribunal;
   (d) the licensee has in a foreign country contravened in a material way a law of that country that corresponds to a financial sector law;
   (e) information provided in or in relation to an application in relation to the licence was false or misleading (including by omission) in a material way;
   (f) the suspension is necessary to prevent—
      (i) a serious contravention of a financial sector law; or
      (ii) financial customers of the licensee suffering material prejudice; or
   (g) fees in respect of the licence, a levy or an administrative penalty payable by the licensee, including any interest, are unpaid and have been unpaid for at least 30 days.

(2) The responsible authority may refuse to suspend a licence in terms of subsection (1)(a) if the suspension—
   (a) would not be in the best interests of financial customers; or
   (b) would frustrate the objects of a financial sector law applicable to the licence.

(3) The responsible authority that suspended a licence may at any time revoke the suspension.
(b) ntlha ya gore moabelwalese o itse gore tshedimosetso e eneilweng mabapi le kopo ya laesense e fosagetse kgotsa e a timetsa.

(2) Karolotlaleletso (1) e diragatswa mabapi le ditiragalo le mabaka a a diragalang fa laesense e emisitswe.

(3) Tshedimosetso e e begilweng go ya ka karolo eno ga e amogolesege mo bopaking mo ditsamaisong dingwe le dingwe tsa bosenyi, ntle le mo ditsamaisong tsa bosenyi mabapi le go bua maaka ka fa tlase ga maikano.

Dilaesense tse di sa fetisiweng

118. Laesense ga e fetisiwhe go tswa go moabelwalesense go ya ga motho yo mongwe.

Pharologantsho ya dilaesense

119. (1) Bothati jo bo rwalang maikarabelo jo bo rebotseng laesense bo ka, ka kitsiso go moabelwalesense, farologanya laesense fa go dira jalo go tla thusa ka phitlhelelo ya maikaelelo a bothati jo bo rwalang maikarabelo jaaka go tlhagisitswe mo karolong 33 kgotsa 57.

(2) Pharologanyo ya laesense e ka akaretsa go—

(a) tlosa kgotsa farologanya lebaka la laesense, kgotsa go tsenya lebaka; le

(b) fetola ditlhopha tsa dikuno tsa diitihelele kgotsa ditirelo tsa diitihelele tseo laesense e amanang le tsonga.

(3) Pharologanyo ya laesense e tsena mo tirising ka letlha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa letlha le le kwa morago le tsepamisitswe mo kitsisong, letlha le le kwa morago.

Tshekego ya dilaesense

120. (1) Bothati jo bo rwalang maikarabelo jo bo rebotseng laesense bo ka, ka kitsiso go moabelwalesense, sekega laesense fa, sebaka se se tsepamisitsweng mo kitsisong, fa—

(a) moabelwalesense a dira kopo ya tshekego ya laesense;

(b) lebaka la laesense le tlotswe kgotsa go sa ikamangwa le lona ka tlotlo yotlhe; le

(c) moabelwalesense o dirile tlolo e kgolo ya —

(i) molao wa lephata la diitihele; kgotsa

(ii) maemo a thlokomelo, maemo a boitshwaro, maemo a a kopanetsweng kgotsa taelo ya Khanele ya Bolaodi jwa Ombud;

(iii) taelo ya molaoedi kgotsa taelo go ya ka karolo 202;

(iv) tumalano e e gatelelwang;

(v) taelo ya kgotlatshhekelo e e dirilweng go ya ka molao wa lephata la diitihele; kgotsa

(vi) tshwetso ya Lekgotla;

(d) moabelwalesense a tlotsa molao thata kwa nageng ya boditshaba o o tsamaelangang le molao wa lephata la diitihele;

(e) tshedimosetso e e tlametsweng ka kgotsa mabapi le kopo e e amanang le laesense e fosagetse kgotsa e timetsa (go akaretsa le ka tlogelo) thata;

(f) tshekego e bothokwga go thibela—

(i) tlolomolao e e masisi ya molao wa lephata la diitihele; kgotsa

(ii) barekedi ba diitihele ba moabelwalesense ba le ka fa tlase ga kgobelelo; kgotsa

(g) dituelo mabapi le laesense, lekgethwana kgotsa kotla ha tsamaiso e e duelweng ke moabelwalesense, e akaretsa le morokotso mongwe le mongwe, ga di a duelwa e bife di ntse di sa duelwa bonnye matsatsi a le 30.

(2) Bothati jo bo rwalang maikarabelo bo ka gana go sekega laesense go ya ka karolotlaleletso (1)(a) fa tshekego—

(a) e ka senne mo kgatlhegong ya barekedi ba diitihele; kgotsa

(b) e tla dira gore maikaelelo a molao wa lephata la diitihelele a a diragatsweng mo laesenseng a tsielege.

(3) Bothati jo bo rwalang maikarabelo jo bo sekegileng laesense bo ka nako ngwe le ngwe phimola tshekego eo.
(4) The suspension of a licence takes effect on the date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

(5) The suspension of a licence does not affect an obligation of the licensee that it has in terms of a financial sector law.

**Revocation of licences**

121. (1) The responsible authority that issued a licence may, by notice to the licensee, revoke the licence—

(a) if the licensee applies for revocation of the licence;

(b) on any of the bases on which it may suspend the licence, as set out in section 120(1)(b) to (g); or

(c) if the licensee has ceased to conduct the licensed business.

(2) The responsible authority may refuse to revoke a licence in terms of subsection (1)(a) if the revocation—

(a) would not be in the best interests of financial customers; or

(b) would frustrate the objects of a financial sector law applicable to the licence.

(3) Revocation of a licence takes effect on the date of the notice in terms of subsection (1) or, if a later date is specified in the notice, the later date.

**Continuation of licensed activity despite suspension or revocation of licence**

122. (1) The responsible authority that suspended or revoked a licence may, by notice to the licensee, on conditions specified in the licence, allow the licensee to carry out the licensed activity to the extent, and for the period, specified in the notice to facilitate the orderly suspension or termination of the activity.

(2) Conditions in terms of subsection (1) must be aimed at—

(a) ensuring that financial customers of the licensee are treated fairly; or

(b) the orderly suspension or termination of the licensed activity.

(3) Carrying out the licensed activity in accordance with the requirements of a notice in terms of subsection (1) is not a contravention of section 111 or 162.

**Procedure for varying, suspending and revoking licences**

123. (1) (a) Before the responsible authority varies, suspends or revokes a licence, it must—

(i) give the licensee notice of the proposed action and a statement of the reasons for it; and

(ii) invite the licensee to make submissions on the matter, and give it a reasonable period to do so.

(b) The period referred to in paragraph (a)(ii) must be at least one month.

(c) The responsible authority need not comply with paragraph (a) if the licensee has applied for the proposed action to be taken.

(2) In deciding whether to vary, suspend or revoke a licence, the responsible authority must take into account all submissions made within the period specified in the notice in terms of subsection (1)(a)(ii).

(3) If the delay involved in complying, or complying fully, with subsection (1)(a) in respect of a proposed action is likely to prejudice financial customers, prejudicially affect financial stability or defeat the object of the action, the responsible authority may take the action without having complied, or complied fully, with that subsection.

(4) (a) If the responsible authority takes action without having complied, or complied fully, with subsection (1)(a) for the reason set out in subsection (3), the responsible authority must give the licensee a written statement of the reasons why that subsection was not complied with.

(b) The licensee may make submissions to the responsible authority within one month after being provided with the statement.
(4) Go sekgwga ga laesense go tsemngwa mo tirisong ka letilha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa letilha le le kwa morago le tsepamisitswe, letilha le le kwa morago.

(5) Go sekgwga ga laesense ga go ake ga gope tlamego e moabelwalaesense a nang le yona go ya ka molao wa lephata la ditšhelete.

**Phediso ya dilaesense**

121. (1) Bothati jo bo rwalang maikarabelo jo bo rebotseng laesense, ka kitsiso go moabelwalaesense, bo ka phimola laesense—
   
   (a) fa moabelwalaesense a dirile kopo ya phimolo ya laesense;
   
   (b) mo mabakeng mangwe le mangwe ao bo ka emissang laesense, jaaka go tlahlositse mo karolong 120(1)(b) go fitlha go (g); kgotsa
   
   (c) fa moabelwalaesense a khutlisitse go dira kgwebo e e abetsweng laesense.

   (2) Bothati jo bo rwalang maikarabelo bo ka gana go phimola laesense go ya ka karolotlaleletso (1)(a) fa phimolo—
   
   (a) e ka se nne mo kgatlhegong ya barekedi ba ditšhelete; kgotsa
   
   (b) e tla dira gore maikaelelo a molao wa lephata la ditšhelete a a diragatswang mo laesenseng a tselege.

   (3) Phimolo ya laesense e tsemngwa mo tirisong ka letilha la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa letilha le le kwa morago le tsepamisitswe mo kitsisong, letilha le le kwa morago.

**Go tswela pele ga tiro e e abetsweng laesense go sa kgathalasege tshekego kgotsa phediso ya laesense**

122. (1) Bothati jo bo rwalang maikarabelo jo bo sekgileleng kgotsa phimotseng laesense bo ka, ka kitsiso go moabelwalaesense, go ya ka mabaka a a tsepamisitsweng mo laesenseng, dumelela moabelwalaesense go tswelela ka ditiro tse di abetsweng laesense go fithlha, le ka paka e e tsepamisitsweng mo kitsisong, go lolofatsa kemiso e e rulaganeng kgotsa khutliyo ya tiro.

   (2) Mabaka go ya ka karolotlaleletso (1) a tshwanetse go lebiswa mo go—
   
   (a) netefatseng gore barekedi ba ditšhelete ba moabelwalaesense ba tshwarwa ka tolamo; kgotsa
   
   (b) kemiso e erulaganeng kgotsa khutliyo ya tiro e e abetsweng laesense.

   (3) Go dira tiro e e abetsweng laesense go tsamela lae le ditlhokego tsisa kgotsa go ya ka karolotlaleletso (1) ga se tlolo ya karolo 111 kgotsa 162.

**Tsamaiso Mapapi le go farologanya, go sekega le go fedisa dilaesense**

123. (1) (a) Pele bothati jo bo rwalang maikarabelo bo farologanya, sekega kgotsa phimola laesense, bo tshwanetse go—
   
   (i) naya moabelwalaesense kitsiso ya kgato e e tshitsintsweng le polelo ya mabaka a yona; le
   
   (ii) laletsa moabelwalaesense go dira ditlhagiso ka ga nthla eno, le go mo naya nako e e lekaneng go dira jalo.
   
   (b) Paka e e kalweng mo temaneng (a)(ii) e tshwanetse go nna bonnye kgwedi e le esi.

   (c) Bothati jo bo rwalang maikarabelo ga bo tlhoke go ikamanya le temana (a) fa moabelwalaesense a dirile kopo ya kgato e e tshitsintsweng gore e tsewe.

   (2) Mo go swetseng ka go farologanya, sekega kgotsa phimola laesense, bothati jo bo rwalang maikarabelo bo tshwanetse go tsaya tsia ditlhagiso tshothe tse di dirilweng mo pakeng e e tsepamisitsweng mo kitsisong go ya ka karolotlaleletso (1)(a)(ii).

   (3) Fa tiego e e tsamela laang le go ikamanya, kgotsa go ikamanya ka gothele, le karolotlaleletso (1)(a) mabapi le kgato e e tshitsintsweng e na le bokgoni jwa go gobelela barekedi ba ditšhelete, ya ama tlhomamo ya ditšhelete ka gobelela kgotsa ya fenywa maikaelelo a kgato, bothati jo bo rwalang maikarabelo bo ka tsaya kgato ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso eo.

   (4) (a) Fa bothati jo bo rwalang maikarabelo bo tsaya kgato ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlaleletso (1)(a) go ya ka mabaka a a kalweng mo karolotlaleletsong (3), moabelwalaesense o tshwanetse go abelwa polelo e e kwetsweng ya mabaka a gore goreng go sa ikamangwana le karolotlaleletso eo.

   (b) Moabelwalaesense o ka dira ditlhagiso go bothati jo bo rwalang maikarabelo mo kgweding e le esi morago ga go abelwa polelo.
(c) The responsible authority must consider the submissions, and notify the licensee, as soon as practicable, whether the responsible authority proposes to amend or revoke the variation, suspension or revocation.

Applications for licences

124. (1) The responsible authority may, in writing, determine procedures and requirements for applications.
(2) Requirements determined in terms of subsection (1) may include requirements with respect to—
   (a) the institutional form of an applicant;
   (b) an applicant’s business activities;
   (c) an applicant’s financial capacity;
   (d) fit and proper person requirements; and
   (e) an applicant’s operational, management, governance and risk management arrangements.
(3) An application to the responsible authority for the purposes of this Part must be made in accordance with the relevant procedures in terms of subsection (1).
(4) The responsible authority must publish requirements determined in terms of subsection (1).

Part 3

Provisions relating to all licences under financial sector laws

Application

125. This Part applies in relation to licences in terms of all financial sector laws.

Concurrence of financial sector regulators on licensing matters

126. (1) The responsible authority may not take any of the actions specified in subsection (2) unless—
   (a) the other financial sector regulator has concurred; and
   (b) if the action relates to or affects a systemically important financial institution, the Reserve Bank has also concurred.
(2) The actions are—
   (a) issuing a licence;
   (b) varying, suspending or revoking a licence, however these are described in the relevant financial sector law; and
   (c) granting an exemption in terms of section 281.

Compulsory disclosure of licences

127. (1) A licensed financial institution must comply with the applicable requirements of a prudential standard, a conduct standard and a joint standard in relation to the identification of relevant licences under financial sector laws in business documentation, including advertisements and other promotional material.
(2) A licensed financial institution must make its licence or a copy of its licence available at no cost to any person on request.

Publication

128. (1) Each licence must be published by the responsible authority that issues it.
(2) Each variation, suspension and revocation of a licence must be published by the responsible authority that takes the action.
(c) Bothati jo bo rwalang maikarabelo bo tshwanetse go sekaseka ditlhagiso, le go itsise moabwelwalaesense, ka bonako jo bo kgonagalang, fa bothati jo bo rwalang maikarabelo bo tshitsinya go tlhaborola kgotsa phimola pharologanyo, tshekego kgotsa phimolo.

Go dira kopo ya diaesense

124. (1) Bothati jo bo rwalang maikarabelo bo ka, ka go kwala, tlhomamisa ditsamaiso le ditlhokego tsak dikopo.  
(2) Ditlhokego tse di tlhomamisitsweng go ya ka karolotlaleletso (1) di ka akaretsa ditlhokego mabapi le—  
   (a) foromo ya setheo ya modirakopo;  
   (b) ditiro tsak kgwebo tsa modirakopo;  
   (c) maemo a ditšhelete a modirakopo;  
   (d) ditlhokego tsa motto yo o itekanetseng le e bile a siame; le  
   (e) ditlhulaganyo tsa modirakopo tsa puso le taolo ya dikotsi.  
(3) Kopo go bothati jo bo rwalang maikarabelo mabapi le matšihomo a Karolo eno e tshwanetse go dirwa go tsamaelana le ditsamaiso tse di maleba go ya ka karolotlaleletso (1).  
(4) Bothati jo bo rwalang maikarabelo bo tshwanetse go phasalatsa ditlhokego tse di tlhomamisitsweng go ya ka karolotlaleletso (1).

Karolo 3

Dikabelo tse di amanang le diaesense tsothle tse di ka fa tlase ga melao ya lephata la ditšhelete

Tiragatso

125. Karolo eno e diriswa mababi le diaesense go ya ka melao yotlhe ya lephata la ditšhelete.

Tumalano ya balaodi ba lephata la ditšhelete ka ga meroro ya kabo ya laesense

126. (1) Bothati jo bo rwalang maikarabelo bo ka se tseye epe ya dikgato tse di tsepamisitsweng mo karolotlaleletsong (2) ntle le fa—  
   (a) bothati jo bongwe jwa ditšhelete bo dumetse; le  
   (b) kgato e amana le kgotsa e ama setheo sa ditšhelete se se botlhokwa mo thulaganyong, Banka ya Resefe le yona e dumetse.  
(2) Dikgato tseo ke—  
   (a) go aba laesense;  
   (b) go farologanyo, emisa kgotsa fedisa laesense (mme fela di tlhalositswe mo molaong o o maleba wa lephata la ditšhelete); le  
   (c) go neelana ka kgololo go ya ka karolo 281.

Tshenolo ya pateletso ya diaesense

127. (1) Setheo sa ditšhelete se se abetsweng laesense se tshwanetse go ikamanya le ditlhokego tse di diriswang tsak maemo a tlhokomelo, maemo a botshwaro le maemo a a kopanestweng mabapi le tshupu ya diaesense tse di maleba ka fa tlase ga melao ya lephata la ditšhelete mo makwalong a kgwebo, go akaretsa le dipapatsa le materiale o mongwe wa tsweleletso.  
(2) Setheo se se abetsweng laesense sa ditšhelete se tshwanetse go dira gore laesense ya sona kgotsa kgatiso ya laesense ya sona e fitlh selele ntle le tuelelo epe go mongwe le mongwe ka kopo.

Phasalatso

128. (1) Laesense ngwe le ngwe e tshwanetse go phasalatswa ke bothati jo bo rwalang maikarabelo jo bo e rebotseng.  
(2) Pharologanyo, tshekego kgotsa phimolo ngwe le ngwe ya laesense e tshwanetse go phasalatswa ke bothati jo bo rwalang maikarabelo jo bo tsayang kgato.
CHAPTER 9
INFORMATION GATHERING, SUPERVISORY ON-SITE INSPECTIONS AND INVESTIGATIONS

Part 1
Application and interpretation

Application and interpretation of Chapter

129. (1) This Chapter applies to information gathering, supervisory on-site inspections and investigations by the Prudential Authority or the Financial Sector Conduct Authority.

(2) The Council for Medical Schemes may exercise powers in terms of this Chapter in respect of powers and functions set out in the Medical Schemes Act, and powers and functions granted to it in this Act.

(3) In relation to the exercise of the powers in terms of this Chapter by the Council for Medical Schemes in respect of a medical scheme, a reference in this Chapter to—

(a) a financial sector regulator or the responsible authority must be read as including a reference to the Council for Medical Schemes;

(b) the head of a financial sector regulator must be read as including a reference to the Registrar of Medical Schemes appointed in terms of section 18 of the Medical Schemes Act;

(c) a financial sector law must be read as including a reference to regulatory instruments and to the Medical Schemes Act; and

(d) a licensed financial institution must be read as including a reference to a medical scheme registered in terms of the Medical Schemes Act or an administrator of a medical scheme approved in terms of the Medical Schemes Act.

Legal professional privilege

130. (1) (a) A person does not have to answer a question asked, or comply with a requirement to produce a document or information, in terms of this Chapter to the extent that the person is entitled to claim legal professional privilege in relation to the answer, contents of the document or the information.

(b) If the person contemplated in paragraph (a) is a legal practitioner, the person is entitled or required to claim that privilege on behalf of a client of the person.

(2) Subsection (1) does not limit any right of a person.

Part 2
Information gathering

Information gathering

131. (1) (a) The responsible authority for a financial sector law may, by written notice to any person, request the person to provide specified information or a specified document in the possession of, or under the control of, the person that is relevant to assisting the responsible authority to perform its functions in terms of a financial sector law.

(b) A supervised entity that has been given a notice in terms of paragraph (a) must comply with the requirements in the notice.

(2) (a) The responsible authority for a financial sector law may, by written notice to a supervised entity, require the supervised entity to provide specified information or a specified document in the possession of, or under the control of, the entity that is relevant to the responsible authority’s assessment of compliance by a supervised entity with, or risk of contraventions by a supervised entity of—

(i) a financial sector law;
KGAOLO 9

KGOBOKANYO YA TSHEDIIMOSETS'O, DITLHATLHOBO TSA
BOTLHOKOMEDI TSA KWA TIRONG LE DIPATLISISO

Karolo 1

Tiragetso le thaloso

129. (1) Kgaolo eno e diriswa mo kgobokanyong ya tshedimosetso, ditlhatlhobo tsa botlhokomedi tsa kwa tirong le dipatlisiso ke Bothati jwa Tlhokomelo kgotso Bothati jwa Botshwara jwa Lephata la Ditshelete.
(2) Khansele ya Dikema tsa Kalafi e ka diraqatsa dithata go ya ka Kgaolo eno mabapi le dithata le diito tse tsi thlagisitsweng mo Medical Schemes Act, le dithata le diito tse e di abetsweng mo Molaong eno.
(3) Mabapi le tiragatso ya dithata go ya ka Kgaolo eno ka Khansele ya Dikema tsa Kalafi mabapi le sekema sa kalafi, tshupeto se ka Kgaolo e Molao eno e—
(a) molao di lephata la ditshelete kgotsa bothathi jo bo rwalang maikarabelo bo tshwanetswe go buiswa jaaka bo akaretsa tshupetswe go Khansele ya Dikema tsa Kalafi;
(b) tlhogo ya molao wa lephata la ditshelete e tshwanetswe go tseelwa gore o akaretsa tshupetswe go Mokwadisi wa Sekema sa Kalafi yo o thapilweng go latela karolo 18 ya Medical Schemes Act;
(c) molao wa lephata la ditshelete o tshwanetswe go tseelwa gore o akaretsa tshupetswe go didiriisa tsa taolo le go Medical Schemes Act; le
(d) setheo sa ditshelete se se abetsweng lasense se tshwanetswe go buiswa jaaka se akaretsa tshupetswe go sekema sa kalafi se se kwadisitsweng go ya ka Medical Schemes Act kgotsa motsamaisi wa sekema sa kalafi se se rebotsweng go ya ka Medical Schemes Act.

Tshwanelo ya badiredi ba Semolao

130. (1) (a) Motho go a tshwanelo go araba potso e e boditsweng, kgotsa go ikamanya le tlehogo ya go tlaquito kgotse tshedimosetso, go ya ka Kgaoelo eno go ya ka moo motho a tshwanetswe ke go tleleima tshwanelo ya botlhutele jwa molao mabapi le karabo, diteng tsa lokwalo kgotsa tshedimosetso.
(b) Fa motho yo o kailweng mo temaneng (a) e le modirakamolao, motho o na le tshwanelo ya go tleleima tshwanelo eo mo boemong jwa modirelwa wamotho.
(2) Karolotlaleletso (1) ga e lekanetysetse tshwanelo epe ya motho.

Karolo 2

Kgobokanyo ya tshedimosetso

131. (1) (a) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditshelete bo ka, ka kitisiso e e kwetsweng go mongwe le mongwe, kopa motho go tlamaa ka tshedimosetso kgotsa lokwalo le le tspamisitsweng le le tshotsweng ke, kgotsa le le ka fa tlase ga taolo ya, motho yo o leng maleba mo go thuseng bothathi jo bo rwalang maikarabelo go dira diito tsa jona go ya ka molao wa lephata la ditshelete.
(b) Setheo se se tlhokometsweng se se neuweng kitisiso go ya ka temana (a) se tshwanetswe ga ikamanya le diithokego tse di mo kitisison.
(2) (a) Bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditshelete bo ka, ka kitisiso e e kwaeltsweng setheo se se tlhokometsweng, kopa setheo se se tlhokometsweng go tlamaa ka tshedimosetso e e tspamisitsweng kgotsa lokwalo le le tspamisitsweng le tho le tshotsweng la, kgotsa le le ka fa tlase ga taolo ya sona ya, setheo se se maleba go tekanyetso ya bothathi jo bo rwalang maikarabelo ya go ikamanya ka setheo se se tlhokometsweng ka, kgotsa kotsi ya ditlolo ka setheo se se tlhokometsweng sa—
(i) molao wa lephata la ditshelete;
Part 3

Supervisory on-site inspections

Powers to conduct supervisory on-site inspections

132. (1) A financial sector regulator may conduct a supervisory on-site inspection at the business premises of a supervised entity with prior notification to the supervised entity and, if the business premises of a supervised entity is a private residence, with the prior agreement of—
   (a) the person apparently in control of the business reasonably believed to be conducted at the private residence; and
   (b) the occupant of the private residence or the part of the private residence to be inspected.

(2) The purpose for which a financial sector regulator may conduct a supervisory on-site inspection of a supervised entity is to—
   (a) check compliance by the entity with a financial sector law for which the financial sector regulator is the responsible authority, a regulator’s directive issued by the financial sector regulator or an enforceable undertaking accepted by the financial sector regulator;
   (b) determine the extent of the risk posed by the entity of contraventions of a financial sector law for which the financial sector regulator is the responsible authority; and
   (c) assist the financial sector regulator in supervising the relevant financial institution.

(3) (a) A financial sector regulator may determine the time and place of a supervisory on-site inspection, provided that the supervisory on-site inspection must be done at a reasonable time within ordinary business hours.

(b) A financial sector regulator must conduct a supervisory on-site inspection with strict regard to—
   (i) an affected person’s right to—
      (aa) dignity;
      (bb) freedom and security;
      (cc) privacy; and
      (dd) other constitutional rights; and
   (ii) decency and good order as the circumstances require, in particular by—
      (aa) conducting the supervisory on-site inspection discreetly and with due decorum;
      (bb) causing as little disturbance as possible; and
      (cc) concluding the supervisory on-site inspection as soon as possible.

(4) (a) An official of a financial sector regulator, when conducting a supervisory on-site inspection, may do any of the following:
   (i) Request any person who has a specified business document that is relevant to the inspection in his, her or its possession or under his, her or its control to produce that document and examine, make extracts from and copy any business document on the premises;
   (ii) question any person on the premises to find out information relevant to the inspection;
   (iii) give the supervised entity a written directive to produce to the financial sector regulator, at a time and place and in a manner specified in the directive, a
(ii) taelo ya molaodi wa lephata la ditšhelete e e rebotseng ke bothathi jwa lephata la ditšhelete; kgotsa
(iii) tumalano e e gatelelwang e e amogetsweng ke bothathi jo bo maleba.
(b) Bothathi jo bo rwalang maikarabelo bo ka kopa tsedimoseso kgotsa lokwalo go netefatswa jaaka go tsepamisitswse mo kitsisong, go akaretsa le ka moruni yo o 5 rebotseng ke bothathi jo bo rwalang maikarabelo.
(c) Setheo se se thokometsweng se se neetsweng kitsiso go ya ka temana (a) kgotsa (b) se tshwanetse go ikamanya le ditlhokego tse di mo kitsisong.
(3) Bothathi jo bo rwalang maikarabelo jwa lephata la ditšhelete bo ka, mabapi le maithlhomo a go kgobokanya tsedimoseso e e malebana le ditiro tsu jona, tsaya karolo mo tirong e e itsegeng ka “theko e e makatsang” mabapi le dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete, le ditiro tse di tswanang.

**Karolo 3**

**Ditlhatlhobo tsa botlhokomedi tsa tirong**

Dithata tsa go dira ditlhatlhobo tsa botlhokomedi tsa tirong

132. (1) Bolaodi jwa lephata la ditšhelete bo ka dira ditlhatlhobo tsa botlhokomedi kwa tirong kwa mafelong a kgwebo a setheo se se thokometsweng ka kitsiso e e dirilweng pele kwa setheong se se thokometsweng e e bile, fa mafelo a kgwebo a setheo se se thokometsweng e le a poraefete, ka tumalano ya pele le—
   (a) motho yo go tsewang gore o mo taalong ya kgwebo e e mahaka go 20 dumelwang gore e dirwa kwa lefelong la poraefete; le (b) badirisi ba lefelo leo la poraefete kgotsa karolo ya lefelo la poraefete le le tla thatlhbibwang.
(2) Maitlhomo a bolaodi jwa lephata la ditšhelete a go ka dira tlhatlhobo ya botlhokomedi kwa tirong ya setheo se se thokometsweng ke go—
   (a) tlhola go ikamanya ga setheo le molaos la lephata la ditšhelete o molaodi wa lephata la ditšhelete a rwalang maikarabelo a ona kgotsa tumalano e e gatelelwang e e amogetsweng ke molaodi wa lephata la ditšhelete; (b) thlhomamisa ka moo kotsi e e tisisweng ke setheo ka ditlolo tsa molaos ya lephata la ditšhelete o molaodi wa lephata la ditšhelete a rwalang maikarabelo a ona; le (c) thusa molaodi wa lephata la ditšhelete mo go thlokomeneg letho sa ditšhelete se se maleba.
(3) (a) Molaodi wa lephata la ditšhelete o ka thlhomamisa nako le lefelo la tlhatlhobo ya botlhokomedi kwa tirong, fa fela thlhatlhobo ya botlhokomedi kwa tirong e dirwa ka 30 nako e e maleba e e welang ka fa tlae ga nako e e tlwalelegieng ya tiro. (b) Molaodi wa lephata la ditšhelete o tshwanetswe go dira thlhatlhobo ya botlhokomedi kwa tirong ka keletlhoko e e kgolo go—
   (i) tshwanelo ya motho yo o amegang ya—
      (aa) seriti; (bb) kgalolesegole le tshireletsego; (cc) sephiri; le (dd) ditshwanelo tse dingwe tsa semolaetheo; le (ii) tlhola go letlanola jaaka maemo a tlhoka, segolosegolo ka go—
      (aa) dira tlhatlhobo ya botlhokomedi kwa tirong ka bofitlhia le ka 45 manontlhitho; (bb) dira gore go se nne le kgoreletsego e kgolo; le (cc) konosetsa tlhatlhobo ya botlhokomedi kwa tirong ka bonako jo bo kgonegang. (4) (a) Motthankedwa bolaodi jwa lephata la ditšhelete, fa a dira tlhatlhobo ya botlhokomedi kwa tirong, o ka dira ngwele le ngwele ya tse di latelang: (i) Kopa motho mongwe le mongwe yo o tshotseng kgotsa yo o neng a tshotseng lokwalo la kgwebo le le tsepamisitsweng le le leng malebana le tlhatlhobo go tlhagisa lokwalo leo le go le sekaseka, go dira ditswana go le dira khopi go tswa mo lokwalong lengwe le lengwe la kgwebo mo lefelong; (ii) botsa motho mongwe le mongwe no lefelog la batla tsedimoseso e e malebana le tlhatlhobo; (iii) naya setheo se se thokometsweng kgotsa motho yo o mo lefelong taelo e e kwetsweng ya go tlhagisa go bolaodi jwa lephata la ditšhelete, ka nako, kwa

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specified business document that is relevant to the inspection and is in the possession or under the control of the supervised entity;

(iv) when a business document is produced as required by a directive in terms of subparagraph (iii), examine, make extracts from and copy the document;

(v) if, as a result of the inspection, the official or the financial sector regulator suspects on reasonable grounds that a contravention of a financial sector law has occurred or is likely to occur—

(aa) give a written directive to the supervised entity or the person apparently in control of the premises to ensure that no person removes from the premises, or conceals, destroys or otherwise interferes with, any business document; or

(bb) take possession of, and remove from the premises, a business document for the purpose of preventing another person from removing, concealing, destroying or otherwise interfering with the document.

(b) A directive in terms of paragraph (a)(iii) or (v)(aa) is effective if given to a person apparently in control of the premises.

(c) The financial sector regulator must ensure that the person apparently in control of the premises is given a written receipt for the business documents taken as mentioned in paragraph (a)(v)(bb).

(d) The financial sector regulator must ensure that any business document removed as contemplated in paragraph (a)(v)(bb) is returned to the supervised entity when retention of the business document is no longer necessary to achieve the object of a financial sector law.

(e) The supervised entity from whose premises a document was removed as contemplated in paragraph (a)(v)(bb), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document.

Interference with supervisory on-site inspections

133. A person may not intentionally or negligently interfere with or hinder the conduct of a supervisory on-site inspection.

Part 4

Investigations

Investigators

134. (1) A financial sector regulator may, in writing, appoint a person as an investigator and may appoint any person to assist the investigator in carrying out an investigation.

(2) A person appointed as an investigator must —

(a) not be a disqualified person;

(b) not have any conflict of interest in respect of the subject matter of the investigation; and

(c) have appropriate skills and expertise.

(3) The financial sector regulator must issue an investigator appointed in terms of subsection (1) with a certificate of appointment, which must be in the possession of the investigator when an investigator exercises any power or performs any duty in terms of this Act, and such investigator must produce the certificate of appointment at the request of any person in respect of whom such power is being exercised.

Powers to conduct investigations

135. (1) A financial sector regulator may instruct an investigator appointed by it to conduct an investigation in terms of this Part in respect of any person, if the financial sector regulator—

(a) reasonably suspects that a person may have contravened, may be contravening or may be about to contravene, a financial sector law for which the financial sector regulator is the responsible authority; or
lefelong le ka mokgw o o tsepamisitsweng mo taelong, lokwalo la kgwebo le le tsepamisitsweng le le malebana le tlhatlhob e bile le mo diatleng tsa kgotsa ka fa tlase ga taolo ya setheo se se tlhokometsweng;

(iv) fa lokwalo la kgwebo le tlhagisitswe jaaka go kopilwe ka taolo go ya ka temanatlaneletso (iii), tlhatlhoba, dira dirswe go ts wa go lona le go gatisa lokwalo;

(v) fa, go ya ka ditlamarogo tsa tlhatlhobo, motlhankedi kgotsa molaoiwa lephatha la ditšhelete a belaela ka mabaka a a utwalamang gore tiolo ya molao wa lephatha la ditšhelete e diragetsa kgotsa e ka diragala—

(aa) neela taelo e e kwetsweng gore a se ntshe mo lefelong, kgotsa fitha, senya kgotsa ka gongwe go tshwenyana le, lokwalo le le tsepamisitsweng la kgwebo; kgotsa

(bb) go išceela, le go tloša mo lefelong, lokwalo la kgwebo mabapi le maitlhomo a go thibela motho yo mongwe go tloša, fitha, senya kgotsa ka gongwe go tshwenyana le lokwalo.

(b) Taelo go ya ka temana (a)(iii) kgotsa (v)(aa) e tsemiŋwa mo tirisong fa e neiwe motho yo a ka tswang a laola lefel.

(c) Molaoiwa lephatha la ditšhelete o tshwanetse go netefatsa gore motho yo o ka tswang a laola lefel o newa rasiti e e kwetsweng mabapi lelokwalo lengwe le lengwe la kgwebo le le tlositsweng jaaka go kailwe mo temaneng (a)(v)(bb).

(d) Bolaodi jwa lephatha la ditšhelete bo tshwanetse go netefatsa gore lokwalo lengwe le lengwe la kgwebo le le tlositsweng jaaka go thalositsweng mo temaneng (a)(v)(bb) le busetswa kwa setheo se se tlhokometsweng fa pusetso ya lokwalo la kgwebo e sa thole e tlhokega go fihlehelela maitlhomo a molao wa lephata la ditšhelete.

(e) Setheo se se tlhokometsweng se kwa lefelong la sona go tlositsweng lokwalo jaaka go kailwe mo temaneng (a)(v)(bb), kgotsa moemedi wa sona yo o letleletsweng, se ka, ka nako e e tlwaelegiŋeng ya diura ts o tiro le ka fa tlase ga tlhokometo ya molaoiwa lephatha la ditšhelete, tlhatlhoba, gatisa le go dira dirswe go ts wa go lokwalo.

Go ltshunyatshunya mo ditlhatlhobeng tsa bothokomedi tsa tirong

133. Motho o ka se tshwenyane le kgotsa kgorelesetse go dirwa ga tlhatlhobo ya kwa tirong ya bothokomedi ka maikemisetso kgotsa bothhaswa.

Karolo 4

Dipatlisiso

Babatlisisi

134. (1) Molaoiwa lephatha la ditšhelete o ka, ka go kwala, thaqo motho jaaka mmatlisisi le go ka thaqa motho mongwe le mongwe go thusa mmatlisisi mo go direng patlisiso.

(2) Motho yo o tshapeliŋeng jaaka motlhatlhobi o tshwanetse—

(a) gore a bo a se motho yo o iledeitsweng;

(b) gore a bo a sena kgotlhang ya dikgalthelebo mabapi le morero o o batlisisweng; e bile

(c) go nna le bokgoni jo bo maleba le boiteanape.

(3) Molaoiwa lephatha la ditšhelete o tshwanetse go abela mmatlisisi yo o tshapeliŋeng go ya ka karolotlaneletso (1) setifike se sa go thapiwa, seo se tshwanetseng go tsholwa ke mmatlisisi fa mmatlisisi a diragatsa thata ngwele le ngwele kgotsa a dira tiro ngwele go ya ka Molao ono, e bile mmatlisisi yoo o tshwanetseng go tlagisa setifike se sa go thapiwa ka kopo ya motho mongwe le mongwele mabapi le yoo thata e diragatsweng mo go ena.

Dithata tsa go dira dipatlisiso

135. (1) Molaoiwa lephatha la ditšhelete o ka laela mmatlisisi yo o mo thapileng go dira patlisiso go ya ka Karolo eno mabapi le motho mongwe le mongwe, fa molaoiwa lephatha la ditšhelete —

(a) ka lebaka, a belaela gore motho oka ts wa a tlotse, kgotsa o tiolo kgotsa o ka ts wa a le gauq le go tiolo, molao wa lephatha la ditšhelete o molaoiwa lephatha la ditšhelete a rwalang maikarabelo a ona; kgotsa
reasonably believes that an investigation is necessary to achieve the objects referred to in section 251(3)(e) pursuant to a request by a designated authority in terms of a bilateral or multilateral agreement or memorandum of understanding contemplated in that section.

(2) The responsible authority may investigate any matter relating to an offence or contravention referred to in sections 78, 80 and 81 of the Financial Markets Act, including insider trading in terms of the Insider Trading Act, 1998 (Act No. 135 of 1998), and the offences referred to in Chapter VIII of the Securities Services Act, 2004 (Act No. 36 of 2004), committed before the repeal of those Acts.

Powers of investigators to question and require production of documents or other items

136. (1) (a) An investigator may, for the purposes of conducting an investigation, do any of the following:

(i) By written notice, require any person who the investigator reasonably believes may be able to provide information relevant to the investigation to appear before the investigator, at a time and place specified in the notice, to be questioned by an investigator;

(ii) by written notice, require any person who the investigator reasonably believes may be able to produce a document or item relevant to the investigation, to—

(a) produce the document or item to an investigator, at a time and place specified in the notice; or

(b) produce the document or item to an investigator, at a time and place specified in the notice, to be questioned by an investigator about the document or item;

(iii) question a person who is complying with a notice in terms of subparagraph (i) or (ii);

(iv) require a person being questioned as mentioned in subparagraph (i) or (ii) to make an oath or affirmation, and administer such an oath or affirmation;

(v) examine, copy or make extracts from any document or item produced to an investigator as required in terms of this paragraph;

(vi) take possession of, and retain, any document or item produced to an investigator as required in terms of this paragraph; and

(vii) give a directive to a person present while the investigator is exercising powers in terms of this section, to facilitate the exercise of such powers.

(b) An investigator who takes a document or item in terms of paragraph (a)(vi) must give the person producing it a written receipt.

(c) Subject to paragraph (d), the investigator must ensure that a document or item taken in terms of paragraph (a)(vi) is returned to the person who produced it when—

(i) retention of the document or item is no longer necessary to achieve the object of the investigation; or

(ii) all proceedings arising out of the investigation have been finally disposed of.

(d) A document or item need not be returned to the person who produced it if—

(i) the document or item has been handed over to a designated authority; or

(ii) it is not in the best interest of the public or any member or members of the public for the document or item to be returned.

(e) A person otherwise entitled to possession of a document or item taken in terms of paragraph (a)(vi), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document, or inspect the item.

(2) A person being questioned in terms of this section is entitled to have a legal practitioner present at the questioning to assist the person.
Dithata ts'a babatlisisi ts'a botsolotsa le go kopa go thlagiswa ga makwalo kgotsa dilo dingwe

136. (1) (a) Mmatlisisi o ka, ka maithlomo a go dira patlisisi, dira ngwe le ngwe ya tse di latelang:
(i) Ka kitsiso e e kwetsweng, kopa motho mongwe le mongwe yo mmatlisisi a dumelang ntle le pelaecho gore o ka kgona go tlamelaa ka tshedimosetso e e malebe go patlisiso go tlhagisa fa pele ga mmatlisisi, ka nako le kwa lefelong le le le tsepamisitsweng mo kitsisong, go botsolotswe ka mmatlisisi;
(ii) ka kitsiso e e kwetsweng, kopa motho mongwe le mongwe yo mmatlisisi a dumelang ntle le pelaecho gore o ka kgona go tlhagisa lokwalo kgotsa sengwe se se maleba go patlisiso, go—
(aa) tlhagisa lokwalo kgotsa nthla go mmatlisisi, ka nako le kwa lefelong le le le tsepamisitsweng mo kitsisong; kgotsa
(bb) tlhagisa lokwalo kgotsa sello go mmatlisisi, ka nako le kwa lefelong le le le tsepamisitsweng mo kitsisong, go botsolotswe ka mmatlisisi ka ga lokwalo kgotsa sengwe;
(iii) botsa motho yo o ikamanyang le kitsiso go ya ka temanatlaleletso (i) kgotsa (ii)(bb);
(iv) kopa motho yo o botswang dipotso jaaka go kailwe mo temanatlaleletso (i) kgotsa (ii)(bb) go dira maikano kgotsa tlhomamiso, le go tsaaima maikano ao kgotsa tlhomamiso eo;
(v) tlhathloba, gatisa kgotsa dira ditswana go tswana mo lokwalang lengwe le lengwe kgotsa selong se se tlhagisitsweng go mmatlisisi jaaka go tlhokelo go ya ka temana eno (a);
(vi) go itseela, le go tlosa mo lefelong, lokwalo lengwe le lengwe kgotsa sello se se tlhagisitsweng go mmatlisisi jaaka go tlhokelo go ya ka temana eno (a); le
(vii) neela taelo go motho yo o leng teng fa mmatlisisi a diragatsa dithata go ya ka karolo eno, go nolofatsa tiragatso ya dithata tseo.
(b) Mmatlisisi yo o tšayang lokwalokgotsa logoyakatemana (a) otšwanetse go naya motho yo o le tlhagisang rasiti e e kwetsweng.
(c) Go latela temana (d), mmatlisisi o tšawanetse go netefatsa gore lokwalo kgotsa sengwe se se tserveng go ya ka temana (a)(vi) se busetswa kwa mothong yo o se tlhagisitseng fa—
(i) pusetso ya lokwalokgotsa sengwe e sa tlohole e tlhokelo go fithlehela maithlomo a patlisiso; kgotsa
(ii) ditswanaiso tšiole tse di tlhageletseng go tswana mo patlisisiseng di latlihile kwa bokhutlong.
(d) Lokwalokgotsa sengwe se tšawanetse go busetswa kwa mothong yo o se tlhagisitseng fa—
(i) lokwalokgotsa sengwe se gorositseng kwa bothohego go fithohileti; kgotsa
(ii) ka mogopolo wa Khomišenara, go se mo kgathegong ya setšhaha kgotsa leloko lengwe le lengwe kgotsa maloko a setšhaha gore dikwalokgotsa dingwe di buswe.
(e) Motho yo ka gongwe a tšawanetseng go naa mong wo lokwalokgotsa sengwe se se tserveng go ya ka temana (a)(vi), kgotsa moemedi yo o leletsetseng, o ka, ka, nako ya diura tsa tiro e e tlwaelegieng le ka fa tlase ga tlhokomelo ya bulhoedi jwa lephata la ditšelête, tlhathloba, gatisa le go dira ditswana go tswana mo lokwalong kgotsa go tlhathloba selo.
(2) Motho yo o botswang go ya ka karolo eno o tšawanetse ke go emelwa ke moitseanape wa semolao yo o leng teng kwa potsolotswe go mo thusa.
Powers of investigators to enter and search premises

137. (1) An investigator may, for the purposes of conducting an investigation, do any of the following:
   (a) Enter any premises—
       (i) with the prior consent of—
           (aa) in the case of a private residence, the person apparently in control of
                the business reasonably believed to be conducted at the private
                residence, and the occupant of the private residence or the part of
                the private residence to be entered; or
           (bb) in the case of any other premises, the person apparently in control
                of the premises,
       after informing that person that—
           (AA) granting consent will enable the investigator to enter the premises
                and for the investigator to subsequently search the premises as
                referred to in paragraph (b) or (c), and to do anything contemplated
                in subsection (6); and
           (BB) he or she is under no obligation to admit the investigator in the
                absence of a warrant; or
       (ii) without prior consent and without prior notice to any person—
           (aa) if the entry is authorised by a warrant; or
           (bb) with the prior authority of the head of a financial sector regulator or
                a senior staff member of the financial sector regulator delegated to
                perform the function, if the head of a financial sector regulator or
                senior staff member on reasonable grounds believes that—
                (AA) a warrant will be issued under section 138(1) if applied for;
                (BB) the delay in obtaining the warrant is likely to defeat the
                purpose for which entry of the premises is sought; and
                (CC) it is necessary to enter the premises to conduct the
                investigation and search the premises as referred to in
                paragraph (b) or (c), and to do anything contemplated in
                subsection (6); 
       (b) if the investigation is one referred to in section 135(1)(a), search the premises
           for evidence of a contravention of a financial sector law; or
       (c) if the investigation is one referred to in section 135(1)(b), search the premises
           pursuant to the request, subject to section 251.

(2) The authority of an investigator in terms of subsection (1)(a) to enter a premises also
provides authority for the investigator to subsequently search the premises as referred to in subsection (1)(b) or (c), and to do anything contemplated in subsection (6).

(3) An investigator exercising powers in terms of this section must do so with strict regard to—
   (a) an affected person’s right to—
       (i) dignity;
       (ii) freedom and security;
       (iii) privacy; and
       (iv) other constitutional rights; and
   (b) decency and good order as the circumstances require, in particular by—
       (i) entering and searching only such areas or objects as are reasonably
           required for the purposes of the investigation;
       (ii) conducting the search discreetly and with due decorum;
       (iii) causing as little disturbance as possible; and
       (iv) concluding the search as soon as possible.

(4) An entry or search of premises in terms of this Part must be done, at a reasonable
time within ordinary business hours,—
   (a) unless the warrant authorising it expressly authorises entry at night; or
   (b) in the case of a search contemplated in subsection (1)(a)(ii)(bb), if the
       investigator on reasonable grounds believes that the purpose for which the
       entry and search is sought, is likely to be defeated by a delay, as close to
       ordinary business hours as the circumstances reasonably permit.
Dithata tsa babatlisisi tsa go tsena le go batla mo mafelong

137. (1) Mmatlisisi o ka, ka maitlhomo a go dira patlisiso, dira ngwe ya tse di lateleng:

(a) Go tsena mo lefelong lengwe le lengwe—

(i) ka tumelelo ya pele ya—

(aa) mabapi le tulo ya poraefete, motho yo omang mo tulong ya poraefete kgotsa karolo ya tula ya poraefete e go tla tsenwang mo go yona; kgotsa

(bb) mo lebakeng la ditulo dingwe le dingwe, motho yo o ka tswang a le mo taolong ya ditulo,

morago ga go itsise motho yoo gore—

(AA) go abelana ka tumelelo go tla kgontsha mmatlisisi go tsena mo tulong le gore mmatlisisi a phuruphutse ditulo jaaka go kaile mo temanatlaletletsong (b) kgotsa (c), le go dira sengwe le sengwe se se thalositsweng mo karolotlaletlesong (6); le

(BB) ga a patelesegoe go amogela mmatlisisi fa thebolo se seyo; kgotsa

(ii) ntle le tumelelo eo le ntle le tumelelo ya pele go motho mongwe le mongwe—

(aa) fa go tsena go letleletsa ka thebolo; kgotsa

(bb) ka taolo ya pele ya tlhogo ya bolaodi jwa lephata la ditšelete kgotsa

modirimmo go yomogolo wa bolaodi jwa lephata la ditšelete yoo romilwegong go dira tiro, fa tlhogo ya bolaodi jwa lephata la ditšelete kgotsa

modirimmo go yomogolo a dumela ka mabaka a a utlawang gore—

(AA) thebolo e tla reboletsa ka fa tlae ka karolo 138(1) fa e diretswwe kopo;

(BB) tiego mo go filthelelego thebolo e ka ama maitlhomo a kopo e e dirilwegong mabapi le go tsena mo ditulong; le

(CC) go botlhokwa go tsena mo ditulong go dira dipatlisiso le di phuruphutsa jaaka go kaile mo temaneng (b) kgotsa (c), le go dira sengwe le sengwe se se thalositsweng mo karolotlaletlesong (6);

(b) fa patlisiso le e e kaileweng mo karolong 135(1)(a), go phuruphutsa lefelo go batla sengwe le sengwe se se ka thusang ka bosupi jwa tlolo ya molao wa lephata la ditšelete; kgotsa

(c) fa patlisiso le e kaileweng mo karolong 135(1)(b), go phuruphutsa lefelo go latela kopo, go latela karolo 251.

(2) Taolo ya mmatlisisi go ya ka karolotlaletso (1)(a) go tsena mo lefelong e tlaeletla go ka taolo ya mmatlisisi ya go phuruphutsa mo mafelong jaaka go thalositswe mo karolotlaletlesong (1)(b) kgotsa (c), le go dira sengwe le sengwe se se kaileweng mo karolotlaletlesong (6).

(3) Mmatlisisi yo o dirisang dithata go ya ka karolo eno o tshwanetse go dira seno ka keletlhoko e kgolo go—

(a) tshwanelo ya mooamegi ya—

(i) seriti;

(ii) kgololosego le tshirelesetsego;

(iii) bosephiri jwa bowena; le

(iv) ditshwanelo tse dingwe tsa semolaotse; le

(b) tshiame le tolomo jaaka maemo a letla, segolosegolo ka—

(i) go tsena le go phuruphutsa felo mo mafelong ao le maikaelelo ao jaaka go thokega ka mabaka mabapi le maitlhomo a patlisiso;

(ii) go phuruphutsa ka tidimalo le ka nepagalo e e maleba;

(iii) go dira gore go se nne le kgoreletsego e kgolo; le

(iv) go konosetsa patlisiso ka bonako jo bo kgonegang.

(4) Tseno kgotsa phuruphutsa mo lefelong go ya ka Karolo eno e tshwanetse go dirwa ka nako e e maleba mo dinakong tse di tlwaegileleng tsa tiro—

(a) ntle le fa thebolo e e nayang tsetla e letelela gore go tsene bosego; kgotsa

(b) mo lebakeng la phuruphutsa e e thalositsweng mo karolotlaletlesong (1)(a)(ii)(bb), fa mmatlisisi ka mabaka a a utlawang a dumela gore maitlhomo a tseno kgotsa phuruphutsa e e diretswwe, a ka angwa ke tiego, mo nakong e e gatl le dinako tse di tlwaegileleng tsa tiro jaaka maemo a letla go ya ka mabaka.
(5) An investigator may be accompanied and assisted during the entry and search of any premises for an investigation by a police officer or a person appointed in terms of section 134.

(6) (a) While on the premises in terms of this section, an investigator, for the purpose of conducting the investigation, has the right of access to any part of the premises and to any document or item on the premises, and may do any of the following:
(i) Open or cause to be opened any strongroom, safe, cabinet or other container in which the investigator reasonably suspects there is a document or item that may afford evidence of the contravention concerned or be relevant to the request;
(ii) examine, make extracts from and copy any document on the premises;
(iii) question any person on the premises to find out information relevant to the investigation;
(iv) require a person on the premises to produce to the investigator any document or item that is relevant to the investigation and is in the possession or under the control of the person;
(v) require a person on the premises to operate any computer or similar system on or available through the premises to—
(aa) search any information in or available through that system; and
(bb) produce a record of that information in any media that the investigator reasonably requires;
(vi) if it is not practicable or appropriate to make a requirement in terms of subparagraph (v), operate any computer or similar system on or available through the premises for a purpose set out in that subparagraph; and
(vii) take possession of, and take from the premises, a document or item that may afford evidence of the contravention concerned or be relevant to the request.
(b) An investigator must give the person apparently in charge of the premises a written receipt for documents or items taken as mentioned in paragraph (a)(vii).
(c) Subject to paragraph (d), the investigator must ensure that any document or item taken by the investigator as mentioned in paragraph (a)(vii) is returned to the person when—
(i) retention of the document or item is no longer necessary to achieve the object of the investigation; or
(ii) all proceedings arising out the investigation have been finally disposed of.
(d) A document or item need not be returned to the person who produced it if —
(i) the document or item has been handed over to a designated authority; or
(ii) it is not in the best interest of the public or any member or members of the public for the documents or items to be returned.
(e) A person from whose premises a document or item was taken as mentioned in paragraph (a)(vii), or its authorised representative, may, during normal office hours and under the supervision of the financial sector regulator, examine, copy and make extracts from the document or item.
(7) An investigator, and any person assisting an investigator as mentioned in subsection (5), may use reasonable force to exercise any power in terms of this section.

Warrants

138. (1) (a) A judge or magistrate who has jurisdiction may issue a warrant for the purposes of this Part on application by an investigator.
(b) The judge or magistrate may issue a warrant in terms of this section—
(i) on written application by the investigator setting out under oath or affirmation why it is necessary to enter and investigate the premises; and
(ii) if it appears to the magistrate or judge from the information under oath or affirmation that—
(aa) in the case of an investigation under section 135(1)(a), that—
(AA) there are reasonable grounds for suspecting that a contravention of a financial sector law has occurred, may be occurring or may be about to occur;
(5) Mmatlisisi o ka patwa le go thuswa ka nako ya tseno le patlo ya lefelo lengwe le lengwe go ya go dira patlisiso ke motlhankedwa wa sepodisi kgotsa motho yo thapilweng go ya ka karolo 134.

(6) (a) Fa a le kwa lefelong go ya ka karolo eno mmatlisisi, ka mathlhomu a go dira patlisiso, o na le lebhalo ya go ise na karolo eno mmatlisisi le lefelo ya lefelo le go lokwalo lengwe le lengwe kgotsa sengwe se le sengwe e bile o ka dira ngwe le ngwe ya lefelo le go lokwalo up to 5

(i) Bula kgotsa a dira gore go bulwe kamore ya polokelo, polokelo, koboto kgotsa setshelo sengwe se mmatlisisi se ka belelaeng ka mabaka a a utlawalang gore se na le lokwalo kgotsa sengwe se se ka nnang bopaki jwa tlolo e e amegang; 10

(ii) tlhathoba, dira ditswa le go gatisa lokwalo lengwe le lengwe mo lefelo;

(iii) botsa motho mongwe le mongwe mo lefelo mo bota le gotelela se lebelela le lefelo se le lefelo le go lokwalo 15

(v) kopa motho yo o mo lefelo go dirisa khomputara ngwe le ngwe kgotsa thulaganyo e e tshwanang le e e leng teng mo lefelo go—

(aa) batla tshedimoseto ngwe le ngwe e eleng teng ka tiriso ya thulaganyo e e lefelo e e lefelo le go 20

(bb) tlhaisa rekoto ya tshedimosetso eo mo tlhaloetsanang e e tlhokwakeng ke mmatlisisi;

(vi) fa go sa kgonege kgotsa go le matshwanele na go dira thlohego go ya ka tefatlo tlhakelelo (v), dirsha khomputara ngwe le ngwe kgotsa thulaganyo e e tshwanang le e e leng teng mo lefelo go—

(aa) batla tshedimoseto ngwe le ngwe e eleng teng ka tiriso ya thulaganyo e e lefelo e e lefelo le go 25

(bb) tlhaisa rekoto ya tshedimosetso eo mo tlhaloetsanang e e tlhokwakeng ke mmatlisisi;

(vii) itseela, le go go tsaya go tswa mo lefelo, lokwalo kgotsa sengwe se se ka nnang bopaki jwa tlolo e e amegang kgotsa se se ka nnang maleba le kopong.

(b) Mmatlisisi o tshwanyse se naya motho yo o ka ponalo a ralang moa ka tefatlo a lefelo rasiti e e kwetsweng ya lokwalo lengwe le lengwe kgotsa sengwe se se tserweng ke mmatlisisi jaaka go ka tefatlo mo temaneng (a)(vii).

(c) Go latela temana (d), mmatlisisi o tshwanyse go netefatsa gore lokwalo lengwe le lengwe kgotsa sengwe se se tserweng ke mmatlisisi jaaka go ka tefatlo mo temaneng (a)(vii) se busetswa kwa mothong fa—

(i) go tsholwa ga lokwalo kgotsa sengwe go sa tlhole go thlokega go fitlhelela motho mongwe le motho yo o thusang mmatlisisi jaaka go tshwanyse mo temaneng (a)(vii), kgotsa le motho e e dumeletsweng, o ka, ka dihokwakeng ke mmatlisisi jaaka go ka tefatlo mo temaneng (a)(vii), kgotsa meda ya tefatlo e e dumele tshwanyse, o ka, ka dihokwakeng ke mmatlisisi jaaka go ka tefatlo mo temaneng (5), kgotsa le motho e e dumeletsweng, o ka, ka dihokwakeng ke mmatlisisi jaaka go ka tefatlo mo temaneng (a)(vii), kgotsa meda ya tefatlo e e dumele tshwanyse, o ka, ka dihokwakeng ke mmatlisisi jaaka go ka tefatlo mo temaneng (a)(vii), kgotsa meda ya tefatlo e e dumele tshwanyse, o ka, ka

(7) Mmatlisisi, le motho mongwe le mongwe ya o thusang mmatlisisi jaaka go tshalositswe mo karolotlaleletsetso (5), o ka dirsha kgatelelo go diragatsa thata ngwe le ngwe go ya ka karolo eno.

Dithebolelo

138. (1) (a) Moatlhodi kgotsa magiseterata yo o nang le taolo o ka rebola thebolo mabapi le mathlhomu a Karolo eno mo kopong ya mmatlisisi.

(b) Moatlhodi kgotsa magiseterata o ka rebola thebolo go ya ka karolo eno—

(i) le重构女ye kwetsweng ke mmatlisisi e e tshalositswe kgotsa motho lefelo gore sengwe se lefelo mo tshwanyse;

(ii) go la lefelo eno se lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno

(c) Moatlhodi kgotsa magiseterata yo o nang le taolo o ka rebola thebolo mabapi le mathlhomu a Karolo eno mo kopong ya mmatlisisi.

(b) Moatlhodi kgotsa magiseterata o ka rebola thebolo go ya ka karolo eno—

(i) le重构女ye kwetsweng ke mmatlisisi e e tshalositswe kgotsa motho lefelo gore sengwe se lefelo mo tshwanyse;

(ii) go la lefelo eno se lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno lefelo eno

(135)(a), kgotsa motho lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno

(2) Mmatlisisi o tshwanyse se naya motho yo o ka ponalo a ralang moa ka tefatlo a lefelo rasiti e e kwetsweng ya lokwalo lengwe le lengwe kgotsa sengwe se se tserweng ke mmatlisisi jaaka go ka tefatlo mo temaneng (a)(vii).

(c) Go latela temana (d), mmatlisisi o tshwanyse go netefatsa gore lokwalo lengwe le lengwe kgotsa sengwe se se tserweng ke mmatlisisi jaaka go ka tefatlo mo temaneng (a)(vii) se busetswa kwa mothong fa—

(i) go tsholwa ga lokwalo kgotsa sengwe go sa tlhole go thlokega go fitlhelela mathlhomu a patlisibo; kgotsa

(ii) ditsetsa tsholwa a lekhalaleke le tshwanyse kgotsa losa se se lesa se lefelo go ka tefatlo mo temaneng (a)(vii), kgotsa le motho e e dumeletsweng, o ka, ka dikwalo kgotsa le lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno

(d) Lokwalo kgotsa sengwe se tshwanyse go busetswa kwa mothong yo o se tshaliase go tshwenyeng fa—

(i) lokwalo kgotsa sengwe se sena go sena go sena go sena go sena go sena go sena go sena go sena go sena go sena go

(ii) go la lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno

(e) Motho yo o lokwalo kgotsa sengwe se se tserweng kwa lefelo la gaiga go ka tefatlo mo temaneng (a)(vii), kgotsa meda ya tefatlo e e dumele tshwanyse, o ka, ka dikwalo kgotsa le lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno

(f) Motho yo o lokwalo kgotsa sengwe se se tserweng kwa lefelo la gaiga go ka tefatlo mo temaneng (a)(vii), kgotsa meda ya tefatlo e e dumele tshwanyse, o ka, ka dikwalo kgotsa le lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno se lefelo eno

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(BB) entry and investigation of the premises are likely to yield information pertaining to the contravention; and

(CC) entry and investigation of those premises is reasonably necessary for the purposes of the investigation;

(bb) in the case of an investigation under section 135(1)(b), that there are reasonable grounds to believe that the investigation is necessary to comply with a request referred to in that section.

(2) A warrant issued in terms of this section must be signed by the judge or magistrate issuing it.

(3) An investigator who enters premises under the authority of a warrant must—

(a) if there is apparently no one in charge of the premises when the warrant is executed, fix a copy of the warrant on a prominent and accessible place on the premises; and

(b) on reasonable demand by any person on the premises, produce the warrant or a copy of the warrant.

Interference with investigations

139. (1) A person may not intentionally or negligently interfere with or hinder the conduct of an investigation.

(2) Subject to section 140, a person who is given a notice or directive in terms of this Part must comply with the requirements in the notice or directive, as the case may be.

(3) Subject to section 140, a person who is asked a question in terms of this Part must answer the question fully and truthfully, to the best of the person’s knowledge.

(4) A person may not, except with a lawful excuse, refuse or fail to comply with any reasonable request by an investigator in connection with the conduct of an investigation.

(5) A person may not give an investigator any information that is false or misleading, including by omission, and is relevant to an investigation, if the person knew that the information was false or misleading, including by omission.

Part 5

Protections

140. (1) (a) A person who is questioned, or required to produce a document or information, during a supervisory on-site inspection contemplated in section 132, or by an investigator in terms of Part 4 of this Chapter, whether in response to a notice contemplated in section 136, or when an investigator is exercising the powers contemplated in section 137(6)(a)(iii) to (v), may object to answering the question or to producing the document or the information on the grounds that the answer, the contents of the document or the information may tend to incriminate the person.

(b) On such an objection, the official of the financial sector regulator conducting the supervisory on-site inspection or the investigator may require the question to be answered or the document or information to be produced, in which case the person must answer the question or produce the document.

(c) An incriminating answer given, and an incriminating document or information produced, as required in terms of paragraph (b), is not admissible in evidence against the person in any criminal proceedings, except in criminal proceedings for perjury or in which that person is tried for a contravention of section 273 based on the false or misleading nature of the answer.

(2) An official of the financial sector regulator conducting a supervisory on-site inspection or an investigator must inform the person of the right to object in terms of this section at the commencement of the supervisory on-site inspection or the investigation.
Molao wa Taolo ya Lephata la Ditselele , 2017

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(1) (a) fā ka ponalo go se ope yo o rwalang maikarabelo a lefel o thebolo e diragatswa, go baya kgatiso ya thebolo mo lefelong le le bonalang e bile le fitlhelega; le

(2) Thebolo e e rebotsweng go ya ka karolo eno e tshwanetse go saenwa ke moatlhodi kgotsa magiseterata yo o e rebolang.

(3) Mmatlisisi yo o tsenang kwa lefelong ka fa tlase ga tumelelo ya thebolo o tshwanetse—

(a) fa ka ponalo go se ope yo o rwalang maikarabelo a lefel o thebolo e diragatswa, go baya kgatiso ya thebolo mo lefelong le le bonalang e bile le fitlhelega; le

(b) ka topo e e utlwalang ya motho mongwe le mongwe mo lefelong, go tlahigisa thebolo kgotsa kgatiso ya thebolo.

Go itsunyatshunya mo dipatlisisong

139. (1) Motho o ka se ishunyene ka maikaelelo kgotsa botlha mo kgotsa o ka se thibele go darwa ga patlisiso.

(2) Go ya ka karolo 140, motho yo o neetsweng kitsiso kgotsa taelo go ya ka Karolo eno o tshwanetse go ikamanya le ditlhokego tse di mo kitsisong kgotsa taelong, jaaka go le maleba.

(3) Go ya ka karolo 140, motho yo o boditsweng potso go ya ka Karolo eno o tshwanetse go araba potso ka botlalo le ka bonnete, go ya ka kitso ya gagwe.

(4) Motho o ka se, ntle le lebaka la semoloa, gane kgotsa palelwe ke go ikamanya le kopo e e utlwalang ya mmatlisisi mabapi le go dirwa ga patlisiso.

(5) Motho o ka se ngye mmatlisisi tshedinomoso e e fosagetseng kgotsa e e timetsang, go akaretsa le ka tlogelo, e bile e le maleba mo patlisisong, fa motho a ne a itse gore tshedinomoso e fosagetseng kgotsa e e timetsa, go akaretsa le ka tlogelo.

Karo1o 140.

(a) Motho yo o botsolotswang kgotsa yo o tlhokengang go tlahigisa lokwalo kgotsa tshedinomoso, ka nako ya tlhatlholo ya botlhokomedi kwa tirong e e thaloositsweng mo karolog 132, kgotsa kgatlisisiso ya ka Karolo 4 ya Kgoaolo eno, e e tswa le le ka tsibogelo ya kitsiso e e thaloositsweng mo karolog 136, kgotsa fa mmatlisisi a diragatsa di thata tse di tlanalo sitsweng mo karolog 137(6)(a)(iii) go fitlha go (v), o ka ema kgatlhanong le go araba dipotso kgotsa go tlahigisa lokwalo kgotsa tshedinomoso ka mabaka a gore karabo, diteng tsa lokwalo kgota tshedinomoso e ka baya motho molato.

(b) Mo kemokgatlhanong co, mothankedwa bo loaodi jwa lephata la ditshetele yo o dirang tlhatlholo ya botlhokomedi kwa lefelong kgotsa mmatlisisi o ka kopa gore potso e e arabiwe kgotsa lokwalo kgotsa tshedinomoso e tlahigisiwe, e mo lebaka le motho a tshwanetse go araba potso kgotsa go tlahigisa lokwalo.

(c) Karabo e e bofelelang e e nelweng, le lokwalo le le bofelelang kgota tshedinomoso e e tlahigisiweng, jaaka go tlhokeng go ya ka temana (b), go a e amogelesege mo bopaking gatlahanong le motho mo tsa maimoseng ngwe le ngwe ya bosenyi, ntle le fa mo tsa maimoseng ya bosenyi mabapi le maikan a maaka kgotsa e mo go yona motho a sekisetsweng go tiola karolo 273 go ikaegilwe mo mofuteng wa karabo e e fosagetseng kgotsa e e timetsang.

(2) Mthankedwa bo loaodi jwa lephata la ditshetele yo o dirang tlhatlholo ya botlhokomedi kwa tirong kgotsa mmatlisisi o tshwanetse go itsise motho ka tlwanela ya ema kgatlhanong go ya ka karolo eno kwa shimologong ya tlhatlholo ya botlhokomedi kwa lefelong kgota tshadinomos.
CHAPTER 10
ENFORCEMENT

Part 1

Guidance notices and interpretation rulings

Guidance notices

141. (1) The responsible authority for a financial sector law may publish guidance notices on the application of the financial sector law.

(2) Guidance notices are for information, and are not binding.

Interpretation rulings

142. (1) The responsible authority for a financial sector law may publish a statement (an “interpretation ruling”) regarding the interpretation or application of a specified provision of that law, in circumstances specified in the statement.

(2) The purpose of an interpretation ruling is to promote clarity, consistency and certainty in the interpretation and application of financial sector laws.

(3) The responsible authority must interpret and apply the provision of the financial sector law to which the interpretation ruling relates in accordance with the interpretation ruling.

(4) An interpretation ruling ceases to be effective if—

(a) a provision of the financial sector law that was the subject of the interpretation ruling is repealed or amended in a manner that materially affects the interpretation ruling, in which case the interpretation ruling will cease to be effective from the date that the repeal or amendment is effective; or

(b) a court overturns or modifies an interpretation of the financial sector law on which the interpretation ruling is based, in which case the interpretation ruling will cease to be effective from the date of judgment unless—

(i) the decision is under appeal;

(ii) the decision is fact-specific and the general interpretation upon which the interpretation ruling was based is unaffected; or

(iii) the reference to the interpretation upon which the interpretation ruling was based did not form a part of the reasoning on which the judgment of the court was based.

(5) The responsible authority that issues an interpretation ruling may amend or revoke the interpretation ruling if it is necessary to do so because of a judicial decision or a change in the law.

(6) An interpretation ruling ceases to be effective upon the occurrence of any of the circumstances described in subsection (4), whether or not the responsible authority publishes a notice of withdrawal or modification of the interpretation ruling.

(7) Before the responsible authority issues an interpretation ruling, it must publish—

(a) a draft of the proposed interpretation ruling; and

(b) a notice calling for written public comments within a period specified in the notice, which period must be at least one month from the date of publication of the notice.

(8) The responsible authority is not obliged to comply with subsection (7) in relation to an amendment to, or a revocation of, an interpretation ruling.

(9) The responsible authority that issues an interpretation ruling must publish it.
Dikisiso tsa kaelo le ditshwetso tsa thaloso

141. (1) Bothati jo bo rwalang maikarabelo mo molaong wa lephata la ditšhelete bo ka phasalatsa dikisiso tsa kaelo mo tirisong ya mola wo lephata la ditšhelete.
(2) Dikisiso tsa kaelo ke ts tshedimosetso, e bile ga di tlame.

Ditshwetso tsa thaloso

142. (1) Bothati jo bo rwalang maikarabelo mo molaong wa lephata la ditšhelete bo ka phasalatsa polelo ("tshwetso ya thaloso") mabapi le thaloso kgotsa tiriso kabelo e e tsepamisitsweng ya mola oo, mo mabakeng a a tsepamisitsweng mo polelong.
(2) Maithlomo a thaloso ya tshwetso ya thaloso ke go nthetsa pele thalosetso, tsepano le tlhomamano mo go tshaloseng le tirisong ya mela o ya lephata la ditšhelete.
(3) Bothati jo bo rwalang maikarabelo bo tshwanetse go thalosela le go dirisa kabelo ya mola wo lephata la ditšhelete e e amanang le tshwetso ya thaloso go tsamaelana le tshwetso ya thaloso.
(4) Thaloso e e tlamang e khutla go diriswa fa—
   (a) kabelo ya mola o va lephata la ditšhelete eo e neng e le yona morero wa tshwetso ya thaloso e phimolwa kgotsa e tlabo lo la ka mokgw na o o amang segolo tshwetso ya thaloso, fa go le jalo tshwetso ya thaloso e tla khutisa go dira go tlo ga ka letla ha ga ose ngw a tirisong ga phimolo kgotsa tlabo lo la; kgotsa
   (b) kgotlatshekelo e phimola kgotsa fetola thaloso ya mola o va lephata la ditšhelete o tshwetso ya thaloso e thei lweng mo go ona, fa go le jalo tshwetso ya thaloso e tla khutla go dira go tlo ga ka letatsi ka katlholo ntle le fa—
      (i) tshwetso e le ka fa tlase ga boikuelo;
      (ii) tshwetso e tsepamisitswe mo ntheng e e bile thaloso ya kakaretso eo tshwetso ya thaloso e thei lweng mo go yona ga e a amega; kgotsa
      (iii) tshupetso go thalosetso eo tshwetso ya thaloso e neng e thei lweng mo go yona e ne e se karolo ya neo ya mabaka eo katlholo ya kgotlatshekelo e neng e thei lweng mo go yona.
(5) Bothati jo bo rwalang maikarabelo jo bo rebolang tshwetso yatlhaloso bo ka tlabo lo la kgotsa phimola tshwetso ya thaloso fa go tlhokega gore go dirwe jalo ka nthla ya phetogo mola oang kgotsa tshwetso ya boatlhodi.
(6) Thaloso e e tlamang e khutla go diriswa fa go diragala ngwe ya mabaka a a thalositsweng mo karolotlaleletsong (4), fa bothati jo bo rwalang maikarabelo bo phasaladitse kgotsa bo sa phasalatsa kitisiso ya kgogelomorogo kgotsa phetolo ya thaloso e e tlamang.
(7) Pele bothati jo bo rwalang maikarabelo bo rebola tshwetso ya thaloso, bo tshwanetse go phasalatsa—
   (a) thalo ya tshwetso ya thaloso e e tshitisi tsweng; le
   (b) kitisiso e e laletsang ditshwaelo tsa setšhaba tse di kwetseng mo pakeng e e tsepamisitsweng mo kitisisong, paka eo e tshwanetse go na bonnye kgwedi e le esi go tlo ga ka letla ha phasalatsa ya kitisiso.
(8) Bothati jo bo rwalang maikarabelo ga bo patelese go ikamaney le karolotlaleletsong (7) mabapi le tlabolo lo, kgotsa phimola ya, tshwetso ya thaloso.
(9) Bothati jo bo rwalang maikarabelo jo bo rebolang tshwetso ya thaloso bo tshwanetse go e phasalatsa.
Part 2

Directives by financial sector regulators

143. (1) The Prudential Authority may issue to either of the following persons:
   (a) A financial institution that provides a financial product or securities services, or that is a market infrastructure; and
   (b) a key person of a financial institution,
   a written directive requiring the person to take action specified in the directive if—
   (i) the financial institution is conducting its business in an improper or financially unsound way and, as a result, there is a risk that the financial institution may not be able to comply with its obligations; or
   (ii) the financial institution or key person of a financial institution—
      (aa) has contravened or is likely to contravene a financial sector law for which the Prudential Authority is the responsible authority;
      (bb) has not complied with an enforceable undertaking accepted by the Prudential Authority;
      (cc) is involved or is likely to be involved in financial crime; or
      (dd) is causing or contributing to instability in the financial system, or is likely to do so.

   (2) The Prudential Authority may issue to a holding company of a financial conglomerate a written directive requiring the holding company to take action specified in the directive, if the holding company or another company in the financial conglomerate concerned—
   (a) is conducting its business in an improper or financially unsound way and, as a result, there is a risk that an eligible financial institution in the conglomerate will not be able to comply with its obligations under a financial sector law or in relation to a financial product or financial service that it provides or offers to provide;
   (b) has not complied with an enforceable undertaking accepted by the Prudential Authority;
   (c) has contravened or is likely to contravene a financial sector law;
   (d) is involved or is likely to be involved in financial crime; or
   (e) is causing or contributing to instability in the financial system, or is likely to do so.

   (3) A directive in terms of subsection (1) or (2) must be aimed at achieving the objective of the Prudential Authority set out in section 33 and—
   (a) reducing any risks referred to in subsection (1)(b)(i) or (2)(a);
   (b) ensuring that the financial institution or the directed person complies with the enforceable undertaking that was accepted by the Prudential Authority;
   (c) stopping the financial institution or company from contravening applicable financial sector laws, or reducing the risk of such contraventions;
   (d) stopping the financial institution or company from being involved in financial crime, and reducing the risk that it may be so involved;
   (e) reducing the risk that a systemic event may occur; or
   (f) remedying the effects of a contravention of a financial sector law or the person’s involvement in financial crime.

   (4) The Prudential Authority may not issue a directive to a financial institution on the basis set out in subsection (1)(b)(ii)(dd) unless it has been directed in terms of section 18 to do so or with the concurrence of the Reserve Bank.

   (5) Action that may be specified in a directive in terms of subsection (1) includes the following:
   (a) The financial institution ceasing offering or providing a specific financial product;
**Ditaelo tsela balaodi ba lephata la ditšhelete**

143. (1) Bothati jwa Tlhokomelo bo ka rebola go mongwe wa batho ba ba latelang:

(a) Setheo sa ditšhelete se se tlamelang ka kuno ya ditšhelete kgotsa ditirelo tsa ditloto, kgotsa ba e leng thulaganyeto sa popegotheo; le

(b) motho yo o botlhokwa wa setheo sa ditšhelete,

taelo e e kwetsweng e e tlhokang motho go tsaya kgato e e tsepamisitsweng mo taelong fa—

(i) setheo sa ditšhelete se dira tiro ya sona ka mokgw a o o sa siamang kgotsa wa tsamaiso ya ditšhelete e e sokameng le, ka nthla ya seo, go na le kotsi ya gore setheo sa ditšhelete se ka se kgone go ikamanya le ditlamego tsa sona; kgotsa

(ii) setheo sa ditšhelete kgotsa motho wa botlhokwa wa setheo sa ditšhelete—

(aa) a tlotse kgotsa a ka tlola molao wa lephata la ditšhelete o Bothati jwa Tlhokomelo bo tsayang maikarabelo a ona;

(bb) a sa ikamanyang le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(cc) yo o amanang kgotsa o o ka amanang le bosenyi jwa ditšhelete; kgotsa

(dd) o dira kgotsa o na le le seabe mo go sa tsepamang ga thulaganyo ya ditšhelete, kgotsa go ka dira jalo.

(2) Bothati jwa Tlhokomelo bo ka rebolela kgwebo e e okameng tse dingwe taelo e e kwetsweng e e lopang kgwebo e e okameng tse dingwe go tsaya kgato e e tsepamisitsweng mo taelong fa kgwebo e e okameng tse dingwe kgotsa setlamo se sengwe mo dikgwebong tsa ditšhelete tse di tlhakaneng—

(a) se dira tiro ya sona ka mokgw o o sa siamang kgotsa wa tsamaiso ya ditšhelete e e sokameng le, ka nthla ya seo, go na le kotsi ya gore setheo sa ditšhelete se se mo ditheong tse di tlhakaneng se ka se kgone go ikamanya le ditlamego tsa jona;

(b) se sa ikamanyang le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(c) se tlotse kgotsa se ka tlola molao wa lephata la ditšhelete;

(d) se amega kgotsa se ka amega mo bosenyi jwa ditšhelete; kgotsa

(e) se tliisa kgotsa se na le le seabe mo go sa tsepamang ga thulaganyo ya ditšhelete, kgotsa se ka dira jalo.

(3) Taelo go ya ka karololaleletso (1) kgotsa (2) e tshwanetse go lebiswa mo go fitlheleleng maikaelelo a Bothati jwa Tlhokomelo a a tlhagisitsweng mo karolong 33 le—

(a) go fokotsa dikotsi dingwe le dingwe tse di kailweng mo karololaleletsong (1)(b)(i) kgotsa (2)(a);

(b) go netefatseng gore setheo sa ditšhelete kgotsa motho yo o laestsweng o ikamanya le tumalano e e gatelelwang e e amogetsweng ke Bothati jwa Tlhokomelo;

(c) go dhabela setheo tsa ditšhelete kgotsa setleho se se tlolanang melao e e dirisweng; ya lephata la ditšhelete, kgotsa go fokotsa kotsi ya ditlolo tse;

(d) go dhabela setheo sa ditšhelete kgotsa setlamo mo go amegeng mo bosenyi jwa ditšhelete, le go fokotsa kotsi ya gore se ka amega jalo;

(e) go fokotsa kotsi ya gore tiragalo e e rulagantsweng e e ka diragala; kgotsa

(f) go namola ditlamorago tsa tlolo ya molao wa ditšhelete kgotsa botsayakarolo jwa motho mo bosenyi jwa ditšhelete.

(4) Bothati jwa Tlhokomelo bo ka se rebole taelo go setheo sa ditšhelete go ya ka mabaka a a tlhalositsweng mo karolotlaleletsong (1)(b)(ii)(dd) ttle le fa bo laetswe jalo go ya ka karolo 18 kgotsa go ya ka tumalano ya Banka ya Resefe.

(5) Tiro e e ka tsepamiswang mo taelong go ya ka karolotlaleletso (1) e akaretsa tse di latelang:

(a) Setheo sa ditšhelete se se khutlisang go neelana kgotsa go tlamel a ka kuno e e tsepamang ya ditšhelete;
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(b) the financial institution modifying a specific financial product or the terms on which it is provided;

c) removing a person from a specified position or function in or in relation to the financial institution;

d) the financial institution not paying a dividend or a specified bonus or performance payment;

e) the financial institution not entering into a specific transaction or undertaking a specific obligation, contingent or otherwise;

(f) the financial institution remedying the effects of a contravention of a financial sector law.

(6) In addition to its powers to issue regulator’s directives, if a person is engaging, or is proposing to engage, in conduct that contravenes a financial sector law for which the Prudential Authority is the responsible authority, the Prudential Authority may issue a written directive to the person requiring the person to cease engaging, or not to engage, in the conduct.

Directives by Financial Sector Conduct Authority

144. (1) The Financial Sector Conduct Authority may issue to a financial institution a written directive requiring the financial institution to take action specified in the directive if—

(a) the financial institution is conducting its business in a way that poses a material risk to the efficiency and integrity of financial markets;

(b) the financial institution’s treatment of its financial customers is such that the institution will not be able to comply with its obligations in relation to the fair treatment of financial customers;

(c) the financial institution is providing financial education in a manner that is not in accordance with relevant conduct standards;

(d) the financial institution or a key person, representative or contractor of the financial institution—

(i) has contravened or is likely to contravene a financial sector law for which the Financial Sector Conduct Authority is the responsible authority;

(ii) has not complied with an enforceable undertaking accepted by the Financial Sector Conduct Authority;

(iii) is involved or is likely to be involved in financial crime; or

(iv) is causing or contributing to instability in the financial system, or is likely to do so.

(2) The Financial Sector Conduct Authority may issue to a key person, a representative or a contractor of a financial institution (in this section, a “directed person”) a written directive requiring the directed person to take action specified in the directive if the financial institution or the directed person—

(a) has contravened or is likely to contravene a financial sector law for which the Financial Sector Conduct Authority is the responsible authority;

(b) has not complied with an enforceable undertaking accepted by the Financial Sector Conduct Authority;

(c) is involved or is likely to be involved in financial crime; or

(d) is causing or contributing to instability in the financial system, or is likely to do so.

(3) A directive in terms of subsection (1) or (2) must be aimed at achieving the objective of the Financial Sector Conduct Authority set out in section 57 and—

(a) stopping the financial institution or the directed person from contravening applicable financial sector laws, or reducing the risk of such contraventions;

(b) ensuring that the financial institution or the directed person complies with the enforceable undertaking that was accepted by the Financial Sector Conduct Authority;

(c) stopping the financial institution or the directed person from being involved in financial crime, and reducing the risk that it may be so involved;
(b) setheo sa ditshelete se se fetolang kuno e e tsepameng ya ditshelete kgotsa dipeelo tse o tlametsweng ka tsona;
(c) go nhlo motho mo maemong a a tsepamisitsweng kgotsa tiro mo kgotsa mabapi le setheo sa ditshelete;
(d) setheo sa ditshelete se se sa dueleng karolelo kgotsa bonase e e tsepamisitsweng kgotsa tuelo ya tiro;
(e) setheo sa ditshelete se se sa tseneng mo tirisanong e e tsepameng kgotsa se se sa direng tumalano ya tlamego e e tsepameng, ya tshoganyetso kgotsa ka mokgwa mongwe;
(f) setheo sa ditshelete se se namolong ditlamoraroga tsa tlolo ya molao wa lephata la ditshelete.

(6) Mo godimo ga dithata tsa jona tsa go rebola ditaelo tsa molaodi, fa motho a dira, kgotsa a tshitsinya go dira, tlolo ya matshholo jwa molao wa lephata la ditshelete o Bothati jwa Tlhokomelo e leng bothati jo bo rwalaang maikarabelo a ona, Bothati ba Tlhokomelo bo ka rebolela motho taelo e e kwetsweng e e lopang motho go emisa go dira kgotsa go se direng, matshholo ao.

Ditaelo ka Bothati jwa Botshwara jwa Lephata la Ditshelete

144. (1) Bothati jwa Botshwara jwa Lephata la Ditshelete bo ka rebolela setheo sa ditshelete taelo e e kwetsweng e e lopang gore setheo sa ditshelete se tseye kgato e e tsepamisitsweng mo taelong fa—
(a) setheo sa ditshelete se dira ditiro tsa sona ka mokgwa o o bayang bokgoni le tshiamo ya mebaraka ya ditshelete mo kotsing;
(b) tsholo ya setheo sa ditshelete ya barekedi ba ditshelete ba sona e ka mokgwa o e leng gore setheo se ka se kgone go ikamanya le ditlamegole tsa sona mabapi le tsholo e e lolameng ya barekedi ba ditshelete;
(c) setheo sa ditshelete se palelwa le go tlalamla ka mananeo a a maleba a thuto ya tsa ditshelete le ditiro tse dingwe go tsweletsa kito ya tsa ditshelete;
(d) setheo sa ditshelete kgotsa motho yo o bothokwa, kemedi kgotsa mokonteraka wa setheo sa ditshelete—
(i) se tlotse kgotsa se ka tlola molao wa lephata la ditshelete o Bothati jwa Bitshwara jwa Lephata la Ditshelete e leng bothati jo bo rwalaang maikarabelo a ona;
(ii) se sa ikamanyang le tumalano e e gatelelwang e e amogotsweng ke Bothati jwa Botshwara jwa Lephata la Ditshelete;
(iii) se amegang kgotsa se ka amega mo bosenyng jwa ditshelete; kgotsa
(iv) se tlisang kgotsa se nang le seabe mo go sa tsepamang ga thulaganyo ya ditshelete, kgotsa se ka dira jalo.

(2) Bothati jwa Botshwara jwa Lephata la Ditshelete bo ka rebolela motho yo o bothokwa, kemedi kgotsa mokonteraka wa setheo sa ditshelete (mo karolong eno, “motho yo o laelwang”) taelo e e kwetsweng e e lopang motho yo o laelwang go tsaya kgato e e tsepamisitsweng mo taelong fa se tsele sa ditshelete kgotsa motho yo o laelwang—
(a) se tlotse kgotsa se ka tlola molao wa lephata la ditshelete o Bothati jwa Botshwara jwa Lephata la Ditshelete e leng jona bothati jo bo rwalaang maikarabelo a ona;
(b) ga se a ikamanya le tumalano e e gatelelwang e e amogotsweng ke Bothati jwa Botshwara jwa Lephata la Ditshelete;
(c) se amegang kgotsa se ka amega mo bosenyng jwa ditshelete; kgotsa
(d) se dira kgotsa se dira kgotsa se na le seabe mo go sa tlomamang mo thulaganyong ya ditshelete, kgotsa se ka dira jalo.

(3) Taelo go ya ka karolotlaleletso (1) kgotsa (2) e tshwanetse go lebiswa mo go fitlheleng matlhomo a Bothati jwa Botshwara jwa Lephata la Ditshelete a a tlhagisitsweng mo karolong 57 le—
(a) go tibhela setheo sa ditshelete kgotsa motho yo o laelwang mo go tloleng melao e e diragatsweng ya lephata la ditshelete, kgotsa go fokotsa kotsi ya ditlolo tse;
(b) go netefatsa gore setheo sa ditshelete kgotsa motho yo o laelwang o ikamanya le tumalano e e gatelelwang e e amogotsweng ke Bothati jwaBotshwara jwa Ditshelete;
(c) go tibhela setheo sa ditshelete kgotsa motho yo o laelwang mo go amegeng mo bosenyng jwa ditshelete, le go fokotsa kotsi ya go amega mo go jona.
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145. A financial sector regulator may not issue a directive in terms of this Part that requires the removal of a person from a specified position or function in or in relation to the financial institution unless the person—

(a) has contravened a financial sector law;
(b) has been involved in financial crime;
(c) is responsible for, or in any way participated in, or failed to take steps open to him or her aimed at preventing—
   (i) a contravention of a financial sector law by the financial institution; or
   (ii) the financial institution being involved in financial crime; or
(d) no longer complies with applicable fit and proper person requirements.

Consultation requirements

146. (1) Before issuing a regulator’s directive in terms of this Part, the financial sector regulator must—

(a) give the financial institution or person to whom it is proposed to issue the directive a draft of the proposed directive and a statement of the reasons why it is proposed to issue it, including a statement of the relevant facts and circumstances; and
(b) invite the financial institution or person to make submissions on the matter, and give it a specified period, which must be reasonable, to do so.

(2) If the directive requires removing a person from a specified position or function in or in relation to the financial institution, the financial sector regulator must also—

(a) give the person a draft of the proposed directive and a statement of the reasons why it is proposed to issue it, including a statement of the relevant facts and circumstances; and
(b) invite the person to make submissions on the matter within the period specified in terms of subsection (1)(b).
(d) go fokotsa kotsi ya go diragala ga tiragala e e rulagantsweng; kgotsa
e) go namola ditlamorago tsa tlolo ya molao wa lephata la ditšhelete kgotsa kamego ya motho mo bosenyi ngwja ditšhelete.
(4) Bothati jwa Boitsshwario jwa Lephata la Ditšhelete bo ka se rebole taelo go ya ka mabaka a a tlhalo si tsweng mo karo loltla leletso (1)(d)(iv) tle le fa go laetswe gore go dirwe jalo go ya ka karolo 18 kgotsa ka tumalano ya Banka ya Resefc.
(5) Tiro e e ka tsepmasiswango mo taelong go ya ka karo loltla leletso (1) e akaretsa tse di latelang:
(a) Setheo sa ditšhelete se se khutlisang go neelana kgotsa go tlamel ka kuno e e tsepameng ya ditšhelete kgotsa tirelo ya ditšhelete;
(b) setheo sa ditšhelete se se fetolung kuno e e tsepameng ya ditšhelete kgotsa tirelo ya ditšhelete kgotsa dipeelo tseo e tlametsweng ka tsona;
(c) go nthsha motho mo maemong a a tsepmeng kgotsa tirong mo kgotsa mabapi le setheo sa ditšhelete;
(d) setheo sa ditšhelete se se sa dueleng bonase e e tsepmasisweng kgotsa tuelo ya tiro; le
(e) setlamo sa ditšhelete se se namolang ditlamorago tsa tlolo ya molao wa lephata la ditšhelete.
(6) Bothati jwa Boitsshwario jwa Lephata la Ditšhelete bo ka se rebole taelo go ya ka karolotla leletso (5)(a) kgotsa (b) go setheo sa thulaganyo ya bothokwa tle le tumalano ya Bothati Jwa Tlhokomeloto.
(7) Tiro e e ka tsepmasiswango mo taelong go ya ka karolotla leletso (2) e tshwanetse go lebiswa mo go fitlheleng maikaelelo a Bothati jwa Boitsshwario jwa Lephata la Ditšhelete le go netefatsa gore motho yo o bothokwa, moemedi kgotsa mokonteraka o dira tiro ya gagwe go tsamaelana le melao e ediragatsweng ya lephata la ditšhelete.
(8) Mo go itetseng ditšaha tsa jona tsa go rebola ditaelo ts a molao, fa motho a dira,
kgotsa a tshitsinya go dira, boitsshwario bo jo tlolong molao wa lephata la ditšhelete jo Bothati jwa Boitsshwario jwa Lephata la Ditšhelete le go rebolela motho taelo e e kwetsweng e e laelang motho go emisa go dira, kgotsa go se dire, boitsshwario.

Go ntshiwa ga batho mo maemong

145. Bolaodi jwa lephata la ditšhelete bo ka se rebole taelo go ya ka Karolo eno e e lopang go tloswa ga motho mo maemong a a tsepmasisweng kgotsa tiro mo kgotsa mabapi le setheo sa ditšhelete ntle le fa motho—
(a) a tlotse molao wa lephata la ditšhelete;
(b) a amegile mo bosenyi ngwja ditšhelete;
(c) a rwał e maikarabeko a, kgotsa ka mokgwaa mongwe a tsere karolo mo, kgotsa a palette se ke, go tsaya dikgato tse di leng tse di ikaletse ngw go thibela—
(i) tlolo ya molao wa lephata la ditšhelete ka setheo sa ditšhelete; kgotsa
(ii) setheo sa ditšhelete se amega mo bosenyi ngwja ditšhelete; kgotsa
(d) a sa tlhole a ikamanya le ditlhoko ega se go ekelela lelo tiro le tshiamo.

Ditlhokego tsa ditherisano

146. (1) Pele go rebolwa taelo ya bolaodi go ya ka Karolo eno, molaoi wa lephata la ditšhelete o tshwanetse go—
(a) naya setheo sa ditšhelete kgotsa motho yo a tshisisinyang go mo naya taelo thalo ya taelo e e tsitsintsweng le polelo ya mabaka a gore goreng e le nthla e e tsitsintsweng, go akaretsa le polelo ya ditlhma tse di maleba le mabaka; le
(b) laletsa setheo sa ditšhelete kgotsa motho go dira ditlhagisang ka ga morero, le go se naya nako e e e tsepmasisweng, e e amogelesegang, go dira jalo.
(2) Fa taelo e laela go gore motho a tloswe mo maemong a a tsepmasisweng kgotsa mo tirong ya kgotsa e e mabapi le setheo sa ditšhelete, molaoi wa lephata la ditšhelete o tshuanetse gape go—
(a) naya motho thalo ya taelo e e tsitsintsweng le polelo ya mabaka a gore goreng go tsitsintsweng gore e rebolwe, le go akaretsa le polelo ya ditlhma tse di maleba le mabaka; le
(b) laletsa motho go dira ditlhagisang ka ga morero mo pakeng e e tsepmasisweng go ya ka karolotla leletso (1)(b).
(3) In deciding whether to issue the directive, the financial sector regulator must take into account all submissions received by the end of the period referred to in subsection (1)(b) or (2)(b).

(4) If the delay involved in complying, or complying fully, with subsections (1) and (2) in respect of a proposed directive is likely to lead to prejudice to financial customers, prejudicially affect financial stability or defeat the object of the directive, the financial sector regulator may issue the directive without having complied, or complied fully, with those subsections.

(5) (a) If a financial sector regulator issues a directive without having complied, or complied fully, with subsections (1) and (2), the person to whom it was issued, and, where subsection (2) applies, the person referred to in that subsection must be given a written statement of the reasons why those subsections were not complied with.

(b) A person to whom the statement was given may make submissions to the financial sector regulator within one month after being provided with the statement.

(c) The financial sector regulator must consider the submissions, and notify the person, as soon as practicable, whether the financial sector regulator proposes to revoke the directive.

Period for compliance

147. A regulator’s directive must specify a reasonable period for compliance, where applicable.

Revoking directives

148. A financial sector regulator may at any time revoke a regulator’s directive it has issued by written notice to the person to whom it was issued.

Compliance with directives

149. (1) A financial institution, key person, representative or contractor to which a regulator’s directive in terms of this Part has been issued must comply with the directive.

(2) The High Court may, on application by a party to a contract with a financial institution, other than the financial institution, make an order relating to the effect of a directive in terms of this Part on the contract.

(3) (a) Without limiting what the order may do, the order may require the financial institution to—

(i) perform its obligations under the contract; or

(ii) compensate the applicant, as specified in the order.

(b) An order in terms of paragraph (a) may not require a person to take action that would contravene the directive of a financial sector regulator.

Application and interpretation

150. This Part applies in addition to any power in a specific financial sector law that relates to the issuing of directives by a financial sector regulator.

Part 3

Enforceable undertakings

151. (1) A person may give a written undertaking to the responsible authority concerning that person’s future conduct in relation to a matter regulated by a financial sector law, and that undertaking, upon its acceptance by the responsible authority, becomes enforceable by the responsible authority as contemplated in this Act.

(2) A written undertaking referred to in subsection (1) may include an undertaking to provide specified redress to financial customers.
(3) Mo go swetseng ka ga go rebola kgotsa go se rebole taelo, molaodi wa lephata la ditšhelete o tshwanetse go tsaya tsa ditlhogiso tothle tse di amogetsweng ka bokhutlo jwa paka e e kailweng mo karolotlaleletsong (1) kgotsa (2)/(b).

(4) Fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletsos (1) le (2) mabapi le taelo e e tsitšintšweng e ka isa kwa kgobelelong ya barekedi ba ditšhelete, ya ama thomamoso ya ditšhelete setlhigo kgotsa ya fenya maikaelelo a taelo, molaodi wa lephata la ditšhelete o ka rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlaleletsos tseo.

(5) (a) Fa molaodi wa lephata la ditšhelete a rebola taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlalelelo (1) le (2), motho yo a e reboletswe, le, mo karolotlalelelo (2) e dirisitswe, motho yo o kailweng mo karolotlaleletsong eo o tshwanetse go newa polelo e e kwetsweng ya mabaka a gore goreng go sa ikamangwanga se dikarolotlaleletsos tseo.

(b) Motho yo o neiwing polelo o ka dira ditlhagiso go molaodi wa lephata la ditšhelete mo kgwele e e esiga morago e e tshwanetse go newa polelo ka polelo.

(c) Molaodi wa lephata la ditšhelete o tshwanetse go sekaseka ditlhagiso, le go itsise motho, ka bonako jo bo kgonegang, fa e le gore molaodi wa lephata la ditšhelete o tshitsinyo go goela morago taelo.

Paka ya go ikamanya

147. Taelo ya molaodi e tshwanetse go tsepamisa paka e e amogelesegany ga go ikamanya, fa go kgonega.

Kgogelomorago ya ditaelo

148. Molaodi wa lephata la ditšhelete o ka, ka nako ngwele ngwe, phimola taelo a a e rebotseng ka kitsiso e e kwetsweng go motho yo o neng a e reboletswe.

Boikomanyo le ditaelo

149. (1) Setheo sa ditšhelete, motho yo o bothokwa, moemedi kgotsa mokonteraka yo o reboletswe taelo go ya ka Karolo eno o tshwanetse go ikamanya la taelo.

(2) Kgotlatshekogolo e ka, ka kopo ya moamegi mo konterakeng le setheo sa ditšhelete, ntle le setheo sa ditšhelete, dira taelo e e amanang le ditlhumorado tsela taelo go ya ka Karolo eno mo konterakeng.

(3) (a) Go sa lekanyetswe se taelo e ka se dirang, taelo e ka lopa setheo sa ditšhelete go—

(i) dira ditlamego tsna sona ka fa tlase ga konteraka; kgotsa
(ii) duela modirakopo, jaaka go tsepamisitswe mo taelong.

(b) Taelo go ya temana (a) e ka se lepo motho go tsaya kgato e e tla tlolang taelo ya molaodi wa lephata la ditšhelete.

Tiragatso le tlhaloso

150. Karolo eno e diriwa mo godimo ga thata ngwele ngwe mo molaong o o tsepameng wa lephata la ditšhelete o o amanang le thebolo ya ditaelo ka molaodi wa lephata la ditšhelete.

Karolo 3

Ditumalano tse di gatelelwang

Ditumalano tse di gatelelwang

151. (1) Motho o ka neclana ka tumalano e e kwetsweng go bothati jo bo ralang maikarabelo mabapi le boithepharo jwa nako e e tlang jwa motho mabapi le nthla e e laolweng ka mola o lephata la ditšhelete, le tumalano eo, fa e amogelesa le bothati jo bo maleba, e nna sediriso sa mola o se go gatelelwang ke bothati jo bo ralang maikarabelo jaaka go kailweng mo Molaong ono.

(2) Tumalano e e kwetsweng e e kailweng mo karolotlaleletsong (1) e e ka akaredsa tumalano go tlamel ka pusetso e e tsepamisitsweng ya maemo kwa tlwaelong go barekedi ba ditšhelete.
(3) The person who gave an enforceable undertaking may, with the consent of the responsible authority, vary or withdraw the undertaking at any time, except if the undertaking is already a subject of enforcement.

(4) If a financial institution licensed under a specific financial sector law that gave an enforceable undertaking breaches a term of the undertaking, the responsible authority may suspend or withdraw the licence.

(5) The responsible authority must publish each enforceable undertaking that it accepts, and each variation or withdrawal of an enforceable undertaking.

(6) If the Tribunal is satisfied, on application by the responsible authority, that a person has contravened an enforceable undertaking, the Tribunal may make any one or more of the following orders:

(a) An order directing the person to comply with the undertaking;
(b) if the undertaking relates to a past contravention of the financial sector law, an order directing the person to perform a specified act, or refrain from performing a specified act, for one or both of the following purposes:
   (i) to remedy the effects of the contravention;
   (ii) to ensure that the person does not contravene the undertaking again;
(c) any other incidental or relevant order.

(7) The responsible authority may file with the registrar of a competent court a certified copy of an order in terms of subsection (6), if—

(a) the order has not been complied with; and
(b) either—
   (i) no proceedings in a court in relation to the making of the order have been commenced by the end of the period for lodging such appeals; or
   (ii) if such proceedings have been commenced, they have been finally disposed of.

(8) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

Part 4

Court orders

Compliance with financial sector laws

152. (1) The responsible authority for a financial sector law may commence proceedings against a person in the High Court for an order to ensure compliance with the financial sector law.

(2) The High Court may make an order in terms of subsection (1)—

(a) if it appears to the High Court that the person is engaging, or proposes to engage, in conduct contravening a financial sector law;
(b) if the person has previously engaged in such conduct;
(c) if there is a danger of substantial or irreparable damage, prejudice or harm if the person engages in conduct contravening a financial sector law; or
(d) even if another remedy is available.

(3) The High Court may not require the responsible authority to give any undertaking as to damages in connection with the application for an order in terms of this section.

(4) The responsible authority must publish each court order, other than interlocutory orders, that it obtains in terms of this section.

Part 5

Debarment

153. (1) The responsible authority for a financial sector law may make a debarment order in respect of a natural person if the person has—

(a) contravened a financial sector law in a material way;
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(3) Motho yo o neetseng tumalano e e gatelelwang o ka, ka tumelelo ya bothati jo bo rwalang maikarabelo, farologantsha kgotsha gogela morago tumalano ka nako ngwe le ngwe, ndle le fa tumalano e setse e le nilha e e gatelelwang.

(4) Fa setho sa diişhelete se abetswe laesense ka fa tlaše ga molao o o tsapameng wa lephata la diişhelete o o neetseng tumalano e e gatelelwang se tlola peelo ya tumalano, bothati jo bo rwalang maikarabelo bo ka emisa kgotsha gogela morago laesense.

(5) Bothati jo bo rwalang maikarabelo bo tshwanesi go phasalatsa tumalano ngwe le ngwe e e gatelelwang e o bo e amogelan, le pharologantsho ngwe le ngwe kgotsha k戈gelomorago ya tumalano e e gatelelwang.

(6) Fa Lekgotla le kgotsofetse, mo tirisong ka bothati jo bo rwalang maikarabelo, gore motho o tlotse tumalano e e gatelelwang, Lekgotla le ka dira e le ngwe kgotsha go feta ya ditaelo tse di latelang:

(a) Taelo e e laelang motho go ikamanya le tumalano;
(b) fa tumalano e amana le tlole e e fetileng ya molao wa lephata la diişhelete, taelo e e laelang motho go dira tiro e e tsapamisitsweng, ka e e ngwe ya kgotsha ka bobedi jwa maifithlomo a a latelang:
(i) go namola ditlamorago tsa tlole;
(ii) go netefatsa gore motho ga a tlole tumalano gape;
(c) taelo e ngwe e e welwang kgotsa e e maleba.

(7) Bothati jo bo rwalang maikarabelo bo ka faela le mokwadisi we kgotlatshhekela e e nang le bokgoni kgatiso e e kanetsweng ya taelo go ya ka karolotlaleletso (6), fa—

(a) go sa ikamangngwa le taelo; le
(b) ka gongwe—
(i) go se ditsamaiso tse di dirilweng kwa kgotlatshhekela tsa boikuelo kgathlanong le tiragatso ya taelo mo bokhutlong jwa paka e e neiweng mabapi le go dira boikuelo joo; kgotsha
(ii) fa boikuelo joo bo setse bo dirilwe, kwa bokhutlong boikuelo bo diragaditswe.

(8) Taelo, mo go faelweng, e na le poelo mo kalholong ya selegae, e bile e ka gatelelwa jaaka e kete e neiweng se molao kwa kgotlatshhekela e.

Karlo 4

Ditaelo tsa Kgotlatshhekelo

Go ikamanyo le molao ya lephata la diişhelete

152. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la diişhelete bo ka simolola ditsamaiso kgathlanong le motho kwa Kgotlatshhekela kgolaga kolapo le taelo ya go netefatsa ikamanyo le molao wa lephata la diisherete.

(2) Kgotlatshhekela kgolaga e ka dira taelo go ya ka karolotlaleletso (1)—

(a) fa Kgotlatshhekela e lemoga gore motho o dira, kgotsha o tsihitsinya go dira, boitshwaro jo bo tloang molao wa lephata la diisherete;
(b) fa motho a kile a dira boitshwaro joo mo nakong e e fetileng;
(c) fa go na le kotsi kgotsha tsenye e kgolo kgotsha e e sa baakanyegeng, kgobelelo kgotsha e ka tlhola kotsi fa motho a dira boitshwaro jwa tlole ya molao wa lephata la diisherete; kgotsha
(d) le fa namolo e ngwe e le teng.

(3) Kgotlatshhekela kgolaga e ka se tlhoke bothati jo bo rwalang maikarabelo go dira tumalano ka ga ditsenye atse tse o mabapi le kopo ya taelo go ya ka karolo eno.

(4) Bothati jo bo rwalang maikarabelo bo tshwanesi go phasalatsa taelo ngwe le ngwe ya kgotlatshhekelo, ndle le ditaelo tsu puisano, tseo bo di fithelelang go ya ka karolo eno.

Karlo 5

Kganelo

153. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la diisherete bo ka dira taelo ya kganelo mabapi le motho ka es e fa motho ka es e a—

(a) talotse molao wa lephata la diisherete ka tsenelelo e kgolo;
(b) contravened in a material way an enforceable undertaking that was accepted by the responsible authority in terms of section 151(1);
(c) attempted, or conspired with, aided, abetted, induced, incited or procured another person to contravene a financial sector law in a material way; or
(d) contravened in a material way a law of a foreign country that corresponds to a financial sector law.

(2) A debarment order prohibits the natural person, for the period specified in the debarment order, from—
(a) providing, or being involved in the provision of, specified financial products or financial services, generally or in circumstances specified in the order;
(b) acting as a key person of a financial institution; or
(c) providing specified services to a financial institution, whether under outsourcing arrangements or otherwise.

(3) A debarment order in respect of a natural person takes effect from—
(a) the date on which it is served on the person; or
(b) if the order specifies a later date, the later date.

(4) (a) A natural person who is subject to a debarment order may not engage in conduct that, directly or indirectly, contravenes the debarment order.
(b) Without limiting paragraph (a), a natural person who is subject to a debarment order contravenes that paragraph if the natural person enters into an arrangement with another person to engage in the conduct that directly or indirectly contravenes a debarment order on behalf of, or in accordance with the directions, instructions or wishes of, the natural person who is subject to the debarment order.

(5) A licensed financial institution that becomes aware that a debarment order has been made in respect of a natural person employed or engaged by the financial institution must take all reasonable steps to ensure that the debarment order is given effect to.

(6) The responsible authority that made a debarment order may, by order and on application by the debarred natural person—
(a) reduce the period of the debarment order; or
(b) revoke the debarment order.

(7) The responsible authority must publish each debarment order, and each order under subsection (6), that it makes.

Consultation requirements

154. (1) Before making a debarment order in respect of a natural person, the responsible authority must—
(a) give a draft of the debarment order to the person and to the other financial sector regulator, along with reasons for and other relevant information about the proposed debarment; and
(b) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(2) The period contemplated in terms of subsection (1)(b) must be at least one month.

(3) In deciding whether or not to make a debarment order in respect of a natural person, the responsible authority must take into account at least—
(a) any submission made by, or on behalf of, the person; and
(b) any advice from the other financial sector regulator.

Where person cannot be located

155. If a responsible authority after taking all reasonable steps, including through electronic means, cannot locate a person to be given a document or information under section 154 or a debarment order, delivering the document or information to the person’s last known e-mail or physical business or residential address will be sufficient.
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(b) tlotsa ka tsenelelo e kgolo tumalano e e gatelelweng e e neng e amogetswe ke bothati jo bo rwalang maikarabelo go ya ka karolo 151(1);

(c) lekile, logile maano a bosenyi le, thusitse, roloedisite, potlakisite, tlholthelelitsa kgotsa fitheletsa motho yo mongwe go tlola molaow lephata la ditšeletsa ka tsenelelo e kgo; kgotsa

(d) tlotsa ka tsenelelo e kgo lo molaow na nga e sele o o tsamaelanang le molaow wa lephata la ditšelets.

(2) Taelo ya kganelo e thibela motho ka esi, mo nakong e e tsepamisitsweng, jaaka go tsepamisitswse mo taelong ya kganelo, mo go—

(a) tlameleng, kgotsa mo go tseyeng karolo mo kabelong ya, dikuno tse di tsepamisitsweng tsa ditšelets e kgotsa ditirelo tsa ditšelets, ka kakaretso kgotsa mo mabakeng a a tse pamisitsweng mo taelong;

(b) direng jaaka motho wa bothokwa wa setheo sa ditšelets; kgotsa

(c) tlameleng ditirelo tse di tse pamisitsweng go setheo sa ditšelets, ka gongwe ka fa tlase ga ditulaganyo tsa go bona tirolo go tswa kwa ntle kgotsa ka mokgwua mongwe.

(3) Taelo ya kganelo mabapi le motho ka esi e simolola go dira—

(a) ka lethla leo e neetsweng motho ka esi; kgotsa

(b) fa taelo e tse pamisa lethla la morago, lethla la morago.

(4) (a) Motho ka esi yo o neetsweng taelo ya kganelo o ka a se ame mo boitshwarong jo bo, ka thlamalalo kgotsa e seng ka thlamalalo, tlolanag taelo ya kganelo.

(b) Go sa lekanayetswe temana (a), motho ka esi o tlola temana co fa motho ka esi a dira tumalano le motho yo mongwe ya go amega mo boitshwarong jo ka thlamalalo kgotsa e seng ka thlamalalo bo tlolanag taelo ya kganelo, mo boemong jwa, kgotsa go tsamaelana le dintlha, ditaelo kgotsa dikeletso tsa,motho ka esi. 20

(5) Setheo sa ditšelets se se abetsweng laesense se se lemogang gore taelo ya kganelo e direng mabapi le motho ka esi ka yo o thapi lweng kgotsa yo o diriswang ke setheo sa ditšelets se tshwanetseng tsya dikgato tse di maleba go netefatsa gore taelo ya kganelo e a diragatsa.

(6) Bothati jo bo rwalang maikarabelo jo bo dirileng taelo ya kganelo bo ka, ka taelo le ka tiriso ka motho ka esi—

(a) fokotsa paka ya taelo ya kganelo; kgotsa

(b) gogela morago taelo ya kganelo.

(7) Bothati jo bo rwalang maikarabelo bo tshwanetseng go phasalatsa taelo nngwe le nngwe ya kganelo, le taelo nngwe le nngwe ka fa tlase ga karolo (6), e bo e dirang. 30

Ditlhokego tsa therisano

154. (1) Pele go dirwa taelo ya kganelo mabapi le motho ka esi, bothati jo bo rwalang maikarabelo bo tschanetseng go—

(a) naya motho ka esi thalo ya taelo ya kganelo e go molaodi yo mongwe wa lephata la ditšelets, mmogolo e mabaka a le tshedimosetsa e nngwe e e maleba ka ga, kganelo e e tshitsitsweng; le

(b) laletsa motho ka esi go dira ditlhagisoa ga ga nthla eo, le go mo nayak e e lekaneng go dira jalo.

(2) Nako e e kafileweng go ya ka karolo tslaleletso (1)(b) e tshwanetseng go nna bonnye kgwedi e le esi.

(3) Mo go swetseng ka ga go dira kgotsa go se dire taelo ya kganelo mabapi le motho ka esi, bothati jo bo rwalang maikarabelo bo thwanetseng go tsya tsia bonnye—

(a) tlhagiso nngwe le nngwe e e dirilweng ke, kgotsa mo boemong jwa, motho ka esi; le

(b) kgakololo nngwe le nngwe go tswa kwa molaoding yo mongwe wa lephata la ditšelets.

Fa motho a sa kgone go fithelelewa

155. Fa bothati jo bo rwalang maikarabelo morago ga go tsya dikgato tse di maleba, go akaretse le ka mokgwua wa seeleketeroniki, bo sa kgone go filelelela motho gore a newe lokvalo kgotsa tshedimosetsa ka fa tlase ga karolo 154 kgotsa taelo ya kganelo, thomelo ya lokvalo kgotsa tshedimosetsa kwa atereseng ya motho e e itsegeng ya bofelo ya imele kgotsa ya kgwebo kgotsa ya bodulo e tla lekana.

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Leniency agreements

156. (1) The responsible authority for a financial sector law may, in exchange for a person's co-operation in an investigation or in proceedings in relation to conduct that contravenes or may contravene that law, enter into a leniency agreement with the person, which may provide that the responsible authority undertakes not to impose an administrative penalty on the person in respect of the conduct.

(2) A leniency agreement with a person may provide that the agreement also applies to—
   (a) specified persons in the service of, or acting on behalf of, the person; or
   (b) specified partners and associates of the person.

(3) The responsible authority may not enter into a leniency agreement with a person unless it is satisfied that it is appropriate to do so, having regard, among other matters, to—
   (a) the nature and effect of the contravention concerned;
   (b) the nature and extent of the person's involvement in the contravention; and
   (c) the extent of the person's co-operation.

(4) The responsible authority that enters into a leniency agreement must publish it, unless the responsible authority determines that the publication may—
   (a) create an unjustifiable risk to the safety of a person; or
   (b) prejudice an investigation into a contravention of a law.

(5) The responsible authority that enters into a leniency agreement may, by notice to the person with whom it entered into the agreement, terminate the agreement—
   (a) if the person agrees;
   (b) if the person gave the responsible authority false or misleading information in relation to entering into the agreement;
   (c) if the person has failed to comply with the agreement; or
   (d) in circumstances specified in the agreement.

CHAPTER 11

SIGNIFICANT OWNERS

Part 1

Significant owners

157. (1) Subject to subsections (3) and (4), a person is a significant owner of a financial institution if the person, directly or indirectly, alone or together with a related or inter-related person, has the ability to control or influence materially the business or strategy of the financial institution.

(2) Without limiting subsection (1), a person has the ability referred to in that subsection if—
   (a) the person, directly or indirectly, alone or together with a related or inter-related person, has the power to appoint 15% of the members of the governing body of the financial institution;
   (b) the consent of the person, alone or together with a related or inter-related person, is required for the appointment of 15% of the members of a governing body of the financial institution; or
   (c) the person, directly or indirectly, alone or together with a related or inter-related person, holds a qualifying stake in the financial institution.
Ditumalano tsa kutlwelobotlhoko

156. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka, mo kananyong ya tirisanommogo ya motho mo patlisison kgotsha mo ditsamaisong tse di amanang le boitshwaro jo bo tlolang kgotsha jo bo ka tlolang molao oo, bo tsena mo tumalanong ya kutlwelobotlhoko le motho, e e ka tlamelang ka gore bothati jo bo rwalang maikarabelo bo ikana go se pateletse kotlhao ya tsamaiso mo mothong mabapi le boitshwaro.

(2) Tumalano ya kutlwelobotlhoko le motho e ka tlamel a gore tumalano e diragatswa gape go—
   (a) batho ba ba tsepamisitsweng mo tirelong ya, kgotsha go direng mo boemong jwa, motho; kgotsha
   (b) badirisani ba ba tsepamisitsweng le batsalani ba motho.

(3) Bothati jo bo rwalang maikarabelo bo ka se tsene mo tumalanong ya kutlwelobotlhoko le motho ntle le fa bo kgotsofetse gore go matshwandedi go dira jalo, ka go ela tlhoko, magareng ga merero e mengwe—
   (a) tlhlego le ditlamorogo tsa tlolo e e kaiwang;
   (b) tlhlego le bogolo jwa botsayo karolo jwa motho mo tlolong; le
   (c) bogolo jwa tirisanommogo ya motho.

(4) Bothati jo bo rwalang maikarabelo jo bo tsenang mo tumalanong ya kutlwelobotlhoko bo ka, ka kitsiso go motho yo bo dirileng tumalanong nae, khutlisa tumalano—
   (a) tlhola kotsi e e sa siamang mo tshireletsegong ya motho; kgotsha
   (b) gobelela patlisiso go tlolo ya molao.

(5) Bothati jo bo rwalang maikarabelo jo bo tsenang mo tumalanong ya kutlwelobotlhoko bo ka, ka kitsiso go motho yo bo dirileng tumalanong nae, khutlisa tumalano—
   (a) fa motho a dumela;
   (b) fa motho a neetse bothati jo bo rwalang maikarabelo tshedimoseto e e fosagetseg kgotsha e e timetsang mabapi le go tsena mo tumalanong; kgotsa
   (c) fa motho a palelsw e ke go ikamanya le tumalano; kgotsa
   (d) kgotsa a a tsepamisitsweng mo tumalanong.

KGAOLO II

BENG BA BA BOTLHOKWA

Karolo 1

Beng ba ba botlhokwa

157. (1) Go latela dikarolotlaleletso (3) le (4), motho ke mong yo o botlhokwa wa setheosa ditšhelete fa motho, ka tlhamalalo kgotsha e seng ka tlhamalalo, ka nosi kgotsha 40 mmogo le motho yo a amanang kgotsha ka kamano ya segareng le motho, a na le bokgoni jwa go laola le go tlhotlheletsa segolo kgwebo kgotsha leano la setheo sa ditšhelete.

(2) Ntle le go lekanetsyatsa karolotlaleletso (1), motho o na le bokgoni jo bo ka tlweng mo karolotlaleletso go fa—
   (a) motho, ka tlhamalalo kgotsha e seng ka tlhamalalo, ka nosi kgotsha mmogo le motho yo a amanang kgotsha ka kamano ya segareng le motho, a na le tha ya go thapa 15% ya maloko a mokgatlho o o busang wa setheo sa ditšhelete;
   (b) tumelelo ya motho, ka nosi kgotsha mmogo le motho yo o amanang kgotsha ka kamano ya segareng le motho, e a tlhokega mo go thapiweng ga 15% ya maloko a mokgatlho o o busang wa setheo sa ditšhelete; kgotsha
   (c) motho, ka tlhamalalo kgotsha e seng ka tlhamalalo, ka nosi kgotsha mmogo le motho yo o amanang kgotsha ka kamano ya segareng le motho, o fithelela ditlhokego tsa go nna karolo ya setheo sa ditšhelete.
(3) The Minister, the Reserve Bank and a financial sector regulator are not, in those capacities, significant owners of a financial institution.

(4) (a) A financial sector regulator may, with the concurrence of the other financial sector regulator and on application, declare a person not to be a significant owner of—

(i) an eligible financial institution;

(ii) the manager of a collective investment scheme; or

(iii) a financial institution prescribed in terms of Regulations made for the purposes of this paragraph.

(b) A financial sector regulator may not make a declaration or give its concurrence to a declaration in terms of paragraph (a), unless the financial sector regulator is satisfied that—

(i) the declaration will not prejudice the achievement of the financial sector regulator’s objective as set out in either section 33 or 57; and

(ii) it is not necessary to apply the requirements of this Chapter to the person.

(c) A financial sector regulator may, with the concurrence of the other financial sector regulator, revoke a declaration that it made in terms of paragraph (a).

(d) Before a financial sector regulator revokes a declaration that was made in terms of paragraph (a), the financial sector regulator must—

(i) give the person who has been declared not to be a significant owner a notice of the proposed action and a statement of the reasons for it; and

(ii) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(e) The period referred to in paragraph (d)(ii) must be at least one month.

(f) In deciding whether to revoke a declaration, the financial sector regulators must take into account all submissions made within the period specified in the notice in terms of paragraph (d).

(g) If the delay involved in complying, or complying fully, with paragraph (d) in respect of a proposed revocation is likely to prejudice financial customers, prejudicially affect financial stability or defeat the object of the revocation, the financial sector regulators may revoke the declaration without having complied, or complied fully, with that paragraph.

(h) If the financial sector regulators revoke a declaration in terms of paragraph (a) without having complied, or complied fully, with paragraph (d) for the reason set out in paragraph (g), they must give the person a written statement of the reasons why paragraph (d) was not complied with.

(i) The person may make submissions to the financial sector regulator within one month after being provided with the statement.

(j) The financial sector regulators must consider the submissions, and notify the person, as soon as practicable, whether they propose to make another declaration in terms of paragraph (a) in relation to the person and the financial institution.

(k) A declaration, and a revocation of a declaration, in terms of this subsection must be published.

Approvals and notifications relating to significant owners

158. (1) For the purposes of this section, a financial institution refers only to—

(a) an eligible financial institution;

(b) a manager of a collective investment scheme; and

(c) a financial institution prescribed in Regulations made for the purposes of this section.

(2) A person may not effect any arrangement that will result in the person, alone or together with a related or inter-related person, becoming a significant owner of a financial institution, without the prior written approval of the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed.

(3) A significant owner of a financial institution—

(a) which has been designated as a systemically important financial institution, may not, without having obtained the prior written approval of the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed, effect any arrangement that will result in the person,
(3) Tona, Banka ya Resefe le boloaedi jwa lephata la ditšelete ga se, mo maemong ao, beng ba ba botlhokwa ba setheo sa ditšelete.

(4) (a) Molaodi wa lephata la ditšelete o ka, ka tumaalano le boloaedi jo bongwe jwa lephata la ditšelete le ka kopo, swetsa gore motho ga se mong yo o botlhokwa wa—

(i) setheo sa ditšelete se se matshwaned;
(ii) molaodi sekema sa peeletsommmogo; kgotsa
(iii) setheo sa ditšelete se se neetsweng go ya ka Melawana e e dirilweng mabapi le maithlhom a temana eno.

(b) Molaodi wa lephata la ditšelete o ka se dire thlomamiso kgotsa go se dumelele thlomamiso go ya ka temana (a), ntle le fa molaodi wa lephata la ditšelete a kgotsofetse gore—

(i) thlomamiso e ka se gobelele phitlhelelo ya maikaelelo a molaodi wa lephata la ditšelete la jaaka go tlhagisitswe mo karolong 33 kgotsa 57, le
(ii) ga go tlhoeke go dirisa ditlhokoego ts Kgaolo eno mo mothong.

(c) Molaodi wa lephata la ditšelete o ka, ka tumaalano le boloaedi jo bongwe jwa lephata la ditšelete, gogela morago thlomamiso e a e dirileng go ya ka temana (a).

(d) Pele ga molaodi wa lephata la ditšelete a gogela morago thlomamiso mabapi le motho e e dirilweng go ya ka temana (a), molaodi wa lephata la ditšelete o tshwanetse go—

(i) naya motho yo o tlhomamisitsweng go se nne mong yo o botlhokwa kitsyo ya kgato e e tsitsitsiweng le polelo ya mabaka a yona; le
(ii) laletsa motho go dira ditlhagiso ka ga morero, le go naya motho nako e e lekaneng go dira jalo.

(e) Paka e e kalweng mo temaneng (d)(ii) e tshwanetse go mna bonnye kgwedi e le esi.

(f) Mo go swetseng ka ga go gogela morago thlomamiso, balaodi ba lephata la ditšelete ba tsawangsetse go tsaya tsia ditlhagiso tsotlhe tse di dirilweng mo pakeng e e tsapamisitsweng mo kitsisong go ya ka temana (d)(ii).

(g) Fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le temana (d) mabapi le kgogelomorago e e tsitsitsiweng e lebege e e lela kgobelela barakedi ba ditšelete, e e tla amam ka kgobelelo tsepmo ya ditšelete kgotsa ya fenya maikaelelo a kgogelomorago, balaodi ba lephata la ditšelete b aka gogela morago thlomamiso ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le temana eo.

(h) Fa balaodi ba lephata la ditšelete ba gogela morago thlomamiso go ya ka temana (a) ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le temana (d) ka lebaka le le tshlhamatisitswe e lela, ba tshwanetse go naya motho polelo e e kwetsweng ya mabaka a gore goreeng go sa ikamannaeng le temana (d).

(i) Mabapi le motho mo tlhagisitswe tsotlhe tse di temana (a) mabapi le motho se setheo sa ditšelete.

(j) Tlhomamiso, le kgogelomorago ya tlhomamiso, go ya ka karolotlaleletso eno di tshwanetse go phasalatswa.

Dithebolo le dikitsiso tse di amanang le beng ba ba botlhokwa

158. (1) Mabapi le maithlhom a karolo eno, setheo sa ditšelete se kaya fela—

(a) setheo sa ditšelete se se matshwaned;
(b) molaodi wa sekema sa tsadisommogo; le
(c) setheo sa ditšelete se se neetsweng mo Melawana e e dirilweng mabapi le maithlhom a karolo eno.

(2) Motho o ka se dire ditlamorago mo thulaganyong tse di ka dirang gore, motho, ka nosi kgotsa mmogo le motho yo a amanang kgotsa ka kamano ya segaren, e e nne mong yo o botlhokwa wa setheo sa ditšelete, ntle le thebolo e e kwetsweng ya pele ya bothati jo bo rwalang maikaarabelo mabapi le moloa wa lephata la ditšelete o go ya ka ona setheo sa ditšelete se tlhokegango go abelwa laesense.

(3) Mong yo o botlhokwa wa setheo sa ditšelete—

(a) se se sa tlhongwang jaaka setheo sa thulaganyetsa ya botlhokwa, se ka se, ntle le go fithelela thebolo e e kwetsweng ya pele ya bothati jo bo rwalang maikaarabelo mabapi le moloa wa lephata la ditšelete o ka ona ditheo tsu ditšelete di tshwanetse go abelwa dilaesense, diragata thulaganyo epe e ka manang le ditlamorago tsa, motho, ka nosi kgotsa mmogo le motho yo o
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alone or together with a related or inter-related person, ceasing to be a significant owner of the financial institution; and

(b) which has not been designated as a systemically important financial institution, may not, without prior notification to the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed, effect any arrangement that will result in the person, alone or together with a related or inter-related person, ceasing to be a significant owner of the financial institution.

(4) A person may not effect any arrangement that will result in the person, alone or together with a related or inter-related person, increasing or decreasing the extent of the ability of the person, alone or together with a related or inter-related person, to control or influence materially the business or strategy of the financial institution—

(a) without having obtained the prior written approval of the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed, if the responsible authority on granting of an approval referred to in subsection (2), required its prior written approval of any such increase or decrease; or

(b) without the prior notification to the responsible authority for the financial sector law in terms of which the financial institution is required to be licensed, if the responsible authority on granting of an approval referred to in subsection (2), did not require its prior written approval of any such increase or decrease.

(5) An arrangement referred to in subsection (2), (3) or (4) need not involve the acquisition of, or disposition of, shares or other interests or property.

(6) If a person enters into an arrangement in contravention of subsection (2), (3) or (4), the arrangement, in so far as it has an effect mentioned in the relevant subsection, is void.

(7) An approval in terms of subsection (2), (3) or (4) may not be given unless the responsible authority is satisfied that—

(a) the person becoming a significant owner, or the arrangement, or any increase or decrease in the extent of the ability of the significant owner to control or influence the business or strategy of the financial institution will not prejudicially affect or is not likely to affect the prudent management and the financial soundness of the financial institution; and

(b) the person meets and is reasonably likely to continue to meet applicable fit and proper person requirements.

(8) The Financial Sector Conduct Authority may not give approval in terms of subsection (2) or (4) in respect of an eligible financial institution that is a market infrastructure without the concurrence of the Prudential Authority and the Reserve Bank.

(9) A prudential standard, a conduct standard or a joint standard may prescribe procedures in respect of applications for approvals and notifications in terms of this section.

(10) This section does not affect any other requirement in terms of a financial sector law to obtain approval or consent in respect of an acquisition or disposal.

Standards in respect of, and regulator’s directives to, significant owners

159. (1) In addition to the powers in Part 2 of Chapter 7 to make standards,—

(a) a financial sector regulator must make standards, that must be complied with by significant owners of financial institutions, with respect to fit and proper person requirements, including in relation to—

(i) personal character qualities of honesty and integrity;

(ii) competence, including experience, qualifications and knowledge; and

(iii) financial standing; and

(b) the financial sector regulators must make joint standards specifying what constitutes, “an increase or a decrease in the extent of the ability of the person, alone or together with a related or inter-related person, to control or influence
amanang kgotsa motho wa kamano ya segareng, a emisang go nna mong yo o bothlokwa na setheo sa ditšeletse; le
(b) se se sa tlhongwang jaaka setheo sa tlhalaganyetso ya bothlohwka, se ka se, ntle le go itsise pele bothathi jo bo rwalang maikarabela mabapi le molao wa lephahta la ditšeletse o ka ona ditheo tsa ditšeletse di tshwanetseng go abelwa dilaensed, diragatse tlhalaganyo epe e ka nnang le ditlamarogo tsa, motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kamano ya segareng, a emisang go nna mong yo o bothlokwa wa setheo sa ditšeletse.

(4) Motho o ka se diragatse tlhalaganyo epe e e ka nnang le ditlamarogo tse mo go tsona motho, ka nosi ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kamano ya segareng, a fokotsang kgotsa godisang bogolo jwa bokgoni jwa motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa motho wa kamano ya segareng, jwa go go laola kgotsa go tlholiheletsatsa ka maatla kgwebo kgotsa leano la setheo sa ditšeletse—
(a) ntle le go filithlelela thebolo e e kwetsweng ya pele ya bothathi jo bo rwalang maikarabela mabapi le molao wa lephahta la ditšeletse o go ya ka ona setheo sa ditšeletse se tlhokag kgotsa mmogo le setheo sa ditšeletse di tshwanetseng go abelwa laesense, fa bothathi jo bo rwalang maikarabela fa o abelana ka thebolo e e kailweng mo karolotlalelelelelelele (2), bo tlhoka thebolo e e kwetsweng ya pele ya koketso kgotsa phokotso ngwe le ngwe eo; kgotsa
(b) ntle le thebolo e e kwetsweng ya pele ya bothathi jo bo rwalang maikarabela mabapi le molao wa lephahta la ditšeletse o go ya ka ona setheo sa ditšeletse se tlhokag kgotsa mmogo le setheo sa ditšeletse di tshwanetseng go abelwa laesense, fa bothathi jo bo rwalang maikarabela fa o abelana ka thebolo e e kailweng mo karolotlalelelele (2), ga bo tlhoka thebolo e e kwetsweng ya pele ya koketso kgotsa phokotso ngwe le ngwe eo.

(5) Thulaganyo e e kailweng mo dikarolotlalelelelelele (2), (3) kgotsa (4) ga di tlhoke go akaretsa phiithlelelo ya, kgotsa tlhalaganyo ya dišere kgotsa merokotse emo e mengwe kgotsa thuto
(6) Fa motho a dira thulaganyo e e tloang dikarolotlalelele (2), (3) kgotsa (4), thulaganyo, jaaka go tlhalositsewe gore e na le ditlamarogo mo dikarolotlalelelelelelelelese di maleba, ga e dire.
(7) Thebolo go ya ka dikarolotlalelelelele (2), (3) kgotsa (4) e ka diwe ntle le fa bothathi jo bo rwalang maikarabelo bo netefaditse gore—
(a) motho yo o nnang mong yo o bothlokwa, kgotsa thulaganyo, kgotsa koketsego kgotsa phokotsego mo bogolong jwa bokgoni jwa mong yo o bothlokwa jwa go laola kgotsa go tlholiheletsatsa kgwebo kgotsa leano la setheo sa ditšeletse e o ka se ame ka kgobe le kgotsa o ka ama taolo ya bothlokwa le tlhomo ya ditšeletse ya setheo; le
(b) motho o filithlelela e bile o ka tswelela go filithlelela ditlhoko tse di malebe tsa motho yo o itekanetseng ka nepagalo.

(8) Bothathi jwa Boitshwara jwa Lephahta la Ditšeletse bo ka se bolelo go ya ka karolotlalelelelelelese (2) kgotsa (4) mabapi le setheo sa ditšeletse se se matshwane se o e leng tlhalaganyetso ya popogetheo ya mmaraka ntle le tumelelo ya Bothathi jwa Tlhokomolo le Banksa ya Resefele.
(9) Maemo a tlhlokomolo, maemo boitshwara kgotsa maemo a kopanelo a ka nelana ditbameso mabapi le dikopo mabapi le ditlelelelo di dikitsiso go ya ka karolo eno.
(10) Karolo eno ga e ame thlhoego epe go ya ka molao wa lephahta la ditšeletse ya go filithlelela thebolo kgotsa tumelelo mabapi le phiithlelelo kgotsa tlhalaganyo.

Maemo mabapi le, le ditaeo tsa balaodi go beng ba ba bothlokwa

159. (1) Mo tlalelelelelese ya ditatha mo Karolong 2 ya Kgaolo 7 tsa go dira maemo—
(a) molaodi wa lephahta la ditšeletse o tshwanetse go dira maemo, ao beng ba ba bothlokwa ba ba ditheo tsa ditšeletse ba tshwanetse go ikamanya le ona, mabapi le ditlhokoego tsa batho ba ba itekanetseng ka nepagalo, go akaretsa le mabapi le—
(i) dinoa noo tsa botho jwa motho tsa boikanye le tsiamo; 
(ii) bokgoni, go akaretsa le noono, boithutelo le kitso; le
(iii) kemo ya tsa ditšeletse; le
(b) balaodi ba lephahta la ditšeletse ba tshwanetse go dira maemo a a kopantsweng a a tsepamisang popego ya, ”koketseng kgotsa phokotseng mo bogolong jwa bokgoni jwa motho, ka nosi kgotsa mmogo le motho yo o amanang kgotsa wa
materially the business or strategy of the financial institution’’, as referred to
in section 157(1) and section 158(4).

(2) (a) A financial sector regulator may issue to a significant owner of a financial
institution a written directive requiring the significant owner to take action specified in
the directive if the institution has contravened or is likely to contravene a financial sector
law for which the financial sector regulator is the responsible authority.

(b) A directive in terms of paragraph (a) must be aimed at stopping the institution
from contravening the financial sector law, or reducing the risk of such a contravention.

(3) In addition to subsection (2), a financial sector regulator may issue a directive to
a significant owner of a financial institution, and to the financial institution, requiring
them—

(a) to prepare and submit to the financial sector regulator a plan that is satisfactory
to the financial sector regulator, under which the significant owner will, within
a period that is acceptable to the financial sector regulator, cease to be a
significant owner of the financial institution; and

(b) on the financial sector regulator’s approval of the plan, to implement the plan.

CHAPTER 12
FINANCIAL CONGLOMERATES

Designation of financial conglomerates

160. (1) The Prudential Authority may designate members of a group of companies as
a financial conglomerate.

(2) A financial conglomerate designated in terms of subsection (1) must include both
an eligible financial institution and a holding company of the eligible financial
institution, but need not include all the members of the group of companies.

(3) Without detracting from section 3(3) and (4) of the Promotion of Administrative
Justice Act, and despite section 3(5) of that Act, before designating members of a group
of companies as a financial conglomerate in terms of subsection (1), the Prudential
Authority must—

(a) give the holding company of the eligible financial institution notice of the
proposed designation and a statement of the purpose of and the reasons why
the designation is proposed; and

(b) invite the holding company to make submissions on the matter, and give a
reasonable period to do so.

(4) The Prudential Authority must consult the Financial Sector Conduct Authority in
connection with any designation in terms of subsection (1).

(5) A designation in terms of subsection (1) must be for the purpose of facilitating the
prudential supervision of the eligible financial institution.

(6) In deciding whether to designate members of a group of companies as a financial
conglomerate in terms of subsection (1), the Prudential Authority must take into account
all relevant considerations, including at least the following:

(a) The risk to effective prudential supervision of the eligible financial institution
from the structure of the group of companies;

(b) submissions made by or for the holding company; and

(c) any other matters that may be prescribed by Regulation.

(7) The Prudential Authority may designate members of a group of companies as a
financial conglomerate in terms of subsection (1) without having complied, or complied
fully, with subsection (3) if it is reasonable and justifiable in the circumstances as
contemplated in section 3(4)(a) and (b) of the Promotion of Administrative Justice Act
and the delay involved in complying, or complying fully, with that subsection in respect
of a proposed action is likely to lead to material prejudice to financial customers, 50
prejudicially affect financial stability or defeat the object of the designation.
kamano ya segareng, go laola kgotsa go tla'hotleletsa segolo kgwebo kgotsa leano la setheo sa ditšhelele”, jaaka go kailwe mo karolong 157(1) le mo karolong 158(4).

(2) (a) Molao wa lephata la ditšhelele o ka rebolela mong yo o bothokwa wa setheo sa ditšhelele taelo e e kwetsweng e e laelang mong yo o bothokwa go tsa ya kgato e e tsepanisitsweng mo taelong fa setheo se tlotse kgotsa se ka tloa molao wa lephata la ditšhelele o molao wa lephata la ditšhelele e leng bothati jo bo rwalang maikarabelo.  
(b) Taelo go ya ka temana (a) e tshwanetse go lebiswa kwa go thibeng setheo sa ditšhelele mo go tloeng molao wa lephata la ditšhelele, kgotsa go fokotsa kotsi ya tlolo eo.

(3) Mo go tlatseng karolotlalelelelele (2), molao wa lephata la ditšhelele o ka rebola taelo go mong yo o bothokwa wa setheo sa ditšhelele, le kwa setheong sa ditšhelele, a kopa gore di—

(a) baakanye le go roromelela molao di lephata la ditšhelele leano le le kgotsobatsang molao di lephata la ditšhelele, leo ka fa tlase ga lona mong yo o bothokwa a tla, mo nakong e e amogelesegang go ya ka molao di lephata la ditšhelele, khutlisa go nna mong yo o bothokwa wa setheo sa ditšhelele; le  
(b) ka thebolo ya molao di ya leano, go tseny a leano mo tirison.

KGAOLO 12

DITHEO TSA DI KOPANTSWENG TSA DITŠHELETE

Go thepiwa ga ditheo tsa ditšhelele tse di

160. (1) Bothati jwa Tlhokomelo bo ka supa maloko a setlhopha sa ditlamo jaaka setheo se se kopantsweng sa ditšhelele.
(2) Setheo se se kopantsweng sa ditšhelele se se supilweng go ya ka karolotlalelele (1) se tshwanetse go akaretse ka bobedi setheo se se matshwanedi sa ditšhelele le selatemo se se laelang se sethelo se se matshwanedi sa ditšhelele, mme ga se tlhokgo booketsweng a o tselo a setlhopha sa ditlamo.  
(3) Ntle le go sapoga mo karolong 3(3) le le (4) ya Molao wa Tsweletso ya Tshiamo ya Tsamaiso, le ntle le karolo 3(5) ya Molao, pele go supiwa maloko a setlhopha sa ditlamo jaaka setheo se se kopantsweng sa ditšhelele go ya karolotlalelele (1), Bothati jwa Tlhokomelo bo tshwanetse go—

(a) naya selatemo se se okameng tse dingwe sa setheo se se matshwanedi sa ditšhelele kitsiso ya tshupo e e tshitsintswe e lego lo ya maithlomo a le mabak a gore goreeng tshupo e tshitsintswe; le  
(b) laletsy selatemo se se okameng tse dingwe go dira difhagiso ka ga marero, le go neelanga ka nako e e lekaneng go dira jalo.

(4) Bothati jwa Tlhokomelo bo tshwanetse go rerisana le Bolaadi jwa Botshwabo jwa Leaphata la Ditšhelele mabapi le tshupo ngwe le ngwe go ya ka karolotlalelele (1).  
(5) Tshupo go ya ka karolotlalelele (1) e tshwanetse go nna ya maithlomo a go nolo fasa thlhokomelo e e manonthlholo ya setheo se se matshwanedi sa ditšhelele.  
(6) Mo go sweteng ka ga go supa maloko a setlhopha sa ditlamo jaaka ditheo tse di kopantsweng tsa ditšhelele go ya ka karolotlalelele (1), Bothati jwa Tlhokomelo bo tshwanetse go ela tlhoko ditšhekatsheko tsotho, go akaretse le bonny e e latelang:  

(a) Kotshi ya tlhalihobelo e e nomofileng ya setheo se se matshwanedi sa ditšhelele go tsha mo popsegong ya setlhopha sa ditlamo;  
(b) difhagiso tse di dirilweng kgotsa mabapi le selatemo se se okameng tse dingwe; le  
(c) merero mengwe le mengwe e e ka neelweng ka Molawana.  
(7) Bothati jwa Tlhokomelo bo ka supa maloko a setlhopha sa ditlamo jaaka setheo se se kopantsweng sa ditšhelele go ya ka karolotlalelele (1) ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le karolotlalelele (3) fa go utlwgalo kgotsa ka mabak mo maimeng jaaka go tlhaloisitswe mo karolong 3(4)(a) le le (b) ya Molao wa Tsweletso ya Tshiamo ya Tsamaiso le tiego e e e nnileng teng mo go ikamanyang, kgotsa mo go ikamanyang ka botlalo, le karolotlalelele comabapi le kgato e e e tshitsintswe e e leka kgobelelo e e tselelese e ngokotse maika kedikeng ba ditšhelele, ya ama ya kgobelelo tsepamo ya ditšhelele kgotsa maithlomo a tshupo.
(8) (a) If the Prudential Authority designates members of a group of companies as a financial conglomerate in terms of subsection (1) without having complied, or complied fully, with subsection (3), the holding company of the designated financial conglomerate must be given a written statement of the reasons why that subsection was not complied with. 

(b) The holding company may make submissions to the Prudential Authority within one month after being provided with the statement. 

(c) The Prudential Authority must have regard to the submissions, and notify the holding company, as soon as practicable, whether the Prudential Authority proposes to amend or revoke the designation. 

(9) The Prudential Authority must continually reassess designations made, or any decision not to make a designation, in terms of subsection (1), and consider making a designation or reconsider the terms of any designation made if the Prudential Authority becomes aware of a change in the risk profile of the members of a group of companies or a designated financial conglomerate. 

(10) (a) Without detracting from section 3(3) and (4) of the Promotion of Administrative Justice Act, and despite section 3(5) of that Act, the Prudential Authority may amend or revoke a designation in terms of subsection (1) by notice to—

(i) the holding company of a financial conglomerate; and 

(ii) any companies that are not currently designated as part of a financial conglomerate, but which it is proposed to include as part of a currently designated financial conglomerate. 

(b) A notice referred to in paragraph (a) must—

(i) include a statement of the purpose of and the reasons why the amendment to or revocation of the designation is proposed; and 

(ii) invite the entities referred to in paragraph (a) to make submissions on the matter, and give a reasonable period to do so. 

(11) The Prudential Authority must publish each designation made in terms of this section, and each amendment and revocation of a designation. 

Notification by eligible financial institution

161. (1) An eligible financial institution must, within 30 days of becoming part of a group of companies, notify the Prudential Authority of that event. 

(2) A notification in terms of subsection (1) must be in the form determined by the Prudential Authority, completed in accordance with the instructions on the form, and be accompanied by any information that the Prudential Authority may determine. 

(3) If an eligible financial institution contravenes subsection (1), the holding company of the financial institution commits the same contravention. 

Licensing requirements for holding companies of financial conglomerates

162. (1) (a) The Prudential Authority may, by notice to a holding company of a financial conglomerate, require the holding company to be licensed in terms of this Act. 

(b) A notice referred to in paragraph (a) must—

(i) include a statement of the purpose of and the reasons why the requirement for the holding company to be licensed is proposed; and 

(ii) invite the holding company to make submissions on the matter, and give a reasonable period to do so. 

(2) Subsection (1) does not apply to a holding company that is licensed in terms of a financial sector law. 

(3) A requirement in terms of subsection (1) must be for the purpose of enabling the Prudential Authority to exercise its powers with respect to the financial conglomerate, to enhance the safety and soundness of the eligible financial institution. 

(4) A holding company given a notice in terms of subsection (1) must comply with the requirements of the notice.
(8)  (a) Fa Bothati jwa Tlhokomelo bo supra maloko a setlhophsa na ditlamo jaaka sethoo se se kopantsweng go ya ka karolotlaleletso (1) ntle le go ikamanya, kgotsa go ikamanya ka botlako, le karolotlaleletso (3), setlamo se se okameng sa sethoo se se kopantsweng sa ditšelete se se supilweng se tshwanetse go abelwa polelo e e kwetsweng ya mabaka a gore goreng go sa ikamanngwa le karolotlaleletso eo.

(b) Setlamo se se okameng tse dingwe se ka direla Bothati jwa Tlhokomelo ditlhagiso mo kgweding e le esi morago ga go abelwa polelo.

(c) Bothati jwa Tlhokomelo bo tshwanetse gotsaya ditlhagiso tsa, le go itsise setlamo se se okameng tse dingwe, ka bonako jo bo kgonegang, gore a Bothati jwa Tlhokomelo bo tshitsinya go thlabola kgotsa go gogela morago tshupho.

(9) Bothati jwa Tlhokomelo bo tshwanetse go sekasekagape nako le nako ditshupho tse di dirilweng, kgotsa tshwetso ngwe le ngwe ya go se dire tshupho, go ya ka karolotlaleletso (1), le go akanya ka go dira tshupho kgotsa go sekasekagape dipeelo tsa tshupho e e dirilweng fa Bothati jwa Tlhokomelo bo lemoga ka phetogo mo porofaeleng ya ko tsa ditokololo tsa setlhophsa da ditlamo kgotsa ditšelete go abelwa polelo e e tshwaneng tsa ditšelete tse di supilweng.

(10) (a) Ntle le go fapoga mo karolong 3(3) le (4) ya Molao wa Tselelele tsa Tshiamo ya Tsamaiso, le ntle le karolo 3(5) ya Molao, Bothati jwa Tlhokomelo bo ka tshMBOLola kgotsa gogela morago tshupho go ya ka karolotlaleletso (1) ka kitiso go—

(i) setlamo se se okameng sa sethoo se se kopantsweng sa ditšelete; le

(ii) ditlamo dingwe le dingwe tse go jaana di sa supiwang jaaka karolo ya sethoo se se kopantsweng sa ditšelete, mme tse go tshitsintsweng gore di ka akaretswa jaaka karolo ya sethoo se se kopantsweng sa ditšelete se ga jaana.

(b) Kitiso e e kailweng mo temaneng (a) e tshwanetse go—

(i) akaretse polelo ya maitlhomo a mabaka a goreng tshlabolo kgotsa kgogelomorago e tshitsintsw; le

(ii) laletsa ditheo tse di kailweng mo temaneng (a) go dira ditlhagiso ka ga morero, le go neelana ka nako e e lekaneng go dira jalo.

(11) Bothati jwa Tlhokomelo bo tshwanetse go phasalatsa tshupho ngwe le ngwe e e dirilweng ya ya ka karolo eno, le tshabololo ngwe le ngwe le kgogelomorago ya tshupho.

Kitsiso ka sethoo sa ditšelete se se matshwanedi

161. (1) Sethoo se se matshwanedi sa ditšelete se tshwanetse, mo matsatsing a le 30 a go mma karolo ya setlhophsa da ditlamo, go itsise Bothati jwa Tlhokomelo ka ga tiragalo eo.

(2) Kitiso go ya ka karolotlaleletso (1) e tshwanetse go nna mo foromong e e tlhomamisitsweng ke Bothati jwa Tlhokomelo, e tladitswe go tsamaelana le ditaelo tse di mo foromong, le go romelwa le tshedimosesetse ngwe le ngwe e e ka tlhomamiswang ke Bothati jwa Tlhokomelo.

(3) Fa sethoo se se matshwanedi sa ditšelete se tlola karolotlaleletso (1), setlamo se se okameng tse dingwe se sethoo se ditšelete se dira tlolo e e tshwanaeng le eo.

Tlhokego ya kaboa laensego go dikwebo tse di omameng tse dingwe tsa ditheo sa ditšelete tse dikopaneng

162. (1) Bothati jwa Tlhokomelo bo ka, ka kitiso go setlamo se se laoleng sa sethoo se se kopantsweng sa ditšelete, lopa gore setlamo se se laoleng se abelwe laensego go ya ka Molao ono.

(b) Kitiso e e kailweng mo temaneng (a) e tshwanetse go—

(i) akaretse polelo ya maitlhomo a mabaka a goreng tshokego gore setlamo se se okameng abelwe laensego a tshitsintsw; le

(ii) laletsa setlamo se se okameng go dira ditlhagiso ka ga morero, le go neelana ka nako e e lekaneng go dira jalo.

(2) Karolotlaleletso (1) ga e diriswe mo setlamo se se laoleng se se abetsweng laseng se ya ka Molao wa lephata la ditšelete.

(3) Tlhokego go ya ka karolotlaleletso (1) e tshwanetse go nna ya maitlhomo a go dira gore Bothati jwa Tlhokomelo bo diragatse dithata tsa jona mabapi le sethoo se se kopantsweng sa ditšelete, go oketsa polokego le itekanelo ya sethoo se se matshwanedi sa ditšelete.

(4) Setlamo se se laoleng se se nilweng kitsiso go ya ka karolotlaleletso (1) se tshwanetse go ikamanya le ditlhoko tsa kitiso.
(5) (a) If—
(i) the Prudential Authority gives a holding company a notice in terms of subsection (1); or
(ii) a holding company is licensed in terms of a financial sector law,

each other member of the group of companies in the financial conglomerate, including the eligible financial institution, must, on demand by the holding company, provide any information to the holding company that is needed to enable the holding company to comply with its obligations in terms of this Act or a specific financial sector law.

(b) To give effect to paragraph (a), a holding company of a financial conglomerate must impose binding corporate rules on, or enter into a binding agreement with, members of the conglomerate, that includes terms regarding the processing of information, including personal information, within the financial conglomerate.

Non-operating holding companies of financial conglomerates

163. (1) (a) The Prudential Authority may, by notice to a holding company of a financial conglomerate, require that the holding company be a non-operating company.

(b) A notice referred to in paragraph (a) must—
(i) include a statement of the purpose of and the reasons why the requirement for the holding company to be a non-operating company is proposed; and
(ii) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(2) A requirement in terms of subsection (1) must be for the purpose of managing more effectively risks to the safety and soundness of the eligible financial institution arising from the other members of the financial conglomerate.

(3) In deciding whether to impose a requirement that a holding company be a non-operating company in terms of subsection (1), the Prudential Authority must take into account all relevant considerations, including at least the following:
(a) The risks to the safety and soundness of the eligible financial institution arising from the other members of the financial conglomerate;
(b) submissions made by or for the holding company; and
(c) any other matters that may be prescribed by Regulation.

(4) A holding company that is given a notice in terms of subsection (1) must comply with the requirements of the notice.

Standards for financial conglomerates

164. (1) The power of the Prudential Authority to make prudential standards extends to making prudential standards that must be complied with by holding companies of financial conglomerates.

(2) In addition to the matters referred to in sections 105 and 108, a prudential standard contemplated in subsection (1) may include requirements with respect to—
(a) financial or other exposures of companies within financial conglomerates;
(b) the governance and management arrangements for holding companies of financial conglomerates;
(c) reporting of information about companies within financial conglomerates that are not financial institutions; and
(d) reducing or managing risks to the safety and soundness of an eligible financial institution arising from the other members of the financial conglomerate.

(3) The power of the Financial Sector Conduct Authority to make conduct standards extends to making such standards to be complied with by holding companies of financial conglomerates.
(5) (a) Fa—
(i) Bothati jwa Tlhokomelo bo ka, ka kitsiso go setlamo se se laolang kitsiso go ya ka karolotlaleletso (1); kgotsa
(ii) setlamo se se laolang se abetswe laesense go ya ka molao wa lephata la ditšhelete,
leloko lengwe le lengwe la setlhopho sa ditlamo mo sethooeng se se kopantsweng sa ditšhelete, (go akaretsa le setheo sa ditšhelete se se matshwanedi) le tshwanetse, ka pateletso ka setlamo se se laolang, go tlamelaa setlamo se se laolang ka tshedimosetso ngwe le ngwe e e tlokekeang go kgontsha setlamo go ya ka molao go ikamanya le le ditlamego tsa sona go ya ka Molao ono kgotsa molao o o tsepameng wa lephata la ditšhelete.

(b) Go tsenya mo tirisong temana (a), setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete se tshwanetse go pateletsa melawana e e tlamang ya ditlamego ka ga, kgotsa go dira tumalano e e tlamang le, maloko a setheo se se kopantsweng sa ditšhelete, e e akaretsang dipeelo mabapi le tiragatso ya tshedimosetso, go akaretsa tshedimosetso ya bowena, mo setheong sa ditšhelete se se kopantsweng.

Dikgwebo tse di okameng tse dingwe tse di sa direng tsa ditheo tsa ditšhelete tse di kopaneng

163. (1) (a) Bothati jwa Tlhokomelo bo ka, ka kitsiso go setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete, lopa setheo se se laolang go nna setheo se se sa direng.
(b) Kitsiso e e kailweng mo temaneng (a) e tshwanetse go—
(i) akaretsa polelo ya maithlhomo a le mabaka a goreng go dirilwe tshitsinyo ya gore setlamo se se laolang se nne setheo se se sa direng; le
(ii) laletsa setlamo se se laolang gore se dire ditlhalago ka ga morero oo, le go tlamelaa ka nako e e lekaneng go dira jalo.

(2) Tlhoko go ya ka karolotlaleletso (1) e tshwanetse go nna ya maithlhomo a go laola dikotsi go poloko le itekanelo ya setheo se se matshwanedi sa ditšhelete go tswe go maloko a mangwe a setheo se se kopantsweng sa ditšhelete, ka nonofo.
(3) Mo go swetseng ka go pateletse kgotsa go se pateletse tlhoko ya gore setheo se se omangeng se nne setheo se se sa direng go ya ka karolotlaleletso (1), Bothati jwa Tlhokomelo bo tshwanetse go ela tlhoko ditshhekatsheko tsotho tse di maleba, go akaretsa le bonnye tse di latelang:
(a) Dikotsi go pabalesego le tshiamo ya ditheo tsa ditšhelete tse di matshwanedi tse di tsangwana mo ditokofelo tse dingwe tsa ditheo tse di kopantsweng tsa ditšhelete;
(b) ditlhalago tse di dirilweng ke kgotsa tse di direngwana setheo se se omangeng;
le
(c) merero mengwe le mengwe e e ka neelwang ka Molawana.
(4) Setheo se se laolang sa ditšhelete se se neiwegweng kitsiso go ya ka karolotlaleletso (1) se tshwanetse go ikamanya le ditlhegokego tsa kitsiso.

Maemo a ditheo tse di kopaneng tsa ditšhelete

164. (1) Thata ya Bothati jwa Tlhokomelo ya go dira maemo a a manontlhotlhlo e atoloetswa mo go dieng maemo a tlhokomelo a go tshwaneseng go ikamangwla go ona ke ditlamo tse di laolang tsa ditheo tse di kopantsweng tsa ditšhelete.
(2) Mo go tlaletse tse dingwe tse di tshwane mo karolong 105, maemo a tlhokomelo a a tshwane mo karolotlaleletsong (1) a ka akaretsa ditlhegokego mabapi le—
(a) ditšhelete kgotsa diplo mo pontsheng tse dingwe tsa ditlamo tse di mo teng ga ditheo tse di kopantsweng tsa ditšhelete;
(b) ditlhalaganyo tse puo le taolo tsa ditlamo tse di laolang kgotsa ditheo tse di kopantsweng tsa ditšhelete;
(c) go bega tshedimosetso ka ga ditlamo tse di mo teng ga ditheo tse di kopantsweng tsa ditšhelete tsego e seng ditheo tsa ditšhelete; le
(d) go fokotsa kgotsa go laola dikotsi go poloko le itekanelo ya setheo se se matshwanedi sa ditšhelete go tswe go malokong a mangwe a setheo se se kopantsweng sa ditšhelete.
(3) Thata ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete ya go dira maemo a boitshwaro e atoloetswa mo go dieng maemo a gore go ikamangwla go ona ke ditlamo tse di laolang tsa ditheo tse di kopantsweng tsa ditšhelete.
Directives to holding companies

165. (1) The power of the Prudential Authority to issue a directive in terms of section 143 extends to issuing a directive to the holding company of a financial conglomerate imposing requirements on the holding company to manage and otherwise mitigate risks to the prudent management or financial soundness of an eligible financial institution in the conglomerate arising from other members of the conglomerate.

(2) (a) Requirements that a directive contemplated in subsection (1) may impose, include requirements with respect to restructuring the financial conglomerate in accordance with a plan submitted to the Prudential Authority by the holding company, and approved by the Prudential Authority within a period agreed by the Prudential Authority.

(b) The Prudential Authority may only issue a directive imposing requirements with respect to restructuring the financial conglomerate if the Authority is objectively satisfied that another type of directive will not achieve the result sought to be attained by requiring restructuring of the financial conglomerate.

(c) In deciding whether to issue a directive imposing requirements with respect to restructuring the financial conglomerate, the Prudential Authority must take into account all relevant considerations, including at least the following:

(i) The extent to which the existing structure of the financial conglomerate is hindering or is likely to hinder the effective supervision of the financial conglomerate concerned;

(ii) whether the restructuring of the financial conglomerate is reasonably necessary and appropriate to remedy impediments to the effective supervision of the financial conglomerate; and

(iii) submissions made by or for the holding company.

(3) The power of the Financial Sector Conduct Authority to issue a directive in terms of section 144 extends to issuing a directive to the holding company of a financial conglomerate requiring the holding company to ensure that a financial institution in the conglomerate complies with a financial sector law for which the Financial Sector Conduct Authority is the responsible authority.

Approval and prior notification of acquisitions and disposals

166. (1) (a) A holding company of a financial conglomerate may not acquire or dispose of a material asset as defined in prudential standards made for this section, without the approval of the Prudential Authority.

(b) A prudential standard made under this subsection must clearly identify what constitutes a material asset.

(2) The Prudential Authority may not give an approval in terms of subsection (1), unless the Authority is satisfied that the acquisition or disposal will not prejudicially affect—

(a) the prudent management and the financial soundness of an eligible financial institution within the financial conglomerate;

(b) the ability of the Prudential Authority to determine —

(i) how the different types of business of the financial conglomerate are conducted;

(ii) the risks of the financial conglomerate and each person that is part of that financial conglomerate; or

(iii) the manner in which the governance framework is organised and conducted for the financial conglomerate.

(3) (a) If the Prudential Authority contemplates refusing to grant approval of an acquisition or disposal referred to in subsection (1), prior to taking a decision, the Prudential Authority must notify the holding company of the proposed refusal to grant approval.

(b) A notice referred to in paragraph (a) must—

(i) include a statement of the reasons for the refusal to grant approval; and
Ditaelo go ditlamo tse di laolang

165. (1) Thata ya Bothati jwa Tlhokomelo ya go ntsha taelo eo go setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete se se diragatsang ditlhokego mo setheong se se laolang go laola le ka mokgwa mongwe go fokotsa dikotsi go bolaodi jwa tlhokomelo kgotsa thomamoye ditšhelete ya setheo se se matshwanedi sa ditšhelete mo setheong se se kopantsweng go tswa mo malokong a mangwe a setheo se se kopantsweng.

(2) (a) Ditlhokego tsa gore taelo e kailweng mo karolotlaleletsong (1) e ka pateleta go ya ka karolotlaleletso (1) e akaretsetsa ditlhokego mabapi le go baakanya sešwa setheo se se kopantsweng go tšamaelana le leano le le neetsweng Bothati jwa Tlhokomelo ke setlamo se se okameng, le go rebolwa ke Bothati jwa Tlhokomelo mo pakeng e go dumalankweng ka yona ke Bothati jwa Tlhokomelo, le go rebolwa ke Bothati jwa Tlhokomelo.

(b) Bothati jwa Tlhokomelo bo ka rebola fela taelo e e pateletsang ditlhokego mabapi le go rulaganngwa sešwa gape ga ditheo tse di kopantsweng tsa ditšhelete fa Bothati bo kgotsofadiitswe ka maikaelelo ke gore mofuta o mongwe wa taelo o ka se fithulele ditlamarago tse di ikaeleletseng ka go tšhoka gore setheo se se kopantsweng sa ditšhelete se se ganelwe.

(c) Mo go swetseng gore rebolwe kgotsa gore rebolwe taelo e e pateletsang ditlhokego mabapi le go rulaganngwa sešwa ga setheo se se kopantsweng sa ditšhelete, Bothati jwa Tlhokomelo bo tswanetse go ela tšhoko ditšhekatsheko sotšhile tse di maleba, go akaretsetsa le bonnye tse di latelang:

(i) Bogolo jo popego ya gajaana ya setheo sa ditšhelete e kgoreletsang kgotsa e ka kgoreletsang tšhokomelo e e nonofileng ya setheo se se kopantsweng sa ditšhelete se se amegang;

(ii) gore a thulaganyosešwa ya setheo se se kopantsweng sa ditšhelete e a tšhokega ka mabaka le gore a e siametse go ka namola dikgoreletsi tsa tšhokomelo e e nonofileng ya setheo se se kopantsweng sa ditšhelete; le

(iii) ditlhagiso tse di dirilweng ke kgotsa mabapi le setlamo se se okameng.

(3) Thata ya Bothati jwa Boitshwairo jwa Lephata la Ditšheletse ya go neelana ka taelo go ya ka karolo 144 e atoloetswse mo go reboleng taelo go setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete e e lopang setlamo se se laolang go netefatsa gore setheo sa ditšhelete mo setheong se se kopantsweng se ikamanya le molao wa lephata la ditšheletse o Bothati jwa Boitshwairo jwa Lephata la Ditšheletse e leng bolaodi jo bo rwalang maikarabelo a ona.

Thebolo le kitsiso ya pele ya diphitlelelelo le dilatlhwa

166. (1) (a) Setlamo se se laolang sa setheo se se kopantsweng sa ditšhelete se se ka se fithulele kgota phimole ditlho tse di botlhokwa jaaka go tšhlositswe mo maemong a tšhokomelo a a diretsweng karolo eno, ntle le thebolo ya Bothati jwa Tlhokomelo.

(b) Maemo a bothaokwa a a dirilweng ka fa tlase ga karolotlaleletso eno a tšwanetse go tlhagisa ka botlalotse di thamang thou e e botlhokwa.

(2) Bothati jwa Tlhokomelo bo ka se neelana ka thebolo go ya ka karolotlaleletso (1), ntle le fa Bothati bo kgotsofetsa gore phišhilelelo kgota phimolo e ka se ame ka kgobelelo—

(a) bolaodi jwa tšhokomelo le itekanelo ya ditšhelete ya setheo se se matshwanedi sa ditšhelete mo teng ga setheo se se kopantsweng sa ditšhelete;

(b) bogoni jwa Bothati jwa Tlhokomelo jwa go thomamisa—

(i) ka moo mofuta e e farologaneng ya dikgwabo e tsamaiswang ka teng;

(ii) dikotsi tsa setheo se se kopantsweng sa ditšhelete le mohlo mongwe le mongwe yo e leng karolo ya setheo se se kopantsweng se se ditšhelete;

(iii) mokgwa o lethlhomessla la pusso rulaganngweng le go tšamaiswang ka teng mabapi le setheo se se kopantsweng sa ditšhelete.

(3) (a) Fa Bothati jwa Tlhokomelo bo akanya go se lete thebolo ya phišhilelelo kgota phimolo e e kailweng mo karolotlaleletseng (1), pele ga go tsaya tšhetswo, Bothati jwa Tlhokomelo bo tšwanetse go itisisa setlamo se se okameng ka ga go se letlwe go go tšhitsintswe ng ga thebolo.

(b) Kitsiso e e kailweng mo temaneng (a) e tšwanetse go—

(i) akaretsetsa polelo ya mabaka a gore goren thebolo e sa letlwa; le
(ii) invite the holding company to make submissions on the matter, and give a reasonable period to do so.

(4) In deciding whether to grant or refuse a request for approval in terms of subsection (1), the Prudential Authority must take into account all relevant considerations, including at least the following:

(a) Whether the acquisition or disposal will not prejudicially affect the matters referred to in subsection (2); and

(b) submissions made in relation to the application for approval, including any submissions made in response to a request for submissions referred to in subsection (3).

(5) An acquisition or disposal in contravention of subsection (1) is void.

CHAPTER 13

ADMINISTRATIVE PENALTIES

Administrative penalties

167. (1) The responsible authority for a financial sector law may, by order served on a person, impose on the person an appropriate administrative penalty, that must be paid to the financial sector regulator, if the person—

(a) has contravened a financial sector law; or

(b) has contravened an enforceable undertaking accepted by the responsible authority.

(2) In determining an appropriate administrative penalty for particular conduct—

(a) the matters that the responsible authority must have regard to include the following:

(i) The need to deter such conduct;

(ii) the degree to which the person has co-operated with a financial sector regulator in relation to the contravention; and

(iii) any submissions by, or on behalf of, the person that is relevant to the matter, including mitigating factors referred to in those submissions; and

(b) without limiting paragraph (a), the matters that the responsible authority may have regard to include the following:

(i) The nature, duration, seriousness and extent of the contravention;

(ii) any loss or damage suffered by any person as a result of the conduct;

(iii) the extent of any financial or commercial benefit to the person, or a juristic person related to the person, arising from the conduct;

(iv) whether the person has previously contravened a financial sector law;

(v) the effect of the conduct on the financial system and financial stability;

(vi) the effect of the proposed penalty on financial stability;

(vii) the extent to which the conduct was deliberate or reckless.

(3) An administrative penalty may include an amount to reimburse the responsible authority for reasonable costs incurred by the responsible authority in connection with the contravention.

(4) The responsible authority may not impose an administrative penalty on a person if a prosecution of the person for an offence arising out of the same set of facts has been commenced.

(5) An administrative penalty order is not a previous conviction as contemplated in Chapter 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(6) The responsible authority that makes an administrative penalty order must publish the order.
(ii) laletsa setlamo se se okameng go dira ditlhagiso ka ga morero, le go neelana ka nako e e lekaneng ya go dira jalo.

(4) Mo go swetseng ka go letla kgotsa kgotsa go se letle kopo ya thebolo go ya ka karolotlaletse (1). Bothati jwa Tilhokomelo bo tshwanetse go ela tlhoko ditshhekatsheko tsothle, go akaretsa bonnye tse di latelang:
   (a) Gore a phitlhelelo kgotsa phimolo e ka se ame ka kgobelelo merero e e kailweng mo karolotlaletsetsong (2); le
   (b) ditlhagiso tse di dirilweng mabapi le kopo ya thebolo, go akaretsa le ditlhagiso dingwe le dingwe tse di dirilweng ka tsibogelo ka kopo ya ditlhagiso e e kailweng mo karolotlaletsetsong (3).

(5) Phitlhelelo kgotsa phimolo e e tlolang karolotlaletse (1) ga e na ditlamorago ts'a semolao.

KGAOLO 13

DIKOTLHAO TSA TSAMAISO

Dikotlhao ts'a tsamaiso

167. (1) Bothati jo bo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka, ka taelo e e neetsweng motho, diragatsa mo mothong kotlhao ya tsamaiso e e maleba, eo e tshwanetseng go duela go molao di lephata la ditšhelete mo pakeng e e tsepamisiweng mo taelong, fa motho—
   (a) a tlotse molao wa lephata la ditšhelete; kgotsa
   (b) a tlotse tumalano e e gatelelwang e e amogetsweng kgotsa mo karolotlaletse (2); le

(2) Mo go tlhomamiseng kotlhao e e maleba ya tsamaiso ya boitshwaro jo bo rileng—
   (a) merero e bothati jo bo rwalang maikarabelo bo tshwanetseng go e e tloko e e akaretsa tse di latelang:
      (i) Tlhokgeo ya ga thibela boitshwaro joo;
      (ii) ka moo motho a dirisangem mmogo le molao di lephata la ditšhelete ka gona mabapi le tlolo; le
      (iii) ditlhagiso dingwe le dingwe ka, kgotsa mo boemong jwa, motho yo o maleba go morero, go akaretsa le mabaka a phokotso a a kailweng mo ditlhagisong tseo; le
   (b) ntle le go lekanetsa temana (a), merero e bothati jo bo rwalang maikarabelo bo tshwanetseng go e e tloko e e akaretsa tse di latelang:
      (i) Tlhago, nako, bomasisi le bogolo jwa tlolo;
      (ii) tatlhegelo kgotsa tshenyegelo ngwe le ngwe e e motho mongwe le mongwe a a itemogetseng kgotsa tshibela ya boitshwaro;
      (iii) bogolo jwa kunomolemo ya ditšhelete kgotsa kgwebo mo mothong, kgotsa setheo se se amanang le motho, go tswa mo boitshwaring;
      (iv) ka gongwe motho o kile a tlola molao wa lephata la ditšhelete mo malobeng;
      (v) ditlamorago ts'a boitshwaro mo thulaganyong ya ditšhelete le tlhomamong ya ditšhelete;
      (vi) ditlamorago ts'a kotlhao e e thabisengmo thulaganyong ya ditšhelete;
      (vii) bogolo boitshwaro bo neng bo le jwa ka bomo kgotsa jwa botlhswa.

(3) Taelo ya kotlhao ya tsamaiso e e akaretsa taelo ya ga busetsa bothati jo bo rwalang maikarabelo madi a ditshenyegelo tse di utlwagang tse di bonweng le botho di lephata la ditšhelete.

(4) Bothati jo bo rwalang maikarabelo bo ka se dueise motho kotlhao ya tsamaiso fa katholo ya motho mabapi le molato o o tswang mo seteng e e tshwanang ya dintlha e setse e simolotswe.

(5) Taelo ya kotlhao ya tsamaiso ga se ponomolato ya pele jaka go kailw mo Kgaoango 27 ya Criminal Procedure Act, 1977 (Molao 51 wa 1977).

(6) Bothati jo bo rwalang maikarabelo jo bo dirang taelo ya kotlhao ya tsamaiso bo tshwanetse go phasalatsa taelo.
Payment

168. An amount payable in terms of an administrative penalty order is due and payable as set out in Regulations made for this Chapter.

Interest

169. Interest, at the rate prescribed for the time being in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), is payable in respect of the unpaid portion of the amount payable as an administrative penalty until it is fully paid.

Enforcement

170. (1) The responsible authority that makes an administrative penalty order may file with the registrar of a competent court a certified copy of the order if—

(a) the amount payable in terms of the order has not been paid as required by the order; and

(b) either—

(i) no application for reconsideration of the order in terms of a financial sector law, or for judicial review in terms of the Promotion of Administrative Justice Act of the Tribunal’s decision, has been lodged by the end of the period for making such applications; or

(ii) if such an application has been made, proceedings on the application have been finally disposed of.

(2) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

Application of amounts paid as administrative penalties

171. All amounts recovered by a responsible authority as administrative penalties must be applied—

(a) first, to reimburse the responsible authority for its costs and expenses reasonably and properly incurred in connection with the relevant contravention, making the order and enforcing it; and

(b) then, the balance after applying the amount in accordance with paragraph (a) must be paid into the National Revenue Fund.

Administrative penalty taken into account in sentencing

172. When determining the sentence to impose on a person convicted of an offence in terms of a financial sector law, a court must take into account any administrative penalty order made in respect of the same set of facts.

Remission of administrative penalties

173. The responsible authority that imposed an administrative penalty on a person may, on application by the person, by order, remit all or some of the administrative penalty, and all or some of the interest payable in terms of section 169.

Prohibition of indemnity for administrative penalties

174. (1) Except in circumstances prescribed by a joint standard, a person may not undertake to indemnify or compensate another person, directly or indirectly, wholly or partly, in respect of a payment made or liability incurred by the other person in connection with an administrative penalty order imposed on the other person.

(2) An undertaking in terms of subsection (1) is void.
**Tuelo**

168. Madi a a duelwang go ya ka taelo ya kotlhao ya tsamaiso a a tshwanetseng go duelwa le go duediswa jaaka go tlhalositswe mo Melawaneng e e diretsweng Kgaolo eno.

**Morokotso**

169. Morokotso, ka kelo e e neetsweng nakwana go ya ka *Prescribed Rate of Interest Act*, 1975 (Molao 55 wa 1975), o duelwa mabapi le karolo e e sa duelwang ya tshotlha e e duelwang jaaka kotlhao ya tsamaiso go fitlhela o duetswe ka botlalo.

**Kgatelelo**

170. (1) Bothi jo bo rwalang maikarabelo jo bo dirang taelo ya kotlhao ya tsamaiso bo ka faela kgiatan e e kanetsweng ya taelo le mokwadisi wa kgotlatshhekelo e e nang le bokgongi fa—
   (a) madi a a duediswang go ya ka taelo a sa duelwa jaaka go tlhokega go ya ka taelo; le
   (b) gongwe—
      (i) go se kopo ya tshekatsheko morago mabapi le molao wa lephata la ditšhelete kgatlhanong le go dirwa ga taelo e e dirilweng ka nako ya bokhutlo jwa paka ya go dira dikopo tseo; kgotsa
      (ii) fa kopo eo e dirilwe, tshekatsheko morago e fedisitswe kwa bofelong.
   (2) Taelo, fa e faelwa, e na le ditalamorago tsa kathlole ya selegae, e bile e ka gatelelwa jaaka e kete go nei lwe semolao kwa kgotlatshhekelong eo.

**Tiriso ya madi a a duetsweng jaaka dikotlhao tsa tsamaiso**

171. Madi otlhe a a bonweng ke bothi jo bo rwalang maikarabelo jaaka dikotlhao tsa tsamaiso a tshwanetseng go diriswa—
   (a) pele, go busetsa bothi jo bo rwalang maikarabelo madi a jona a dituelo le ditshenyegelo tseo bo di iponetseng ka mabaka le tshiamo mo go bo tshiamo tsei tlole e e maleba, go dira taelo le go e gatelela; le
   (b) mme morago, tshalelo nngwe le nngwe morago ga tiriso ya madi go tsa maelana le temana (a) e tshwanetseng go duelwa mo Letloleng la Lotseno la Bosetshaba.

**Kotlhao ya tsamaiso e e tserweng mo katholong**

172. Fa go tlhomamiswa kathlole e e ka newang motho yo o bonweng molato go ya ka molao wa lephata la ditšhelete, kgotlatshhekelo e tshwanetseng go ela tlhoko taelo ya kotlhao mngwe le mngwe ya tsamaiso e e dirilweng mabapi le sete e e tshwanang ya dintla.

**Tebalelo melato ya dikotlhao tsa tsamaiso**

173. Bothi jo bo rwalang maikarabelo jo bo duedisang motho kotlhao ya tsamaiso bo ka, mo kopong ka motho, ka taelo, phimola dikotlhao tsothle kgotsa dingwe tsa dikotlhao tsa tsamaiso, le morokotso otlhe kgotsa mngwe ya morokotso o o duelwang go ya ka karolo 169.

**Thibelo ya polokego mabapi dikotlhao tsa tsamaiso**

174. (1) Ntlele mo mabakeng a a neetsweng ke maemo a a kopantsweng, motho o ka se dumalane go se tsebye maikarabelo kgotsa go duelwa motho yo mongwe, ka tlhalalalo kgotsa e seng ka tlhalalalo, ka botlalo kgotsa e seng ka botlalo, mabapi le taelo e e dirilweng kgotsa molato o o iponetsweng ke motho yo mongwe mabapi le taelo ya kotlhao ya tsamaiso e e pateleditsweng motho yo mongwe.
   (2) Tumaletso go ya ka karolotlaleleletso (1) ga e na ditalamorago dip.
Ombud Council

175. (1) The Ombud Council is hereby established.
(2) The Ombud Council is a juristic person.
(3) The Ombud Council is a national public entity for the purposes of the Public Finance Management Act, and notwithstanding section 49(2) of the Public Finance Management Act, the Chairperson of the Ombud Council is the accounting authority of the Ombud Council for the purposes of that Act.

Objective

176. The objective of the Ombud Council is to assist in ensuring that financial customers have access to, and are able to use, affordable, effective, independent and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products, financial services, and services provided by market infrastructures.

Functions of Ombud Council

177. (1) In order to achieve its objective, the Ombud Council must—
(a) recognise, in accordance with this Chapter, industry ombud schemes;
(b) promote co-operation between, and co-ordination of, the activities of ombuds;
(c) strive to protect the independence and impartiality of ombuds;
(d) promote public awareness of ombuds and ombud schemes and the services they provide;
(e) take steps to facilitate access by financial customers to appropriate ombuds;
(f) publicise ombud schemes, including publicising the kinds of complaints that different ombud schemes deal with;
(g) resolve, in accordance with this Act, overlaps of the jurisdictional coverage of different ombud schemes;
(h) monitor the performance of ombud schemes, including the extent to which they comply with the requirements of this Chapter and specific financial sector laws; and
(i) support financial inclusion.
(2) The Ombud Council must also perform any other function conferred on it in terms of any other provision of this Act or other applicable legislation.
(3) The Ombud Council may do anything else reasonably necessary to achieve its objective.
(4) The Ombud Council must perform its functions without fear, favour or prejudice.

Overall governance objective

178. The Ombud Council must—
(a) manage its affairs in an efficient and effective way; and
(b) establish and implement appropriate and effective governance systems and processes.

Board of Ombud Council

179. (1) A Board for the Ombud Council is hereby established.
(2) The Board consists of—
(a) the Chief Ombud;
KGAOLO 14

OMBUDS

Karolo 1

Khansele ya Ombud

175. (1) Khansele ya Ombud e a tlhongwa.
(2) Khansele ya Ombud ke sethoo se se mo molaong.
(3) Khansele ya Ombud ke sethoo sa setšhaba sa bosetšhaha mabapi le maitlhomo a Public Finance Management Act le, go sa nyatswe karolo 49(2) ya Public Finance Management Act, Modulasetlilo wa Khansele ya Ombud ke molaodi yo o rwalang maikarabelo wa Khansele ya Ombud mabapi le maitlhomo a Molao ono.

Maithlomo

176. Maikaelelo a Khansele ya Ombud ke go thusa mo go netefatseng gore badirisi ba ditšhelete ba kgona go fitlhelela, le go kgona go dirisa, dikgato tse dingwe tsa tharabololo ya dithulano tse di tuelo tlase, nonofileng, ikemetseng le lolameng mo dingongorengong tse di ka ga ditheo tsa ditšhelete mabapi le dikuno tsa ditšhelete, ditirelo tsa ditšhelete, le ditirelo tse di tlamelwang ke dithulaganyetso tsa popego ya mmaraka.

Ditiro tsa Khansele ya Ombud

177. (1) Gore e fitlhelele maikaelelo a yona, Khansele ya Ombud e tshwanetse go—
   (a) amogela, go tsamaisana le Karolo eno, dikema tsa ombud tsa bodirelo;
   (b) tsweletsa pele tirisanommogo magareng, le thulaganyo ya ditiro tsa ombuds;
   (c) leka go sireletsa go ikemela le go sa tseyeng letlhakore ga ombuds;
   (d) tsweletsa pele temosyo sa setšhaba ka ga ombuds le dikema tsa ombud le ditirelo tse ba di tlamelang;
   (e) tsaya dikgato go nolofatsa phitlhelelo ya barekedi ditšhelete go ombuds tse di maleba;
   (f) itsise setšhaba ka ga sekema sa ombud, go akaretsa go bega ka mefuta ya dingongorego tse diombud tse di farloganeng di samaganeng le tsomang;
   (g) rarabolola, go tsamaelane la Molao ono, ditšelepane tsa phitlhelelo ya lefelotaolo la dikema tse di farloganeng tsa ombud;
   (h) tlhomela tiro ya dikema tsa ombud, go akaretsa le bogolo jo di ikamanyang le dithokgogo tsa Kgaolo eno ka jona le melao e e tsepameng ya lephata la ditšhelete; le
   (i) tsweletsa pele tsenyeletso ya ditšhelete.
(2) Khansele ya Ombud e tshwanetse go di tira tse di tlaletšane tšheng tšheng tlaletšane, go fitlhelelo ya yona le maleba go tlhelele tšheng tlaletšane, go fitlhelelo ya yona le maleba.
(3) Khansele ya Ombud e tshwanetse go di tira tse di tlaletšane tšheng tšheng tlaletšane, go fitlhelelo ya yona le maleba go tlhelele tšheng tlaletšane, go fitlhelelo ya yona le maleba.

Maithlomo ka kakaretso puso

178. Khansele ya Ombud e tshwanetse go—
   (a) laola merero ya yona ka bogkoni le; le
   (b) tlhoma le go diragatsa ditsamaiso tsa puso le dikgato tse di maleba e bile di na le bogkoni.

Boto ya Khansele ya Ombud

179. (1) Boto ya Khansele ya Ombud e a tlhongwa.
(2) Boto e bopilwe ka—
   (a) Ombud yo Mogolo;
(b) the Commissioner; and
(c) at least four, but not more than six, other members.

(3) The Commissioner does not have a vote on a question being considered by the Board.

Appointment of Board members

180. (1) The members of the Board are appointed by the Minister.
(2) (a) The Minister must appoint a member as Chairperson and another member as Deputy Chairperson.
(b) The Commissioner and the Chief Ombud may not be appointed as Chairperson or Deputy Chairperson.
(3) The Deputy Chairperson acts as Chairperson when the Chairperson is absent from office or is otherwise unable to perform his or her functions.
(4) A person may not be appointed to, or hold office as, a member of the Board if the person is—
   (a) an ombud;
   (b) a member of the governing body or staff of an ombud scheme;
   (c) a member of the staff of the Ombud Council;
   (d) a disqualified person;
   (e) not ordinarily resident in the Republic; or
   (f) engaged in—
      (i) the business of a financial institution; or
      (ii) the provision of financial products or financial services to financial customers.

Terms of office of Board members

181. (1) A person appointed as a member of the Board—
   (a) holds office for a term of no longer than five years, as the Minister may determine;
   (b) is, at the expiry of that term of office, eligible for re-appointment for one further term; and
   (c) must vacate office before the expiry of a term of office if that person—
      (i) resigns by giving at least three months written notice to the Minister, or a shorter period that the Minister may accept; or
      (ii) is removed from office.
(2) The Minister must, at least three months before the end of a person’s first term of office, inform the person whether or not the Minister intends to re-appoint the person as a member of the Board.

Service conditions of Board members

182. A member of the Board holds office on the terms and conditions, including terms and conditions relating to remuneration, that are determined by the Minister.

Removal of Board members

183. (1) The Minister must, subject to due process, remove a member of the Board from office if the member becomes a disqualified person.
(2) The Minister may remove a member of the Board from office if an independent inquiry established by the Minister has found that the member—
   (a) is unable to perform the duties of office for health or other reasons;
   (b) has failed in a material way to discharge any of the responsibilities of office; or
   (c) has acted in a way that is inconsistent with continuing to hold the office.
(3) Without limiting subsection (2)(b), a member of the Board must be taken to have failed in a material way to discharge the responsibilities of office if he or she is absent from two consecutive meetings of the Board without the leave of the Board.
Molao wa Taolo ya Lephata la Ditsheletse, 2017

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(b) Kho miš enara; le
(c) bonnye maloko a mangwe a le mane, mme e seng go feta thataro.
(3) Kho miš enara ga a na boutu mo potsong e e sekasekwang ke Boto.

Go thapiwa ga maloko a Boto

180. (1) Maloko a Boto a athapiwa ke Tona.
(2) (a) Tona o tshwanetse go thapa leloko jaaka Modulasetilo le leloko le lengwe jaaka Motlatsamodulasetilo.
(b) Kho miš enara le Ombud yo Mogolo baka se thapiwe jaaka Modulasetilo kgotsa Motlatsamodulasetilo.
(3) Motlatsamodulasetilo o tshwara marapo jaaka Modulasetilo fa Modulasetilo a seyo kwa tirong kgotsa ka gongwe a sa kgone go dira tiro ya gagwe.
(4) Motho o ka se thapiwe go nna, kgotsa go tshwara maemo a, Modulasetilo, Motlatsamodulasetilo kgotsa leloko la Boto fa motho yoo—
   (a) e le ombud;
   (b) e le leloko la mokgatlho o o busang kgotsa badirimmogo mo sekemeng sa ombud;
   (c) e le leloko la badirimmogo ba Khansele ya Ombud;
   (d) a ileditswe;
   (e) e se ka tlwaelo moagi mo Rephaboliking; kgotsa
   (f) a samagane le—
      (i) kgwebo ya setheo sa ditšheletse; kgotsa
      (ii) kabelo ya dikuno tsitšheletse kgotsa ditirelo tsa ditšheletse go barekedi ba ditšheletse.

Para ya ofisi ya maloko a Boto

181. (1) Motho yo o thapilweng jaaka leloko la Boto—
   (a) o nna mo tirong sebaka sa paka e sa feteng dingwaga tse tlhano, jaaka Tona a ka thomamisa;
   (b) o, ka go fihla bokhutlong ga paka ya tiro, na le tshwanelo ya go ka thapiwa gape sebaka sa paka e le ngwe; le
   (c) o tshwanetse go tswa mo ofising pele ga paka ya tiro e ya bokhutlong fa motho yoo—
      (i) a rola tiro ka go naya Tona kitsiso e e kwetsweng ya bonnye dikgweddi tse tharo, kgotsa nako e khotshwane e Tona a ka e amogelang; kgotsa
      (ii) a ntshitswe mo ofising.
(2) Tona o tshwanetse, bonnye dikgweddi di le tharo pele ga bokhutlo jwa paka ya motho ya ntlha ya ofisi, go itise motho fa e le gore Tona o ikaelela go thapa motho yoo gape jaaka leloko la Boto.

Mabaka a tirelo ya maloko a Boto

182. Leleko la Boto le thapiwa ka dipeelo le mabaka, go akaretse le dipeelo le mabaka tse di amanang le mogolo, tse di thomamisitsweng ke Tona.

Go tloswa ga maloko a Boto

183. (1) Tona o tshwanetse, go ya ka dikgato tse di maleba, go tlosa leloko la Boto mo ofising fa leloko le nna motho yo o ileditsweng.
(2) Tona o ka tlosa leloko la Boto mo ofising fa patlisiso e e ikemetseng e e thomamisitsweng ke Tona e fihleletse gore leloko—
   (a) ga le kgone go dira ditiro tsa ofisi ka ntlha ya mabaka a boitekanelo kgotsa a mangwe;
   (b) le paletswe ka gotlhe go diragatsa epe ya maikarabelo a ofisi; kgotsa
   (c) le dirile ka mokgwa o o sa tsamaelaneng le dithloheko tsa go tswelela go nna mo tirong.
(3) Ntle le go lekanyetsa karolotlaleletso (2)(b), leloko la Boto le tshwanetse go tseelwa gore le paletswe ka mokgwa o o bonagalong go diragatsa maikarabelo a ofisi fa a sa nne teng mo dikopanong tse pedi tse di lateranang tsa Boto ntle le khunologo ya Boto.
(4) If an independent inquiry has been established in terms of subsection (2), the Minister may suspend the member of the Board from office pending a decision on that person’s removal from office.

(5) If a member of the Board is removed from office in terms of subsection (2), the Minister must submit the report and findings of the independent inquiry to the National Assembly.

Role of Board

184. The Board must—

(a) generally oversee the management and administration of the Ombud Council in order to ensure that it is efficient and effective;

(b) appoint members of committees of the Ombud Council required or permitted by a law, and give directions regarding the conduct of the work of any committee;

(c) make determinations of fees in terms of a financial sector law;

(d) keep the Minister informed of—

(i) compliance by ombud schemes with the financial sector laws in so far as they relate to ombud schemes;

(ii) trends in the nature of complaints and issues raised in complaints that ombud schemes are dealing with, and how those types of issues and complaints are being dealt with; and

(iii) the conduct of financial institutions that is giving rise to complaints to ombud schemes;

(e) keep the financial sector regulators informed of the conduct of financial institutions that is giving rise to complaints to ombud schemes; and

(f) address any other matter assigned in terms of a financial sector law to the Board.

Meetings of Board

185. (1) (a) The Board must meet on a quarterly basis or as often as necessary for the performance of its functions.

(b) An audio or audio-visual conference among a majority of the members of the Board, which enables each participating member to hear and be heard by each of the other participating members, must be regarded to be a meeting of the Board, and each participating member must be regarded as being present at such a meeting.

(2) Meetings of the Board are to be at times and, except where subsection (1) applies, at places determined by the Chairperson.

(3) A quorum for a meeting of the Board is a majority of its members.

(4) (a) The Chairperson chairs the meetings of the Board at which the Chairperson is present.

(b) If the Chairperson is not present at a meeting, the Deputy Chairperson chairs the meeting.

(5) The person chairing a meeting of the Board may invite or allow any other person to attend a meeting of the Board, but a person who is invited has no right to vote at the meeting.

(6) The members may regulate proceedings at Board meetings as they consider appropriate.

(7) The Chairperson must ensure that minutes of each meeting of the Board are kept in a manner determined by the Chairperson.

Decisions of Board

186. (1) (a) A proposal before a meeting of the Board becomes a decision of the Board if a majority of the members who are present or regarded as being present, and who may vote, vote for the proposal.

(b) In the event of an equality of votes on a proposal, the person chairing the meeting has a casting vote in addition to a deliberative vote.

(2) The Board may, in accordance with procedures determined by the Board, make a decision on a proposal outside a meeting of the Board.
(4) Fa patlisiso e e ikemetseng e tlhomilwe go ya ka karolotlaleletso (2), Tona o ka emisa leloko la Boto go tla tirong go sa letliliwe tshweto ka go tloswa ga motho yoo mo ofising.
(5) Fa leloko la Boto le tlositswe mo tirong go ya ka karolotlaleletso (2), Tona o tshwanetse go romela pegelo le diphitlhelelelo tsa patlisiso e e ikemetseng go Kokano Bosetšhaba.

Botsayakarolo jwa Boto

184. Boto e tshwanetse—
   (a) ka kakaretso, go tlhokomela taolo le tsamaiso ya Khansele ya Bolaodi ya Ombud go netefatsa gore e na le bokgoni e bile e nonofile; 10
   (b) gothapa maloko a komiti ya Khansele ya Bolaodi ya Ombud a a tlhokegang kgotsa letleletseng ke molao, le go naya dikaelo mabapi le boitshwaro jwa tiro ya komiti e ngwe le e ngwe;
   (c) go dira dithlomamisio tsa dituelo go ya ka molao wa lepha la ditšhelete;
   (d) go bayá Tona mo leseding ka ga—
      (i) ikamanyo ya dikema tsa ombud le melao ya lepha la ditšhelete go ya ka moo di amanang le dikema tsa ombud;
      (ii) dingongorego tse dikema tsa ombud di samaganeng le tsonga, le ka moo di sekasekwang ka teng; le
      (iii) boitshwaro jwa ditheo tsa ditšhelete tse di dirang gore go nne le dingongorego tse dintsi tsa dikema ts'a ditšhelete;
   (e) go bayá balaodi ba lephata la ditšhelete mo leseding ka ga boitshwaro jwa ditheo tsa ditšhelete tse di dirang gore go nne le dingongorego tse dintsi tsa dikema ts’a ditšhelete; le
   (f) go sekaseka morero mongwe le mongwe o o neilweng Boto go ya ka molao wa lepha la ditšhelete.

Dikopano ts'a Boto

185. (1) (a) Boto e tshwanetse go kopana kotare ngwe le ngwe kgotsa kgapetsakgapetsa jaaka go tlhokega go dira ditiro tsa yona. 30
   (b) Khonferense ya kuto kgotsa kulopo magareng ga bontsi jwa maloko a Boto, e e kgontshang leloko lengwe le lengwe le le tsayang karolo go uitwa le go uitwiwa ke leloko lengwe le lengwe la maloko a mangwe a a tsayang karolo, e tshwanetse go tsweja jaaka kopano ya Boto, e bile leloko lengwe le lengwe le le tsayang karolo le tshwanetse go tseelwa gore le teng kwa kopanong eo.
   (2) Dikopano ts'a Boto di tshwanetse go tshwarwa ka nako le, ntle le moo karolotlaleletso (1) b) e diriswang, kwa mafelo a a tlhonomamisitsweng ke Modulasetilo.
   (3) Khoramo ya kopano ya Boto ke bontsi jwa maloko a yona.
   (4) (a) Modulasetilo o okamelgo dikopano ts'a Boto tse Modulasetilo a leng teng mo go tsona.
   (b) Fa Modulasetilo a se teng kwa kopanong, Motsatsamodulasetilo o okamela kopano.
   (5) Motho yo o okametseng kopano ya Boto o ka laletsa kgotsa letla motho mongwe le mongwe go tla kopanong ya Boto, fela motho yo o laleditsweng ga a na tsayangela ya go buta kwa kopanong. 45
   (6) Maloko a ka laola ditsamaiso kwa kopanong ya Boto jaaka ba bona go tshwanetse.
   (7) Modulasetilo o tshwanetse go netefatsa gore metsutsa ya kopano ngwe le ngwe e tshlwá ka mokgwa o o tlhonomamisitsweng ke Modulasetilo.

Ditshwetso tsa Boto

186. (1) (a) Tsitsinyo e e fa pele ga kopano ya Boto e nna tshwetso ya Boto fa bontsi jwa maloko a a leng teng kgotsa a a tsewang gore a teng, le ba ba ka boutang, ba boutela tsitsinyo.
   (b) Mo lebukeng la tekatekano ya diboutu mo tsitsinyong, motho yo o okameng kopano o ka dira boutu ya makgaolakgang mo godimo ga boutu ya tiwaelo. 50
   (2) Boto e ka, go tsamaelana le ditsamaiso tse di tlhonomamisitsweng ke Boto, tsaya tshwetso mo tsitsinyong kwa ntle ga kopano ya Boto.
(3) A decision of the Board is not invalid merely because—
(a) there was a vacancy in the office of a member when the decision was taken; or
(b) a person who was not a member participated in the decision, but did not vote.

Governance and other committees of Ombud Council

187. (1) The Board must establish—
(a) a committee to review, monitor and advise the Board on the remuneration policy of the Ombud Council; and
(b) a committee to review, monitor and advise the Board on the risks faced by the Ombud Council and plans for managing those risks.

(2) (a) The Board may establish one or more other committees for the Ombud Council, with membership and functions as determined by the Board.
(b) A committee may include persons who are not members of the Board.

(3) A disqualified person may not be, or remain, a member of a committee.

(4) A member of a committee holds office for the period, and on the terms and conditions, including, in the case of a person who is not in the service of an organ of state, terms regarding remuneration, determined by the Board.

(5) (a) A committee established in terms of subsection (1) or section 51(1)(a)(ii) of the Public Finance Management Act must be chaired by a person who is not the Chairperson, the Deputy Chairperson or a staff member of the Ombud Council.
(b) The majority of the members of that committee may not be staff members of the Ombud Council.

(6) A committee determines its procedure, subject to any directions that may be issued by the Board.
(7) The Chief Ombud must ensure that minutes of each meeting of a committee are kept in a manner determined by the Board.

Chief Ombud

188. (1) The Minister must appoint a Chief Ombud, and the person appointed as such must agree with the Minister, in writing, on—
(a) the performance measures that must be used to assess the person’s performance; and
(b) the level of performance to be achieved against those measures.

(2) Subject to this Act, the Chief Ombud holds office on the terms and conditions, including terms and conditions relating to remuneration, pension, leave and other benefits, that are determined by the Board and specified in an employment contract between the Chief Ombud and the Ombud Council.

(3) The Chief Ombud—
(a) is responsible for the day-to-day management and administration of the Ombud Council; and
(b) must perform the functions of the Ombud Council, except those mentioned in section 184(b) and (c), including exercising the powers and carrying out the duties associated with those functions.

(4) (a) The Chief Ombud must convene meetings of the ombuds on a regular basis, but at least four times a year, to discuss the effective operation of the ombuds system.
(b) The Chief Ombud, or, in the absence of the Chief Ombud, a person appointed by the Chief Ombud, chairs meetings of the ombuds;
(c) If three ombuds request the Chief Ombud in writing to convene a meeting of the Ombud Council, a meeting of the ombuds must be convened.

(5) When acting in terms of subsection (3), the Chief Ombud must implement the policies and strategies adopted by the Board.

Duties of Board members

189. (1) A member of the Board must—
(a) act honestly in all matters relating to the Ombud Council; and
(3) Tshwetso ya Boto ga e tlhoke go amogelesega fela ka ntlha ya gore—
   (a) go ne go na le phataliro kwa ofising ya leloko fa go ne go tsewa tshwetso; kgotsa
   (b) motho yo e neng e se leloko o tsere karolo mo tshwetsong.

Puso le dikomiti tse dingwe tsa le Khansele ya Ombud

187. (1) Boto e tshwanetse go tlhoma—
   (a) komiti go gakolola Boto ka pholisi ya mogolo ya Khansele ya Ombud; le
   (b) komiti se sekasaka, tlhokomela le go gakolola Boto ka ga dikotsi tse Khansele ya Ombud e lebaganeng le tsosa le maano a go laola dikotsi tseo.

(2) (a) Boto e ka tlhoma komiti kgotsa tse dingwe tse dintsi mabapi le Khansele ya Ombud, ka botokololo le ditiro jaaka di thhomasitswe ke Boto.
   (b) Komiti e ka akaretsa batho bao e seng maloko a Boto.

(3) Motho yo o leeditsweng o ka se nne, kgotsa o ka se tswelele go nna, leloko la komiti.

(4) Leloko le komiti le dira sebaka sa paka, le go ya ka dipeelo le mabaka, go akaretsa, mo lebakeng la motho yo o seng mo tirelong ya lekala la puso, dipeelo mabapi le mogolo, di thhomasitswe ke Boto.

(5) (a) Komiti e e thlomilweng go ya ka karolotlaleletso (1) kgotsa karolo 51(1)(a)(ii) ya Public Finance Management Act e tshwanetse go okamelwa ke motho yo e seng Modulasetilo kgotsa leloko la badirimmogo ya Khansele ya Ombud.
   (b) Bontsi jwa maloko a komiti eo bo ka se nne maloko a badirimmogo ba Khansele ya Ombud.

(6) Komiti e thhomasitsa tsamaiso ya yona, go ya ka dikaelo tse di ka rebolwang ke Boto.

(7) Ombud yo Mogolo o tshwanetse go netefatsa gore metsotso ya kopano nngwe le nngwe e tsholwa go ya ka mokgwao o o thhomasitsweng ke Boto.

Ombud yo mogolo

188. (1) Tona o tshwanetse go thapa Ombud yo Mogolo e bile motho yo o thapitlweng jalo o tshwanetse go dumela, ka go kwala, ka ga—
   (a) dithekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiro ya motho yo o umakilweng; le
   (b) boemojwa tiro jo bo tshwanetseng go fihlelelewka kgatlhanong le diketsekanyetso tseo.

(2) Go tsamaelana le Molao ono, Ombud yo Mogolo o dira go ya ka dipeelo le mabaka, go akaretsa le dipeelo le mabaka tse di amanang le mogolo, phesene, knholo le dikunomolemo tse dingwe, tse di thhomasitsweng ke Boto le go tsepamiswa mo konterakeng ya tiro magareng ga Ombud yo Mogolo le Khansele ya Ombud.

(3) Ombud yo Mogolo wa Khansele ya Ombud—
   (a) o rwa maikarabelo a boloedi le tsamaiso tsa letsatsi le letsatsi tsa Khansele ya Bolaodi ya Ombud; le
   (b) o tshwanetse go dira ditiro tsa Khansele ya Ombud, ntle le tse di kaiwilweng mo karolong 184(h) le (c), go akaretsa le go diragatsa dithata le go dira ditiro tse di amanang le ditiro tseo.

(4) (a) Ombud yo mogolo o tshwanetse go bitsa kopano le go okanela dikopano tsa ombuds kgapetsakagapetsa, mme fela bonnye makgetlo a le mane ka ngwaga, go sekaseka tsamaiso e e nonofileng ya dithulaganyo tsa ombuds.
   (b) Ombud yo Mogolo, kgotsa, fa Ombud yo Mogolo a se teng, motho yo o thapitlweng ke Ombud yo Mogolo, o okanela dikopano tsa ombuds.
   (c) Fa boombuds ba bararo ba kwalela Ombud yo Mogolo go mo kopa go bitsa kopano ya Khansele ya Ombud, kopano ya boombuds e tshwanetse go tshwarwa.

(5) Fa a dira go ya ka karolotlaleletso (3), Ombud yo Mogolo o tshwanetse go tseny a dipholisi le maano tse di amogelta weng ke Boto mo tirsong.

Ditiro tsa maloko a Boto

189. (1) Leloko la Boto le tshwanetse go—
   (a) dira ka boikanyego mo mererong yotlhe e e amanang le Khansele ya Ombud; le
(b) perform his or her functions as a member—
   (i) in good faith;
   (ii) for a proper purpose; and
   (iii) with the degree of care and diligence that a reasonable person in the
        member’s position would exercise.

(2) A person who is or was a member of the Board may not use that position, or any
information obtained as a member of the Board, to—
   (a) improperly benefit himself, herself or another person;
   (b) impede the Ombud Council’s ability to perform its functions; or
   (c) cause improper detriment to another person.

(3) For the purposes of this section, “benefit” and “detriment” are not limited to
financial benefit or detriment.

Delegations

190. (1) The Chief Ombud may, in writing—
   (a) delegate any of his or her powers or duties in terms of a financial sector law,
       except the power to delegate contained in this subsection, to a staff member
       of the Ombud Council; and
   (b) at any time, amend or revoke a delegation made in terms of paragraph (a),
       subject to any rights that may have accrued.

(2) A delegation in terms of subsection (1) may be to a specific person or to a person
holding a specific position.

(3) A delegation in terms this section—
   (a) is subject to the limitations and conditions specified in the delegation; and
   (b) does not divest the Chief Ombud of responsibility in respect of the delegated
       power or duty.

(4) Anything done by a delegate in terms of the delegation must be regarded as having
been done by the Ombud Council.

Staff and resources

191. (1) The Ombud Council may, in accordance with applicable law—
   (a) engage persons as employees;
   (b) enter into secondment arrangements;
   (c) engage persons on contract otherwise than as employees;
   (d) enter into contracts;
   (e) acquire and dispose of property;
   (f) insure itself against any loss, damage, risk or liability that it may suffer or
       incur; and
   (g) do anything else necessary for the performance of its functions.

(2) The Ombud Council may not enter into a secondment arrangement in respect of a
person, or engage persons as employees or on contract, unless the person and the Ombud
Council have agreed in writing, on—
   (a) the performance measures that must be used to assess that person’s
       performance; and
   (b) the level of performance to be achieved against those measures.

Duties of staff members

192. (1) A person who is or was a staff member of the Ombud Council may not use
that position or any information obtained as a staff member to—
   (a) improperly benefit himself, herself or another person;
   (b) impede the Ombud Council’s ability to perform its functions; or
   (c) cause improper detriment to another person.

(2) For the purposes of this section, “benefit” and “detriment” are not limited to
financial benefit or detriment.
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(b) dira ditiro tsa gagwe jaaka leloko—
 (i) ka maikaelelo a a nepagetseng;
 (ii) ka maithlomo a nnete; le
 (iii) ka maemo a thokomelo le kehotlhoko ao motho yo o siameng yo o mo
 maemong a leloko a ka a dirgatsang.

(2) Motho yo e leng kgotsa yo e neng e le leloko la Boto o ka se dirise maemo ao,
kgotsa tshedimosetso ngwe le ngwe e e fitlheletseng jaaka leloko la Boto, go—
 (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka
tsla e e sa siamang;
 (b) kgoreletsa Khansele ya Ombud go dira tiro ya yona; kgotsa
t (c) thatafaletsa motho yo mongwe.

(3) Mabapi le maithlomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a
lekanyetswa go kunomolemo ya dithshelete kgotsa thatafaletso ya dithshelete.

Ditholelo

190. (1) Ombud yo Mogolo o ka, ka go kwala—
 (a) rolela ngwe le ngwe ya dithata kgotsa ditiro go ya ka molao wa lephata la
dithshelete, ntle le thata ya go rolela e e fithelweng mo karolotlaleletsong eno,
go leloko la badirimomogo la Khansele ya Ombud; le
 (b) ka nako ngwe le ngwe, tlhabolola kgotsa phimola holelo e e dirilweng go
 ya ka temana (a), go tsamaelana le ditshwanelo tse di fitlheletseng.

(2) Tholelo go ya ka karolotlaleletso (1) e ka direlwa motho yo o rileng kgotsa motho
yo o tswereng maemo a a rileng.

(3) Tholelo go ya ka kgaolo eno—
 (a) e go ya diketekeletseng le mabaka tse di tsepamisitsweng mo tholelong; le
 (b) ga e amoge Ombud yo Mogolo maikarabelo mabapi le thata kgotsa tiro e e
roleisweng.

(4) Sengwe le sengwe se se dirilweng ke boemedi mabapi le tholelo se tshwanetse go
tsewa jaaka se dirilwe ke Khansele ya Ombud.

Badiri le ditlamelwana

191. (1) Khansele ya Ombud e ka, go tsamaelana le molao o o diriswang—
 (a) dirisana le batho jaaka badiri; kgotsa
 (b) dira thulaganyo ya tsutisho ya nakwana ya modiri;
 (c) buisana le batho ka ga konteraka go na le jaaka e le badiri;
 (d) dira dikonteraka;
 (e) phitlhelelo le phetiso ya thoto;
 (f) m’sora kgatlhanong le tatlhegelo, tshenyegelo, kotsi kgotsa molato tse e ka di
temogelang kgotsa ya nna ka fa tlase ga tsona; le
 (g) dira sengwe le sengwe se se tshoegang gore e kgone go dira tiro ya yona.

(2) Khansele ya Ombud e ka e se dire thulaganyo ya tsutisho ya nakwana ya modiri
mabapi le motho, kgotsa ya dirisana le batho jaaka badiri kgotsa mo konterakeng, ntle
le fa motho le Bothati jwa Boithshwaro jwa Lephata la Ditshelete ba dumalane ka go
kwalá mabapi le—
 (a) ditekanyetsotiro tse di tshwanetseng go diriswa go lekanyetsa tiro ya motho; le
 (b) boemo jwa tiro jo bo tshwanetseng go tatlhelelwang kgatlhanong le ditekanyetso
tseo.

Ditiro tsa maloko a badiri

192. (1) Motho yo e leng kgotsa yo e neng e le leloko la bagdirimomogo ba Khansele ya
Ombud o ka se dirise maemo ao kgotsa tshedimosetso ngwe le ngwe e a e boneng
jaaka leloko la badirimomogo go—
 (a) una molemo ka boena kgotsa go dira motho yo mongwe a une molemo ka
tsla e e sa siamang;
 (b) kgoreletsa Khansele ya Ombud go dira ditiro tsa yona; kgotsa
t (c) thatafaletsa motho yo mongwe.

(2) Mabapi le maithlomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a
lekanyetswa go kunomolemo ya dithshelete kgotsa thatafaletso ya dithshelete.
Disclosure of interests

193. (1) A member of the Board must disclose, at a meeting of the Board, or in writing to each of the other members, any interest in a matter that is being or will be considered by him or her, whether or not at a meeting of the Board, being an interest that—
   (a) the member has; or
   (b) a person who is a related party to the member has.

(2) A disclosure in terms of subsection (1) must be given as soon as practicable after the member concerned becomes aware of the interest.

(3) A member referred to in subsection (1) may not perform a function in relation to the matter concerned unless—
   (a) the member has disclosed the interest in accordance with subsection (1); and
   (b) the other members of the Board have decided that the interest cannot be seen as affecting the member’s proper execution of his or her functions in relation to the matter.

(4) A member of a committee of the Ombud Council established in terms of section 51(1)(a)(ii) of the Public Finance Management Act or section 187(1) of this Act must disclose, at a meeting of the committee, or in writing to each of the other members of that committee, any interest in a matter that is being or is intended to be considered by that committee, being an interest that—
   (a) the member has; or
   (b) a person who is a related party to the member has.

(5) A disclosure in terms of subsection (4) must be given as soon as practicable after the member concerned becomes aware of the interest.

(6) A person referred to in subsection (1) or (4) may not participate in the consideration of, or decision on, that matter by the Board or the committee, as the case may be, unless—
   (a) the person has disclosed the interest in accordance with subsection (1) or (4); and
   (b) the other members of the Board or that committee have decided that the interest cannot be seen as affecting the member’s proper execution of his or her functions in relation to the matter.

(7) (a) Each member of the Ombud Council’s staff and each other person involved in the performance of the functions or the exercise of the powers of the Ombud Council must make timely, proper and adequate disclosure of their interests, including the interests of a related party, that could reasonably be seen as interests that may affect the proper execution of their functions of office or a delegated power.

(b) The Chief Ombud must ensure that paragraph (a) is complied with.

(8) For the purposes of this section, it does not matter—
   (a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or
   (b) when the interest was acquired.

(9) For the purposes of this section, a person does not have to disclose—
   (a) the fact that that person, or a person who is a related party to that person, is—
       (i) an official or employee of the Ombud Council; or
       (ii) a financial customer of a financial institution; or
   (b) an interest that is not material.

(10) The Chief Ombud must maintain a register of all disclosures made in terms of this section and of all decisions made in terms of this section.

Part 2

Recognition of industry ombud schemes

Recognition of industry ombud schemes

194. (1) The Ombud Council may, on application by an industry ombud scheme, recognise the industry ombud scheme for the purposes of this Act.

(2) An application in terms of subsection (1) must—
   (a) be in writing, in a form approved or accepted by the Ombud Council; and
   (b) include or be accompanied by—
       (i) a copy of the governing rules of the industry ombud scheme;
Tshenolo ya dikgatlhegelo

193. (1) Leloko la Boto le tshwanetse go senola, kwa kopanong ya Boto, kgotsa ka go kwalela mongwe le mongwe wa maloko a mangwe, kgatlhegelo nngwe le nngwe mo morerong o o kgotsa o o tla sekasekwang ke ena, e ka nna kgotsa e se kwa kwa kopanong ya Boto, e le kgatlhegelo e—
   (a) leloko le nang le yona; kgotsa
   (b) motho yo o amanang le leloko a nang le yona.

(2) Tshenolo go ya ka karolotlaletseo (1) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhego eo.

(3) Leloko le le kailweng mo karolotlaletseong (1) le ka se dire tiro e e mabapi le morero o o amegang ntle le fa—
   (a) leloko le senotse kgatlhegelo go tsamaelana le karolotlaletse (1); le
   (b) maloko a mangwe a Boto a sweditse gore kgatlhegelo e ka se tseele gore e ama go dira ka manontlholtho ga leloko mabapi le morero.

(4) Leloko la komiti ya Khansele ya Ombud e e tlhomilweng go ya ka karolo 51(1)(a)(ii) ya Public Finance Management Act kgotsa karolo 187(1) ya Molao ono le tshwanetse go senola, kwa kopanong ya komiti, kgotsa ka go kwalela mongwe le mongwe wa maloko a komiti eo, kgatlhegelo nngwe le nngwe mo morerong o o sekasekwang kgotsa o komiti e e ikaelangang o o sekaseka, e le kgatlhego e—
   (a) leloko le nang le yona; kgotsa
   (b) motho yo o amanang le leloko a nang le yona.

(5) Tshenolo go ya ka karolotlaletseo (4) e tshwanetse go dirwa ka bonako jo bo kgonagalang morago ga fa leloko le le amegang le sena go itse ka kgatlhegelo.

(6) Motho yo o kailweng mo karolotlaletseo (1) kgotsa (4) o ka se seye ka karolo mo tshekatshekong ya, kgotsa tshwetsa ka ga, morero oo ke Boto kgotsa komiti, go ya ka maemo a mabaka, ntle le fa—
   (a) motho a senotse kgatlhegelo go ya ka karolotlaletseo (1) kgotsa (4); le
   (b) maloko a mangwe a Boto kgotsa komiti eo a sweditse gore kgatlhegelo eo e ka se tseele gore e ama go dira ka manontlholtho ga leloko mabapi le morero.

(7) (a) Leloko lengwe le lengwe la badiri ba Khansele ya Bolaodi ya Ombud le motho mongwe le mongwe yo o amegang mo go direng tiro kgotsa mo tiragatsang go dithata tsa Khansele ya Ombud le tshwanetse go dire tshenolo ya dikgatlhegelo ka nako, nepagalo le tshiama, go akaretsa le dikgatlhegelo tsokagatlhilo o o amegang, tse di ka tsewang ka mabaka jaaka dikgatlhegelo tse di ka amang go dira ka manontlholtho ga gagwe ditiro tsa ofisi kgotsa thata e e roletsweng.
   (b) Ombud yo Mogolo o tshwanetse go netefatsa gore temana (a) e a obamelwa.

(8) Mabapi le maitlhomo a karolo eno, ga go kgathalesege—
   (a) gore kgatlhegelo e tshamaletse, ga e a tshamaletse, ke ya tšhelete kgotsa ga se ya tšhelete; kgotsa
   (b) gore kgatlhegelo e fitlheletswe leng.

(9) Mabapi le maitlhomo a karolo eno, motho o ka nna a se senole—
   (a) nthla ya gore motho yoo, kgotsa motho yo o a amanang le ena, ke—
   (i) mothlehlwedi kgotsa modiri wa Khansele ya Ombud; kgotsa
   (ii) modirisi wa ditšhelela wa sethla, ke ya tšhelete; kgotsa
   (b) kgatlhegelo e e seng ya botlhokwa.

(10) Ombud yo Mogolo o tshwanetse go tshola rejisetara ya ditshenolo tšo tšhine tse di dirilweng go ya ka karolo eno le ditshwetsa tšo tšhine tse di dirilweng go ya ka karolo eno.

Karolo 2

Kamogelo ya dikema tsa ombud wa madirelo

194. (1) Khansele ya Ombud e ka, ka kopo ka sekema sa bodirelo sa ombud, amogela sekema sa bodirelo sa ombud mabapi le maitlhomo a Molao ono.

(2) Kopo go ya ka karolotlaletseo (1) e tshwanetse—
   (a) go kwalwa, ka mokgwao o o rebotsweng kgotsa amogetsweng ke Khansele ya Bolaodi ya Ombud; le
   (b) go akaretsa le kgotsa go romelwa le—
   (i) kgatiso ya melawana ya go busa ya sekema sa ombud sa bodirelo;
(ii) a list of financial institutions that shall be members of the industry ombud scheme should it be recognised; and
(iii) any other information required in the form.

Requirement for further information or documents by Ombud Council

195. (1) The Ombud Council may, by notice in writing, require an applicant for recognition—
(a) to give the Ombud Council additional information or documents specified by the Ombud Council; and
(b) to verify any information given by the applicant in connection with the application in a manner specified by the Ombud Council.
(2) The Ombud Council need not deal further with the application until the applicant has complied with the notice contemplated in subsection (1).

Determination of applications

196. (1) The Ombud Council must determine an application for recognition in terms of section 194 by—
(a) granting the application and notifying the applicant accordingly; or
(b) refusing the application and notifying the applicant accordingly.
(2) The Ombud Council may grant an application for recognition subject to conditions specified by the Ombud Council.
(3) The Ombud Council must not recognise an industry ombud scheme unless satisfied that—
(a) a significant number of relevant financial institutions shall be members of the industry ombud scheme, should it be recognised;
(b) the governing rules of the industry ombud scheme—
(i) identify the financial products or financial services to which the industry ombud scheme relates, or in the case of a market infrastructure, the services that it provides;
(ii) require the members of the industry ombud scheme to inform financial customers about the scheme and how to contact and complain to the scheme, at the frequency agreed by the scheme for its members;
(iii) make adequate and appropriate provision for making complaints;
(iv) are legally binding on the members of the industry ombud scheme, and enforceable by the governing body of the industry ombud scheme;
(v) require each member of the industry ombud scheme to comply with, and give effect to, any determination of the ombud made in terms of the industry ombud scheme;
(vi) make adequate provision for monitoring and oversight of the operation of the industry ombud scheme, including in respect of the terms and conditions of the engagement of the ombud, including remuneration and other benefits, and any action to terminate that engagement;
(vii) require the ombud to apply, where appropriate, principles of equity when dealing with a complaint; and
(viii) otherwise comply with applicable Ombud Council rules;
(c) the ombud scheme has or has available to it sufficient resources and capacity to ensure that it is able to comply with the requirements of financial sector laws in relation to ombud schemes and any conditions that may be specified in terms of subsection (2); and
(d) recognising the industry ombud scheme will not be contrary to the interests of financial customers, the financial sector or the public interest.
(4) (a) The Ombud Council must determine an application as contemplated in subsection (1) within three months after it is made.
(b) In working out when the period mentioned in paragraph (a) expires, any period between the Ombud Council giving the applicant a notice in terms of section 195 and the requirements in the notice being satisfied is not to be counted.
(ii) lenane la ditheo tsa ditšhelete tse di kgotsa tse di tla mma loko a sekema sa ombud sa bodirelo fa se ka amogelwa; le
tshedimosetso ngwe le ngwe e e tlhokeganyetso mo foromong.

Ditlhokego tsas tshedimosetso ya tlaleletso kgotsa dikwalo ka Khanele ya Ombud

195. (1) Khansele ya Ombud e ka, ka kitsiso e e kwetsweng, lopa modirakopo ya kamogelo—
(a) go naya Khansele ya Ombud tshedimosetso ya tlaleletso kgotsa dikwalo tse di
tsepmasisweng ke Khansele ya Ombud; le
(b) go netefatsa tshedimosetso e e netsweng ke modirakopo mabapi le kopo ka
mokgwa o o tsepmasisweng ke Khansele ya Ombud.  
(2) Khansele ya Ombud ga e tlhoke go tswelelela go dira ka kopo go fitlhela
modirakopo a ikamantse le kitsiso, e e tlhalositsweng mo karolotlaleletsong (1).

Tlhomamiso ya ditšiiso

196. (1) Khansele ya Ombud e ka tshwanetse go tlhomamisa kopoyakamogelo go ya ka
karolo 194 ka go—
(a) amogela kopo le go itsise modirakopo ka nepagalo; kgotsa
(b) gana kopo le go itsise modirakopo ka nepagalo.
(2) Khansele ya Ombud e ka amogela kopoyago amogelwago latela mabaka a a
neetsweng ke Khansele ya Ombud.
(3) Khansele ya Ombud ga e a tshwanela go amogela sekema sa ombud sa bodirelo
ntle le fa e kgotsofetse gore—
(a) palo e e bonalang ya ditheo tsaditšhelete e tla ma loko a sekema sa ombud
sa bodirelo, fa e ka amogelwa;
(b) melawana ya ga busa ya sekema sa ombud sa bodirelo—
(i) e supa diko tsa ditšhelete kgotsa ditirelo tsaditšhelete tse di amanang
le sekema sa ombud sa bodirelo kgotsa mo lebakeng la ditšhelegetsweng
le popegotheo ya mmara, ditirelo tse di e tlamleng;
(ii) se lopa loko a sekema sa bodirelo jwa ombud go itsise barekedi ba
ditšhelete ka ga sekema le ka moo b aka ikogolaganyeng le go
ngongoregela kwa sekemeng, ka seelo se se dumetsweng ke sekema
mabapi le maloko a sona;
(iii) e dira kabelo e e lekaneng e bile e le maleba ya go dira dingongoregro;
(iv) e tlama semolao loko a sekema sa ombud sa bodirelo; le go gatelelwana
ke mokgatlho o o busang wa sekema sa ombud sa bodirelo;
(v) e tlhoka lelolo lengwe le lengwe la sekema sa ombud sa bodirelo go
ikamanyana le, le go diragatsa, tlhomamiso ngwe le ngwe ya ombud e e
dirilweng go ya ka sekema sa ombud sa bodirelo;
(vi) e dira kabelo e e lekaneng ya go tlhokomelwa le go elwa thoko ga tiro ya
sekema sa ombud sa bodirelo, dipelo le mabaka, go akaretsa le mogolo
le dikunomolo tse dingwe, tsa go dira ga ombud, le tiro ngwe le
ngwe go khutlisa tiro eo;
(vii) e lopa ombud go dirisa, fa go leng maleba, meono ya tekatekano fa e
sekase ka ngongoregro; le
(viii) e ikamanyana ka mokgwa mongwe le melawana e e maleba ya Khansele ya
Ombud;
(c) sekema se na le kgotsa ga se na ditlamelgo tse di lekaneng le bokgoni jwa go
netefatsa gore se ikamanyana le ditlhokego tsa melao ya lepha tsa ditšhelete
mabapi le dikema tsa ombuds le mabaka mongwe le mangwe a a ka
tsepmasisweng go ya ka karolotlaleletsong (2); le
(d) e amogela sekema sa ombud sa bodirelo se ka se ne nke kgalharon go le
dikgathilego tsaditšeletse kgotsa lepaha la ditšhelete kgotsa
kgatlhego ya setšhaha.
(4) (a) Khansele ya Ombud e tshwanetse go tlhomamisa kopo jaaka go tlhalositsweng
mo karolotlaleletsong (1) mo dikgwedeng tse tharo morago ga fa e sena go dirwa.
(b) Mo go batleng go itsi gore paka e e ka liweng mo temaneng (a) e fela leng, paka
ngwe le ngwe magareng ga go naya modirakopo kitsiso go ya ka karolo 195 ke
Khansele ya Ombud le go kgotsofatswa ga ditlhokego ga e balelwe.
Varying conditions

197. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, remove or vary a condition of recognition, or add a condition.
   (2) A variation takes effect on the date of the notice in terms of subsection (1) or, if the notice specifies a later date, the later date.

Suspension of recognition

198. (1) The Ombud Council may, by notice to a recognised industry ombuds scheme, suspend the recognition of the scheme if—
   (a) the industry ombud scheme applies for suspension;
   (b) a condition of recognition has been contravened or not been complied with in a material way;
   (c) the industry ombud scheme, an ombud for the industry ombud scheme, or a significant number of the financial institutions that are members of the industry ombud scheme, have contravened in a material way the governing rules of the industry ombud scheme, a provision of a financial sector law relating to ombuds or Ombud Council rules;
   (d) information provided in, or in relation to, an application to the Ombud Council in relation to the industry ombud scheme was false or misleading, including by omission, in a material way;
   (e) the industry ombud scheme is not complying with a requirement of this Act;
   (f) the suspension is necessary to prevent—
      (i) a serious contravention of a financial sector law; or
      (ii) financial customers of the members of the industry ombud scheme from suffering material prejudice; or
   (g) a fee, a levy or an administrative penalty payable by the industry ombud scheme, including any interest, is unpaid and has been unpaid for at least 30 days after it is due.

   (2) The Ombud Council may at any time revoke the suspension.
   (3) A suspension takes effect on the date of the notice in terms of subsection (1), or a later date specified in the notice.
   (4) A suspension does not affect an obligation of the industry ombud scheme that it has in terms of a financial sector law, including an obligation to report a matter to the Ombud Council.

Revocation of recognition

199. (1) The Ombud Council may, by notice to a recognised industry ombud scheme, revoke the recognition of an industry ombud scheme—
   (a) if the industry ombud scheme applies for revocation;
   (b) on any of the bases on which it may suspend recognition, as set out in section 198(1)(b) to (g); or
   (c) if the scheme has ceased to function.

   (2) Revocation of recognition takes effect on the date of the notice in terms of subsection (1) or, if the notice specifies a later date, the later date.

Procedure for varying, suspending and revoking recognition

200. (1) (a) Before the Ombud Council varies a condition of, or suspends or revokes, the recognition of a recognised industry ombud scheme, it must—
       (i) give the industry ombud scheme notice of the proposed action and a statement of the reasons for it; and
       (ii) invite the industry ombud scheme to make submissions on the matter, and give it a reasonable period to do so.

       (b) The period referred to in paragraph (a)(ii) must be at least one month.

   (2) The Ombud Council need not comply with subsection (1) if the industry ombud scheme has applied for the proposed action to be taken.
Mabaka a a forologanang

197. (1) Khansele ya Bolaodi ya Ombud e ka, ka kitsiso go sekema se se amogetsweng sa ombud, tosa kgotsa fetola lebaka la kamogelo, kgotsa tlatsa lebaka.
(2) Phetolo e tsemngwa mo tirisong ka lethla la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa kitsiso e tsapimisa letlha le lengwe la moragonyana, letlha la moragonyana.

Kemiso ya kamogelo

198. (1) Khansele ya Ombud e ka, ka kitsiso go sekema sa ombud se se amogetsweng sa bodirelo, sekega go amogelwa ga sekema sa ombud sa bodirelo fa—
   (a) sekema sa ombud sa bodirelo se dira kopo ya kemiso;
   (b) lebaka la kamogelo le tlotswe kgotsa le sa obamelwa ka mokgwa o o;
   (c) sekema sa ombud sa bodirelo, ombuds wa sekema sa ombud sa bodirelo kgotsa palo e e bonang ya ditheo tsa ditšhelete tse e leng maloko a sekema sa ombud sa bodirelo a tlotse ka tselelele e kgolo melawana ya go busa ya sekema sa ombud sa bodirelo kgotsa kabelo ya molao wa lephata la ditšhelete, kgotsa melawana ya Khansele ya Ombud, e e amanang le ombuds;
   (d) tshedimosetso e e tlametsweng mo, kgotsa mabapi le, kopo mabapi le Khansele ya Ombud mabapi le sekema sa ombud sa bodirelo e se e fosagets e kgotsa e timetsa, go akaretsa le ka tlogelo, ka tselelele e kgolo;
   (e) sekema sa ombud sa bodirelo se sa ikamanye le tlhokego ya Molao ono;
   (f) tshekego e bothlokwa go thibela—
      (i) tlolo e e masisi ya molao wa lephata la ditšhelete; kgotsa
      (ii) barekedi ba ditšhelete ba baabelwadilaesense gore ba se gobelelwe ka tselelele e kgolo; kgotsa
   (g) tuelo, lekgethswana kgotsa kotlhao ya tsamaiso e e duelwang ke sekema sa ombud sa bodirelo, go akaretsa le morokotsa, ga e a duelwa e bile e ntse e sa duelwa bonnye matsatsi a le 30 morago ga fa e tshwanetse go duelwa.
(2) Khansele ya Ombud e ka phimola kemiso ka nako nngwe le nngwe.
(3) Tshekego e tsemngwa mo tirisong ka lethla la kitsiso go ya ka karolotlaleletso (1), kgotsa lethla le le kwa moragonyana le le tspamatisitsweng mo kitsisong.
(4) Tshekego ga e ame tlamego ya sekema sa ombud sa bodirelo e se nang le yona go ya ka molao wa lephata la ditšhelete, go akaretsa le tlimago ya go begela Khansele ya Ombud morero.

Kgogelomorago ya kamogelo

199. (1) Khansele ya Bolaodi ya Ombud e ka, ka kitsiso go sekema sa ombud se se amogetsweng sa bodirelo, phimola kamogelo ya sekema sa ombud sa bodirelo—
   (a) fa sekema sa ombud sa bodirelo se dira kopo ya phimolo;
   (b) mo go nngwe le nngwe ya mabaka ao e ka emisang kamogelo, jaaka go thalositswe mo karolong 198(1)(b) go fitlha go (g); kgotsa
   (c) fa sekema se khutlisitse go dira.
(2) Phimolo ya kamogelo e tsemngwa mo tirisong ka lethla la kitsiso go ya ka karolotlaleletso (1) kgotsa, fa kitsiso e tsapamisa letlha la moragonyana, letlha la moragonyana.

Tsamaiso ya phorologantsho, tshekego le kgogelomorago ya kamogelo

200. (1) (a) Pele Khansele ya Ombud e fetola lebaka la, kgotsa e sekega kgotsa e phimola, kamogelo ya sekema sa ombud sa bodirelo, e tshwanetse—
   (i) go naya sekema sa ombud sa bodirelo kitsiso ya tiro e e tshitsintsweng le polelo ya mabaka a yona; le
   (ii) go laletsa sekema sa ombud sa bodirelo go dira ditlhagiso ka ga morero, le go se naya nako e e lekaneng go dira jalo.
   (b) Nako e e kalweng mo temaneng (a)(ii) e tshwanetse go nna bonnye kgwedi e le esi.
(2) Khansele ya Ombud e tlhoka go ikamanya le karolotlaleletso (1) fa sekema sa ombud sa bodirelo se dirile kopo ya gore tiro e dirwe.
(3) In deciding whether to vary a condition of, or suspend or revoke, recognition, the Ombud Council must have regard to all submissions made within the period specified in the notice in terms of subsection (1)(a)(ii).

(4) The Ombud Council may take the action without having complied, or complied fully, with subsection (1) if the delay involved in complying, or complying fully, with that subsection in respect of a proposed action is likely to lead to material prejudice to financial customers or defeat the object of the action.

(5) (a) If the Ombud Council takes action without having complied, or complied fully, with subsection (1) for the reason set out in subsection (4), the industry ombud scheme must be given a written statement of the reasons why that subsection was not complied with.

(b) The industry ombud scheme may make submissions to the Ombud Council within one month after being provided with the statement.

(c) The Ombud Council must have regard to the submissions, and notify the industry ombud scheme, as soon as practicable, whether the Ombud Council proposes to amend or revoke the variation, suspension or revocation.

Part 3

Powers of Ombud Council

Ombud Council rules

201. (1) The Ombud Council may make rules for, or in respect of, ombuds and ombud schemes, aimed at ensuring that financial customers have access to, and are able to use affordable and effective, independent and fair alternative dispute resolution processes for complaints about financial institutions in relation to financial products, financial services, and services provided by market infrastructures.

(2) Ombud Council rules in terms of subsection (1) may be made on any of the following matters:

(a) Governing rules of ombud schemes;

(b) governance of ombud schemes, including in relation to—

(i) the composition, membership and operation of governing bodies and of substructures of ombud schemes; and

(ii) the roles and responsibilities of governing bodies and their substructures;

(c) the qualifications and experience of ombuds, including fit and proper person requirements for ombuds and for members of governing bodies of industry ombud schemes;

(d) the definition and type of complaints to be dealt with by specified ombud schemes;

(e) dispute resolution processes;

(f) any matters on which a regulatory instrument may be issued by the Ombud Council in terms of a specific financial sector law in so far as it relates to ombud schemes and ombuds;

(g) matters that may in terms of any other provision of this Act be regulated by rules of the Ombud Council; and

(h) any other matter that is appropriate and necessary for achieving the aim set out in subsection (1).

(3) An Ombud Council rule must not be inconsistent with relevant financial sector laws.

(4) An Ombud Council rule must not interfere with the independence of an ombud or the investigation or determination of a specific complaint.

(5) The Ombud Council must, in developing Ombud Council rules—

(a) seek to provide for a consistent approach and consistent requirements for all ombud schemes, promote the efficiency and cost-effectiveness of ombud schemes, and promote co-ordination and co-operation between ombud schemes; and

(b) take into account differences in the nature and complexity of complaints heard by different ombud schemes.
(3) Mo go svetseng ka go fetola lebaka la, kgotsa emisa kgotsa phimola, kamogelo, Khansele ya Ombud e tshwanetse go ela tlhoko ditlhagiso tsothle tse di diri lweng mo nakong e e tsepamisitsweng mo kitsisong go ya karolotlaleleleltsone (1)/(ii).

(4) Khansele ya Ombud e ka dira tiro ntle le go ikamany, kgotsa go ikamanya ka botlalo, le karolotlaleleleltsone (1) fa tiego e e amangang le go ikamany, kgotsa go ikamanya ka botlalo, le karolotlaleleleltsone me mabapi le tiro e e tshitsintsengweng e ka tisla ditlamarag o tsa kgobelelo e e tseneletseng go barekedi ba dithelelele, ya ama ka kgobelelo thomomo ya dithelelele kgotsa ya feny a maikaelele a tiro.

(5) (a) Fa Khansele ya Ombud e ka dira tiro ntle le go ikamany, kgotsa go ikamanya ka botlalo, le karolotlaleleleltsone (1) ka mabaka a a tlhalositsweng mo karolotlaleleleltsone (4), sekema sa ombud sa bodirelo se tshwanetse go newa polele e e kwetsweng ya mabaka a gore goreeng go sa ikamangwela ka karolotlaleleleltsone eo.

(b) Sekema sa ombud sa bodirelo se ka dira ditlhagiso go Khansele ya Ombud mo kgweding e le esi morago ga go tlamelwa ka polele.

(5) (a) Fa Khansele ya Ombud e ka dira melawana go, kgotsa mabapi le, ombuds le dikema tsa ombuds, tse di ikailelaeng go netefatsa gore badirisi ba dithelele le fithilela, gape ba kgona go, dirisa kgato e e ngwe ya tharabololo ya thulano e e duelegang, nonofleng, ikemetseng le go lolama go dingongorego tse di ka ga ditheo tsa ditheleleleltsone mabapi le dikuno tsa ditheleleleleltsone le ditirelo tse di tlamelwang ke thulaganyetses go popegotheo ya mmoraka.

(2) Melawana ya ombuds mabapi le karolotlaleleleltsone (1) e ka dirwa mabapi le ngwe le ngwe ya merero e e latelang: 

(a) Melawana ya go busa ya dikema tsa ombud;  
(b) puso ya dikema tsa ombud, go akaretsa le mabapi le—  
(i) sebopego, botokololo le tiro ya mekgatlho e e busang le ya mekgatlhotlaleleleltsone ya dikema tsa ombud; le  
(ii) ditirelo ya maikarabelo a mekgatlho e e busang le mekgatlhotlaleleleltsone ya yona;  
(c) borutegi le maitegohelelao a ombuds;  
(d) tlhaloso le mo futa wa dingongorego tse di tshwanetseng go sekasekwa ke sekema sa ombuds se se tsepamisitsweng;  
(e) dikgato tsa go rarabololo dikgotlhang;  
(f) merero mengwe le mengwe e sediriso ba bolaadi se ka diriswang go go yona e ka rebolwe ka Khansele ya Ombud ya go ya ka molao o o tsepameng wa lephata le ditheleleleleleltsone ya dikema tsa ombud go mabapi ya ombud;  
(g) merero e go ya ka kabelo ngwe le ngwe ya Molao ono e ka laolwanga ka melawana ya Khansele ya Ombud, le  
(h) morero mongwe le mongwe o o maleba e bile o thokega go fithilela maikaelele a a tlhalositsweng mo karolotlaleleltsone (1).  

(3) Molawana wa Khansele ya Ombud ya tshwanetseng go tsamelaena le melao e e maleba ya lephata la dithelelele.

(4) Molawana wa Khansele ya Ombud ga o a tshwanela go kgoreletseng le go ikemela ga ombud kgotsa patlisiso kgotsa tlhomamiso ya ngongorego e e tsepameng.  

(5) Khansele ya Ombud e tshwanetse, mo go tlhalbololeng melawana ya Khansele ya Ombud—  

(a) go batla go tlamelana mabapi le mokgwa o o tlhomameng le ditlhoko tse di tlhomameng go dikema tsotlhe tsa ombud, go tseleleta bokgoni le poloko ya ditshenyegelo ya dikema tsa ombud, le go tswelelelekopano le tirisanommmogotseke gadi kemetseng go dikema tsa ombud; le  
(b) go tsa etso dia dipharologano mo tlholeceng le tharaanong ya dingongorego tse di reediweng ke dikema tsa ombud tse di farologanyetses.
(6) Different Ombud Council rules may be made for, or in respect of—
(a) different categories of ombuds and ombud schemes; and
(b) different circumstances.

(7) (a) The Ombud Council may, on application from an ombud scheme, exempt that
ombud scheme from an Ombud Council rule for a specified period of time, provided that
the Ombud Council is satisfied that the intended outcome of the rule will still be met.
(b) Any such exemption may be subject to conditions set by the Ombud Council.

(8) An Ombud Council rule may amend or revoke another Ombud Council rule.

Directives of Ombud Council

202. (1) The Ombud Council may issue to a person who is an ombud, or to an ombud
scheme, a written directive requiring the person to take action specified in the directive
if the person has contravened or is likely to contravene a financial sector law in so far as
it relates to ombud schemes.

(2) A directive issued in terms of subsection (1) must be aimed at achieving the
objective of the Ombud Council set out in section 176 and stopping the ombud or ombud
scheme from contravening applicable financial sector laws in so far as they relate to
ombud schemes, or reducing the risk of such contraventions.

(3) The Ombud Council may not issue a directive that requires a specified person to
be removed from a position or function in relation to an ombud scheme unless the person—
(a) has contravened a provision of a financial sector law or an Ombud Council
rule;
(b) has become a disqualified person; or
(c) no longer complies with applicable fit and proper person requirements.

(4) Before issuing a directive in terms of this section, the Ombud Council must—
(a) give the person to whom it is proposed to issue the directive a draft of the
proposed directive and a statement of the reasons why the Ombud Council
proposes issuing it, including a statement of the relevant facts and circumstances; and
(b) invite the person to make submissions on the matter, and give the person a
specified period, which must be reasonable, to do so.

(5) If the directive requires a person to be removed from the person’s position or
function in relation to an ombud scheme, the Ombud Council must also—
(a) give the person a draft of the proposed directive and a statement of the reasons
why the Ombud Council proposes issuing it, including a statement of the
relevant facts and circumstances; and
(b) invite the person to make submissions on the matter within the period
specified in terms of subsection (4)(b).

(6) In deciding whether to issue the directive, the Ombud Council must take into
account all submissions received by the end of the period referred to in subsection
(4)(b).

(7) If the delay involved in complying, or complying fully, with subsections (4) and
(5) in respect of a proposed directive is likely to lead to prejudice to financial customers
or defeat the object of the directive, the Ombud Council may issue the directive without
having complied, or complied fully, with those subsections.

(8) (a) If the Ombud Council issues a directive without having complied, or complied
fully, with subsection (4) or (5), the person to whom it was issued, and, where subsection
(5) applies, the person referred to in that subsection, must be given a written statement
of the reasons why those subsections were not complied with.
(b) A person to whom the statement was given in terms of paragraph (a) may make
submissions to the Ombud Council within one month after being given the statement.
(c) The Ombud Council must consider the submissions, and notify the person, as soon
as practicable, whether the Ombud Council proposes to revoke the directive.

(9) A directive in terms of this section must specify a reasonable period for compliance.
(6) Melawana e e farologaneng ya Khansele ya Ombud e ka direlwa, kgotsa mabapi le—
   (a) dithlophsa tse di farologaneng tsa dikema tsa ombuds le ombud; le
   (b) mabaka a a farologaneng.

(7) (a) Khansele ya Ombud e ka, ka kopo go tswa kwa sekemeng sa ombud, golola sekema seo sa ombud go tswa mo molawaneng wa Khansele ya Ombud sebaka sa nako e e tsepamisitsweng, fa fela Khansele ya Ombud e kgotsofetse gore tlamorago e e ikaeltsweng ya molawan e sintse e tla fihlelelwla.
   (b) Kgololo ngwe le ngwe eo e ka dirwa go ya ka mabaka a a beilweng ke Khansele ya Ombud.

(8) Molawanwa wa Khansele ya Ombud o ka tihabolologa kgotsa phimola molawanwa o mongwe wa Khansele ya Ombud.

Ditaelo tsa Khansele ya Ombud

202. (1) Khansele ya Ombud e ka rebolela motho yo e leeng ombud, kgotsa ga sekema sa ombud, taelo e e kwetsweng e e lopang motho go tsaya kgato e e tsepamisitsweng mo taelong fa motho a tlotse kgotsa go na le kgonego ya go tlola molao wa lephata la ditšhelete jaaka o amana le dikema tsa ombud.

(2) Taelo e e rebotsweng go ya ka karolotlalelele tse (1) e tshwanetse go nna ya go fihlelela maikaelelo a Khansele ya Ombud a a tla'hlositsweng mo karolong 176 le go thibela ombud sekema sa ombud mo go tloeng molao ya lephata la ditšhelete e e diriswang jaaka a amana le dikema tsa ombud, kgotsa go fokotsa dikotsi tsa ditlolo tseo.

(3) Khansele ya Ombud e ka se rebole taelo e e tlholang mothyo yo o tsepamisitsweng go tloswa mo maemong kgotsa mo tirong mabapi le sekema sa ombud ntle le fa motho—
   (a) a tlotse kabelo ya molao wa lephata la ditšhelete kgotsa molawanwa wa Khansele ya Ombud;
   (b) e le motho yo o ileditsweng; kgotsa
   (c) a sa tlhole a ikamanya le ngwe le ngwe ya ditlhokego tsa motho yo o matshwane; e le ileditsweng 'ka.'

(4) Pele ga thebolo ya taelo go ya ka karolo eno, Khansele ya Ombud e tshwanetse go—
   (a) naya motho yo o mo tshitsintseng go mo rebolela taelo thalo ya taelo le polelo ya mabaka a gore goreng Khansele ya Ombud e tshitsinyo ya rebolea, go akaretsa le polelo ya diinthla tse di maleba le mabaka; le
   (b) laletha batho gore ba dira ditlhagiso ga ka gorero, go le e naya nako e e tsepamisitsweng, e e tshwanetseng go nna e e lekaneng, go dira jalo.

(5) Fa taelo e tlhoka gore motho a tloswe mo maemong a motho mabapi le sekema sa ombud, Khansele ya Ombud e tshwanetse go—
   (a) naya motho thalo ya taelo e e tshitsintseng le polelo ya mabaka a gore goreng Khansele ya Ombud e tshitsina ya rebolea, go akaretsa le polelo ya diinthla tse di maleba le mabaka; le
   (b) laletha motho go dira ditlhagiso ka ga gorero no nako e e tsepamisitsweng go ya ka karolotlalelele tse (4)(b).

(6) Mo go swetsweng ka go rebola kgotsa go se rebole taelo, Khansele ya Ombud e tshwanetse go tsaya tsia ditlhagiso tsothle tse di amogetseng kwa bokhutlungen jwa nako e e kwetsweng mo karolotlalelele tse (4)(b).

(7) Fa tiego e e amanang le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlalelele tse (4) le (5) mabapi le taelo e e tshitsintseng e ka tlisa kgobe le le barekeding ba ditšhelete kgotsa ya fenya maikaelelo a taelo, Khansele ya Ombud e ka reboela polelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlalelele tseo.

(8) (a) Fa Khansele ya Ombud e reboela taelo ntle le go ikamanya, kgotsa go ikamanya ka botlalo, le dikarolotlalelele tse (4) le (5), motho yo o e reboelaetsweng, le, mo karolotlalelele tse (5) e diriswang, motho yo o kwetsweng mo karolotlalelele tseo, o tshwanetse go newa polelo e e kwetsweng ya mabaka a gore goreng dikarolotlalelele tseo di sa obamelwa.
   (b) Mothyo yo o neetsweng polelo go latela temana (a) o ka dira ditlhagiso go Khansele ya Ombud mo kgwedeg e le esh morago ga go tlamelela ka polelo.
   (c) Khansele ya Ombud e tshwanetse go tsaya tsia ditlhagiso, le go itsise motho, ka bonako jo bo kgongagang, fa e e gorere Khansele ya Ombud e tshitsinya go phimola taelo.

(9) Taelo go ya ka karolo eno e tshwanetse go totobatsa nako e e lekaneng ya go ikamanya.
(10) The Ombud Council may at any time revoke a directive in terms of this section by written notice to the person to whom it was issued.

(11) A person to whom a directive in terms of this section has been issued must comply with the directive.

**Enforceable undertakings**

203. (1) An ombud scheme may give the Ombud Council, and the Ombud Council may accept, a written undertaking concerning the ombud scheme’s future conduct in relation to a financial sector law in so far as it relates to ombud schemes.

(2) Section 151 applies, with necessary changes required by the context, in relation to an undertaking contemplated in subsection (1), as if the references in that section to “responsible authority” were references to the Ombud Council.

**Compliance with financial sector laws**

204. (1) The Ombud Council may commence proceedings against an ombud scheme in the High Court for an order to ensure compliance with the financial sector law in so far as it relates to ombud schemes.

(2) Section 152 applies, with necessary changes required by the context, in relation to the proceeding, as if the references in that section “responsible authority” were references to the Ombud Council.

**Debarment**

205. (1) The Ombud Council may make a debarment order in respect of a natural person if the person has—

(a) contravened a financial sector law in so far as it relates to ombud schemes, or an Ombud Council rule;

(b) attempted, or conspired with, aided, abetted, induced, incited or procured another person to contravene a financial sector law in so far as it relates to ombud schemes.

(2) A debarment order prohibits the person, for a specified period, as specified in the order, from performing a specified role in relation to an ombud scheme.

(3) Before making a debarment order in respect of a person, the Ombud Council must—

(a) give a draft of the order to the person and to the financial sector regulators, along with reasons for and other relevant information about, the proposed debarment; and

(b) invite the person to make submissions on the matter, and give the person a reasonable period to do so.

(4) The period in terms of subsection (3)(b) must be at least one month.

(5) In deciding whether or not to make a debarment order in respect of a person, the Ombud Council must take into account at least—

(a) any submission made by, or made for, the person; and

(b) any advice from a financial sector regulator.

(6) A debarment order takes effect from—

(a) the date on which it is served on the person; or

(b) if the order specifies a later date, the later date.

(7) A copy of a debarment order in respect of a person must also be given to each ombud scheme.

(8) (a) A person who is subject to a debarment order may not engage in conduct that directly, or indirectly, contravenes the order.

(b) Without limiting paragraph (a), a person contravenes that paragraph if the person enters into an arrangement with another person to engage in the conduct for or on behalf of, or in accordance with the directions, instructions or wishes of, the person.

(9) An ombud scheme that becomes aware that a debarment order has been made in respect of a person employed or engaged by the ombud scheme must take all reasonable steps to ensure that the order is given effect to.
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(10) Khansele ya Ombud ka nako ngwe le ngwe e ka phimola taelo go ya ka karolo eno ka kitissi e e kwetsweng go motho yo o e reboletsweng.

(11) Motho yo o reboletsweng taelo go ya ka karolo eno o tshwanetse go ikamanya le taelo.

Ditumalano tse di gatelelwang

203. (1) Motho o ka naya Khansele ya Ombud, le Khansele ya Ombud e ka amogela, tumalano e e kwetsweng e e mabapi le boitshwaro jwa nako e e tlang mabapi le molao wa lephata la ditšhelete jaaka ga ga amana le dikema tsa ombud.

(2) Karolo 151 e a diriswa, ka diphetogo tse di tlhokegang go ya ka maemo, mabapi le tumalano e e tlahositsweng mo karolotlaletsetong (1), jaaka e kete dikaeo mo karolong eo go “bothathi jo bo rwalang maikarabelo” e ne e le dikaeo go Khansele ya Ombud.

Boikamanyo le melao ya lephata la ditšhelete

204. (1) Khansele ya Ombud e ka simolola ditšamaiso kgatlhanong le sekema sa ombud kwa Kgotalatlhekelongkgolo mabapi letaelo go netefatsa go ikamanya le molao wa lephata la ditšhelete jaaka o amana le dikema tsa ombud.

(2) Karolo 152 e diriswa, le diphetogo tse di bothlokwa go ya ka maemo, mabapi le tsamaiso, jaaka e kete ditšhupetso mo karolong eo go “bothathi jo bo rwalang maikarabelo” e ne e le dikaeo go Khansele ya Ombud.

Kganelo

205. (1) Khansele ya Ombud e ka dira taelo ya kganelo mabapi le motho ka esi fa motho ka esi a—

(a) tlotsa molao wa lephata la ditšhelete kgotsa boemo jaaka ga ga amana le dikema tsa ombud, kgotsa molawana wa Khansele ya Ombud;

(b) lekile, kgotsa logile maano a bosenyi le, thusitse, rotloedisite, potlakisitse, tlhlotheliditse kgotsa fitlheleste motho yo mongwe go tlola go lephata la ditšhelete jaaka ga o amana le dikema tsa ombud.

(2) Taelo ya kganelo e thibela motho ka esi, mo nakong e e tsepatamisitsweng, jaaka go tlahositswe mo taelong, mo go direng tiro e e rieng e e amanang le sekema sa ombud.

(3) Pele go dirwa taelo ya kganelo mabapi le motho ka esi, Khansele ya Ombud e tshwanetse—

(a) naya motho ka esi le bolaodi jwa lephata la ditšhelete thalo ya taelo, mmogo le mabaka a le tshedimoseto e ngwe e e maleba ka ga, kganelo e e tshitsintsweng; le

(b) laletsa motho go dira ditlhagiso ka ga morero, le go naya motho nako e e lekaneng go dira jalo.

(4) Nako go ya ka karolotlaletseto (3)(b) e tshwanetse go nna bonnye kgwedi e le esi.

(5) Mo go swetseng ka go dira kgotsa go se dire kganelo mabapi le motho, Khansele ya Ombud e tshwanetse go ela tlhoko bonnye—

(a) tlahagiso ngwe le ngwe e e direlweng ke, kgotsa e e direlweng, motho; le

(b) kgakololo ngwe le ngwe go tswa go molawana wa lephata la ditšhelete.

(6) Taelo ya kganelo e simolola go dira—

(a) ka letlha le e neetsweng motho ka esi ka lona; kgotsa

(b) fa taelo e tsapamisa letlha le le le kwa moragonyana, letlha le le le kwa moragonyana.

(7) Kgatiso ya taelo ya kganelo mabapi le motho ka esi e tshwanetse go newa sekema sengwe le sengwe sa ombud.

(a) Motho ka esi yo o lebanweng ke taelo ya kganelo o ka se dire boitshwaro jo bo tlolaeng taelo ka tlhamalalo, kgotsa e seng ka tlhamalalo.

(b) Ntle le tekanyetso ya temana (a), motho ka esi o tlola temana e fa motho ka esi a tsena mo tlhulaganyong le motho yo mongwe go dira boitshwaro jwa, kgotsa mo boemong jwa, kgotsa go tsamaelanla le dikaeo, ditaelo kgotsa dikeletso tsa, motho ka esi.

(9) Setheo sa ditšhelete se se abetsweng laesense se se lemogang gore taelo ya kganelo e dirilwe mabapi le motho ka esi yo o thapilweng kgotsa yo o dirisanang le setheo sa ditšhelete se tshwanetse go tsa ya dikgato tsofilhe tse di maleba go netefatsa gore taelo e a diragatswa.
Administrative penalties

206. (1) Chapter 13 applies in relation to the Ombud Council as if references in that Chapter—
   (a) to a financial sector law were references to a financial sector law in so far as it relates to ombud schemes; and
   (b) to a financial sector regulator were references to the Ombud Council.
   (2) Despite subsection (1), the Ombud Council may impose an administrative penalty only on an ombud scheme, a member of the governing body of an ombud scheme, or an ombud.

Requests for information

207. (1) (a) The Ombud Council may, by written notice, require an ombud scheme or an ombud to provide specified information or a specified document in the possession or under the control of the person to whom the notice is given, being information or a document which is relevant to the Ombud Council’s assessment of compliance by an ombud scheme or an ombud with—
   (i) a financial sector law in so far as it relates to ombuds;
   (ii) an Ombud Council rule;
   (iii) a directive issued by the Ombud Council in terms of section 202; or
   (iv) an enforceable undertaking accepted by the Ombud Council.
   (b) The Ombud Council may require the information or document to be verified as specified in the notice, including by an auditor approved by the Ombud Council.
   (2) A person that has been given a notice in terms of subsection (1) must comply with the requirements in the notice.

Supervisory on-site inspections and investigations

208. (1) Part 3 of Chapter 9 applies in relation to the Ombud Council as if—
   (a) references in that Chapter to a financial sector law were references to a financial sector law in so far as it relates to ombud schemes;
   (b) references to a financial sector regulator were references to the Ombud Council; and
   (c) references to a supervised entity were references to an ombud scheme or an ombud.
   (2) Despite section 132(2), the purpose of a supervisory on-site inspection of an ombud scheme or an ombud in terms of this section is to check compliance by the ombud scheme or ombud with a financial sector law in so far as it relates to ombuds.
   (3) Part 4 of Chapter 9 applies in relation to the Ombud Council as if—
   (a) references in that Chapter to a financial sector law were references to a financial sector law in so far as it relates to ombud schemes;
   (b) section 135(1)(b) were omitted; and
   (c) references to a financial sector regulator were references to the Ombud Council.
   (4) Section 140 applies in relation to the Ombud Council exercising powers in terms of this section as it applies in relation to the financial sector regulators.

Part 4

General provisions

Access to ombud schemes

209. (1) The Ombud Council must, as soon as practicable after this Part comes into effect, establish and operate one or more centres to facilitate financial customers’ access to appropriate ombuds.
   (2) A centre may incorporate a call centre.
   (3) The purpose of a centre is to provide a place, and staff and facilities, to assist financial customers to formulate complaints and to identify for them the ombud appropriate to deal with their complaints.
GOVERNMENT GAZETTE, 22 AUGUST 2017
No. 41060
Molao wa Taolo ya Lephata la Ditshelete, 2017
Nmr 9 ya 2017

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Dikotlhao tsa tsamaiso

206. (1) Kgaolo 13 e diriswa mabapi le Khansele ya Ombud jaaka e kete dikaelo mo Kgaolong co—
(a) go molao wa lephata la ditshelete e ne e le dikaelo go molao wa lephata la ditshelete jaaka ga di amana le dikema tsa ombud; le—
(b) go molaodi wa lephata la ditshelete e ne e le dikaelo go Khansele ya Ombud.

(2) Go sa nyatswe karolotlaleletso (1), Khansele ya Ombud e ka pateletsa kotlhao ya tsamaiso mo sekemeng sa ombud, leloko la mokgatlho o o busang wa sekema sa ombud kgotse ombud.

Dikopo tsa tshedimosetso

207. (1) (a) Khansele ya Ombud, ka kitsiso e e kwetsweng, e ka lopa sekema sa ombud kgotse ombud go tlhama ka tshedimosetso e e tsepmasitsweng kgotse lokwalo le le tsepmasitsweng le le mo taalong ya motho yo o neilweng kitsiso, e ka nna tshedimosetso kgotse lokwalo le le malebana le tshekatsheko ya boikamanyo ya Khansele ya Ombud ka sekema sa ombud kgotse ombud le—
(i) molao wa lephata la ditshelete jaaka go o amana le ombuds;
(ii) molawana wa Khansele ya Ombud;
(iii) taelo e e rebotsweng ke Khansele ya Ombud go ya ka karolo 202; kgotse
(iv) timalano e e gatelelwang e e amogetsweng ke Khansele ya Ombud.
(b) Khansele ya Ombud e ka kopa tshedimosetso kgotse lokwalo go netefatswa jaaka go kaiwe mo kitsisong, go akaretsa le ke moruni yo o rebotsweng ke Khansele ya Ombud.

(2) Motho yo o neilweng kitsiso go ya ka karolotlaleletso (1) o tshwanetse go ikamanya le dithlokego tse di mo kitsisong.

Ditlhatlhobo tsa bothokomedi tsa kwa tirong le dipatlisiso

208. (1) Karolo 3 ya Kgaolo 9 e diriswa mabapi le Khansele ya Ombud jaaka e kete—
(a) dikaelo mo Kgaolong co go molao wa lephata la ditshelete e ne e le dikaelo go molao wa lephata la ditshelete jaaka fa di amana le dikema tsa ombuds;
(b) dikaelo go molaodi wa lephata la ditshelete e ne e le dikaelo go Khansele ya Ombud; le
(c) dikaelo go setheo se se thlokometsweng e ne e le dikaelo go sekema sa ombud kgotse, ombud.

(2) Go sa nyatswe karolo 132(2), maitlhomo a ditlhatlhobo tsa bothokomedi tsa kwa tirong le sekema sa ombud kgotse ombud go ya ka karolo eno ke go tlhatlhoba gore sekema sa ombud kgotse, ombud, se ikamanya le molao wa lephata la ditshelete jaaka ga o amana le ombuds.

(3) Karolo 4 ya Kgaolo 9 e diriswa mabapi le Khansele ya Ombud jaaka e kete—
(a) dikaelo mo Kgaolong co go molao wa lephata la ditshelete e ne e le dikaelo go molao wa lephata la ditshelete jaaka fa di amana le dikema tsa ombuds;
(b) karolo 135(1)(b) e ne e tlogetswe; le
(c) dikaelo go molaodi wa lephata la ditshelete e ne e le dikaelo go Khansele ya Ombud.

(4) Karolo 140 e diriswa mabapi le Khansele ya Ombud e e diragatsang ditlhata go ya ka karolo eno jaaka ga e diriswa mabapi le balaodi ba lephata la ditshelete.

KaroLo 4

Dikabelo ka kakaretso

Phitlhelelo go dikema tsa ombud

209. (1) Khansele ya Ombud e tshwanetse, ka bonako jo bo kgonagalang morago ga go tsenngwa tirisong ga Karolo eno, tlhoma le go dirisa senthara e le esi kgotse go feta go nolofatsa phitlhelelo go ombuds e e malebana ya barekedi ba ditshelete.

(2) Senthara e ka tsheneyletsa senthara ya go letsas.

(3) Maitlhomo a senthara ke go tlama la lefelo, badiri le didiriso, go thusa barekedi ba ditshelete go tlhama dingongorego le go di supela ombud yo o maleba go samagana le dingongorego tsa bona.

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Restrictions on financial institutions in relation to ombud schemes

210. (1) A financial institution may not describe any internal procedure it has for dealing with or resolving complaints made to it by financial customers as an ombud scheme, or a person that deals with or resolves such complaints as an ombud.

(2) A financial institution must disclose to its financial customers applicable ombud schemes, and how to contact and submit complaints to those schemes, in accordance with Ombud Council rules that may be issued in this regard.

(3) (a) A financial institution may not require or invite a financial customer to make a complaint to an—

(i) ombud, unless the person so charged with this function is part of a recognised industry ombud scheme or a statutory ombud scheme; or

(ii) ombud scheme, unless the ombud scheme concerned is a recognised industry ombud scheme or a statutory ombud scheme.

(b) A requirement or invitation contrary to paragraph (a) is void.

(4) An ombud scheme may not describe or hold itself out as being a recognised industry ombud scheme in terms of this Part unless it is so recognised.

(5) An ombud scheme may not permit another person to identify it as a recognised industry ombud scheme in terms of this Part, unless it is so recognised.

(6) For the purposes of subsections (3), (4) and (5), an ombud scheme whose recognition has been suspended or revoked is not recognised.

Applicable ombud schemes

211. (1) (a) If there is no recognised industry ombud scheme or statutory ombud scheme that makes provision for the resolution of complaints about financial products or financial services of a particular kind, the Ombud Council may, after consulting relevant ombud schemes, designate an ombud scheme, or two or more ombud schemes, to deal with and resolve complaints about products or services of that kind.

(b) If the Ombud Council designates two or more ombud schemes in terms of paragraph (a), it must also determine the elements of the complaint to be dealt with and resolved by each of the designated schemes.

(c) The Ombud Council may so designate an ombud scheme on its own initiative or on application by the scheme or a financial institution that provides or proposes to provide financial products or financial services of that kind.

(2) If the Ombud Council designates an ombud scheme in terms of subsection (1) to deal with and resolve complaints about financial products or financial services of a particular kind—

(a) each ombud for the designated ombud scheme—

(i) has the power and the duty, despite anything in any Act or the governing rules of the ombud scheme, to deal with and resolve complaints about the products or services, in accordance with the designation; and

(ii) must deal with and resolve those complaints in the same way as it deals with and resolves other complaints to which the ombud scheme relates; and

(b) the governing rules of the ombud scheme must be read as including an obligation on the financial institution to comply with the determination of the ombud on those complaints.

(3) If a financial institution provides financial products and financial services and there is a recognised industry ombud scheme that provides for the resolution of complaints about financial products or financial services of that kind, the financial institution must be a member of that industry ombud scheme.
Dithibelo mo ditheong tsa ditšhelete mabapi le dikema tsa ombud

210. (1) Setheo sa ditšhelete se ka se necline ka tsamaiso epe ya ka fa gare e e nang le yona mabapi le go samaganang kgotsa go rarabolola dingongorego tse di dirilweng go sona ke barekedi ba ditšhelete jaaka sekema sa ombud, kgotsa motho yo o samaganang le kgotsa yo o rarabololang dingongorego tseo jaaka ombud.

(2) Setheo sa ditšhelete se tshwanetse go senolela barekedi ba sona ba ditšhelete dikema tsa ombud tse di diriswang, le ka moo go ka ikogolanganweng go le romela dingongorego go dikema tseo, go tsamaelana le melawana ya khansele ya ombud e e ka rebolwang mabapi le seno.

(3) (a) Setheo sa ditšhelete se ka se lope kgotsa laletse morekedi wa ditšhelete go ngongoregela go—

(i) ombud, ntle le fa motho yo o neetsweng maikarabelo a tiro eno e le karolo ya sekema sa ombud sa bodirelo se se amogetsweng kgotsa sekema sa ombud sa semolao; kgotsa sekema sa ombud, ntle le fa sekema sa ombud se se amegang e le sekema sa ombud sa bodirelo se se amogetsweng kgotsa sekema sa ombud sa semolao.

(b) Tlhoko ke kgotsa tuletse e e farologaneng le temana (a) ga e amogelesenge.

(4) Sekema sa ombud se ka se tshwenyale le se itsele gore ke sekema sa ombud sa bodirelo se se amogetsweng go ya ka Karolo eno ntle le fa se amogetswse jalo.

(5) Sekema sa ombud se ka se lele motho yo mongwe go se supa jaaka sekema sa ombud sa bodirelo se se amogetsweng go ya ka Karolo eno, ntle le fa se amogetse jalo.

(6) Mabapi le maitlhomo a dikarolotlaleletso (3), (4) le (5), sekema sa ombud se kamogelo ya sona e sekegilweng kgotsa e phimotsweng ga se amogelesege.

Dikema tsa ombud tse di diriswang

211. (1) (a) Fa go sena sekema sa ombud sa bodirelo kgotsa sekema sa ombud sa semolao se se amogetsweng se se dirang kabelo mabapi le tharabololo ya dingongorego ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete mabapi o o rileng, Khansele ya Ombud e ka, morogo ga go rerisana le dikema tsa ombud tse di maleba, thapa sekema sa ombud, kgotsa dikema sa ombud tse pedi kgotsa go feta, go samaganang le le go rabolola dingongorego ka ga dikuno kgotsa ditirelo tsa mofuta oo.

(b) Fa Khansele ya Ombud e thapa dikema tsa ombud di le pedi kgotsa go feta go ya ka temana (a), e tshwanetse go tshwenyale go sekasakwa go le go rabololwa ke ngwe le ngwe ya dikema tse di thapilweng.

(c) Khansele ya Ombud e ka thapa sekema sa ombud ka maiteko a boynoa kgotsa ka kopo ya sekema kgotsa setheo sa ditšhelete se se tlamelang kgotsa tshitsinyang go tlamela ka dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete mabapi o o.

(2) Fa Khansele ya Ombud e ka thapa sekema sa ombud ya ka karolotlaleleletso (1) go sekaseka le go rarabolola dingongorego tse di ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete mabapi o o—

(a) ombud mongwe le mongwe wa sekema sa ombud se se supilweng—

(i) o na le thata le tiro, ntle le sengwe le sengwe se se mo Molaeng kgotsa melawane ya ga busa ya sekema sa ombud, ya ga samaganang le go.rarabolola dingongorego tse di ka ga dikuno kgotsa ditirelo, go tsamaelana le thapo; le

(ii) o tshwanetse go samaganang le go rarabolola dingongorego tseo ka mokgwa o o tshwanang le wa fa a samaganang le go rarabolola dingongorego tse dingwe tse sekema sa ombud di amanang le tsona; le

(b) melawana ya ga busa ya sekema sa ombud e tshwanetse go tswa jaaka e kete e akaretsa tlamego mo setheoang sa ditšhelete go ikamanya le tlhomamisa ya ombud mo dingongorengorego tse.

(3) Fa setheo sa ditšhelete se tlamelang ka dikuno tsa ditšhelete le ditirelo tsa ditšhelete e bile go na le sekema sa ombud sa bodirelo se se amogetsweng se se tlamelang mabapi le tharabololo ya dingongorego tse di ka ga dikuno tsa ditšhelete kgotsa ditirelo tsa ditšhelete mabapi o o, setheo sa ditšhelete se tshwanetse go nna leloko la sekema se o o sa ombud sa bodirelo.
Overlaps between ombud schemes

212. (1) An industry ombud scheme may not deal with a complaint to which a statutory ombud scheme applies, but must refer the complaint to the appropriate statutory ombud scheme unless the statutory ombud scheme has declined to deal with the complaint.

(2) An ombud scheme may not deal with a complaint that has been dealt with by another ombud scheme unless—
   (a) the complaint is referred to it by the other ombud scheme; or
   (b) the Ombud Council has designated both schemes in terms of section 211(1) to deal with and resolve complaints of the relevant kind and each scheme is dealing with the elements of the complaint in accordance with the applicable determination in terms of section 211(1)(b).

Collaboration between ombuds and ombud schemes

213. The ombud schemes, and the ombuds, must cooperate and collaborate with each other regarding complaints about financial institutions in relation to financial products and financial services, including by developing processes and procedures to jointly hear and determine complaints, on their own initiative or as may be required by Ombud Council rules.

Governing rules of recognised industry ombud scheme

214. (1) Before the Ombud Council can recognise an industry ombud scheme in terms of section 194, the Ombud Council must—
   (a) publish—
      (i) a draft of the governing rules or amendments to the governing rules;
      (ii) a statement explaining the need for and the intended operation of the governing rules or the amendment to the governing rules;
      (iii) a statement of the expected impact of the governing rules or the amendment to the governing rules; and
      (iv) a notice inviting submissions in relation to the rules or amendment to the governing rules and stating where, how and by when submissions are to be made; and
   (b) submit the draft governing rules to the Financial Sector Conduct Authority.

(2) The period allowed for making submissions on the governing rules or amendments to the governing rules in terms of subsection (1) must be at least 30 days.

(3) (a) The governing rules of a recognised industry ombud scheme must be approved by and may not be amended without the approval of the Ombud Council.

   (b) Governing rules or amendments to governing rules that are adopted by a recognised industry ombud scheme without the approval by the Ombud Council are void.

   (4) The Ombud Council must not approve governing rules or an amendment to governing rules unless it is satisfied that to do so assists in achieving the object of this Act as set out in section 7.

Obligation to comply with governing rules of recognised industry ombud schemes

215. (1) A financial institution that is a member of a recognised industry ombud scheme must comply with the governing rules of the scheme.

   (2) Without limiting any other right that a financial customer of a financial institution that is a member of a recognised industry ombud scheme may have, the financial customer may enforce the obligation in subsection (1) in relation to a financial product or a financial service as if the obligation were a provision of the contract in terms of which the financial product or financial service was provided to the financial customer.
Ditshelepano magareng ga le direma tsa ombud

212. (1) Ombud wa sekema sa ombud sa bodirelo o ka se samagane le ngongoregro eo sekema sa ombud sa molao se diriswang, mme o tshwanetse go romela ngongoregro go sekema sa ombud sa molao se se maleba ntle le fa sekema sa ombud sa molao se ganne go samagana le ngongoregro.

(2) Sekema sa ombud se ka se samagane le ngongoregro e e seseng e raborolotsw e ke sekema sa ombud se sengwe ntle le fa—

(a) ngongoregro e romesetswe kwa go sona ke sekema sa ombud se sengwe; kgotsa
(b) Khansele ya Ombud e thapile dikemaa ka bobedi go ya ka karolo 211(1) go sekaseka le go raborolola dingongoregro tsa mofuta o o maleba e bile sekema sengwe le sengwe se sekaseka le dipopi tsa ngongoregro go tsamaelana le tlihomamiso e e diriswang go ya ka karolo 211(1)(b).

Tirisanommogo magareng ga ombuds le dikema tsa ombuds

213. Dikema tsa ombud, le ombuds, ba tshwanetse go dirisana mmogo le go kopana mabapi le dingongoregro tse di ka ga ditheo tsa ditlhathelele mabapi le dikuno tsa ditlhethelele le ditirelo tsa ditlhathelele, go akaretsa le ka go thabolola dikgato le ditsamaiso tsa go reetsa le go thomamisa dingongoregro ka kopano, ka maiteko a tsiona kgotsa jaaka go tla be go thoke tsa go ya ka melwana ya Khasene ya Ombud.

Melawana e e laolang ya sekema se se amogelesegang sa bodirelo jwa ombud sa bodirelo se se amogetsweng

214. (1) Pele Khansele ya Ombud e ka amogela sekema sa ombud sa bodirelo go ya ka karolo 194, Khasene ya Ombud e tshwanetse go—

(a) phasalatsa—

(i) thalo ya melawana ya go busa kgotsa ditlhabololo tsa melawana ya go busa;
(ii) polelo e e tlahosang tholhoko ya le tmamaiso e e ikaelatsweng ya melawana ya go busa kgotsa ditlhabololo ya melawana e e busang;
(iii) polelo ya kuthlalo e e solofetsweng ya melawana ya go busa kgotsa ditlhabololo ya melawana ya go busa; le
(iv) kitisiso e ka yona go laelatsweng ditlhagisigosi mabapi le melawana kgotsa ditlhabololo ya melawana ya go busa e e biele e bolela gore ditlhagisigosi di ka dirwa ke, jang le gore leng; le
(b) romela thalo ya melawana ya go busa kwa Bothathing jwa Bothishwara jwa Lephata la Ditshetele.

(2) Nako e e dumelotsweng ya go dira ditlhagisigosi ka ga melawana ya go busa kgotsa ditlhabololo go melawana ya go busa ya ka karolotlaneletso (1) e tshwanetse go nna bonnye malatsi a le 30.

(3) (a) Melawana ya go busa ya sekema sa ombud sa bodirelo se se amogetsweng e tshwanetse go rebola ke e e biele e ka se tlhabololwe ntle le thebolo ya Khasene ya Ombud.

(b) Melawana ya go busa kgotsa ditlhabololo go melawana e e busang e e amogetsweng ke sekema sa ombud sa bodirelo se se amogetsweng ntle le thebolo ya Khasene ya Ombud ga e amogelesege.

(4) Khasene ya Ombud ga e a tshwanaela go rebola melawana ya go busa kgotsa ditlhabololo go melawana ya gobusa ntle le fa e kgotsofetse gore go dira jalo go thusa go filthelela maikailelo a Molao ono a a tlahlositsweng mo karolong 7.

Tlamego ya go ikamanya le melawana e e laolang ya dikemaa tse di a mogele se gagang tsa bodirelo jwa Ombud

215. (1) Setheo sa ditlhethelele se e leng leloko la sekema sa ombud sa bodirelo se se amogetsweng se tshwanetse go ikamanya le melawana ya go busa ya sekema.

(2) Ntle le go lekanyetsa tshwanelo ngwe le ngwe e morekedi wa setheo sa ditlhethelele se se abetsweng laensee seo e leng leloko la sekema sa ombud sa bodirelo se se amogetsweng a ka mnan le yona, morekedi wa ditlhethelele o ka gatelela tlamego e e le maloolotlanele tsa (1) mabapi le kuno ya ditlhethelele kgotsa tirelo ya ditlhethelele jaaka e kete tlamego e ne e le kabelo ya konteraka e go ya ka yona kuno ya ditlhethelele kgotsa tirelo ya ditlhethelele e neng e tlhomotsweng go morekedi wa ditlhethelele.
Suspension of time barring terms

216. Receipt of a complaint by a financial sector regulator, the Ombud Council or an ombud suspends any applicable time barring terms, whether in terms of an agreement or any law, or the running of prescription in terms of the Prescription Act, 1969 (Act No. 68 of 1969), for the period from the receipt of the complaint until the complaint has either been withdrawn or finally determined.

Reporting

217. (1) An ombud scheme must—
   (a) within six months after the end of each financial year, submit to the Ombud Council, in the form and with the content required by the Ombud Council, a report on the operation of the ombud scheme during the financial year, including in relation to—
      (i) compliance with the financial sector laws in so far as they relate to ombud schemes;
      (ii) the complaints that the ombud scheme is dealing with, and how they are being dealt with; and
      (iii) the conduct of financial institutions that is giving rise to complaints; and
   (b) comply with any request by the Ombud Council at any time for information about the operation of the ombud scheme, trends in and implications of the conduct of financial institutions observed by the ombud scheme, and any other relevant information.

(2) Each of the following must, on request by the Financial Sector Conduct Authority, and may at any time, provide information and reports to the Financial Sector Conduct Authority about the operation of ombud schemes and trends in and implications of the conduct of financial institutions observed by it:
   (a) The Ombud Council;
   (b) a statutory ombud scheme;
   (c) a recognised industry ombud scheme.

(3) If, in dealing with a complaint, an ombud becomes aware that there has or may have been—
   (a) a contravention of a financial sector law in a material way by a financial institution; or
   (b) an activity or action by a financial institution that has an effect on financial customers other than the complainant,
the ombud must report the details of the matter, including the identity of the financial institution concerned, to the Financial Sector Conduct Authority.

(4) (a) The Ombud Council must provide the Minister of Finance and the National Treasury with information, returns, documents, explanations and motivations that may be prescribed by Regulation for this section or information that the Minister of Finance or the National Treasury may request.
   (b) Paragraph (a) does not require or permit the provision of information about persons identifiable from the information.

CHAPTER 15

FINANCIAL SERVICES TRIBUNAL

Part 1

Interpretation

Definitions

218. For the purposes of this Chapter—
"decision" means each of the following:
   (a) A decision by a financial sector regulator or the Ombud Council in terms of a financial sector law in relation to a specific person;
Tshekego ya dipeelo tse di beilweng tsa nako


Go bega

217. (1) Sekema sa Ombud se tshwanetse—
   (a) mo dikgweding tse thataro morago ga go ya bokhutlong ga ngwaga ngwwe le ngwwe ya ditšhelete, romela go Khansele ya Ombud, mo foromong le ka diteng tse di tlhokwang ke Khansele ya Ombud, pegelo ka ga tiro ya sekema sa ombud sa lephata la ditšhelete ka nako ya ngwaga wa ditšhelete, go akaretsa mabapi le—
     (i) ikamanyo le melao ya lephata la ditšhelete jaaka ga e amana le dikema tsa ombud;
     (ii) dingongorego tse sekema sa ombud se samaganeng le tsona, le ka moo di rarabololwang ka teng; le
     (iii) boitshwara jwa ditheo tsa ditšhelete jo bo tlisang dingongorego tse dintsi; le
   (b) go ikamany le kopo ya Khansele ya Ombud ka nako ngwwe le ngwwe mabapi le tshedimosetso e e ka ga tsamaiso ya sekema sa ombud, tse di diriswang sešweng le bokao jwa maitsholo a ditheo tsa ditšhelete a a elwang tlhoko ke sekema sa ombud le tshedimosetso ngwwe le ngwwe e e maleba.

(2) Nngwe le ngwwe ya tse di latelang e tshwanetse, ka kopo ya Bothati jwa Boitshwara jwa Lephata la Ditšhelete, gape le ka nako ngwwe le ngwwe, tlamela ka tshedimosetso le dipemotse ka ga tiro ya dikema tsa ombud le tseo di diriswang bo sešweng le bokao jwa maitsholo a ditheo tsa ditšhelete tse bo di elang tlhoko:
   (a) Khansele ya Ombud;
   (b) sekema sa ombud sa semola;
   (c) sekema sa ombud sa bodirelo se se amogetsweng.

(3) Fa, ka go samaganan le ngongorego, ombud a lemoga gore go na le kgotsa go ka nna le—
   (a) tlolo ya mola wa lephata la ditšhelete ka tselelelo e kgoto ke setheo sa ditšhelete; kgotsa
   (b) tirwana kgotsa tiro ka setheo sa ditšhelete e e nang la tlomorago mo barekeding bale ditšhelete bao e seng bangongoregi, ombud o tshwanetse go itsise Bothati jwa Boitshwara jwa Lephata la Ditšhelete ka ga morero oo, go akaretsa le tshupa ya setheo sa ditšhelete se se amegang.

(4) (a) Khansele ya Ombud e tshwanetse go tlamela Tona ya Matlole le Matlotlo a Botšehaba ka tshedimosetso, dipeelo, dikwalo, ditšhaloso le ditšhegetso tse di ka neelwang ka Molawana mabapi le karolo eno kgotsa tshedimosetso e e ka lopiwang ke Tona ya Matlole le Matlotlo a Botšehaba.
   (b) Temana (a) ga e tlhoko kgotsa ga e letle kabelo ya tshedimosetso ka ga batho ba ba ka supiwang go tswe mo tshedimosetsong.

KGAOLO 15

LEKGOTLA LA DITIRELO TSA DITŠHELETE

Karolo 1

Tlhaloso

Ditšhaloso

218. Mabapi le matlhomlo a Kgalo eno—
   “*tsheqeto*” e kaya ngwwe le ngwwe ya tse di latelang:
   (a) tshwetse e e tserweng ke molaodi wa lephata la ditšhelete kgotsa Khansele ya Ombud go ya ka mola ao wa lephata la ditšhelete mabapi le motho yo o rileng;
(b) a decision by an authorised financial services provider, as defined in section 1 of the Financial Advisory and Intermediary Services Act, in terms of section 14 of that Act in relation to a specific person;

(c) a decision in relation to a specific person by a market infrastructure, being a decision in terms of rules of the market infrastructure contemplated by the Financial Markets Act, or a decision contemplated in section 105 of the Financial Markets Act;

(d) a decision of a statutory ombud in terms of a financial sector law in relation to a specific complaint by a person;

(e) a decision of a kind prescribed by Regulation for the purposes of this paragraph, and includes—

(f) an omission to take such a decision within the period prescribed or specified in a financial sector law, rules, or other requirements pertaining to the decision-maker;

(g) an omission to take such a decision within a reasonable period, if the applicable financial sector law, or rules of, or other requirements pertaining to, the decision-maker require the decision to be taken but without prescribing or specifying a period;

(h) an action taken as a result of such a decision; and

(i) an omission to take action as a result of such a decision within the prescribed or a reasonable period, if the applicable financial sector law requires the action to be taken but does not prescribe a period,

but does not include—

(j) a decision of a financial sector regulator that the financial sector regulator is directed to take in terms of section 18(2) or 30(1);

(k) a decision to conduct a supervisory on-site inspection or an investigation;

(l) an assessment of a levy issued to a specific person; or

(m) a decision prescribed by Regulations made for this paragraph;

“decision-maker” means—

(a) in relation to a decision by a financial sector regulator, the financial sector regulator;

(b) in relation to a decision by the Ombud Council, the Ombud Council;

(c) in relation to a decision referred to in paragraph (b) of the definition of “decision” in this section, the authorised financial services provider;

(d) in relation to a decision referred to in paragraph (c) of the definition of “decision” in this section, the market infrastructure;

(e) in relation to a decision by a statutory ombud, the statutory ombud; and

(f) in relation to a decision referred to in paragraph (e) of the definition of “decision” in this section, the person identified in the Regulations as the decision-maker.

Part 2

Financial Services Tribunal

Establishment and function of Financial Services Tribunal

219. (1) The Financial Services Tribunal is hereby established to reconsider, in terms of this Chapter, decisions as defined in section 218 and to perform the other functions conferred on it by this Act and specific financial sector laws. 

(2) The Tribunal—

(a) is independent;

(b) must be impartial and exercise its powers without fear, favour or prejudice;

(c) is a tribunal of record; and

(d) must perform its function in accordance with this Act and the specific financial sector laws.
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(b) tshwetso ka molamedi wa ditirelo tsa ditšhelete tse di amogetsweng, jaaka go tšhalositswe mo karolong 1 ya Financial Advisory and Intermediary Services Act, go ya ka karolo 14 ya Molao oo mabapi le motho yo o rileng;

c) tshwetso e e mabapi le motho yo o rileng ka thulaganyetso ya pogopeyothe ya mmaraka, eo e leng tshwetso go ya ka melawana ya thulaganyetso ya pogopeyothe ya mmaraka e e tšhalositsweng ke Financial Markets Act, kgotsa tshwetso e e tšhalositsweng mo karolong 105 ya Financial Markets Act;

d) tshwetso ya ombud wa semolao go ya ka molao wa lephata la ditšhelete mabapi le nngongorego e e rileng ka motho;

e) tshwetso ya mofuta o o rileng e e neetsweng ke Molawana mabapi le mailihomo a temana eno,

ebile e akaretse—

(f) tlogelo go tsaya tshwetso eo mo nakong e e beilweng kgotsa tsepanisitsweng mo molaong wa lephata la ditšhelete, melawana, kgotsa ditlhokego tse dingwe tse di amanang le motho yo o tsereng tshwetso;

(g) tlogelo ya go tsaya tshwetso eo mo nakong e e lekaneng, fa molao wa lephata la ditšhelete o o maleba, kgotsa melawana, kgotsa ditlhokego tse dingwe tse di amanang le motho yo o tsereng tshwetso di thlhok gore go tswee tshwetso fela ntle le go baya kgotsa go tspamisa nako;

h) kgoto e e tserweng ka nthla ya tshwetso eo; le

(i) tlogelo ya go tsaya tshwetso ka nthla ya tshwetso eo mo nakong e e beilweng kgotsa e e lekaneng, fa molao wa lephata la ditšhelete o o amogetsweng o thlhok gore kgoto e e tsewe mme o sa neelane ka nako, mme ga o akaretse—

(j) tshwetso e molaodi wa lephata la ditšhelete a kaelwang go e tsaya go ya ka karolo 18(2) kgotsa 30(1);

(k) tshwetso ya go diragatsa kelotlhoko ya botlhokomedi jwa kwa setsheng kgotsa patlisiso;

(l) tsekatsheko ya lekgethwana le le reboletsweng motho yo o rileng; kgotsa

(m) tshwetso e e neilweng ke Melawana e e diritsweng temana eno;

“motho yo o tsayang tshwetso” o kaya—

(a) mabapi le tšhwetso ka molaodi wa lephata la ditšhelete, molaodi wa lephata la ditšhelete;

(b) mabapi le tšhwetso ka Khansele ya Ombud, Khansele ya Ombud;

(c) mabapi le tšhwetso e e kailweng mo temaneng (b) ya tšhalos mo karolong eno, molamedi wa ditirelo tsa ditšhelete e e amogetsweng;

(d) mabapi le tšhwetso e e kailweng mo karolong (c) ya tšhalos ya “tšhwetso” mo karolong eno, thulaganyetso ya pogopeyothe ya mmaraka;

(e) mabapi le tšhwetso ka ombud wa semolao, ombud wa semolao; le

(f) mabapi le tšhwetso e e kailweng mo temaneng (e) ya tšhalos ya “tšhwetso” mo karolong eno, motho yo o supiilweng mo Melawaneng jaaka motho yo o tsayang tšhwetso.

Karolo 2

Lekgotla la Ditirelo tsa Ditšhelete

Go tlhongwa le tiro ya Lekgotla la Ditirelo tsa Ditšhelete

219. (1) Lekgotla la Ditirelo tsa Ditšhelete le a tlhongwa go sekasekagape, go ya ka Kgolo eno, ditšhwetso jaaka di tšhalositswe mo karolong 218 le go dira ditiro tse dingwe tse le bo di abetsweng ke Molao ono le melao ya lephata la ditšhelete e e rileng.

(2) Lekgotla—

(a) le ikemetse;

(b) le tšwanetse go se tseye lethlhakore le go diragatsa ditshata tsa lona ntle le letshogo, kgethololo kgotsa kgobelelo;

(c) ke lekgotla le rekoto; le

(d) le tšwanetse go dira ditiro tsa lona go tsamaelana le Molao ono le melao e e tspameng ya lephata la ditšhelete.
Members of Tribunal

220. (1) The Tribunal consists of as many members, appointed by the Minister, as the Minister may determine.

(2) The Tribunal members must include—
   
   (a) at least two persons who are retired judges, or are persons with suitable expertise and experience in law; and
   
   (b) at least two other persons with experience or expert knowledge of financial products, financial services, financial instruments, market infrastructures or the financial system.

(3) A person may not be appointed to, or hold office as, a Tribunal member if the person—
   
   (a) is a disqualified person; or
   
   (b) is not a citizen of the Republic or is not ordinarily resident in the Republic.

(4) The Minister must appoint a Tribunal member referred to in subsection (2)(a) as the Chairperson, and may appoint another Tribunal member as Deputy Chairperson.

(5) The Chairperson—
   
   (a) must preside at meetings of the Tribunal; and
   
   (b) is responsible for managing the work of the Tribunal effectively.

(6) The Deputy Chairperson performs the functions of the Chairperson on delegation by the Chairperson, or in the absence of the Chairperson, or if for any reason the office of the Chairperson is vacant.

Term of office and termination of membership

221. (1) A Tribunal member holds office for—

   (a) three years from the date of the member’s appointment; or
   
   (b) if a shorter period is specified in the appointment of the Tribunal member, that shorter period.

(2) A Tribunal member may be re-appointed at the expiry of a term.

(3) A person may resign as a Tribunal member by giving at least three months written notice to the Minister, or a shorter period of notice that the Minister may accept.

(4) The Minister must terminate a person’s appointment as a Tribunal member if the member becomes a disqualified person.

(5) The Minister may terminate a person’s appointment as a Tribunal member if—

   (a) the member is unable to perform the functions of office for health or other reasons; or
   
   (b) an independent inquiry established by the Minister has found that the member—

      (i) has failed in a material way to discharge any of the responsibilities of office; or

      (ii) has acted in a way that is inconsistent with continuing to hold the office.

(6) If an independent inquiry has been established in terms of subsection (5)(b) in relation to a member, the Minister may suspend the member from office pending a decision on the removal of the member.

(7) A Tribunal member holds office on terms and conditions, including as to remuneration, not inconsistent with this Act, determined by the Minister.

Staff and resources

222. (1) The Chairperson may, in accordance with applicable law—

   (a) for the work of the Tribunal—

      (i) appoint persons as employees;

      (ii) enter into secondment arrangements; or

      (iii) engage persons on contract otherwise than as employees;

   (b) enter into contracts;

   (c) acquire and dispose of property;

   (d) insure the Tribunal against any loss, damage, risk or liability that it may suffer or incur; and
Maloko a Lekgotla

220. (1) Lekgotla le na le maloko a le mantsi, a a thapilweng ke Tona, jaaka Tona a ka thomamisa.

(2) Maloko a Lekgotla a tshwanetse go akaretsa—
(a) bonnye batho ba le babedi bao e leng baatlhodi ba ba ratseng tiro, kgotsa ke batho ba nang le kitso e kgolo e e maleba le maitemogelo mo molaeng; le
(b) bonnye batho ba bangwe ba babedi bao ba nang le maitemogelo kgotsa kitso e e kwa godimo ya dikuno tsa ditšhelete, ditirelo tsa ditšhelete, didiriso tsa ditšhelete, ditulaganyeto tsa popegotheo ya mmaraka kgotsa ditulaganyo tsa ditšhelete.

(3) Motho o ka se thapelwe go, kgotsa go dira jaaka, leloko la Lekgotla fa motho—
(a) a ileditswe; kgotsa
(b) e se moagi wa Rephaboliki kgotsa e se moagi ka tlwae mo Rephaboliking.

(4) Tona o tshwanetse go thapa leloko la Lekgotla le le kailweng morakolo tlaletsetsong (2)(a) jaaka Modulasetilo, e bile o ka thapa leloko le lengwe la Lekgotla jaaka Motsatsamodulasetilo.

(5) Modulasetilo—
(a) o tshwanetse go okamela kwa dikopanong tsa Lekgotla; le
(b) o rwala maiakarabelo a go laola tiro ya Lekgotla ka nonebo.

(6) Motsatsamodulasetilo o dira ditiro tsa Modulasetilo ka tholelo ya Modulasetilo, kgotsa fa Modulasetilo a seyo, kgotsa fa ka lebaka lengwe go na le phatlatiro ya modulasetilo.

Paka ya tiro le khutliso ya boloko

221. (1) Leloko la Lekgotla le dira—
(a) sebaka sa dingwaga tse tharo go simolola ka lethla la go thapiwa ga leloko; kgotsa
(b) fá paka e e khutshwane e tsepamisitswe mo go thapiweng ga leloko la Lekgotla, paka eo e khutshwane.

(2) Leloko la Lekgotla le ka thapiwa gape kwa bokhutlong jwa paka.

(3) Motho o ka rola tiro jaaka leloko la Lekgotla ka go romelela Tona kitsiso ya bonnye dikgwedi di le tharo, kgotsa nako e khutshwane ya kitsiso e Tona o ka e amogelang.

(4) Tona o tshwanetse go khutlisa go thapiwa ga motho jaaka leloko Lekgotla fa motho a ileditswe.

(5) Tona o ka khutlisa go thapiwa ga motho jaaka leloko la Lekgotla fa—
(a) leloko le sa kgone go dira ditiro tse le di thapetsweng ka nthla ya mabaka a boitekanelo kgotsa mabaka a mangwe; kgotsa
(b) fá patlisiso e e ikemetseng e e thomilweng ke Tona e fitlhelese gore leloko—
(i) le paleswes ke gotlhe go diragatsa ngwe le ngwe ya maiakarabelo a lona a tiro; kgotsa
(ii) le dirile ka mokgwga o o sa tsamelaeneng le ditlhokego tsa go sewelela pele go dira.

(6) Patlisiso e e ikemetseng e e thomilweng go ya ka karolotlaletseto (5)(b) mabapi le leloko, Tona o ka emisa leloko mo tirong go sa letilwe tshwetsa ka ga goslowa ga leloko.

(7) Leloko la Lekgotla le dira go ya ka dipeelo le mabaka, go akaretsa le ka ga go duelwa, go go tsamelaenang le Molao ono, tse di thomamisitsweng ke Tona.

Badiri le ditlamelo

222. (1) Modulasetilo o ka, go tsamelaana le molao o o maleba—
(a) mabapi le tiro ya Lekgotla—
(i) thapa batho jaaka badiri;
(ii) dia ditulaganyo tsa go tlatsa go thapiwa ga motho; kgotsa
(iii) dirisana le batho ka konteraka ka pharologano le bona jaaka badiri;
(b) dira dikonteraka;
(c) fitlhelela le go latla photo;
(d) intšora Lekgotla kgatlanhong le tlathelgo le ngwe le ngwe; tshenyegelo, kotsi kgotsa molato eo le ka le ka iphitlhelang le lebagane nao; le
(e) do anything else necessary for the performance of the Tribunal’s functions.

(2) The Chairperson may not enter into a secondment arrangement in respect of a person, or engage persons as employees or on contract, unless the person and the Chairperson have agreed in writing on—

(a) the performance measures that must be used to assess that person’s performance; and

(b) the level of performance that must be achieved against those measures.

Duties of staff members

223. (1) A person who is or was a staff member under section 222 may not use that position or any information obtained as a staff member to—

(a) improperly benefit himself or herself or another person;

(b) impede the Tribunal’s ability to perform its functions; or

(c) cause improper detriment to another person.

(2) For the purposes of this section, “benefit” and “detriment” are not limited to financial benefit or detriment.

Panels of Tribunal

224. (1) The Chairperson must constitute a panel of the Tribunal for each application for reconsideration of a decision.

(2) The panel constituted to consider an application for the reconsideration of a decision is the decision-making body of the Tribunal, and the panel exercises any of the powers of the Tribunal relating to the reconsideration of the decision.

(3) The decision of the panel is the decision of the Tribunal as referred to in sections 234, 235 and 236 in respect of an application for the reconsideration of a decision.

(4) A panel consists of—

(a) a person to preside over the panel, who must be a person referred to in section 220(2)(a) or 225(2)(a)(i); and

(b) two or more persons who are Tribunal members or persons on the panel list.

(5) If, for any reason, a panel member is unable to complete proceedings for a reconsideration of a decision, the Chairperson may—

(a) replace that member with a person referred to in subsection (4);

(b) direct that the proceedings continue before the remaining panel members; or

(c) constitute a new panel and direct the new panel to either continue the proceedings, or start new proceedings.

Panel list

225. (1) The Minister must establish and maintain a list of persons who are willing to serve as members of panels of the Tribunal.

(2) The persons included in the panel list must—

(a) have relevant experience in or expert knowledge—

(i) of law; or

(ii) of financial products, financial services, financial instruments, market infrastructures or the financial system; and

(b) be a fit and proper person to be included in the panel list.

(3) A person may not be included in the panel list if the person is a disqualified person.

(4) The Minister may, every five years, publicly invite persons to apply for inclusion in the panel list.

(5) The Chairperson must ensure that the persons included in the panel list have an equal opportunity to be appointed to serve on a panel of the Tribunal.
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(e) dira sengwe le sengwe se se tlhokegang mabapi le tiragatso ya ditiro tsa Lekgotla.

(2) Modulasetilo o ka se dire thulaganyo ya go tlatsa ga thapiwa ga motho, kgotsa go dirisa motho jaaka modiri kgotsa modiri wa konteraka, ntle le fa fela motho le Modulasetilo ba dumalane ka go kwala ka ga—

(a) ditekanyetsa tsa tiro tse di tshwanetseng go diriswa go lekanyetsa tiragatso ya motho; le

(b) boemo jwa tiro jo bo tshwanetseng go fithhelelwa kgatlhanong le ditekanyetso tse.

Ditiro tsa badiri

223. (1) Motho yo e leng kgotsa yo e neng e le leloko la badirimmogo ka fa tlase ga karolo 222 o ka se dirise maemo ao kgotsa tshedimosetso nngwe le nngwe e a e fithheletseng jaaka leloko la badiri go—

(a) uma molemo e seng ka tshwanelo kgotsa go dira gore motho yo mongwe a une molemo;

(b) kgoreletsa bokgoni jwa Lekgotla jwa go dira ditiro tsa jona; kgotsa

(c) thatafletsa motho yo mongwe.

(2) Mabapi le mailihomo a karolo eno, “kunomolemo” le “thatafaletso” ga di a lekanyetswa ga kunomolemo kgotsa thatafaletso ya ditšeletse.

Dipanele tsa Lekgotla

224. (1) Modulasetilo o tshwanetse go tlhama panele ya Lekgotla mabapi le kopo nngwe le nngwe ya tshekatshekogape ya tshweto.

(2) Panele e tlhometswe go sekaseka kopo mabapi le mokgatlho o o dirang ditshwetswa wa Lekgotla, e bile panele e diragatsa nngwe le nngwe ya ditsha tsa Lekgotla tse di amanang le tshekatshekogape ya tshwetsa.

(3) Tshwetsa ya panele ke tshwetsa ya Lekgotla jaaka go kailwe mo dikarolong 234, 235 le 236 mabapi le kopo ya tshekatshekogape ya tshwetsa.

(4) Panele e bopilwe ka—

(a) motho yo o tla okamang panele, yo e tshwanetseng go nna motho yo oailweng mo karolong 220(2)(a) kgotsa 225(2)(a)(i); le

(b) batho ba le babedi kgotsa go feta ba e leng maloko a Lekgotla kgotsa batho ba ba leng mo lenaneng la panele.

(5) Fa ka lebaka lefe, leloko la panele le sa kgone go feleletseng ditsamaiso tsa tshekatshekogape ya tshwetsa, Modulasetilo o ka—

(a) tsenya mo boemong jwa leloko leo motho yo oailweng mo karolottlaletsong (4);

(b) laela gore ditsamaiso di tswelele pele fa pele ga maloko a a setseng a panele; kgotsa

(c) thloma panele e ntšhwa le go laela panele e ntšhwa go tswelela pele ka ditsamaiso, kgotsa go simolola ditsamaiso tse dinišhwa.

Lenane la panele

225. (1) Tona o tshwanetse go tlhoma le go tlamela lenane la batho ba ba ikemiseditseng go dira jaaka maloko a dipanele tsa Lekgotla.

(2) Batho ba ba akareditsweng mo lenaneng la panele ba tshwanetse—

(a) go nna le maitemogelo mo kgotsa kitso ya boitseanape—

(i) ya molao; kgotsa

(ii) ya dikuno tsa ditšeletse, ditirelo tsu ditšeletse, didiriso tsu ditšeletse,

dithulaganyetsa tsu popegotheo ya mmaraka kgotsa dithulaganyo tsu ditšeletse; le

(b) go nna motho yo o itekanetseng e bile a le matshwanedi go ka akaretswa mo lenaneng la panele.

(3) Motho o ka se akaretswesw mo lenaneng la panele fa e le motho yo o ileditsweng.

(4) Tona o ka, dingwaga dingwe le dingwe tse tlhano, laletsa mo phatlatseng batho go dira kopo ya go akaretswa mo lenaneng la panele.

(5) Modulasetilo o tshwanetse go netefatsa gore batho ba ba akareditsweng mo lenaneng la panele ba newa tšhono e e lekanang ya go thapiwa go dira mo paneleng ya Lekgotla.
(6) The Minister—
(a) must remove a person from the panel list—
   (i) if the person so requests; or
   (ii) if the person becomes a disqualified person; and
(b) may, on recommendation of the Chairperson, remove a person from the panel list if the person—
   (i) is unable to act as a panel member for health or other reasons;
   (ii) has failed in a material way to discharge any of the responsibilities of a panel member; or
   (iii) has acted in a way that is inconsistent with acting as a panel member.

Disclosure of interests

226. (1) (a) If before or during proceedings in which a panel member is participating, it becomes apparent that the panel member or a person who is a related party to the panel member has an interest in the decision that the panel has been constituted to reconsider, the panel member must—

   (i) immediately and fully disclose this interest to the other members of the panel; and
   (ii) withdraw from any further involvement in the hearing.

(b) A disclosure in terms of paragraph (a) by the Chairperson must, in addition, be made to the Minister.

(c) A disclosure in terms of paragraph (a) by another panel member must, in addition, be made to the Chairperson.

(2) For the purposes of this section, it does not matter—

(a) whether an interest is direct, indirect, pecuniary or non-pecuniary; or

(b) when the interest was acquired.

(3) In this section, “interest” does not include an interest that is not material.

(4) The Chairperson must maintain a register of all disclosures made in terms of this section, and must maintain a system for the annual disclosure of interests by members of the Tribunal.

Tribunal rules

227. (1) The Chairperson may make rules, not inconsistent with this Act, in respect of the procedure to be followed in connection with proceedings on applications for reconsideration of decisions in terms of this Chapter, and the conduct of those proceedings, and may at any time amend or revoke those rules.

(2) Tribunal rules, and amendments and revocations of Tribunal rules, must be published.

Part 3

Right to reasons for decisions

Right to be informed

228. An obligation in a financial sector law to notify a person of a decision taken in relation to that person must be read as including an obligation to notify the person of that person’s right—

(a) to request reasons for the decision in terms of section 229; and

(b) to have the decision reconsidered in terms of Part 4.

Right to reasons for decisions

229. (1) A person who has not already been given the reasons for the decision may, within 30 days after the person was notified of the decision, request a statement of the reasons for the decision from the decision-maker.

(2) The decision-maker must, within one month after receiving a request in terms of subsection (1), give the person a statement of the reasons for the decision, which must include a statement of the material facts on which the decision was based.
(6) Tona—
   (a) o tshwanetse go tlosa motho mo lenaneng la panele—
      (i) fa motho a kopa jalo; kgotsa
      (ii) fa motho a mma motho yo o ileditsweng; le
   (b) o ka, ka tshitsinyo ya Modulasetilo, tlosa motho mo lenaneng la panele fa
      motho—
      (i) a sa kgone go dira jaaka leloko la panele ka ntlha ya mabaka a
         boitekanelo kgotsa a mangwe;
      (ii) a paletswe ka gotlhe go diragatsa ngwwe le ngwwe ya maikarabelo a
         leloko la panele; kgotsa
      (iii) a dirile ka mokgwa o o sa tsamaelaneng le go dira jaaka leloko la panele.

Tshenolo ya dikgatlhego

226. (1) (a) Fa pele kgotsa ka nako ya ditsamaiso tse mo go tsoma leloko la panele le
tsayang karolo, go lebega e kete leloko la panele, kgotsa motho yo o amanang le leloko
la panele, a na le kgatlheng mo tshwetsong e panele e e tihametsweng go e sekaseka
gepe, leloko la panele e tshwanetse go—
      (i) senolela maloko a mangwe a panele kgatlheng eo ka bonako le ka botlalo; le
      (ii) ikgogela morago mo go nneng karolo ya theetso.
   (b) Tshenolo go ya ka temana (a) ka Modulasetilo e tshwanetse, ka tlaleletso, go dirwa
go Tona.
   (c) Tshenolo go ya ka temana (a) ka leloko le lengwe la panele e tshwanetse, ka
tlaleletso, go dirwa go Modulasetilo.
   (2) Mabapi le mailthomo a karolo eno, ga go kgathalesege—
      (a) gore kgatlhengelo e tihamalete, ga e a tihamalala, ke ya tšehele kgotga ga se
         ya tšehele; kgotsa
      (b) gore kgatlheng e fithleletse leng.
   (3) Mo karolong eno“kgatlhengelo” ga e akarete kgatlhengelo e e seng ya boleng.
   (4) Modulasetilo o tshwanetse go tshola rejisetara ya ditshenolo tsothle tse di
      dirilweng go ya ka karolo eno, le go tshola thulaganyo ya ditshenolo tsa kgatlheng ka
      maloko a Lekgotla ngwaga le ngwaga.

Melawanaya Lekgotla

227. (1) Modulasetilo o ka dira melawanaya, e e tsamaelanang le Molao ono, mabapi le
tsamaiso e e tshwanetseng go latelwa mabapi le ditsamaiso tsa dikopo tsa
tshekatshekogape ya tshwetsgo ya ka Kgaolo eno, le maitsholo a ditsamaiso tseo, e
bile e ka tlhabolola kgotsa phimola melao eo nako ngwwe le ngwwe.
   (2) Melawanaya Lekgotla, le dithlhabololo le diphimolo tsa Melawanaya Lekgotla, di
tshwanetse go phasalatswa.

Karolo 3

Tshwanelo ya mabaka a ditshwetso

Tshwanelo ya ya mabaka a dishwetso itsisiwe

228. Tlamego mo molaong wa lephata la ditšehele ya go itsise motho ka ga tshwetsgo
e e tserweng mabapi le motho yoo e tshwanetse go tseelwa gore e akaretea tlamego ya
go itsise motho ka ga tshwanelo ya motho yoo—
   (a) ya go lopa mabaka a tshwetso go ya ka karolo 229; le
   (b) ya go dira kopo ya gore tshwetsgo e sekasekwe ga pe go ya ka Karolo 4.

Tshwanelo ya mabaka a ditshwetso

229. (1) Motho yo o iseng a newe mabaka a tshwetsgo o ka, mo matsatsing a le 30
morago ga fa motho a sena go itsisiwe ka ga tshwetsgo, lopa polelo ya mabaka mabapi le
tshwetso go tswa gomothe yo o dirileng tshwetsgo.
   (2) Motho yo o dirileng tshwetso o tshwanetse, mo kgwedileng e le esi morago ga go
amogela kopo e e kailweng mo karoletlaletseong (1), naya motho polelo ya mabaka a
    tshwetsgo, e e tshwanetseng go akaretsa polelo ya ditilha tsatsothokwa tse tshwetsgo e
    ikaegileng ka tsoma.
Part 4

Reconsideration of decisions

Applications for reconsideration of decisions

230. (1) (a) A person aggrieved by a decision may apply to the Tribunal for a reconsideration of the decision by the Tribunal in accordance with this Part.
(b) A reconsideration of a decision in terms of this Part constitutes an internal remedy as contemplated in section 7(2) of the Promotion of Administrative Justice Act.
(2) The application must be made—
(a) if the applicant requested reasons in terms of section 229, within 30 days after the statement of reasons was given to the person; or
(b) in all other cases, within 60 days after the applicant was notified of the decision, or such longer period as may on good cause be allowed.
(3) An application in terms of subsection (1) must be made in accordance with the Tribunal rules.

Decision of Tribunal not suspended

231. Neither an application for a reconsideration of a decision, nor the proceedings on the application, suspends the decision of the decision-maker unless the Tribunal so orders.

Proceedings for reconsideration of decisions

232. (1) In proceedings for reconsideration of a decision—
(a) the procedure is, subject to the financial sector laws and the Tribunal rules, determined by the Chairperson;
(b) the proceedings are to be conducted with as little formality and technicality, and as expeditiously, as the requirements of the financial sector laws and a proper consideration of the matter permit; and
(c) any party may be represented by a legal representative.
(2) The person chairing a panel may give directions to facilitate the conduct of proceedings for reconsideration of a decision before the panel.
(3) A panel must conduct any hearing it holds in public, but the person presiding over the panel may direct that a person be excluded from a hearing on any ground on which it would be proper to exclude a person from civil proceedings before the High Court.
(4) In proceedings for reconsideration of a decision, the panel is not bound by the rules of evidence, but may, subject to this section, inform itself on any relevant matter in any appropriate way.
(5) The person presiding over a panel—
(a) may, on good cause shown, by order, direct a specified person to appear before the panel at a time and place specified in the order to give evidence, to be questioned or to produce any document; and
(b) must administer an oath to or accept an affirmation from any person called to give evidence.
(6) A person giving evidence or information, or producing documents, has the protections and liabilities of a witness giving evidence in proceedings before the High Court.

Decisions of panels

233. If the panel constituted for an application for reconsideration of a decision is divided in opinion as to an order to be made, the opinion of the majority of the panel members prevails, but if they are equally divided in opinion, the opinion of the member presiding over the panel prevails.
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Karolo 4

Tshekatsheko poeleto ya ditshwetso

Dikopo mabapi le tshekatsheko poeleto ya ditshwetso

230. (1) (a) Motho yo o ngongoregelang tshwetso o ka dira kopa kwa Lekgotleng mabapi le tshekatshekgape ya tshwetso ke Lekgotla go tsamaelana le Karolo eno.

(b) Tshekatshekgape ya tshwetso go ya ka Karolo eno e tshwanetswe ke namolo ya ka fa gare jaaka go tlhalositse mo narolong 7(2) ya Promotion of Administrative Justice Act.

(2) Kopo e tshwanetse go dirwa—

(a) fa modirakopo a kopile mabaka go ya ka karolo 229, mo malatsing a le 30 morago ga fa polelo ya mabaka e sena go newa motho; kgotsa

(b) mo mabakeng otlhe a mangwe, mo malatsing a le 60 morago ga fa modirakopo a sena go itisise ka tshwetso. kgotsa nako eo e telele e e ka letlwang ka mowa o montle.

(3) Kopo go ya ka karolotlaleleletso (1) e tshwanetse go dirwa go tsamaelana le Melawana ya Lekgotla.

Tshwetso ya Lekgotla e sa sekegwang

231. Kopo ya tshekatshekgape ya tshwetso, kgotsa ditsamaismo kopong, ga di sekege tshwetso ya motho yo o dirileng tshwetso ntle le fa Lekgotla le laela jalo.

Ditsamaiso tsa tshekatsheko poeleto ya ditshwetso

232. (1) Mo ditsamaisong mabapi le tshekatshekgape ya tshwetso—

(a) tsamaiso e, go larlela melao ya lephta la ditshwetle le Melawana ya Lekgotla, tlhomamiswa ke Modudlasetilo;

(b) ditsamaiso di tshwanetse go dirwa e seng ka tsenelelo e kgo e ka nolo fatso, mme ka bonako, jaaka go tlhokega go ya ka melao ya lephta la ditshwetle le kelothoko e kgo e;

(c) moamegi mongwe le mongwe o ka emelelwa moemedi wa semolao.

(2) Motho yo o okameng panele o ka neelana ka dikaelo go nolofatse tsamiso ya ditsamaiso tsa tshekatshekgape ya tshwanelo e e fa pele ga panele.

(3) Panele e tshwanetse go tshwara theetseng nngwe le nngwe le yona mo phatlalatseng, mme motho yo o okamang panele o ka laela gore motho a se akaretswe mo tsamaisong ka ntlha ya lebaka lengwe le lengwe leo ka lona go tla nang matswanedi mo tshwanedi go se akaretswe motho mo ditsamaisong tse di fa pele ga Kgotsatshekelokgolo.

(4) Mo ditsamaisong mabapi le tshekatshekgape ya tshwetso, panele ga e pateletswe ke melawana ya bopaki, mme e ka, go latela karolo eno, ikitsise ka ga merero mengwe le mengwe e e maleba ka mokgwa o o siameng.

(5) Motho yo o okameng panele—

(a) o ka, ka lebaka le le utlwagalang, ka taelo, laela motho yo o tsepamitsitsweng go tlhalelela fa pele ga Panele ka nako le kwa lefelong le te tsepamitsitsweng mo taelong go neelana ka bopaki, go botsolotswa kgotsa go tlhagiso lokwalo lengwe le lengwe; le

(b) o tshwanetse go tsamaisa kano ya kgotsa go amogela netefatlesto go tswa mo mothong mongwe le mongwe yo o biditsweng go neelana ka bopaki.

(6) Motho yo o neelanang ka bopaki kgotsa tshedimoisetso, kgotsa yo o tlhagisang dikwalo, mabapi le ditsamaisong tse di ka ga tshekatshekgape ya tshwetso o na le ditshireletso le melato ya pakie e e neelanang ka bopaki mo ditsamaisong tse di fa pele ga Kgotsatshekelokgolo.

Ditshwetso tsa panele

233. Fa panele e e thomi milweng malebana le kopo ya tshekatshekgape ya tshwetso e sa dumalane ka gore taelo e dirwe, kakanyo ya bontsi jwa maloko a panele e e diragatswe, mme fa ba lekana ka pharologano ya dikakanyo, kakanyo ya leloko le le okamang panele e e diragatswe.
Tribunal orders

234. (1) In proceedings on an application for reconsideration of a decision the Tribunal may, by order—
   (a) set the decision aside and remit the matter to the decision-maker for further consideration;
   (b) in the case of a decision of any of the following kinds, also make an order setting aside the decision and substituting the decision of the Tribunal:
      (i) a decision in terms of Chapter 13;
      (ii) a decision referred to in paragraph (b) or (c) of the definition of “decision” in section 218; and
      (iii) a decision of a kind prescribed by Regulation for the purposes of this section; or
   (c) dismiss the application.

(2) The Tribunal may, in exceptional circumstances, make an order that a party to proceedings on an application for reconsideration of a decision pay some or all of the costs reasonably and properly incurred by the other party in connection with the proceedings.

(3) Subsections (1) and (2) are subject to any provision of a financial sector law that excludes, restricts or qualifies the orders that the Tribunal may make in proceedings for reconsideration of a decision.

(4) The Tribunal may, by order, summarily dismiss an application for reconsideration of a decision if the application is frivolous, vexatious or trivial.

(5) This section does not affect any other right that a person may have.

Judicial review of Tribunal orders

235. Any party to proceedings on an application for reconsideration of a decision who is dissatisfied with an order of the Tribunal may institute proceedings for a judicial review of the order in terms of the Promotion of Administrative Justice Act or any applicable law.

Enforcement of Tribunal orders

236. (1) A party to proceedings on an application for reconsideration of a decision may file with the registrar of a competent court a certified copy of an order made in terms of section 234 if—
   (a) no proceedings in relation to the making of the order have been commenced in a court by the end of the period for commencing such proceedings; or
   (b) if such proceedings have been commenced, the proceedings have been finally disposed of.

(2) The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.

CHAPTER 16

FEES, LEVIES AND FINANCES

Part 1

Fees and Levies

Fees and levies

237. (1) (a) Fees may be charged by a financial sector body in accordance with this Part to fund the performance of specific functions under this Act and the relevant financial sector laws.

(b) Levies may be imposed by a financial sector body in accordance with this Part, read with legislation that empowers the imposition of levies, to fund the operations of the financial sector body.
Ditaelo tsa Lekgotla

234. (1) Mo ditsamaisong tsa kopo e e mabapi le tshekatshekogape ya tshwetso, Lekgotla le ka, ka taelo—
   (a) beela tshwetso kwa thoko le go romela morero kwa mthing yo o tsayang tshwetso gore o sekasekwe go ya pele;
   (b) mabapi le tshwetso ya mefuta e e latelang, dira gape taelo e e beelang kwa thoko tshwetso le go emisetsa tshwetso ya Lekgotla:
      (i) Tshwetso go ya ka Kgaolo 13;
      (ii) tshwetso e e kailweng mo temaneng (b) kgotsa (c) ya tlahaloso ya “tshwetso” mo karolong 218; le
      (iii) tshwetso ya mofuta o o rileng e e neetsweng ke melawana mabapi, le maitlhomo a karolo eno; kgotsa
   (c) se amogele kopo.
   (2) Lekgotla le ka, mo mabakeng a a kgethegileng, dira taelo ya gore moamegi mo ditsamaisong tsa kopo mabapi le tshekatshekogape ya tshwetso duelela bontlhabongwe jwaditshenyegelokgotsaditshenyegelotsotlhetsedibonwengkamabakalekatshiamo ke moamegi yo mongwe mabapi le ditswana.
   (3) Dikarolotlaleletso (1) le (2) di go ya ka kabelo nngwe le nngwe ya molao wa lephata la dits ˇheleteees aakaretseng, thibeleng kgotsa tlhaoleng ditaelo tse di ka dirwang ke Lekgotla mo ditsamaisong mabapi le tshekatshekogape ya tshwetso.
   (4) Lekgotla le ka, ka taelo, kgapela kwa thoko ka tshosobanyo kopo mabapi le tshekatshekogape ya tshwetso fa kopo e le ya lefela, thumulano kgotsa e e seng botlhokwa.
   (5) Karolo ena go e aume tschwanelo nngwe le nngwe e mothe a ka tswang a na le yona.

Tshekatsheko ya katlholo ya ditaelo tsa Lekgotla

235. Moamegi mongwe le mongwe mo kopong mabapi le tshekatshekogape ya tshwetso yo o sa kgotsofatswang ke taelo ya Lekgotla o ka dira ditsamaiso mabapi le thadiso ya baflhodi ya taelo go ya ka Promotion of Administrative Justice Act kgotsa molao mongwe le mongwe o o maleba.

Kgatelyelo ya ditaelo tsa Lekgotla

236. (1) Moamegi mongwe le mongwe mo ditsamaisong mabapi le kopo ya tshekatsheko ya tshwetso o ka faela go mokwadisi kgatiso e e kanetsweng ya taelo e e dirilweng go ya ka karolo 234 fa—
   (a) ditsamaiso mabapi le go diwa ga taelo di ise di somololwe kwa kgotlatshekelong kwa bokhutlong jwa paka ya tshimololo ya ditsamaiso tseo; kgotsa
   (b) ditsamaiso tseo di simolotse, ditsamaiso kwa bokhutlong di a dirwa.
   (2) Taelo, fa e faetswe, e na le tlamorago ya katlholo ya selelagae, e bile e ka gatelewa jaaka e kete e dirilwe semolao ke kgotlatshekelo eo.

KGAOLO 16

MATLOTLO, MAKGETHWANA, LE DITŠHELETE

Karolo 1

Dituediso le Makgethswana

237. (1) (a) Mokgatlho wa lephata la ditšhelete o ka duedisa tuelo go tsamaelana le Karolo eno go duelela tiragatso ya ditiro tse di rileng ka fa flase ga Molao ono le melao ya lephata la ditšhelete e e maleba.
   (b) Makgethswana a ka duediswa ke mokgatlho wa lephata la ditšhelete go tsamaelana le Karolo eno, ka puisommo go molawana o o nayang maatla a go duedisa lekgethswana, go duelela ditiro tsa mokgatlho wa lephata la ditšhelete.
(2) A financial sector body must publish fees that have been determined and levies that have been imposed in the Register and on its website.

(3) Fees and levies are payable to the financial sector body at the time specified by the financial sector body, or at a time agreed to by the financial sector body.

(4) Different fees may be determined and different levies may be imposed for different types or categories of persons or supervised entities.

Fees and levies to be debts

238. (1) A fee or levy payable to a financial sector body in terms of section 237 is a debt due to the financial sector body.

(2) A financial sector body may recover the amount of a debt due in terms of this section by way of a judicial process in a competent court.

Budget, fees and levies proposals

239. (1) For each financial year, each financial sector body must prepare and adopt—

(a) a budget in accordance with section 248 that includes an estimate of its expenditure;

(b) a proposal for the fees that will be charged and levies that will be imposed by the financial sector body; and

(c) projected estimates of its expenditure for next 2 financial years.

(2) A proposal for levies may include a proposal for one or more special levies, and in that case, the estimate of expenditure must include an estimate for the special expenditure in relation to a special levy proposal.

(3) An estimate of expenditure for a financial year may include provision for one or more reserves, but the total accumulated reserves included in the estimate of expenditure may not exceed 15% of the total estimated expenditure, excluding the reserves.

(4) The financial sector body must take into account submissions made in respect of the budget as well as the fees and levies proposals, which it receives in terms of section 240.

(5) The financial sector body must submit the finalised budget, together with the fees and levies proposals, to the Minister.

(6) The Minister must be allowed a period of at least 30 days to consider the proposals and provide comments, if any.

(7) In respect of the fees and levies proposals for the first financial year following the commencement of this section, the Minister must approve the proposals for all the financial sector bodies.

(8) In respect of the Tribunal, the Minister must approve the fees and levies proposals for any financial year following the commencement of this section.

(9) (a) In respect of financial sector bodies other than the Tribunal, for any financial year other than when subsection (7) applies, the Minister must approve the fees or levies proposals, if the fees or levies proposals are based on an estimate of expenditure in excess of the amount calculated as—

   previous year basis x 1.025 x (current index ÷ previous index).

   For the purposes of paragraph (a)—

   “current index” means the value of the index at the date the amount is to be indexed, or if the value is not available, the latest available value for the purposes of the preparation of fees and levies proposals for the current financial year;

   “index” means the Consumer Price Index, as published by Statistics South Africa;

   “previous index” means the value of the index that was used for the value of the “current index” in the fees and levies proposals prepared for the previous financial year; and
(2) Mokgatlho wa lephata la ditshelete o tshwanetse go phasalatsa dituleo tse di tlhomamisitsweng le makgathwana a a duediswang mo Rejisetareng le mo webesaeteng ya ona.

(3) Dituelo le makgathwana di duelwa kwa mokgatlhong wa lephata la ditshelete kgotsa ka nako e e dumetsweng ke mokgatlho wa lephata la ditshelete.

(4) Dituelo tse di farologaneng di ka tlhomamiswa le makgathwana a ka duediswa mabapi le mefuta e e farologaneng kgotsa ditlhopha tsa batho kgotsa ditheo tse di tlhokometsweng.

Dituediso le makgathwana tse di nnang molato

238. (1) Tuelokgotsalekgethwanatsediduelwangmokgatlhowalephataladitshelete go ya ka karolo 237 ke molato o o duelwang go mokgatlho wa lephata la ditshelete.

(2) Mokgatlho wa lephata la ditshelete o ka fithilela madi a molato a a tshwanetseng go duelwa go ya ka karolo eno go ya ka mokgwa wa tsamaiso ya molao kwa kgotlatshkelong e e nang le bokgoni.

Ditshitsinyo tsa tekanyetsokabo, dituediso le makgathwana

239. (1) Mabapi le ngwaga mongwe le mongwe wa ditshelete, mokgatlho mongwe le mongwe wa lephata la ditshelete o tshwanetseng go baakanya le go amogela—

(a) tekanyetsokabo go tsamaelana le karolo 248 e e akaretsang tekanyetso ya ditshenyegelo tsa ona;

(b) ditshitsinyo mabapi le dituelo tse di tla duediswang le makgathwana a a tla pateletseng ke mokgatlho wa lephata la ditshelete; le

(c) tekanyetso e e bonelwang pele ya ditshenyegelo tsa ona mo dingwageng tse pedi tse di tlang tsa ditshelete.

(2) Tshitsinyo mabapi le makgathwana e ka akaretsa tshitsinyo mabapi le lekgathwana le le kgetheleng le le esi kgotsa go feta, e bile mo lebakeng leotho, tekanyetso ya ditshenyegelo e e tshwanetseng go akaretsa tekanyetso ya ditshenyegelo e e kgetheleng mabapi le tshitsinyo ya lekgathwana le le kgetheleng.

(3) Tekanyetso ya ditshenyegelo mabapi le ngwaga wa ditshelete e ka akaretsa kabelo ya matlolepelelothoko e le esi kgotsa go feta, mme palogotlhe ya matlolepelelothoko a a bonwengo a a akaretsitsweng mo tekanyetsong ya ditshenyegelo tsa ona e ka se fete 15% ya ditshenyegelo yotlhle e e ditshitsinyo le go tlamela ka ditshitsinyo tsa dituelo le makgathwana.

(2) Tshitsinyo mabapi le makgathwana e ka akaretsa tshitsinyo mabapi le lekgathwana le le kgetheleng le le esi kgotsa go feta, e bile mo lebakeng leotho, tekanyetso ya ditshenyegelo e e tshwanetseng go akaretsa tekanyetso ya ditshenyegelo e e kgetheleng mabapi le tshitsinyo ya lekgathwana le le kgetheleng.

(3) Tekanyetso ya ditshenyegelo mabapi le ngwaga wa ditshelete e ka akaretsa kabelo ya matlolepelelothoko e le esi kgotsa go feta, mme palogotlhe ya matlolepelelothoko a a bonwengo a a akaretsitsweng mo tekanyetsong ya ditshenyegelo tsa ona e ka se fete 15% ya ditshenyegelo yotlhle e e ditshitsinyo le go tlamela ka ditshitsinyo tsa dituelo le makgathwana.

(4) Mokgatlho wa lephata la ditshelete o tshwanetseng go tsaya tsia ditlhagagiso tse di dirilweng mabapi le tekanyetsokabo gape le ditshitsinyo tsa dituelo le makgathwana, ao a a amogelang go ya ka karolo 240.

(5) Mokgatlho wa lephata la ditshelete o tshwanetseng go romela tekanyetsokabo ya ona e e feleditsweng, mmogo le ditshitsinyo tsa dituelo le makgathwana, kwa go Tona. Tona o tshwanetseng go dumeletla paka ya bonnye malatsi a a le 30 go sekaseka ditshitsinyo le go tlamela ka ditshwaelo, fa di le teng.

(7) Mabapi le ditshitsinyo tsa dituelo le makgathwana tsa ngwaga wa nthla wa ditshelete go latea tshimolo ya karolo eno, Tona o tshwanetseng go rebola ditshitsinyo tsa mokgatlho yotlhle ya ditheo tsa ditshelete.

(8) Mabapi le Lekgotla, Tona o tshwanetseng go rebola ditshitsinyo tsa dituelo le makgathwana a a ngwaga mongwe le mongwe wa ditshelete go latea tshimolo ya karolo eno.

(9) (a) Mabapi le mokgatlho wa lephata la ditshelete e mengwe ntle le Lekgotla, mabapi le ngwaga mongwe le mongwe wa dithelete ntle fa karolo (7) e diriswa, Tona o tshwanetseng go rebola ditshitsinyo tsa dituelo kgotsa makgathwana, fa ditshitsinyo tsa dituelo kgotsa makgathwana di kaegile ka tekanyetso ya ditshenyegelo tsa tlaletso tla thotlhwa e e badilweng jaaka—

motheo ya ngwagatloala × 1.025 × (tshupanekelo ya gajaana + tshupanekelo e e fetileng).

(b) Mabapi le maitlhomo a temana (a)—

“tshupanekelo ya gajaana” e ka a bolieng iwa tshupanekelo ka letlha le thotlhwa e e elwang thloko, kgotsa fa boleng bo seyo, boleng jwa gajaana jo bo leng teng mabapi le maitlhomo a go baakanya ditshitsinyo tsa dituelo le makgathwana tsa ngwaga wa gajaana wa ditshelete;

“tshupanekelo” e ka a Tshupane ya Thotlhwa ya Badirisi, jaaka e phasaladitswse ke Statistics South Africa; le
“previous year basis”, for a financial year, means the estimate of operating expenditure adopted in terms of this section for the financial year before the year for which the calculation is being done.

Consultation requirements

240. (1) Part 1 of Chapter 7, with the exception of section 100, applies with the necessary changes, to the adoption of the budget, the estimates of expenditure as well as the fees and levies proposals as provided for in section 239.

(2) The documents that must be published under section 98 include—

(a) the budget, estimates of expenditure and the fees and levies proposals provided for in section 239 for the relevant financial year; and

(b) an explanation by the financial sector body of the budget, estimates of expenditure and fees and levies proposals, and of the variation of the budget, estimates of expenditure and the fees and levies proposals against the budget, estimates of expenditure and the fees and levies proposals adopted for the previous financial year.

Determinations of information required for assessment of levy

241. (1) A financial sector body may, in writing, require a supervised entity to provide it with information relevant to any assessment of the supervised entity’s liability for any levy as specified in the requirement.

(2) A requirement in terms of subsection (1) may be published in the Register or provided to the supervised entity from whom information is required, and must specify the manner in which, and the date by when, the information must be provided.

(3) If—

(a) the supervised entity fails or refuses to comply with the requirement issued in terms of subsection (1); or

(b) the information provided by the supervised entity is incomplete, incorrect or misleading,

the supervised entity, and each director or member of the governing body of the supervised entity, are liable to an administrative penalty under Chapter 13.

Assessments of levy

242. (1) A financial sector body must issue to each supervised entity that is liable to pay a levy for the financial year, an assessment of a levy payable by the supervised entity.

(2) The assessment notice issued to a supervised entity must state the date on which the levy is due and must be paid, which period must not be less than 30 days from the date of receipt of the notice of assessment by the supervised entity.

Payment of fee or levy by instalments

243. (1) A person who has been charged a fee, or a supervised entity who has been charged a levy, may offer to pay the fee or levy by specified instalments, and if an offer is made, the financial sector body must—

(a) accept the offer;

(b) accept a modified offer; or

(c) reject the offer,

and must notify the person who made the offer accordingly.
“tshupanekelo e e fetileng” e kaya boleng jwa tshupane jo bo dirisitsweng mabapi le boleng jwa “tshupanekelo ya ga jaana” mo ditshitsinyong tsa dituelo le makgethwana tse di baakanyeditsweng ngwagatlola wa ditšhelele; le “motheo wa ngwagatlola”, mabapi le ngwaga wa ditšhelele, o kaya tekanyetso ya ditshenyegelo tsa tiro tse di amogetsweng go ya ka karolo eno mabapi le ngwaga wa ditšhelele pele ga ngwaga o palelo e dirwang ka ona.

Ditlhokego tsa therisano

240. (1) Karolo 1 ya Kgaolo 7, ntle le karolo 100, e diriswa le diphetogo tse di tlhokegang, mo kamogelong ya tekanyetsokabo, ditekanyetso tsa ditshenyegelo gape le ditshitsinyo tsa dituelo le makgethwana jaaka di tlametswe mo karolong 239. 10
(2) Dikwalvo tse di tshwanetseng go phasalatswa ka fa tlaše ga karolo 98 di akaretsa—
(a) tekanyetsokabo, tekanyetso ya ditshenyegelo le ditshitsinyo tsa dituelo le makgethwana tse di tlametsweng mo karolong 239 mabapi le ngwaga wa ditšhelele o o maleba; le 15
(b) tlhaloso ka mokgatlho wa lephata la ditšhelele ya tekanyetsokabo, tekanyetso ya ditshenyegelo le ditshitsinyo tsa dituelo le makgethwana, le ya phapaano ya tekanyetsokabo, tekanyetso ya ditshenyegelo le ditshitsinyo tsa dituelo le makgethwana kgathanong le tekanyetsokabo, tekanyetso ya ditshenyegelo le ditshitsinyo tsa dituelo le makgethwana tse dituelo le makgethwana tse di amogetsweng mabapi le ngwagatlola wa ditšhelele.

Ditlhomamiso tsa tshedimosetso e e tlhokegang mabapi le tshekatsheko ya lekgethwana

241. (1) Mokgatlho wa lephata la ditšhelele o ka, ka go kwala, lopa setheo se se tlhokometsweng go o tlamela ka tshedimosetso e e malebana le tekanyetseng ngwe le ngwe ya go rwala maikarabelo ga setheo se se tlhokometsweng mabapi le lekgethwana lengwe le lengwe jaaka go tsepamisitswe mo ditlhokegong. 25
(2) Tlhokoego go ya ka karolotlaletso (1) e ka phasalatswa mo Rejisetaeng kgotsa ya tlamelwa go setheo se se tlhokometsweng se tshedimosetso e e tlhokweng mo go sona, e bile e tshwanetseng gape tsepamisa mokgwa o ka ona, tshedimosetso e tshwenetseng go tlamelwa.
(3) Fa—
(a) setheo se se tlhokometsweng se palelwa kgotsa se gana go ikamanya le ditlhokego tse di phasaladitsweng go ya ka karolotlaletso (1); kgotsa 30
(b) tshedimosetso e e tlametsweng ke setheo se se tlhokometsweng sa felela, e fosagetseng kgotsa e timesta, Setheo se se tlhokometsweng, le mokaedi mangwe le mangwe kgotsa leloko la mokgatlho o o busang wa setheo se se tlhokometsweng, ba tshwanetseng ke kotlhao ya tsamaiso ka fa tlaše ga Kgaolo 13.

Tshekatsheko ya lekgethwana

242. (1) Mokgatlho wa lephata la ditšhelele o tshwanetseng go rebolela setheo sengwe le sengwe se se tlhokometsweng se se tshwanetseng go duela lekgethwana la ngwaga wa ditšhelele tekanyetso ya lekgethwana e e duelwanga le setheo se se tlhokometsweng. 40
(2) Kitsiso ya tekanyetso e e rebolletseng setheo se se tlhokometsweng e tshwanetseng go tlhagisa letlha le lekgethwana le tshwanetseng go duela ka lona, leo paka ya lona e sa tshwanelang go nna malatsi a le kwa tlaše ga a le 30 go tloga ka letlha la kamogelo ya kitsiso ya tekanyetso ka setheo se se tlhokometsweng.

Tuelelo ya tuediso kgotsa lekgethwana ka dikarolotluelo

243. (1) Motho yo o diedsiwang tuela, kgotsa setheo se se tlhokometsweng se se diedsiwang lekgethwana, o ka ipofo go duela tuela kgotsa lekgethwana ka dikarolotluelo tse di tsepamisitsweng, e bile fa neelo e diriwe, setheo sa lephata la ditšhelele se tshwanetseng go—
(a) amogela neelo;
(b) amogela neelo e e fetotsweng; kgotsa 50
(c) go se amoge neelo,
ebile se tshwanetseng go itise motho yo o dirileng neelo, ka tshwanelo.
(2) A person who wishes to make an offer to pay a fee or levy by instalments must make an offer—
   (a) immediately after being notified of the fee or levy charged, if the fee or levy must be paid within 14 days after the date on which notification is received; or
   (b) at least 14 days before the date on which the fee or levy must be paid, if paragraph (a) does not apply.

(3) The financial sector body must notify the person who made an offer in terms of subsection (1) of its decision—
   (a) immediately after receipt of the offer, in respect of an offer referred to in subsection (2)(a); or
   (b) within seven days after the receipt of the offer, in respect of an offer referred to in subsection (2)(b).

Interest on late or non-payment of fees and levies

244. (1) If a fee or levy is not paid, or not paid in full, within the period specified for payment, and an offer to pay the fee or levy by instalments has not been accepted as referred to in section 243(1)(a) or (b), the person liable to pay the fee or levy in question must pay interest at the rate referred to in subsection (2), on the amount of the fee or levy that remains unpaid 30 days after the due date.

   (2) Interest due and payable on an outstanding fee or levy amount must be calculated based on the interest rate prescribed for the time being in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

   (3) Interest charged is a debt due to the financial sector body, and may be recovered by a judicial process in a competent court.

Exemption from fee

245. (1) A financial sector body may, on application by a person who is liable to pay a fee, exempt the person from the payment of a fee, or a part of a fee, to the extent and subject to conditions determined by the financial sector body.

   (2) An application referred to in subsection (1) must include the particulars determined by the financial sector body.

   (3) A financial sector body may only grant an exemption from the payment of a fee, or a part of a fee, for sound reasons.

Management of fees and levies

246. (1) Fees determined in accordance with section 237(1)(a), and interest accrued on fees in terms of section 244 must be collected by the financial sector body and paid into a bank account designated for that purpose, which is in the name and control of the financial sector body.

   (2) Levies imposed in accordance with section 237(1)(b), and interest accrued on levies in term of section 244 must be collected by the Financial Sector Conduct Authority and paid into a bank account designated for that purpose, which is in the name and control of the Financial Sector Conduct Authority.

   (3) Each financial sector body’s allocation of the levies collected contemplated in subsection (2) must be transferred to the financial sector body’s designated account in accordance with a payment schedule agreed between the financial sector body and the Financial Sector Conduct Authority.

   (4) The designated bank accounts referred to in subsections (1) to (3) must be approved by the National Treasury.
(2) Mtho yo o batlang go dira thulaganyo ya go duela tuelo kgotsa lekgethwana ka dikarolotlouelo o tshwanetse go rulaganya—
(a) ka bonako morago ga go itisiwe ka ga tuelo kgotsa lekgethwana le le tshwanetse go duela, fa tuelo kgotsa lekgethwana le tshwanetse go duela ma matsatsing a le 14 morago ga letilha le kitsiso e amogetsweng ka lona; kgotsa
(b) bonnye matsatsi a le 14 pele ga letilha le tuelo kgotsa lekgethwana le tshwanetse go duela ka lona, fa temana (a) e sa diragatswe.
(3) Mokgatlhlo wa lephata la ditšhelete o tshwanetse go itsise mtho yo o dirileleng neelo go ya ka karolotlaleletsō (1) ka ga tswetse ya ona—
(a) ka bonako morago ga go amogela neelo, mabapi le neelo e e kailweng mo karolotlaleletsong (2)(a); kgotsa
(b) mo malatsing a le supa morago ga go amogela neelo, mabapi le neelo e e kailweng mo karolotlaleletsong (2)(b).

Morokotso mo tuelelong e e thari kgotsa e e sa dirwang le makgethwana

244. (1) Fa tuelo kgotsa lekgethwana le sa duwela, kgotsa le sa duwela ka botlalo, mo nakong e e tsepamisitsweng mbapi le tuelo, mme neelo ya go dueleta tuelo kgotsa lekgetho ka dikarolotlouelo e sa amogela jaaka go kai lwelo mo karolong 243(1)(a) kgotsa (b), mtho yo o tshwanetse go duela tuelo kgotsa lekgethwana le le umakwango o tshwanetse go duela morokotso ka kelo e e kai lwelo mo karolotlaleletsong (2), mo thlothlweng ya tuelo kgotsa lekgethwana le le sa duelanga malatse a le 30 morago ga letilha la bofelo.
(2) Morokotso o o tshwanetse go duelwela le go duela mo thlothlweng ya tuelo kgotsa lekgethwana e e tshwanetse go duelwela o tshwanetse go bulwela go tswe mo kelong ya morokotso e e neetsweng nakwana ya go ka Prescribed Rate of Interest Act, 1975 (Molao 55 wa 1975).
(3) Morokotso o o dueliswanga ke sekololo se se tshwanetse go duelwela kwa mokgatlhong wa lephata la ditšhelete, e bile o ka busetswa ka ditšamai o sa bahlhlo mo kgotlatshhekelong e e nang le bokgoni.

Kgololo mo go dueleng

245. (1) Mokgatlhlo wa lephata la ditšhelete o ka, ka kopo ka mtho yo o tshwanetse go duela tuelo, golola mtho mo go dueleng tuelo, kgotsa karolo ya tuelo, ka bogolo le go ya ka mabaka a a tlhomamisitsweng ke mokgatlhlo wa lephata la ditšhelete.
(2) Kopo e e kai lwelo mo karolotlaleletsong (1) e tshwanetse go akaretso dintlo tše ti tlhomamisitsweng ke mokgatlhlo wa lephata la ditšhelete.
(3) Mokgatlhlo wa lephata la ditšhelete o ka neelana fela ka kgololo mo go dueleng tuelo, kgotsa karolo ya tuelo, ka mabaka a a utlwagalaŋ.

Taolo ya ditusediso le makgethwana

246. (1) Dituelo tse di tlhomamisitsweng go tsetselelela le karolo 237(1)(a), le morokotso o o bonweng go tswe mo ditueleng go ya ka karolo 244 di tshwanetse go kgobokanngwa ke mokgatlhlo wa lephata la ditšhelete le go duwela mo akhaontaŋ ya banka e e tlhometse ng ma thhiumho ao, eo e leng mo leineng le mo taolong ya mokgatlhlo wa lephata la ditšhelete.
(2) Makgethwana a a dueliswaŋg wa tsetselelela le karolo 237(1)(b), le morokotso o o bonweng mo makgethwang go ya ka karolo 244 a tshwanetse go kgobokanngwa ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete le go duwela mo akhaontaŋ e e tlhometse ng ma thhiumho ao, e e mo leineng le mo taolong ya Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.
(3) Kabo ya makgethwana a a kgobokaniswaŋg go latela karolotlaleletsō (2) a mokgatlhlo mongwe le mongwe wa lephata la ditšhelete e tshwanetse go suitsetswa kwa akhaontaŋ e e tlhometse ng mokagatlhlo wa lephata la ditšhelete go tsetselelela le thulaganyo ya tuelo e go dumalaweng ka yona magareng ga mokagatlhlo wa lephata la ditšhelete le Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.
(4) Diakhaonto tsa banka tse di kai lwelo mo dikarolotlaleletsong (1) go filha go (3) di tshwanetse go rebolwa ke Matlotlo a Bosetošaba.
Finances of financial sector bodies

247. (1) The money of each financial sector body consists of—

(a) amounts received by the financial sector body as fees and levies;  
(b) funds accruing to the financial sector body from any other source; and  
(c) interest on amounts standing to the credit of the financial sector body in an account.

(2) The money of a financial sector body may be applied only as follows:

(a) to the general administrative and operating costs of the financial sector body;  
(b) to exercise the powers, perform the functions, and fulfil the duties of the financial sector body in terms of the financial sector laws; and  
(c) to repay amounts paid to it in error.

Part 3

Budgeting, accounting, auditing and financial reporting

248. (1) The accounting authority of the Financial Sector Conduct Authority, the Ombud Council, the Office of the Pension Funds Adjudicator, and the Office for the Ombud for Financial Services Providers is the accounting authority for the designated bank account referred to in section 246(1), and has the duties referred to in Part 2 of Chapter 6 of the Public Finance Management Act.

(2) The accounting authority of the Financial Sector Conduct Authority is the accounting authority for the designated bank account referred to in section 246(2), and has the duties referred to in Part 2 of Chapter 6 of the Public Finance Management Act.

(3) In respect of the Prudential Authority, the Chief Executive Officer is responsible for accounting for the designated bank account referred to in section 246(1).

(4) (a) The Financial Sector Conduct Authority, the Ombud Council, the Office of the Pension Funds Adjudicator, and the Office of the Ombud for Financial Services Providers must—

(i) prepare an annual budget in accordance with section 53 of the Public Finance Management Act and section 239 of this Act;  
(ii) prepare an annual report and financial statements in accordance with section 55 of the Public Finance Management Act;  
(iii) submit information as required in terms of section 54 of the Public Finance Management Act; and  
(iv) comply with Treasury Regulations, circulars, guidelines and practice notes in terms of the Public Finance Management Act.

(b) The Tribunal, although it is not a public entity in terms of the Public Finance Management Act, must also comply with the requirements in paragraph (a).

(5) (a) The Prudential Authority must prepare an annual budget and estimates of expenditure for the financial year in accordance with section 239, and an annual report and financial accounts in accordance with section 55.

(b) The Chief Executive Officer is responsible for ensuring that the expenditure of the Prudential Authority is in accordance with its approved budget.

(6) The Prudential Authority, the Tribunal, the Ombud Council, the Office of the Pension Funds Adjudicator, and the Office of the Ombud for Financial Services Providers must provide the Financial Sector Conduct Authority with its levies that will
Karolo 2

Matlotlo a mekgatlho ya lephata la dišhelete

247. (1) Madi a mokgatlho mongwe le mongwe wa lephata la dišhelete a na le—
   (a) madi a a amogetsweng ke mokgatlho wa lephata la dišhelete jaaka dituelelo 5 le makgethwana;
   (b) matlole a a bonwang ke mokgatlho wa lephata la dišhelete go tswa kwa 10 motsweding mongwe le mongwe; le
   (c) morokotso mo dišhothlweng tse di leng mo dikoloto tsa mokgatlho wa lephata la dišhelete mo akhaontong. 15

(2) Madi a mokgatlho wa lephata la dišhelete a ka diriswa fela jaana:
   (a) Mo tsamaisong ka kakaretsa le mo dišhenyegeleng tsa tiro tsa mokgatlho wa lephata la dišhelete; 20
   (b) go diragatsa ditlhotla, go dira ditiro, le go diragatsa ditiro tsa mokgatlho wa lephata la dišhelete go ya ka melao ya lephata la dišhelete; le 25
   (c) go duela madi a o o a duetsweng ka phoso.

Kgaolo 3

Go dira tekanyetsokabo, tshupo ya matlotlo, boruni le pegelo ya tsə dišhelete

Go dira tekanyetsokabo, tshupo ya motlotlo, boruni le pegelo ya tsə dišhelete

248. (1) Bothathi jo bo rwalang maikarabelo Bothathi jwa Boitshwara jwa Lephata la Dišhelete, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phensêne, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Dišhelete ke bothathi jo bo rwalang maikarabelo 20 mabapi le akhaonto ya banka e e tlhomilweng e e kailweng mo karolong 246(1), e bile bo 25 dira ditiro tse di kailweng mo Karolong 2 ya Kgaolo 6 ya Public Finance Management Act.

   (2) Bothathi jo bo rwalang maikarabelo a Bothathi jwa Boitshwara jwa Lephata la Dišhelete ke bothathi jo bo rwalang maikarabelo mabapi le akhaonto e e tlhomilweng ya banka e e kailweng mo karolong 246(2), e bile bo dira ditiro tse di kailweng mo Karolong 2 ya Kgaolo 6 ya Public Finance Management Act. 30

   (3) Mabapi le Bothathi jwa Tlhokomelo, Motlhakedimogolo o rwla maikarabelo mabapi le go arabela mabapi le akhaonto ya banka e e kailweng mo karolong 246(1). 35

   (4) (a) Bothathi jwa Boitshwara jwa Lephata la Dišhelete, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phensêne, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Dišhelete ba tshwanetse go—
   (i) baakanya tekanyetsokabo ya ngwaga go tsamaelana le karolo 53 ya Public Finance Management Act le karolo 239 ya Molao ono; 40
   (ii) baakanya pegelo ya ngwaga le dikane go tsamaelana le karolo 55 ya Public Finance Management Act;
   (iii) romela tshedimosetso jaaka e tlhokwa go ya ka karolo 54 ya Public Finance Management Act; le 45
   (iv) ikamanya le Melawana ya Matlotlo, makwalo Likitso, dikaelo le dintilha tsa tiragats go ya ka Public Finance Management Act.

   (b) Lekgotla, le fa e se theo sa setšhaba go ya ka Public Finance Management Act, le tshwanetse go ikamanya le dišhokego tse di mo temaneng (a). 50

   (5) (a) Bothathi jwa Tlhokomelo bo tshwanetse go baakanya tekanyetsokabo ya ngwaga le ditekanyetsa tsa tshenyegele ya ngwaga wa dišhelete go tsamaelana le karolo 239, le pegelo ya ngwaga le dikoloto tsa dišhelete go tsamaelana le karolo 55. 55

   (b) Motlhakedimogolo o rwla maikarabelo a go netefatsa gore tshenyegele ya Bothathi jwa Tlhokomelo e go ya ka tekanyetsokabo ya jona e e rebotsweng.

   (6) Bothathi jwa Tlhokomelo, Lekgotla, Khansele ya Ombud, Ofisi ya Moatlhodi wa Matlole a Phensêne, le Ofisi ya Ombud wa Batlamedi ba Ditirelo tsa Dišhelete ba tshwanetse go tlamela Bothathi jwa Boitshwara jwa Lephata la Dišhelete ka makgethwana a ona a a tla dudiswang mabapi le tiro ya mokgatlho wa lephata la mokgethwana; le bo dira tekanyetsokabo, tshupo ya matlotlo, boruni le pegelo ya tsə dišhelete.
be imposed for the operation of the financial sector body two months prior to the start of a financial year in respect of which the levies will be imposed.

(7) In addition to the matters which must be included in the annual report and financial statements of the Financial Sector Conduct Authority referred to in section 55 of the Public Finance Management Act, the annual report must set out and contain a statement showing—

(a) the total number of supervised entities who paid levies imposed in accordance with section 237(1)(b);
(b) the total funds distributed from the designated bank account referred to in section 246(2) to the designated bank account of each financial sector body referred to in section 246(1); and
(c) any other matter determined by the Minister.

(8) In addition to the matters which must be included in the annual reports and financial statements or financial accounts of a financial sector body referred to in subsections (4) and (5), the annual report of a financial sector body must contain a statement showing—

(a) the total number of persons who paid fees determined by that financial sector body in the financial year;
(b) the total number of supervised entities who paid levies imposed by that financial sector body in that financial year;
(c) the total fees collected by the financial sector body;
(d) the total levies collected on behalf of and received by the financial sector body; and
(e) any other matter determined by the Minister.

(9) A financial sector body must publish its annual budget on their website, and must publish its determined fees and imposed levies in the Register and on its website.

Part 4
Application of Chapter to Tribunal

Application of Chapter to Tribunal

249. The Chairperson of the Tribunal is responsible to ensure that the functions and duties of the Tribunal in terms of this Chapter are performed.

CHAPTER 17
MISCELLANEOUS

Part 1
Information sharing and reporting

Designated authority

250. In this Part, “designated authority” means—

(a) the Reserve Bank;
(b) a financial sector regulator;
(c) the National Credit Regulator;
(d) the Council for Medical Schemes;
(e) a market infrastructure, but only in relation to its regulatory or supervisory functions in terms of a financial sector law;
(f) an organ of state responsible for the regulation, supervision or enforcement of any law;
(g) a body similar to an organ of state referred to in paragraph (f) that is designated in terms of the laws of a foreign country as being responsible for the regulation, supervision or enforcement of legislation;
ditšhelete dikgwedi di le pedi pele ga tshimololo ya ngwaga wa ditšhelete ao bo tla a duediswang.

(7) Mo godimo ga merero e e tshwanetseng go akaretswa mo pegelong ya ngwaga le dikanengong tsa ditšhelete tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete tse di kailweng mo karolong 55 ya Public Finance Management Act, pegelo ya ngwaga e tshwanetse go tlhagisa le go nna le kanego e e bontshang—

(a) palogotlhe ya ditheo tse di tlhokometsweng tse di duetseng magkethwana a a duedisitsweng go tsaamelana le karolo 237(1)(b);
(b) palogotlhe ya matlole a a phatlaladitsweng go tswa mo akhaontong ya banka e e tlhomilweng e e kailweng mo karolong 246(2) go ya kwa akhaontong ya banka e e tlhomilweng ya mokgatlho mongwe le mongwe wa lephata la ditšhelete o o kailweng mo karolong 246(1); le
(c) morero mongwe le mongwe o o thomamisitsweng ke Tona.

(8) Mo godimo ga merero e e tshwanetseng go akaretswa mo dipegelong tsa ngwaga le dikanengong tsa ditšhelete kgotsa mo dikarabelong tsa ditšhelete tsa mokgatlho wa lephata la ditšhelete tse di kailweng mo dikarolotlaleletsong (4) le (5), pegelo ya ngwaga ya mokgatlho wa lephata la ditšhelete e tshwanetse go nna le kanego e e bontshang—

(a) palogotlhe ya batho ba ba duetseng dituellelo tse di tlhomanisitsweng ke mokgatlho oo wa lephata la ditšhelete mo ngwageng wa ditšhelete;
(b) palogotlhe ya ditheo tse di tlhokometsweng tse di duetseng magkethwana a a duedisitsweng ke mokgatlho oo wa lephata la ditšhelete mo ngwageng oo wa ditšhelete;
(c) palogotlhe ya dituellelo tse di kgobokantsweng ke mokgatlho wa lephata la ditšhelete;
(d) palogotlhe ya magkethwana a a kgobokantsweng mo boemong jwa le go amogotla ke mokgatlho wa lephata la ditšhelete; le
(e) morero mongwe le mongwe o o thomamisitsweng ke Tona.

(9) Mokgatlho wa lephata la ditšhelete o tshwanetse go phasalatsa tekyanetsokabo ya ona ya ngwaga mo webesaeteng ya ona, e bile o tshwanetse go phasalatsa dituellelo tse di tlhomanisitsweng tsa ona le makgethwana a a duediswang mo Rejisetareng le mo webesaeteng ya ona.

Karolo 4

Tiragatso ya Kgaolo mo Lekgotleng

Tiragatso ya Kgaolo mo Lekgotleng

249. Modulasetilo wa Lekgotla o rwala maikarabelo a go netefatsa gore ditiro tsa Lekgotla go ya ka Kgaolo eno di a dirwa.

KGAOLO 17

TSELE LE TSELE

Karolo 1

Karogano ya tshedimosetso le go bega

Bothati jo bo thapilweng

250. Mo Karolong eno, “bothati jo bo thapilweng” bo kaya—

(a) Banka ya Resepe;
(b) Bolaodi jwa lephata la ditšhelete;
(c) Bolaodi jwa Botshhaba jwa Sekoloto;
(d) Khasane ya Dikema tsa Kalafo;
(e) thulaqanyetso ya papegotheo ya mmaraka, mme fela mabapi le ditiro tsa yona tsa bolaodi le bothlokometdi go ya ka molao wa lephata la ditšhelete;
(f) setheo sa puso se se rwalang maikarabelo a taolo, tlhokomelo kgotsa kgatelelo ya molao mongwe le mongwe;
(g) Mokgatlho o o tshwanang le setheo sa puso se se kailweng mo temaneng (f) o o thapilweng go ya ka melao ya dinaga diele jaaka o rwala maikarabelo a taolo, tlhokomelo kgotsa kgatelelo ya peomolao;
(h) the Ombud Council;
(i) an ombud; or
(j) a payment system management body recognised in terms of section 3(1) of the National Payment System Act.

Information sharing

251. (1) (a) A financial sector regulator or the Reserve Bank has an obligation and a duty to—

(i) achieve its objective as set out in this Act;
(ii) achieve the objects of financial sector laws;
(iii) perform its functions, including its supervisory functions, in terms of financial sector laws and the Financial Intelligence Centre Act.

(b) A financial sector regulator or the Reserve Bank must collect and use information, including personal information as defined in the Protection of Personal Information Act, to the extent that the financial sector regulator or the Reserve Bank determines is necessary to properly perform the obligations and duties referred to in paragraph (a).

(c) A financial sector regulator or the Reserve Bank may only share or disclose information in order to fulfil its obligations and duties in terms of this subsection and subsection (2), and the disclosure or sharing of information for any other purposes constitutes the sharing or disclosure of information for a purpose that is not authorised, as referred to in section 272.

(2) (a) A financial sector regulator or the Reserve Bank must disclose information referred to in subsection (1)(b) if the financial sector regulator or the Reserve Bank determines it is necessary to comply with its obligations—

(i) to perform functions in terms of, or as enabled by, the financial sector laws or the Financial Intelligence Centre Act;
(ii) relating to legal proceedings or other proceedings;
(iii) to warn financial customers against conducting business with a financial institution or other person conducting activities in contravention of the financial sector laws or the Financial Intelligence Centre Act;
(iv) to inform financial customers of actions taken against a financial institution in terms of the financial sector laws or the Financial Intelligence Centre Act;
(v) to alert financial customers to activities carried out by a financial institution that a financial sector regulator or the Reserve Bank believes to constitute a risk to financial customers;
(vi) to protect the public interest;
(vii) to deter, prevent, detect, report and remedy fraud or other criminal activity in relation to financial products or financial services; or
(viii) relating to anti-money laundering and combating the financing of terrorism.

(b) Information obtained in terms of the Financial Intelligence Centre Act, other than in terms of sections 45 and 45B of that Act, may only be utilised or disclosed in accordance with sections 29, 40 and 41 of that Act.

(3) A financial sector regulator or the Reserve Bank, in pursuing the obligations and duties referred to in subsections (1)(a) and (2)(a), may—

(a) liaise with any designated authority on matters of common interest;
(b) participate in the proceedings of any designated authority;
(c) advise or receive advice from any designated authority;
(d) prior to taking regulatory action which a financial sector regulator or the Reserve Bank considers material against a financial institution, inform any designated authority that the financial sector regulator or the Reserve Bank, as the case may be, of the pending regulatory action or, where this is not possible, inform the designated authority as soon as possible after taking the regulatory action; and
Karogano ya tshedimosetsa

251. (1) (a) Molao wa lephata la ditshelete kgotsa Banka ya Resefe o na le tlamego le tiro ya go—
(i) fitlhelela maikaelelo a yona jaaka go tlhagitswe mo Molaong ono;
(ii) fitlhelela maikaeleloa melao ya lephata la ditshelete;
(iii) dira di tiro tsa gagwe, go akaretsa di tiro tsa gagwe tsa bohlhokmedi, go ya ka melao ya lephata la ditshelete le Financial Intelligence Centre Act.
(b) Molao wa lephata la ditshelete kgotsa Banka ya Resefe o tshwanetse go kgobokanya loe go dirisa tshedimosetsa, go akaretsa le tshedimosetsa ya bowena jaaka e tlhaloitswe mo Protection of Personal Information Act, go fitlhelela molao wa lephata la ditshelete kgotsa Banka ya Resefe a tlhomamisa gore go bohlhokwa go dira ka nepagao ditlamego le di tiro se di ka kiwengwo mo temaneng (a).
(c) Molao wa lephata la ditshelete kgotsa Banka ya Resefe o ka arogana kgotsa a senola tshedimosetsa gore a diragatse ditlamego le di tiro tsa gagwe go ya ka karolotlaleletseng (2), e bile ditshedimosetsa mabapi le maitlhomo mangwe le mangwe di na le karogano kgotsa tshenolo ya tshedimosetsa mabapi le maitlhomo a a sa dumelelwang, jaaka go ka kiwile mo karolong 272.

(2) (a) Molao wa lephata la ditshelete kgotsa Banka ya Resefe o tshwanetse go senola tshedimosetsa e e ka kailweng mo karolotlaleletsong (1)(b) fa molao wa lephata la ditshelete kgotsa Banka ya Resefe e tlhomamisa gore go bohlhokwa go ikamanya le ditlamego tsa yona—
(i) go dira di tiro tsa gagwe go ya ka, kgotsa jaaka a kgontshitswe ke, melao ya lephata la ditshelete kgotsa Financial Intelligence Centre Act;
(ii) tse di amanang le ditsamaiso tsa semola kgotsa ditsamaiso tse dingwe;
(iii) go tsibosa barekedi ba ditshelete kgatlhanong le go dira kgwebo le setheo sa ditlamego tsa yona—
(iv) go itsise barekedi ba ditshelete ka ga dikgato tse di tserweng kgatlhanong le se theo sa ditlamego go ya ka melao ya lephata la ditlamego kgotsa Financial Intelligence Centre Act;
(v) go lemosa barekedi ba ditlamego tsa yona—
(vi) go sikgolola kgotsa amogela kgakolola go tswa go la mego ya lephata la ditlamego kgotsa Financial Intelligence Centre Act;
(vii) go sekgothaletse, thibele, batlisise, begelego tla lelakgomo ya ditshelete kgotsa Financial Intelligence Centre Act; le}

(b) Tshedimosetsa e e bonweng go ya ka Financial Intelligence Centre Act, tلة le go ya ka dikarolo 45 le 45B tsa Molao oo, e ka diriswa fela kgotsa senolwa go tsamaelana le dikarolo 29, 40 le 41 tsa Molao oo.

(3) Molao wa lephata la ditshelete kgotsa Banka ya Resefe, mo go fitlheleleng maithlomo a a ka kailweng mo karolotlaleletsong (1)(a) le (2)(a), e ka—
(a) ilgolaganya le bothathi bongwe le bongwe go bo thapilweng mabapi le merero ya kgatlhego e e kgwe; 50
(b) tsaya karolo mo ditsamaisong tsa bothathi bongwe le bongwe go bo thapilweng; 55
(c) gakolola kgotsa amogela kgakololo go tswa go bothathi bongwe le bongwe go bo thapilweng;
(d) pele ga go dira tiro ya bolaedi e molao wa lephata la ditshelete kgotsa Banka ya Resefe bo tselang gore e bohlhokwa kgatlhanong le setheo sa ditlamegetse, itsise bothathi bongwe le bongwe go bo thapilweng mabapi le molao wa lephata la ditshelete kgotsa Banka ya Resefe, jaaka mabaka a nse, wa tiro e e lelilweng ya bolaedi kgotsa, fa seno se ka se kgonagale, itsise bothathi jo bo thapilweng ka bonako jo bo kgoneang morago ga go dira tiro ya bolaedi; le 60
(e) negotiate and enter into bilateral or multilateral co-operation agreements, including memoranda of understanding, with designated authorities, including designated authorities in whose countries a subsidiary or holding company of a financial institution is incorporated or a branch is situated, to, among other matters—

(i) co-ordinate and harmonise the reporting and other obligations of financial institutions;

(ii) provide mechanisms for the exchange of information, including provisions requiring or permitting a financial sector regulator, the Reserve Bank or a designated authority—

(aa) to be informed of adverse assessments in respect of financial institutions; or

(bb) to provide or receive information regarding significant problems that are being experienced within a financial institution;

(iii) provide procedures for the co-ordination of supervisory activities to facilitate the monitoring of financial institutions, including on an on-going basis; and

(iv) assist any designated authority in regulating and enforcing any laws that the designated authority is responsible for supervising and enforcing, that are similar to a financial sector law or which have an impact on the regulation of the financial sector and financial institutions.

(4) (a) Information may only be disclosed by a financial sector regulator or the Reserve Bank to a designated authority if, before disclosing the information, the financial sector regulator or the Reserve Bank is satisfied that the designated authority that receives the information has proper and effective safeguards in place to protect the information, which safeguards are similar to those provided for in this section.

(b) A financial sector regulator or the Reserve Bank may only consent to information that is provided to a designated authority being made available to third parties if it is satisfied that the third parties have proper safeguards in place to protect the information received, which safeguards are similar to those provided for in this section.

(c) A financial sector regulator or the Reserve Bank may only request information from a designated authority in connection with the performance of obligations and duties in terms of the laws referred to in subsections (1) and (2).

(d) Information provided on request to a designated authority in terms of this section—

(i) must only be used by the designated authority for the purpose for which it was requested;

(ii) may not be disclosed to a third party without the consent of the designated authority that provided the information; and

(iii) must retain its integrity and confidentiality, and the designated authority that receives the information must take appropriate, reasonable technical and organisational measures to prevent loss of, damage to, or unauthorised destruction of the information, and unlawful access to or processing of the information.

(e) If, despite paragraph (d), a designated authority is compelled by law to disclose information provided by another designated authority to a third party, the first designated authority must—

(i) inform that designated authority of the event and the circumstances in which the information shall be made available; and

(ii) use all reasonable means to oppose the compulsion to disclose, and otherwise to protect the information.

(5) When sharing or disclosing information in terms of subsection (3) or (4), a financial sector regulator or the Reserve Bank must comply with the requirements in those subsections, and a contravention of those requirements constitutes the sharing or disclosure of information in a manner that is not authorised, as referred to in section 272.

(6) (a) A financial sector regulator or the Reserve Bank must have in place written processes and procedures that—

(i) clearly specify which officials and employees in the financial sector regulator or the Reserve Bank are authorised to share or disclose information in terms of this section; and
rerisana le go tsena mo ditumalanong tsa sebedi kgotsa bontsi, go akaretsa le memorantamo wa tumalano, le bothati jo bo thapilweng, go akaretsa bothati jo bo thapilweng joo mo dimageng tsa jona kgwebo e e okangweng kgotsa e e okameng tse dingwe ya setheo sa ditšhelele e kopantsweng kgotsa lekalala le tlhomilweng, go, magareneg ga tse dingwe—

(i) golaganya le go kopanya go bega le ditlamego tse dingwe tsa ditheo tsa ditšhelele;

(ii) tlamel ka mekgwa ya theeosano ya tshedimosetso, go akaretsa le kabelo e e tlhokang kgotsa letlang molaodi wa lephata la ditšhelele, Banka ya Resefe kgotsa bolaodi jo bo thapilweng—

(aa) go sedimosetswa ka tekanyetse e e kgatlhanong mabapi le ditheo tsa ditšhelele; kgotsa

(bb) go tlamel ka ngotsa amogela tshedimosetso e e mabapi le mathata a a bothokwa a a itemogelweng mo setheong sa ditšhelele;

(iii) tlamel ka ditsamaiso tsa go golaganya ditiro tsa tlhokomelo go noloafatsa tlhokomelo ya ditheo tsa ditšhelele, go akaretsa ka nako le nako; le

(iv) thusa bothati bongwe le bongwe jo bo thapilweng mo go laoleng le go gateleleng melao mengwe le mengwe ya gore bothati jo bo thapilweng bo rwala maikarabelo a go tlhokomela le go gatelela, e e tshangwen le mola wo lephata la ditšhelele kgotsa e e nang le seabe mo go laoleng lephata la ditšhelele le ditheo tsa ditšhelele.

(4) (a) Tshedimosetso e ka senolwa fela ke molaodi wa lephata la ditšhelele kgotsa Banka ya Resefe go bothati jo bo thapilweng fa, pele tshedimosetso e senolwa, molaodi wa lephata la ditšhelele kgotsa Banka ya Resefe e kgotsofetsa gore bothati jo bo thapilweng jo bo amogelang tshedimosetso bo na le mekgwa e e maleba e e nonofiling ya go sireletsa tshedimosetso, mekgwa eo e e tshangwen le e e tlametsweng mo karonong eno.

(b) Molaodi wa lephata la ditšhelele kgotsa Banka ya Resefe o ka dumelela fela gore tshedimosetso e e tlametsweng bothati jo bo thapilweng e abelwe mekgatlho ya boraro fa fela a kgotsofetsa gore mekgatlho ya boraro e na le mekgwa ya go sireletsa tshedimosetso e e amogetsweng, mekgwa e e tshangwen le e e tlametsweng mo karonong eno.

(c) Molaodi wa lephata la ditšhelele kgotsa Banka ya Resefe o ka kopa fela tshedimosetso mo bothating jo bo thapilweng mabapi le tiro ya ditiro le go diragatswa ga ditlata go ya ka melao e e kailweng mo dikarolotlaleletsong (1) le (2).

(d) Tshedimosetso e e tlametsweng go ya ka kopo go bothati jo bo thapilweng go ya ka karonong eno——

(i) e tshwanetse go diriswa fela ke bothati jo bo thapilweng mabapi le maiithomo ao e e kopetsweng;

(ii) e ka se senolelw e mokgatlho wa boraro ntle le tumelela ya bothati jo bo thapilweng jo bo tlameleleng ka ditšhelele tse di—

(iii) e tshwanetse go busetsa tshiamo le boitshepo jwa jona, e e bome bothati jo bo thapilweng jo bo amogelang tshedimosetso bo tshwanetse go tsaya dikgato tse di maleba, ka mabaka a a utwagalanang a a rulaganeng go thibela tsethepolo ya, tshenyegelo go kgotsa tshenyenyo e e sa dumelelwang ya tshedimosetso, le phitlhelelo e e seng mo molaong ya kgotsa tsamaiso ya tshedimosetso.

(e) Fa, ntle le temana (d), bothati jo bo thapilweng bo patelewa ke mola og seola tshedimosetso e e tlametsweng ke bothati jo bo thapilweng go ya ka karonong eno——

(i) go itise gore bothati jo bo thapilweng jwa tiragalo le mabaka ao tshedimosetso e e tla dirwang gore e e nne teng ka ona; le

(ii) dirisa mekgwa yotlhe e e maleba go ganetsa kgapeletso ya go senolwa, le go sireletsa tshedimosetso.

(5) Fa go arogana kgotsa senolwa tshedimosetso go ya ka karonolaleletsong (3) kgotsa (4), molaodi wa lephata la ditšhelele kgotsa Banka ya Resefe e tshwanetse go ikamany e le ditlheko e tse di mo dikarolotlaleletsong tseoa, e e tlaolo ya ditlheko e tseoa e na le ditlamorago tsa karogano kgotsa tshenolo ya tshedimosetso ka mekgwa o o sa dumelelwang, jaaka go kailwe mo karonong 272.

(6) (a) Molaodi wa lephata la ditšhelele kgotsa Banka ya Resefe o tshwanetse go tshola dikgato tse di kwetsweng le ditšamaiso tse di——

(i) ihlasang ka tlamalalo gore ke balthankedi le badiri bafelo mo bolaodi jwa lephata la ditšhelele kgotsa Banka ya Resefe ba ba dumelelweng go arogana kgotsa senolwa tshedimosetso go ya ka karonol eno; le
(ii) provide for the sharing or disclosure of information in a manner that is consistent with the requirements of this section and the Protection of Personal Information Act.

(b) The processes and procedures referred to in paragraph (a) must grant authority to share or disclose information only to officials and employees who have an appropriate degree of seniority in the institution.

(c) Only an official or employee of a financial sector regulator or the Reserve Bank who is authorised by the policy and procedures of the financial sector regulator or the Reserve Bank may share or disclose information on behalf of the financial sector regulator or the Reserve Bank.

(7) For the purposes of this section, “information” does not include aggregate statistical data or information that does not disclose the identity of a person.

Reporting by auditors to financial sector regulators

252. (1) (a) An auditor of a licensed financial institution, or of a holding company of a financial conglomerate must, without delay, submit a detailed written report to the Prudential Authority, the governing body of the financial institution and, in the case of a financial conglomerate, the holding company of the financial institution, about any matter relating to the business of the financial institution or a company within the conglomerate, being a matter—

(i) which the auditor becomes aware of in the course of performing functions and duties as auditor; and

(ii) that the auditor considers—

(aa) is causing or is likely to cause the financial institution to be financially unsound;

(bb) is contravening or may contravene a financial sector law; or

(cc) may result in an audit not being completed or may result in a qualified or adverse opinion on accounts.

(b) An auditor must also submit any report or other document or particulars about the matter contemplated in section 45(1)(a) and (3)(c) of the Auditing Profession Act, 2005 (Act No. 26 of 2005), to the Prudential Authority.

(2) An auditor of a licensed financial institution or of a holding company of a financial conglomerate who resigns or whose appointment is terminated must submit to the Prudential Authority—

(a) a written statement on the reasons for resignation or the reasons that the auditor believes are the reasons for the termination; and

(b) any report contemplated in section 45(1)(a) and (3)(c) of the Auditing Profession Act, 2005 (Act No. 26 of 2005), that the auditor would, but for the resignation or termination, have had reason to submit.

(3) (a) The furnishing, in good faith, by an auditor of a report or information under subsection (1) or (2) is not a contravention of a law, a breach of a contract or a breach of a code of professional conduct.

(b) A failure, in good faith, by an auditor to comply with this section does not confer upon any person a right of action against the auditor.

Reporting to financial sector regulators

253. (1) A person may report to a financial sector regulator—

(a) financial difficulties or suspected financial difficulties in a financial institution;

(b) a contravention or suspected contravention of a financial sector law in relation to a financial institution; or

(c) the involvement or the suspected involvement of a financial sector institution in financial crime.

(2) Unless the report was made in bad faith, a person who makes a report in terms of subsection (1) is not—

(a) criminally liable for making the report; or

(b) liable to pay compensation or damages to any person in relation to a loss caused by the report.
(ii) tlamelang mabapi le karogano kgotsa tshenolo ya tshedimo setso ka mokgwana o o tlhomameng go ya ka ditlholukego tsa karolo eno le Protection of Personal Information Act.

(b) Dikgato le ditsemisego tse di kaikweng mo temaneng (a) di tshwanetse go neclana ka tumelelo ya go arogana kgotsa senoa tshedimo setso fela kwa balthankedling le badiring ba ba nang le bogolo jwa maemo a a rileng a a nepagetseng mo seethong.

(c) Ke fela molithakego kgotsa modiri wa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe ya o dumeletsweng ke pholisi le ditsemisego tsa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe a ka arogana ng kgotsa senoleng tshedimo setso mo boemong jwa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe.

(7) Mabapi le matlhomo a karolo eno, **“tshedimo setso”** ga e akaretse dintlha tsa dipalopalo kgotsa tshedimo setso e e sa senoleng boitshepu jwa motho.

**Pegelo ka baruni go balaodi ba lephata la ditšhelete**

252. (1) Moruni wa setheo sa ditšhelete se se abetsweng laesense, kgotsa wa kgwebo e e okameng tse dingwe ya ditheo tse di kopantsweng tsa ditšhelete o tshwanetse, ntle le tshenyo ya nako, go romela pegelo ya dinilha ka botlalo e e kwetsweng go Bothathi jwa Thlokomo, mokgaltho o o burgersan wa setheo sa ditšhelete le, mo lebakeng la ditheo tse di kopantsweng tsa setheo sa ditšhelete, kgwebo e e okameng tse dingwe ya setheo sa ditšhelete, kgotsa lephata la ditšhelete kgotsa Banka ya Resefe a ka arogana ng kgotsa senoleng tshedimo setso mo boemong jwa balaodi jwa lephata la ditšhelete kgotsa Banka ya Resefe, e le morero—

(i) o e leng gore moruni o lemoga ka ona no go direng ditiro jaaka monayaboleng kgotsa moruni; le

(ii) moruni o tsaya gore—

(a) o dira kgotsa o ka dira gore setheo sa ditšhelete se se tlhomame mo ditšheleteng;

(b) o tlola kgotsa o ka tlola molao wa lephata la ditšhelete; kgotsa

(c) o o ka nnang le ditlamorago tsa tlhatlho e e sa kosenesweng kgotsa o ka tlisa ditlamorago tsa nthahakamoso e e nonofleng kgotsa e e kgatlhanong mo dikahtseong.

(2) Moruni o tshwanetse go romela pegelo nnwele le ngwele kgotsa lokwalo le lengwe kgotsa dinilha ka ga morero o o tlhalositsweng mo karolong 45(1)(a) le (3)(c) ya Auditing Profession Act, 2005 (Molao 26 wa 2005), go Bothathi jwa Thlokomo.

(3) Moruni wa setheo sa ditšhelete se se abetsweng laesense kgotsa wa Ditšhelete yo o rolang tiro kgotsa yo o thapiwa ga gagwe go khuwiswong o tshwanetse go romela go Bothathi jwa Thlokomo—

(a) polelo e e kwetsweng ya mabaka a go rola tiro kgotsa mabaka a moruni a dumelang gore ke ona mabaka a khuwisos; le

(b) pegelo nnwele le ngwele e e tlhalositsweng mo karolong 45(1)(a) le (3)(c) ya Auditing Profession Act, 2005 (Molao 26 wa 2005), ya gore moruni o tla, mme mabapi le go rola kgotsa go khuwisos tiro, mma le mabaka a go romela.

(3) (a) Thomelo, ka mowa o montle, ka moruni ya pegelo kgotsa tshedimo setso e e ka fa itse go dikarotlaleletso (1) kgotsa (2) ga se tlolo ya molao, tlolo ya tuma ne kgotsa tlolo ya khotu ya boitshepu jwa seporofešešanele.

(b) Go palela, ka mowa o montle, ga moruni go ikamanya le karolo eno ga go neye motho ope tshwanelo ya go dira kgatlhaneng le moruni.

**Pegelo go balaodi ba lephata la ditšhelete**

253. (1) Motho o ka begela balaodi ba lephata la ditšhelete—

(a) mathata a ditšhelete kgotsa mathata a ditšhelete a a belaelwanga mo setheong sa ditšhelete;

(b) tlolo kgotsa tlolo e e belaelwanga ya molao wa lephata la ditšhelete mabapi le setheo sa ditšhelete; kgotsa

(c) botsayakarolo kgotsa botsayakarolo jo bo belaelwanga jawo setheo sa ditšhelete mo bosenyng jwa ditšhelete.

(2) Ntle le fa pegelo e dirilwe ka mowa o maswe, motho yo o dirang pegelo go ya ka karotlalelele (1) ga a—

(a) bonwe molato wa bosenyng mabapi le go dira pegelo; kgotsa

(b) rwale maikarabelo a go duela pusetso kgotsa ditshenyegelo go motho mongwe le mongwe mabapi le talhegelo e e tlhodilweng ke
Prohibition of victimisation

254. A person may not subject another person to any prejudice in employment, or penalise another person in any way, on the ground that the other person—

(a) made a report in terms of section 252; or

(b) made a report in terms of section 253, even if the report was not required by law.

Protected disclosures

255. Sections 252 and 253 apply in addition to, and do not limit, any other law that provides protection for persons who properly report contraventions of the law.

Part 2

Financial Sector Information Register

Establishment and operation of Financial Sector Information Register

256. The National Treasury must establish and maintain the Financial Sector Information Register in accordance with this Part.

Purpose of Register

257. The purpose of the Register is to provide reliable access to accurate, authoritative and up to date information relating to financial sector laws, Regulations, regulatory instruments and their implementation.

Content of Register

258. (1) The Register is a database of the documents listed in Schedule 3.

(2) The Register may include other documents that are relevant to the regulation and supervision of the financial sector and the Director-General determines which other documents may be included in the Register.

Keeping of Register

259. (1) The Register must be kept in an electronic form.

(2) The Register must be kept in a way that facilitates access and searching of the Register by members of the public.

Requirements for registered documents

260. The Director-General may make a written determination—

(a) specifying requirements for documents that must be, or may be, included in the Register, including requiring persons lodging a document for registration to provide information about the document, to ensure that the Register is useful for persons accessing the Register; and

(b) specifying procedures for transmitting documents to the National Treasury for registration.

Status of Register and judicial notice

261. (1) The Register is, for all purposes, taken to be a complete and accurate record of all financial sector laws and all regulatory instruments that are included in the Register.

(2) A compilation of a law or a regulatory instrument that is included in the Register is, unless the contrary is established, taken to be a complete and accurate record of that law or regulatory instrument as amended and in force at the date specified in the compilation.
Thibelo ya tirisobotlhaswa

**254.** Motlo o ka se gobelele motho yo mongwe mo tirong, kgotsa o ka se atlhole motho yo mongwe ka mokgwangwe le mongwe, ka lebaka la gore motho yo mongwe o—

(a) dirile pegelo go ya ka karolo 252; kgotsa

(b) dirile pegelo go ya ka karolo 253, le fa pegelo e ne e sa tlhokwe ke molao.

**Ditshenolo tse di sireleditsweng**

**255.** Dikarolo 252 le 253 di diriswa mo godimo ga, e bile ga di lekanyetshe, molao mongwe le mongwe o o tlamelang ka tshireletso mo bathong ba ba begang ka nepagaloo ditlalomolao.

**Karlo 2**

**Rejisetara ya Tsedimosetso ya Lephata la Dišshelete**

**Go tlhongwa le tiro ya Rejisetara ya Tsedimosetso ya Lephata la Dišshelete**

**256.** Matlole a Bosetšhaba a tshwanetshe go tlhoma le go tshegetshe Rejisetara ya Tsedimosetso ya Lephata la Dišshelete go tsamaelana le Karolo eno.

**Maitlhomo a Rejisetara**

**257.** Maitlhomo a Rejisetara ke go tlamela ka phitlhelelele e e tshepagalang go tsedimosetso e e nepagetseng, e e maatla e bile e le mo nakong e e amanang le melo ya lephata la dišshelete, Melawana, didiriso tsa bolaodi le go tsenngwa mo tirisong ga tsona.

**Diteng tsa Rejisetara**

**258.** (1) Rejisetara ke deithabeisi ya dikwalo tse di neetsweng mo Žejuleng 3.

(2) Rejisetara e ka akaretsa dikwalo tse dingwe tse di maleba go taolo le tlhokomelo ya lephata la dišshelete le Mokaedikakaretso o tlhomamisang gore ke dikwalo dife tse dingwe tse di ka akaretswang mo Rejisetareng.

**Go tsholwa Rejisetera**

**259.** (1) Rejisetara e tshwanetseng go tsholwa ka mokgwawa selekeketeroniki.

(2) Rejisetara e tshwanetseng go tsholwa ka mokgwawa o o nolofatsang phitlhelelele le patlo ya Rejisetara ka maloko a setšhaba.

**Ditlhokego tsa makwalo kwadisitsweng**

**260.** Mokaedikakaretso o ka dira tlhomamisang e e kwetsweng—

(a) e e tsepamisang ditlhokego tsa dikwalo tse di tshwanetseng go, kgotsa tse di ka, akaretswang mo Rejisetareng, go akaretsa le go kopa motho yo o kwadiisang lokwalo gore a tlamela ka tshedimosetso ya lokwalo, go netefatsa gore Rejisetara e mosola mo bathong ba ba fitlelelela Rejisetara; le

(b) e e tsepamisang ditlamaiso tsa go fetisetsa dikwalo go Matlole a Bsetšhaba gore di kwadiiswe.

**Boemo jwa Rejisetara le kitsiso ya boatlhodi**

**261.** (1) Rejisetara e, mabapi le maitlhomo otlhe, tseelela gore ke rekoto e e tladisitsweng e bile e nepagetshe ya melao yotlhe ya lephata la dišshelete le didiriso tsothlhe tsa bolaodi tse di akaretsisweng mo Rejisetareng.

(2) Tlhamo ya molao kgotsa sediriso sa bolaodi se sa akaretsisweng mo Rejisetareng e, ntle le fa go lemogwa kgoanesano, tseelela gore ke rekoto e e feletseng e bile e e nepagetseng ya molao oo kgotsa sediriso sa bolaodi jaaka e thabolotswe le go diriswa ka leltla le le tsepmisitsweng mo thamong.
(3) (a) In any proceedings, proof is not required about the provisions and coming into effect, in whole or in part, of a law or regulatory instrument as it appears in the Register. 5
(b) A court or tribunal may inform itself about those matters in any way it deems fit.
(4) It is presumed, unless the contrary is established—
(a) that a document that purports to be an extract from the Register is what it 10
purports to be; and
(b) that a regulatory instrument, a copy of which is produced from the Register, 15
was registered on the day and at the time stated in the copy.

Extracts from Register regarding licence status

262. An extract from the Register, in the form determined by, and authenticated as 20
determined by, the Director-General, that shows that, at a specified date, after this Part 25
comes into effect—
(a) a person was or was not licensed under a financial sector law;
(b) a specified licence was or was not subject to specified conditions;
(c) a specified licence was, at a specified time, suspended, cancelled or revoked; 30
or
(d) a specified financial institution was at a specified time a systemically 35
important financial institution,
is admissible as evidence of the facts and matters stated in it and, unless the contrary is 40
established, is conclusive.

Rectification of Register

263. (1) The Director-General may arrange for the Register to be corrected to rectify 45
errors.
(2) If the Register is corrected, the Director-General must annotate relevant records in 50
the Register to explain the nature of the rectification and specify the date and time the 55
rectification was made and the reason for the rectification.

Delegations by Director-General

264. (1) The Director-General may, in writing, delegate any power or duty of the 60
Director-General in relation to the Register, except the power of delegation, to a staff
member of the National Treasury or any other suitable person, and the Director-General
may, at any time, amend or revoke a delegation.
(2) A delegation may be to a specified person or to the person holding a specified 65
position.
(3) A delegation is subject to the limitations and conditions specified in the delegation.
(4) A delegation does not divest the Director-General of responsibility in respect of 70
the delegated power or duty.
(5) Anything done by a delegate in accordance with the delegation is taken to be done
by the Director-General.

Part 3

Offences and penalties

Duties of members and staff of certain bodies

265. A person who contravenes sections 46(1) or (2), 52, 69(1) or (2) or 74 commits
an offence and is liable on conviction to a fine not exceeding R5 000 000 or 75
imprisonment for a period not exceeding five years, or to both a fine and such
imprisonment.
(3) (a) Mo ditsamaisong dingwe le dingwe, bosupi ga bo tlhokege ka ga dikabelo le go tsemngwa mo tirisong go diragatsa, ka gotlhe kgotsa ka karolo, ga molao kgotsa sediriso sa bolaodi jaaka se tlhagelela mo Rejisetareng.

(b) Kgotalathekelo kgotsa lekgotla le ka ikitsise ka ga merero eo le ka mokgw o le boneng go le matshwandedi.

(4) Go bonagala e kete, ntle le fa go ka nna le kganetso—

(a) lokwalo le le ikayang e le sentshwa Rejisetareng ke se o le ikayang go nna sona; le

(b) sediriso sa bolaodi seo kgatise ya sona e tlhagisitsweng go tswa mo Rejisetareng se kwadisitswe ka letsatsi le nako e e kailweng mo kgatisong.

Dintshwa Rejisetareng mabapi le maemo a laesense

262. Sentshwa Rejisetareng, ka sebopego se se tlhomamisitsweng ke, Mokaedikakaretso, se se bondishang gore, ka lethla le le rileng, morago ga go tsemngwa tirisong ga Karolo eno—

(a) motho o abetswe kgotsa o ne a sa abelwa laesense ka fa tlase ga molao wa lephata la ditšišele;

(b) laesense e e tsepmamisitsweng e kgotsa e ne e se go ya ka mabaka a a tsepmamisitsweng;

(c) laesense e e tsepmamisitsweng e ne e, ka nako e e rileng, sekgwile, phimotswe kgotsa gogetsewe morago; kgotsa

(d) setheo sa ditšišelele se se tsepmamisitsweng se ne ka nako e e rileng e le setheo sa ditšišelele sa thulaganyo ya botlhokwa, se amogelesega jaaka bosupi jwa dintlha le merero e e kailweng mo go sona e bile ntle le fa go na le kganetso, se a konotelela.

Paakanyo ya Rejisetara

263. (1) Mokaedikakaretso o ka rulaganya gore Rejisetara e siamisiwe go baakanya diphosoh.  
(2) Fa Rejisetara e siamisitswe, Mokaedikakaretso o tshwanetse go tseny a tshehlo e ya direkoto tse di maleba mo Rejisetareng go tlhalosa mokgw a w tshiamiso le go tsepmisa go le tshiamiso e di maleba.

Ditholelo ka Mokaedikakaretso

264. (1) Mokaedikakaretso o ka, ka go kwala, rolela thata ngwwe le ngwwe kgotsa tiro ya Mokaedikakaretso mabapi le Rejisetara, ntle le thata ya go romela, go leloko la badirirmogo ba Matlole a Botšēshaba kgotsa motho mongwe le mongwe yo o maleba, e bile Mokaedikakaretso o ka, ka nako ngwwe le ngwwe, tshabola kgotsa gogela morago tholelo.

(2) Tholelo e ka nna go motho yo o rileng kgotsa go motho yo o tshwereng maemo a a rileng.

(3) Tholelo e go ya ka ditekanyetso le mabaka a a tshalositsweng mo tholelong.

(4) Tholelo e go e amoge Mokaedikakaretso maikarabelo mabapi le thuta e e roletseng kgotsa tiro.

(5) Sengwe le sengwe se se dirilweng ke morolelwa go tsamelaena le tholelo se tseelwa gore se dirilwe ke Mokaedikakaretso.

Karolo 3

Melato le dikotlha

Ditiro tsa maloko le badiri ba mekgatlho e e rileng

265. Motho yo tialang dikarolo 46(1) kgotsa (2), 52, 69(1) kgotsa (2) kgotsa 74 o tlola molao e bile fa a bonwe molato o tshwanetse ke kotlhalo ya tuediso e e sa feteng R5 000 000 kgotsa go tswalelwka kwa kgoledelong sebaka se sa feteng dingwaga tse tlhano, kgotsa go duediswa le go tshwarwa goo ka bobedi.
Licensing

266. (1) A person who contravenes section 111(1), (2), (3), (4) or (5) commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{15} 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(2) A licensee who contravenes section 117 is liable to an administrative penalty not exceeding R\textsubscript{5} 000 for each day during which the offence continues.

(3) A licensee who contravenes section 127 is liable to an administrative penalty not exceeding R\textsubscript{50} 000.

Requests for information, supervisory on-site inspections and investigations

267. (1) A supervised entity that contravenes section 131(1)(b) commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{1} 000 for each day during which the offence continues.

(2) A supervised entity that or person who contravenes section 132(4)(a)(iii) commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{5} 000 000.

(3) If—

(a) a financial sector regulator gives a supervised entity a directive in terms of section 132(4)(a)(iii); and

(b) without reasonable excuse, a business document to which the directive relates is removed from the premises, or concealed, destroyed or otherwise interfered with, contrary to the directive,

the supervised entity or person on whom the directive was served commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{2} 500 000.

(4) A person who contravenes section 133 commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{1} 000 000 or imprisonment for a period not exceeding 12 months, or to both a fine and such imprisonment.

(5) A person who contravenes section 139 commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{5} 000 000 or imprisonment for a period not exceeding two years, or to both a fine and such imprisonment.

Enforcement

268 (1) A person that contravenes section 149(1) commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{15} 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(2) A person who contravenes section 153(4)(a) commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{15} 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(3) If—

(a) a person who is subject to a debarment order contravenes section 153(4)(a) by entering into an arrangement referred to in section 153(4)(b); and

(b) the other party to the arrangement knew or should reasonably have known that entering into the arrangement contravened that section,

the other party to the arrangement also commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{15} 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

(4) A person who contravenes section 153(5) commits an offence and is liable on conviction to a fine not exceeding R\textsubscript{5} 000 000.
Kabo ya dilaense

266. (1) Motho yo o tlolang karolo 111(1), (2), (3), (4) kgotsa (5) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R15 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(2) Moabelwalaenseyo o tlolang karolo 117 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000.

(3) Moabelwalaenseyo o tlolang karolo 127 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.

Dikopo tschedimosetso, tlhatlhobo ya bothokomedi kwa tiron le dipatlisiso

267. (1) Setheo se se tlhokometsweng se se tlolang karolo 131(1)(b) se tlola molao e bile fa se bonwe molato se tshwanetswe se kothlao ya tuediso e e sa feteng R1 000 mabapi le letsatsi lengwe le lengwe le tlologo la tsolotla molao e tse 12, kgotsa le tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa ka bobedi tuediso kgotsa tswalelo kwa kgolegelong.

(2) Motho yo o tlolang karolo 133 o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R1 000 000 kgotsa go tswalelwakwakgolegelongsebakasesafetengdingwagatse10,kgotsagoduediswa le go tshwarwa goo ka bobedi.

(3) Fa—

(a) boloedi jwa lephata bo naya setheo se se tlhokometsweng taelo go ya ka karolo 132(4)(a)(ii); le

(b) ntle le lebaka le le uitwalang, lokwalo la kgwebo le taelo e amanang nalo le tloswa mo lefelong, kgotsa le fithiwa, kgotsa le senngwa kgotsa ka mokgwa mongwe le kgoreletswe, ka pharologano go taelo,

setheo se se tlhokometsweng kgotsa motho yo o neitiweng taelo o tlola molao e bile o tshwanetswe ka go bonwa molato se kothlao ya tuediso e e sa feteng R2 500 000.

(4) Motho yo o tlolang karolo 133 o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R1 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se se sa feteng dikgwedi tse 12, kgotsa ka bobedi tuediso kgotsa tswalelo kwa kgolegelong.

(5) Motho yo o tlolang karolo 139 o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R5 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se se sa feteng dingwaga tse pedi, kgotsa ka bobedi tuediso kgotsa tswalelo kwa kgolegelong.

Kgatelelo

268. (1) Motho yo o tlolang karolo 149(1) o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R15 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(2) Motho yo o tlolang karolotlaletsetso 153(4)(a) o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R15 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(3) Fa—

(a) motho yo o lebanweng ke taelo ya kganelo a tlola karolotlaletsetso 153(4)(a) ka ga tsena mo thulaganyong e e kailweng mo karolong 153(4)(b); le

(b) moamegi yo mongwe mo tumanalang a ne a itse kgotsa a ka tswa a ne a itse sentle gore go tsena mo tumanalang ke tlolo ya karolo eo, moamegi yo mongwe mo tumanalang le ena o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R15 000 000 kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duediswa le go tshwarwa goo ka bobedi.

(4) Motho yo o tlolang karolotlaletsetso 153(5) o tlola molao e bile fa a bonwe molato o tshwanetswe se kothlao ya tuediso e e sa feteng R5 000 000.00.
Administrative penalties

269. A person who contravenes section 174 by giving an undertaking commits an offence and is liable on conviction to a fine not exceeding twice the maximum amount that would have been payable under the undertaking.

Ombud schemes

270. (1) A person who contravenes section 189(1) or (2) or section 192 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(2) A person who contravenes section 202(11) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(3) A natural person who contravenes section 205(8) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(4) If—
   (a) a natural person who is subject to a debarment order in terms of section 205, contravenes section 205(8)(a) by entering into an arrangement referred to in section 205(8)(b); and
   (b) the other party to the arrangement knew or should reasonably have known that entering into the arrangement contravened that section;
the other party to the arrangement also commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(5) A person who contravenes section 207(2) commits an offence and is liable on conviction to a fine not exceeding R15 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.
(6) A licensed financial institution that contravenes section 210 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(7) A financial institution that contravenes section 215(1) commits an offence and is liable on conviction to a fine not exceeding R5 000 000.
(8) A person who contravenes section 217 commits an offence and is liable on conviction to a fine not exceeding R5 000 for each day during which the offence continues.

Proceedings in Tribunal

271. A person who contravenes a direction in terms of section 232(5)(a), or refuses, without reasonable excuse, to take an oath or make an affirmation when required to do so as contemplated in section 232(5)(b), commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

Miscellaneous

272. (1) (a) A financial sector regulator or the Reserve Bank commits an offence if information is disclosed or shared for a purpose that is not authorised in terms of section 251(1) or (2), or in a manner that is not authorised as referred to in section 251(5).
   (b) Both an official or employee who shares or discloses information, and the financial sector regulator or the Reserve Bank on whose behalf the information is shared or disclosed, commit an offence if an official or employee—
      (i) who is not authorised to share or disclose information shares or discloses information in contravention of section 251(6)(c);
      (ii) who is authorised to share or disclose information shares or discloses information for a purpose that is not authorised in terms of section 251(1) or (2), or in a manner that contravenes section 251(3) or (4).
(2) (a) If a financial sector regulator or the Reserve Bank commits an offence referred to in subsection (1), it is liable on conviction to a fine not exceeding R5 000 000.
Dikotlhao tsa tsamaiso

269. Motho yo o tlohang karolo 174 ka go dira kano o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng tlhotlhwa ya makisiimamo e e ka tswang e duelwa ka fa tlase ga kano.

Dikema tsa ombud

270. (1) Motho yo o tlohang karolo 189(1) kgotsa (2) kgotsa karolo 192 o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(2) Motho yo o tlohang karolo 202(11) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(3) Motho ka esi yo o tlohang karolo 205(8) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.
(4) Fa—
  (a) motho ka esi yo o lebanweng ke taelo ya kganelo go ya ka karolo 205 a tlola karolotlaleletsgo 205(8)(a) ka go dira thulaganyo e e kailweng mo karolog 205(8)(b); le
  (b) moamegi yo mongwe mo tulumanong a ne a itse kgotsa a ka tswa a ne a itse sentle gore go tsena mo tulumanong ke tlolo ya karolo eo,
mokgatlho o mongwe o o mo thulaganyong le ona o tlola molao e bile fa o bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.
(5) Motho yo o tlohang karolotlaleletsgo 207(2) o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R15 000 000 kgotsa go tswelelwa kwa kgolegeleng sebaka se sa feteng dingwaga tse 10, kgotsa go gudeisiwa le go tshwarwa goa ka bobedi.
(6) Setheo sa ditšehele se se abetsweng laesensese se tlola karolotlaleletsgo 210 se tlola molao e bile fa se bonwe molato se tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.
(7) Setheo sa ditšehele se se tlola karolo 215(1) se tlola molao e bile fa se bonwe molato se tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000.
(8) Motho yo o tlohang karolotlaleletsgo 217 o tlola molao e bile fa o bonwe molato o tshwanetswe ke kothlao ya tuediso e e sa feteng R5 000 000 mabapi le letsatsi lengwe le lengwe leo ka lona molato o tsweleleng.

Ditsamaiso tsa Lekgotla

271. Motho yo o tlohang kaelo go ya ka karolo 232(5)(a), kgotsa yo o ganang, ntle le lebaka le le utfwagang, go tsaya kano kgotsa tlhomamisoa f o a kopiwa go dira jalo jaako go tlhalositswe mo karolog 232(5)(b), o tlola molao e bile fa a bonwe molato o tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000 kgotsa go tswelelwa kwa kgolegeleng sebaka se sa feteng dingwaga tse tlhano, kgotsa go gudeisiwa le go tshwarwa goa ka bobedi.

Tsele le tsele

272. (a) Bolaodi jwa lephata la ditšehele kgotsa Banka ya Resefe e tlola molao fa tshedinemoseto e senotswe kgotsa e aroganwe mabapi le maithlomo a a sa dumelweng go ya ka karolo 251(1) kgotsa (2), kgotsa ka mokgwao o o sa dumelweng jaako go kailweng mo karolog 251(5).
  (b) Ka bobedi mothankedi kgotsa modiri yo o aroganang kgotsa yo o senolang tshedinemosetso, le bolaodi jwa lephata la ditšehele kgotsa Banka ya Resefe e boemong jwa yona tshedinemosetso e aroganweng kgotsa e senotsweng, ba tlola molao fa mothankedi kgotsa modiri—
    (i) yo o sa dumelweng go arogana kgotsa go senola tshedinemoseto a arogana kgotsa a senola tshedinemoseto ka tlolo ya karolo 251(6)(c);
    (ii) yo o dumelweng go aragana kgotsa go senola a arogana kgotsa senola tshedinemoseto mabapi le maithlomo a a sa dumelweng go ya ka karolo 251(1) kgotsa (2), kgotsa ka mokgwao o o tlola karolo 251(3) kgotsa (4).
(2) (a) Fa bolaodi jwa lephata la ditšehele kgotsa Banka ya Resefe bo tlola molao o o kailweng mo karolotlaleletsong (1), bo bonwe molato bo tshwanetswe ke kothlao ya tuelo e e sa feteng R5 000 000.

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(b) An official or employee who commits an offence referred to in subsection (1)(b) is liable on conviction to a fine not exceeding R5 000 000, or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

(3) An auditor who contravenes section 252 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

(4) A person who contravenes section 254 commits an offence and is liable on conviction to a fine not exceeding R5 000 000 or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

(5) A person who contravenes a condition imposed in terms of section 280 commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

False or misleading information

273. A person who provides to a financial sector regulator or the Reserve Bank, information in connection with the operation of a financial sector law, that the person knew or believed, or ought reasonably to have known or believed, to be false or misleading, including by omission, commits an offence and is liable on conviction to a fine not exceeding R10 000 000 or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

Accounts and records

274. A person who is required in terms of a financial sector law to keep accounts or records commits an offence if—

(a) the accounts or records do not correctly record and explain the matters, transactions, acts or operations to which they relate; and

(b) the person—

(i) knew that, or was reckless whether, the accounts or records correctly recorded and explained the matters, transactions, acts or operations to which they relate;

(ii) intended to deceive or mislead a financial sector regulator or an investigator; or

(iii) intended to hinder or obstruct a financial sector regulator, or an investigator in performing his or her duties in terms of a financial sector law,

and is liable on conviction to a fine not exceeding R10 000 000, or imprisonment for a period not exceeding 10 years, or to both a fine and such imprisonment.

False assertion of connection with financial sector regulator

275. A person who, without the consent of the financial sector regulator, applies to a company, body, business or undertaking a name or description that reasonably signifies or implies some connection between the company, body, business or undertaking and a financial sector regulator commits an offence and is liable on conviction to a fine not exceeding R5 000 000.

Liability in relation to juristic persons

276. (1) If—

(a) a financial institution commits an offence in terms of a financial sector law; and

(b) a member of the governing body of the financial institution failed to take all reasonably practicable steps to prevent the commission of the offence,

the member of the governing body commits the like offence, and is liable on conviction to a penalty not exceeding the penalty that may be imposed on the financial institution for the offence.

(2) If—

(a) a key person of a financial institution engages in conduct that amounts to a contravention of a financial sector law; and
Molao wa Taolo ya Lephata la Ditshelete , 2017

(b) Motlhankedikgotsa modiri yo o tlolang molao o o kaiweng mo karolotlaleleltsong
(1) (b) Fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000, kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse tlhano, kgotsa go duesiswa le go tshawrwa go o ka bobedi.

(3) Moruni yo o tlolang karolo 252 o tloola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000.

(4) Motho yo o tlolang karolo 254 o tloola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000, kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse tlhano, kgotsa go duesiswa le go tshawrwa go o ka bobedi.

(5) Motho yo o tlolang peelo e e neetsweng go ya ka karolo 280 o tloola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R5 000 000.

Tshedimosetsa e e fosagetseng kgotsa e e timetsang

273. Motho yo o tlamelang molaoadi wa lephata la ditšhelete kgotsa Banka ya Resefe, ka tshedimosetsa mabapi le tiro ya molao wa lephata la ditšhelete, e motho a itseng kgotsa a dumelang, kgotsa e aka mabaka a neng a itse kgotsa a dumela, gore e fosagetseng kgotsa e e timetsa, go akaretsa le ka tlogelo, o tloola molao e bile fa a bonwe molato o tshwanetswe ke kotlhao ya tuelo e e sa feteng R10 000 000, kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duesiswa le go tshawrwa go o ka bobedi.

Diakhaonto le direkoto

274. Motho yo o tlhokegang go ya ka molao wa lephata la ditšhelete go tshola diakhaonto le direkoto o tloola molao fa—
   (a) diakhaonto kgotsa direkoto di sa rekote le go tlahosa dintlha, ditsamaiso, ditiro kgotsa dikgato tseo di amanang le tsona, e bile
   (b) motho—
   (i) a ne a itse, kgotsa a ne a sa kgathalele gore, diakhaonto kgotsa direkoto di gitatisise le go tlahosa dintlha, ditsamaiso, ditiro kgotsa dikgato tse di amanang le tsona;
   (ii) a ne a ikaeletse go tsitsetsa kgotsa go faposoa bolaoadi jwa lephata la ditšhelete kgotsa mmatlisisi; kgotsa
   (iii) a ne a ikaeletse go kgoreletsa kgotsa go thibela bolaoadi jwa lephata la ditšhelete, kgotsa mmatlisisi go mo direng ditiro tsa gagwe go ya ka molao wa lephata la ditšhelete, ebole o tshwanetswe ke kotlhao ya tuelo e e sa feteng R10 000 000, kgotsa go tswalelwa kwa kgolegelong sebaka se sa feteng dingwaga tse 10, kgotsa go duesiswa le go tshawrwa go o ka bobedi.

Tlnagiso e e fosagetseng ya kamano le boloadi jwa lephata la ditšhelete

275. Motho yo, ntle le tumelelo ya molaoadi wa lephata la ditšhelete, o dirisang go setlamo, mokgathlo, kgwebo kgotsa kano leina kgotsa tlahalo e e kayang kgotsa bontshang kamano e e releng magareng ga setlamo, mokgathlo, kgwebo kgotsa kano le molaoadi wa lephata la ditšhelete o tloola molao e bile fa a bonwe molato o tshwanetswe ke katlholo ya tuediso e e sa feteng R5 000 000.

Melato mo kamanong le ditheo

276. (1) Fa—
   (a) setheo sa ditšhelete se dira molato go ya ka molao wa lephata la ditšhelete; le
   (b) lelolo lengwe le lengwe la mokgathlo o o busang wa seteheo sa ditšhelete le le pateletswe ke go tayaa dikgato tsothatse di maleba tse di kgonegeng go thibela tirego ya molato, leloko la mokgathlo o busang le tloola molato oo, e bile fa le bonwe molato le tshwanetswe ke kotlhao e e sa feteng kotlhao e e ka pateletsang setheo sa ditšhelete mabapi le tloalomolao.

   (2) Fa—
   (a) motho yo o bolthokwa wa seteheo sa ditšhelete a dira botshwaro jo bo lereng tiolo ya molao wa lephata la ditšhelete; le
(b) the financial institution failed to take all reasonably practicable steps to prevent the conduct,
the financial institution must be taken also to have engaged in the conduct.

Part 4
General matters

Complaints

277. A financial sector regulator must, if asked, assist a person to make a complaint to the appropriate ombud about the actions or practices in terms of a financial sector law, of a person in connection with providing financial products or financial services.

Compensation for contraventions of financial sector laws

278. A person, including a financial sector regulator, who suffers loss because of a contravention of a financial sector law by another person, may recover the amount of the loss by action in a court of competent jurisdiction against—
(a) the other person; and
(b) any person who was knowingly involved in the contravention.

Extension of period for compliance

279. (1) A financial sector regulator may, for a valid reason, extend any period for compliance with, or a period prescribed by, a provision of a financial sector law, other than a provision that the financial sector regulator must comply with.

(2) A financial sector regulator may grant an extension in terms of subsection (1) more than once, and may do so either before or after the time for compliance has passed or the period prescribed has ended.

Conditions of licences

280. (1) A licence may be given subject to conditions specified in the licence or in the notice of the grant or issue of the licence given to the licensee.

(2) A suspension, cancellation or revocation of a licence in terms of a financial sector law may be subject to conditions specified in the notice of the suspension, cancellation or revocation given to the licensee.

(3) Contravention of a condition in terms of subsection (2) does not affect the suspension, cancellation or revocation of the licence.

(4) In this section, a reference to a licence must be read as including a reference to a consent, agreement, approval or permission of any kind in terms of a financial sector law.

Exemptions

281. (1) The responsible authority for a financial sector law may, in writing and with the concurrence of the other financial sector regulator, exempt any person or class of persons from a specified provision of the financial sector law, unless it considers that granting the exemption—
(a) will be contrary to the public interest; or
(b) may prejudice the achievement of the objects of a financial sector law.

(2) Subsection (1) applies to the granting of exemptions if a financial sector law does not provide a power to grant exemptions.

(3) If a financial sector law provides a power to grant exemptions, the responsible authority must—
(a) grant the exemption in terms of the relevant provisions of the financial sector law; and
(b) setheo sa ditšhelete se palelwá ke go tsaya dikgato tsotlhe tse di maleba go thibela botšhwaro joo, setheo sa ditšhelete se tšhwanetse go tsewa gore le sona se dirile tlolo ya molao.

**Karolo 4**

_Merero ya kakaretso_

**Dingongorego**

277. Molaodi wa lephata la ditšhelete o tšhwanetse, fa a kopilwe, go thusa motho go dira ngongorego go ombud yo o maleba ka ga ditiro kgotsa ditiragatso go ya ka molao wa lephata la ditšhelete, tsao motho mabapi le go tlameša ka dikuno tsa ditšhelete kgotsa ditšeše ke go ditšhelete.

278. Motho, go akaretsa le molaodi wa lephata la ditšhelete, yo o itemogelang tatlhegelo ka nthla ya tlolo ya molao wa lephata la ditšhelete ka motho yo mongwe o ka busetsa madi a tatlhegelo ka tiro kwa kgotlatšhekelong ka kathloło e e nonofileng kgathlanong le—

(a) motho yo mongwe; le

(b) motho mongwe le mongwe yo o neng a amega ka go itse mo tlolong.

**Tuelo ya ditlolo melao tsa lephata la ditšhelete**

279. Motho, go akaretsa le molaodi wa lephata la ditšhelete, yo o itemogelang tatlhegelo ka nthla ya tlolo ya molao wa lephata la ditšhelete ka motho yo mongwe o ka busetsa madi a tatlhegelo ka tiro kwa kgotlatšhekelong ka kathloło e e nonofileng kgathlanong le—

(a) motho yo mongwe; le

(b) motho mongwe le mongwe yo o neng a amega ka go itse mo tlolong.

**Katoloso ya paka ya go ikamanyo**

279. (1) Molaodi wa lephata la ditšhelete o ka, ka lebaka le le uatlwalang, katolosa paka ngwe le ngwe ya go ikamanyo le, kgotsa paka e e neetsweng ke, kabelo ya molao wa lephata la ditšhelete, ntle le kabelo e molaodi wa lephata la ditšhelete a tšhwanetse ng go ikamanyo le yona.

(2) Molaodi wa lephata la ditšhelete o ka dumelela katoloso go ya ka karolotlaleletso (1) go feta gangwe, ka o dira jalo pele ga kgotsa morago ga nako ya ikamanyo e sena go feta kgotsa paka e e neetsweng e sena go fela.

**Mabaka a dilaesense**

280. (1) Laesense e ka abelwa go ya ka mabaka a a tsepamisitsweng mo laesenseng kgotsa mo kitsisong ya kabelo kgotsa thebolo ya laesense e e neetsweng moabelwalaesense.

(2) Tshekego, phimolo kgotsa phediso ya laesense go ya ka molao wa lephata la ditšhelete e ka nna go ya ka mabaka a a tsepamisitsweng mo kitsisong ya tshekego, phimolo kgotsa phediso e e neetsweng moabelwalaesense.

(3) Tiolo ya lebaka go ya ka karolotlaleletso (2) ga e ame kemiso, phimolo kgotsa phediso ya laesense.

(4) Mo karolong eno, kaelo go laesense e tšhwanetse go tseelwa gore e akaretsa kaelo go tumelelo, tulumano, thebolo kgotsa tštšelelo ya mojuta mongwe le mongwe go ya ka molao wa lephata la ditšhelete.

**Dikgololo**

281. (1) Bothati jo rwalang maikarabelo a molao wa lephata la ditšhelete bo ka, ka go kwala le ka tumalano ya molaodi yo mongwe wa lephata la ditšhelete, golola motho mongwe le mongwe kgotsa maemo a batho mo kabelong e e tsepamisitsweng ya molao wa lephata la ditšhelete ntle le fa bo tseela gore go abelana ka kgololo—

(a) go tla nna kgathlanong le dikgatlhgo tsa setšhaba; kgotsa

(b) go ka gobelela phitlhelelo ya maikaelelo a molao wa lephata la ditšhelete.

(2) Karolotlaleletso (1) e diriswa mo go abeleng dikgololo fa molao wa lephata la ditšhelete o sa tlamelo ka thata ya go neelana ka dikgololo.

(3) Fa molao wa lephata la ditšhelete o tlamela ka thata ya go neelana ka dikgololo, bothati jo bo rwalang maikarabelo bo tšhwanetse—

(a) go neelana ka kgololo go ya ka dikabelo tse di maleba tsa molao wa lephata la ditšhelete; le
(b) when deciding whether to grant an exemption, comply with the requirements of subsection (1) in addition to any requirements specified in the financial sector law.

(4) The responsible authority must publish each exemption.

Requirements for notification and concurrence

282. (1) If this Act provides that a financial sector regulator must notify the other financial sector regulator of a particular matter, the notification is not required if the other regulator has agreed, in a section 77 memorandum of understanding or otherwise, that—
   (a) failure to provide the notice does not prejudice the achievement of its objective; and
   (b) the notification is unnecessary.
(2) If this Act provides that a financial sector regulator may not take a particular action without the concurrence of the other financial sector regulator, the concurrence is not required if the other regulator has agreed, in a section 77 memorandum of understanding or otherwise, that—
   (a) action of the relevant kind does not prejudice the achievement of its objective; and
   (b) its concurrence is unnecessary.
(3) If this Act provides that a financial sector regulator may not take a particular action without the concurrence of the Reserve Bank, the concurrence is not required if the Reserve Bank has agreed, in a memorandum of understanding or otherwise, that the concurrence is unnecessary.

Arrangements for engagements with stakeholders

283. Each of the financial sector regulators and the Ombud Council must establish and give effect to arrangements to facilitate consultation and the exchange of information with financial institutions, financial customers, and prospective financial customers on matters of mutual interest.

Records and entries in books of account admissible in evidence

284. In any proceedings in terms of, or in relation to, a financial sector law, the records and books of account of a financial institution, and of a person who is engaged by a financial institution to perform a control function, are admissible as evidence of the matters, transactions and accounts recorded therein.

Immunities

285. The State, the Minister, the Reserve Bank, the Governor and Deputy Governors, a financial sector regulator, a member of the Executive Committee, the Prudential Committee, a member of a subcommittee of the Prudential Authority or the Financial Sector Conduct Authority, a member of the Tribunal, the Ombud Council, a member of the Ombud Board, an employee of the State, a board member or officer of the Reserve Bank, a staff member of a financial sector regulator, a staff member of the Reserve Bank, a person appointed by a financial sector regulator or the Reserve Bank to exercise a power or perform a function or duty in terms of a financial sector law is not liable for, or in respect of, any loss or damage suffered or incurred by any person arising from a decision taken or action performed in good faith in the exercise of a function, power or duty in terms of a financial sector law.

Notices to licensees

286. (1) A notice in terms of, or relating to, a financial sector law to a person who is or was licensed in terms of a financial sector law must be served on, or given to—
   (a) the person; or
   (b) if the person cannot be found after reasonable inquiry, some other person apparently involved in the management or control of a place where the person carries or carried on the licensed activities.
(b) fa bo swetsa ka go neelana ka kgololotse, go ikamanya le ditlhokego tsa karolotlaleletso (1) mo godimo ga ditlhokego dingwe le dingwe tse di nylona molaong wa lepaha la ditšelete.

(4) Bothati jo bo rwalang maikarabelo bo tshwanyeng o phasalatsa kgololong mo ditšefelo le tshwane.

Ditlhokego tsa kitsiso le tumalano

282. (1) Fa Molao ono o tlamela gore molaodi wa lephata la ditšhelete o tshwanyeng o molaodi yo mongwe wa lepaha la ditšhelete ga ka ga mongwe o o riše, kitiso ga e tshwana fa molaodi yo mongwe a dumeditsa, mo karolong 77 ya memoriala yango la ditšhelete ka tshwane go gore—

(a) go palelwa ke go tlamela ka kitsiso ga go goblelele phitšeletše ta ka maikaelele a ona; le

(b) kitsiso ga e tlhokagale.

(2) Fa Molao ono o tlamela gore molaodi wa lephata la ditšhelete o ka se dire tiro epe ntle le tumalano ya molaodi yo mongwe wa lepaha la ditšhelete, tumalano ga e tshwana fa molaodi yo mongwe a dumeditsa, mo karolong 77 ya memoriala yango la tumalano kgotsa ka tshwane go gore—

(a) tiro ya mofuto o o maleba ga a goblelele phitšeletše ta ka maikaelele a bona; le

(b) tumalano ya bona ga e tlhokagale.

(3) Fa Molao ono o tlamela gore molaodi wa lephata la ditšhelete o ka se dire tiro epe ntle le tumalano ya Banka ya Resefe, tumalano ga e tlhokagale fa Banka ya Resefe e dumeditsa, mo memoriala yango la tumalano kgotsa ka tshwane go gore tumalano ga e tlhokagale.

Dithulaganyo mabapi le dithvisoriso le batsayakarolo

283. Mongwe le mongwe wa balaodi ba lepaha la ditšhelete le Khansele ya Ombud o tshwanyeng go tlhoma le go tsenya mo tiriso go molaodi yo mongwe la ditšelete, tumalano ga e tshwana fa molaodi yo mongwe a dumeditsa, mo karolong 77 ya memoriala yango la tumalano kgotsa ka tshwane go gore—

(a) tiro ya mofuta o o maleba ga a goblelele phitšeletše ta ka maikaelele a bona; le

(b) tumalano ya bona ga e tlhokagale.

284. Mo ditša masona dingwe le dingwe go ya ka, kgotsa mabapi le, molaodi ya mongwe wa lephata la ditšhelete, dikweto le dibuka tsa akhaonto tsa setheo sa ditšhelete, le tsa motho yo o diriseng ka setheo sa ditšhelete o tshwane go dira tiro ya ga laola, di amogeseleka jaaka bosupi jwa dintlha, ditiro le diahaonto tse di rekotilewueng ka fa gare.

Dikgololo

285. Puso, Tona, Banka ya Resefe, Mmusisi le Batatsamumusisi, molaodi wa lephata la ditšhelete, lelako la Komiti Khuduthamaga, Komiti ya Thlokomelo, lelako la Komiti ya Bolaoedi jwa Thlokomelo, Bolaoedi jwa Boitshwara jwa Lepele la Ditšhelete, lelako la Legotla, Khansele ya Ombud, lelako la Boto ya Ombud, modiritedi wa Puso, Banka ya Resefe, lelako la bote kgotsa motlhankedi wa Banka ya Resefe, lelako la badirimomogga ba Banka ya Resefe, ga ba rwale maikarabelo a, kgotsa mabapi le, tatlhelo ngwe le ngwe kgotsa kgobalo e e bonweng kgotsa itemogesengweng ke motho mongwe le mongwe ka nthla ya tshwetseng e e tserweng kgotsa tiro e e dirilweng ka mowa o montle mo go diragatseng tiro kgotsa thata go ya ka molaodwa lephata la ditšhelete.

Kitsiso go baabelwadilaesense

286. (1) Kitsiso go ya ka, kgotsa e e amanang le, molaodwa lephata la ditšhelete go motho yo o kgotsa yo o neng a abetswe laesense go ya ka molaodwa lephata la ditšhelete e tshwanyeng go neelwa go, kgotsa go newa—

(a) motho; kgotsa

(b) fa motho a sa kgone go fitlhlehlewa morago ga patlisimo e e tseneletseeng, motho mongwe yo o kileng a amegwa go molaodi ya Qota borela lafelo le lopho yo o dirang kgotsa a dirileng ditiro tshe laesense.
(2) For the purposes of a financial sector law, service in terms of subsection (1)(b) is effective service.

Publication requirements in financial sector laws

287. (1) A requirement in terms of a financial sector law to publish a document or information, including a requirement to publish it in the Gazette, must be read as a requirement also to publish the document or information in the Register.

(2) The document or information may also be published on the website of the person required to publish it, or in other effective ways.

(3) This section does not require publication of a draft of a document in the Register.

Part 5

Regulations and Guidelines

288. (1) The Minister may make Regulations to facilitate the implementation of this Act, including Regulations—

(a) that must or may be prescribed in terms of this Act;

(b) to provide for other procedural or administrative matters that are necessary to implement the provisions of this Act.

(2) A requirement in terms of a financial sector law or the Interpretation Act (Act No. 33 of 1957), to publish Regulations in the Gazette must be read as a requirement to publish the Regulations also in the Register.

(3) (a) The Minister may issue guidelines for the disclosure of material interests contemplated in sections 49, 72, 193 and 226 to provide guidance to persons who are required to disclose material interests in terms of those sections.

(b) Guidelines issued in terms of paragraph (a) do not divest persons who are required to disclose a material interest in terms of sections 49, 72 193 and 226 from their duty to properly apply their minds and disclose all material interests.

(4) The Minister may not make a Regulation unless the Minister—

(a) has published—

(i) a draft of the Regulation;

(ii) a statement explaining the need for and the intended operation of the Regulation;

(iii) a statement of the expected impact of the Regulation;

(iv) a notice inviting submissions in relation to the Regulation and stating where, how and by when submissions are to be made; and

(b) has, once submissions referred to in paragraph (a)(iv) have been received and considered, submitted to Parliament, while it is in session,—

(i) the documents mentioned in paragraph (a)(i) to (iv); and

(ii) a report of the consultation process, which report must include—

(aa) a general account of the issues raised in the submissions; and

(bb) a response to the issues raised in the submissions.

(5) (a) The period allowed for making submissions referred to in subsection (4)(a) must be at least six weeks.

(b) The period allowed for Parliamentary scrutiny referred to in subsection (4)(b) must be at least 30 days while Parliament is in session.

(6) If a Minister intends, whether or not as a result of a consultation process, to make a Regulation in a materially different form from the draft Regulation published in terms of subsection (4), the Minister must, before making the Regulation, repeat the process referred to in subsection (4).

(7) If complying with subsection (4) or (6), in the opinion of the Minister, is likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed Regulation, the Minister must, before making the Regulation—

(a) publish—

(i) a draft of the Regulation and a statement explaining the need for and the intended operation of the Regulation;
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(2) Mabapi le mailihomo a molao wa lephata la ditšhelete, tirelo go ya ka karolotlaleletso (1)/(b) ke tirelo e e nonofileng.

Ditlhokego tsa phasalatso mo melaong ya lephata la ditšhelete

287. (1) Tlhokego go ya ka molao wa lephata la ditšhelete ya go phasalatsa lokwalo kgotsa tshedimosetso, go akaretsa le tlhokego ya go e phasalatsa mo Lokwalodiganneng la Puso, go thwanetse go tseelwa jaaka tlhokego ya go phasalatsa lokwalo kgotsa tshedimosetso mo Rejisetareng.
(2) Lokwalo kgotsa tshedimosetso e ka phasalatswa mo webesaeteng ya motho yo o tlhokang go e phasalatsa, kgotsa ka mekgwa mengwe e e nonofileng.
(3) Karolo eno ga e tlhoke phasalatso ya thalo ya lokwalo mo Rejisetareng.

Karolo 5

Melawana le dikaelo

288. (1) Tona o ka dira Melawana go nolofatsa go tsenngwa mo tirisong ga Molao ono, go akaretsa le Melawana—
  (a) e e thwanetseg kgotsa e e ka neelwang go ya ka Molao ono;
  (b) go tlamela mabapi le merero e mengwe ya tsamaiso le taolo e e botlhokwa go tseny ya tirisong dikabelo tsa Molao ono.
(2) Tlhokego go ya ka molao wa lephata la ditšhelete kgotsa Interpretation Act (Molao 33 wa 1957), ya go phasalatsa Melawana mo Lokwalodiganneng la Puso e tshwanetse go tseelwa jaaka tlhokego ya go phasalatsa Melawana mo Rejisetareng.
(3) (a) Tona o ka rebola dikaelo tsa go senola dikgatlhegelo tse di botlhokwa tse di thalositsweng mo dikarolong 49,72, 193 le 226, go tlamela ka kaelo go batho bao ba kopilweng go senola dikgatlhegelo tsa botlhokwa go ya ka dikarolo tseo.
  (b) Dikaelo tse di rebotseng go ya ka temana (a) gi di amoge batho ba ba kopilweng go senola kgatlhegelo e e botlhokwa go ya ka dikarolo 49, 72, 193 le 226 ditiro tsa bona tsa go dirisa menagano ya bona ka nepagalo le go senola dikgatlhegelo tsothle tse di ka mang kopilweng.
(4) Tona o ka se dire Melawana ntle le fa Tona—
  (a) a phasaladitse—
    (i) melawana le e thadilweng;
    (ii) polelo e e thalosang tlhokego ya le tiro e e ikaeletsweng ya Melawana;
    (iii) polelo ya kutlwalo e e solofetsweng ya Melawana;
    (iv) kitiso e e laletsang ditlhagiso mabapi le Melawana le go itsise gore ditlhagiso di ka dirwa kaetjane, le gore e, dira Melawana ya go phasalatsa Melawana mo Rejisetareng.
  (b) a, morago ga fa ditlhagiso tse di kailweng mo temaneng (a)/(iv) di sena go amogebla le go sekasekwa, romelele Palamente, fa e kokoane—
    (i) dikwalo tse di kailweng mo temaneng (a)/(i) go filtha go (iv); le gore e, morago ga fa ditlhagiso tse di kailweng mo temaneng—
    (aa) dikwalo, ka kakaretsa a dithapala le e le fa Palamente, fa e kokoane; le gore e, morago ga fa ditlhagiso tse di kailweng mo temaneng. go (aa) go fitlha go (iv); le gore e, morago ga fa ditlhagiso tse di kailweng mo temaneng—
    (bb) dikwalo, ka kakaretsa a dithapala le e le fa Palamente, fa e kokoane; le gore e, morago ga fa ditlhagiso tse di kailweng mo temaneng. go (aa) go fitlha go (iv); le gore e, morago ga fa ditlhagiso tse di kailweng mo temaneng.
(5) (a) Paka e e dumeletsweng ya go dii melawana go phasalatso mo temaneng (4)/(a) e e tshwanetse go na bonnye dibeko tse thataro.  
  (b) Paka e e kaleletsweng mabapi le tshakatshoko e e kailweng mo karolotlaleletsong (4)/(b) e e tshwanetse go na bonnye matsatsi a le 30 fa Palamente e kokoane.
(6) Fa Tona a ikaelela, ka nthla ya kgotsa eseng ka nthla ya ditlamorago tsa kgotja ya ditherisana, go dira Melawana ka mokgwana wa pharologano e kgotja ga tsewa ga thalo ya Melawana e e phasaladitsweng go ya ka karolotlaleletso (4), Tona o thwanetse, pele a dira Melawana, go boelela tsamaiso e e kailweng mo karolotlaleletsong (4).
(7) Fa go ikamangwga le karolotlaleletso (4) kgotsa (6), go ya ka mogo pola wa Tona, go ka le re kgobelelo mo barekeding ba ditšhelete kgotsa kotsi mo thulaganyong ya ditšhelete, kgotsa go fenya maikaelo a Molawana o o tshitsitsi sweng, Tona o thwanetse, pele a dira Molawana—
  (a) go phasalatso—
    (i) Melawana o o thadilweng le polelo e e thalosang tlhokego ya le tiro e e ikaeletsweng ya Melawana;

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It is hereby notified that the President has as-
sented to the following Act, which is hereby
published for general information:—

Act No. 9 of 2017: Financial Sector Regula-
tion Act, 2017

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(ii) a notice inviting submissions in relation to the Regulation and stating where, how and by when submissions are to be made; and

(iii) a statement of the reasons why the delay involved in complying with subsections (4) and (6) is considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the proposed Regulation; and

(b) submit to Parliament the documents mentioned in paragraph (a).

(8) (a) The period allowed for making submissions referred to in subsection (7)(a)(ii) must be at least seven days.

(b) The period allowed for submission to Parliament referred to in subsection (7)(b) must be at least seven days, whether Parliament is in session or not.

(c) The period referred to in paragraph (b) may run concurrently with the period referred to in paragraph (a).

(9) The Minister must, after making a Regulation pursuant to subsections (7) and (8), within 30 days of making the Regulation, submit to Parliament a report of the consultation process referred to in subsections (13) to (15).

(10) This section does not prevent the Minister from engaging in consultations in addition to those required in terms of this section.

(11) In deciding whether to make a Regulation, the Minister must take into account all submissions received by the expiry of the period referred to in subsection (5)(a) or (8)(a) and any deliberations of Parliament.

(12) A Regulation comes into effect—

(a) on the date that it is published in the Register; or

(b) if the Regulation provides that it comes into effect on a later date, on the later date.

(13) With each Regulation, the Minister must publish a consultation report.

(14) A consultation report must include—

(a) a general account of the issues raised in the submissions made during the consultation; and

(b) a response to the issues raised in the submissions.

(15) If the Minister did not comply with subsection (4) or (6) for the reason stated in subsection (7), the consultation report must be published 30 days after the instrument was made and the report must include a statement of the reasons why the delay involved in complying, or complying fully, with subsection (4) or (6) was considered likely to lead to prejudice to financial customers or harm to the financial system, or defeat the object of the Regulation.

Part 6

Amendments, repeals, transitional and saving provisions

Interpretation

289. In this Part—

“Appeal Board” means the Appeal Board established by section 26A of the Financial Services Board Act;

“Directorate of Market Abuse” means the Directorate of Market Abuse established by section 12 of the Insider Trading Act, 1998 (Act No. 135 of 1998) and continued in terms of the Securities Services Act, 2004 (Act No. 36 of 2004) and then the Financial Markets Act;

“Enforcement Committee” means the Enforcement Committee established in terms of section 10A of the Financial Services Board Act or section 97 of the Securities Services Act, 2004 (Act No. 36 of 2004);

“Financial Services Board” means the Financial Services Board as defined in the Financial Services Board Act; and

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Amendments and repeals

290. The Acts listed in Schedule 4 are amended or repealed as set out in that Schedule.

Transitional provision in relation to medical schemes

291. (1) The functions of the Prudential Authority in relation to medical schemes and the associated powers and duties of the Prudential Authority are, to the extent determined by, and subject to any conditions determined by, the Minister, to be exercised by the Council for Medical Schemes instead of the Prudential Authority, but with the concurrence of the Prudential Authority.

(2) The functions of the Financial Sector Conduct Authority in relation to medical schemes and the associated powers and duties of the Financial Sector Conduct Authority are, to the extent determined by, and subject to any conditions determined by, the Minister, to be exercised by the Council for Medical Schemes instead of the Financial Sector Conduct Authority, but with the concurrence of the Financial Sector Conduct Authority.

(3) A determination in terms of subsection (1) or (2) must be published.

(4) The concurrence of a financial sector regulator in terms of subsection (1) or (2) to the exercise of a particular power or the performance of a particular function or duty is not required if the financial sector regulator has agreed in writing that—

(a) the exercise of the power or the performance of the function or duty does not prejudice the achievement of its objective; and

(b) its concurrence is unnecessary.

Transitional prudential powers of Financial Sector Conduct Authority

292. (1) This section applies for the period of three years from the date on which this section comes into effect but the Minister may, by notice in the Gazette, determine a shorter or longer period.

(2) The power of the Prudential Authority to make prudential standards, to be complied with by the following financial institutions, with respect to the safety and soundness of those financial institutions and otherwise to achieve the objectives of the Prudential Authority, is to be exercised by the Financial Sector Conduct Authority:

(a) Collective investment schemes as defined in section 1(1) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

(b) pension funds as defined in section 1(1) of the Pension Funds Act;

(c) friendly societies as defined in section 1(1) of the Friendly Societies Act.

(3) A prudential standard in terms of subsection (2) may only impose requirements that may be imposed under the specific financial sector law relevant to the financial institution concerned.

(4) The Financial Sector Conduct Authority may exercise its other powers in terms of financial sector laws with respect to the financial institutions referred to in subsection (2) to achieve the objective of the Prudential Authority.

(5) Subsection (3) does not affect the powers of the Financial Sector Conduct Authority in respect of a financial institution.

Transfer of assets and liabilities of Financial Services Board

293. (1) At the date on which this section comes into effect, the assets and liabilities of the Financial Services Board cease to be assets and liabilities of the Board and become assets and liabilities of the Financial Sector Conduct Authority without any conveyance, transfer or assignment.

(2) A person or authority who, in terms of a law or of a trust instrument or in any other way is required to keep or maintain a database in relation to assets or liabilities must, and may without any application or otherwise, record in the database the transfer of the asset or liability in terms of subsection (1).
Ditlhabololo le diphehodo

290. Molao e e neetsweng mo Ŝeculeng 4 e a tlhabololwa kgotsa phimolwa jaaka go thalositswe mo Ŝeculeng eo.

Kabelo ya kgabaganyo mabapi le dikema tsa kalafo

291. (1) Ditiro tsa Bothati jwa Tlhokomelo mabapi le dikema tsa kalafi le dithata tse di di patileng le ditiro tsa Bothati jwa Tlhokomelo, ka bogolo jo bo thlomamisitsweng ke, le go ya ka mabaka mangwe le mangwe a a thlomamisitsweng ke, Tona, di tshwanetseng go diragatswa ke Khanelse ya Dikema tsa Kalafi e seng Bothati jwa Tlhokomelo, mme fela ka tumalano le Bothati jwa Tlhokomelo.

(2) Ditiro tsa Bothati jwa Boitshwara jwa Lepha la Dišhetele mabapi le dikema tsa kalafi le maatla le ditiro tse di di patileng tsa Bothati jwa Boitshwara jwa Lepha la Dišhetele, ka bogolo jo bo thlomamisitsweng ke, le go ya ka mabaka mangwe le mangwe a a thlomamisitsweng ke, Tona, di tshwanetseng go diragatswa ke Khanelse ya Dikema tsa Kalafi e seng Bothati jwa Tlhokomelo jwa Lepha la Dišhetele, mme fela ka tumalano le Bothati jwa Tlhokomelo.

(3) Tlhomamiso go ya ka karolotlaleletso (1) kgotsa (2) e tshwanetseng go phasalatswa.

(4) Tumalano ya bolaodi ja lepha la dišhetele go ya ka karolotlaleletso (1) kgotsa (2) ya tiragatso ya thata e e rileng kgotsa go dirwa ga tiro e e rileng ga go tlhokege fa bolaodi jwa lepha la dišhetele bo dumetse ka go kwala gore—

(a) tiragatso ya thata kgotsa go dirwa ga tiro ga go gobelele phitlhelelo ya maikaelelo a jona; le

(b) tumalano ya jona ga e tlhokege.

Dithata tsa kgaba ganyo tsa thlhomelo ya Bothati jwa Boitshwara jwa Lepha la Dišhetele

292. (1) Karolo eno e diriswa mo pakeng ya dingwaga tse tharo go simolola ka letlha la go tsengwga mo tirisong ga karolo eno mme Tona o ka, ka kitsiso mo Lokwaledigannye la Puso, thlomamisa paka e khotshwane kgotsa e telele.

(2) Thata ya Bothati jwa Tlhokomelo ya go dira maemo a thlhomelo, eo ditheo tsa dišhetele tse di latelang di tshwanetseng go ikامanya le yona, mabapi le thsireletsego le thlomamiso ya ditheo tse dišhetele le go fihlelela maikaelelo a Bothati jwa Tlhokomelo, e tshwanetseng go diragatswa ke Bothati jwa Boitshwara jwa Lepha la Dišhetele:

(a) Dikema tsa peeletsommogo jaaka di thalositswe mo karolong 1(1) ya Collective Investment Schemes Control Act, 2002 (Molao 45 wa 2002);

(b) matlole a penšene jaaka a thalositswe mo karolong 1(1) ya Pension Funds Act;

(c) mekgatlho ya botsalano jaaka e thalositswe mo karolong 1(1) ya Friendly Societies Act.

(3) Maemo a thlhomelo ya tse ka karolotlaleletso (2) a ka pateletsa fela ditlhokego tse di ka patelelele lema molao wa lepha la dišhetele o o rileng o o maleba go setheo sa dišhetele se se amengang.

(4) Bothati jwa Boitshwara jwa Lepha la Dišhetele bo ka diragatsa dišheta tsa jona tse dingwge go ya ka melao ya lepha la dišhetele mabapi le ditheo tsa dišhetele tse di kailwaeng mo karolotlalelelelsong (2) go fihlelela maikaelelo a Bothati jwa Tlhokomelo.

(5) Karolotlaleletso (3) ga e ame dithata tsa Bothati jwa Boitshwara jwa Lepha la Dišhetele mabapi le setheo sa dišhetele.

Tshutiso ya dithoto le melato ya Boto ya Ditirelo tsa Dišhetele

293. (1) Ka letlha leo karolo eno e tseengwga mo tirisong ka lon, dithoto le melato ya Boto ya Ditirelo tsa Dišhetele di khutla go mma dithoto le melato ya Boto mme di mma dithoto le melato ya Bothati jwa Boitshwara jwa Lepha la Dišhetele ntle le thebolelo, 50
tshutiso kgotsa kabo.

(2) Motho kgotsa bothati jo, go ya ka molao kgotsa sedirisa sa terasetse kgotsa ka mokgwa ofe bo tlohowe go tshola kgotsa tsehegata deithabeise mabapi le dithoto kgotsa melato bo tshwanetseng, e bile bo ka ntle le tiriso kgotsa ka mokgwa mongwe, rekota mo deithabeise tshutiso ya dithoto kgotsa melato go ya ka karolotlaleletso (1). 55
(3) A transfer of an asset in terms of subsection (1) does not give rise to any liability to duty or tax.

(4) (a) The Minister or a person authorised by the Minister for the purposes of this section may certify in writing that a specified asset or liability of the Financial Services Board became an asset or liability of the Financial Sector Conduct Authority on the date on which this section came into effect.

(b) A certificate in terms of paragraph (a) is conclusive proof that a specified asset or liability of the Financial Services Board is an asset or liability of the Financial Sector Conduct Authority.

Transfer of staff of Financial Services Board

294. (1) (a) At the date on which this section comes into effect, the staff of the Financial Services Board must be transferred to the Financial Sector Conduct Authority and the South African Reserve Bank, respectively, in accordance with section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995).

(b) Any reference in section 197 of the Labour Relations Act, 1995, to—

(i) the “old employer” must be read as a reference to the Financial Services Board; and

(ii) the “new employer” must be read as a reference to the Financial Sector Conduct Authority or the South African Reserve Bank, as the case may be, in respect of the staff to be transferred to either of these entities.

(c) The agreements referred to in section 197 of the Labour Relations Act, 1995, must address the transfer of the staff of the Financial Services Board to the pension fund of the South African Reserve Bank, where applicable.

(2) The Financial Sector Conduct Authority, at the date on which this section comes into effect, becomes liable for the liability of the Financial Services Board to subsidise the cost of the contributions payable to a medical scheme registered under the Medical Schemes Act by—

(a) a person who was employed by the Financial Services Board as at 1 January 1998 and remained continuously so employed until he or she retired from the Financial Services Board; or

(b) a person who was the spouse or dependant of a person contemplated in paragraph (a) at the time of the person’s retirement from the Financial Services Board, or the person’s death while employed by the Financial Services Board.

(3) If the benefit payable to a member in terms of the rules of the Financial Services Board Pension Fund on retirement would have been subject to special tax treatment, the benefit payable to that employee on his or her retirement by the pension fund of the Financial Sector Conduct Authority and the South African Reserve Bank, if applicable, must be subject to the same tax treatment.

(4) At the date on which this section comes into effect, the pension fund of the Financial Services Board becomes the pension fund of the Financial Sector Conduct Authority.

Annual reports

295. (1) The Prudential Authority must prepare each annual report of a financial sector regulator required by a financial sector law for which it is the responsible authority, for the reporting period during which this section comes into effect.

(2) The Financial Sector Conduct Authority must prepare each annual report of the Financial Services Board or another financial sector regulator required by a financial sector law for which it is the responsible authority, for the reporting period during which this section comes into effect.

(3) A report in terms of subsection (1) or (2) may be published as part of the first annual report of the Prudential Authority or the Financial Sector Conduct Authority, as the case may be.
(3) Tshutiso ya photo go ya ka karolotlaleletsog (1) ga e bake koketsego go molato mongwe le mongwe go tiro kgotsa lekgetho.

(4) (a) Tona kgotsa motho yo o leleletsweng ke Tona mabapi le maithlomo a karolo eno o ka kanela ka go kwala gore photo e e tspamisitsweng kgotsa molato ya Boto ya Ditirelo tsa Ditšhëlele e nnile photo kgotsa molato wa Bothati jwa Boitšhwaro jwa Lephata la Ditšhëlele ka letlheng le karolo eno e tsentsweng mo tirisong ka lona.

(b) Setifikeiti go ya ka temana (a) ke bosupi jo bo konotelelang jwa gore photo kgotsa molato o o o tspamisitsweng wa Boto ya Ditirelo tsa Ditšhëlele ke photo kgotsa molato wa Bothati jwa Boitšhwaro jwa Lephata la Ditšhëlele.
Inspections and investigations

296. (1) An inspection or investigation in terms of the Banks Act, the Reserve Bank Act, the Mutual Banks Act, 1993 (Act No. 124 of 1993), the Co-operative Banks Act, 2007 (Act No. 40 of 2007), the Short-term Insurance Act or the Long-term Insurance Act that is pending and not concluded immediately before the date on which this section comes into effect may be continued and concluded by the Prudential Authority in terms of the relevant provisions of this Act, or by the Financial Sector Conduct Authority in relation to an inspection or investigation in terms of the Short-term Insurance Act or the Long-term Insurance Act.

(2) An inspection or investigation in terms of a financial sector law or legislation referred to in the definition of “Financial Services Board legislation” in section 1 of the Financial Services Board Act, other than those referred to in subsection (1), that is pending but not concluded immediately before the date on which this Chapter comes into effect may be continued and concluded by the Financial Sector Conduct Authority in terms of the relevant provisions of this Act.

Co-operation agreements with foreign agencies

297. An arrangement in terms of a financial sector law between a registrar, supervisor or other financial sector regulator and a foreign government agency that is in force on the date on which this section comes into effect continues in effect as with the substitution of the relevant financial sector regulator for the registrar, supervisor or the other financial sector regulator, but may be amended or terminated in accordance with the terms of the arrangement.

Enforcement Committee and Appeal Board

298. (1) (a) Despite the repeals effected in the terms of this Part—

(i) the Enforcement Committee is to continue to deal with any matter that it was dealing with immediately before the date on which this Part comes into effect; and

(ii) a panel of the Appeal Board is to continue to deal with any matter that it was dealing with immediately before that date.

(b) The Enforcement Committee and the panels referred to in paragraph (a)(ii) continue in existence for the purposes of paragraph (a) only.

(2) The Financial Sector Conduct Authority must provide administrative and other support to the Enforcement Committee and the panels.

(3) For the purposes of this section, proceedings are instituted if—

(a) in the case of the Enforcement Committee established in terms of section 97 of the Securities Services Act, 2004 (Act No. 36 of 2004), the pleadings envisaged in section 102(1) of that Act have been referred to the Enforcement Committee;

(b) in the case of the Enforcement Committee established in terms of section 10A of the Financial Services Board Act, the pleadings envisaged in section 6B(1) of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001) have been delivered in terms of section 6B(2)(a) of that Act.

Right of appeal of Financial Services Board decisions

299. Despite the repeals effected in terms of section 290, section 26 of the Financial Services Board Act continues in effect in respect of decisions made before the date those repeals come into effect, but the appeal contemplated by that section is made to the Tribunal.

Pending proceedings

300. (1) Despite the repeal of section 9 of the Banks Act in terms of Schedule 4, an application for a review made in terms of that section but not finally determined before the date on which this section comes into effect may be continued before the board of review, which is to exercise the powers of the Tribunal in relation to the application.
Ditlhathhoho le dipatlisiso


(2) Ditlhathhoho kgotsa patlisiso go ya ka molao wa lephata la ditšhelete kgotsa molawana o o kaailweng mo thalosong ya”molawana wa Boto ya Ditirelo tsu Ditšhelete “mo karolong 1 ya \textit{Financial Services Board Act}, ntle le eo e kaailweng mo karolotlaileletsong (l), e e letllweng mme e sa konoa se wa ka bonako pele ga letlha le ga tsengwwa mo tiriseng ga Kgalo eno e ka tsewela le go khonosewa ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka dikabelo tse di maleba tsu Molao ono.

Ditumalano tsa tirisannommogole diejensi tsa kwa ntle

297. Thulaganyo mabapi le molao wa lephata la ditšhelete magareng ga mokwadisisi, moloa ko kgotsa molaodi yo mongwe wa lephata la ditšhelete le ejensi ya puso ya boditsheba e e dirisweng ka letlha leoa karolo eno e tsengwang mo tirisong ga lona e tswelela go diriswa jaaka le ka kemisetso ya molaoedi wa lephata la ditšhelete yo o maleba mabapi le mokwadisisi, moloa ko kgotsa molaodi yo mongwe wa lephata la ditšhelete, mme e ka tshaholo wa kgotsa khutliswa go tsamaelana le dipelo tsa thulaganyo e.

Komiti ya Kgatelelo le Boto ya Boikuelo

298. (1) (a) Go sa nyatswe phediso e e dirilweng go ya ka Karolo eno—

(i) Komiti ya Kgatelelo e tla tswelela go samagana le morero mongwe le mongwe o e neng e samagane le ona ka bonako pele ga letlha le ga tsengwga tirisong ga Karolo eno; le

(ii) panele ya Boto ya Boikuelo e tla tswelela go samagana le morero mongwe le mongwe o e neng e samagane le ona ka bonako pele ga letlha leoa.

(b) Komiti ya Kgatelelo le dipanele tse di kaailweng mo tselela go di tla temeng (a)(ii) di tswelela go nna teng mabapi le maithlomo a temana (a) fela.

(2) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go tlamelagama Komiti ya Kgatelelo e tla dipanele tse dingwe ka tshegetso ya tsamaise le e ngwe.

(3) Mabapi le maithlomo a karolo eno, ditumaiso di a diragatsa fa—

(a) mo lebakeng la Komiti ya Kgatelelo e e tla tselela go samagana le morero mongwe go ya ka karolo 97 ya \textit{Securities Services Act}, 2004 (Molao 36 wa 2004), boikuelo jo bo bonetsweng pele mo karolong 102(1) ya Molao oo bo rometswe kwa Komiting ya Kgatelelo;

(b) mo lebakeng la Komiti ya Kgatelelo e e tla tselela go samagana le morero mongwe go ka karolo 10A ya \textit{Financial Services Board Act}, boikuelo jo bo bonetsweng pele mo karolong 6B(1) ya \textit{Financial Institutions (Protection of Funds) Act}, 2001 (Molao 28 wa 2001) bo diragaditswe go ya ka karolo 6B(2)(a) ya Molao oo.

Tshwanelo ya boikuelo jwa ditshwetsa tsu Boto ya Ditirelo tsu Ditšhelete

299. Go sa nyatswe diphimolo tse di dirisitsweng go ya ka karolo 290, karolo 26 ya \textit{Financial Services Board Act} e tla tselela go diriswa mabapi le ditshwetsa tse di dirilweng pele ga letlha leoa boikuelo bo tsengwga mo tirisong ka lona, mme boikuelo jo bo tshalositsweng mo karolong eno bo dirwa go Lekgotla.

Ditsamaiso tse di letetsweng

300. (1) Go sa nyatswe phimolo ya karolo 9 ya \textit{Banks Act} go ya ka Šejule 4, kopo ya tshhekatsheko e e dirilweng go ya ka karolo eo mme e ise e tlahomamiswe ka kona se wa ka bonako pele ga letlha leoa karolo eno e tsengwang mo tirisong ka lona e ka tsewela le ga pele go bopo ya tshhekatsheko, e e tshwakieso go diratsa dithata tsu Lekgotla mabapi le kopo.
(2) The Prudential Authority must be substituted as a party in any pending proceedings, whether in a court, tribunal or before an arbitrator or any other person or body, that have been commenced but not finally determined immediately before the date on which this section comes into effect, for the Reserve Bank or a registrar in terms of the Banks Act, the Mutual Banks Act, 1993 (Act No. 124 of 1993), the Co-operative Banks Act, 2007 (Act No. 40 of 2007), the Short-term Insurance Act or the Long-term Insurance Act.

(3) The Financial Sector Conduct Authority must be substituted as a party in any pending proceedings, whether in a court, tribunal or before an arbitrator or any other person or body, that have been commenced but not finally determined immediately before the date on which this section comes into effect, for the Financial Services Board, the Directorate of Market Abuse, where applicable, or a registrar in terms of a financial sector law other than the Banks Act.

Savings of approvals, consents, registrations and other acts

301. (1) A licence, authorisation, approval, registration, consent or similar permission given in terms of a financial sector law and in force immediately before the date on which this section comes into effect remains in force for the purposes of the financial sector law, but may be amended or revoked by the responsible authority for the financial sector law, in accordance with the provisions of that financial sector law.

(2) Rules made in terms of section 26 of the Financial Advisory and Intermediary Services Act and in force immediately before the date on which this section come into effect have effect as Ombud Council rules, and may be amended or revoked by Ombud Council rules in accordance with this Act.

(3) A regulatory instrument or Regulation made or issued in terms of a financial sector law and in force immediately before the date on which this section comes into effect remains in force for the purposes of the financial sector law but may be amended or revoked by a regulatory instrument made by the responsible authority for the financial sector law in accordance with the relevant financial sector law.

(4) Consultations undertaken before the date on which Part 1 of Chapter 7 comes into effect in relation to a regulatory instrument proposed to be made under a specific financial sector law or a proposed financial sector law after that Part came into effect are taken to meet the requirements of this Act for consultation to the extent that they—

(a) meet the requirements of the specific financial sector law for consultation prior to the amendment of that law in accordance with Schedule 4; or

(b) substantially meet the requirements of this Act for consultation on the proposed regulatory instrument.

(5) Regulations made in terms of section 5 of the Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993), and in force on the date on which this section comes into effect continue in force, but may be amended or repealed by Regulations made in terms of section 5 by the Prudential Authority.

(6) An ombud scheme that, immediately before the repeal of the Financial Services Ombuds Schemes Act, 2004 (Act No. 37 of 2004), came into effect, was recognised in terms of that Act must be taken to be a recognised industry ombud scheme as if it had been recognised under this Act.

(7) Subsection (6) ceases to have effect at the end of 12 months after Chapter 14 takes effect, but the Ombud Council may, on application and for good reason, extend the application of that subsection in a particular case for a further period of not more than 6 months.
(2) Bothati jwa Thokomelo bo tshwanetse go emisetswa jaaka mokgatilho mo ditsamaisong dingwe le dingwe tse di letetsweng, kwa kgotlatshelelong, lekgotleng kgotsha fa pele ga motseregyani kgotsha motho mongwe le mongwe yo mongwe kgotsha mokgatilho, tse di neng di simolotswe mme di ise di tlhomamiswe ka konotelelo ka bonako pele ga lethla le ka lona karolo eno e tsengwang mo tirisong, mabapi le Banka ya Resefe kgotsha mokwadisi go ya ka Banks Act, the Mutual Banks Act, 1993 (Molao 124 wa 1993), Co-operative Banks Act, 2007 (Molao 40 wa 2007), Short Term Insurance Act kgotsha Long Term Insurance Act.

(3) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete bo tshwanetse go emisetswa jaaka mokgatilho mo ditsamaisong dingwe le dingwe tse di letetsweng, kwa kgotlatshelelong, lekgotleng kgotsha fa pele ga motseregyani kgotsha motho mongwe le mongwe yo mongwe kgotsha mokgatilho, tse di neng di simolotswe mme di ise di tlhomamiswe ka konotelelo ka bonako pele ga lethla le ka lona karolo eno e tsengwang mo tirisong, mabapi le Boto ya Ditirelo tsa Ditšhelete, Bokaedi jwa Tirisobothaswa ya Mmaraka kgotsha mokwadisi go ya ka molao wa lephata la ditšhelete ntle le Banks Act.

Ditshomarelo tsa dithebolo, ditumelelo, dikwadiso le ditiro tse dingwe

301. (1) Laesense, tetla, thebolo, kwadiso, tumalanokgotsha tumelelo e e tshebeng ang e e neilweng go ya ka molao wa lephata la ditšhelete le go diragatswa ka bonako pele ga lethla le ka lona karolo eno e tsengwang mo tirisong e sala go nna mo tirisong mabapi le maithlhomoe a molao wa lephata la ditšhelete mme e ka tlahbololwa kgotsha phimolwa ke bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete, go tsamaelana le dikabelo tsu molao oo wa lephata la ditšhelete.

(2) Melawana e e dirilweng go ya ka karolo 26 ya Financial Advisory and Intermediary Services Act le go tsengwa mo tirisong ka bonako pele ga lethla le ka lona karolo eno e tsengwang mo tirisong e sala go nna mo tirisong mabapi le maithlhomoe a molao wa lephata la ditšhelete mme e ka tlahbololwa kgotsha phimolwa ke Khansele ya Ombud, e bile e ka tlahbololwa kgotsha phimolwa ke Khansele ya Ombud go tsamaelana le Molao ono.

(3) Sediriso sa bolaodi se se dirilweng kgotsha robotsweng go ya ka molao wa lephata la ditšhelete le go dirisisa go bonako pele ga lethla le ka lona karolo eno e tsengwang mo tirisong e sala go nna mo tirisong mabapi le maithlhomoe a molao wa lephata la ditšhelete mme e ka tlahbololwa kgotsha phimolwa ke bothati jo bo rwalang maikarabelo mabapi le molao wa lephata la ditšhelete go tsamaelana le Molao ono.

(4) Ditherisano tse di dirilweng pele ga letlha le Karolo 1 ya Kgaolo 7 e tsengwang mo tirisong ka lona mabapi se sediriso sa bolaodi se se tshitsintsengsweng go dirwa ka fa tlae sa molao wa lephata la ditšhelete o o tsepamisitsweng mabapi le tsamaelana le Molao ono e o maleba.

(5) Melawana e e dirilweng go ya ka karolo 5 ya Financial Supervision of the Road Accident Fund Act, 1993 (Molao 8 wa 1993), le go nna mo tirisong ka lethla le ka karolo eno e tsengwang mo tirisong ka lona eno e tswelela go diriswa, mme e ka tlahbololwa kgotsha phimolwa ke Melawana e e dirilweng go ya ka karolo 5 ke Bothati jwa Thokomelo.

(6) Sekema sa ombud se, ka bonako pele ga go tsengwa mo tirisong ga phimolwa ya Financial Services Ombuds Schemes Act, 2004 (Molao 37 wa 2004), se amogetsweng go ya ka Molao oo se tshwanetse go tsewa jaaka sekema se se amogetsweng sa bodirelo sa ombud jaaka e kete se amogetse ka fa tlae sa Molao ono.

(7) Karolotlaletso (6) e khutlisa go diriswa ka bokhutlong jwa dikgwedi tse 12 morago ga go tsengwa tirisong ga Kgaolo 14, mme Khanele ya Ombud ene ka, ka kopo le ka lebaka le le utlwalang, atolotsata tiriso ya karolotlaletso e o mo morerong o o rileng mo nakong e ngwe gape e e sa feteng dikgwedi tse 6.
Levy

302. (1) Despite the repeal of the Financial Services Board Act in terms of Schedule 4, a levy imposed in terms of section 15A of the Financial Services Board Act continues in force subject to this Act, until a date fixed by the Minister by notice published in the Register.

(2) A levy referred to in subsection (1) is, from the date on which this section takes effect, taken to be a levy for the purposes of this Act.

Chief Actuary

303. A reference in any Act or subordinate legislation to the Chief Actuary is, after the date on which this section comes into effect, to be read as a reference to the Prudential Authority.

Additional transitional arrangements

304. (1) In order to facilitate the coming into effect, appropriate implementation and operation of this Act, the Minister may make Regulations providing for transitional arrangements regarding the exercise of powers, the performance of functions and duties, and other matters that may be necessary in relation to—

(a) the establishment of the financial sector regulators and other bodies in terms of this Act;
(b) the coming into operation of different provisions of this Act; and
(c) the repeal or amendment of different provisions of a law repealed or amended by this Act.

(2) Without limiting subsection (1), Regulations in terms of this section may provide for—

(a) the Reserve Bank to exercise specified powers and to perform specified functions and duties of the Prudential Authority, should it be necessary for powers and functions of the Prudential Authority in terms of this Act to be exercised for a period prior to the Prudential Authority being formally established; and
(b) the Financial Services Board to exercise specified powers and perform specified functions and duties of the Financial Sector Conduct Authority, should it be necessary for the powers and functions of the Financial Sector Conduct Authority in terms of this Act to be exercised prior to the Financial Sector Conduct Authority being formally established.

Part 7

Short title and commencement

305. (1) This Act is called the Financial Sector Regulation Act, 2017, and comes into effect on a date determined by the Minister by notice in the Gazette.

(2) Different dates may be determined by the Minister in respect of the coming into effect of—

(a) different provisions of this Act;
(b) different provisions of this Act in respect of different categories of financial institutions; and
(c) the repeal or amendment of different provisions of a law repealed or amended by this Act.
Molao wa Taolo ya Lephata la Ditšheletse, 2017

Lekgethwana

302. (1) Go sa nyatswe go phimolwa ga Financial Services Board Act go ya ka Sejule 4, lekgethwana le le duediswang go ya ka karolo 15A ya Financial Services Board Act le tswelela go diriswa go ya ka Molao ono, go fitlhela ka letlha le le beilweng ke Tona ka kitsiso e e phasaladitsweng mo Rejisetareng.

(2) Lekgethwana le le kailweng mo krolotlaneletsong (1) le, go simolola ka letlha leo karolo eno e tsengweng mo tirisong ka lona, tseelwa gore ke lekgethwana mabapi le maithlomo a Molao ono.

Mogakolodimogolo

303. Kaelo mo Molaong mongwe le mongwe kgotsa molaotlaneletso go 10 Mogakolodimogolo e, morago ga letlha leo karolo eno e tsengweng mo tirisong ka lona, tsewa jaaka kaelo go Bothati jwa Tlhokomelo.

Dithulaganyetso tsa kgabaganyo tsa tlaletse

304. (1) Gore go nolofatswe go tsengwga mo tirisong, tsenyo tirisong e e malebe le tiro ya Molao ono, Tona o ka dira Melawana e e tlamelang mabapi le dithulaganyetso tsa kgabaganyo mabapi le tiragatsa yo dathata, go dirwa ga ditiro, le merero e e ka tswang e e ka tswang e e ka tswang e e ka tsengweng mo tirisong ka Molao ono; le—

(a) go tlhongwa ga balaodi ba lephata la ditšhelete le mekgatlho e e mengwe go ya ka Molao ono;

(b) go tsengwga mo tirisong ga dikabelo tse di farologaneng tsa Molao ono; le

(c) phimololo le thabololo ya dikabelo tse di farologaneng tsa Molao ono.

(2) Ntle le go lekanyetsa karolotlaneletso (1), Melawana go ya ka karolo eno e ka tlamela mabapi le—

(a) Banka ya Resefe gore e diragatsa ditlha tse di tsepamisitsweng le go dira ditiro tse di tsepamisitsweng tsa Bothati jwa Tlhokomelo, go ga ka thokega gore ditlha tse di ditiro tsa Bothati jwa Tlhokomelo go ya ka Molao ono di diragatswe mabapi le nako ya pele ga go tlhongwa semmuso ga Bothati jwa Tlhokomelo; le

(b) Bota ya Ditorelo tsa Ditšhelete go diragatsa ditlha tse di tsepamisitsweng le go dira ditiro tse di tsepamisitsweng tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete, go ga ka thokega gore ditlha tse di ditiro tsa Bothati jwa Boitshwaro jwa Lephata la Ditšhelete go ya ka Molao ono di diragatswe pele ga go tlhongwa semmuso ga Bothati jwa Boitshwaro jwa Lephata la Ditšhelete.

Karolo 7

Setlhogo se se khutshwane le tshimologo

Setlhogo se se khutshwane le tshimologo

305. (1) Molao ono o bidiva Molao wa Taolo ya Lephata la Ditšhelete, 2017, e bile o tsengwga mo tirisong ka letlha le le tlemamisitsweng ke Tona ka kitsiso mo Lokwalodikgang la Puso.

(2) Matlha a a farologaneng a ka tlemamiswa ke Tona mabapi le go tsengwga tirisong ga—

(a) dikabelo tse di farologaneng tsa Molao ono;

(b) dikabelo tse di farologaneng tsa Molao ono mabapi le dilhopa tse di farologaneng tsa ditheo tsa ditšhelete; le

(c) phimolo kgotsa thabololo ya dikabelo tse di farologaneng tsa Molao ono o o phimolosetsweng kgotsa thabolotsweng ke Molao ono.
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SCHEDULE 1

FINANCIAL SECTOR LAWS

(Section 1(1))

Pension Funds Act, 1956 (Act No. 24 of 1956)
Friendly Societies Act, 1956 (Act No. 25 of 1956)
Banks Act, 1990 (Act No. 94 of 1990)
Financial Services Board Act, 1990 (Act No. 97 of 1990)
Financial Supervision of the Road Accident Fund Act, 1993 (Act No. 8 of 1993)
Mutual Banks Act, 1993 (Act No. 124 of 1993)
Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001)
Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002)
Co-operative Banks Act, 2007 (Act No. 40 of 2007)
Financial Markets Act, 2012 (Act No. 19 of 2012)
Credit Rating Services Act, 2012 (Act No. 24 of 2012)
MELAO YA LEPHATA LA DITŠHELETE

(Karolo 1(1))

Pension Funds Act, 1956 (Molao 24 wa 1956)
Friendly Societies Act, 1956 (Molao 25 wa 1956)
Banks Act, 1990 (Molao 94 wa 1990)
Financial Services Board Act, 1990 (Molao 97 wa 1990)
Financial Supervision of the Road Accident Fund Act, 1993 (Molao 8 wa 1993)
Mutual Banks Act, 1993 (Molao 124 wa 1993)
Financial Institutions (Protection of Funds) Act, 2001 (Molao 28 wa 2001)
Financial Advisory and Intermediary Services Act, 2002 (Molao 37 wa 2002)
Collective Investment Schemes Control Act, 2002 (Molao 45 wa 2002)
Co-operative Banks Act, 2007 (Molao 40 wa 2007)
Financial Markets Act, 2012 (Molao 19 wa 2012)
Credit Rating Services Act, 2012 (Molao 24 wa 2012)
### SCHEDULE 2

#### RESPONSIBLE AUTHORITIES

**Section 5**

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<th>Responsible authority</th>
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<tr>
<td>Friendly Societies Act, 1956 (Act No. 25 of 1956)</td>
<td>Financial Sector Conduct Authority</td>
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<tr>
<td>Banks Act, 1990 (Act No. 94 of 1990)</td>
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</tr>
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<td>Prudential Authority</td>
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<td>Credit Rating Services Act, 2012 (Act No. 24 of 2012)</td>
<td>Financial Sector Conduct Authority</td>
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</table>
| The Long-term Insurance Act, 1998 (Act No. 52 of 1998) and the Short-term Insurance Act, 1998 (Act No. 53 of 1998), so far as they relate to matters within the objectives of—  
  (a) the Prudential Authority  
  (b) the Financial Sector Conduct Authority  
  A regulatory instrument made by the Prudential Authority  
  A regulatory instrument made by the Financial Sector Conduct Authority  
  A joint standard, so as it relates to matters within the objectives of—  
  (a) the Prudential Authority  
  (b) the Financial Sector Conduct Authority                                           |  
  Prudential Authority  
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ŠEJULE 2

BOTHATI JO BO RWALANG MAIKARABELO

(Karolo 5)

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<tr>
<td>Friendly Societies Act, 1956 (Molao 25 wa 1956)</td>
<td>Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
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<tr>
<td>Banks Act, 1990 (Molao 94 wa 1990)</td>
<td>Bothati jwa Tlhokomelo</td>
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<tr>
<td>Financial Supervision of the Road Accident Fund Act, 1993 (Molao 8 wa 1993)</td>
<td>Bothati jwa Tlhokomelo</td>
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<tr>
<td>Mutual Banks Act, 1993 (Molao 124 wa 1993)</td>
<td>Bothati jwa Tlhokomelo</td>
</tr>
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<td>Financial Advisory and Intermediary Services Act, 2002 (Molao 37 wa 2002)</td>
<td>Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
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<td>Collective Investment Schemes Control Act, 2002 (Molao 45 wa 2002)</td>
<td>Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
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<td>Co-operative Banks Act, 2007 (Molao 40 wa 2007)</td>
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<td>Financial Markets Act, 2012 (Molao 19 wa 2012)</td>
<td>Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
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<td>Credit Rating Services Act, 2012 (Molao 24 wa 2012)</td>
<td>Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
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<tr>
<td>Long-term Insurance Act, 1998 (Molao 52 wa 1998) le Short-term Insurance Act, 1998 (Molao 53 wa 1998), jaaka ga a amana le merero e e mo maikaelelong a— (a) Bothati jwa Tlhokomelo (b) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
<td>Bothati jwa Tlhokomelo Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
</tr>
<tr>
<td>Sediriswa sa bolaodi se se dirilweng ke</td>
<td>Bothati jwa Tlhokomelo</td>
</tr>
<tr>
<td>Sediriswa sa bolaodi se se dirilweng ke Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
<td>Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
</tr>
<tr>
<td>Maemo a a kopanetsweng, jaaka ga a amana le merero e e mo maikaelelong a— (a) Bothati jwa Tlhokomelo (b) Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
<td>Bothati jwa Tlhokomelo Bothati jwa Boitshwaro jwa Lephata la Ditšhelete</td>
</tr>
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</table>
SCHEDULE 3

DOCUMENTS TO BE PUBLISHED IN THE REGISTER

(Section 258)

1. This Act
2. Financial sector laws
3. Regulations made in terms of financial sector laws
4. Regulatory instruments made in terms of financial sector laws
5. Administrative action procedures
6. Guidance notes and interpretation rulings issued under Part 1 of Chapter 10
7. Enforceable undertakings
8. Orders of a court under section 152 or 204, other than interlocutory orders
9. Debarment orders
10. Licences (including their terms and the conditions to which they are subject)
11. Notice of variations, suspensions and revocations of licences (including any applicable conditions)
12. Notices in terms of section 122
13. The Panel list
14. Tribunal rules
15. Decisions of the Tribunal
16. Governing rules of recognised industry ombud schemes
17. The terms of recognition of industry ombud schemes and the conditions of recognition
18. Notice of variations, suspensions and revocations of recognition of industry ombud schemes (including any applicable conditions)
19. Determinations of fees in terms of section 237(1)(a)
20. Exemptions under section 281 (including any applicable conditions)
21. Documents that a financial sector law provides are to be published in the Register
22. Amendments to and revocations of documents referred to in items 1 to 21
1. Molao ono
2. Melao ya lephata la ditšhelete
3. Melawana e e dirilweng go ya ka melao ya lephata la ditšhelete
4. Didiriswa tsa bolaodi tse di dirilweng go ya ka melao ya lephata la ditšhelete
5. Dikgato tsa tiro ya tsamaiso
6. Dikitsiso tsa kaelo le ditshwetsos tsa tlhalosos tse di tlamang tse di rebotsweng ka fa tlase ga Karolo 1 ya Kgaolo 10
7. Ditumalano tse di gatelelwang
8. Ditaelo tsa kgotalatshekelo tse di ka fa tlase ga karolo 152 kgotsa 204, ntle le ditaelo tsa puisano
9. Ditaelo tsa kganelo
10. Dilaesense (go akaretsa le dipeelo le mabaka tseo di leng ka fa tlase ga tsona)
11. Kitsiso ya diphetolo, dikemiso le diphimolo tsa dilaesense (go akaretsa le mabaka mangwe le mangwe a a diriswang)
12. Dikitsiso go ya ka karolo 122
13. Lenane la Panele
14. Melawana ya Lekgotla
15. Ditshwetso tsa Lekgotla
16. Melawana ya puso ya dikema tsa bodirelo tsa ombud tse di amogetswang
17. Dipeelo tsa kamogelo ya dikema tsa bodirelo tsa ombud le mabaka a kamogelo
18. Kitsiso ya dipharologano, dikemiso le diphimolo tsa kamogelo ya dikema tsa bodirelo tsa ombud (go akaretsa le mabaka mangwe le mangwe a a diriswang)
19. Ditlhomamiso tsa dituediso go ya ka karolo 237(1)(a)
20. Dikgololo ka fa tlase ga karolo 281 (go akaretsa le mabaka mangwe le mangwe a a diriswang)
21. Dikwalo tse di tlamelwang ke molao wa lephata la ditšhelete di tshwanetse go phasalatswa mo Rejisetareng
22. Ditlhabololo le diphimolo tsa dikwalo tse di kailweng mo dintlheng 1 go Fitlha go 21
### SCHEDULE 4

**AMENDMENTS AND REPEALS**

*(Section 290)*

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<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
</tr>
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</table>
| Act No. 24 of 1936 | Insolvency Act, 1936 | 1. The addition in section 35A(1) in the definition of “market infrastructure” of the following paragraphs:

   “(d) a central counterparty as defined in section 1 of that Act and licensed under section 49 of that Act; or

   (e) a licensed external central counterparty as defined in section 1 of that Act.” |
|                  |             | 2. The amendment of section 83—

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

   “(2) If such property consists of [a marketable security] securities as defined in section 1(1) of the Financial Markets Act, 2012 (Act No. 19 of 2012), [or] a bill of exchange or a financial instrument or a foreign financial instrument as defined in section [1 of the Financial Markets Control Act, 1989 (Act No. 55 of 1989)] 1(1) of the Financial Sector Regulation Act, 2017, the creditor may, after giving the notice mentioned in subsection (1) and before the second meeting of creditors, realise the property in the manner and on the conditions mentioned in subsection (8).”;

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

   “(3) If such property does not consist of [a marketable security] securities or a bill of exchange, the trustee may, within seven days as from the receipt of the notice mentioned in subsection (1) or within seven days as from the date which the certificate of appointment issued by the Master in terms of subsection (1) of section eighteen or subsection (2) of section fifty six reached him, whichever be the later, take over the property from the creditor at a value agreed upon between the trustee and the creditor or at the full amount of the creditor’s claim, and if the trustee does not so take over the property the creditor may, after the expiration of the said period but before the said meeting, realise the property in the manner and on the conditions mentioned in subsection (8).” |
### ŠEJULE 4

**DITLBALOLO LE DIPHIMOLO**

(Karolo 290)

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| Wet No. 24 van 1936       | Insolvensiewet, 1936     | 1. Die omskrywing van "markinfrastruktuur" word by artikel 35A(1) gevoeg en verder gewysig deur paragrawe (d) en (e) by te voeg:
   - "markinfrastruktuur"—
     - (a) "n beurs soos omskryf in artikel 1 en gelisensie kragtens artikel 9 van die 'Financial Markets Act', 2012; en
     - (b) "n sentralesekuriteitebewaarplek soos omskryf in artikel 1 en kragtens artikel 29 van daardie Wet gelisensieer; of
     - (c) "n verrekeningshuis soos omskryf in artikel 1 van daardie Wet en kragtens artikel 49 van die 'Financial Markets Act, 2012';
   - (d) "n sentrale teenparty soos in artikel 1 van daardie Wet as "n 'central counter party'" omskryf en kragtens artikel 49 van daardie Wet gelisensieer; of
   - (e) "n gelisensieerde eksterne sentrale teenparty soos in artikel 1 van daardie Wet omskryf as "n 'external central counter party;".

2. Artikel 83 word gewysig—
   - (a) deur subartikel (2) deur die volgende subartikel te vervang:
     "(2) As daardie goed bestaan uit effekte soos omskryf in artikel 1(1) van die 'Financial Markets Act', 2012 (Wet No. 19 van 2012, "n wissel [of], "n finansiële instrument of "n buitelandse finansiële instrument soos omskryf in artikel 1(1) van die Wet op Beheer van Finansiële Markte, 1989 (Wet No. 55 van 1989)" 'Financial Sector Regulation Act', 2017, dan kan die skuldeiser, nadat hy kennis gegee het soos bepaal in subartikel (1) en voor die tweede byeenkoms van skuldeisers, die goed te gelde maak op die wyse en voorwaardes bepaal in subartikel (8),";"
   - (b) deur in subartikel (8) paragrawe (a) deur die volgende paragrawe te vervang:
     "(a) as dit bestaan[—
     (b)] uit goed van 'n soort wat gewoonlik deur 'n
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<td>(c) by the substitution in subsection (8) for paragraph (a) of the following paragraph:</td>
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<td>“(a) if it is [—</td>
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<td>(i) any property of a class ordinarily sold through [a stockbroker as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985)] an authorised user or an external authorised user, on an exchange or an external exchange, each defined in section 1(1) of the Financial Markets Act, 2012 (Act No. 19 of 2012) or, where applicable, a person prescribed by the Minister of Finance as a regulated person in terms of section 5 of that Act, the creditor may, subject to the provisions of [the said] that Act and [(where applicable)] the standards and rules referred to in section 12 thereof, forthwith in terms of that Act, immediately sell it through [a stockbroker] an authorised user, external authorised user or such regulated person, or if the creditor is [a stockbroker] an authorised user, external authorised user or regulated person, also to another [stockbroker] authorised user, external authorised user or regulated person; [or</td>
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|                 |             | (ii) a financial instrument referred to in subsection (2) the creditor may, subject to the provisions of the Financial Markets Control Act, 1989, and rules referred to in sections 17 thereof, forthwith sell it through a financial instrument trader as defined in section 1 of the said Act, or, if the creditor is a financial instrument trader or financial instrument principal as defined in section 1 of
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|                           |                           | [effektemakelaar soos omskryf in artikel 1 van die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985)] gemagtigde gebruiker of ’n eksterne gemagtigde gebruiker, op ’n beurs of ’n eksterne beurs, elk omskryf in artikel 1(1) van die ‘Financial Markets Act’, 2012 (Wet No. 19 van 2012) omskryf, of, waar van toepassing, iemand deur die Minister van Finansies voorgeskryf as ’n geregelde persoon ingevolge artikel 5 van daardie Wet, verkoop word, kan die skuldeiser dit, behoudens die bepalings van [genoemde] daardie Wet en [(waar van toepassing) die] toepaslike standaarde en reëls [bedoel in artikel 12 daarvan, onverwyld] ingevolge daardie Wet, onmiddellik verkoop deur ’n [effektemakelaar] ’n gemagtigde gebruiker, eksterne gemagtigde gebruiker of sodanige geregelde persoon, of, indien die skuldeiser ’n [effektemakelaar] ’n gemagtigde gebruiker, eksterne gemagtigde gebruiker of geregelde persoon is, ook aan ’n ander [effektemakelaar] gemagtigde gebruiker, eksterne gemagtigde gebruiker of geregelde persoon; [of]
<p>|                           |                           | (ii) ’n finansiële instrument bedoel in subartikel (2), kan die skuldeiser dit, behoudens die bepalings van die Wet op Beheer van Finansiële Markte, 1989, en reëls bedoel in artikel 17 daarvan, onverwyld verkoop deur ’n finansiële instrument-handelaar soos omskryf in artikel 1 van genoemde Wet, of, indien die skuldeiser ’n |</p>
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<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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</table>
| Act No. 24 of 1956 | Pension Funds Act, 1956 | 1. The amendment of section 1—  
(a) by the insertion in subsection (1) after the definition of “audit-exempt fund” of the following definition:  
“‘Authority’ means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;  
(b) by the insertion in subsection (1) after the definition of “complaint” of the following definition:  
“‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
(c) by the insertion in subsection (1) after the definition of “fair value” of the following definition:  
“‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;  
(d) by the deletion in subsection (1) of the definitions of “Financial Services Board” and “prescribed”;  
(e) by the insertion in subsection (1) after the definition of “investment reserve account” of the following definition:  
“‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
(f) by the insertion in subsection (1) after the definition of “provisent preservation fund” of the following definition:  
“‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
(g) by the insertion in subsection (1) after the definition of “publish” of the following definition:  
“‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;  
(h) by the deletion in subsection (1) of the definition of “registrar”; |
### Nomoro ya Molao le ngwaga

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<tr>
<th>Wet No. 24 van 1956</th>
<th>Wet op Pensioenfondse, 1956</th>
<th>1. Artikel 1 word gewysig—</th>
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</table>
|                   |                             | (a) deur in subartikel (1) na die omskrwing van “eggenoot” die volgende omskrwing in te voeg:
|                   |                             | “Financial Sector Regulation Act” beteken die “Financial Sector Regulation Act’, 2016”; |
|                   |                             | (b) deur in subartikel (1) die volgende omskrwing na die omskrwing van “gebeurlikheidsreserwerekening” in te voeg:
|                   |                             | “gedragstandaard” dit wat ingevolge artikel 1(1) van die “Financial Sector Regulation Act” aan “conduct standard” toegeskryf word; |
|                   |                             | (c) deur in subartikel (1) die volgende omskrwing na die omskrwing van “geregistreerde kantoor” in te voeg:
|                   |                             | “gesamentlike standaard” dit wat ingevolge artikel 1(1) aan die “Financial Sector Regulation Act” aan “joint standard” toegeskryf word; |
|                   |                             | (d) deur in subartikel (1) na die omskrwing van “ontslag weens personeelinkorting” die volgende omskrwing in te voeg:
|                   |                             | “Owerheid” die Gedragsowerheid op die Finansiële Sektor ingestel in gevolge artikel 56 van die “Financial Sector Regulation Act”;
|                   |                             | (e) deur in subartikel (1) die omskrwing van “Raad op Finansiële Dienste” te skrap; |
|                   |                             | (f) deur in subartikel (1) die volgende omskrwing na die omskrwing van “raadslid” in te voeg:
|                   |                             | “Register” die Register van Finansiële Sectorinligting bedoel in artikel 256 van die “Financial Sector Regulation Act”; |
|                   |                             | (g) deur in subartikel (1) die omskrwing van “registrateur” te skrap; |
|                   |                             | (h) deur in subartikel (1) na die omskrwing van “surplustoedelingsdatum” die volgende omskrwing in te voeg:
|                   |                             | “Tribunaal” die Tribunaal vir Finansiële Dienste ingestel in gevolge artikel 219 van die “Financial Sector Regulation Act”; |
2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the registrar or the Financial Services Board must be read as a reference to the Authority.

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being prescribed must be read as—

(a) a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) a reference to the Authority determining the matter in writing and registering the determination in the Register.
### Nomoro ya Molao le ngwaga

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<tr>
<td>(i) deur in subartikel (1) die volgende omskrywing na die omskrywing van “voorsorgbewaringsfonds” in te voeg: “‘voorsorgstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf word;”;</td>
<td>(i) deur in subartikel (1) die volgende omskrywing na die omskrywing van “voorsorgstandaard” in te voeg: “‘voorsorgbewaringsfonds’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf word;”;</td>
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<td>(j) deur in subartikel (1) die omskrywing van “voorgeskryf” te skrap; en</td>
<td>(j) deur in subartikel (1) die omskrywing van “voorgeskryf” te skrap; en</td>
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<tr>
<td>(k) deur die volgende subartikel by te voeg: “(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis wat ingevolge die ‘Financial Sector Regulation Act’ daaraan toegeskryf is.”.</td>
<td>(k) deur die volgende subartikel by te voeg: “(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis wat ingevolge die ‘Financial Sector Regulation Act’ daaraan toegeskryf is.”.</td>
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2. Die volgende artikels word na artikel 1 ingevoeg:

**“Verhouding tussen Wet en ‘Financial Sector Regulation Act’”**

1A. (1) ’n Verwyser in hierdie Wet na die Raad op Finansiële Dienste, moet as ’n verwysing na die Owerheid gelees word.

   (2) Buiten soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet en die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

   (3) ’n Verwyser in hierdie Wet na die Owerheid wat besluit oor ’n aangeleentheid en dit by kennisgewing in die Staatskoerant publiseer, moet gelees word as ’n verwysing na die Owerheid wat die aangeleentheid bepaal of publiseer by kennisgewing in die Register.

   (4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid by regulasie voorgeskryf word, moet ’n verwysing in hierdie Wet na die voorskrif van ’n aangeleentheid gelees word as—

   (a) ’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard, ’n gedragstandaard of ’n gesamentlike standaard voorgeskryf word; of

   (b) ’n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.
### Act No. and year

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<th>Short Title</th>
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<td>(5) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.</td>
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<td>(b) The Authority may also publish the information or document on its web site.</td>
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<td>(6) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.</td>
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<tr>
<td>(7) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</td>
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#### Regulatory instruments

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument.”.

3. The repeal of section 2(5).

4. The repeal of section 3.

5. The amendment of section 18—
   (a) by the substitution for subsection (1) of the following subsection:
   “(1) [The registrar may prescribe criteria for financial soundness, and when] If any return under this Act indicates that a registered fund is not in a sound financial condition as determined in accordance with prudential standards, the [registrar] Authority may, save as provided in section 29, direct the fund to submit a scheme setting out the arrangements which have been made, or which it intends to make, to bring the fund into a financially sound condition within such period, and subject to such conditions, as determined by the [registrar] Authority.”; and
(5) (a) ’n Verwysing in hierdie Wet na die Owerheid wat inligting of ’n dokument op ’n webwerf publiseer, moet gelees word as ’n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.

(b) Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer.

(6) ’n Verwysing in hierdie Wet na vasgestelde of voorgeskrewe gelde moet gelees word as ’n verwysing na die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’ vasgestel.

(7) ’n Verwysing in hierdie Wet na ’n appèl teen ’n besluit van die Owerheid moet gelees word as ’n verwysing na ’n heroorweging van die besluit deur die Tribunaal ingevolge die ‘Financial Sector Regulation Act’.

Reguleringsinstrumente

1B. By die toepassing van die omskrywing van ’reguleringsinstrument’ (‘regulatory instrument’) in artikel 1(1) van die ‘Financial Sector Regulation Act’, is enige aangeleentheid deur die Owerheid voorgeskref ten opsigte waarvan kennisgewing in die Staatskoerant spesifiek deur hierdie Wet vereis word, ’n reguleringsinstrument.”.

3. Artikel 2(5) word herroep.

4. Artikel 3 word herroep.

5. Artikel 18 word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) [Die registrateur kan maatsstawwe voorskyf vir finansiële gesondheid, en wanneer]
Indien ’n opgawe ingevolge hierdie Wet aantoen dat ’n geregistreerde fonds nie in ’n gesonde finansiële toestand, soos ooreenkomstig voorsorgstandaarde bepaal, is nie, kan die [registrateur] Owerheid, behoudens die bepalings van artikel 29, gelas dat die fonds ’n skema voorlê waarin uiteengesit word die reëlings wat getref is, of wat die fonds van plan is om te tref om die fonds binne sodanige tydperk in ’n finansiële gesonde toestand te bring, en onderworpe aan sodanige voorwaardes, soos deur die [registrateur] Owerheid bepaal.”; en
Act No. and year | Short Title | Extent of repeal or amendment
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(b) by the substitution in subsection (5) for paragraph (a) of the following paragraph: “(a) The [registrar] Authority may at any time, [following an inspection carried out or investigation conducted under section 25, or for any other reason which the registrar may consider] if it is necessary in the interests of the members of a fund, direct that an investigation in terms of section 16 or an audit or both an audit and such investigation be conducted into the financial position of a fund generally or with reference to any financial aspect of the fund.”.

6. The amendment of section 19—
(a) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:
“A registered fund may, if its rules so permit and subject to [the regulations] prudential standards, grant a loan to a member by way of investment of its funds or furnish a guarantee in favour of a person other than the fund in respect of a loan granted or to be granted by such other person to a member to enable the member—”;
and
(b) by the deletion of subsection (7).

7. The repeal of section 25.

8. The substitution in section 26 for subsection (1) of the following subsection:
“(1) [The registrar may, after considering the interests of the members of a fund (or of the several categories of members if there is more than one such category)—
(a) declare that a specific practice or method of conducting business is unacceptable, irregular or undesirable and that such fund, administrator or person must refrain from conducting such practice or method of conducting business; or
(b) Without limiting what a directive of a financial sector regulator may include, the Authority may, through a directive, direct that the rules of [the] a fund, including rules relating to the appointment, powers,
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<td>(b) deur in subartikel (5) paragraaf (a) deur die volgende paragraaf te vervang:</td>
<td>(a) Die [registrateur] Owerheid kan te eniger tyd, [nadat ’n inspeksie of ondersoek uitgevoer is kragtens artikel 25, of vir enige ander rede wat die registrateur] indien dit nodig [ag] is in die belang van die lede van ’n fonds, opdrag gee dat ’n ondersoek ingevoel artikel 16 uitgevoer word, of ’n oudit of beide ’n oudit en sodanige ondersoek uitgevoer word na die finansiële posisie van ’n fonds oor die algemeen of met verwysing na enige finansiële aspek van die fonds.”.</td>
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<td>6. Artikel 19 word gewysig—</td>
<td>(a) deur in subartikel (5) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:</td>
<td>“’n Geregistreerde fonds kan, indien sy statute dit toelaat en behoudens [die regulasies] voorsorgstandaarde, by wyse van belegging van sy fondse ’n lening aan ’n lid toestaan of ’n waarborg verstrek ten gunste van ’n ander persoon as die fonds ten opsigte van ’n lening toegestaan of toegestaan te word deur so ’n ander persoon aan ’n lid ten einde die lid in staat te stel—”; en</td>
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<td>(b) deur subartikel (7) te skrap.</td>
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<td>7. Artikel 25 word herroep.</td>
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<td>8. Subartikel (1) in artikel 26 word deur die volgende subartikel vervang:</td>
<td>“(1) [Die registrateur kan, nadat die belange van die lede van ’n fonds (of van die verskeie kategorieë van lede indien daar meer as een sodanige kategorie is) in oënskou geneem is—</td>
<td>(a) verklaar dat ’n bepaalde praktyk of metode van sake bedryf onaanvaarbaar, onreëlmatig of ongewen is en dat sodanige fonds, administrator of persoon moet ophou om sodanige praktyk of metode van sake bedryf, te beoefen; of</td>
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<td>(b) Sonder om te beperk wat ’n lasgewing van ’n reguleerder van die finansiële sektor kan insluit, kan die Owerheid, deur ’n lasgewing, opdrag gee dat die statute van [die] ’n fonds, insluitend statute betreffende die aanstelling,</td>
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### Act No. and year | Short Title | Extent of repeal or amendment
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| | | remuneration (if any) and removal of the board, be amended if [the results of an inspection or on-site visit under section 25 necessitates amendment of the rules of the fund or if the registrar is of the opinion that] the fund—

[(i)](a) is not in a sound financial condition or does not comply with the provisions of this Act or the regulations affecting the financial soundness of the fund;

[(ii)](b) has failed to act in accordance with the provisions of section 18; or

[(iii)](c) is not being managed in accordance with this Act or the rules of the fund.’’.

9. The insertion in Chapter VA before section 30A of the following section:

‘‘Ombud scheme

30AA. The ombud scheme in relation to complaints regulated in terms of this Chapter is declared to be a statutory ombud scheme for the purposes of the Financial Sector Regulation Act.’’.

10. The substitution in section 30C(1) for the words preceding paragraph (a) of the following words:

‘‘The Minister shall[, after consultation with the Financial Services Board,] appoint—’’.

11. The substitution for section 30D of the following section:

‘‘Main object of Adjudicator

30D. (1) The main object of the Adjudicator shall be to dispose of complaints lodged in terms of section 30A(3) of this Act, and complaints for which the Adjudicator is designated in terms of section 211 of the Financial Sector Regulation Act [in a procedurally fair, economical and expeditious manner].

(2) In disposing of complaints in terms of subsection (1) the Adjudicator must—

(a) apply, where appropriate, principles of equity;
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<td>bevoegdhede, vergoeding (indien enige) en verwydering van die raad, gewysig word indien [die uitslag van 'n inspeksie of bezoek ter plaatse kragtens artikel 25 wysiging van die statute van dieonds verg of indien die registrateur van mening is dat] dieonds—</td>
<td>[i] nie in 'n gesonde finansiële toestand is nie of nie voldoen aan die bepalings van hierdie Wet of die regulasies wat die finansiële gesondheid van dieonds raak nie;</td>
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<td>[ii] versuim het om ooreenkomstig die bepalings van artikel 18 op te tree; of</td>
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<td>[iii] nie bestuur word ooreenkomstig hierdie Wet of die statute van dieonds nie.''.</td>
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<td>9.</td>
<td>Die volgende artikel word in Hoofstuk VA voor artikel 30A ingevoeg:</td>
<td>&quot;Ombudskema&quot;</td>
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<td>&quot;Die ombudskema in verband met die klagtes ingevolge hierdie Hoofstuk gereguileer, word verklaar 'n statutêre ombudskema by die toepassing van die 'Financial Sector Regulation Act', te wees.''.</td>
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<td>10.</td>
<td>In artikel 30C(1) word die woorde wat paragraaf (a) voorafgaan deur die volgende woorde vervang:</td>
<td>&quot;Hoofwoord van Beregter&quot;</td>
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<td>&quot;Die Minister stel[, na oorleg met die Raad op Finansiële Dienste] aan—&quot;.</td>
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<tr>
<td>11.</td>
<td>Artikel 30D word deur die volgende artikel vervang:</td>
<td>&quot;Hoofwoord van Beregter&quot;</td>
</tr>
<tr>
<td></td>
<td>(1) Die hoofwoord van die Beregter is om [op 'n prosedureel regverdige, ekonomiese en spoedige wyse] oor klagtes, ingedien ingevolge artikel 30A(3) van hierdie Wet en klagtes waarvoor die Beregter ingevolge artikel 211 van die 'Financial Sector Regulation Act' aangestel is, te beskik.</td>
<td>(1) Die hoofwoord van die Beregter is om [op 'n prosedureel regverdige, ekonomiese en spoedige wyse] oor klagtes, ingedien ingevolge artikel 30A(3) van hierdie Wet en klagtes waarvoor die Beregter ingevolge artikel 211 van die 'Financial Sector Regulation Act' aangestel is, te beskik.</td>
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<td>(2) By beskikking oor klagtes ingevolge subartikel (1), moet die Beregter—</td>
<td>(2) By beskikking oor klagtes ingevolge subartikel (1), moet die Beregter—</td>
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</table>

This gazette is also available free online at www.gponline.co.za
12. The substitution in section 30Q for the words preceding paragraph (a) of the following words:

“The Adjudicator may [with the concurrence of the Financial Services Board]—”.

13. The substitution in section 30R(1) for paragraph (a) of the following paragraph:

“(a) funds [provided by the Financial Services Board] accruing to the Adjudicator in terms of legislation on the grounds of a budget submitted to, and approved [of] by, the [Financial Services Board] Minister; and”.

14. The substitution in section 30S for the expression “Financial Services Board”, wherever occurring in the section, of the expression “Minister”.

15. The substitution in section 30T for subsection (1) of the following subsection:

“(1) [Despite the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the board of the Financial Services Board as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990),] The Adjudicator is the accounting authority of the Office of the Adjudicator.”.

16. The repeal of sections 33, 33A and 34.

17. The deletion in section 36 of subsections (1)(bA) and (3).

18. The deletion in section 37 of subsections (2) to (5).

19. The amendment of the arrangement of sections—

(a) by the insertion after item 1 of the following items:

“1A. Relationship between Act and Financial Sector Regulation Act

1B. Regulatory Instruments”; and

(b) by the insertion before item 30A of the following item:

“30AA. Ombud scheme”.

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<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<tr>
<td>(b)</td>
<td>have regard to the contractual arrangement or other legal relationship between the complainant and any financial institution;</td>
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<td>(c)</td>
<td>have regard to the provisions of this Act; and</td>
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<tr>
<td>(d)</td>
<td>act in a procedurally fair, economical and expeditious manner.”.</td>
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<td>“(a) funds [provided by the Financial Services Board] accruing to the Adjudicator in terms of legislation on the grounds of a budget submitted to, and approved [of] by, the [Financial Services Board] Minister; and”.</td>
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<tr>
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<td>The amendment of the arrangement of sections—</td>
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<td>(a) by the insertion after item 1 of the following items:</td>
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</table>
| | “1A. Relationship between Act and Financial Sector Regulation Act

1B. Regulatory Instruments”; and |
| | (b) by the insertion before item 30A of the following item: |
| | “30AA. Ombud scheme”.
### Molao wa Taolo ya Lephata la Ditselele, 2017

#### Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo
--- | --- | ---
(12) | (b) let on die kontraktuele reëling of ander regsverhouding tussen die klaer en enige finansiële instelling; (c) op die bepalings van hierdie Wet let; en (d) prosedureel regverdig, ekonomies en vinnig handel. | 12. Die woorde wat paragraaf (a) in artikel 30Q voorafgaan word deur die volgende woorde vervang: “Die Beregter kan [met die instemming van die Raad op Finansiële Dienste]—”.

13. Paragraaf (a) in artikel 30R(1) word deur die volgende paragraaf vervang: “(a) fondse [voorsien deur die Raad op Finansiële Dienste] wat ingevolge wetgewing aan die Beregter toeval op grond van ’n begroting voorgelê aan, en goedgekeur deur, die [Raad op Finansiële Dienste] Minister; en”.

14. Die uitdrukking “Raad op Finansiële Dienste” word in artikel 30S vervang deur die uitdrukking “Minister”.

15. Subartikel (1) van artikel 30T word deur die volgende subartikel vervang: “(1) [Ondanks die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is die raad van die Raad op Finansiële Dienste soos in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), omskryf,] Die Beregter is die rekenpligtige gesag van die kantoor van die Beregter.”.

16. Artikel 33, 33A en 34 word herroep.

17. Subartikels (1)/(h)A) en (3) van artikel 36 word geskrap.

18. Subartikels (2) tot (5) van artikel 37 word geskrap.

19. Die indeling van artikels word gewysig— (a) deur die volgende item na item 1 in te voeg: “1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’ 1B. Reguleringsinstrumente”; en (b) deur die volgende item na item 30A in te voeg: “30AA. Ombudsagenda”.
<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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</table>
| Act No. 25 of 1956 | Friendly Societies Act, 1956 | 1. The amendment of section 1—

(a) by the insertion in subsection (1) after the definition of “assets” of the following definition:

“Authority’ means the Financial Sector Conduct Authority established by section 56 of the Financial Sector Regulation Act.”;

(b) by the insertion in subsection (1) after the definition of “assets” of the following definition:

“conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act.”;

(c) by the insertion in subsection (1) after the definition of “court” of the following definition:

“Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017.”;

(d) by the insertion in subsection (1) after the definition of “Insurance Act” of the following definition:

“joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act.”;

(e) by the deletion in subsection (1) of the definition of “prescribed”;

(f) by the insertion in subsection (1) after the definition of “principal officer” of the following definition:

“prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act.”;

(g) by the insertion in subsection (1) after the definition of “principal officer” of the following definition:

“Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act.”;

(h) by the deletion in subsection (1) of the definition of “registrar”; and

(i) by the addition of the following subsection:

“(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”. |
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
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</table>
| Wet No. 25 van 1956       | Wet op Onderlinge Hulpverenigings, 1956 | 1. Artikel 1 word gewysig—  
   (a) deur in subartikel (1) die volgende omskrywings na die omskrywing van "boekjaar" in te voeg:  
   "Financial Sector Regulation Act" die 'Financial Sector Regulation Act', 2017;  
   'gedragstandaard' dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'conduct standard' toegeskryf word;  
   (b) deur in subartikel (1) na die omskrywing van "geregisterde kantoor" die volgende omskrywing in te voeg:  
   "gesamentlike standaard" dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'joint standard' toegeskryf word;  
   (c) deur in subartikel (1) na die omskrywing van "onderlinge hulpvereniging" die volgende omskrywing in te voeg:  
   "Owerheid" die Owerheid op Gedrag in die Finansiële Sektor ingestel by artikel 56 van die 'Financial Sector Regulation Act';  
   (d) deur in subartikel (1) na die omskrywing van "persoon" die volgende omskrywing in te voeg:  
   "Register" die Inligtingsregister op die Finansiële Sektor bedoel in artikel 256 van die 'Financial Sector Regulation Act';  
   (e) deur in subartikel (1) die omskrywing van "registrateur" te skrap;  
   (f) deur in subartikel (1) die omskrywing van "voorgeskryf" te skrap;  
   (g) deur in subartikel (1) na die omskrywing van "voorgeskryf" die volgende omskrywing in te voeg:  
   "voorsorgstandaard" dit wat in artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf word;  
   (h) deur die volgende subartikel by te voeg:  
   "(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, dieselfde betekenis wat ingevolge die 'Financial Sector Regulation Act' daaraan toegeskryf is.". |
### Act No. and year | Short Title | Extent of repeal or amendment
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| | | 2. The insertion after section 1 of the following sections:

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“Relationship between Act and Financial Sector Regulation Act

1A. (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(2) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(3) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.

(b) The Authority may also publish the information or document on its web site.

(4) A reference in this Act to a fee prescribed by regulation must be read as a reference to the relevant fee being determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.

(5) The Authority must publish the following on the Register:

(a) the registration of a society in terms of this Act and each cancellation of a registration;

(b) any exemption or any withdrawal of an exemption referred to in sections 3(2) and (3), 25(1) or section 47(1)(bC); and

(c) the rules of each registered friendly society, and each amendment of those rules.

Regulatory instruments

1B. For the purposes of the definition of “regulatory instrument” in section 1(1) of the Financial Sector
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2. Die volgende artikel word na artikel 1 ingevoeg:

“Verhouding tussen Wet en ‘Financial Sector Regulation Act,”

1A. (1) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdshede en pligte ingevolge hierdie Wet benewens die bevoegdshede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(2) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ‘n aangeleentheid by regulasie voorgeskryf word, moet ‘n verwysing in hierdie Wet dat ‘n aangeleentheid—

(a) voorgeskryf word, gelees word as ‘n verwysing daarna dat die aangeleentheid in ‘n voorsorgstandaard, ‘n gedraagstandaard of ‘n gesamentlike standaard voorgeskryf is; of

(b) bepaal word, gelees word as ‘n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register regstreer.

(3) (a) ‘n Verwysing in hierdie Wet na die Owerheid wat inligting of ‘n dokument op ‘n webwerf publiseer, moet gelees word as ‘n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.

(b) Die Owerheid kan ook die inligting of dokument op sy webwerf publiseer.

(4) ‘n Verwysing in hierdie Wet na gelde wat by regulasie voorgeskryf is, moet gelees word as ‘n verwysing daarna dat die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’, vasgestel word.

(5) Die Owerheid moet die volgende in die Register publiseer:

(a) die registrasie van ‘n vereniging ingevolge hierdie Wet en elke kansellasie van ‘n registrasie;

(b) enige vrystelling of enige intrekking van ‘n vywaringsbehoefte in artikels 3(2) en (3), 25(1) of artikel 47(1)(bC); en

(c) die reëls van elke geregistreerde hulpvereniging, en elke wysiging van daardie reëls.

Reguleringsinstrumente

1B. By die toepassing van die onskrywing van ‘reguleringsinstrument’ (‘regulatory instrument’) in artikel 1(1)
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3. The substitution in section 3(1) for paragraph (a) of the following paragraph: “(a) which has been established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995. However, such a friendly society shall from time to time furnish the registrar Authority with such statistical information as may be requested by the Minister Authority.”.

4. The repeal of sections 4 and 32.

5. The substitution in section 33 for subsection (1) of the following subsection: “(1) The registrar Authority may, with the consent of the Minister, in regard to any registered society, apply to the court for an order in terms of paragraph (c), (d) or (e) of subsection (3), and a registered society may, in regard to itself, apply to the court for an order in terms of paragraph (b), (d) or (e) of that subsection, if the registrar Authority or the society is of the opinion that it is desirable, because the society is not in a sound financial condition or for any other reason, that such an order be made in regard to the society: Provided that a society shall not make such an application except by leave of the court, and the court shall not grant such leave unless the society has given security to an amount specified by the court for the payment of the costs of the application and of any opposition thereto, and has established prima facie the desirability of the order for which it wished to apply.”.

6. The repeal of sections 44 and 45.

7. The deletion in section 47(1) of paragraphs (bA) and (bC).

8. The deletion in section 48 of subsections (2), (3), (4) and (5).
Nomoro ya Molao le ngwaga | Setlhogo se se khotshwane | Bogolo jwa phimolo kgotsa tlhabololo
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3. Paragraaf (a) in artikel 3(1) word deur die volgende paragraaf vervang:

"(a) wat ingestel of voortgesit is ingevolge 'n kollektiewe ooreenkoms in 'n raad ingevolge die Wet op Arbeidsverhoudinge, 1995, gesluit of voortgesit. So 'n onderlinge hulpvereniging moet egter van tyd tot tyd die [registrateur] Owerheid van die statistiese inligting voorsien wat deur die [Minister] Owerheid versoek mag word;".

4. Artikels 4 en 32 word herroep.

5. Subartikel (1) van artikel 33 word deur die volgende subartikel vervang:

"(1) Met toestemming van die [registrator] Die Owerheid kan met betrekking tot 'n geregistreerde vereniging by die hof aansoek doen om 'n bevel ooreenkomsstig paragraaf (c), (d) of (e) van subartikel (3), en 'n geregistreerde vereniging kan met betrekking tot homself by die hof aansoek doen om 'n bevel ooreenkomsstig paragraaf (b), (d) of (e) van daardie sub-artikel, indien die [registrateur] Owerheid of die vereniging van oordeel is dat dit wenslik is, omdat die vereniging nie in 'n gesonde geldelike toestand is nie, of om 'n ander rede, dat so 'n bevel ten aansien van die vereniging uitgaarword word: Met dien verstande dat 'n vereniging nie so 'n aansoek doen nie, dan alleen met verlof van die hof en dat die hof nie sodanige verlof verleen nie, tensy die vereniging sekerheid gestel het tot 'n bedrag deur die hof vasgestel ten opsigte van betaling van die koste van die aansoek en van enige opposisie daarteen, en prima facie bewys gelewer het van die wenslikheid van die bevel waarom hy aansoek wil doen.

6. Artikels 44 en 45 word herroep.

7. Paragrawe (bA) en (bC) in artikel 47(1) word geskrap.

8. Subartikels (2), (3), (4) en (5) in artikel 48 word geskrap.
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<th>Act No. and year</th>
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| Act No. 9 of 2017 | Financial Sector Regulation Act, 2017 | 9. The substitution for the expression "registrar", wherever it occurs, of the expression "Authority".  
10. The amendment of the arrangement of sections by the insertion after item 1 of the following items:  
   "1A. Relationship between Act and Financial Sector Regulation Act  
1B. Regulatory instruments". |
| Act No. 90 of 1989 | South African Reserve Bank Act, 1989 | 1. The amendment of section 3 by the addition of the following subsection, the existing section becoming subsection (1):  
   "(2) In addition, the Bank is responsible for protecting and maintaining financial stability as envisaged in the Financial Sector Regulation Act, 2017.".  
2. The substitution in section 10(1) for paragraph (v) 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 Banks Act, 1993 (Act No. 124 of 1993), the Financial Sector Regulation Act, 2017 and other financial sector laws as defined in section 1(1) of the Financial Sector Regulation Act, 2017.".  
3. The substitution in section 11 for subsection (2) of the following subsection:  
   "(2) (a) The provisions of [the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984), Part 4 of Chapter 9 of the Financial Sector Regulation Act, 2017 except [sections 2 and 7] section 134 thereof], shall [mutatis mutandis] apply with the changes necessary in the context in respect of an inspection carried out in terms of subsection (1).  
   (b) Section 130 of the Financial Sector Regulation Act, 2017 does not apply in respect of an inspection carried out in terms of subsection (1). ".  
4. The substitution in section 12 for subsection (2) of the following subsection:  
   "(2) The provisions of [sections 4, 5, 8 and 9 of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984), Part 4 of Chapter 9 of the Financial Sector Regulation Act shall apply [mutatis mutandis] with the necessary
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<td>Wet No. 90 van 1989</td>
<td>Wet op die Suid-Afrikaanse Reserwebank, 1989</td>
<td>1. Artikel 3 word gewysig deur die volgende subartikel by te voeg, sodat die bestaande artikel subartikel (1) word: “(2) Daarbenewens is die Bank verantwoordelik vir die beskerming en onderhoud van finansiële bestendigheid soos in die ‘Financial Sector Regulation Act’, 2017, beoog.”.</td>
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<td>2. Paragraaf (v) in artikel 10(1) word deur die volgende subparagraaf vervang: “(v) die werksaamhede verryg wat deur die Bankwet, 1990 (Wet No. 94 van 1990), [en] die Wet op Onderlinge Banke, 1993 (Wet No. 124 van 1993), die ‘Financial Sector Regulation Act’, 2017 en ander wette oor die finansiële sektor soos omskryf in artikel 1(1) van die ‘Financial Sector Regulation Act’, 2017, aan die Bank opgedra word.”.</td>
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|                         |                          | 3. Subartikel (2) in artikel 11 word deur die volgende subartikel vervang: “(2) (a) Die bepalings van [die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet No. 38 van 1984),] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’, 2017 behalwe [artikels 2 en 7 daarvan] artikel 134, is [mutatis mutandis] van toepassing met die veranderinge deur die samehang vereis ten opsigte van ’n inspeksie wat ingevolge subartikel (1) uitgevoer word. 
(b) Artikel 130 van die ‘Financial Sector Regulation Act’, 2017, is nie ten opsigte van ’n inspeksie ingevolge sub-artikel (1) gedaan, van toepassing nie.”. |
|                         |                          | 4. Subartikel (2) van artikel 12 word deur die volgende subartikel vervang: “(2) Die bepalings van [artikels 4, 5, 8 en 9 van die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet No. 38 van 1984),] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ is [mutatis mutandis] met die veranderinge deur die samehang
Act No. and year | Short Title | Extent of repeal or amendment
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Act No. 94 of 1990 | Banks Act, 1990 | 1. The amendment of section 1—
(a) by the insertion in subsection (1) after the definition of “allocated capital and reserve funds” of the following definition:

“Authority” means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;”;
(b) by the deletion in subsection (1) of the definition of “board of review”;
(c) by the insertion in subsection (1) after the definition of “company” of the following definition:

“Conduct standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(d) by the insertion in subsection (1) after the definition of “fellow subsidiary” of the following definition:

“Financial Sector Regulation Act” means the Financial Sector Regulation Act, 2017;”;
(e) by the deletion in subsection (1) of the definition of “prescribed”;
(f) by the insertion in subsection (1) after the definition of “person” of the following definition:

“Prudential standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(g) by the insertion in subsection (1) after the definition of “qualifying capital and reserve funds” of the following definition:

“Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
(h) by the deletion in subsection (1) of the definition of “Registrar”;
(i) by the insertion in subsection (1) after the definition of “tier 2 unimpaired reserve funds” of the following definition:

“Tribunal” means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”;
(j) by the addition of the following subsection:

“(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”.

changes required by the context in respect of an inspection carried out in terms of subsection (1).”.
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<td>Bankwet No. 94 van 1990</td>
<td>Bankwet, 1990</td>
<td>vereis van toepassing ten opsigte van ’n inspeksie wat ingevolge subartikel (1) uitgeo word.”’</td>
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|                          |                             | 1. Artikel 1 word gewysig—  
|                          |                             | (a) deur in subartikel (1) na die omskrywing van “filiaal” die volgende omskrywing in te voeg:  
|                          |                             | “‘Financial Sector Regulation Act’ die ‘Financial Sector Regulation Act’, 2017;”’;  
|                          |                             | (b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “finansiële state” in te voeg:  
|                          |                             | “‘gedragstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan “conduct standard” toegeskryf word;”’;  
|                          |                             | (c) deur in subartikel (1) die omskrywing van “hersieningsraad” te skrap;  
|                          |                             | (d) deur in subartikel (1) na die omskrywing van “openbare maatskappy” die volgende omskrywing in te voeg:  
|                          |                             | “‘Owerheid’ die Voorsorgowerheid ingestel ingevolge artikel 32 van die ‘Financial Sector Regulation Act’;”’;  
|                          |                             | (e) deur in subartikel (1) die volgende omskrywing na die omskrywing van “public” in te voeg:  
|                          |                             | “‘Register’ die Inligtingsregister vir die Finansiële Sектор in artikel 256 van die ‘Financial Sector Regulation Act’ bedoel;”’;  
|                          |                             | (f) deur in subartikel (1) die omskrywing van “Registrateur” te skrap;  
|                          |                             | (g) deur in subartikel (1) na die omskrywing van “toegewysde kapitaal en reserwefondse” die volgende omskrywing in te voeg:  
|                          |                             | “‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;”’;  
|                          |                             | (h) deur in subartikel (1) die omskrywing van “voorgeskryf” te skrap;  
|                          |                             | (i) deur in subartikel (1) na die omskrywing van “voorgeskryf” die volgende omskrywing in te voeg:  
|                          |                             | “‘voorsorgstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf is;”’; en  
|                          |                             | (j) deur die volgende subartikely by te voeg:  
|                          |                             | “(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, die betekenis wat ingevolge die ‘Financial Sector Regulation Act’ daaraan toegeskryf is.”’.
2. The insertion after section 1 of the following section:

"Relationship between Act and Financial Sector Regulation Act"

1A. (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(2) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(3) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 90, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard or a conduct standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(4) (a) Matters in respect of which regulations relating to banks may be prescribed in terms of this Act may also be made in prudential standards or conduct standards.

(b) Regulations prescribed in terms of this Act that are in force immediately before the commencement of this sub-section continue to be in force, but may be repealed by the Minister to allow for prudential or conduct standards to be made in terms of the Financial Sector Regulation Act, in respect of the subject matter of those regulations.

(c) Paragraph (b) does not limit the powers of the Minister in terms of this Act to prescribe regulations.

(5) A reference in this Act to an inspection or an investigation in terms of section 6 of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act, but not a reference to an inspection in terms of section 83 or 84 of this Act.
2. Die volgende artikel word na artikel 1 ingevoeg:

"Verhouding tussen Wet en Financial Sector Regulation Act"

1A. (1) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(2) 'n Verwysing in hierdie Wet na die Owerheid wat ‘n aangeleentheid by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word as ‘n verwysing na die Owerheid wat die aangeleentheid bepaal of publiseer by kennisgewing in die Register gepubliseer.

(3) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ‘n aangeleentheid by regulasie inuiteingevolge artikel 90 voorgeskryf word, moet ‘n verwysing in hierdie Wet na ‘n aangeleentheid wat—

(a) voorgeskryf word, gelees word as ‘n verwysing daarna dat die aangeleentheid in ‘n voorsorgstandaard of ‘n gedragstandaard voorgeskryf word, of

(b) bepaal word, gelees word as ‘n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.

(4) (a) Aangeleenthede ten opsigte waarvan regulasies ten aansien van banke wat ingevolge hierdie Wet gemaak kan word, kan ook in voorsorgstandaarde of gedragstandaarde voorgeskryf word wat ingevolge die ‘Financial Sector Regulation Act’ voorgeskryf is.

(b) Regulasies ingevolge hierdie Wet voorgeskryf wat onmiddellik voor die inwerkingtreding van hierdie subartikel van krag is, is steeds van krag, maar die Minister kan regulasies herroep sodat voorsorg- of gedragstandaarde ingevolge die ‘Financial Sector Regulation Act’ oor die onderwerp van daardie regulasies, gemaak kan word.

(c) Paragraaf (b) beperk nie die bevoegdhede van die Minister ingevolge hierdie Wet om regulasies voor te skryf nie.

(5) ‘n Verwysing in hierdie Wet na ‘n inspeksie of ondersoek ingevolge artikel 6 van hierdie Wet, moet gelees word as
Act No. and year | Short Title | Extent of repeal or amendment
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(6) (a) | A reference in this Act to the Authority announcing or publishing information or a document on a website must be read as a reference to the Authority publishing the information or document in the Register.  
(b) | The Authority may also publish the information or document on its website.  
(7) | A reference in this Act to a prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.  
(8) | A reference in this Act to a review of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.  
(9) (a) | If any requirement in the Financial Sector Regulation Act is inconsistent with any provision of this Act, the requirement in the Financial Sector Regulation Act prevails.  
(b) | If any requirement in a regulatory instrument made in terms of the Financial Sector Regulation Act is inconsistent with any provision of a regulatory instrument made in terms of this Act, the requirement in the regulatory instrument made in terms of the Financial Sector Regulation Act prevails.  
3. | The repeal of section 3.  
4. | The deletion in section 4 of subsections (1) and (2).  
5. | The substitution in section 5 for subsection (2) of the following subsection:  
“(2) Any delegation under subsection (1) (a) shall not prevent the exercise of the relevant power by the [Registrar personally] Authority.”.  
6. | The deletion in section 6 of subsections (1) and (2).  
7. | The repeal of sections 8, 9 and 10.  
8. | The amendment of section 23—  
(a) | by the substitution for subsection (1) of the following subsection:  
“(1) The Registrar may subject to the provisions of section 24, in the case of a bank registered as such, [with the consent of the Governor and after consultation with the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if the institution has not con-
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<td>'n verwysing na 'n inspeksie of onder-soek ingevolge die 'Financial Sector Regulation Act', maar nie 'n verwysing na 'n inspeksie ingevolge artikel 83 of 84 van hierdie Wet nie.</td>
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<td>(6) (a) 'n Verwysing in hierdie Wet na die Owerheid wat inligting of 'n dokument op 'n webwerf aankondig of publiseer, moet gelees word as 'n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer.</td>
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<td>(b) Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer.</td>
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<td>(7) 'n Verwysing in hierdie Wet na voorgeskreve gelde moet gelees word as 'n verwysing na die tersaaklike gelde ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act', bepaal.</td>
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<td>(8) 'n Verwysing in hierdie Wet na 'n hersiening van 'n besluit van die Owerheid moet gelees word as 'n verwysing na 'n heroorweging van die besluit deur die Tribunaal ingevolge die 'Financial Sector Regulation Act'.</td>
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<td>(9) (a) Indien enige vereiste in die 'Financial Sector Regulation Act' onbestaanbaar is met enige bepaling van hierdie Wet, geld die vereiste in die 'Financial Sector Regulation Act'.</td>
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<td>(b) Indien enige vereiste in 'n reguleringsinstrument gemaak ingevolge die 'Financial Sector Regulation Act' onbestaanbaar is met enige bepaling van 'n reguleringsinstrument ingevolge hierdie Wet gemaak, geld die vereiste in die reguleringsinstrument ingevolge die 'Financial Sector Regulation Act' gemaak.</td>
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<td>3.</td>
<td>Artikel 3 word herroep.</td>
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<td>4.</td>
<td>Subartikels (1) en (2) in artikel 4 word geskrap.</td>
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| 5.                        | Subartikel (2) in artikel 5 word deur die volgende subartikel vervang: "'(2) 'n Delegering kragtens subartikel (1)(a) belet nie die uitoefening van die betrokke bevoegdheid deur die [Registrateur persoonlik] Owerheid nie."
| 6.                        | Subartikels (1) en (2) in artikel 6 word geskrap. |
| 7.                        | Artikels 8, 9 en 10 word geskrap. |
Act No. and year | Short Title | Extent of repeal or amendment
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ducted any business as a bank during the period of six months commencing on the date on which the institution was registered as a bank.”;

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“The Registrar may, subject to the provisions of section 24, in the case of a bank registered as such, [after consultation with the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if — ”; and

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

“(3) The Registrar may, subject to the provisions of section 24, in the case of a bank registered as such, [after consultation with the Minister and] by notice in writing to the institution concerned cancel such registration if the institution has ceased to conduct the business of a bank or is no longer in operation.”.

9. The substitution in section 52 for subsection (1A) of the following subsection:

“(1A) Notwithstanding subsection (1), the Registrar may, by [means of a circular contemplated in section 6(4)] notice published in the Register, determine circumstances and conditions in terms whereof an application contemplated in subsection (1) is not required.”.

10. The amendment of section 69A—

(a) by the substitution for subsection (4) of the following subsection:

“(4) A commissioner appointed under subsection (1) and any person or persons appointed under subsection (2) shall for the purpose of their functions in terms of this section have powers and duties in all respects corresponding to the powers and duties conferred or imposed [by sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), upon a registrar or an inspector contemplated in the Inspection of Financial Institutions Act, 1998] or an investigator in terms of the Financial Sector Regulation Act: Provided that for the purposes of this section, those powers extend to the associates of the bank.

[(a) any reference to an “institution” or a “financial institu-
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<td>8. Artikel 23 word gewysig—</td>
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<td><em>(a)</em> deur subartikel (1) deur die volgende subartikel te vervang:</td>
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<td>“(1) Registrateur kan, behoudens die bepalings van artikel 24, in die geval van ’n bank wat as sodanig geregistreer is, [met die instemming van die President en na oorleg met die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien die instelling nie gedurende die tydperk van ses maande vanaf die datum waarop die instelling as ’n bank geregistreer is, enige sake as ’n bank gedoen het nie.”;</td>
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<td><em>(b)</em> deur in subartikel (2) die woorde wat paragraaf <em>(a)</em> voorafgaan deur die volgende woorde te vervang:</td>
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<td>“Die Registrateur kan, behoudens die bepalings van artikel 24, in die geval van ’n bank wat as sodanig geregistreer is, [na oorleg met die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of, onderworpe aan die voorwaardes wat dieRegistrateur goedvind, opskort indien—”; en</td>
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<td><em>(c)</em> deur subartikel (3) deur die volgende subartikel te vervang:</td>
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<td>“(3) Die Registrateur kan, behoudens die bepalings van artikel 24, in die geval van ’n bank wat as sodanig geregistreer is, [na oorleg met die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek indien die instelling opgehou het om die bedryf van ’n bank uit te oefen of nie langer in werking is nie.”;</td>
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<td>9. Subartikel <em>(1A)</em> in artikel 52 word deur die volgende subartikel vervang:</td>
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<td>“(1A) Ondanks subartikel <em>(1)</em> kan die Registrateur deur [middel van ’n omsendbrief in artikel 6(4) beoog] kennisgewing in die Register gepubliqueer, omstandighede en voorwaardes bepaal ingevolge waarvan ’n aansoek in subartikel <em>(1)</em> beoog, nie vereis word nie.”.</td>
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<td>10. Artikel 69A word gewysig—</td>
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<td><em>(a)</em> deur subartikel <em>(4)</em> en <em>(5)</em> deur die volgende subartikel te vervang:</td>
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<td>“(4) ’n Kommissaris aangestel kragtens subartikel <em>(1)</em> en enige</td>
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<td>“(b) any reference to “the registrar” and “an inspector” in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998, shall be deemed to be a reference to the commissioner and any person appointed under subsection (2), respectively.”; and</td>
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|                  |             | by the substitution for subsections (4) and (5) with the following subsections: “(4) A commissioner appointed under subsection (1) and any person or persons appointed under subsection (2) shall for the purpose of their functions in terms of this section have powers and duties in all respects corresponding to the powers and duties conferred or imposed by [sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), upon a registrar or an inspector contemplated in the Inspection of Financial Institutions Act, 1998] Part 4 of Chapter 9 of the Financial Sector Regulation Act: Provided that for the purposes of this section—
|                  |             | (a) any reference to [an “institution” or a “financial institution” in sections 4 and 5 of the Inspection of Financial Institutions Act, 1998] Part 4 of Chapter 9 of the Financial Sector Regulation Act shall be deemed to be a reference to a bank under curatorship or any of its associates; and |
|                  |             | (b) any reference to [“the registrar”] “a financial sector regulator” and “an [inspector] investigator” in [sections 4 and 5 of the Inspection of Financial Institutions Act, 1998] Part 4 of Chapter 9 of the Financial Sector Regulation Act shall be deemed to be a reference to the commissioner and any person appointed under subsection (2), respectively. |
|                  |             | (5) When an investigation is made under this section and [section 4 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998).] Part 4 of Chapter 9 of the Financial Sector Regulation Act applies, [subsection (1)(a) of that] |
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| | | persoon of persone aangestel kragtens subartikel (2) het, vir die doeleindes van hul werksoamhede ingevolge hierdie artikel, bevoegdheide en pligte wat in alle opsigte ooreenstem met die bevoegdheide en pligte deur [artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998), aan 'n registrateur of 'n inspekteur bedoel in die Wet op Inspeksie van Finansiële Instellings, 1998,] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ verleen of opgelê: Met dien verstande dat by die toepassing van hierdie artikel-
(a) 'n verwysing na ['n ‘instelling’ of 'n ‘finansiële instelling’ in artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998,] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ geag word ‘n verwysing te wees na 'n bank onder kuratele of enige van sy geassosieerdes; en
(b) ‘n verwysing na ['die registrateur' 'n finansiële-sektorreguleerder ('financial sector regulator') en 'n [inspekteur] ondersoeker (‘investigator’) in [artikels 4 en 5 van die Wet op Inspeksie van Finansiële Instellings, 1998,] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ geag word 'n verwysing te wees na, onderskeidelik, die kommissaris en enige persoon kragtens subartikel (2) aangestel.
(5) Wanneer 'n ondersoek kragtens hierdie artikel uitgevoer word en [artikel 4 van die Wet op Inspeksie van Finansiële Instellings, 1998,] Deel 4 van Hoofstuk 9 van die ‘Financial Sector Regulation Act’ van toepassing is, [word subartikel (1)(a) van daardie] artikel 136(1) van daardie Wet [geag gewysig te wees om soos volg te lui:
‘(1) Wanneer 'n kommissaris 'n onderzoek van die besigheid, handel, transaksies, sake of bates en laste van 'n bank onder kuratele uitvoer, kan die kommissaris—
(a) 'n persoon wat 'n direkteur, dienaar, werknemer, vennoot, lid of aandeelhouer van die
section 136(1) of that Act shall [be deemed to have been amended as follows:

'(1) In carrying out an investigation into the business, trade, dealings, affairs or assets and liabilities of a bank under curatorship, a commissioner may—

(a) administer an oath or affirmation or otherwise examine any person who is, or formerly was, a director, servant, employee, partner, member or shareholder of the institution:

Provided that the person examined, whether under oath or not, may have his or her legal adviser present at the examination: Provided further that on good cause shown the commissioner may direct that the proceedings under this paragraph shall be held in camera and not be accessible to the public;'

apply with the changes necessary in the context in respect of an inspection carried out in terms of subsection (1) and the commissioner may on good cause shown direct that the proceedings under this paragraph shall be held in camera and not be accessible to the public;''; and

(c) by the repeal of subsection (5A).

11. The substitution in section 84 for subsection (5) of the following subsection:

‘‘(5) For the purposes of the performance of the duties as set out in subsection (4), the repayment administrator shall, in relation to the person subject to the relevant direction and in relation to the affairs of that person, have the powers conferred by [sections 4 and 5 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998)] sections 136 to 138 of the Financial Sector Regulation Act, upon an [inspector] investigator contemplated in those sections, as if the repayment administrator were an [inspector] investigator and the person subject to the direction were a financial institution contemplated in those sections.”.’

12. The deletion in section 90 of subsection (1)(e) and (g).
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<td>instelling is of voorheen was onder eed of bevestiging of andersins ondervra: Met dien verstande dat die persoon wat ondervra word, hetsy onder eed of nie, sy of haar regsverteene- woordiger by die ondervraging teenwoordig mag hê: Met dien verstande, voorts, dat by aanvoering van gegronde redes die kommissaris kan gelaas dat die verrigtinge kragtens hierdie paragraaf in camera moet plaasvind en nie vir die publiek toeganklik is nie; en met toepassing met die veranderinge deur die samehang vereis ten opsigte van ’n inspeksie in die subartikel (1) uitgevoer en die kommissaris kan by die aanvoer van goeie gronde gelaas dat die verrigtinge kragtens hierdie paragraaf in camera gehou word en toeganklik vir die publiek is nie; en (b) deur subartikel (5A) te herroep.</td>
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<td>11. Subartikel (5) in artikel 84 word deur die volgende subartikel vervang: “(5) Vir die doeleindes van die verrigting van die pligte soos in subartikel (4) uiteengesit, het die terugbetalingsadministrateur, met betrekking tot die persoon wat aan die tersaaklike lasgewing onderworpe is en met betrekking tot die sake van daardie persoon, die bevoegdhede wat by artikel 83 en 84 van die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998) artikel 136 tot 138 van die ‘Financial Sector Regulation Act’, aan ’n [inspekteur] ondersonoeker beoog in daardie artikels verleen word, asof die terugbetalings-administrateur ’n [inspekteur] ondersonoeker en die persoon wat aan die lasgewing onderworpe is ’n finansiële instelling was soos in daardie artikels beoog.”.</td>
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<td>12. Subartikel (1)(e) en (g) in artikel 90 word geskrap.</td>
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### Act No. 9 of 2017

#### Financial Sector Regulation Act, 2017

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<th>Act No. and year</th>
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<th>Extent of repeal or amendment</th>
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<td>13.</td>
<td>The amendment of section 91 —  (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph: &quot;(b) contravenes or fails to comply with a provision of section 7(3), (4) or (5), 34, 35, [37(1),] 38(1), 39, 41, 42(1), 52(1) or (4), 53, 55, 58, 59, 60(5)(a), 60(5)(b), 61(2), 65, 66, 67, 70(2), (2A) or (2B), 70A, 72, 73, 75, 76, 77, 78(1) or (3), 79, 80, 84(1A) or 84(2),&quot;; (b) by the deletion in subsection (4) of paragraph (c); and (c) by the deletion of subsections (6), (6A) and (7).</td>
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<td>14.</td>
<td>The repeal of section 91A.</td>
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<td>15.</td>
<td>The substitution for the expression “Registrar”, wherever it occurs, of the expression “Authority”.</td>
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<td>16.</td>
<td>The amendment of the arrangement of sections— (a) by the insertion after item 1 of the following item: “1A. Relationship between Act and Financial Sector Regulation Act”; and (b) by the substitution for item 4 of the following item: “4. Authority”.</td>
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<td>Act No. 8 of 1993</td>
<td>Financial Supervision of the Road Accident Fund Act, 1993</td>
<td>1. The amendment of section 1— (a) by the insertion before the definition of “executive officer” of the following definition: “‘Authority’ means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act, 2017.”; and (b) by the deletion of the definitions of “executive officer” and “Financial Services Board”.</td>
</tr>
<tr>
<td>Act No. 124 of 1993</td>
<td>Mutual Banks Act, 1994</td>
<td>1. The amendment of section 1— (a) by the insertion in subsection (1) after the definition of “associate” of the following definition: “‘Authority’ means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act”; (b) by the deletion in subsection (1) of the definition of “board of appeal”;</td>
</tr>
<tr>
<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khotshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabelolo</td>
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<tr>
<td>13. Artikel 91 word gewysig— (a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang: &quot;(b) ’n bepaling van artikel 7(3), (4) of (5), 34, 35, [37(1), 38(1), 39, 41, 42(1), 52(1) of (4), 53, 55, 58, 59, 60(5)(a), 60(5)(b), 61(2), 65, 66, 67, 70(2), (2A) of (2B), 70A, 72, 73, 75, 76, 77, 78(1) of (3), 79, 80, 84(1A) of 84(2) oortree of versuim om daaraan te voldoen,''; (b) deur paragraaf (c) in subartikel (4) te skrap; en (c) deur subartikels (6), (6A) en (7) te skrap.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16. Die indeling van artikels word gewysig— (a) deur die volgende item na item 1 in te voeg: &quot;1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’’; en (b) deur item 4 deur die volgende item te vervang: &quot;4. Owerheid’.</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Wet No. 97 van 1990</th>
<th>Wet op die Raad op Finansiële Dienste, 1990</th>
<th>Die hele Wet word herroep.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wet No. 8 van 1993</td>
<td>Wet op Finansiële Toesighouding oor die Pad- ongelukfonds, 1993</td>
<td>Artikel 1 word gewysig— (a) deur die volgende omskrywing na die omskrywing van “Minister” in te voeg: “Owerheid” die Gedragsowerheid vir die Finansiële Sektor soos ingestel ingevolge artikel 32 van die “Financial Sector Regulation Act”, 2017”; en (b) deur die omskrywings van “Raad op Finansiële Dienste” en “uitvoerende beampte” te skrap.</td>
</tr>
</tbody>
</table>
| Wet No. 124 van 1993 | Wet op Onderlinge Banke, 1993 | 1. Artikel 1 word gewysig— (a) deur in subartikel (1) die omskrywing van “appêlraad” te skrap; (b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “filiaal” in te voeg: “Financial Sector Regulation Act” die “Financial Sector Regulation Act”, 2017;”;

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<table>
<thead>
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<th>Act No. and year</th>
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<th>Extent of repeal or amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(c)</td>
<td>by the insertion in subsection (1) after the definition of “company” of the following definition:</td>
<td>“‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”</td>
</tr>
<tr>
<td>(d)</td>
<td>by the insertion in subsection (1) after the definition of “executive officer” of the following definition:</td>
<td>“‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”</td>
</tr>
<tr>
<td>(e)</td>
<td>by the deletion in subsection (1) of the definition of “prescribed”;</td>
<td></td>
</tr>
<tr>
<td>(f)</td>
<td>by the insertion in subsection (1) after the definition of “person” of the following definition:</td>
<td>“‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”</td>
</tr>
<tr>
<td>(g)</td>
<td>by the insertion in subsection (1) after the definition of “public” of the following definition:</td>
<td>“‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”</td>
</tr>
<tr>
<td>(h)</td>
<td>by the deletion in subsection (1) of the definition of “Registrar”;</td>
<td></td>
</tr>
<tr>
<td>(i)</td>
<td>by the insertion in subsection (1) after the definition of “subsidiary” of the following definition:</td>
<td>“‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;” and</td>
</tr>
<tr>
<td>(j)</td>
<td>by the addition of the following subsection:</td>
<td>“(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”</td>
</tr>
</tbody>
</table>

2. The insertion after section 1 of the following section:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the Registrar must be read as a reference to the Authority.

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in
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<tr>
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<tr>
<td>(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van “finansiële state” in te voeg: ‘‘gedraagstandaard’’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘conduct standard’ toegeskryf is;’’;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) deur in subartikel (1) die volgende omskrywing na die omskrywing van “opbetaalde aandeel” in te voeg: ‘‘Owerheid’’ die Voorsorgowerheid ingestel ingevolge artikel 32 van die ‘Financial Sector Regulation Act’;’’;</td>
<td></td>
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<tr>
<td>(e) deur in subartikel (1) die volgende omskrywing na die omskrywing van “raad” in te voeg: ‘‘Register’’ die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die ‘Financial Sector Regulation Act’;’’;</td>
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<tr>
<td>(f) deur in subartikel (1) die omskrywing van “Registrateur” te skrap;</td>
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<tr>
<td>(g) deur in subartikel (1) die volgende omskrywing na die omskrywing van “subskripsie-aandeel” in te voeg: ‘‘Tribunaal’’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;’’;</td>
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<tr>
<td>(h) deur in subartikel (1) die omskrywing van “voorgeskryf” te skrap;</td>
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<tr>
<td>(i) deur in subartikel (1) die volgende omskrywing na die omskrywing van “voorgeskryf” in te voeg: ‘‘voorsorgstandaard’’ dit wat in artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf is;’’; en</td>
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<td>(j) deur die volgende subartikel by te voeg: ‘‘(3) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf is nie, dieselfde betekenis as wat in die ‘Financial Sector Regulation Act’ daaran toegeskryf is.’’.</td>
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</table>

2. Die volgende artikels word na artikel 1 ingevoeg:

‘‘Verhouding tussen Wet en ‘Financial Sector Regulation Act’’

1A. (1) ’n Verwysing in hierdie Wet na die Registrateur moet as ’n verwysing na die Owerheid gelees word.

(2) Buiten soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie
addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 91, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard or a conduct standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(5) (a) Matters in respect of which regulations relating to banks may be prescribed in terms of this Act may also be made in prudential standards or conduct standards.

(b) Regulations prescribed in terms of this Act that are in force immediately before the commencement of this subsection continue to be in force, but may be repealed by the Minister to allow for prudential or conduct standards to be made in terms of the Financial Sector Regulation Act, in respect of the subject-matter of those regulations.

(c) Paragraph (b) does not limit the powers of the Minister in terms of this Act to prescribe regulations.

(6) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.

(b) The Authority may also publish the information or document on its web site.

(7) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.
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<tr>
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<tr>
<td></td>
<td>Wet benewens die bevoegdhelde en pligte wat die Owerheid ingevolge die 'Financial Sector Regulation Act' het.</td>
<td>(3) 'n Verwysing in hierdie Wet na die Owerheid wat 'n aangeleentheid by kennisgewing in die Staatskroentar bepaal of publiseer, moet gelees word dat dit 'n verwysing insluit na die Owerheid wat die aangeleentheid bepaal of publiseer by kennisgewing in die Register gepubliseer.</td>
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<td>(4) Tenys uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat 'n aangeleentheid by regulasie ingevolge artikel 91 voorgeskryf word, moet 'n verwysing in hierdie Wet na 'n aangeleentheid wat—</td>
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<td></td>
<td></td>
<td>(a) voorgeskryf word, gelees word as 'n verwysing daarna dat die aangeleentheid in 'n voorsorgstandaard of 'n gedragstandaard voorgeskryf word, of (b) bepaal word, gelees word as 'n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.</td>
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<td></td>
<td></td>
<td>(5) (a) Aangeleenthede ten opsigte waarvan regulasies ten aansien van banke ingevolge hierdie Wet gemaak kan word, kan ook in voorsorgstandaarde of gedragstandaarde voorgeskryf word. (b) Regulasies ingevolge hierdie Wet voorgeskryf wat van krag is onmiddellik voor die inwerkingtreding van hierdie subartikel, bly van krag, maar kan deur die Minister herroep word sodat voorsorgstandaarde of gedragstandaarde ingevolge die 'Financial Sector Regulation Act' gemaak kan word, ten opsigte van die onderwerp van daardie regulasies. (c) Paragraaf (b) beperk nie die Minister se bevoegdhelde ingevolge hierdie Wet om regulasies uit te vaardig nie.</td>
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<td>(6) (a)'n Verwysing in hierdie Wet dat die Owerheid inligting of 'n dokument op 'n webwerf aankondig of publiseer, moet gelees word as 'n verwysing na die Owerheid wat die inligting of dokument in die Register publiseer. (b) Die Owerheid kan ook die inligting of dokument op die Owerheid se webwerf publiseer.</td>
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<td>(7) 'n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as 'n verwysing na die tersaaklike gelde vasgestel ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act'.</td>
</tr>
<tr>
<td>Act No. and year</td>
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<td>(8)</td>
<td></td>
<td>A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</td>
</tr>
<tr>
<td>(9) (a)</td>
<td></td>
<td>If any requirement in the Financial Sector Regulation Act is inconsistent with any provision of this Act, the requirement in the Financial Sector Regulation Act prevails.</td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td>If any requirement in a regulatory instrument made in terms of the Financial Sector Regulation Act is inconsistent with any provision of a regulatory instrument made in terms of this Act, the requirement in the regulatory instrument made in terms of the Financial Sector Regulation Act prevails.</td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td>The repeal of section 2.</td>
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<tr>
<td>4.</td>
<td></td>
<td>The substitution in section 3 for subsection (2) of the following subsection: “(2) Any delegation under subsection (1) (a) shall not prevent the exercise of the relevant power by the [Registrar personally] Authority.”.</td>
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<tr>
<td>5.</td>
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<td>The deletion in section 4 of subsections (1) and (2).</td>
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<td>6.</td>
<td></td>
<td>The repeal of sections 6, 7 and 8.</td>
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<tr>
<td>7. (a)</td>
<td></td>
<td>The amendment of section 21— by the substitution for subsection (1) of the following subsection: “(1) The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, [with the consent of the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if the institution has not conducted any business as a mutual bank during the period of six months commencing on the date on which the institution was registered as a mutual bank.”; and</td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td>The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, [with the consent of the Minister and] by notice in writing to the institution concerned cancel, or suspend on such conditions as the Registrar may deem fit, such registration if— “”; and</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td>(8) ’n Verwysing in hierdie Wet na ’n appel teen ’n besluit van die Owerheid moet gelee word as ’n verwysing na ’n heroorweging van die besluit deur die Tribunaal ingevolge die ‘Financial Sector Regulation Act’.</td>
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<tr>
<td>(9) (a) Indien enige vereiste in die ‘Financial Sector Regulation Act’ strydig is met enige bepaling van hierdie Wet, geld die vereiste in die ‘Financial Sector Regulation Act’.</td>
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<tr>
<td>(b) Indien enige vereiste in ’n reguleringsinstrument gemaak ingevolge die ‘Financial Sector Regulation Act’ strydig is met enige bepaling van ’n reguleringsinstrument gemaak, geld die vereiste in die reguleringsinstrument gemaak.”</td>
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3. Artikel 2 word herroep.

4. Subartikel (2) in artikel 3 word deur die volgende subartikel vervang: “(2) ’n Delegering kragtens subartikel (1)(a) belet nie die uitoefening van die betrokke bevoegdheid deur die Registrateur self Owerheid nie.”.

5. Subartikels (1) en (2) in artikel 4 word geskrap.

6. Artikels 6, 7 en 8 word herroep.

7. Artikel 21 word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Registrateur kan, behoudens die bepgings van artikel 22, in die geval van ’n onderlinge bank wat as sodanig geregistreer is, [met die instemming van die Minister en] by skriftelike kennisgewing aan die betrokke instelling sodanige registrasie intrek of onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien die instelling nie gedurende die tydperk van ses maande vanaf die datum waarop die instelling as ’n onderlinge bank geregistreer is, enige sake as ’n onderlinge bank gedoen het nie.”:

(b) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“(Die Registrateur kan, behoudens die bepings van artikel 22, in die geval van ’n onderlinge bank wat as sodanig geregistreer is, [met die
<table>
<thead>
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</thead>
<tbody>
<tr>
<td>Act No. 9 of 2017</td>
<td>Financial Sector Regulation Act, 2017</td>
<td>(c) by the substitution for subsection (3) of the following subsection: “(3) The Registrar may, subject to the provisions of section 22, in the case of a mutual bank registered as such, [with the consent of the Minister and] by notice in writing to the institution concerned cancel such registration if the institution has ceased to conduct business as a mutual bank or is no longer in operation.”.</td>
</tr>
</tbody>
</table>
| Act No. 52 of 1998 | Long-term Insurance Act, 1998                                               | 1. The amendment of section 1— (a) by the insertion in subsection (1) after the definition of “auditor” of the following definition: “Authority” means— (a) in the case of sections 7, 9 to 17, 19 to 21, 23 to 35 and 37 to 43, the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act; (b) in the case of section 8 and sections 44 to 65, the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act; and (c) in the case of sections 3, 4, 18, 22 and 36, either the Prudential Authority or the Financial Sector Conduct Authority, subject to consultation and co-ordination requirements set out in the Financial Sector Regulation Act; “; (b) by the deletion in subsection (1) of the definition of “Board”; (c) by the insertion in subsection (1) after the definition of “company” of the following definition: “conduct standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act; “;
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<tr>
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<td>instemming van die Minister en by skriflike kennisgewing aan die betrokke instelling sodanige registrasie intrek of, onderworpe aan die voorwaardes wat die Registrateur goedvind, opskort indien—”; en</td>
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<td></td>
<td></td>
<td>(c) deur subartikel (3) deur die volgende subartikel te vervang: “(3) Die Registrateur kan, behoudens die bepaling van artikel 22, in die geval van 'n onderlinge bank wat as sodanig geregistreer is, [met die instemming van die Minister en] by skriflike kennisgewing aan die betrokke instelling sodanige registrasie intrek indien die instelling opgehou het om die bedryf van 'n onderlinge bank uit te oefen of nie langer in werking is nie.”.</td>
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<td>8. Subartikel (1)(e) en (g) in artikel 91 word geskrap.</td>
</tr>
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<td>9. Subartikels (6) en (7) in artikel 92 word geskrap.</td>
</tr>
<tr>
<td></td>
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<td>10. Die indeling van artikels word gewysig deur die volgende item na item 1 in te voeg: “1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’”.</td>
</tr>
<tr>
<td>Wet No. 52 van 1998</td>
<td>Langtermyn-versekeringswet, 1998</td>
<td>1. Artikel 1 word gewysig— (a) deur in subartikel (1) na die omskrywing van “filiaal” die volgende omskrywing in te voeg: “‘Financial Sector Regulation Act’ die ‘Financial Sector Regulation Act’, 2017”; (b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “fondspolis” in te voeg: “‘gedragstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘conduct standard’ toegeskryf is”; (c) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gekoppelde polis” in te voeg: “‘gesamentlike standaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf is”;</td>
</tr>
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<td>Act No. and year</td>
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<td>Extent of repeal or amendment</td>
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</table>
| (d)             |             | by the insertion in subsection (1) after the definition of “financial reporting standards” of the following definition:  
|                 |             | “‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”; |
| (e)             |             | by the insertion in subsection (1) after the definition of “holding company” of the following definition:  
|                 |             | “‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”; |
| (f)             |             | by the deletion in subsection (1) of the definition of “prescribe”; |
| (g)             |             | by the insertion in subsection (1) after the definition of “premium” of the following definition:  
|                 |             | “‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”; |
| (h)             |             | by the insertion in subsection (1) after the definition of “publish” of the following definition:  
|                 |             | “‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”; |
| (i)             |             | by the deletion in subsection (1) of the definition of “Registrar”; |
| (j)             |             | by the insertion in subsection (1) after the definition of “this Act” of the following definition:  
|                 |             | “‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”; and |
| (k)             |             | by the addition of the following subsection:  
<p>|                 |             | “(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”; |</p>
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<tbody>
<tr>
<td>(d)</td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van “oaditeur” in te voeg: &quot;&quot; ‘Owerheid’ &quot;&quot;</td>
<td></td>
</tr>
<tr>
<td>(a)</td>
<td>in die geval van artikels 7, 9 tot 17, 19 tot 21, 23 tot 35 en 37 tot 43, die Voorsorgowerheid ingestel ingevolge artikel 32 van die ’Financial Sector Regulation Act’;</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>in die geval van artikel 8 en artikels 44 tot 65, die Gedragsowerheid vir die Finansiële Sektor ingestel ingevolge artikel 36 van die ’Financial Sector Regulation Act’; en</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>in die geval van artikels 3, 4, 18, 22 en 36, of die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, behoudens oorlegplegings- en koördinerings- vereistes soos in die ’Financial Sector Regulation Act’, uiteengesit;&quot;&quot;</td>
<td></td>
</tr>
<tr>
<td>(e)</td>
<td>deur in subartikel (1) die omskrywing van “Raad” te skrap;</td>
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<td>(f)</td>
<td>deur in subartikel (1) die volgende omskrywing na die omskrywing van “Raad” in te voeg: &quot;&quot; ‘Register’ die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die ’Financial Sector Regulation Act’;&quot;&quot;</td>
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<td>(g)</td>
<td>deur in subartikel (1) die omskrywing van “Registrateur” te skrap;</td>
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<td>(h)</td>
<td>deur in subartikel (1) na die omskrywing van “statutêre aktuaris” die volgende omskrywing in te voeg: &quot;&quot; ‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ’Financial Sector Regulation Act’;&quot;&quot;</td>
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<td>(i)</td>
<td>deur in subartikel (1) die omskrywing van “voorskryf” te skrap;</td>
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<td>(j)</td>
<td>deur in subartikel (1) na die omskrywing van “voorskryf” die volgende omskrywing in te voeg: &quot;&quot; ’voorsorgstandaard’ dit wat ingevolge die ’Financial Sector Regulation Act’ aan ’prudential standard’ toegeskryf word;&quot;&quot; en</td>
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| (k)                       | deur die volgende subartikel by te voeg: “(3) Tensy die samehang anders aandui, het woorde en uitdrukking wat nie in subartikel (1) omskryf is nie, die betekenis in die ’Financial Sector Regulation Act’ daaraan toegeskryf.” .
2. The insertion after section 1 of the following sections:

"Relationship between Act and Financial Sector Regulation Act"

1A. (1) A reference in this Act to the Registrar (but not to the Registrar of Medical Schemes) or a reference to the Board must be read as a reference to the Authority.

(2) Except as otherwise provided for in this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(5) (a) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.

(b) A reference to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.

(6) The references in sections 3(3) and 22(3) to an appeal to the board of appeal established by section 26 of the Financial Services Board Act must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.
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<th>Nomoro ya Molao le ngwaga</th>
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<td></td>
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<td>&quot;Verhouding tussen Wet en ‘Financial Sector Regulation Act’&quot;</td>
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<td>2.</td>
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<td>1A. (1) ‘n Verwysing in hierdie Wet na die Registrateur (maar nie na die Registrateur van Mediese Skemas nie) of ‘n verwysing na die Raad moet as ‘n verwysing na die Owerheid gelees word.</td>
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<td>(2) Behalwe waar anders in hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdheede en pligte ingevolge hierdie Wet benewens die bevoegdheede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.</td>
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<td>(3) ‘n Verwysing in hierdie Wet na die Owerheid wat ‘n aangeleentheid by kennisgewing in die <em>Staatskoerant</em> bepaal of publiseer, moet gelees word dat dit ‘n verwysing insluit na die Owerheid wat die aangeleentheid by kennisgewing in die Register gepubliseer, bepaal of publiseer het.</td>
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<td>(4) Tensy uitdruklik anders in die Wet bepaal, of tensy hierdie Wet vereis dat ‘n aangeleentheid by regulasie voorgeskryf word, moet ‘n verwysing in hierdie Wet dat ‘n aangeleentheid—</td>
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<td></td>
<td>(a) voorgeskryf word, gelees word as ‘n verwysing daarna dat die aangeleentheid in ‘n voorsorgstandaard of ‘n gedragstandaard voorgeskryf word; of</td>
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<td>(b) bepaal word, gelees word as ‘n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer,</td>
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<td>(5) (a) ‘n Verwysing in hierdie Wet na ‘n ter plaatse besoek ingevolge ‘n bepaling van hierdie Wet moet gelees word as ‘n verwysing na ‘n ter plaatse toegishoudende inspeksie of ‘n ondersoek ingevolge die ‘Financial Sector Regulation Act’.</td>
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<td></td>
<td>(b) ‘n Verwysing na ‘n inspeksie ingevolge ‘n bepaling van hierdie Wet, moet gelees word as ‘n verwysing na ‘n heroorweging van die besluit van die Tribunaal ingevolge die ‘Financial Sector Regulation Act’.</td>
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<td>(6) Die verwysings in artikels 3(3) en 22(3) na ‘n appèl aan die appèlaad ingevolge artikel 26 van die Wet op die Raad op Finansiële Dienste moet gelees word as ‘n verwysing na ‘n heroorweging van die besluit deur die Tribunaal ingevolge die ‘Financial Sector Regulation Act’.</td>
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Act No. 9 of 2017

### Extent of repeal or amendment

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<th>Act No. and year</th>
<th>Short Title</th>
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<td></td>
<td>(7) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.</td>
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#### Regulatory instruments

1B. For the purposes of the definition of “regulatory instrument” in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument.”.

3. The substitution for section 2 of the following section:

“Exercise of powers and performance of duties by Authority

2. (1) The Authority, in fulfilling its responsibility for implementing this Act, must exercise its powers and perform its duties in terms of this Act subject to the Financial Sector Regulation Act.

(2) The Prudential Authority, in respect of sections 9 to 15, 26 and 37 to 43, must act with the concurrence of the Financial Sector Conduct Authority.

(3) The Prudential Authority or the Financial Sector Conduct Authority, as the case may be, in respect of sections 18 and 22, must act with the concurrence of the other Authority.”.

4. The deletion in section 4 of subsections (2), (4) and (8).

5. The repeal of section 5.

6. The amendment of section 9—

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

“(b) unless the applicant demonstrates to the satisfaction of the Authority that—

(i) it complies and has taken appropriate measures to continue to comply with the governance and risk management framework and financial soundness requirements of this Act;
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<td>(7) ’n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as ’n verwysing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die ‘Financial Sector Regulation Act’.</td>
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Reguleringsinstrumente

1B. By die toepassing van die omskrywing van ‘reguleringsinstrument’ (‘regulatory instrument’) in artikel 1(1) van die ‘Financial Sector Regulation Act’, is enige aangeleentheid deur die Owerheid voorgeskryf ten opsigte waarvan kennis in die Staatskoerant spesifiek deur hierdie Wet vereis word, ’n reguleringsinstrument.’’

3. Artikel 2 word deur die volgende artikel vervang:

“Uitoefening van bevoegdheide en vertiging van pligte deur Owerheid

2. (1) Die Owerheid, by die vervulling van sy verantwoordelikheid om hierdie Wet in werking te stel, moet sy bevoegdheide uitoefen en sy pligte verrig ingevolge hierdie Wet behoudens die ‘Financial Sector Regulation Act’.

(2) Die Voorsorgowerheid, ten opsigte van artikels 9 tot 15, 26 en 37 tot 43, moet met die instemming van die Gedragsowerheid vir die Finansiële Sektor handel.

(3) Die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, na gelang van die geval, ten opsigte van artikels 18 en 22, moet met die instemming van die ander Owerheid optree.’’.

4. Subartikels (2), (4) en (8) in artikel 4 word geskrap.

5. Artikel 5 word herroep.

6. Artikel 9 word gewysig—

(a) deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) tensy die aanboener tot bevrediging van die Owerheid demonstreer dat—

(i) die aanboener voldoen aan, en gepaste stappe gedoen het om voort te gaan om te voldoen aan hierdie Wet se vereistes vir ’n beheer- en risiko-bestuurraamwerk en
### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

#### Extent of repeal or amendment

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<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<td>(ii)</td>
<td>its directors and managing executives meet the fit and proper requirements; and</td>
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<td>(iii)</td>
<td>any persons that directly or indirectly control or own that applicant within the meaning of section 25 of this Act, meet the fit and proper requirements;</td>
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<td>and</td>
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<td>(b)</td>
<td>by the addition in subsection (3) of the following paragraph:</td>
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<td></td>
<td>“(cA) if the registration will be contrary to the interests of prospective policyholders or the public interest.”</td>
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<td>7.</td>
<td>The amendment of section 10 by the insertion after paragraph (f) of the following paragraph:</td>
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<td>“(fA) relating to the business arrangements of the long-term insurer, including, but not limited to, the outsourcing arrangements that the long-term insurer may enter into.”</td>
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<td>8.</td>
<td>The amendment of section 11 by the substitution for subsection (1) of the following subsection:</td>
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<td></td>
<td>“(1) The [Registrar] Authority may, by notice to the long-term insurer, amend, delete, replace or impose additional conditions contemplated in section 10, subject to which the long-term insurer is registered or deemed to be registered—</td>
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<td>(a) upon application of a long-term insurer and having regard, with the necessary changes required by the context, to section 9(3)(b);</td>
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<td>(aA) when in the public interest or the interests of the policyholders or potential policyholders of the long-term insurer;</td>
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<td>(b) when acting in accordance with section 12(2) or (3) or when giving an authorisation in accordance with section 35(2)(a); in relation to a long-term insurer; or</td>
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Molao wa Taolo ya Lephata la Ditshелете, 2017
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<th>Nomoro ya Molao le ngwaga</th>
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<td>(iii) enige persone wat</td>
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<td>vereistes vir geskiktheid</td>
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<td>en gepastheid;''; en</td>
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<td>(b) deur die volgende</td>
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<td>subartikel (3) by te voeg:</td>
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<td>7. Artikel 10 word gewysig</td>
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<td>8. Artikel 11 word gewysig</td>
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<td>te vervang:</td>
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<td>‘‘(1) Die [Registrateur] Owerheid</td>
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<td>langtermynversekeraar, bykomende</td>
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<td>voorwaardes in artikel 10 beoog,</td>
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<td>die samehang vereis, van artikel</td>
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<td>9(3)(b);</td>
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<td>(A) wanneer dit in die openbare belangeloof die belang van die polishouers of potensiële polishouers van die langtermynversekeraar is;</td>
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<td>(b) wanneer ooreenkomstig artikel</td>
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<td>12(2) of (3) gehandel word</td>
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<td>of wanneer magting ooreenkomstig artikel 35(2)(a) en met betrekking tot ‘n langtermynversekeraar verleen word; of</td>
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### Act No. and year | Short Title | Extent of repeal or amendment
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| | | (c) if a long-term insurer has ceased to enter into certain long-term policies determined by the [Registrar] Authority to an extent which no longer justifies its continued registration in respect of those policies, and the long-term insurer has been allowed at least 30 days in which to make representations in respect of the matter [by notice to the long-term insurer vary a condition, subject to which the long-term insurer is registered or deemed to be registered, by amending or deleting it, or determine a new condition contemplated in section 10].”.

9. The deletion in section 22 of subsection (3).

10. The amendment of section 26—
(a) by the substitution for subsection (1) of the following subsection:

”(1) Subject to this section, no person shall, directly or indirectly and without the prior approval of the [Registrar] Authority, acquire or hold shares or any other financial interest in a long-term insurer or a related party of that long-term insurer which results in that person, directly or indirectly, alone or with a related party, exercising control within the meaning of section 2(2) of the Companies Act, over that long-term insurer.”;

(b) by the substitution, in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

”(a) prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the aggregate nominal value of those shares, by itself or together with the aggregate nominal value of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of the total nominal value of all of the issued shares of the long-term insurer concerned;
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<td>opgehou het om sekere langtermynpolisise deur die</td>
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<td>[Registrateur] Owerheid bepaal,</td>
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<td>regverdige nie, en die</td>
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<td>deur dit te wysig of te skrap, of 'n</td>
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<td>nuwe voorwaarde in artikel 10 beoog,</td>
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|                            |                              | bepaal].

9. Subartikel (3) in artikel 22 word geskrap.

10. Artikel 26 word gewysig—  
(a) deur subartikel (1) deur die volgende subartikel te vervang:  
"(1) Behoudens hierdie artikel mag geen persoon, regstreeks of onregstreeks en sonder die vooraf goedgekeurig van die [Registrateur] Owerheid, aandele of enige ander finansiële belang in 'n langtermynversekeraar of 'n verwante party van daardie langtermynversekeraar verkry of hou wat tot gevolg het dat daardie persoon, regstreeks of onregstreeks, alleen of saam met 'n verwante party, beheer binne die betekenis van artikel 2(2) van die Maatskappywet oor daardie langtermynversekeraar uitoefen nie.";

(b) deur in subartikel (2) paragrawe (a) en (b) deur die volgende paragrawe te vervang:  
"(a) voor die omskepping van aandele uitgereik met 'n nominale waarde of pariwaarde ooreenkomstig die Maatskappywet, die totale nominale waarde van daardie aandele, opsigself of tesame met die totale nominale waarde van die aandele alreeds deur daardie persoon of daardie persoon en verwante partye besit, [25] 15 persent of meer van die totale nominale waarde van al die uitgereikte aandele van die betrokke langtermynversekeraar sal bedra;"
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- **(b)** after the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the total number of those shares, by itself or together with the total number of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of all the shares in a specific class of shares issued by the long-term insurer concerned.”;

- **(c)** by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
  “The approval referred to in subsection (1) or (2)—”;

- **(d)** by the insertion in subsection (3) after paragraph (a) of the following paragraph:
  “(aA) shall not be given if the person does not meet the fit and proper requirements;”;

- **(e)** by the substitution in subsection (4) for the words preceding subparagraph (i) of the following words:
  “compelling such shareholder to reduce, within a period determined by the Court, that shareholding to a shareholding not exceeding [25] 15 per cent of—”;

- **(f)** by the deletion of subsections (5) and (6).

#### 11. The deletion in section 62 of subsections (2)(f) and (4).

#### 12. The substitution in section 66(1) for paragraph (a) of the following paragraph:
“(a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section [4(3), (4) or] (5)(a)(i), 22(2) or 27(2);”.

#### 13. The substitution in section 67(1) for paragraph (a) of the following paragraph:
“(a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section [4(2),3 or (4),] 22(1) or (2), 27(1), 31(1), 35(1) or (2)(a) or 36(2);”.

#### 14. The repeal of section 68.
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<tr>
<td>(b)</td>
<td>na die omskepping van aandele uitgereik met ‘n nominale waarde of pariwaarde ooreenkomstig die Maatskappywet, die totale getal van daardie aandele, opsigself of tesame met die totale getal van die aandele alreeds deur daardie persoon en verwante partye besit, [25] 15 persent of meer van al die aandele in ‘n bepaalde klas aandele uitgereik deur die betrokke langtermyn-versekeraar sal bedra.”;</td>
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<td>(c)</td>
<td>deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “Die goedkeuring in subartikel (1) of (2) bedoel—”;</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>deur die volgende paragraaf na paragraaf (a) in subartikel (3) in te voeg: “(a) word nie gegee as die persoon nie aan die vereistes vir geskiktheid en gepastheid voldoen nie;”;</td>
<td></td>
</tr>
<tr>
<td>(e)</td>
<td>deur in subartikel (4)(a) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang: “om sodanige aandeelhouer te verplicht om, binne ‘n tydperk deur die Hof bepaal, daardie aandeelhouding te verminder tot ‘n aandeelhouding van hoogstens [25] 15 persent van—”; en</td>
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<tr>
<td>(f)</td>
<td>deur subartikels (5) en (6) te skrap.</td>
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12. Deur in artikel 66(1) paragraaf (a) deur die volgende paragraaf te vervang: “(a) ‘n bepaling van ‘n kennisgewing, lasgewing of versoek in artikel [4(3), (4) of (5)(a)(i), 22(2) of 27(2) bedoel oortree of versuim om daaraan te voldoen;”.

13. Paragraaf (a) in artikel 67(1) word deur die volgende paragraaf vervang: “(a) ‘n bepaling van ‘n kennisgewing, lasgewing of versoek in artikel [4(2), (3) of (4),] 22(1) of (2), 27(1), 31(1), 35(1) of (2)(a) of 36(2) bedoel oortree of versuim om daaraan te voldoen;”.

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<th>Extent of repeal or amendment</th>
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<td>15.</td>
<td>The amendment of Schedule 1 — (a) by the substitution in Item 2(b) for subparagraph (i) of the following subparagraph: &quot;(i) an over-the-counter instrument, it is capable of being readily closed out and is entered into with a counterparty [for which the relevant criteria have been] that complies with criteria approved by the [Registrar] Authority and any [subject to such] conditions as [he or she] the Authority may determine;&quot;; and (b) by the substitution in Item 2(b) for subparagraph (iii) of the following subparagraph: &quot;(iii) any other instrument, it is regularly traded on a licensed stock exchange in the Republic, or on any other financial market in the Republic approved by the [Registrar subject to such conditions as he or she may determine] Authority, which approval may be subject to conditions determined by the Authority.&quot;.</td>
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<td>16.</td>
<td>The amendment of the arrangement of sections— (a) by the insertion after item 1 of the following items: &quot;1A. Relationship between Act and Financial Sector Regulation Act 1B. Regulatory instruments&quot;; and (b) by the substitution for item 2 of the following item: &quot;2. Exercise of powers and performance of duties by Authority&quot;.</td>
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| Act No. 53 of 1998 | Short-term Insurance Act, 1998 | 1. The amendment of section 1— (a) by the insertion in subsection (1) after the definition of “approved reinsurance policy” of the following definition: ‘Authority’ means— (a) in the case of sections 7, 9 to 17, 19 to 20, 22 to 34, 36 to 42, 56 and 59 to 62, the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act; (b) in the case of sections 8, 43 to 55, the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act; and |
15. Bylae 1 word gewysig—
(a) deur in Item 2(b) subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) ’n oor-die-toonbank instrument, dit in staat is om geredelik gerealiseer te word en dit afgesluit word met ’n teenparty [vir wie die betrokke keuringsmaatstawwe wat voldoen aan maatstawwe goedgekeur is] deur die Registrateur behoudens die Owerheid en enige voorwaardes wat [by of sy] die Owerheid bepaal;”

(b) deur in Item 2(b) subparagraaf (iii) deur die volgende subparagraaf te vervang:

"(iii) enige ander instrument, dit gereeld op ’n gelisensieerde aandelebeurs in die Republiek, of op enige ander finansiële mark in die Republiek deur die Registrateur behoudens die voorwaardes wat hy of sy bepaal, welke goedkeuring onderhewig kan wees aan voorwaardes deur die Owerheid bepaal, verhandel word.".

16. Wysiging van die indeling van artikels—
(a) deur die volgende items na item 1 in te voeg:

"1A. Verhouding tussen Wet en ‘Financial Sector Regulation Act’
1B. Reguleringsinstrumente’’; en
(b) deur item 2 deur die volgende item te vervang:

"2. Uitoefening van bevoegdhede en verrigting van pligte deur Owerheid’’.

Wet No. 53 van 1998
Korttermyn-versekeringswet, 1998

1. Artikel 1 word gewysig—
(a) deur in subartikel (1) die volgende omskrywing na die omskrywing van “filiaal” in te voeg:

“‘Financial Sector Regulation Act’"’;
(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van “garansiepolis” in te voeg:

“‘gedragstandaard’ dit wat ingevolge die ‘Financial Sector Regulation Act’ aan ‘conduct standard’ toegeskryf is;’’;

"by of sy"; en
Act No. and year | Short Title | Extent of repeal or amendment
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| | | 
| | | (c) in the case of sections 3, 4, 18, 21, 35, 57, 58 and 63, either the Prudential Authority or the Financial Sector Conduct Authority, subject to consultation and co-ordination requirements set out in the Financial Sector Regulation Act;”;
| | | (b) by the deletion in subsection (1) of the definition of “Board”;
| | | (c) by the insertion in subsection (1) after the definition of “company” of the following definition:
| | | “‘conductor standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| | | (d) by the deletion in subsection (1) of the definition of “Board”;
| | | (c) by the insertion in subsection (1) after the definition of “company” of the following definition:
| | | “‘conductor standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| | | (e) by the insertion in subsection (1) after the definition of “published standard” of the following definition:
| | | “‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;
| | | (b) by the insertion in subsection (1) after the definition of “proportion” of the following definition:
| | | “‘proportion standard’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
| | | (c) by the deletion in subsection (1) of the definition of “Registrar”;
| | | (d) by the insertion in subsection (1) after the definition of “prescribe” of the following definition:
| | | “‘Registrar’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
| | | (e) by the deletion in subsection (1) of the definition of “Registrar”;
| | | (f) by the deletion in subsection (1) of the definition of “Board”;
| | | (g) by the insertion in subsection (1) after the definition of “company” of the following definition:
| | | “‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| | | (h) by the insertion in subsection (1) after the definition of “prescribe” of the following definition:
| | | “‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
| | | (i) by the deletion in subsection (1) of the definition of “Registrar”;
| | | (j) by the deletion in subsection (1) of the definition of “Registrar”;
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<td></td>
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<td>(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van “gemengde polis” in te voeg: &quot;‘gesamentlike standaard’ dit wat in artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf word;&quot;;</td>
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<td>(d) deur in subartikel (1) die volgende omskrywing na die omskrywing van “ouditeur” in te voeg: &quot;‘Owerheid’—</td>
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<td>(a) in die geval van artikels 7, 9 tot 17, 19 tot 20, 22 tot 34, 36 tot 42, 56 en 59 tot 62, die Voorsorgowerheid ingestel ingevolge artikel 32 van die ‘Financial Sector Regulation Act’;</td>
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<td>(b) in die geval van artikels 8, 43 tot 55, die Gedragsowerheid vir die Finansiële Sektor ingestel ingevolge artikel 56 van die ‘Financial Sector Regulation Act’; en</td>
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<td>(c) in die geval van artikels 3, 4, 18, 21, 35, 57, 58 en 63, of die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, behouens vereistes vir oorleg en koördinering in die “Financial Sector Regulation Act” uiteengesit;&quot;;</td>
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<td>(e) deur in subartikel (1) die omskrywing van “Raad” te skrap;</td>
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<td>(f) deur in subartikel (1) na die omskrywing van “Raad” die volgende omskrywing in te voeg: &quot;‘Register’ die Inligtingsregister vir die Finansiële Sektor in artikel 256 van die ‘Financial Sector Regulation Act’ bedoel;&quot;;</td>
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<td>(g) deur in subartikel (1) die omskrywing van “Registrateur” te skrap;</td>
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<td>(h) deur in subartikel (1) na die omskrywing van “statutêre aktuaris” die volgende omskrywing in te voeg: &quot;‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;&quot;; en</td>
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<td>(i) deur in subartikel (1) die omskrywing van “voorskryf” te skrap;</td>
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<td>(j) deur in subartikel (1) na die omskrywing van “voorskryf” die volgende omskrywing in te voeg: &quot;‘voorsorgstandaard’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘prudential standard’ toegeskryf is;&quot;;</td>
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|  |  | (k) by the insertion in subsection (1) after the definition of “transportation policy” of the following definition:  
“**Tribunal**” means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act; and |

|  |  | (l) by the addition of the following subsection:  
“(3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.” |

2. The insertion after section 1 of the following sections: **“Relationship between Act and Financial Sector Regulation Act”**

**1A.** (1) A reference in this Act to the Registrar (but not to the Registrar of Medical Schemes) or a reference to the Board, must be read as a reference to the Authority.

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly otherwise provided in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(5) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.
### Verhouding tussen Wet en ‘Financial Sector Regulation Act’

1A. (1) ’n Verwysing in hierdie Wet na die Registrateur (maar nie na die Registrateur van Mediese Skemas nie) of ’n verwysing na die Raad, moet gelees word as ’n verwysing na die Owerheid.

(2) Behalwe waar anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(3) ’n Verwysing in hierdie Wet na die Owerheid wat ’n aangeleentheid, by kennisgewing in die *Staatskoerant* bepaal of publiseer, moet gelees word dat dit ’n verwysing insluit na die Owerheid wat die aangeleentheid, by kennisgewing in die Register gepubliseer, bepaal of publiseer.

(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid by regulasie voorgeskryf word, moet ’n verwysing in hierdie Wet na ’n aangeleentheid—

(a) wat voorgeskryf word, gelees word as ’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard, gedragstandaard of gesamentlike standaard voorgeskryf word; of

(b) wat bepaal word, gelees word as ’n verwysing daarna dat die Owerheid die aangeleentheid skriftelik bepaal en die bepaling in die Register registreer.

(5) ’n Verwysing in hierdie Wet na ’n ter plaatse besoek ingevolge die bepalings van hierdie Wet, moet gelees word as ’n verwysing na ’n toesigshoudende inspeksie ter plaatse of ’n onderzoek ingevolge die ‘Financial Sector Regulation Act’.
(6) A reference to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.

(7) The reference in sections 3(3) and 21(3) to an appeal to the board of appeal established by section 26 of the Financial Services Board Act must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

(8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.

Regulatory instruments

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument.”.

3. The substitution for section 2 of the following section:

“Exercise of powers and performance of duties by Authority

2. (1) The Authority, in fulfilling its responsibility for implementing this Act, must exercise its powers and perform its duties in terms of this Act subject to the Financial Sector Regulation Act.

(2) The Prudential Authority, in respect of sections 9 to 15, 25 and 36 to 42, must act with the concurrence of the Financial Sector Conduct Authority.

(3) The Prudential Authority or the Financial Sector Conduct Authority, as the case may be, in respect of sections 18, 21 and 57, must act with the concurrence of the other Authority.”.

4. The deletion in section 4 of subsections (2), (4) and (8).

5. The repeal of section 5.
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(6) 'n Verwysing na 'n inspeksie ingevolge 'n bepaling van hierdie Wet moet gelees word as 'n verwysing na 'n ondersoek ingevolge die 'Financial Sector Regulation Act'.
(7) Die verwysing in artikels 3(3) en 21(3) na 'n appel tot die appelraad ingestel by artikel 26 van die Wet op die Raad op Finansiële Dienste, moet gelees word as 'n verwysing na 'n heroorweging van die besluit deur die Tribunaal ingevolge die 'Financial Sector Regulation Act'.
(8) 'n Verwysing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as 'n verwysing na die tersaalklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die 'Financial Sector Regulation Act'.

Reguleringsinstrumente

1B. By die toepassing van die omskrywing van 'reguleringsinstrument' ('regulatory instrument') in artikel 1(1) van die 'Financial Sector Regulation Act', is enige aangeleentheid wat deur die Owerheid voorgeskryf is ten opsigte waarvan kennisgewing in die Staatstekel spesifiek deur hierdie Wet vereis word, 'n reguleringsinstrument.'.

3. Artikel 2 word deur die volgende artikel vervang:

"Uitoefening van bevoegdhede en verrigting van pligte deur Owerheid

2. (1) Die Owerheid, by die vervulling van sy verantwoordelijkheid om hierdie Wet in werking te stel, moet sy bevoegdhede uitoefen en sy pligte verrig ingevolge hierdie Wet behoudens die 'Financial Sector Regulation Act'.
(2) Die Voorsorgowerheid, ten opsigte van artikels 9 tot 15, 25 en 36 tot 42, moet met die instemming van die Gedragsowerheid vir die Finansiële Sektor optree.
(3) Die Voorsorgowerheid of die Gedragsowerheid vir die Finansiële Sektor, na gelang van die geval, ten opsigte van artikels 18, 21 en 37 moet met die instemming van die ander Owerheid optree.'.

4. Subartikels (2), (4) en (8) in artikel 4 word geskrap.

5. Artikel 5 word herroep.
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<td>6. The amendment of section 9—</td>
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<td>(a) by the substitution in subsection (3) for paragraph (b) of the following paragraph:</td>
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<td>&quot;(b) unless the applicant demonstrates to the satisfaction of the Authority that—</td>
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<td>(i) it complies and has taken appropriate measures to continue to comply with the governance and risk management framework and financial soundness requirements of this Act;</td>
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<td>(ii) its directors and managing executives meet the fit and proper requirements; and</td>
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<td>(iii) any persons that directly or indirectly control or own that applicant within the meaning of section 25 meet the fit and proper requirements.&quot;; and</td>
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<td>(b) by the addition in subsection (3) of the following paragraph:</td>
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<td>&quot;(cA) if registration will be contrary to the interests of prospective policyholders or the public interest.&quot;.</td>
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<td>7. The amendment of section 10 by the insertion after paragraph (f) of the following paragraph:</td>
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<td>&quot;(fA) relating to the business arrangements of the short-term insurer, including, but not limited to, the outsourcing arrangements that the short-term insurer may enter into.&quot;.</td>
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<td>8. The amendment of section 11 by the substitution for subsection (1) of the following subsection:</td>
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<td>&quot;(1) The [Registrar] Authority may, by notice to the short-term insurer, amend, delete, replace or impose additional conditions contemplated in section 10, subject to which the short-term insurer is registered or deemed to be registered—</td>
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<td>(a) upon application of a short-term insurer and having regard, with the necessary changes required by the context, to section 9(3)(b);</td>
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<td>6. Artikel 9 word gewysig—</td>
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<td>(a) deur in subartikel (3) paragraaf (b)</td>
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<td>deur die volgende paragraaf te</td>
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<td>“(b) tensy die aansoeker tot</td>
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<td>bevrediging van die Owerheid</td>
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<td>demonstreer dat—</td>
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<td>(i) die aansoeker voldoen aan, en</td>
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<td>gepaste stappe gedoen het om voort te</td>
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<td>gaan om te voldoen aan, hierdie Wet</td>
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<td>se vereistes vir 'n beheer- en risiko-</td>
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<td>bestuurraamwerk en finansiële</td>
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<td>gesondheid;</td>
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<td>(ii) die aansoeker se direkteure en</td>
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<td>uitvoerende bestuurders voldoen aan</td>
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<td>geskiktheid; en</td>
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<td>(iii) enige persone wat daardie</td>
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<td>aansoeker registreers of onregistreers</td>
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<td>beheer of besit binne die betekenis</td>
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<td>(b) deur die volgende paragraaf in</td>
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<td>subartikel (3) by te voeg:</td>
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<td>“(cA) indien registrasie onbestaan-</td>
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<td>baar met die belange van voornemende</td>
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<td>polisihouers of die openbare belang</td>
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<td>sal wees.”.</td>
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<td>7. Artikel 10 word gewysig deur die</td>
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<td>volgende paragraaf na paragraaf (f) in</td>
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<td>“(fA) in verband met die besigheids-</td>
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<td>reëlings van die korttermyn-</td>
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<td>versiekeraar, met inbegrip van, maar</td>
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<td>nie beperk nie tot, die uitbesteding</td>
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<td>sreëlings wat die korttermynversiekeraar kan</td>
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<td>aangaan.”.</td>
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<td>8. Artikel 11 word gewysig deur</td>
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<td>subartikel (1) deur die volgende</td>
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<td>subartikel te vervang:</td>
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<td>“(1) Die [Registrateur] Owerheid</td>
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<td>kan, by kennisgewing aan die korttermynversiekeraar, voorwaardes in artikel 10 beoog, wysig, skrap, vervang of bykomende voorwaardes opld; onderworpe waaraan die korttermynversiekeraar geregistreer is of geag word geregistreer te wees— (a) by aansoek van ‘n korttermynversiekeraar en met inagneming, met die nodige</td>
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</tbody>
</table>
### Act No. and year | Short Title | Extent of repeal or amendment
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(a) | when in the public interest or the interests of the policyholders or potential policyholders of the short-term insurer; 
(b) | when acting in accordance with section 12(2) or (3), or when giving an authorisation in accordance with section 34(2)(a), in relation to a short-term insurer; or 
(c) | if a short-term insurer has ceased to enter into certain short-term policies determined by the Registrar Authority to an extent which no longer justifies its continued registration in respect of those policies, and the short-term insurer has been allowed at least 30 days in which to make representations in respect of the matter, by notice to the short-term insurer vary a condition, subject to which the short-term insurer is registered or deemed to be registered, by amending or deleting it, or determine a new condition contemplated in section 10.

9. The deletion in section 21 of subsection (3).

10. The amendment of section 25—
(a) | by the substitution for subsection (1) of the following subsection:

“(1) Subject to this section, no person shall, directly or indirectly, and without the prior approval of the Registrar Authority, acquire or hold shares or any other financial interest in a short-term insurer or a related party of that short-term insurer which results in that person, directly or indirectly, alone or with a related party, exercising control within the meaning of section 2(2) of the Companies Act over that short-term insurer.”;

(b) | by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

“(a) prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act,
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khotshwane</th>
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</table>
|                           | veranderinge deur die samehang vereis, van artikel 9(3)(b);  
(aA) wanneer dit in die openbare belang of die belange van die polisioeurs of potensiële polisioeurs van die korttermynversekeraar is;  
(b) wanneer ooreenkomstig artikel 12(2) of (3), gehandel word of wanneer magtiging ooreenkomstig artikel 34(2)(a) met betrekking tot 'n korttermynversekeraar, verleen word; of  
(c) indien 'n korttermynversekeraar opgehou het om sekere korttermynpolisse deur die [Registrateur] Owerheid bepaal, af te sluit in die mate wat nie langer sy voortgesette registrasie ten opsigte van daardie polisse regverdig nie, en die korttermynversekeraar minstens 30 dae toegelaat is om vertoë ten opsigte van die aangeleentheid te rig[, by kennisgewing aan die korttermynversekeraar 'n voorwaarde, behoudens waaraan die korttermynversekeraar geregistreer is of geag word geregistreer te wees, verander deur dit te wysig of te skrap, of 'n nuwe voorwaarde in artikel 10 beoog, bepaal].'' |

9. Subartikel (3) in artikel 21 word geskrap.

10. Artikel 25 word gewysig—  
(a) deur subartikel (1) deur die volgende subartikel te vervang:  
"(1) Behoudens hierdie artikel, mag geen persoon, regstreeks of onregstreeks, en sonder die vooraf goedkeuring van die [Registrateur] Owerheid, aandele of enige ander finansiële belang in 'n korttermynversekeraar of verwante party van daardie korttermynversekeraar verkry of hou wat tot gevolg het dat daardie persoon, regstreeks of onregstreeks, alleen of saam met 'n verwante party, beheer binne die betekenis van artikel 2(2) van die Maatskappywet oor daardie korttermynversekeraar uitoefen nie.";  
(b) deur in subartikel (2) paragrawe (a) en (b) deur die volgende paragrawe te vervang:  
"(a) voor die omskakeling van aandele uitgereik met 'n nominale waarde of pariwaarde}
<table>
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<th>Act No. and year</th>
<th>Short Title</th>
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<td>the aggregate nominal value of those shares, by itself or together with the aggregate nominal value of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of the total nominal value of all of the issued shares of the short-term insurer concerned;</td>
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<td>(b) after the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the total number of those shares, by itself or together with the total number of the shares already owned by that person or by that person and related parties, will amount to [25] 15 per cent or more of all the shares in a specific class of shares issued by the short-term insurer concerned.&quot;;</td>
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<td>(c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: &quot;(3) The approval referred to in subsection (1) or (2)—&quot;;</td>
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<td>(d) by the insertion in subsection (3) after paragraph (a) of the following paragraph: &quot; (aA) shall not be given if the person does not meet the fit and proper requirements;&quot;;</td>
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<td>(e) by the substitution in subsection (4)/(6) for the words preceding subparagraph (i) of the following words: &quot; compelling such shareholder to reduce, within a period determined by the Court, that shareholding to a shareholding not exceeding [25] 15 per cent of—&quot;; and</td>
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<td>(f) by the deletion of subsections (5) and (6).</td>
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11. The amendment of section 55 by the deletion of subsections (2)/(f) and (4).

12. The amendment of section 65 by the substitution in subsection (1) for paragraph (a) of the following paragraph: " (a) contravenes or fails to comply with a provision of a notice, directive or request referred to in section [42(2), (3) or (4),] 21(1) or (2), 26(1), 34(2)(a) or 35(2);".
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<th>Nomoro ya Molao le ngwaga</th>
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<td>ooreenkomstig die Maatskappywet, indien die totale nominale waarde van daardie aandele, opsigself of tesame met die totale nominale waarde van die aandele alreeds deur daardie persoon of daardie persoon en verwante partye besit, [25] 15 persent of meer van die totale nominale waarde van al die uitgereikte aandele van die betrokke korttermynversekeraar sal bedra;</td>
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<td>(b) na die omskakeling van aandele met ‘n nominale waarde of pariwaarde uitgereik ooreenkomstig die Maatskappywet, die totale getal van daardie aandele, opsigself of tesame met die aandele wat daardie persoon of daardie persoon en verwante partye reeds besit, meer as [25] 15 persent of meer van al die aandele in ‘n bepaalde klas aandele deur die betrokke korttermynversekeraar uitgereik, sal beloop.”;</td>
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<td>(c) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “(3) Die goedkeuring in subartikel (1) of (2) bedoel—”;</td>
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<td>(d) deur die volgende paragraaf na paragraaf (a) in subartikel (3) in te voeg: “(aA) word nie gegee nie as die persoon nie aan die vereistes vir geskiktheid en gepastheid voldoen nie;”;</td>
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<td>(e) deur in subartikel (4)(a) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang: “(i) om so ‘n aandeelhouer te verplig om, binne ‘n tydperk deur die Hof bepaal, daardie aandeelhouding te verminder tot ‘n aandeelhouding van hoogstens [25] 15 persent van—”;</td>
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<td>(f) deur subartikels (5) en (6) te skrap.</td>
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11. Artikel 55 word gewysig deur subartikels (2)(f) en (4) te skrap.

12. Artikel 65 word gewysig deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: “(a) ’n bepaling van ’n kennisgewing, lasgewing of versoek in artikel
<table>
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<th>Act No. and year</th>
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<tr>
<td>13.</td>
<td></td>
<td>The repeal of section 66.</td>
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<td>14.</td>
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<td>The amendment of Schedule 1 —</td>
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<td>(a) by the substitution in Item 2(b) for sub-paragraph (i) of the following sub-paragraph:</td>
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<td>“(i) an over-the-counter instrument, it is capable of being readily closed out and is entered into with a counterparty that complies with criteria [for which the relevant criteria have been] approved by the [Registrar] Authority and any [subject to such] conditions as [he or she] the Authority may determine;” and</td>
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<td>(b) by the substitution in Item 2(b) for sub-paragraph (iii) of the following sub-paragraph:</td>
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<td>“(iii) any other instrument, it is regularly traded on a licensed stock exchange in the Republic, or on any other financial market in the Republic approved by the [Registrar subject to such] Authority, which approval may be subject to conditions determined by the Authority.”</td>
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<td>15.</td>
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<td>The amendment of Schedule 3 by the substitution in Item 6(3) for paragraph (c) of the following paragraph:</td>
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<td>“(c) subject to the conditions [he or she] that the Authority may determine.”</td>
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<td>16.</td>
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<td>The amendment of the arrangement of sections —</td>
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<td>(a) by the insertion after item 1 of the following items:</td>
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<td>“1A. Relationship between Act and Financial Sector Regulation Act”</td>
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<td>1B. Regulatory instruments”; and</td>
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<td>(b) by the substitution for item 2 of the following item:</td>
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<td>“2. Exercise of powers and performance of duties by Authority”</td>
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<td>Act No. 80 of 1998</td>
<td>Inspection of Financial Institutions Act, 1998</td>
<td>The repeal of the whole Act</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td>14. Bylae 1 word gewysig —</td>
<td>(a) deur in Item 2(b) subparagraaf (i) deur die volgende subparagraaf te vervang:</td>
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<td>“(i) ’n oor-die-toonbank instrument, dit in staat is om geredelik gerealiseer te word en dit afgesluut word met ’n teenparty [vir wie die betrokke keuringsmaatstawwe] wat aan maatstawwe voldoen wat goedgekeur is deur die [Registrateur behoudens die] Owerheid en enige voorwaardes wat [hy of sy] die Owerheid bepaal;” en</td>
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<td>(b) deur in item 2(b) subparagraaf (ii) deur die volgende subparagraaf te vervang:</td>
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<td>“(ii) enige ander instrument, dit gereeld op ’n gelisensieerde aandelebeurs in die Republiek, of op enige ander finansiële mark in die Republiek deur die [Registrateur] Owerheid goedgekeur [behoudens], welke goedkeuring onderhewig is aan [die] voorwaardes wat [hy of sy] die Owerheid bepaal, verhandel word.”.</td>
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<td>15. Bylae 3 word gewysig deur in Item 6(3) paragraaf (c) deur die volgende paragraaf te vervang:</td>
<td>“(c) behoudens die voorwaardes wat [hy of sy] die Owerheid bepaal.”.</td>
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<td>16. Die indeling van artikels word gewysig —</td>
<td>(a) deur die volgende items na item 1 in te voeg:</td>
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<td></td>
<td>“1A. Verhouding tussen Wet en Financial Sector Regulation Act”.</td>
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<td>1B. Reguleringsinstrumente; en”.</td>
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<td>(b) deur item 2 deur die volgende item te vervang:</td>
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<td></td>
<td>“2. Uitoefening van bevoegdhede en verrigting van pligte deur Owerheid”.</td>
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<tr>
<td>Wet No. 80 van 1998</td>
<td>Wet op Inspeksie van Finansiële Instellings, 1998</td>
<td>Die hele Wet word herroep.</td>
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### Act No. and year
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<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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| Act No. 28 of 2001 | Financial Institutions (Protection of Funds) Act, 2001 | 1. The amendment of section 1—  
(a) by the deletion of the definitions of “administrative sanction” and “applicant”;  
(b) by the insertion before the definition of “Companies Act” of the following definition:  
“Authority” means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”  
(c) by the deletion of the definitions of “board”, “determination”, “directorate”, “enforcement committee” and “financial institution”;  
(d) by the insertion after the definition of “financial institution” of the following definition:  
“Financial Sector Regulation Act” means the Financial Sector Regulation Act, 2017;”  
(e) by the substitution for the definition of “institution” of the following definition:  
“institution”, for the purposes of sections 5[4], 6, 9] and 10, means—  
(a) a [financial institution] supervised entity;  
(b) any person, partnership, company or trust in which, or in the business of which, a [financial institution] supervised entity or an unregistered person has or had a direct or indirect interest;  
(c) any person, partnership, company or trust which has or had a direct or indirect interest in a [financial institution] supervised entity or unregistered person, or in the business of a [financial institution] supervised entity or an unregistered person;  
(d) a participating employer in a pension fund organisation;  
(e) any person, partnership, company or trust that controls, manages or administers the affairs or part of the affairs of a [financial institution] supervised entity or an unregistered person; or  
(f) any unregistered person;”;  
(f) by the substitution for the definition of “law” of the following definition:  
“law”, for the purposes of section 5A, means—  
(a) this Act;  
(b) the Pension Funds Act, 1956 (Act No. 24 of 1956);  
(c) the Friendly Societies Act, 1956 (Act No. 25 of 1956);  
(d) the Close Corporations Act, 1984 (Act No. 69 of 1984);
Molao wa Taolo ya Lephata la Ditshelte , 2017

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| Wet No. 28 van 2001       | Wet op Finansiële Instellings (Beskerming van Fondse), 2001 | 1. Artikel 1 word gewysig—
   (a) deur die omskrywings van “aansoeker”, “administratiewe sanksie” en “afdwingingskomitee” te skrap;
   (b) deur die omskrywings van “direktoraat” en “finansiële instelling” te skrap;
   (c) deur die volgende omskrywing na die omskrywing van “finansiële instelling” in te voeg:
      "‘Financial Sector Regulation Act’ die ‘Financial Sector Regulation Act’, 2017;";
   (d) deur die omskrywing van “instelling” deur die volgende omskrywing te vervang:
      "‘instelling’ by die toepassing van artikel 5, 6, 9 en 10—
   (e) ’n [finansiële instelling] entiteit onder toegis;
   (f) enige persoon, vennootskap, maatskappy of trust waarin, of in die besigheid waarvan, ’n [finansiële instelling] entiteit onder toegis of ’n ongeregistreerde persoon ’n regstreekse of onregstreekse belang het of gehad het;
   (g) enige persoon, vennootskap, maatskappy of trust wat ’n regstreekse of onregstreekse belang in ’n [finansiële instelling] entiteit onder toegis of ongeregistreerde persoon, of in die besigheid van ’n [finansiële instelling] entiteit onder toegis of ongeregistreerde persoon het of gehad het;
   (h) ’n deelnemende werkgewer in ’n pensioenfondsorganisasie;
   (i) enige persoon, vennootskap, maatskappy of trust wat die sake of deel van die sake van ’n [finansiële instelling] entiteit onder toegis of ’n ongeregistreerde persoon beheer, bestuur of administreer;
   (j) enige ongeregistreerde persoon;”;
   (k) deur die volgende omskrywing voor die omskrywing van “persoon” in te voeg:
      "‘Owerheid’ die Gedragsowerheid vir die Finansiële Sektor, ingestel ingeval artikel 56 van die ‘Financial Sector Regulation Act’;”;
   (l) deur die omskrywing van “registrateur” deur die volgende omskrywing te vervang:
      "‘registrateur’—
   (a) [die registrateur soos omskryf in enige van die Wette vermeld in paragraaf (a) van die..."
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<th>Act No. and year</th>
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<tr>
<td>(e)</td>
<td>the Trust Property Control Act, 1988 (Act No. 57 of 1988);</td>
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<td>(f)</td>
<td>the Banks Act, 1990 (Act No. 94 of 1990);</td>
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<td>(g)</td>
<td>the Mutual Banks Act, 1993 (Act No. 124 of 1993);</td>
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<td>(h)</td>
<td>the Long-term Insurance Act, 1998 (Act No. 52 of 1998);</td>
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<td>(i)</td>
<td>the Short-term Insurance Act, 1998 (Act No. 53 of 1998);</td>
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<td>(j)</td>
<td>the Medical Schemes Act, 1998 (Act No. 131 of 1998);</td>
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<td>(k)</td>
<td>the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);</td>
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<td>the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002);</td>
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<td>the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);</td>
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<td>the Co-operative Banks Act, 2007 (Act No. 40 of 2007);</td>
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<td>(o)</td>
<td>the Companies Act, 2008 (Act No. 71 of 2008);</td>
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<td>(p)</td>
<td>the Financial Markets Act, 2012 (Act No. 19 of 2012);</td>
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<td>(q)</td>
<td>the Credit Rating Services Act, 2012 (Act No. 24 of 2012);</td>
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<td>including any subordinate legislation, enactment or regulatory instrument made under these Acts;</td>
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<td>(g)</td>
<td>by the substitution for the definition of “registrar” of the following definition:</td>
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<td>“‘registrar’ means—</td>
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<td>(a) the Authority [the registrar as defined in any of the Acts referred to in paragraph (a) of the definition of “financial institution” in section 1 of the Financial Services Board Act, 1990;</td>
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<td>(b) the executive officer defined in section 1 of the Financial Services Board Act, 1990;] or</td>
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<td>[(e) (b) [except for the purposes of sections 6A to 6L] the registrar of medical schemes referred to in section 1 of the Medical Schemes Act, 1998;’’;</td>
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<td>(h)</td>
<td>by the deletion of the definition of “respondent”; and</td>
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<td>(i)</td>
<td>by the addition in section 1 of the following subsection, the existing section becoming subsection (1):</td>
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<td></td>
<td>“(2) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”</td>
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<td>Nomoro ya Molo le ngwaga</td>
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<td>omskrywing van ‘finansiële instelling’ in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990; die uitvoerende beampte omskryf in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990] die Overheid; of</td>
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</table>
| (b)                      |                         | [behalwe vir die doeleindes van artikel 6A tot 6I] die registrateur van mediese skemas bedoel in artikel 1 van die Wet op Mediese Skemas, 1998;”;
| (c)                      |                         | (b)
| (m)                      |                         | deur die omskrywing van “raad”, “respondent” en “vasstelling” te skrap; en |
| (n)                      |                         | deur die omskrywing van “wet” deur die volgende omskrywing te vervang: “wet” by die toepassing van artikel 5A—

- (a) hierdie Wet;
- (b) die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956);
- (c) die Wet op Onderlinge Hulpverenigings, 1956 (Wet No. 25 van 1956);
- (d) die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984);
- (e) die Wet op die Beheer oor Trustgoed, 1988 (Wet No. 57 van 1988);
- (f) die Bankwet, 1990 (Wet No. 94 van 1990);
- (g) die Wet op Onderlinge Banke, 1993 (Wet No. 124 van 1993);
- (h) die Langertermynversekeringswet, 1998 (Wet No. 52 van 1998);
- (i) die Korttermynversekeringswet, 1998 (Wet No. 53 van 1998);
- (j) die Wet op Mediese Skemas, 1998 (Wet No. 131 van 1998);
- (k) die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001);
- (l) Wet op Finansiële Advies- en Tussengangersdienste, 2002 (Wet No. 37 van 2002);
- (m) Wet op Beheer van Kollektiewe Beleggingskemas, 2002 (Wet No. 45 van 2002);
- (n) die ’Co-operative Banks Act’, 2007 (Wet No. 40 van 2007);
- (o) die Maatskappywet, 2008 (Wet No. 71 van 2008);
- (p) die ’Financial Markets Act’, 2012 (Wet No. 19 van 2012); en
- (q) die ’Credit Rating Services Act’, 2012 (Wet No. 24 van 2012);
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<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<tbody>
<tr>
<td>Act No. 9 of 2017</td>
<td>Financial Sector Regulation Act, 2017</td>
<td>2. The repeal of section 4A.</td>
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</tbody>
</table>
|                 |                                   | 3. The amendment of section 5—  
  (a) by the substitution in subsection (5) for paragraph (e) of the following paragraph:  
  ‘‘(e) the costs incurred by the registrar in respect of an inspection of the affairs of the institution [concerned] that was conducted in terms of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998) prior to its repeal, or a supervisory on-site inspection or investigation in terms of the Financial Sector Regulation Act;’’; and  
  (b) by the substitution for subsection (7) of the following subsection:  
  ‘‘(7) The curator of an institution must furnish the registrar [of the institution concerned] with such reports or information concerning the affairs of that institution as the registrar may require.’’.  
  4. The repeal of sections 6, 6A to 6I, 7, 9 and 9A. |
| Act No. 38 of 2001 | Financial Intelligence Centre Act, 2001 | 1. The substitution in section 45E for subsections (2) and (3) of the following subsections:  
  ‘‘(2) The members of the Financial Sector Tribunal established in terms of section 219 of the Financial Sector Regulation Act, 2017, and appointed in terms of section 220 of that Act, are the members of the appeal board.  
  (3) Proceedings before the appeal board are to be conducted and determined in accordance with this Act.’’  
  2. The deletion of section 45E(4) to (11) and (13). |
### Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo
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Wet No. 38 van 2001 | Wet op Finansiële Intelligenście-sentrum, 2001 | ook enige onderrigklike wetgewing, verordening of maatreël gemaak kragtens hierdie Wette;“;
(a) deur die volgende subartikel by die artikel te voeg, sodat die bestaande artikel subartikel (1) word:
“(2) Tensy die samehang anders aandui, het woorde en uitdrukkings wat nie in subartikel (1) omskryf is nie, die betekenis wat in die “Financial Sector Regulation Act” daaran toegeskryf is.”.

2. Artikel 4A word herroep.

3. Artikel 5 word gewysig—
(a) deur paragraaf (e) in subartikel (5) deur die volgende paragraaf te vervang:
“(e) die koste opgeloop deur die registrateur met betrekking tot ’n inspeksie van die sake van die [betrokke] instelling gedaan ingevolge die Wet op Inspeksie van Finansiële Instellings, 1998 (Wet No. 80 van 1998), voor die herroeping daarvan, of ’n toesighoudende ter plaatse inspeksie of ondersoek ingevolge die “Financial Sector Regulation Act”;” en
(b) deur subartikel (7) deur die volgende subartikel te vervang:
“(7) Die kurator van ’n instelling moet aan die betrokke registrateur die [verslae of] inligting verskaf betreffende die sake van die instelling wat die registrateur vereis.”.

4. Artikels 6, 6A tot 6I, 7, 9 en 9A word herroep.

1. Artikel 45E(2) en (3) word onderskeidelik deur die volgende subartikels vervang:
“(2) Die lede van die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’, 2017, en aangestel ingevolge artikel 220 van daardie Wet, is die lede van die appelraad.
(3) Verrigtinge voor die appelraad moet ooreenkomstig hierdie Wet gehou en beslis word.”.

2. Artikels 45E(4) tot (11) en (13) word geskrap.
Act No. and year | Short Title | Extent of repeal or amendment
--- | --- | ---
Act No. 37 of 2002 | Financial Advisory and Intermediary Services Act, 2002 | 1. The amendment of section 1—
(a) by the insertion in subsection (1) after the definition of “advice” of the following definition:
“alternative investment fund” means a collective investment undertaking, including investment compartments of a collective investment undertaking, constituted in any legal form, including in terms of a contract, by means of a trust, or in terms of statute, which—
(a) raises capital from one or more investors to facilitate the participation or interest in, subscription, contribution or commitment to, a fund or portfolio, with a view to investing it in accordance with a defined investment policy for the benefit of the investors; and
(b) does not require approval as a collective investment scheme in terms of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);”;
(b) by the insertion in subsection (1) after the definition of “authorised financial services provider” of the following definition:
“Authority” means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;
(c) by the deletion in subsection (1) of the definitions of “Board” and “board of appeal”;
(d) by the insertion before the definition of “client” of the following definition:
“conduct standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act, 2017;”;
(e) by the insertion after the definition of “financial product” of the following definition:
“Financial Sector Regulation Act” means the Financial Sector Regulation Act, 2017;
(f) by the deletion in subsection (1) of the definition of “Financial Services Board Act”;
(g) by the insertion in subsection (1) in the definition of “financial product” after paragraph (g) of the following paragraph:
“(gA) an investment, subscription, contribution, or commitment in an alternative investment fund;”;

1. Artikel 1 word gewysig—
(a) deur in subartikel (1) die volgende omskrywing vir die omskrywing van "dokument" in te voeg:
   "alternatiewe beleggingsfonds" is 'n kollektiewe beleggingsonderneming met inbegrip van beleggingskompartemente van 'n kollektiewe beleggingsonderneming, in enige regmatige vorm daargestel, ook ingevolge 'n kontrak, by wyse van 'n trust, of ingevolge 'n statuut, wat—
   (a) Kapitaal van een of meer belegger verkry om die deelname of belang in, intekening tot, bydrae tot of verbintenis tot 'n fonds of portefeuile te vergemaklik met die oog daarop om dit ooreenkomstig 'n omskrywe beleggingsbeleid tot voordeel van die beleggers te belê; en
   (b) vereis nie goedkeuring as 'n kollektiewe beleggingskema ingevolge die Wet op Beheer van Kollektiewe Beleggingseskemas, 2002 (Wet No. 45 van 2002), nie;"
(b) deur in subartikel (1) die omskrywings van "amptelike webwerf" en "appèlraad" te skrap;
(c) deur in subartikel (1) die volgende omskrywing na die omskrywing van "dokument" in te voeg:
   "Financial Sector Regulation Act" is 'n regulatoriese wetskema wat van toepassing is op 'n beleggingsfonds wat deur 'n finansiële instelling beheer word; en die regterlike wette wat daarby verwys word; en
   (d) deur in subartikel (1) die volgende paragraaf na paragraaf (g) in die omskrywing van "finansiële produk" in te voeg:
       "(gA) 'n belegging, intekening, bydrae, of verbintenis in 'n saamgepotte fonds;"
(e) deur in subartikel (1) in die omskrywing van "finansiële produk" paragraaf (j) deur die volgende paragraaf te vervang:
       "(j) enige finansiële produk uitgereik deur enige buitelandse produkverskaffer [en bemark in die Republiek] en wat na aard en karakter wesenslik soortgelyk is aan of ooreenstemmend is met 'n finansiële produk bedoel in paragrawe (a) tot en met (i)];"
### Extent of repeal or amendment

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<th>Act No. and year</th>
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<td>(b)</td>
<td>by the substitution in subsection (1) in the definition of “financial product” for paragraph (j) of the following paragraph:</td>
<td>“(j) any financial product issued by any foreign product supplier [and marketed in the Republic] and which in nature and character is essentially similar or corresponding to a financial product referred to in paragraph (a) to (i), inclusive;”</td>
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<td>(i)</td>
<td>by the substitution in subsection (1) for the definition of “fit and proper requirements” of the following definition:</td>
<td>“fit and proper requirements” means the requirements [published under] referred to in section 6A;”</td>
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<td>(j)</td>
<td>by the substitution in subsection (1) for the definition of “intermediary service” of the following definition:</td>
<td>“intermediary service” means, subject to subsection (3)(b), any act other than the furnishing of advice, performed by a person [for or on behalf of a client or product supplier]—</td>
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<td>(a)</td>
<td>the result of which is that a client may enter into, offers to enter into or enters into any transaction in respect of a financial product [with a product supplier]; or</td>
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<td></td>
<td>(b)</td>
<td>with a view to—</td>
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<td>(i)</td>
<td>buying, selling or otherwise dealing in (whether on a discretionary or non-discretionary basis), managing, administering, keeping in safe custody, maintaining or servicing a financial product [purchased by a client from a product supplier or in which the client has invested];</td>
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<td>(ii)</td>
<td>collecting or accounting for premiums or other moneys payable by the client [to a product supplier] in respect of a financial product; or</td>
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<td>(iii)</td>
<td>receiving, submitting [or], processing or settling the claims of a client [against a product supplier] in respect of a financial product;”</td>
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(f) | deur in subartikel (1) die volgende omskrywing na die omskrywing van "gedragskode" in te voeg; "‘gedragstandaard’ dit wat in artikel 1(1) van die ‘Financial Sector Regulation Act’, aan ‘conduct standard’ toegeskryf is;’’;
(g) | deur in subartikel (1) die volgende omskrywing na die omskrywing van "gematigde verskaffer van finansiële dienste" die volgende omskrywing in te voeg: "‘gesamentlike standaard’ het die betekenis ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf;’’;
(h) | deur in subartikel (1) die volgende omskrywing na die omskrywing van “Ombud” in te voeg: "‘Ombudsraad’ die raad ingevolge artikel 175 van die ‘Financial Sector Regulation Act’ ingestel;’’;
(i) | deur in subartikel (1) na die omskrywing van “ouditeur” die volgende omskrywing in te voeg: "‘Owerheid’ die Gedragsraad op die Finansiële Sektor ingestel ingevolge artikel 56 van die ‘Financial Sector Regulation Act’;’’;
(j) | deur in subartikel (1) die omskrywing van “Raad” te skrap;
(k) | deur in subartikel (1) die volgende omskrywing na die omskrywing van “reël” in te voeg: "‘Register’ die Inligtingsregister op die Finansiële Sektor in artikel 256 van die ‘Financial Sector Regulation Act’ bedoel;’’;
(l) | deur in subartikel (1) die omskrywing van “registrateur” te skrap;
(m) | deur in subartikel (1) na die omskrywing van “sleutelpersoon” die volgende omskrywing in te voeg: "‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingestel ingevolge artikel 219 van die ‘Financial Sector Regulation Act’;’’;
(n) | deur in subartikel (1) die omskrywing van “tussengangersdiens” deur die volgende omskrywing te vervang: "‘tussengangersdiens’ behoudens subartikel (3)(b), enige ander handeling as die verskaffing van advies, verryg deur ‘n persoon [vir of namens ‘n kliënt of produkvoorsiener]—
(a) waarvan die gevolg is dat ‘n kliënt enige transaksie ten opsigte van ‘n finansiële produk [met ‘n produkvoorsiener] kan
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<td>(k) by the insertion in subsection (1) after the definition of “intermediary service” of the following definition: “joint standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;</td>
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<td>(l) by the deletion in subsection (1) of the definition of “official web site”;</td>
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<td>(m) by the insertion in subsection (1) after the definition of “Ombud” of the following definition: “Ombud Council” means the council established in terms of section 175 of the Financial Sector Regulation Act;</td>
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<td>(n) by the insertion after the definition of “product supplier” of the following definition: “prudential standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;</td>
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<td>(o) by the insertion in subsection (1) after the definition of “publish” of the following definition: “Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;</td>
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<td>(p) by the deletion in subsection (1) of the definition of “registrar”;</td>
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<td>(q) by the insertion in subsection (1) after definition of “this Act” of the following definition: “Tribunal” means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;</td>
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<td>(r) by the deletion of subsection (3)(b)(ii); and</td>
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<td>(s) by the addition of the following subsection: “(7) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td>aangaan, aanbied om dit aan te gaan of dit aangaan; of</td>
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<td>(b)</td>
<td>(i)</td>
<td>met die oog daarop om—</td>
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<td>(ii)</td>
<td>‘n finansiële produk</td>
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<td>[gekoop deur ‘n kliënt van ‘n produkvoorsiener of waarin die kliënt belê het,] te koop, te verkoop of andersins daarin te handel (hetsy op ‘n diskresionêre of nie-diskresionêre basis), te bestuur, te administrer, in veilige bewaring te hou, in stand te hou of te diens;</td>
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<td>(iii)</td>
<td>premies of ander gelde betaalbaar deur die kliënt [aan ‘n produkvoorsiener] ten opsigte van ‘n finansiële produk in te vorder of daarvoor rekenpligtigheid te aanvaar; of</td>
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<td>die eise van ‘n kliënt [teen ‘n produkvoorsiener] ten opsigte van ‘n finansiële produk te ontvang, in te dien [of], te prosesseer of te skik;’’;</td>
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<td>(o)</td>
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<td>deur in subartikel (1) die omskrywing van “vereistes vir geskiktheid en gepastheid” deur die volgende omskrywing te vervang:</td>
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<td>‘‘vereistes vir geskiktheid en gepastheid’’ die vereistes in artikel 6A [gepubliseer] bedoel;’’;</td>
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<td>(p)</td>
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<td>deur in subartikel (1) na die omskrywing van “voorskrif” die volgende omskrywing in te voeg:</td>
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<td>‘‘voorsorgstandaard’’ dit wat ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’, 2016, aan “prudential standard” toegeskryf is;’’;</td>
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<td>(q)</td>
<td></td>
<td>deur in subartikel (1) die omskrywing van “Wet op die Raad op Finansiële Dienste” te skrap;</td>
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<td>(r)</td>
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<td>deur subartikel (3)/b(ii) te skrap; en</td>
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<tr>
<td>(s)</td>
<td></td>
<td>deur die volgende subartikel by te voeg:</td>
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|                           |                             | “(7) Tensy die samehang anders aandui, het woorde en uitdrukking wat nie in subartikel (1) omskryf is nie, die betekens wat in die ‘Financial Sector Regulation Act’ daaraan toegeskryf is.’’.
### Extent of repeal or amendment

2. The insertion after section 1 before Chapter 1 of the following sections:

"Relationship between Act and Financial Sector Regulation Act"

1A. (1) A reference in this Act to the Board or the registrar must be read as a reference to the Authority.

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly otherwise provided in this Act, or this Act requires a matter to be prescribed, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(5) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.

(6) A reference in this Act to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.

(7) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.

(b) The Authority may also publish the information or document on its web site.
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<tr>
<td>2.</td>
<td>Die volgende artikel word na artikel 1 voor Hoofstuk 1 ingevoeg:</td>
<td>&quot;Verhouding tussen Wet en ‘Financial Sector Regulation Act’&quot;</td>
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<td></td>
<td>&quot;Verhouding tussen Wet en ‘Financial Sector Regulation Act’&quot;</td>
<td>1A. (1) ’n Verwyssing in hierdie Wet na die Raad of die registrateur moet as ’n verwysing na die Owerheid gelees word.</td>
</tr>
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<td></td>
<td>(2) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.</td>
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<td>(3) ’n Verwyssing in hierdie Wet na die Owerheid wat ’n aangeleentheid by kennisgewing in die Staatskoerant bepaal of publiseer, moet gelees word dat dit ’n verwyssing insluif na die Owerheid wat die aangeleentheid by kennisgewing in die Register gepubliseer, bepaal of publiseer.</td>
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<td>(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid voorgeskryf word, moet ’n verwyssing in hierdie Wet na ’n aangeleentheid wat—</td>
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<td>(a) voorgeskryf word, gelees word as ’n verwyssing daarna dat die aangeleentheid in ’n voorsorgstandaard, ’n gedragstandaard of ’n gesamentlike standaard voorgeskryf word; of</td>
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<td>(b) bepaal word, gelees word as ’n verwyssing daarna dat die Owerheid die aangeleentheid skriflik bepaal en die bepaling in die Register registreer.</td>
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<td>(5) ’n Verwyssing in hierdie Wet na ’n ter plaatse besoek ingevolge ’n bepaling van hierdie Wet, moet gelees word as ’n verwyssing na ’n toesighoudende ter plaatse inspeksie ingevolge die ‘Financial Sector Regulation Act’.</td>
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<td>(6) ’n Verwyssing in hierdie Wet na ’n inspeksie ingevolge ’n bepaling van hierdie Wet moet gelees word as ’n verwyssing na die Owerheid wat ondersoek ingevolge die ‘Financial Sector Regulation Act’.</td>
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<td>(7) (a) ’n Verwyssing in hierdie Wet na die Owerheid wat inligting of ’n dokument op ’n webwerf aankondig of publiseer, moet gelees word as ’n verwyssing na die Owerheid wat die inligting of dokument in die Register publiseer.</td>
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<td>(b) Die Owerheid kan ook die inligting of dokument op sy webwerf publiseer.</td>
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Act No. and year | Short Title | Extent of repeal or amendment
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| | | (8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.
| | | (9) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

Regulatory instruments

1B. For the purposes of the definition of “regulatory instrument” in section 1 of the Financial Sector Regulation Act, fit and proper requirements determined in terms of section 6A, codes of conduct drafted under section 15 and criteria and guidelines for the approval of compliance officers determined under section 17(2) are regulatory instruments.”.

3. The repeal of section 2.

4. The substitution in section 3(2)(b) for subparagraph (i) of the following subparagraph:
   “(i) the fee payable [in terms of this Act]; and”.

5. The deletion in section 4 of subsections (1), (5) and (6).

6. The substitution for section 6 of the following section:

“Delegations

6. (1) The Authority may, in writing, delegate to any person a power or duty conferred upon the Authority under this Act in respect of any matter relating to a conduct standard referred to in section 6A(2)(a), (b) and (e).

(2) The Authority must, where the delegation is to a person other than a staff member of the Authority, be satisfied that the person has sufficient financial, management, human resources and experience necessary for performing the delegated power or duty.

(3) A delegation is subject to the limitations and conditions specified in the delegation.”
Reguleringsinstrumente

1B. By die toepassing van die omskrywing van 'reguleringsinstrument' ('regulatory instrument') in artikel 1 van die 'Financial Sector Regulation Act', is vereistes vir geskiktheid en gepastheid ingevolge artikel 6A bepaal, gedragskodes kragtens artikel 15 opgestel en maatstawwe en riglyne vir die goedkeuring van voldoeningsbeamptes kragtens artikel 17(2) bepaal, reguleringsinstrumente.

3. Artikel 2 word herroep.

4. Subparagraaf (i) in artikel 3(2)(b) word deur die volgende subparagraaf vervang:

"(i) die gelde betaalbaar [ingevolge hierdie Wet]; en".

5. Subartikels (1), (5) en (6) word uit artikel 4 geskrap.

6. Artikel 6 word deur die volgende artikel vervang:

"Delegerings

6. (1) Die Owerheid kan 'n bevoegdheid of plig ten opsigte van enige aangeleentheid in verband met 'n gedragstandaard in artikel 6A(2)(a), (b) en (e) bedoel, kragtens hierdie Wet aan die Owerheid opgelê, aan enige persoon deleger.

(2) Die Owerheid moet, waar die delegering is aan 'n persoon behalwe 'n personeel lid van die Owerheid, tevredewees dat die persoon die nodige finansies, bestuurskapsiteit, menschulpbronne en ervaring het vir die verrigting van die gedelegeerde bevoegdheid of plig.

(3) 'n Delegering is onderhewig aan die beperkings en voorwaardes in die delegering vermeld."
## Act No. 9 of 2017

### Financial Sector Regulation Act, 2017

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<td>(4) A delegation does not divest the Authority of responsibility in respect of the delegated power or duty and anything done by a delegate in accordance with a delegation is deemed to be done by the Authority.</td>
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<td>(5) A delegation made under this section may be amended or revoked in writing at any time, but an amendment or revocation does not affect any rights or liabilities accrued because of the acts of the delegate.</td>
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<td>7. The amendment of section 6A— (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: “[The registrar, for purposes of this Act, by notice in the Gazette—] A conduct standard may be made on any of the following matters:”; and (b) by the insertion after paragraph (a) of the following paragraph: “(aA) may classify representatives into different categories; and”</td>
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|                  |             | 8. The amendment of section 8 by the substitution for subsections (1) and (1A) of the following subsections: “(1) An application for an authorisation referred to in section 7(1), including an application by an applicant not domiciled in the Republic, must be submitted to the [registrar] Authority in the form and manner determined by the [registrar] Authority by notice on the [official] Authority’s web site, and be accompanied by information to satisfy the [registrar] Authority that the applicant complies with the fit and proper requirements [determined for financial services providers or categories of providers, determined by the registrar by notice in the Gazette, in respect of— (a) personal character qualities of honesty and integrity; (b) competence; (bA) operational ability; and (c) financial soundness].
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<td>(4) 'n Delegering ontdoen nie die Owerheid van verantwoordelikheid ten opsigte van die gedelegeerde bevoegdheid of plig nie en enigiets wat ooreenkomstig 'n delegering deur 'n gedelegeerde gedoen is, word geag deur die Owerheid gedoen te wees.</td>
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<td>(5) 'n Delegering kragtens hierdie artikel gemaak kan te eniger tyd skriflik gewysig of ingetrek word, maar 'n wysiging of intrekking raak nie enige regte of aanspreeklikhede toegeval weens die gedelegeerde se handelinge nie'.''.</td>
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<td>7. Artikel 6A word gewysig— (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: ''[Die registrateur, by die toepassing van hierdie Wet, by kennisgewing in die Staatskoerant—] 'n Gedragstandaard kan oor enige van die volgende aangeleenthede gemaak word'.''; en (b) deur die volgende paragraaf na paragraaf (a) in te voeg: ''(aA) kan verteenwoordigers in verschillende kategorieë classifiseer; en''.</td>
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| 8. Artikel 8 word gewysig deur subartikels (1) en (1A) deur die volgende subartikels te vervang: ''(1) 'n Aansoek om 'n magtiging bedoel in artikel 7(1), met inbegrip van 'n aansoek deur 'n aansoeker wat nie in die Republiek gedomisilieer is nie, moet aan die [registrateur] Owerheid voorgelê word in die vorm en op die wyse deur die [registrateur] Owerheid by kennisgewing op die amptelike webwerf bepaal, en vergesel gaan van die inligting om die [registrateur] Owerheid tevrede te stel dat die aansoeker voldoen aan die vereistes vir geskiktheid en gepastheid [vir verskaffers van finansiële dienste of kategorieë verskaffers, deur die registrateur by kennisgewing in die Staatskoerant bepaal, ten opsigte van— (a) persoonlike karaktereisingskappe van eerlikheid en integriteit; (b) bekwaamheid; (bA) bedryfsvermoë; en (c) finansiële gesondheid].}
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<td>(1A)</td>
<td>If the applicant is a partnership, trust or corporate or unincorporated body, [the requirements in paragraphs (a) and (b) of subsection (1) do not apply to the applicant, but in such a case] the application must be accompanied by additional information to satisfy the [registrar] Authority that every person who acts as a key individual of the applicant complies with the fit and proper requirements for key individuals in the category of financial services providers applied for, in respect of— (a) personal character qualities of honesty and integrity; (b) competence; and (c) operational ability], to the extent required in order for such key individual to fulfill the responsibilities imposed by this Act.”.</td>
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<td>9.</td>
<td>The amendment of section 9(1)— (a) by the substitution for paragraphs (c) and (d) of the following paragraphs: “(c) has failed to comply with any other provision of this Act or any requirement under the Financial Sector Regulation Act, including a conduct standard, a prudential standard or a joint standard; (d) [is liable for payment of] has failed to pay a levy [under section 15A of the Financial Services Board Act, 1990 (Act No. 91 of 1990), a penalty under section 41(2) and (3) or an administrative sanction under section 6D(2) of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001), and has failed to pay the said levy, penalty or administrative sanction], an administrative penalty, or [and] any interest in respect thereof;”; and (b) by the substitution for paragraph (f) of the following paragraph: “(f) has failed to comply with a regulator’s [any] directive [issued under this Act]; or”.</td>
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(1A) Indien die aansoeker ’n vennootskap, trust of regspersoon of oningelyfde liggaam is, is die vereistes in paragrawe (a) en (b) van subartikel (1) nie op die applikant van toepassing nie, maar in so ’n geval moet die aansoek vergesel gaan van bykomende inligting om die [registrateur] Owerheid te oortuig dat elke persoon wat as ’n sleutelpersoon van die aansoeker optree, voldoen aan die vereistes vir geskiktheid en gepasheid vir sleutelpersone in die kategorie van verskaffers van finansiële dienste waarom aansoek gedoen word [, ten opsigte van—

(a) persoonlike karaktereinskappe van eerlikheid en integriteit; 
(b) bekwaamheid; 
(c) bedryfsvermoë; 
tot die mate verëts vir sodanige sleutel-individu om die verantwoordelikhede deur hierdie Wet opgelê, te vervul.’’.

9. Artikel 9(1) word gewysig—

(a) deur paragrawe (c) en (d) deur die volgende paragrawe te vervang:

‘’(c) versuim het om te voldoen aan enige ander bepaling van hierdie Wet of enige vereiste kragtens die ’Financial Sector Regulation Act’, met inbegrip van ’n gedragsstandaard, ’n voorsorgstandaard of ’n gesamentlike standaard; 
(d) [aanspreeklik is vir betaling van] versuim het om ’n heffing, [kragtens artikel T5A van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), ’n boete kragtens artikel 41(2) en (3) of ’n administratiewe sanksie kragtens artikel 6D(2) van die Wet op Finansiële Instellings (Beskerming van Fondse), 2001 (Wet No. 28 van 2001), en versuim het om genoemde heffing, boete of administratiewe sanksie en] ’n administratiewe straf, of enige rente ten opsigte daarvan te betaal;’’; en

(b) deur paragraaf (f) deur die volgende paragraaf te vervang:

‘’(f) versuim het om aan [enige] ’n reguleerder se lasgewing [kragtens hierdie Wet uitgereik,] te voldoen; of”’.
10. The substitution in section 13 for subsection (3) of the following subsection: “(3) [The] An authorised financial services provider must—
   (a) maintain a register of representatives, and key individuals of [such] those representatives, which must be regularly updated and be available to the [registrar] Authority for reference or inspection purposes[.]; and
   (b) within five days after being informed by the Authority of the debarment of a representative or key individual by the Authority, remove the name of that representative or key individual from the register referred to in paragraph (a).”.

11. The substitution for section 14 of the following section:

“Debarment of representatives

14. (1) (a) An authorised financial services provider must debar a person from rendering financial services who is or was, as the case may be—
   (i) a representative of the financial services provider; or
   (ii) a key individual of such representative,
   if the financial services provider is satisfied on the basis of available facts and information that the person—
   (iii) does not meet, or no longer complies with, the requirements referred to in section 13(2)(a); or
   (iv) has contravened or failed to comply with any provision of this Act in a material manner;
   (b) The reasons for a debarment in terms of paragraph (a) must have occurred and become known to the financial services provider while the person was a representative of the provider.
   (2) (a) Before effecting a debarment in terms of subsection (1), the provider must ensure that the debarment process is lawful, reasonable and procedurally fair.
   (b) If a provider is unable to locate a person in order to deliver a document or information under subsection (3), after taking all reasonable steps to do so, including dissemination through electronic means where possible, delivering the document or information to the person’s last known e-mail or physical business or residential address will be sufficient.
10. Subartikel (3) in artikel 13 word deur die volgende subartikel vervang:

"(3) [Die gemagtigde] 'n Gemagtigde verskaffer van finansiële dienste moet—
(a) 'n register van verteenwoordigers, en sleutelpersone van [sodanige] daardie verteenwoordigers byhou, wat gereeld bygewerk moet word en beskikbaar moet wees vir die [registrateur] Owerheid vir verwysings- of inspeksie-doeleindes[-]; en
(b) binne vyf dae nadat hy of sy deur die Owerheid ingelig is van die uitsluiting van 'n verteenwoordiger of sleutelindividu deur die Owerheid, die naam van daardie verteenwoordiger of sleutelindividu verwyder uit die register in paragraaf (a) bedoel."

11. Artikel 14 word deur die volgende artikel vervang:

"Uitsluiting van verteenwoordigers

14. (1) (a) 'n Gemagtigde verskaffer van finansiële dienste moet 'n persoon wat—
(i) 'n verteenwoordiger van die verskaffer van finansiële dienste; of
(ii) die sleutelindividu van sodanige verteenwoordiger,
is of was, na gelang van die geval, uitsluit van die lewering van finansiële dienste indien die verskaffer van finansiële dienste op grond van beskikbare feite en inligting tevrede is dat die persoon—
(iii) nie voldoen aan die vereistes in artikel 13(2)(a) bedoel nie of dit nie meer nakom nie; of
(iv) enige bepaling van hierdie Wet op 'n wesenlike wyse oortree het of versoim het om daaraan te voldoen; en
(b) Die redes vir 'n uitsluiting ingevolge paragraaf (a) moes plaasgevind het en tot die wete van die verskaffer van finansiële dienste gekom het terwyl die persoon 'n verteenwoordiger van die verskaffer was.

(2) (a) Voordat 'n uitsluiting ingevolge subartikel (1) uitgevoer word, moet die verskaffer verseker dat die uitsluitingsproses wettig, redelik en procedureel billik is.
(b) Indien 'n verskaffer iemand nie kan opspoor om 'n dokument of inligting kragtens subartikel (3) te lever nie, nadat alle redelike stappe gedoen is om..."
(3) A financial services provider must—

(a) before debarring a person—

(i) give adequate notice in writing to the person stating its intention to debar the person, the grounds and reasons for the debarment, and any terms attached to the debarment, including, in relation to unconcluded business, any measures stipulated for the protection of the interests of clients;

(ii) provide the person with a copy of the financial services provider’s written policy and procedure governing the debarment process; and

(iii) give the person a reasonable opportunity to make a submission in response;

(b) consider any response provided in terms of paragraph (a)(iii), and then take a decision in terms of subsection (1); and

(c) immediately notify the person in writing of—

(i) the financial services provider’s decision;

(ii) the persons’ rights in terms of Chapter 15 of the Financial Sector Regulation Act; and

(iii) any formal requirements in respect of proceedings for the reconsideration of the decision by the Tribunal.

(4) Where the debarment has been effected as contemplated in subsection (1), the financial services provider must—

(a) immediately withdraw any authority which may still exist for the person to act on behalf of the financial services provider;

(b) where applicable, remove the name of the debarred person from the register referred to in section 13(3);

(c) immediately take steps to ensure that the debarment does not prejudice the interest of clients of the debarred person, and that any unconcluded business of the debarred person is properly attended to;
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<td>dit te doen, met inbegrip van verspreiding deur elektroniese middele waar moonlik, sal levering van die dokument of inligting aan die persoon se laaste bekende e-posadres of fisieke sake- of woonadres voldoende wees.</td>
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<td>(3) ’n Verskaffer van finansiële dienste moet—</td>
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<td>(a) voordat ’n persoon uitgesluit word—</td>
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<td>(i) genoegsame skriftelike kennis aan die persoon gee waarin die verskaffer se voorneme om die persoon uit te sluit, die gronde en redes vir die uitsluiting en enige voorwaardes aan die uitsluiting geheg, uiteengesit word, met inbegrip van, in verband met onafgehandelde besigheid, enige maatreëls bepaal vir die beskerming van die belange van kliente;</td>
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<td>(ii) die persoon voorsien van ’n afskrif van die verskaffer van finansiële dienste se skriftelike beleid en prosedure wat die uitsluitingsproses beheer; en</td>
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<td>(iii) die persoon ’n redelike geleentheid gun om met ’n vertoog te reageer;</td>
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<td>(b) enige reaksie ingevolge paragraaf (a)(iii) voorsien, oorweeg, en kan daarna ’n besluit ingevolge subartikel (1) neem; en</td>
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<td>(c) die persoon onmiddellik skriftelik in kennis stel van—</td>
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<td>(i) die verskaffer van finansiële dienste se besluit;</td>
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<td>(ii) die persone se regte ingevolge Hoofstuk 15 van die ‘Financial Sector Regulation Act’;</td>
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<td>(iii) enige ander formele vereistes ten opsigte van die verrigtinge van die heroorwegings van die besluit deur die Tribunaal,</td>
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<td>(4) Waar die uitsluiting uitgeoer is soos in subartikel (1) beoog, moet die verskaffer van finansiële dienste—</td>
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<td>(a) enige magtiging wat nog bestaan vir die persoon om namens die verskaffer van finansiële dienste te handel, onmiddellik terugtrek;</td>
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<td>(b) waar van toepassing, die naam van die uitgeslote persoon verwyder van die register in artikel 13(3) bedoel; onmiddellik stappe doen om te verseker dat die uitsluiting nie die belange van kliente van die uitgeslote persoon benadeel nie, en dat enige onafgehandelde besigheid van die uitgeslote persoon behoorlik hanteer word;</td>
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(d) in the form and manner determined by the Authority, notify the Authority within five days of the debarment; and

(e) provide the Authority with the grounds and reasons for the debarment in the format that the Authority may require within 15 days of the debarment.

(5) A debarment in terms of subsection (1) that is undertaken in respect of a person who no longer is a representative of the financial services provider must be commenced not longer than six months from the date that the person ceased to be a representative of the financial services provider.

(6) For the purposes of debarring a person as contemplated in subsection (1), the financial services provider must have regard to information regarding the conduct of the person that is furnished by the Authority, the Ombud or any other interested person.

(7) The Authority may, for the purposes of record keeping, require any information, including the information referred to in subsection (4)(d) and (e), to enable the Authority to maintain and continuously update a central register of all persons debarred in terms of subsection (1), and that register must be published on the web site of the Authority, or by means of any other appropriate public media.

(8) A debarment effected in terms of this section must be dealt with by the Authority as contemplated by this section.

(9) A person debarred in terms of subsection (1) may not render financial services or act as a representative or key individual of a representative of any financial services provider, unless the person has complied with the requirements referred to in section 13(1)(b)(ii) for the reappointment of a debarred person as a representative or key individual of a representative.”

12. The repeal of section 14A.

13. The amendment of section 20 by the substitution for subsection (3) of the following subsection:

“(3) The objective of the Ombud is to consider and dispose of complaints under this Act, and complaints for which the Adjudicator is designated in terms of section 211 of the Financial Sector Regulation Act, in a procedurally fair, informal, economical and expeditious
**Nomoro ya Molao le ngwaga** | **Setlhogo se se khutshwane** | **Bogolo jwa phimolo kgotsa tlhabololo**  
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(d) in die vorm en op die wyse deur die Owerheid bepaal, die Owerheid binne vyf dae van die uitsluiting in kennis stel; en  
(e) die Owerheid binne 15 dae vanaf die uitsluiting voorsien van die gronde en redes vir die uitsluiting in die formaat wat die Owerheid kan vereis.  
(5) ’n Uitsluiting ingevolge subartikel (1) wat ten opsigte van ’n persoon wat nie meer ’n verteenwoordiger van ’n verskaffer van finansiële dienste is nie, moet nie langerwees nie as ses maande vanaf die datum waarop die persoon opgehou het om ’n verteenwoordiger van die verskaffer van finansiële dienste te wees.  
(6) Vir die uitsluiting van ’n persoon soos in subartikel (1) beoog, moet die verskaffer van finansiële dienste inligting oor die gedrag van die persoon, deur die Owerheid, die Ombud of enige ander belanghebbende verskaf, in ag neem.  
(7) Die Owerheid kan, vir die doeleindes van rekordhouding, enige inligting, met inbegrip van inligting bedoel in subartikel (4)(d) en (e), vereis om die registraat te stel van alle persone wat ingevolge subartikel (1) uitgesluit is, te hou en voordurend by te werk, en daardie register moet op die webwerf van die Owerheid, of by wyse van enige ander gepaste openbare media, gepubliseer word.  
(8) ’n Uitsluiting ingevolge hierdie artikel uitgevoer, moet deur die Owerheid hanteer word soos in hierdie artikel beoog.  
(9) ’n Persoon ingevolge subartikel (1) uitgesluit, mag nie finansiële dienste lewer of as ’n verteenwoordiger of sleutelindividu van ’n verteenwoordiger van enige verskaffer van finansiële dienste optree nie, tensy die persoon voldoen aan die vereistes in artikel 13(1)(b)(ii) bedoel vir die heraanstelling van ’n uitgesluite persoon as ’n verteenwoordiger of sleutelindividu van ’n verteenwoordiger.”  
13. Artikel 20 word gewysig deur subartikel (3) deur die volgende subartikel te vervang:  
(“(3) Die oogmerk van die Ombud is om klagtes kragtens hierdie Wet, en klagtes waarvoor die Bemiddelaar ingevolge artikel 211 van die ‘Financial Sector Regulation Act’ aangewys is, te
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|                 |             | manner and by reference to what is equitable in all the circumstances, with due regard to—  
(a) the contractual arrangement or other legal relationship between the complainant and any other party to the complaint; and  
(b) the provisions of this Act and the Financial Sector Regulation Act”. |
|                 |             | 14. The insertion after section 20 of the following section: |
|                 |             | “Ombud scheme  
20A. The scheme in relation to complaints implemented by this Part is declared to be a statutory ombud scheme for the purposes of the Financial Sector Regulation Act.”. |
|                 |             | 15. The substitution in section 21 for the expression “Board”, wherever it occurs in the section, of the expression “Minister”. |
|                 |             | 16. The amendment of section 22(1) by the substitution for paragraph (a) of the following paragraph:  
“(a) funds [provided by the Board] accruing to the Ombud in terms of legislation on the basis of a budget submitted by the Ombud to the [Board] Minister and approved by the latter; and”. |
|                 |             | 17. The amendment of section 23 by the substitution for subsection (1) of the following subsection:  
“(1) [Despite the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the board of the Financial Services Board as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990),] The Ombud is the accounting authority of the Office.”. |
|                 |             | 19. The repeal of section 32. |
|                 |             | 20. The deletion in section 35(1) of paragraphs (b), (c) and (d). |
Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane |
--- | --- |
| | oorweeg en af te handel op ‘n prosedureel bilike, informele, ekonomiese en gladde wyse en met verwysing na wat onder al die omstandighede regverdig is, met behoorlike inagneming van— (a) die kontraktuele reëling of ander regsverhouding tussen die klaer en enige ander party by die klagte; en (b) die bepalings van hierdie Wet en die “Financial Sector Regulation Act”. |

14. Die volgende artikel word na artikel 20 ingevoeg:

‘‘Ombudskema

20A. Die skema oor klagtes deur hierdie Deel ingestel word verklaar ‘n statutêre ombudskema by die toepassing van die “Financial Sector Regulation Act”, te wees.’’

15. Die uitdrukking “Raad” word, waar dit ook al in artikel 21 voorkom, deur die uitdrukking “Minister” vervang.

16. Artikel 22(1) word gewysig deur paragraaf (a) deur die volgende paragraaf te vervang:

‘‘(a) fonde [voorsien deur die Raad] wat ingevolge wetgewing aan die Ombud toeval op die grondslag van ‘n begroting voorgelê deur die Ombud aan die [Raad] Minister en deur laasgenoemde goedgekeur; en’’.

17. Artikel 23 word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

‘‘(1) [Ondanks die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is die raad van die Raad op Finansiële Dienste soos in artikel 1 van die Wet op die Raad op Finansiële Dienste, 1990 (Wet No. 97 van 1990), omskryf] Die Ombud is die rekenpligtige gesag van die Kantoor.’’

18. Artikel 26 word herroep.

19. Artikel 32 word herroep.

20. Paragrawe (b), (c) en (d) in artikel 35(1) word geskrap.
### Act No. 9 of 2017

#### Financial Sector Regulation Act, 2017

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<tbody>
<tr>
<td>21.</td>
<td>The substitution for section 39 of the following section:</td>
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<td></td>
<td>&quot;Right to reconsideration of decision&quot;</td>
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<td></td>
<td>39. Any person aggrieved by a decision of a financial services provider to debar that person in terms of section 14 may apply for the reconsideration of the decision to the Tribunal.&quot;.</td>
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<tr>
<td>22.</td>
<td>The repeal of sections 41 and 44.</td>
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<td>23.</td>
<td>The amendment of section 45—</td>
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<tr>
<td></td>
<td>(a) by the deletion in subsection (1) of paragraph (a)(ii); and</td>
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<td></td>
<td>(b) by the insertion after subsection (1) of the following subsections:</td>
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<td></td>
<td>&quot;(1A) The provisions of this Act do not apply to the—</td>
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<tr>
<td></td>
<td>(a) performing of the activities referred to in paragraph (b)(ii) and (iii) of the definition of &quot;intermediary service&quot; by a product supplier—</td>
<td></td>
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<td></td>
<td>(i) who is authorised under a particular law to conduct business as a financial institution; and</td>
<td></td>
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<tr>
<td></td>
<td>(ii) where the rendering of such service is regulated under such law; and</td>
<td></td>
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<tr>
<td></td>
<td>(b) rendering of financial services by a manager as defined in section 1 of the Collective Investment Schemes Control Act, 2002, to the extent that the rendering of financial services is regulated under that Act.</td>
<td></td>
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<tr>
<td></td>
<td>(1B) The exemption referred to in—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) subsection (1A)(a) does not apply to a person to whom the product supplier has delegated or outsourced the activity, or any part of the activity, contemplated in paragraph (a), and where the person is not an employee of the product supplier; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) subsection (1A)(b) does not apply to an authorised agent as defined in section 1 of the Collective Investment Schemes Control Act, 2002.&quot;.</td>
<td></td>
</tr>
</tbody>
</table>
### Nomoro ya Molao le ngwaga

| 21. | Artikel 39 word deur die volgende artikel vervang: |
| 39. | "Reg op heroorweging van beslissing" |
| 22. | Artikel 41 en 44 word herroep. |
| 23. | Artikel 45 word gewysig— |
|     | (a) deur die volgende subartikels na subartikel (1) in te voeg: |
|     | "(1A) Die bepalings van hierdie Wet is nie van toepassing nie op die— |
|     | (a) verrigting van die aktiviteite in paragraaf (b)(ii) en (iii) van die omskrywing van 'tussenganger-diens' bedoel deur 'n produkverskaffer— |
|     | (i) wat kragtens 'n bepaalde wet gemagtig is om besigheid as 'n finansiële instelling te doen; en |
|     | (ii) waar die levering van so 'n diens kragtens sodanige wet gereguuleer word, en |
|     | (b) finansiële dienste leverer deur 'n bestuurder soos omskryf in artikel 1 van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002, tot die mate wat die levering van finansiële dienste kragtens daardie Wet gereguuleer word. |
|     | (1B) Die vrystelling bedoel in— |
|     | (a) subartikel (1A)(a) is nie van toepassing nie op 'n persoon aan wie die produkverskaffer die activiteit, of enige deel van die activiteit, in paragraaf (a) beoog, gedelegeer of uitbestee het en waar die persoon nie 'n werknemer van die produkverskaffer is nie; en |
|     | (b) subartikel (1A)(b) is nie van toepassing nie op 'n gemagtigde agent soos omskryf in artikel 1 van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002." |
### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

<table>
<thead>
<tr>
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</table>
|                  |                                                                             | 24. The amendment of the arrangement of sections—  
|                  |                                                                             | (a) by the insertion after item 1 of the following items:  
|                  |                                                                             | "1A. Relationship between Act and  
|                  |                                                                             | Financial Sector Regulation Act  
|                  |                                                                             | 1B. Regulatory instruments"; and  
|                  |                                                                             | (b) by the substitution for item 6 of the following item:  
|                  |                                                                             | "6. Delegations";  
|                  |                                                                             | (c) by the insertion after item 20 of the following item:  
|                  |                                                                             | "20A. Ombud scheme"; and  
|                  |                                                                             | (d) by the substitution for item 39 of the following item:  
|                  |                                                                             | "39. Right to reconsideration of decision".  
| Act No. 45 of 2002 | Collective Investment Schemes Control Act, 2002 | 1. The amendment of section 1—  
|                  |                                                                             | (a) by the insertion after the definition of "authorised agent" of the following definition:  
|                  |                                                                             | "Authority" means the Financial Sector Conduct Authority established by section 56 of the Financial Sector Regulation Act;";  
|                  |                                                                             | (b) by the deletion of the definition of "Board";  
|                  |                                                                             | (c) by the insertion after the definition of "company" of the following definition:  
|                  |                                                                             | "conduct standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;";  
|                  |                                                                             | (d) by the insertion after the definition of "exchange securities" of the following definition:  
|                  |                                                                             | "Financial Sector Regulation Act" means the Financial Sector Regulation Act, 2017;";  
|                  |                                                                             | (e) by the insertion after the definition of "investor" of the following definition:  
|                  |                                                                             | "joint standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;";  
|                  |                                                                             | (f) by the deletion of the definitions of "official web site" and "prescribed";  
|                  |                                                                             | (g) by the insertion before the definition of "publish" of the following definition:  
|                  |                                                                             | "prudential standard" has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;";  

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24. Die indeling van artikels word gewysig—
(a) deur die volgende items na item 1 in te voeg:

- **1A.** Verhouding tussen Wet en Financial Sector Regulation Act
- **1B.** Reguleringsinstrumente”;
(b) deur item 6 deur die volgende item te vervang:

- **6.** Delegerings”;
(c) deur die volgende item na item 20 in te voeg:

- **20A.** Ombudskeมา”;
(d) deur item 39 deur die volgende item te vervang:

- **39.** Reg op heroorweging van beslissing”.

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Wet No. 45 van 2002 | Wet op Beheer van Kollektiewe Beleggingskemas, 2002
--- | ---
1. Artikel 1 word gewysig—
(a) deur die omskrywing van “amptelike webwerf” te skrap;
(b) deur die volgende omskrywings na die omskrywing van “deelnemende belang” in te voeg:

- ‘Financial Sector Regulation Act’ die ‘Financial Sector Regulation Act’, 2017;
- ‘gedragstandaard’ dit wat in artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘conduct standard’ toegeskryf is;
- ‘gesamentlike standaard’ het die betekenis ingevolge artikel 1(1) van die ‘Financial Sector Regulation Act’ aan ‘joint standard’ toegeskryf”;
(c) deur die volgende omskrywing na die omskrywing van “ouditeur” in te voeg:

- ‘Owerheid’ die Gedragsowerheid op die Finansiële Sektor ingestel by artikel 56 van die ‘Financial Sector Regulation Act’;
(d) deur die omskrywing van “Raad” te skrap;
(e) deur die volgende omskrywing na die omskrywing van “réél” in te voeg:

- ‘Register’ die Inligtingsregister vir die Finansiële Sektor bedoel in artikel 256 van die ‘Financial Sector Regulation Act’;
(f) deur die omskrywing van “registrateur” te skrap;
(g) deur die volgende omskrywing na die omskrywing van “hierdie Wet” in te voeg:

- ‘Tribunaal’ die Tribunaal vir Finansiële Dienste ingevolge artikel 219 van die ‘Financial Sector Regulation Act’ ingestel.”;

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## Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

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<tr>
<td></td>
<td>(b) by the insertion after the definition of “publish” of the following definition: “Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;</td>
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<td></td>
<td>(i) by the deletion of the definition of “registrar”;</td>
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<td></td>
<td>(j) by the insertion after the definition of “this Act” of the following definition: “Tribunal” means the Financial Sector Tribunal established in terms of section 219 of the Financial Sector Regulation Act; and</td>
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<td>(k) by the addition in section 1 of the following subsection, the existing section becoming subsection (1): “(2) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”</td>
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</table>

2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the registrar must be read as a reference to the Authority;

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly provided otherwise in this Act, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.
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<tr>
<td></td>
<td>(h) deur die omskrywing van &quot;voorgeskryf&quot; te skrap;</td>
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<td></td>
<td>(i) deur die volgende omskrywing voor die omskrywing van &quot;werf&quot; in te voeg: &quot;voorsorgstandaard&quot; dit wat ingevolge artikel 1(1) van die 'Financial Sector Regulation Act' aan 'prudential standard' toegeskryf is; en</td>
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<td></td>
<td>(ii) deur die volgende subartikel by artikel 1 te voeg, die bestaande artikel word subartikel (1): &quot;(2) Tensy die samehang anders aandui, het woorde en uitdrukings wat nie in subartikel (1) omskryf word nie, die betekenis wat ingevolge die 'Financial Sector Regulation Act' daaraan toegeskryf is.&quot;.</td>
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</table>

2. Die volgende artikels word na artikel 1 ingevoeg:

‘Verhouding tussen Wet en ‘Financial Sector Regulation Act’

1A. (1) ’n Verwysing in hierdie Wet na die registrateur moet gelees word as ’n verwysing na die Owerheid.

(2) Behalwe soos anders deur hierdie Wet of die ‘Financial Sector Regulation Act’ bepaal, het die Owerheid die bevoegdhede en pligte ingevolge hierdie Wet benewens die bevoegdhede en pligte wat die Owerheid ingevolge die ‘Financial Sector Regulation Act’ het.

(3) ’n Verwysing in hierdie wet na die Owerheid wat ’n aangeleentheid by kennisgewing in die Staatskoerant publiseer, moet gelees word as dat dit ’n verwysing insluit na die Owerheid wat die aangeleentheid by kennisgewing in die Register bepaal of publiseer.

(4) Tensy uitdruklik anders in hierdie Wet bepaal, of tensy hierdie Wet vereis dat ’n aangeleentheid voorgeskryf word, moet ’n verwysing in hierdie Wet na ’n aangeleentheid wat—

(a) voorgeskryf word, gelees word as ’n verwysing daarna dat die aangeleentheid in ’n voorsorgstandaard, ’n gedrukgstandaard of ’n gesamentlike standaard voorgeskryf word; of

(b) bepaal word, gelees word as ’n verwysing daarna dat die Owerheid die aangeleentheid skrifelik bepaal en die bepaling in die Register registreer.
It is hereby notified that the President has as-
\sented to the following Act, which is hereby
\published for general information:—

Act No. 9 of 2017: Financial Sector Regula-
\tion Act, 2017
(5) A reference in this Act to an on-site visit in terms of a provision in this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.  
(6) A reference in this Act to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.  
(7) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.  
(b) The Authority may also publish the information or document on its web site.  
(8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.  
(9) A reference in this Act to an appeal of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

**Regulatory instruments**

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the Gazette is specifically required by this Act is a regulatory instrument.”.

3. The repeal of sections 7 and 14.

4. The amendment of section 15—
   (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
   “If [the registrar, after an on-site visit or inspection under section 14, considers on reasonable grounds that] it is in the interests of the investors of a collective investment scheme or of members of the public [so require], the [registrar] Authority may — “;
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<tr>
<td>(5) 'n Verwyssing in hierdie Wet na 'n ter plaatsy besoek ingevolge 'n bepaling van hierdie Wet moet gelees word as 'n verwyssing na 'n toesighoudende ter plaatsy inspeksie of 'n ondersoek ingevolge die &quot;Financial Sector Regulation Act&quot;.</td>
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<tr>
<td>(6) 'n Verwyssing in hierdie Wet na 'n inspeksie ingevolge 'n bepaling van hierdie Wet, moet gelees word as 'n verwyssing na 'n ondersoek ingevolge die &quot;Financial Sector Regulation Act&quot;.</td>
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<tr>
<td>(7) (a) 'n Verwyssing in hierdie Wet na die Owerheid wat inligting of 'n dokument op 'n webwerf aankondig of publiseer, moet gelees word as 'n verwyssing daarna dat die Owerheid die inligting of dokument in die Register publiseer.</td>
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<tr>
<td>(b) Die Owerheid kan ook die inligting of dokument op sy webwerf publiseer.</td>
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<td>(8) 'n Verwyssing in hierdie Wet na bepaalde of voorgeskrewe gelde moet gelees word as 'n verwyssing na die tersaaklike gelde bepaal ingevolge artikel 237 en Hoofstuk 16 van die &quot;Financial Sector Regulation Act&quot;.</td>
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<tr>
<td>(9) 'n Verwyssing in hierdie Wet na 'n appel teen 'n beslissing van die Owerheid moet gelees word as 'n verwyssing na 'n heroorweging van die beslissing deur die Tribunaal ingevolge die &quot;Financial Sector Regulation Act&quot;.</td>
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### Reguleringsinstrumente

1B. By die toepassing van die omksrywing van "reguleringsinstrument" ('regulatory instrument') in artikel 1(1) van die "Financial Sector Regulation Act", is enige aangeleentheid deur die Owerheid voorgeskryf ten opsigte waarvan kennisgewing in die <i>Staatskoerant</i> spesifiek deur hierdie Wet vereis word, 'n reguleringsinstrument.". |

3. Artikels 7 en 14 word herroep. |

4. Artikel 15 word gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

"Indien [die registrateur, na 'n ter plaatsy besoek of inspeksie kragtens artikel 14, op redelike gronde van oordeel is dat] dit in die belange van beleggers in 'n kollektiewe beleggingskema of van lede van die publiek [dit vereis] is, kan die [registrateur] Owerheid—";
Act No. and year | Short Title | Extent of repeal or amendment
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| | | (b) by the deletion in subsection (1) of the proviso to paragraph (f); and (c) by the substitution in subsection (1) for paragraph (j) of the following paragraph: “(j) if a manager fails to comply with a written request, direction or directive by the [registrar] Authority under this Act or the Financial Sector Regulation Act, do or cause to be done all that a manager was required to do in terms of the request, direction or directive of the [registrar] Authority.”.

5. The amendment of section 15A— (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: “(c) if deemed reasonably necessary in the interests of investors, at that time or at any time thereafter, and notwithstanding any steps already taken by the [registrar in accordance with paragraph (a) or (b) or any other provision of this Act, act in accordance with section 15] Authority.”; and (b) by the substitution for subsection (3) of the following subsection: “(3) For the purposes of this section, “financial soundness requirement” means any requirement or limitation referred to in sections 85 to 89, inclusive, sections 91 to 96, inclusive, and section 105 and includes any other financial requirements imposed under this Act or by a prudential standard, conduct standard or joint standard.”.

6. The repeal of sections 15B, 18, 22, 23 and 24.

7. The substitution in sections 63 and 66 for the expression “Minister”, wherever it occurs, of the expression “Authority”.

8. The amendment of section 99(1) by the substitution for paragraph (b) of the following paragraph: “(b) the [registrar] Authority, granted on such conditions as [he or she] the Authority may impose in writing [may determine].”.
5. Artikel 15A word gewysig—

(a) deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang:

“(c) indien dit in die belang van beleggers redelik nodig geag word, op daardie tydstip of te eniger tyd daarna, en ondanks enige stappe wat die [registrateur] Owerheid reeds [ooreenkomstig paragraaf (a) of (b) of enige ander bepaling van hierdie Wet] geneem het, ooreenkomstig artikel 15 handel].”; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) By die toepassing van hierdie artikel, beteken ‘vereiste vir finansiële gesondheid’ enige vereiste of beperking in artikels 85 tot 89, inklusief, artikels 91 tot 96, inklusief, en artikel 105 en sluit enige ander finansiële vereistes in wat kragtens hierdie Wet of deur ’n voorsorgstandaard, gedragstandaard of gesamentlike standaard opgely is.”.

6. Artikels 15B, 18, 22, 23 en 24 word herroep.

7. In artikels 63 en 66 word die uitdrukking “Minister”, waar dit ook al voorkom, deur die uitdrukking “Owerheid” vervang.

8. Artikel 99(1) word gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

“(b) die [registrateur] Owerheid, verleen op die voorwaardes wat [hy of sy] die Owerheid skriflik [bepaal] opnê.”.
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<tbody>
<tr>
<td>9.</td>
<td></td>
<td>(a) by the deletion of subsection (3); and</td>
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<tr>
<td>Act No. 9 of 2017</td>
<td></td>
<td>(b) by the substitution for subsection (4) of</td>
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<td>the following subsection:</td>
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<td>“(4) Any delegation under subsection (1) or (2) (a) [or (3)(a)] does not prohibit the exercise of the power in question by the Minister, association or registrar Authority, as the case may be.”.</td>
</tr>
<tr>
<td>10.</td>
<td></td>
<td>by the deletion of subsections (3)(d), (5) and (6).</td>
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<td>11.</td>
<td></td>
<td>by the substitution for paragraph (c) of the following paragraph:</td>
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<td>“(c) fails to comply with any direction, requirement, notice, rule, regulatory instrument or regulation under any provision of this Act or the Financial Sector Regulation Act.”.</td>
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<td>12.</td>
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<td>by the insertion after item 1 of the following items:</td>
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<td></td>
<td></td>
<td>“1A. Relationship between Act and Financial Sector Regulation Act</td>
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<td></td>
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<td>1B. Regulatory instruments”.</td>
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<tr>
<td>Act No. 34 of 2005</td>
<td>National Credit Act, 2005</td>
<td>1. The substitution in section 1 for the definition of “ombud with jurisdiction” of the following definition—</td>
</tr>
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<td></td>
<td></td>
<td>“ombud with jurisdiction”, in respect of any particular dispute arising out of a credit agreement in terms of which the credit provider is a “financial institution” as defined in the [Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004)] Financial Sector Regulation Act, 2017, means an [“ombud”, or the “statutory ombud”] “ombud scheme”, as [those terms are respectively] that term is defined in that Act, [who] that has jurisdiction in terms of that Act to deal with a complaint against that financial institution;.”.</td>
</tr>
</tbody>
</table>
9. Artikel 112 word gewysig—
(a) deur subartikel (3) te skrap; en
(b) deur subartikel (4) deur die volgende subartikel te vervang:
“(4) Enige delegasie kragtens subartikel (1)[,] of (2)[(a) [of (3)][(a)]
verhinder nie die uitoefening van die betrokke bevoegdheid deur die Minister, vereniging of [registrateur] Owerheid, na gelang van die geval, nie.”.

10. Artikel 114 word gewysig deur subartikels (3)(d), (5) en (6) te skrap.

11. Artikel 115 word gewysig deur paragraaf (c) deur die volgende paragraaf te vervang:
“(c) versuim om te voldoen aan 'n lasgewing, vereiste, kennisgewing, reël, reguleringsinstrument of regulasie kragtens enige bepaling van hierdie Wet of die ‘Financial Sector Regulation Act’.”.

12. Die indeling van artikels word gewysig deur die volgende item na item 1 in te voeg:
1A. Verhouding tussen Wet en 'Financial Sector Regulation Act'
1B. Reguleringsinstrumente”.

UMthetho 37 ka 2004
Umthetho weenqubo zomsombululizikhalo kwinkonzolo zemali ka-2004

1. Ukuchithwa komthetho wonke.

UMthetho wama-34 wezi-2005
uMthetho weziKweletu kaZwelonke, ka-2005

1. Ukufaka endaweni esigabeni soku-1 sencazel “‘isiphathimandla esibheka izikhalo zamakhasimende esinamandla’” incazelo elandelayo—
“‘isiphathimandla esibheka izikhalo zamakhasimende esinamandla’,
maqondana nanoma yisiphathimandla esibheka izikhalo zamakhasimende esinamandla
njengalokho kuchazwe (Financial Services Ombud Schemes Act), 2004 (uMthetho No. 37 ka 2004)
wokuLawulwa koMkhakha weziMali, 2017, kusho [“‘isiphathimandla esibheka izikhalo zamakhasimende esinamandla’” noma [lawo magama echazwe ngokwehlukana] leli gama lichaziwe eMthethweni, esinamandla ngokuhambisana nalowo Mthetho okubhekana ngesikhungweni sezimali;]”.

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2. The amendment of section 134—

(a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs—

"(a) If the credit provider concerned is a financial institution as defined in the Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004) Financial Sector Regulation Act, 2017, the matter—

(i) may be referred only to the ombud with jurisdiction to resolve a complaint or settle a matter involving that credit provider, as determined in accordance with [sections 13 and 14 of] that Act; and

(ii) must be procedurally resolved as if it were a complaint in terms of that Act; or

(b) if the credit provider is not a financial institution, as defined in the Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004) Financial Sector Regulation Act, 2017, the matter may be referred to either—

(i) a consumer court, for resolution in accordance with this Act and the provincial legislation establishing that consumer court; or

(ii) an alternative dispute resolution agent, for resolution by conciliation, mediation or arbitration.";

or

(b) by the substitution in subsection (4)(b) for subparagraph (i) of the following subparagraph—

"(i) to the ombud with jurisdiction, for resolution in accordance with this Act and in terms of the Financial Services Ombud Schemes Act, 2004 (Act No. 37 of 2004) Financial Sector Regulation Act, 2017, if the credit provider concerned is a financial institution [and a participant in a recognised scheme] as defined in that Act; or"."
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<td>2.</td>
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<td>2. Ukuchibiyela isigaba se-134—</td>
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</table>
|                          |                          | *(a)* ngokufaka endaweni esigabeni soku-
|                          |                          | *(1)* yeziqephu *(a)* kanye *(b)* izigaba |
|                          |                          | ezilandelayo—  
|                          |                          | **“(a) uma umhlinzeki wesikeletu** 
|                          |                          | *(i) lungadluliselwa kuphela 
|                          |                          | esiphathimandleni esibheka izikhalo zamakhasimende esinamandla okuxazulula isikhalo nomu udaba olubandakanya umhlinzeki wesikeletu, njengoba kungunyiwe ngokuhambisana [nezigaba 13 no 14 zalowo] nalowo Mthetho; futhi—  
|                          |                          | *(i) enkantolo 
|                          |                          | yamakhasimende, ukuze luxazululwe ngokwalo Mthetho kanye nomthetho wesifundazwe osungule leyo nkantolo yamakhasimende; nomu  
|                          |                          | *(ii) kwi-ejenti esebenzisa 
|                          |                          | ezinye izindlela zokuavigate umbango, 
|                          |                          | ukuba ivazulule ngokulamula.”; futhi  
|                          |                          | *(b) ngokufaka endaweni yesigatshana se-
|                          |                          | *(4)(b) indimana *(i) indimana 
|                          |                          | esilandelayo—  
<p>|                          |                          | <strong>“(i) esiphathimandleni esibheka izikhalo zamakhasimende esinamandla,”</strong> |</p>
<table>
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<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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</thead>
</table>
| Act No. 40 of 2007 | Co-operative Banks Act, 2007     | 1. The amendment of section 1—  
   (a) by the deletion of the definition of “appeal board”;  
   (b) by the insertion after the definition of “Agency” of the following definition:  
     “Authority” means the Prudential Authority established in terms of section 32 of the Financial Sector Regulation Act;”;  
   (c) by the insertion after the definition of “business plan” of the following definition:  
     “conduct standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;  
   (d) by the substitution for the definition of “co-operative bank” of the following definition:  
     “co-operative bank” means a co-operative or a co-operative financial institution registered as a co-operative bank in terms of this Act whose members—  
     (a) are employed by a common employer or who are employed within the same business district; or  
     (b) have common membership in an association or organisation, including a religious, social, co-operative, labour or educational group;  
     (c) reside within the same defined community or geographical area;”;  
   (e) by the substitution for the definition of “co-operative financial institution” of the following definition:  
     “co-operative financial institution” means a co-operative that takes deposits and chooses to identify itself by use of the name Financial Co-operative, Financial Services Co-operative, Credit Union or Savings and Credit Co-operative;”; |
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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**UMthetho 40 ka-2007**

**UMthetho weeBhanki zeNtsebenzi swano ka-2007**

1. (a) ngokuthi kucinywe inkcazelo yegama elithi “ibhodi yezibheno”;
   (b) ngokuthi emva kwenkcazelo yegama elithi “iArhente” kufakelwe inkcazelo elandelayo: “iGunya” iGunya Lobulumko elisekwe ngokwecandelo 32 le*Financial Sector Regulation Act*;”;
   (c) ngokuthi emva kwenkcazelo yegama elithi “isicwangciso soshishino” kufakelwe inkcazelo elandelayo: “elithi indlela yokuziphatha” linentsingiselo ekwanyenze elinkwe yona kwicandelo 1(1) le*Financial Sector Regulation Act*;”;
   (d) ngokuthi endaweni yokuchazwa kwegama elithi “ibhanki yentsebenziswano” kufakelwe ukuchazwa kwegama elilandelayo: ‘ibhanki yentsebenziswano’ ngumfelandawonye okanye iziko lemali eMfelandawonye ngokwalo Mthetho elimalungu alo—
      (a) aqeshwe ngumqeshi omnye okanye aqeshwe kwisikhuthi esinye soshishino; okanye
      (b) Angamalungu kumbutho omnye, oquka oquka, owasentlalweni, owentsebenziswano, owomsebenzi okanye owemfundo;
   (c) Ahlala kummandla omnye;”;
   (e) ngokuthi endaweni yokuchazwa kwegama elithi “iziko lemali eMfelandawonye” kufakelwe ukuchazwa kwegama okulandelayo: ‘iziko lemali eMfelandawonye’ ngumfelandawonye owamkela ukuMgubha kwemali nokhetla ukwaziwa ngokusebenzisa igama elithi uMfelandawonye Wemali, uMfelandawonye Woonkonzo Zemali, uMbutho Wokukweletsa okanye uMfelandawonye Wokulondoloza okanye Wokukweletsa;”;

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### Act No. and year

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(f) by the insertion after the definition of “executive officer” of the following definition:

“Financial Sector Regulation Act” means the Financial Sector Regulation Act, 2017;”;

(g) by the insertion after the definition of “Fund” of the following definition:

“joint standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;

(h) by the deletion of the definition of “prescribed”;

(i) by the insertion after the definition of “proposed co-operative bank” of the following definition:

“prudential standard” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;

(j) by the insertion after the definition of “Public Finance Management Act” of the following definition:

“Register” means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;

(k) by the deletion of the definition of “supervisor”;

(l) by the insertion after the definition of “this Act” of the following definition:

“Tribunal” means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act.”; and

(m) by the addition in section 1 of the following subsection, the existing section becoming subsection (1):

“(2) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”.

2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.
Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlahbololo
---|---|---
(f) ngokuthi emva kwenkcazelo yegama elithi "igosa lesiqeqba" kufakelwe inkcazelo elandelayo: "‘Financial Sector Regulation Act’ yiFinancial Sector Regulation Act ka- 2017”;
(g) ngokuthi emva kwenkcazelo yegama elithi “ingxowa-mali” kufakelwe inkcazelo elandelayo: "‘cilithi umlinganiselo wendibani-selwano’ linentsingiselo ekwanye elithi "igosa lesigqeba" kufakelwe inkcazelo elandelayo: “‘cilithi umlinganiselo wobuluniko’ linentsingiselo ekwanye elithi umlinganiselo wendibani-selwano’ linentsingiselo ekwanye elithi "igosa lesigqeba" kufakelwe inkcazelo elandelayo:
(h) ngokuthi kucinywe inkcazelo yegama elithi "ukumisela";
(i) ngokuthi emva kwenkcazelo yegama elithi “ibhanki yentsebenziswano ecetywayo” kufakelwe inkcazelo elandelayo: "‘cilithi umlinganiselo wobuluniko’ linentsingiselo ekwanye elithi umlinganiselo wobuluniko’ linentsingiselo ekwanye elithi umlinganiselo wendibani-selwano’ linentsingiselo ekwanye elithi "igosa lesigqeba" kufakelwe inkcazelo elandelayo:
(j) ngokuthi emva kwenkcazelo yegama elithi “uMthetho woLawulo lweMali yoLuntu” kufakelwe inkcazelo elandelayo: elithi "‘The Register’ Lithetha iFinancial Sector Information Register ekuthethwe ngayo kwicandelwana 256 leFinancial Sector Regulation Act;”;
(k) ngokuthi kucinywe inkcazelo yegama elithi “umphathi”;
(l) ngokuthi emva kwenkcazelo yegama elithi “uMthetho” kufakelwe inkcazelo elandelayo: "‘cilithi Abachopheli-matyala’ lithetha Abachopheli-matyala Becandelo Lezimali elisekwe ngokwecandelo 219 leFinancial Sector Regulation Act.;";
(m) nangokuthi kwicandelo 1 kongezwe icandelwana elilandelayo, lize incandelo elikhoyo libe licandelwana (1):

"(2) Ngaphandle kokuba okunye okubhaliweyo kubonisa ngenye indlela, amagama angachazwanga kwicandelwana (1) anentsingiselo ekwanye anikwe yona kwitFinancial Sector Regulation Act.”;

2. Emva kwecandelo 1 kufakelwa icandelo elilandelayo:

"Ubudlelane phakathi kwalo Mthetho neFinancial Sector Regulation Act

1A. (1) Ngaphandle kwalapho utsho okwahlukeyo lo Mthetho okanye tFinancial Sector Regulation Act,
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<tbody>
<tr>
<td>(2)</td>
<td>A reference in this Act to the Authority or the Agency determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority or the Agency determining or publishing the matter by notice published in the Register.</td>
<td></td>
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<tr>
<td>(3)</td>
<td>Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation in terms of section 86, or permits a matter to be prescribed by the Agency, including in a rule in terms of section 57, a reference in this Act to a matter being—</td>
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<tr>
<td>(a)</td>
<td>preserved must be read as a reference to the matter being preserved in a prudential standard, conduct standard or joint standard; or</td>
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<tr>
<td>(b)</td>
<td>determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.</td>
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<tr>
<td>(4)</td>
<td>Matters in respect of which regulations relating to co-operative banks and co-operative financial institutions may be prescribed in terms of this Act may also be prescribed in prudential standards, conduct standards or joint standards in terms of the Financial Sector Regulation Act.</td>
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<tr>
<td>(5)</td>
<td>A reference to rules made by the Authority in terms of section 46 must be read as a reference to prudential standards, conduct standards or joint standards.</td>
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<tr>
<td>(6) (a)</td>
<td>A reference to an inspection in section 47 must be read as a reference to a supervisory on-site inspection or an investigation in terms of Chapter 9 of the Financial Sector Regulation Act.</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>A reference to an investigation by the Agency or the Minister in terms of section 73 must not be read as a reference to an investigation in terms of Chapter 9 of the Financial Sector Regulation Act.</td>
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</tr>
<tr>
<td>(7) (a)</td>
<td>A reference in this Act to the Authority or the Agency announcing or publishing information or a document on a web site must be read as a reference to the Authority or the Agency publishing the information or document in the Register.</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>The Authority or the Agency may also publish the information or document on its web site.</td>
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<tr>
<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
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<td>amagunya nemisebenzi yeGunya ngokwalo Mthetho yongezelela kumagunya nemisebenzi elinawo ngokweFinancial Sector Regulation Act.</td>
</tr>
<tr>
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<td></td>
<td>(2) Xa kulo Mthetho kuthethwa ngeGunya okanye ngeArhente eyenza isigqibo okanye epapasha udaba ngesihlokomiso kwiGazethi makuthathwe oko njengokuquka neGunya okanye iArhente eyenza isigqibo okanye epapasha udaba ngesihlokomiso esipapashwe kwiRejista.</td>
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<td>(3) Ngaphandle kokuba kutshiwo ngokacacileyo kulo Mthetho, okanye ngaphandle kokuba lo Mthetho ufuma ukuba udaba lulawulwe ngummiselo ngokwecandelo 86, okanye ngaphandle kokuba uvmela udaba lulawulwe yiArhente, kuquka ukulawulwa ngumgaqo ngokwecandelo 57, xa kulo Mthetho kuthethwa ngokulawulwa kodaba, makuthathwe—</td>
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<td></td>
<td></td>
<td>(a) niengokuthetha ukulawulwa kodaba ngendlela yobulumko; okanye</td>
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<td></td>
<td></td>
<td>(b) niengokuthetha ukulawulwa kodaba liGunya elenza isigqibo ngodaba ngokubhala lize lisibhale isigqibo kwiRejista.</td>
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<td>(4) Nemicimi ekunokuthi kwenzwiwe imimiselo ngayo ngeebhanki zentsebenziswano ngokwalo Mthetho kunokuthi kwenzwiwe imimiselo ngayo ngendlela yobulumko ngokweFinancial Sector Regulation Act.</td>
</tr>
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<td></td>
<td></td>
<td>(5) Xa kuthethwa ngemigaqo eyenziwe liGunya ngokwecandelo 46 makuthathwe ngokuthi yimigaqo eyenziwe ngokwendlela yobulumko.</td>
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<td></td>
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<td>(6) (a) Xa kuthethwa ngokuhlola okukwicandelo 47, makuthathwe ngokuthi kuthethwa ngokuhlola okungokweSahluko 9 seFinancial Sector Regulation Act.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) Xa kuthethwa ngophando olwenziwa yiArhente okanye nguMphathiswa ngokwecandelo 73 makungathathwe ngokuthi kuthethwa ngophando olungokweSahluko 9 seFinancial Sector Regulation Act.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(7) (a) Xa kulo Mthetho kuthethwa ngeGunya okanye ngeArhente evakalisa okanye epapasha ingcombolo okanye uxwebhu kwiebsayithi makuthathwe ngokuthi kuthethwa kubhekiselwa kwiGunya okanye kwiArhente epapasha ingcombolo okanye uxwebhu kwiebsayithi yalo.</td>
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Act No. 9 of 2017

Financial Sector Regulation Act, 2017

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<tr>
<td>(8) (a)</td>
<td>A reference in this Act to a prescribed fee, other than a reference to a fee prescribed by the Agency, must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>The Agency, when determining a fee in terms of this Act, must comply with the requirements of section 237 and Chapter 16 of the Financial Sector Regulation Act.</td>
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</tr>
<tr>
<td>(9)</td>
<td>A reference in this Act to an appeal of a decision of the Authority or the Agency must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</td>
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<tr>
<td>(10) (a)</td>
<td>The Authority must publish the following in the Register—</td>
<td></td>
</tr>
<tr>
<td>(i)</td>
<td>Each registration of a co-operative bank in terms of section 8 and each suspension and de-registration in terms of section 11;</td>
<td></td>
</tr>
<tr>
<td>(ii)</td>
<td>Each conversion of registration in terms of section 28;</td>
<td></td>
</tr>
<tr>
<td>(iii)</td>
<td>Each registration of a co-operative financial institution in terms of section 40C, and each suspension, lapsing and de-registration in terms of section 40D.</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>The Agency must publish the following in the Register—</td>
<td></td>
</tr>
<tr>
<td>(i)</td>
<td>Each registration of a representative body in terms of section 33, and each cancellation or suspension of registration in terms of section 35; and</td>
<td></td>
</tr>
<tr>
<td>(ii)</td>
<td>Each accreditation of a support organisation in terms of section 38, and each cancellation or suspension of accreditation in terms of section 40.</td>
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Regulatory instruments

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, the following are regulatory instruments:
(a) existing rules made in terms of section 46 prior to the date on which this section comes into effect; and |
(b) prudential, conduct or joint standards made in terms of section 46 subsequent to the date on which this section comes into effect;".

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<td>(8) (a)</td>
<td>Xa kulo Mthetho kuthethwa ngomrhumo ofunekayo, kodwa kubeka kungathethwa ngomrhumo ofunwe yaArhente, makuthathwe ngokuthi kuthethwa ngomrhumo ogqitywe ngokwecandelo 237 leFinancial Sector Regulation Act.</td>
</tr>
<tr>
<td>(b)</td>
<td>Xa iArhente isenza isigqibo ngomrhumo ngokwalo Mthetho mayihlangabezane neemfuneko zecandelo 237 nezeSahluko 16 seFinancial Sector Regulation Act.</td>
</tr>
<tr>
<td>(9)</td>
<td>Xa kulo Mthetho kuthethwa ngokubhena kwisigqibo setlunya makuthathwe ngokuthi kuthethwa ngokuqwalaselwa ngokutha kwaso ngabachopheli-matyalala ngokweFinancial Sector Regulation Act.</td>
</tr>
<tr>
<td>(10) (a)</td>
<td>IGunya malipapashe okulandelayo kwiRejista— (i) ubhaliso ngalunye ngokwecandelo 8 unkunqunyanyi-swagakunywe nokurhoxiswa kokubhaliswa ngokwecandelo 11; (ii) nesihlandlo ngasinye sokugugulwa kubhaliso ngokwecandelo 28; (iii) nesihlandlo ngasinye sokubhaliswa kweziko lemlali elingeni nfela-ndawonye ngokwecandelo 40C, nesihlandlo ngasinye sokunqunyanyiswa, ukuphelelwa nokurhoxiswa kokubhaliswa ngokwecandelo 40D.</td>
</tr>
<tr>
<td>(b)</td>
<td>IArhente mayipapashe okulandelayo kwiRejista— (i) isihlandlo ngasinye sokubhaliswa ngokwecandelo 33, nesihlandlo ngasinye sokurhoxiswa okanye unkunqunyanyiswa kokubhaliswa ngokwecandelo 35; (ii) nesihlandlo ngasinye sokuvunywa ngokwecandelo 38, nesihlandlo ngasinye sokurhoxiswa okanye unkunqunyanyiswa kokuvunywa ngokwecandelo 40.</td>
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**Izixhobo zokulawula**

**1B.** Ngenjongo yokuchaza elithi “izixhobo zokulawula” elikwicandelo 1(1) leFinancial Sector Regulation Act, oku kulandelayo kuizixhobo zokulawula:  
(a) imigaqo ekhoyo ngoku eyeniwe ngokwecandelo 46 ngaphambi komhla wokuqalisa ukusebenza kweli candelo;  
(b) nemigaqo vobulumko, nezenzo ezenziwe ngokwecandelo 46 emva komhla eliqalise ngawo ukusebenza eli candelo.”
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<tr>
<td></td>
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<td>3. The amendment of section 2 by the substitution for paragraphs (b) and (c) of the following paragraphs: “(b) promote the development of sustainable and responsible co-operative banks and co-operative financial institutions; and (c) establish an appropriate regulatory framework and regulatory institutions for co-operative banks and co-operative financial institutions that protect the interests of members of co-operative banks, co-operative financial institutions, and the public, by providing for— (i) the registration of deposit-taking financial services co-operatives as co-operative banks or co-operative financial institutions; (ii) the [establishment of supervisors to ensure] appropriate and effective regulation and supervision of co-operative banks and co-operative financial institutions, and to protect members and the public interest; and (iii) the establishment of a Development Agency for Co-operative Banks to develop and enhance the sustainability of co-operative banks and co-operative financial institutions.”.</td>
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<td>4. The amendment of section 3 by the substitution for the section of the following section: “3. [(1)] This Act applies to all co-operative banks registered under this Act and to any — (a) primary co-operative registered under the Co-operatives Act that takes deposits and— (i) has 200 or more members; and (ii) holds deposits of members to the value of one million rand or more; and (b) secondary or tertiary co-operative registered under the Co-operatives Act, whose members consist of at least— (i) two or more co-operative banks;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khotshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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<td>3. Kwenziwa utshintsho kwicandelo 2 ngokuthi isiqendu (b) no-(c) zithatyathelw’ indawo ziziqendu ezilandelayo: “(b) kukhuthazwe ukuphuculwa kweebhanki zentsebenziswano namaziko emali ayimifelandawonye; kananjalo (c) kusekwe amaziko afanelekileyo eebhanki ezimifelandawonye namaziko emali entsebenziswano akhusela izinto eziluncedo zamalungu eebhanki zentsebenziswano, amaziko emali entsebenziswano, noluntu, ngokwenza ukuba— (i) kubhaliswe ibhanki ezamkela imali eluntwini zibe zibhanki zentsebenziswano okanye amaziko emali ayimifelandawonye; (ii) [ukumiselwa kwabaphathi] ukulawulwa okufanelekileyo nangempumelelo kweebhanki zentsebenziswano namaziko emali entsebenziswano nokukhulweza kwamalungu noluntu; kananjalo (iii) ukusekwa kweArhente Yophuhliso yeeBhanki Zentsebenziswano ukuphucula ukuphileka kweebhanki zentsebenziswano zisebenza namaziko emali entsebenziswano.’’. 4. Kwenziwa utshintsho kwicandelo 3 ngokuthi elo candelo lithatyathelw’ indawo licandelo elilandelayo: “3. [(1)] Lo Mthetho usebenza kuzo zonke ibhanki zentsebenziswano ezibhaliswe phantsi kwalo Mthetho nakuzo naziphi na — (a) umfelandawonye ophambili obhaliswe phantsi kweCo-operatives Act othatha iimali ezifikawayo— (i) onamalungu angama-200 okanye ngaphazulu; (ii) noneemali ezifikawo ngamalungu ezikhalela kwisisi di seerandi okanye ngaphazulu; kwakunye (b) nomfelandawonye weshini okanye wokongeza obhaliswe phantsi kweCo-operatives Act, omalungu awo ubuncinane— (i) aneebhanki ezimbini nangaphazu koko ezingumfelandawonye;</td>
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<td></td>
<td>(ii) two or more financial services co-operatives that take deposits; or</td>
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<td>(iii) one co-operative bank and one financial services co-operative that take deposits</td>
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<td></td>
<td>co-operative financial institution registered under this Act.</td>
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<td></td>
<td>[(2) A co-operative referred to in subsection (1) must, subject to section 91, within two months of meeting the criteria referred to in subsection (1) apply for registration as a co-operative bank in terms of this Act.]</td>
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<td>5.</td>
<td>The amendment of section 4 by the substitution for subsection (1) of the following subsection:</td>
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<td>“(1) The Co-operatives Act applies to co-operative banks and co-operative financial institutions unless the application of a provision thereof has specifically been excluded or amended in this Act.”</td>
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<td>6.</td>
<td>The amendment of section 5 by the substitution for paragraphs (c) and (d) for the following paragraphs:</td>
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<td>“(c) a secondary co-operative bank whose members consist of at least—</td>
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<td>(i) two or more co-operative banks;</td>
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<td></td>
<td>(ii) two or more co-operative financial institutions; or</td>
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<td></td>
<td>(iii) one co-operative bank and one co-operative financial institution; and</td>
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<td>(b) a tertiary co-operative bank whose members consist of two or more secondary co-operative banks.”</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
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<td>anemifelandawonye</td>
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<td>yeenkonzo zemali emibini</td>
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<td>nangaphezulu eyamkela imali</td>
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<td>ebantwini;</td>
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<td>(iii)</td>
<td>anebhanki enye</td>
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<td>yentsebenziswano</td>
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<td>nomfelandawonye omnye</td>
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<td>wenkonzo yemali owamkela</td>
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<td>imali ebantwini[ iziko lemal</td>
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<td>elingumfelandawonye</td>
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<td>elibhaliwe ngokwalo Mthetho,</td>
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<td>Umfelandawonye ekuthethwe</td>
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<td>ngawo kwicandelwana (1) mawuthi,</td>
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<td>ngokulafulwa licandelo 91,</td>
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<td>zingekepeli iyanga ezimbini</td>
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<td>uthe wahlangabezana neemfuneko</td>
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<td>ekuthethwe ngazo kwicandelwana</td>
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<td>(1) wenze isicelo sokuhaliiswa</td>
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<td>njengebhanki yentsebenziswano</td>
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<td>ngokwalo Mthetho.</td>
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<td>Kwenziwa utshintsho kwicandelo 4</td>
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<td>ngokuthi indawo yeckandelwana</td>
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<td>ithathhe licandelwana elilandelayo:</td>
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<td>“(1) ICo-operatives Act isebenza</td>
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<td>kwiibhanki zentsebenziswano</td>
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<td>nakumaziko emali entsebenziswano</td>
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<td>ngaphandle kokuba icacisiwe into</td>
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<td>yokuba okutshiwo yinxalenye ethele yalo</td>
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<td>Mthetho akusebenzi okanye kwenziwe</td>
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<td>utshintsho.’’.</td>
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<td>6</td>
<td>Kwenziwa utshintsho kwicandelo 5</td>
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<td>ngokuthi indawo yesiqendu (c) no-(d)</td>
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<td></td>
<td>ithatyathwe ziziqendu ezilandelayo:</td>
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<td>“(c) ibhanki yesibini yentsebenziswano</td>
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<td>emalungu ayo ubuncinane—</td>
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<td>(i) aziibhanki ezimbini</td>
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<td>nangaphezulu</td>
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<td>zentsebenziswano;</td>
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<td>(ii) angamaziko emali</td>
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<td>entsebenziswano amabini</td>
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<td></td>
<td>nangaphezulu; okanye</td>
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<td>(iii) avibhanki enye</td>
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<td>yentsebenziswano nezikho</td>
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<td>lemali lentsebenziswano</td>
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<td>elinye; kunye</td>
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<td>(b) ibhanki ephezulu</td>
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<td></td>
<td>yentsebenziswano emalungu ayo</td>
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<td></td>
<td>aziibhanki ezimbini</td>
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<td></td>
<td>nangaphezulu zentsebenziswano</td>
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<td>zokuncedisa.’’.</td>
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7. | The insertion after section 40 in Chapter VII of the following Chapter:

"CHAPTER VIIA
CO-OPERATIVE FINANCIAL INSTITUTIONS"

Application for registration as co-operative financial institution

40A. (1) A co-operative financial institution must apply to the Authority, or to the Agency if this function has been assigned or delegated to the Agency, for registration on the application form as prescribed.

(2) The co-operative financial institution must submit copies of documents and any other information as prescribed, together with the application form referred to in subsection (1).

Requirements for registration

40B. (1) In order to qualify for registration, or to continue to be registered, a co-operative financial institution must demonstrate, to the satisfaction of the Authority, or to the Agency if this function has been assigned or delegated to the Agency, on an ongoing basis that—

(a) it has the requisite experience, knowledge, qualifications and competence to give effect to its obligations;

(b) it has sufficient human, financial, and operational capacity to function efficiently and competently;

(c) it meets any prescribed threshold requirements in respect of membership, membership shares and deposits held; and

(d) it meets any other applicable prescribed requirements.

(2) (a) A co-operative financial institution must, once it has reached a prescribed amount of members’ deposits, apply for registration as a co-operative bank in terms of this Act.

(b) If the responsibility for the registration of a co-operative financial institution has been assigned or delegated to the Agency, the Agency must recommend to the Authority whether the application for registration as a co-operative bank should be approved or declined.

(c) In the event that the application by a co-operative financial institution to register as a co-operative bank is declined—
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khotshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<td>7.</td>
<td>Emva kwecandelo 40 kwiSahluko VII kufakelwa iSahluko esilandelayo:</td>
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<td></td>
<td><strong>“ISAHLUKO VHA AMAZIKO EMALI ENTSEBENZISWANO</strong></td>
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</tr>
<tr>
<td></td>
<td><strong>Isicelo sokubhaliswa njengeziko lemalalentsebenziswano</strong></td>
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</table>
| | **40A.** (1) Iziko lemalalentsebenzi-
swano maleenze isicelo kwisahluko, okanye kwirsebenzi wabelwe iArhente, ukuse libhalise kwifomu yesicelo ngendlela efunekayo. |
| | (2) Iziko lemalalentsebenziswano malingenise iikopi zamaxwebhu kunye nayo yonke enye ingcombolo ngendlela efunekayo, kunye nefomu yesicelo ekuthethwe ngayo kwicandelwana (1). |
| | **Limpuneko zokubhaliswa** |
| | **40B.** (1) Ukuze lifaneleleke ukubhaliswa, okanye ukuqhubeka libhalisiwe, iziko lemalalentsebenziswano kufuneka libonise ngendlela eyanelisa iGunya, okanye iArhente, ukuba lo masebenzi wabelwe iGunya, okanye iArhente, libonise ukubā— |
| | (a) linawo amava afunekayo, nolwazi, nemfundo nokukwazi ukuphumeza imbopheleleko zalo; |
| | (b) linbasebenzi abaneleyo nemali eyaneleyo ukuze lisebenzenge ngempumelelo; |
| | (c) linazo imlimuneko-tanci zobulungu, izabelo zobulungu neemali ezikaziweyo; |
| | (d) liyahlangabezana nazo zonke ezinye imlimuneko. |
| | (2) (a) Iziko lemalalentsebenziswano malithi, kwaoko lakuba linazo imali ezilinani elfunekayo ezifikwe ngamalungu, lenze isicelo sokubhaliswa njengebhangki yenentsebenziswano ngokwalo Mthetho. |
| | (b) Ukuba imbopheleleko yokubhaliswa kweziko lemalalentsebenziswano labelwe iArhente, iArhente mayicebise iGunya isicelo sokubhaliswa njengebhangki yenentsebenziswano masamkelwe okanye sikhatyiwe kusini na. |
| | (c) Xa isicelo seziko lemalalentsebenziswano sokubhaliswa njengebhangki yenentsebenziswano sikhatyiwe— |
| | (i) iGunya lisengaggiba kwelokuba iziko lemalalentsebenziswano alinakugcina imali ezifikweyo engaphezu kwesixa esithile; kananjalo |

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(i) the Authority may determine that the co-operative financial institution concerned may not hold members’ deposits exceeding a specified amount; and
(ii) the co-operative financial institution concerned must re-apply for registration as a co-operative bank once the requirements to register as a co-operative bank have been met.

(d) An amount determined by the Authority in terms of paragraph (c)(i)—
(i) must be based on the nature and size of the co-operative financial institution; and
(ii) may not exceed the general maximum limit for holdings of deposits by any co-operative financial institution prescribed by the Authority.

(e) An application by a co-operative financial institution for registration as a co-operative bank must be accompanied by a letter of recommendation from the Agency, if applicable.

(3) On the date that this section comes into operation, a co-operative financial institution that qualifies to be registered in terms of this Act—
(a) must apply for registration in terms of this Act within 12 months from the date on which this section comes into operation; and
(b) that holds members’ deposits exceeding a prescribed threshold, but which does not qualify to be registered as a co-operative bank, must not hold members’ deposits exceeding an amount determined by the Authority, based on the nature and size of the co-operative financial institution.

(4) If the registration of co-operative financial institutions has been assigned or delegated to the Agency in terms of the Act, the Agency must inform the Authority of the registration of a co-operative financial institution within 14 days of the registration.

Registration of co-operative financial institution

40C. (1) The Authority may grant an application for registration on payment of the fee, prescribed by the Authority, if the Authority is satisfied that—
(a) the application has been made in accordance with this Act; and
(b) the co-operative financial institution complies with the requirements for registration referred to in section 40B.
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
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<tr>
<td>(ii) iziko lemalile lentsebenziswano maliphinde lenze isicelo sokuqbaliswa njengebhanki yentsebenziswano zakuba imfuneko zokuqbaliswa njengebhanku yentsebenziswano zifezekisiwe.</td>
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<td>(d) Isixa-mali esiqingqwe liGunya ngokwesiqendu (c)/(i)—</td>
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<td>(i) massisekelwe kubunjani nakubungakanani beziko lemalile lentsebenziswano; kwaye</td>
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<td>(ii) ēlvumelelanga ukuba litingithe kumda obekeleyo weemali eznokuciniwa oqinqe liGunya.</td>
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<tr>
<td>(e) Isicelo senziwa iziko lemalile lentsebenziswano sokuqbaliswa njengebhanki yentsebenziswano masipelekele wincwadi ecebisa omakwenzeke evela wintsebenzi oko kule meko.</td>
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<td>(3) Ngomhla eliqala ukusebenza ngawo eli candelo, iziko lemalile lentsebenziswano elifanelelela sokuqbaliswa ngokwalo Mthetho—</td>
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<td>(a) malenze isicelo sokuqbaliswa ngokwalo Mthetho zingekapheli inyangwa ezili-12 ukususela kumhla eliqala ngawo ukusebenza eli candelo; kanye</td>
<td></td>
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<td>(b) eneemali ezikhukwe ngabantu ezingaphaya komlingamiselo obekeleyo, kodwa libe lingafaneleki ukuba libhaliswe njengebhanki yentsebenziswano, malingagcini imali ezikhukwe ngabantu ezingaphaya komda oqinqe liGunya, osekelwe kubunjani nobungakanani beziko lemalile lentsebenziswano.</td>
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<td>(4) Ukuba sokuqbaliswa kwamaziko emali ensebenziswano kwabelwe okanye kuphathishwe iArhente ngokwalo Mthetho, iArhente mayazise iGunya ngokwalo Mthetho leziko lemalile lentsebenziswano zingekapheli iintsuku ezili-14 libhalisiwe.</td>
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<tr>
<td>Ukuqbaliswa kweziko lemalile lentsebenziswano</td>
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<td>40C. (1) lGunya linokuthi lisivume isicelo sokuqbaliswa kusakuhiawulwa umrhumo, ofunwe liGunya, ukuba iGunya lanelisekile kwinto yokuba—</td>
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<td>(a) isicelo senziwe ngokuvumelana nalo Mthetho; kwaye</td>
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<td>(b) iziko lemalile lentsebenziswano livushwane neemfuneko zokuqbaliswa ekuthethwe ngazo kwicandelo 40B.</td>
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**Suspension of registration or de-registration**

40D. The Authority may, subject to subsection (4), de-register or, where appropriate, suspend the registration of a co-operative financial institution where the Authority is satisfied that the co-operative financial institution—

(a) has not commenced operating as a co-operative financial institution six months after the date of its registration as a co-operative financial institution;
(b) has ceased to operate;
(c) obtained registration through fraudulent means;
(d) no longer meets the requirements for registration referred to in section 40B;
(e) is unable to meet or maintain its prudential requirements referred to in section 40B;
(f) has failed to comply with any condition imposed under this Act;
(g) has failed to comply with any directive issued under this Act; or
(h) is de-registered or wound-up under the Co-operatives Act.

(2) Where a co-operative financial institution has requested its de-registration, the Authority may, on submission of such a request, along with any other prescribed or requested information, de-register the co-operative financial institution.

(3) (a) Where the Authority suspends the registration of a co-operative bank under subsection (1), the Authority may do so subject to any condition that the Authority may determine.

(b) The Authority may revoke any suspension under subsection (1) if the Authority is satisfied that the co-operative financial institution has complied with all the conditions to which the suspension was made subject.

(4) (a) The Authority must publish a notice of such de-registration or suspension in the Register.
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<td>(2) IGunya malithi, lisakuba iziko libhaliswe, likhuphe isiqinisekiso sokubhaliswa siye kwiziko lemalilentsebenziswa lize lipapashi isihlokomiso sokubhaliswa kwalo kwiRejista.</td>
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**Ukunqunyanyiswa kokubhaliswa okanye ukucinywa**

40D. (1) Ngokulawulwa licandelwana (4), iGunya linokulicima iziko lemalilentsebenziswa ebethabhaliswe, okanye, ya kufanelelele, likunqumamise ukubhaliswa kwalo, xa iGunya liqinisekile ukuba iziko lemalilentsebenziswa—

(a) alikaqalisi ukusebenza njengeziko lemalilentsebenziswa sekuphele iinyanga ezintandathu ukususela kumhla elabhaliswa ngawo njengeziko lemalilentsebenziswa.
(b) lyekele ukusebenza;
(c) likufumene ukubhaliswa ngokusebenzisa ubuqhetseba;
(d)alisahlangabezani neemfuneko zokubhaliswa ekuthethwe ngazo kwicandelo 40B;
(e) alikwazi ukuhlangabezana okanye ukuhubeka lihilangabezana neemfuneko zokubhaliswa ekuthethwe ngazo kwicandelo 40B;
(f) lyekele ukusebenza njengeziko lemalilentsebenziswa.
(g) lyekele ukwenza ngokumqathango okanye ngokwalo Mthetho;
(h) licinyiwe ekubhalisweni kwalo okanye lathiniwa ngokwelaCo-operatives Act.

(2) Xa iziko lemalilentsebenziswa lizicelele ngokwalo ukucinywa ekubhalisweni, iGunya linokuthi kusakungeniswa isicelo esinjalo, kunye nenyengingombo efunekeayo okanye eceleweyo, ilicime ekubhalisweni iziko lemalilentsebenziswa.

(3) (a) Xa iGunya likunqumamisa ukubhaliswa kwebhanki yentsebenzi-swano ngokwecandelwana (1), iGunya linokwenzaji ngoloko yentsebenziswa onokuthi ubekwe iGunya.
(b) iGunya linokukuphelisa ukunqunyanyiswa okwenziwe ngokwecandelwana (1) ukuba iGunya liqinisekile ukuba iziko lemalilentsebenziswa liyificile yonke imiqathango.

(4) (a) iGunya malipapashe kwiRejista tsaiziso sokucinywa okanye sokunqunyanyiswa.
Act No. and year | Short Title | Extent of repeal or amendment
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40E. (1) The Authority may, on the de-registration of a co-operative financial institution, direct the co-operative financial institution to repay any deposits, including interest thereon, held by that co-operative financial institution as at the date of de-registration within the period specified in the directive.

(2) A directive referred to in subsection (1) may—
(a) apply to all deposits generally; or
(b) differentiate between different types, kinds and amounts of deposits.

(3) A co-operative financial institution that fails to comply with a directive under subsection (1) is deemed not to be able to pay its debts.

Winding-up or judicial management of co-operative financial institution

40F. (1) Despite the provisions of sections 72(1), 73(1) and 77(2) of the Co-operatives Act—
(a) the Authority may—
(i) apply to a court that a co-operative financial institution be wound-up;
(ii) recommend to the Minister responsible for co-operatives that a co-operative financial institution be wound-up; and
(iii) apply to a court for a judicial management order; and

(b) the Minister responsible for co-operatives may not order that a co-operative financial institution be wound-up without the written concurrence of the Authority, or the Agency, if functions of the Authority have been assigned or delegated to the Agency as contemplated in this Act.
### Nomoro ya Molao le ngwaga

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<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td>(b) Ukucinywa ekubhalisweni kweziko lemaili lentsebenziswano kuqala ukusebenza ngomhla oxelwe kwisaziso ekuthethwe ngaso kwisigqibo (a).</td>
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<tr>
<td>(c) Xa iziko lemaili lentsebenziswano lenze isicelo sokuwsembelela wa ngokutsha kwesigqibo seGunya ekuthethwe ngalo kwicandelwana (1) iGunya malingasipapashi isaziso ekuthethwe ngaso kwisigqibo du de kube kugqitywe ukuqwalaselwa nga ngokutsha kwesigqibo.</td>
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#### Ukubuyiswa kweemal ihezekifakiwe lisakucinywa iziko okanye kusakuphela ukubhaliswa kwalao

40E. (1) Xa iziko lemaili lentsebenziswano licinywa ekubhalweni, iGunya linokuthi liyalele elo ziko lemaili ukuba lubanye imali ezakwakayo kulolo, kuquka nenza yazo, mali eza ezisekwiziko ekuphelele komhla wokucinywa kwalao ekubhalisweno lingekekphi iksesha elixelwe kumyalelo. 

(2) Umyalelo ekuthethwe ngawo kwicandelwana (1) unokuthi—

(a) usebenze kuso zonke imali ezizakwakayo; okanye

(b) usebenze kuphela kwintlobo ezithile nakwinimali ezithile ezifakiweyo.

(3) Iziko lemaili lentsebenziswano elingakwenziyo ookuqalwa ngokucinelwana (1) lithathwa ngokuthi liyaledwa ikhuluphila ukuba iziko lemaili lentsebenziswano lithinjwe.

#### Ukuthinjwa kweziko lemaili lentsebenziswano

40E. (1) Kungakhathaliseki ukuba lishini icandelo 72(1), 73(1) nele-77(2) leCo-operatives Act—

(a) iGunya linokuthi—

(i) lenz’isicelo enkundleni sokuba iziko lemaili lentsebenziswano lithinjwe;

(ii) licebise uMphathiswa ophathiswe imifelandawonye ukuba iziko lemaili lentsebenziswano lithinjwe; kana

(iii) lenz’isicelo enkundleni somyolelo wokuba iziko liphathwe ngabalinwa abamiselwe yinkundla; kana

(b) uMphathiswa ophathiswe imifelandawonye akekumeleka akuba ayalele ukuba iziko lemaili lentsebenziswano lithinjwe
(2) Any application to a court for the winding-up, including the voluntary winding-up, of a co-operative financial institution must be served on the Authority.

(3) Despite any other law, the Master of the High Court may only appoint a person recommended by the Authority as a provisional liquidator or liquidator of a co-operative financial institution, unless the Master is of the opinion that the recommended person is not fit and proper to be appointed as a provisional liquidator or liquidator of the co-operative financial institution concerned.

(4) A liquidator of a co-operative financial institution that is voluntarily wound-up must submit to the Authority any documents that the co-operative financial institution being wound-up would have been obliged to submit in terms of this Act.

8. The repeal of sections 41 and 43.

9. The amendment of section 44—
   (a) by the substitution for subsection (1) of the following subsection:

   “(1) The supervisor Authority may, in writing, delegate or assign any of the powers entrusted to [him or her] the Authority in terms of this Act and assign any of the duties imposed on [him or her] the Authority in terms of this Act to [a deputy supervisor,] any person employed by the Authority or the South African Reserve Bank, to the Financial Sector Conduct Authority, or, with the concurrence of the Minister, to the Agency [a deputy supervisor or any other person].”; and

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

   “(4) (a) To the extent that a power or function relating to the licensing of co-operative financial institutions has been delegated to the Agency, references in Chapter VIIA to “the Authority” must be read as a reference to “the Agency”;
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<td>ngaphandle kwemvume ebhaliweyo yeGunya, okanye tArhente, ukuba imisebenzi yeGunya yabelwe okanye iphathiswe tArhente njengoko kuxelwe kulo Mthetho.</td>
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<td>(2) Isicelo esibhekiswa enkundleni sokuthinjwa, kuqaka nokuthinjwa ngokuzithandela kweziko lemalali lentsebenziswano malaziswe iGunya ngaso.</td>
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<td>(3) Kungakhathaliseki ukuba uthini na omnye umthetho, uMgcini-Mafa WeNkundla Ephakamileyo unokumisela kubhela umntu onconywe liGunya njengonothimba wexeshana okanye unothimba weziko lemalali lentsebenziswano, ngaphandle kokuba uMgcini-Mafa unoluvo lokuba umntu onconyiweyo akafanelekanaka ukuba amiselwe njengonothimba wexeshana okanye njengonothimba weziko lemalali lentsebenziswano.</td>
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<td>(4) Unothimba weziko lemalali lentsebenziswano elifunela ngokwalo ukuthinjwa makanike iGunya nawaphi na amaxwebhu ebelaya kunyanzeleka ukuba liwakhuphe elo ziko ngokwalo Mthetho.</td>
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|                           |                          | 9. Kwenziwa utshintsho kwicandelo 44—

(a) ngokuthi indawo yeicandelwana (1) ithatyathwe licandelwana elilandelayo:

“(1) [Umphathi] iGunya linokuthi, ngokubhala, lifathiswe okanye leabe amagunya eliwaphathisweyo liwabele iGunya ngokwalo Mthetho [usekela-umphathi], nawaphi na umntu oqeshwe liGunya okanye yeSouth African Reserve Bank, kwiFinancial Sector Conduct Authority, okanye ngokuvumelana noMphathiswa, kwiArhente [usekela-umphathi okanye omnye umntu].“;

nangokuthi

(b) emva kwicandelwana (3) kufakwe icandelwana elilandelayo:

“(4) (a) Xa igunya okanye umsebenzi wokukuthethela ilayisensi kweziko lemalali lentsebenziswano uphathiswe tArhente, xa kwisahluko VIIA kuthethwa nge-"Gunya" oko makuthathwe njengokubhekisela kwi-"Arhente"."
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<td>10.</td>
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<td>The substitution for section 45 of the following section:</td>
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<td><strong>45.</strong> The [supervisor] Authority, in addition to other functions conferred on the [supervisor] Authority by or in terms of any other provision of this Act—</td>
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<td><em>(a)</em> must take steps <em>[he or she]</em> that the Authority considers necessary to protect the public in their dealings with co-operative banks and co-operative financial institutions;</td>
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<td><em>(b)</em> may, on the written request of a co-operative bank, co-operative financial institution, representative body, support organisation or auditor, extend any period within which any documentation, information or report must be submitted to <em>[him or her]</em> the Authority;</td>
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<td><em>(c)</em> must determine the form, manner and period, if a period is not specified in this Act, within which any documentation, information or report that a co-operative bank, co-operative financial institution, <em>[a]</em> representative body, support organisation or auditor is required to submit to the [supervisor] Authority under this Act must be submitted;</td>
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<td><em>(d)</em> may, despite the provisions of any law, furnish information acquired by <em>[him or her]</em> the Authority under this Act to any person charged with the performance of a function under any law;</td>
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<td><em>(e)</em> may issue guidelines to co-operative banks, co-operative financial institutions, members, supporting institutions and auditors on the application and interpretation of this Act and provide them with information on market practices or market or industry developments within or outside the Republic;</td>
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Molao wa Taolo ya Lephata la Ditshelete , 2017  

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Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo

(b) Xa kw’Sahluko VIIA kukho igama elithi “emiselweyo,” kuthethwa “emiselweyo kwizenzo zokuziphatha zobulunimo okanye ngokwemilinganiselo yendibaniSelwano”;  

(c) Xa igunya okanye umsebenzi wokukhutshelwa ilayisendwama kwamazikoko emali entsebenziselwano wabelwe okanye uphathiswe iArhente—  

(i) iArhente inokuthi iqulunqe imigaqo engokwenza loo msebenzi ukusetyenziswa kwegunya; kwaye  

(ii) elithi “emiselweyo” malithathwe njengelilhhekisela “kwimigaqo equlunqwe yiArhente.”

10. Indawo yecandelo 45 ithatyathwa licandelo elilandelayo:

“45. [Umphathi] iGunya, ukongezelela kwemiyene imisebenzi enikwe [umphathi] iGunya ngokwalo Mthetho—  

(a) malithathabthe amanyathelo eliwabona lona liliGunya efanelelekele ukukhusela uluntu ekusetyenziswa neebhanki zentsebenziselwano namaziko emali entsebenziselwano;  

(b) unokuthi, ngesicelo esibhaliweyo sebhanki yentsebenziswano, amaziko enqu entsbenziswano iqumrhu elingummeli, axhase umbutho okanye umphicicotizincwadi, olule ithuba lokugenisiswa kokwebhu oluthile okanye ingombokolo ethile ingeniswa kwiGunya;  

(c) makenz’ isigqibo ngohlobo, ngenidlela, ngobude bexehsa, ukuba ubude bexehsa abuxelwanga kuMthetho, ekufuneka lingapheli ibhanki yentsebenziswano, iziko lemali lentsbenziswano, iqumrhu elingummeli, umbutho wenkxaso okanye umphicicotizincwadi, ekufuneka angenise ngalo [kumpfathi] kwiGunya ngokwalo Mthetho;  

(d) unokuthi, kunghakathaliseki ukuba uthinini omnye umthetho, anikele ngengombokolo efumekayo kwiGunya ngokwalo Mthetho eyinika umntu ophathiswe umsebenzi ngokwalo Mthetho;  

(e) unokukhupha izikhokelo eziya kwibhanki zentsebenziswano, kumaziko emali entsbenziswano, kumalungu, kumaziko enkxaso nakubaphicothizincwadi malunga nokusetyenziswa nokuchazwa.
11. The substitution for section 46 of the following section:

"Power to make [rules] standards

46. (1) [The supervisor may pre-
scribe rules with regard to—] A pru-
dential, conduct or joint standard for or in respect of co-operative financial insti-
tutions and co-operative banks may be
made on any of the following matters:
(a) [any] Any matter that is required or permitted to be prescribed in terms of this Act; and
(b) any other matter for the better imple-
mentation of this Act or a function or power provided for in this Act.
(2) [Rules] Standards referred to in
subsection (1) may—
(a) apply to co-operative banks or co-
operative financial institutions gener-
ally; or
(b) be limited in application to a particu-
lar co-operative bank or co-operative
financial institution or kind of co-
operative bank or co-operative finan-
cial institution, which may be de-
efined in relation to either a type or budgetary size of co-operative bank or co-operative financial institution or to any other matter.

((3) (a) Before the supervisor pre-
scribes any rule under this section, he or she must—
(i) publish a draft of the proposed
rule in the Gazette together with a
notice calling for public comment
in writing within a period stated in
the notice, which period may not be less than 30 days from the
date of publication of the notice; and

(f) may publish a journal or any other publi-
cation, and issue newsletters and circulars containing information relating to co-operative banks and co-operative financial institutions; and

(g) may take any measures [he or she] that the Authority considers neces-
sary for the proper performance and exercise of [his or her] the Authori-
ty’s functions or duties or for the
implementation of this Act.”.
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<td>kwentsingiselo yalo Mthetho aze abanike ingcimbolo ngeendlola ezisebenza ngayo imanike ngaphakathi okanye ngaphandle kwemida yeRihaphilikhi;</td>
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<td>(f) unokuthi apapashe ulindixesha okanye enye incwadi ezizulethe ingcimbolo engeebhanki zentsebenziwano namaziko emali entsebenziwano; kwaye</td>
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<td>(g) unokuthabathia nawaphi na amanyathelo iGunya eliwabona efanelele ilezu yenyiwe kakuhle imisebenzi okanye asetyenziswe kakuhle amagunya eGunya ukuze usebenziseke lo Mthetho.‘’</td>
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11. Indawo ye candelo 46 ithatyathwa licandelo elilandelayo: 

‘’Igunya lokuqulunqa [imigazo] imilinganiselangakho

46. (1) [Umphathi unokuqulunqa imigazo ngokubhekiselele]- Isenzo sobulumko okanye umlinganiselangakho wendibanelela weziko lembali lentsebenziwano sinokwenziwa ngayo nawuphi na kule micimbili ilandelyo: 

(a) [nayiphi na] Nawuphi na umcimbi ekufuneka okanye ekuvumelekileyo ukuba kwensiwe imimiselo ngawo; kwakunye 

(b) nawuphi na umcimbi wokusetyenswa bhetele kwalo Mthetho okanye umsebenzi okanye igunya eliqulethe kulo Mthetho. 

(2) [Imigazo] Imilinganiselangakho ekuthethwe ngayo kwicandelo (1) inokuthi— 

(a) isebenze kwiibhanki zentsebenziwano okanye kuzumako emali entsebenziwano gabahala; okanye 

(b) ekusenebenzi kwayo ipheleleiselewe kwiibhanki ethile yentsebenziwano okanye iziko lembali lentsebenziwano, elingachazwa ngohlolo lwalo okanye ngobungakanani bebhanki yentsebenziwano okanye iziko lembali lentsebenziwano okanye ngokubhekiselele nakweyiphi na into. 

(3) (a) Ngaphambini kokuba umphathi aqulunqo nawuphi na umthetho ngokweli candelo— 

(i) makapapashe umgazo ocetywayo oseluvavanyo awupapashe kwitiGazethi kunye nesihlokomiso esicela ukuba uluntu luvakalise izimvo ngokubhala linge kapheli
(ii) secure the written approval of the Minister.

(b) If the supervisor alters a draft rule because of any comment, he or she need not publish the alteration before prescribing the rule.

(4) The supervisor may, if circumstances necessitate the immediate publication of a rule, publish that rule without the approval as contemplated in subsection (3)(a)(ii).

12. The substitution for section 47 of the following section:

“Inspections

47. (1) [(a)] The [supervisor] Authority may at any time of [his or her] the Authority’s own accord, on application by at least 10 per cent of the members of or at the request of the judicial manager of a co-operative bank or a co-operative financial institution, inspect the business of a co-operative bank or a co-operative financial institution if the Authority has reason to believe that the co-operative bank or co-operative financial institution is not conducting its affairs in accordance with the provisions of this Act or is contravening a provision of this Act.

[(b) The supervisor has for the purposes of subsection (2) the powers and duties conferred or imposed upon a registrar by the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), and any reference in that Act to “registrar” must be construed as a reference to “supervisor” and any reference to “financial institution” must be construed as a reference to “co-operative bank”, provided that no warrant is required for search and seizure activities aimed at establishing regulatory compliance.]

(2) The [supervisor] Authority may take any measures and make any recommendation [he or she] that the Authority considers appropriate following an inspection in terms of subsection (1), including a recommendation to—

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<td>(ii)</td>
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<td>(ii) secure the written approval of the Minister.</td>
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| (b)             |             | (b) If the supervisor alters a draft rule because of any comment, he or she need not publish the alteration before prescribing the rule. |

| (4)             |             | (4) The supervisor may, if circumstances necessitate the immediate publication of a rule, publish that rule without the approval as contemplated in subsection (3)(a)(ii). |

| 12.             |             | 12. The substitution for section 47 of the following section: |

| “Inspections”   |             | “Inspections” |

| 47.             |             | 47. (1) [(a)] The [supervisor] Authority may at any time of [his or her] the Authority’s own accord, on application by at least 10 per cent of the members of or at the request of the judicial manager of a co-operative bank or a co-operative financial institution, inspect the business of a co-operative bank or a co-operative financial institution if the Authority has reason to believe that the co-operative bank or co-operative financial institution is not conducting its affairs in accordance with the provisions of this Act or is contravening a provision of this Act. |

| [(b)            |             | [(b) The supervisor has for the purposes of subsection (2) the powers and duties conferred or imposed upon a registrar by the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998), and any reference in that Act to “registrar” must be construed as a reference to “supervisor” and any reference to “financial institution” must be construed as a reference to “co-operative bank”, provided that no warrant is required for search and seizure activities aimed at establishing regulatory compliance.]

<p>| (2)             |             | (2) The [supervisor] Authority may take any measures and make any recommendation [he or she] that the Authority considers appropriate following an inspection in terms of subsection (1), including a recommendation to— |</p>
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<td>ixesho elixelwe kwishilokomiso, xesho elo elingenakuba ngaphantsi kwentsuku ezingama-30 ukususela kumhla wokupapashwa kwseshlokomiso; kwaye (ii) makafumane imvume ebhaliweyo yoMphathiswa.</td>
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<td>(b) Ukuba umphathi uyawutshi-ntsha umgaqo oseluvavanyo ngenxa yoluvo olovakalisiweyo, akukho mfuneko yokuba alupapasho olo thshintsho ngaphambhi kokuba awuqulunye umgaqo.</td>
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<td>(4) Ukuba iimeko zifunisa ukuba upapashwe ngoko nangoko umgaqo, umphathi unokuwupapasha loo mgaqo ngaphandle kwemvume ezelwe kwicandelwana (3)(a)(ii),].</td>
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<td>12.</td>
<td>Indawo yecandelo 47 ithatyathwa licandelo elilandelayo:</td>
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<td>“Ukuhlolwa</td>
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<td>47. (1) [(a)] [Umphathi] iGunya linokuthi nangaliphi na ixesha, xa kwenziwe isicelo ubuncinane lishumi ekhuluwinimalamangu okanye xa kucele umphathi ogwebayo webhanki yentsebenziswa okanye wezikolo lemali lentshebenziswa, aholile isishini lebhanki yentsebenziswa okanye leziko lemali lentshebenziswa ukuba [umphathi] iGunya linokuthi nangaliphi na ixesha, xa kwenziwe isicelo ubuncinane lishumi ekhuluwinimalamangu okanye xa kucele umphathi ogwebayo webhanki yentsebenziswa, aholile isishini lebhanki yentsebenziswa okanye leziko lemali lentshebenziswa ukuba</td>
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<td>(b) Ngenjongo yokusebenza kwecandelwana (2) umphathi unamagunya nemisebenzi athiwe jize kumgcini-zifayile yi—Inspection of Financial Institutions Act 80 ka-1998, kwaye nanini na xa kuloo Mthetho kuthethwa nga—“mgcini-zifayile” makuthathwo oko njengokubhekisela ku—“mphathi” kwaye nanini na xa kuthethwa nga—“ziko lemali” makuthathwo oko njengokuthetha “ibhanki yentsebenziswa”, kodwa ke akunkefani sigunyazisi yokuczokuqoza nokuthatha ngenjongo yokufa za okufunwa yimimiselo.</td>
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Act No. 9 of 2017

Financial Sector Regulation Act, 2017

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<td>(a) the co-operative bank or the co-operative financial institution; and (b) the relevant prosecuting authority if the inspection was done on the authority of a warrant.”.</td>
</tr>
</tbody>
</table>

13. The amendment of section 48—(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The [supervisor] Authority may, in order to ensure the implementation and administration of this Act or to protect members and the public in general, issue a directive to a co-operative bank or a co-operative financial institution—”;

(b) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

“(a) apply to co-operative banks or co-operative financial institutions generally; or

(b) be limited in its application to a particular co-operative bank or co-operative financial institution, or kind of co-operative bank or co-operative financial institution, which may be defined either in relation to a type or budgetary size of co-operative bank or co-operative financial institution or to any other matter.”. |

14. The amendment of section 49—(a) by the substitution for subsection (1) of the following subsection:

“(1) The [supervisor] Authority may, despite and in addition to taking any step [he or she] that the Authority may take under this Act, impose an administrative penalty on [the] a co-operative bank or co-operative financial institution for any failure to comply with a provision of this Act.”; and

(b) by the substitution for subsection (4) of the following subsection:
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<td>(a) kwibhanki yentsebenziswano okanye kwiziko lemalı lentsenbenziswano;</td>
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<td></td>
<td></td>
<td>(b) nakwigunya lotshutshisho elfanelekileyo ukuba ukuhlola kwenziwa ngesigunyazisi.”’.</td>
</tr>
</tbody>
</table>
| 13.                      | Kwenziwa utshintsho kwicandelo 48— | (a) ngokuthi amazwi awandulela isiqendu (a) kwicandelwana (1) athatyathelw’ indawo ngamazwi alandelayo: 
                           |                             | “[Umphathi] [Gunya] linokuthi, ukuze liqinisekise ukusetyenziswa kwalo Mthetho okanye liqinisekise ukukhuselela kwamalungu noluntu ngokubanzi, linokuthi likhuphele ibhanki yentsebenziswano okanye iziko lemalı lentsenbenziswano umyalelo—”’; nangokuthi |
|                           |                             | (b) isiqendu (a) no-(b) kwicandelwana (2) zithatyathelw’ indawo ziziqendu ezilandelayo: 
                           |                             | “(a) isebenza kwibhanki zentsebenziswano okanye kumaziko emali entsebenziswano ngokubanzi; okanye |
|                           |                             | (b) ekusetyenzisweni kwawo upheleliselwe kwibhanki ethile yentsebenziswano okanye kwiziko lemalı lentsenbenziswano elithile, okanye kuhlolo oluthile lwebhanki yentsebenziswano okanye kwiziko lemalı lentsenbenziswano lohlolo oluthile, enokuthi ichazwe ngokhlobo lwayo okanye ngokobungakanani bebhanki yentsebenziswano okanye ngokobungakanani beziko lemalı lentsenbenziswano. |
| 14.                      | Kwenziwa utshintsho kwicandelo 49— | (a) ngokuthi indawo yecandelwana (1) ithathwe licandelwanda elilandelayo: 
                           |                             | “(1) [Umphathi] [Gunya] linokuthi, ukongezelela phezu kwennyathelo elithathyathiweyo elinokuthathyathiwa [Gunya] ngokwalo Mthetho, likhuphe isohlwayo isohlwaya ibhanki yentsebenziswano okanye iziko lemalı lentsenbenziswano ngenxa yokungakwenzi okufunwa nguloMthetho.”’; nangokuthi |
|                           |                             | (b) ngokuthi icandelwana (4) lathathyathelw’ indawo licandelwana elilandelayo: |
15. The substitution for section 50 of the following section:

“Information and reports

50.[(1)] (a) The [supervisor] Authority may on written notice require a co-operative bank, a co-operative financial institution, a representative body or a support organisation [of a co-operative bank] to submit to [him or her] the Authority—

(i) the information specified in the notice; or

(ii) a report by an auditor or by any other person with appropriate professional skill, designated by the [supervisor] Authority, on any matter specified in the notice.

(b) A report required under [subsection (1)] paragraph (a) must be prepared at the expense of the co-operative bank, representative body or support organisation.”.

16. The amendment of section 55 by the insertion after paragraph (l) of the following paragraph:

“(lA) exercise powers and perform functions in relation to co-operative financial institutions, including regulatory and supervisory functions, as specified in terms of this Act, or which the Authority may, with the concurrence of the Minister, delegate or assign to the Agency.”

17. The amendment of section 57—

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

“(aA) the matters referred to in section 55(1)(f) to (h) and paragraph (aB) of this subsection, in consultation with the [supervisor] Authority.”;
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<tr>
<td></td>
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<td>“(4) Ukuba ibhanki yentsebenzi-swano okanye iziko lemalı lentsenbenzi-swano [umphathili Gunya] linokuthi liyifune loo mali ngokumangala enkundlenti.”.</td>
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15. Icandelo 50 lithatyathelw’indawo licandelo elilandelayo:

“**Inkzaelo neengxelo**

50. [(1)](a) [umphathili Gunya] linokuthi ngokwenza isaziso esibhaliweyo lifune ukhanki yentsebenziswano, iziko lemalı lentsenbenziswano, iqumrhu elingummeli okanye umbutho wenkxaso [wehanki yentsebenziswano] lingenise kulo iGunya—

(i) inkzaelo exelwe kwisaziso; okanye

(ii) ingxelo eyenzwiwe ngumphicothizincwadi okanye ngomnye umuntu owufenileyo umsebenzi wakhe, ochongwe [umphathili Gunya] ngawo nawuphi na umbtho wakhe, ochongwe [umphathili] ngawo nawuphi na umbtho wakhe.

(b) Ingxelo efunekayo [ngokwe-candelwana (1)] ngokwesiqendu [(a)] mayiqlunqwe ngendleko yebhanki yentsebenziswano, yequmrhu elingummeli okanye yombutho wenkxaso.”.

16. Kwenziwa utshintsho kwicandelo 55 ngokuthi emva kwesiqendu (l) kufakelwe isiqendu esilandelayo:

“(2A) lisebenzise amagunya lenze nemisebenzi yamaziko emali entsebenziswano, kuquka isimenebenzi yolawulo neyokuphatha, njengoko ixelwe ngokwalo Mhetho, okanye leyo iGunya elimokuthi, ngemvume yomphathiswa, liviphathise okanye liyabele iArhente;”.

17. Kwenziwa utshintsho kwicandelo 57—

(a) ngokuthi kwicandelwana (1) isiqendu (aA) sithatyathelw’indawo sisiqendu esilandelayo:

“(aA) nqicimbi ekuthethwe ngayo kwicandelo 55(l)/(f) ukuya ku-(h) nakwisiqendu (aB) seli candelwana, ngokubonisana [nomphathili neGunya];”.

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### Extent of repeal or amendment

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<th>Extent of repeal or amendment</th>
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<tr>
<td>(b)</td>
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<td>by the insertion after paragraph (aA) of the following paragraph: “(aB) co-operative financial institutions, in order to perform the Agency’s functions in relation to co-operative financial institutions, including regulatory and supervisory functions, as specified in terms of this Act, or which the Authority may, with the concurrence of the Minister, delegate or assign to the Agency;”</td>
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| (c)              |             | by the substitution in subsection (2) of the following subsection: “(2) Rules referred to in subsection (1) may—
(a) apply to co-operative banks, representative bodies or support organisations or co-operative financial institutions generally; [or]
(b) be limited in application to a particular co-operative bank, representative body or support organisation or co-operative financial institution, or kind of co-operative bank or co-operative financial institution, which may be defined either in relation to a type or budgetary size of co-operative bank or co-operative financial institution, or to any other matter; and
(c) only apply to co-operative financial institutions, in the case of rules referred to in subsection (1)(aB).” |
<p>| 18.              |             | The repeal of sections 75 and 76. |
| 19.              |             | The substitution for section 77 of the following section: “Unlawful use of word ‘co-operative bank’, ‘co-operative financial institution’ or unlawful conduct of [banking] business of co-operative bank or co-operative financial institution. |
| 77.              |             | (1) It is an offence for any person who is not registered as a co-operative bank or a co-operative financial institution under this Act to— |</p>
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<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<td>(b) ngokuthi emva kwesiqendu (aA) kufakelwe isiqendu esilandelayo:</td>
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<td>&quot;(aB) amaziko emali entsebenziswano, ukuze enze imisebenzi yeArhente emayela namaziko emali entsebenziswano, kuquka imisebenzi yolawulo nokuphatha, njengoko ixelwe kulo Mthetho, okanye leyo elinokuthi iGunya, ngokuvu- melana noMphathiswa, liyiphathise okanye liyabele iArhente;&quot;;</td>
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<td>(c) ngokuthi icandelwana (2) lithatyathelw’ indawo icandelwana elilandelayo:</td>
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<td>&quot;(2) Imigaqo ekuthethwe ngayo kwicandelwana (1) inokuthi—</td>
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<tr>
<td>(a) isebenze kwibhanki zentsebenziswano, kumaqumrhu angabameli [okanye], kwimbutho yenxaxaso okanye kumaziko emali entsebenziswano ngokubanzi; [okanye]</td>
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<tr>
<td>(b) ekusetyenziswa kwayo iphelelislelw kwibhanki ethile yentsebenziswano, kwisumqumhlu elingumveli [okanye], kumbutho wenxaxaso okanye kwiziko lemali lentsebenzi- swano, elinokuchazwa nozima iwalgo okanye ngobukhulu bebhanki yentsebenziswano okanye beziko lemali lentsebenziswano, okanye enye intso; kwaye</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) isebenza kuphela kumaziko emali entsebenziswano, xa kuyimigaqo ekuthethwe ngayo kwicandelwana (1)(aB).&quot;.&quot;</td>
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18. Kutshitshiswa icandelo 75 nelama-76.

19. Icandelo 77 lithatyathelw’ indawo icandelo elilandelayo:

"Ukusetyenziswa ngokunengekho mtethweni kwegama elithi ‘ibhanki yentsebenziswano,’ “iziko lemali lentsebenziswano” okanye ukwenza okungekho mtethweni kwamashishini [azibhanki] ebhanki yentsebenziswano okanye eziko lemali lentsebenziswano.

77. (1) Kusisenzo esikukona ukuba umntu ongaphali lwangaphila njengebhanki yentsebenziswano okanye njengeziko
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| | \( (a) \) in connection with any business conducted by him, her or it— (i) use or refer to himself, herself or itself by any name, description or symbol indicating, or calculated to lead persons to infer, that such person is a co-operative bank or a co-operative financial institution registered as such under this Act; or (ii) in any manner purport to be a co-operative bank or a co-operative financial institution registered as such under this Act; or (b) use in respect of any business a name or description that includes the expression “co-operative bank”, “co-op bank”, “co-operative financial institution” or any derivative thereof.

(2) It is an offence for any person to conduct the business of any co-operative bank or co-operative financial institution unless such person is registered as a co-operative bank or a co-operative financial institution in terms of this Act.

(3) \( (a) \) It is an offence for a co-operative bank to provide, participate in or undertake banking services other than the services authorised in respect of the type of co-operative bank it is registered as in terms of this Act.

\( (b) \) It is an offence for a co-operative financial institution to provide, participate in or undertake services other than the services that it is authorised to provide as a registered co-operative financial institution in terms of this Act.”

20. The substitution for section 78 of the following section:

“Untrue information in connection with applications

78. It is an offence for any person in connection with an application for registration as a co-operative bank or a co-operative financial institution to provide any information that to the knowledge of such person is untrue or misleading in any material respect.”

21. The substitution for section 79 of the following section:

“Criminal liability of director, managing director, executive officer and other persons

79. \( (1) \) It is an offence for any director, managing director or executive
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<th>Nomoro ya Molao le ngwaga</th>
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<td>lemali lentsebenziswano ngokwalo Mthetho ukuba—</td>
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<td>(a) athi mayela neshishini elihutywa nguye—</td>
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<td>(i) athethe ngaye siqu okanye athethe ngebhanki leyo ngegama okanye ngendlela eyenzelwe ukuba yenze abantu bacinge ukuba iyibhanki yentsebenziswano okanye iliziko lemalile lentsebenziswano elibhalisiweyo ngokwalo Mthetho; okanye (ii) nangayiphi na indlela azenze ibhanki yentsebenziswano okanye iliziko lemalile lentsebenziswano elibhalisiweyo ngokwalo Mthetho; okanye</td>
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<td>(b) asebenzise kwishishini igama okanye inkazelo equka intetho “ibhanki yentsebenziswano” “iliziko lemalile lentsebenziswano” ngokwalo Mthetho.</td>
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<td>(2) (a) Kusisenzo esikukona ukuba ibhanki yentsebenziswano inike inkonzo zebhanki ezingezizo ezo zigunyazelwe uhlolo lwebhanki yentsebenziswano ebhaliselwe ukuba ibe yiyo ngokwalo Mthetho.</td>
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<td>(b) Kusisenzo esikukona ukuba iliziko lemalile lentsebenziswano linike inkonzo ezingezizo ezo ligunyazelwe ukuba linike zona ngokwalo Mthetho.”</td>
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<td>20. Icandelo 78 lithatyathelw’indawo licandelo elilandelayo:</td>
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<td></td>
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<td>“Ingcombolo engeyonyani malunga nezicelo</td>
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<td>78. Kusisenzo esikukona ukuba umntu athi xa esenza isicelo sokubhaliswa njengebhanki yentsebenziswano okanye iliziko lemalile lentsebenziswano anike ingcombolo ayaziyo ukuba aiyonyani okanye iyinkohliso.”</td>
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<td>21. Icandelo 79 lithatyathelw’indawo licandelo elilandelayo:</td>
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<td>“Ukuba netyala lolwaphulo-mthetho komlawuli, komlawuli ophetheyo, kwegosa eliphuzulu eliququzelelayo nabanye abantu</td>
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<td></td>
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<td>79. (1) Kusisenzo esikukona ukuba umlawuli, umlawuli ophetheyo okanye igosa eliphuzulu eliququzelelayo lebhanki yentsebenziswano okanye leziko lemalile lentsebenziswano lithi ngokungqalileyo okanye ngokunga- ngqalanga libandakanyeke okanye</td>
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Act No. 9 of 2017

Financial Sector Regulation Act, 2017

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<td>officer of a co-operative bank or a co-operative financial institution to, directly or indirectly, be involved in or take part in the management of a co-operative bank or a co-operative financial institution while the business of the co-operative bank or co-operative financial institution is carried on recklessly, with intent to defraud creditors of the co-operative bank or co-operative financial institution, or creditors of any other person, or for any fraudulent purpose.</td>
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(2) It is an offence for any person other than a director, managing director or executive officer to knowingly, directly or indirectly, benefit from, be involved in or take part in the management of a co-operative bank or a co-operative financial institution while the business of the co-operative bank or co-operative financial institution is carried on recklessly, with intent to defraud creditors of the co-operative bank or co-operative financial institution, or creditors of any other person, or for any fraudulent purpose.”.

22. The substitution for section 82 of the following section:

“Fair administrative action

82. [Any] Where a decision or other step of an administrative nature taken by the [supervisor,] Authority or the Agency [or appeal board that] affects the rights of another person, the [supervisor,] Authority or the Agency [or appeal board] must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless another fair administrative procedure has been provided for in this Act or in terms of the Financial Sector Regulation Act.”.

23. The substitution for section 85 of the following section:

“Indemnity

85. Neither the [supervisor,] Authority or the Agency [or appeal board], nor any board member or employee or managing director thereof, nor a committee of the Agency or any member thereof incurs any liability in respect of any act or omission performed in good faith under or by virtue of a provision in this Act, unless that performance was grossly negligent.”.
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<td>lithabath’ inxaxheba ekuphathweni kwebhanki yentsbenziswano okanye kwezikolo lemali lentsebenziswano ngoxa isishimi lebhaniki yentsbenziswano okanye lezikolo lemali lentsebenziswano liqhytywa ngokungenankathalo, ngenjongo yokuqutha abo libatyalayo.</td>
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(2) Kusisenzo esikukona ukuba umntu ongengu ye umlawuli, umlawuli ophethayo okanye igosa eliphezulu eliququzelela liti lisazi, ngokungqa-lileo okanye ngokungangqalanga, lizuze, libandakanyeke okanye lithabath’ inxaxheba ekuphathweni kwebhanki yentsbenziswano okanye kwezikolo lemali lentsebenziswano ngoxa isishimi lebhaniki yentsbenziswano okanye leziolo lemali lentsebenziswano liqhytywa ngokungenankathalo, ngenjongo yokuqutha abo libatyalayo.’’.

22. Icandelo 82 lithatyathelw’ indawo licandelo elilandelayo:

“Ukwenziwa kwezigqibo ngobulunguisa

82. [Nasiphi na] Xa isigqibo okanye elinye inyathelo elifunisa ukwenziwa kwesigqibo elithatyathwa [ngumphathi], lityunya okanye yArhente [okanye ibhodi yezibheno] malivisisane nPromotion of Administrative Justice Act 3 ka-2000, ngaphandle kokuba kukho enye inkqubo yokwenziwa kwezigqibo enobulungisa ekuthiwe makulandelwe yona kulo Mthetho okanye ngokweFinancial Sector Regulation Act.’’.

23. Icandelo 85 lithatyathelw’ indawo licandelo elilandelayo:

“Ukungabi nabutyalala

85. [Umphathi] lityunya okanye iArhente [okanye ibhodi yezibheno], okanye ilungu lebhodi okanye umqeshwa okanye umlawuli ophethayo walo, okanye ikomiti yeArhente okanye ilungu layo, akabekeki tyla ngokwenza okanye ngokusilela ukwenza xa oko bekungenganjongo imbi okanye xa oko bekungenza yoko kutshiwo ngulo Mthetho, ngaphandle kokuba okwenzekileyo kube kukungakhathali okukhwankisayo.’’.
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<tr>
<td>Act No. 9 of 2017</td>
<td>Financial Sector Regulation Act, 2017</td>
<td>24. The substitution for section 87 of the following section:</td>
</tr>
<tr>
<td></td>
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<td>“Powers of Minister”</td>
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<td></td>
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<td>87. The Minister may delegate any of [his or her] the Minister’s powers in terms of this Act, excluding the power to make regulations and the power to appoint the members of the Agency [or appeal board], to the Director-General or any other official of the National Treasury.”.</td>
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<td>25. The substitution for the long title of the Act for the following:</td>
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<td>“To promote and advance the social and economic welfare of all South Africans by enhancing access to banking services under sustainable conditions; to promote the development of sustainable and responsible co-operative banks and co-operative financial institutions; to establish an appropriate regulatory framework and regulatory institutions for co-operative banks and co-operative financial institutions that protect members of co-operative banks and co-operative financial institutions; to provide for the registration of deposit-taking financial services co-operatives as co-operative banks and co-operative financial institutions; to provide for the regulation and supervision of co-operative banks and co-operative financial institutions; and to provide for the establishment [of co-operative banks supervisors and] a development agency for co-operative banks; and to provide for matters connected therewith”.</td>
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<td>26. The substitution for the expression “supervisor”, wherever it occurs, of the expression “Authority”.</td>
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<td>27. The amendment of the arrangement of sections—</td>
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<td>(a) by the insertion after item 1 of the following items:</td>
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<td></td>
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<td>“1A. Relationship between Act and Financial Sector Regulation Act”</td>
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<td>1B. Regulatory instruments”;</td>
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<td>(b) by the substitution for items 18 and 19 of the following items:</td>
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<tr>
<td></td>
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<td>“18. Functions of Auditor in relation to Authority”</td>
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|                 |             | 19. Submission of documents to Authority”;}
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<td>24.</td>
<td>Icandelo 87 lithatyathelw’ indawo licandelo elilandelayo:</td>
<td>“Amagunya oMphathiswa</td>
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<td>87. UMphathiswa unokuwaphathisa amagunya akhe ngokwalo Mthetho, ngaphandle kwegunya lokwenza imimiselo negunya lokumisela amalungu eArhente [okanye ebhodi yezibheno], awaphathise uMlawu1-Jikelele okanye elinye igosa elisebenza kwiNxili Yelizwe.”.</td>
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<td>25. Amazwi achaza injongo yoMthetho athatyathelw’ indawo ngamazwi alandelayo:</td>
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<td>“Injongo kukuphucula intlalontle yabo bonke abantu baseMzantsi-Africa kwicala loqoqosho ngokuba-fumanisa inkonzo zeebhanki phantsi kweemeko ezintle; kukukhuthaza ukusebenzisana kweebhanki namaziko emaili entsenbenziswano; kukwenza ukuba zilawulwe ngokufanelekileyo iibhanki zentsebenziswano namaziko emaili entsenbenziswano kuzé kukhuseleke amalungu eebhanki zentsebenziswano namaziko emaili entsenbenziswano; kukwenzela ukuba ibhaliswe imifelandawonye cyamkela iimali ebantwini njengeebhanki zentsebenziswano namaziko emaili entsenbenziswano; nokwenzela ukuba kubekho [abaphathi beebhanki zentsebenziswano] nearhente yophuhliso yeebhanki zentsebenziswano; nokulungiselela izinto ezizelele apho”</td>
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<td>26. Naphi na kukho igama elithi “umphathi” indawo yalo ithatyathwa lelithi “iGunya”</td>
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<td>27. Kwenziwa utshintsho kulandelelwano lwamacandelo ngokuthi—</td>
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<td>(a) emva ko-1 kufakelwa oku kulandelayo:</td>
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<td></td>
<td></td>
<td>1A. Ubudlelane phakathi kwalo Mthetho neFinancial Sector Regulation Act</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1B. Izixhobo zolawulo”</td>
</tr>
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<td></td>
<td></td>
<td>(b) endaweni ka-18 no-19 kufakelwe oku kulandelayo:</td>
</tr>
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<td></td>
<td></td>
<td>18. Imisebenzi yoMphicothi-zincwadi ngokuhlobene neGunya</td>
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<td></td>
<td></td>
<td>19. Ukungeniswa kwamaxwebhu kwIGunya”</td>
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</tbody>
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### Act No. 9 of 2017

**Financial Sector Regulation Act, 2017**

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<tbody>
<tr>
<td></td>
<td></td>
<td>(c) the insertion after item 40 of the following heading and items:</td>
</tr>
</tbody>
</table>
|                  |             | “CHAPTER VIIA  
CO-OPERATIVE FINANCIAL  
INSTITUTIONS” |
<p>|                  |             | 40A. Application for registration as co-operative financial institution |
|                  |             | 40B. Requirements for registration |
|                  |             | 40C. Registration of co-operative financial institution |
|                  |             | 40D. Suspension of registration or de-registration |
|                  |             | 40E. Repayment of deposits on de-registration or lapsing of registration |
|                  |             | 40F. Winding-up or judicial management of co-operative financial institution”; and |
|                  |             | (d) the substitution for item 77 of the following item: |
|                  |             | “77. Unlawful use of words “co-operative bank”, “co-operative financial institution” or unlawful conduct of business of co-operative bank or co-operative financial institution”. |
|                   |             | (a) by the deletion in subsection (1) of the definition of “appeal board”; |
|                   |             | (b) by the insertion in subsection (1) after the definition of “authorised user” of the following definition: |
|                   |             | “‘Authority’ means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act”; |
|                   |             | (c) by the deletion in subsection (1) of the definition of “board”; |
|                   |             | (d) by the insertion in subsection (1) after the definition of “bank” of the following definition: |
|                   |             | “‘central counterparty’ means a clearing house that— |
|                   |             | (a) interposes itself between counterparties to transactions in securities, becoming the buyer to every seller and the seller to every buyer and thereby ensuring the performance of open contracts; and |</p>
<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tbody>
<tr>
<td>(c) cmva ko-40 kufakelwe umxholo olandelayo namacandelo alandelayo:</td>
<td></td>
<td>“ISAHLUKO VIIA AMAZIKO EMALI ENTSEBENZISWANO”</td>
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<tr>
<td>40A.</td>
<td>Ukwenza isicelo sokubhaliswa njengeziko lemalali lentsebenziswano</td>
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<td>40B.</td>
<td>Limpunwe zokubhaliswa</td>
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<tr>
<td>40C.</td>
<td>Ukubhaliswa kweziko lemalali lentsebenziswano</td>
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<tr>
<td>40D.</td>
<td>Ukomqunyanyiswa kokubhaliswa okanye ukucinywa kwako</td>
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<td>40E.</td>
<td>Ukubuyiswa kwemalali</td>
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<tr>
<td>40F.</td>
<td>Ukuqumela kwemalali lentsebenziswano” nangokuthi</td>
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<tr>
<td>(d) u-77 athayathethu’ indawo koku kulandelayo:</td>
<td></td>
<td>“77. Ukusetzennyiswa ngokungkho mhethweni kwamazwi athi “ibhanki yentsebenzi-swanawi’’ okanye ukuqumela okanye ukuqumela kwesinga 56 se-”Financial Sector Regulation Act” ;”</td>
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<td>(a) ngokususa inchazelo ye-“ibhodi yetikhalo” esigatjaneni (1);</td>
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<td></td>
<td></td>
<td>(b) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-“umsebenzini logunyatiwe” ;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>“Ligatja” kushiwo liGatja leNcubho yeMhakha weteti Mali lelsungulwe ngkwenyimogo yesigaba 56 se-”Financial Sector Regulation Act” ;”</td>
</tr>
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<td></td>
<td></td>
<td>(c) ngokususa inchazelo ye-“ibhodi” esigatjaneni (1);</td>
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<td>(d) ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuva kwenchazelo ye-“libhange” ;</td>
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<td></td>
<td></td>
<td>“ligatja lelsimakhatsini letekhuhweba” kushiwo indlu logunyatako—</td>
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<td></td>
<td></td>
<td>(a) Letifaka emakhatsini wemagatja etetimali ngetekhuhweba kumasheya, libe ngumtsengi kuyye wonkhe lotsengisako phindze libe ngumtsengsi kuyye</td>
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|  |  | (b) becomes a counterparty to trades with market participants through novation, an open offer system or through a legally binding agreement;”;
|  |  | (e) by the substitution in subsection (1) for the definition of “clearing house directive” of the following definition:
|  |  | “ ‘clearing house directive’ means a directive issued by a licensed independent clearing house or a licensed central counterparty in accordance with its rules;”;
|  |  | (f) by the substitution in subsection (1) for the definition of “clearing house rules” of the following definition:
|  |  | “ ‘clearing house rules’ means the rules made by a licensed independent clearing house or a licensed central counterparty in accordance with this Act;”;
|  |  | (g) by the substitution in subsection (1) for paragraph (b) of the definition of “clearing member” of the following paragraph:
|  |  | “(b) in relation to a licensed independent clearing house or a licensed central counterparty, a person authorised by that independent clearing house to perform clearing services or settlement services or both clearing services and settlement services in terms of the clearing house rules,”;
|  |  | (h) by the insertion in subsection (1) after the definition of “Companies Act” of the following definition:
|  |  | “ ‘conduct standard’ has the same meaning ascribed to it in terms of the Financial Sector Regulation Act;”;
|  |  | (i) by the deletion in subsection (1) of the definition of “enforcement committee”;

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<td>wonkhe lotsengako phindze</td>
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<td>khona lapho lícinisékise</td>
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<td>kusebenta kwetinkontileka</td>
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<td>letivunako; phindze</td>
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<td>(b)</td>
<td>iba ligatja letetimali</td>
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<td>kuteluhwebo nalabangenelelako</td>
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<td>bemakethe ngukuchibiyela,</td>
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<td>iuhlelo iseukuphisa loluvunako</td>
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<td>nobe ngekwestivumelwano</td>
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<td>lesibopho ngakwekumtelwa;</td>
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<td>phindze</td>
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<td>(e)</td>
<td>ngekuntjintjwa kwenchazelo ye-</td>
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<td></td>
<td>“ tinkhambiso tendlu legunyatako”</td>
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<td>esigatjaneni (1) ngenchazelo</td>
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<td>lelandzelako:</td>
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<td>“ tinkhambiso tendlu legunyatako”</td>
<td>kushiwo inkhambiso leniketwe</td>
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<td>sikhungo lesitimele lesigunyatiwe</td>
<td>nome ligatja lelisemkhatsini</td>
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<td>letekuhwebo lelisemtsetfweni</td>
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<td>ngekushambisana nemitsetfoo yalo;</td>
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<td>(f)</td>
<td>ngekuntjintjwa kwenchazelo ye-</td>
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<td></td>
<td>“ imitsetfo yesikhungo lesigunyatako”</td>
<td>esigatjaneni (1) ngenchazelo</td>
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<td>lelandzelako:</td>
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<td>“ imitsetfo yesikhungo lesigunyatako”</td>
<td>kushiwo imitsetfo leyetiwe</td>
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<td></td>
<td>sikhungo lesigunyatako lesitimele</td>
<td>nobe ligatja lelisemkhatsini</td>
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<td>letekuhwebo lelisemtsetfweni</td>
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<td>ngekushambisana nalomsetffoo;</td>
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<td>(g)</td>
<td>ngekuntjintjwa kwenchazelo ye-</td>
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<td></td>
<td>“ lilunga leligunyatako” kunzima</td>
<td>(b) esigatjaneni (1) ngendzima</td>
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<td></td>
<td>lelandzelako:</td>
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<td></td>
<td>“ (b) ngalokuphatselene nesikhungo lesitimele lesigunyatako nobe ligatja lelisemkhatsini letekuhwebo lelipengyatiwe, umuniflu lonketwe imvume kutsi ente umsebenzi logunyatiwe noma imisebeni yekukohokhela noma kokubili umsebeni logunyatiwe newekukohokhela ngekwekumtelwa yosikhungo lesigunyatako, Kantse kufaka ekhatsi lilunga lelitimele lemoso lelingasilo leesikhungo, lapho kufanele khona;”;</td>
<td></td>
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<tr>
<td>(h)</td>
<td>ngekufakwa kwenchazelo lelandzelako esigatjaneni (1) ngemva kwenchazelo ye- “i-Companies Act”; “‘ umtsetfo wenchabo” kwenchazelo lelandako naye lothiti leniketwe yona ngekwekumtelwa yes-Financial Sector Regulation Act”;</td>
<td></td>
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<tr>
<td>(i)</td>
<td>ngekususwa kwenchazelo ye- “likhomidi lelibeka imitsetfo” esigatjaneni (1);</td>
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<tr>
<td>(j)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “external authorised user” of the following definition:</td>
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<tr>
<td></td>
<td></td>
<td>“<em>external central counterparty</em>”</td>
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<td>means a foreign person who is authorised by a supervisory authority to perform a function or functions similar to one or more of the functions of a central counterparty as set out in this Act and who is subject to the laws of a country other than the Republic, which laws—</td>
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<td>(a) establish a regulatory framework equivalent to that established by this Act; and</td>
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<td></td>
<td>(b) are supervised by a supervisory authority;”;</td>
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<td>(k)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “external exchange” of the following definition:</td>
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<td></td>
<td></td>
<td>“<em>external market infrastructure</em>”</td>
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<td></td>
<td></td>
<td>means each of the following:</td>
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<tr>
<td></td>
<td></td>
<td>(a) An external central counterparty;</td>
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<td></td>
<td>(b) an external central securities depository;</td>
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<td></td>
<td></td>
<td>(c) an external clearing house;</td>
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<td></td>
<td>(d) an external exchange;</td>
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<td></td>
<td>(e) an external trade repository;”;</td>
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<td>(l)</td>
<td></td>
<td>by the insertion in subsection (1) after the definition of “Financial Intelligence Centre Act” of the following definitions:</td>
</tr>
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<td>“<em>financial sector law</em>” has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;</td>
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<td></td>
<td></td>
<td>‘Financial Sector Regulation Act’</td>
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<td></td>
<td>means the Financial Sector Regulation Act, 2017;”;</td>
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<tr>
<td>(m)</td>
<td></td>
<td>by the deletion in subsection (1) of the definition of “Financial Services Board Act”;</td>
</tr>
<tr>
<td>(n)</td>
<td></td>
<td>by the substitution in subsection (1) for the definition of “independent clearing house” of the following definition:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>“<em>independent clearing house</em>”</td>
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<tr>
<td></td>
<td></td>
<td>means a clearing house that clears transactions in securities on behalf of any person in accordance with its clearing house rules, and authorises and supervises its clearing members in accordance with its clearing house rules;”;</td>
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<td></td>
<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khotshwane</td>
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<tr>
<td>(j)</td>
<td>ngekufakwa kwalenchazelo lelandzelako esigatjaneni (1) ngemuvha kwenchazelo ye-“umsebentisi longaphandle logunyatiwe”</td>
<td>“ligatja lelisemkhatstini letekuhweba lelisemtsetfweni langephandle” Kushiwo umuntufo wangaphandle loogunyatwe ligatja lelilawulako kutsi ente imisebeni lefanako naleyo yelitita lelise-mkhatsini letekuhweba njengoba kubekwe kuloMsetfo futsi lohambisana nemitsetfo yelive ngaphandle kwalena yeRiphabhu-lkhi, Le kumitteelo— (a) Lesungula sakhwotsinchani lesilawulako lesilingana naleso lesitfofe nguloMsetfo; phindze (b) lelawulwe ligatja lelilawulako;</td>
</tr>
<tr>
<td>(k)</td>
<td>ngekufakwa kwale-nchazelo lelandzelako esigatjaneni (1) ngemuvha kwenchazelo ye-“ligatja langaphandle”;</td>
<td>“tinsitanchanti tetimakethe tangaphandle” kushiwo ngakunye kwalo lokulandzelako: (a) Ligatja langaphandle letetimali lelilamulako; (b) libhange langaphandle lelitimele kumasheya; (c) indlu legunyatako yangaphandle; (d) ligatja langaphandle; (e) libhange langaphandle lekuhwebalana;”</td>
</tr>
<tr>
<td>(l)</td>
<td>ngekufakwa kwenchazelo Lelandzelako “Financial Intelligence Centre Act” esigatjaneni (1) ngemuvha kwenchazelo ye-kwaletinchazelo letilandzelako:</td>
<td>“‘umsetfo wemkhakha wetetimali” unenchazelo lefanako naleyo leniketwe yona ngekweni-bandzela yesigaba 1(1) se-Financial Sector Regulation Act; “Financial Sector Regulation Act”, isho i-Financial Sector Regulation Act, 2017;”;</td>
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<td>(m)</td>
<td>ngekususwa kwenchazelo ye-“Financial Services Board Act” esigatjaneni (1);</td>
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<tr>
<td>(n)</td>
<td>ngekuntjintja inchazelo ye-“ligatja lelitimele leligunyatako” ngalenchazelo lelandzelako esigatjaneni (1):</td>
<td>“ligatja lelitimele leligunyatako” kushiwo ligatja leligunyatako lelikhipha ematransekshini kumasheya ngalokuphatselene nanoma ngubani ngekuhambisana nemitsetfo yendlu yalo legunyatako, ibuye ilawule iphatse emalunga a Lo lagunyatiwe ngekuhambisana nelititja leligunyatako ngekuhambisana nemitsetfo yelitita leligunyatako;”;</td>
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 | | (o) by the insertion in subsection (1) after the definition of “issuer” of the following definition:
> “‘joint standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;

(p) by the insertion in subsection (1) after the definition of “juristic person” of the following definition:
> “‘licensed central counterparty’ means a central counterparty licensed under section 49;”;

(q) by the insertion in subsection (1) after the definition of “licensed exchange” of the following definitions:
> “‘licensed external central counterparty’ means an external central counterparty licensed under section 49A;
> ‘licensed external trade repository’ means an external trade repository licensed under section 56A;”;

(r) by the substitution in subsection (1) for the definition of “market infrastructure” of the following definition:
> “‘market infrastructure’ means each of the following—
> (a) a licensed central counterparty;
> (b) a licensed central securities depository;
> (c) a licensed clearing house;
> (d) a licensed exchange;
> (e) a licensed trade repository;”;

(s) by the deletion in subsection (1) of the definition of “official website”;

(t) by the substitution in subsection (1) for the definition of “participant” of the following definition:
> “‘participant’ means a person authorised by a licensed central securities depository to perform custody and administration services or settlement services or both, in terms of the central securities depository rules, and includes an external participant, where appropriate;”;

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<tr>
<td>(o) ngekufakwa kwalencha zelo lelandzelako ngemuvu kwenchazelo ye-“koniketako” esigatjaneni se(1):</td>
<td>&quot; 'umtsetfo wekuhlanganyela' unenchazelo lefanako nulena laniketwe yona ngekwemibandzela yesigaba 1(1) se-Financial Sector Regulation Act;&quot;</td>
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<td>(p) ngekufakwa kwalencha zelo lelandzelako ngemuvu kwenchazelo ye-“umtsengisi longumlumuli esigatjaneni (1):”</td>
<td>&quot; ‘ligatja lelisemkhatsini letekuhweba leligunyatiwe’ kushiwo ligatja lelisemkhathini letekuhweba ngaphasi kwenchazelo ye-’loniketako’esigatjaneni se(1): &quot;umtsetfo wekuhlanganyela’ unenchazelo lefanako nulena laniketwe yona ngekwemibandzela yesigaba 1(1) se-Financial Sector Regulation Act;&quot;</td>
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<tr>
<td>(q) ngekufakwa kwalencha zelo lelandzelako ngemuvu kwenchazelo ye-“ligatja lelibhalisiwe” esigatjaneni (1):</td>
<td>&quot; ‘ligatja lelisemkhatsini letekuhweba leligunyatiwe langaphandle’ kushiwo ligatja lelisemkhatsini letekuhweba langaphandle lesemtsetfweni ngaphasi kwenchazelo ye-’loniketako’esigatjaneni se(1): &quot;umtsetfo wekuhlanganyela’ unenchazelo lefanako nulena laniketwe yona ngekwemibandzela yesigaba 1(1) se-Financial Sector Regulation Act;&quot;</td>
</tr>
<tr>
<td>(r) ngekuntjintja esigatjaneni (1) enhazelweni ye-“sakhiwoncanti semakethe” ngalo:</td>
<td>&quot; ‘sakhiwoncanti semakethe’ ngalo:</td>
</tr>
<tr>
<td>(s) ngekuswusa kwenchazelo ye-“webhusayithi lesemsetfweni” esigatjaneni (1);</td>
<td>&quot; ‘webhusayithi lesemsetfweni’ esigatjaneni (1);</td>
</tr>
<tr>
<td>(t) ngekuntjintja incha zelo ye-“labangenelelako” ngalo:</td>
<td>&quot; ‘labangenelelako’ kushiwo imuntfu logunyatwe silululo semasheya lelisemkhatsini lesibhalisiwey kutsi abe libambela kantsi futsi alawule leminye imisebenti noma imisebenti</td>
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(u) by the insertion in subsection (1) after the definition of “participant” of the following definition:

“prescribed” means prescribed by the Minister by regulations, or by a conduct standard or a joint standard;”;

(v) by the deletion in subsection (1) of the definitions of “prescribed by the Minister” and “prescribed by the registrar”;

(w) by the insertion in subsection (1) after the definition of “prescribed” of the following definitions:

-- ‘Prudential Authority’ means the authority established in terms of section 32 of the Financial Sector Regulation Act;

-- ‘prudential standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;

-- ‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;

(x) by the substitution in subsection (1) for the definition of “registrar” of the following definition:

-- ‘registrar’ means [the person referred to in section 6] the Registrar and Deputy Registrar of Securities Services referred to in section 1A(1);”;

(y) by the substitution in subsection (1) for the definition of “regulated person” of the following definition:

-- ‘regulated person’ means—

(a) a licensed central counterparty;

(b) a licensed central securities depository;

(c) a licensed clearing house;

(d) a licensed exchange;

(e) a licensed trade repository;

(f) an authorised user;

(g) a clearing member;

(h) a nominee;
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|                           | yekucedzela noma kokubili nga kuhambisana nemitsetfo yekusisa [yekufakwa kwemasheya lasemkhatsini], kantsi kungafaki ekhatši bangaphandle labangenelelako, laeph kungenidzingo khona;”;
|                           | *(u)*  | ngekufakwa kwalenchazelo lelandzelako esigtaneni (1) ngemvuva kwenchazelo ye- “labangenelelako”;
|                           |      | “‘kuncunyiwe’ kushiwo lokuncunywe nguNgcongcoshe ngetimiso temitsetfo, nobe umitsetfo wenchuba, nobe ngemitsetfo wekuhlanguvela”;;
|                           | *(v)*  | ngekususwa kwenchazelo ye-
|                           |      | “njengoba kubekwe nguNgcongcoshe” kanye neye-
|                           |      | “njengoba kubekwe ngunobhala” esigtaneni (1);
|                           | *(w)*  | ngekufakwa kwalenchazelo lelandzelako esigtaneni (1) ngemvuva kwenchazelo ye- “njengoba kubekwe”:
|                           |      | “‘Ligatja lebuNgweti’” kushiwo ligatja lelisungulwe ngekwegasiba 32 se-Financial Sector Regulation Act;
|                           |      | ‘umitsetfo webungweti’ unenchazelo lefanako lebekwe ngekwebandzelaka yesigaba 1 se-Financial Sector Regulation Act;
|                           |      | ‘iRejista’ kushiwo (Rejista yemningwane wemkhakha wetetimali lekukhulunywe ngowo esigabeni 256 se-Financial Sector Regulation Act;”;
|                           | *(x)*  | ngekuntjintja inchazelo “yanobhala” esigtaneni (1) ngalenchazelo lelandzelako:
|                           |      | “‘nobhala’ kushiwo [lomuntfu lekukhulunywa ngayi kusigaba 6] nobhala nelisekela lanobhala wetinsita temasheya lekucondziswe kywe esigabeni 1A(1);”;
|                           | *(y)*  | ngekuntjintja inchazelo ye-“umuntfu losemtsetfweni” esigtaneni (1) ngalenchazelo lelandzelako:
|                           |      | “‘umuntfu losemtsetfweni’” kushiwo—
|                           |      | *(a)* ligatja letetimali lelilamu-
|                           |      | lako losemtsetfweni;
|                           |      | *(b)* siliulu semasheya lesemkhatsini lelibhaliisiwe;
|                           |      | *(c)* ligatja leligunyatiwe lelibhaliisiwe;
|                           |      | *(d)* indzawo yekuhwebefana;
|                           |      | *(e)* umsebwentse losemtsetfweni;
|                           |      | *(f)* l Guilburungi;
|                           |      | *(g)* laphakanyisiwe;
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<tr>
<td></td>
<td><a href="i">(h)</a></td>
<td>a participant;</td>
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<tr>
<td></td>
<td><a href="j">(i)</a></td>
<td>except for the purposes of</td>
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<td></td>
<td></td>
<td>section 3(6), sections 74</td>
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<td></td>
<td></td>
<td>and 75, sections 89 to 92,</td>
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<td></td>
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<td>and sections 100 to 103, an</td>
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<td></td>
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<td>issuer;</td>
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<td></td>
<td>(k)</td>
<td>except for the purposes of</td>
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<td></td>
<td></td>
<td>sections 89 to 92, and</td>
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<td></td>
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<td>sections 100 to 103, a licensed</td>
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<td>external central counterparty</td>
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<td>and a licensed external trade</td>
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<td></td>
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<td>repository; or</td>
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|                 | [(j)](l)    | any other person [prescribed by the Minister in terms of section 5] specified in regulations for this purpose;”;
|                 | (z)         | by the substitution in subsection (1) in paragraph (a) of the definition of “securities” for subparagraph (v) of the following subparagraph: “(v) participatory interests in a collective investment scheme as defined in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), and units or any other form of participation in a foreign collective investment scheme approved by the [Registrar of Collective Investment Schemes] Authority in terms of section 65 of that Act; and”;
|                 | (zA)        | by the substitution in subsection (1) in paragraph (c) of the definition of “settle” for subparagraph (ii) of the following subparagraph: “(ii) the parties have appointed a licensed independent clearing house, a licensed central counterparty or a licensed central securities depository to settle a transaction, in which case it has the meaning assigned in paragraph (a);”;
|                 | (zB)        | by the insertion in subsection (1) after the definition of “transfer” of the following definition: “ ‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”;
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<td>(b)(i)</td>
<td>labangenelelako;</td>
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<td>(b)(ii)</td>
<td>ngapheandle kwetizatfu</td>
<td>tesigaba 3(6), tigaba 74 kanye na 75, tugaba 89 kanye na 92 netigaba 100 kuya ku 103, loniketako;</td>
</tr>
<tr>
<td>(k)</td>
<td>ngapheandle ngekwetjinjongo tesigaba 89 kuya ku-92, kanye nesigaba 100 kuya ku-103, ligatja letetimali langapheandle lehlamulako futsi leligunyatiwe kanye nendzawo yekuhwebelana; none</td>
<td></td>
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<tr>
<td>(g)(i)</td>
<td>nomo ngabe ngubani</td>
<td>[lobekwe nguNgekonqoshe ngekwesigaba 5] lekucondziswe kuye kutimiso temsetfo ngaletzatfuc’ ’</td>
</tr>
<tr>
<td>(z)</td>
<td>ngekunjuntjina inchaolo ye- “emasheya” kundzima (v) yesigatjana</td>
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<td>(1)</td>
<td>ngalenchazelo lelandzelso; “(v)” inshisekalo yekungenelela ekusiseni ndzawonye njengenhlangano njengoba kuchazwe ku-Collective Investment Schemes Control Act, 2002 (Umtsetfo Nom. 45 wanga 2002), kanye nemayumethi nanoma ngayiphithlenye indlela yekungenelela kunhlhangano yekusisa ndzawonye yamapheandle levunyelwe [nguNobhala weNhlangano yeKusisa weKuhlanganyela] liGatja ngekwesigaba 65 saloMsetfo; kanye”’;</td>
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<tr>
<td>(zA)</td>
<td>ngekunjuntjina inchaolo ye- “kubahadala konke” kundzima (c) nasendzinyaneni (ii) tesigatjana (1) ngaleyelendzinyana lelandzelako; “(ii) tinhlhangano tibeke sikhungo lesigunyatako lesitimlele, ligatja lelisemkhatsini letekuhweba noma silulu semasheya lesimkhatsini lesibhalisiwe kutsi bacedzelele transekshini, ngaleyo ndlela itawuba nenchaolo leniketwe kundzima (a);”’</td>
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<tr>
<td>(zB)</td>
<td>ngekuufaka esigatjaneni (1) kwenchazelo lelandzelako ngemuvu kwenchazelo ye- “kudululisela”: ”” “ “iNkhundla” kushiwiko inkantolo yetinSita tetiMali leyasungulwa ngekwebandzela yesigaba 219 ye-Financial Sector Regulation Act”;”</td>
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(2C) by the substitution for subsection (3) of the following subsection:
“(3) Where in this Act any supervisory authority is required to take a decision in consultation with the [Registrar] Authority, such decision requires the concurrence of the [Registrar] Authority.”; and

(2D) by the addition of the following subsection:
“(4) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”.

3. The insertion after section 1 of the following section:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) If the Minister has determined by notice in the Gazette that the amendments of this Act contained in Schedule 4 to the Financial Sector Regulation Act must come into operation before the provisions of the Financial Sector Regulation Act in terms of which the Authority is established come into operation, then until the date on which the Authority is established—

(a) a reference to “Authority” must be read as a reference to the executive officer and a deputy executive officer referred to in section 1 of the Financial Services Board Act, who are the Registrar and the Deputy Registrar of Securities Services, respectively; and

(b) the Registrar and Deputy Registrar of Securities Services exercise the powers and perform the functions of the Authority.

(2) If the Minister has determined by notice in the Gazette that the amendments of this Act contained in Schedule 4 to the Financial Sector Regulation Act must come into operation before the provisions of the Financial Sector Regulation Act in terms of which the Prudential Authority is established come into operation, then until the date on which the Prudential Authority is established—

(a) a reference to “Prudential Authority” must be read as a reference to the Registrar of Banks; and
Molao wa Taolo ya Lephata la Ditshelene, 2017

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(zC) Kuntjintjwa kweesigatjana (3) ngесigatjana lesilandzelako:
“(3) lapho khona kuloMtsetfo lonke lighunya lekulawula libukwe kutsi litsatse sincumo ngekuchumana [namabhalane] neliGatja, sincumo lesinjalo sidzinga kuhlanganyela neliGatja.”; futsi
(zD) ngekungetwa kwalesigatjana lesilandzelako:
“(4) ngaphandle nangabe ingcikitsi isho ngenye indela, emagama netinkhomba letingaka-chazwa esigatjaneni (1) kunencha-zelo lefanako nala lenikhetwe yona ngkwe-Financial Sector Regulation Act.”.

3. Kufakwa kwalesigaba lesilandzelako ngemvu kwesigaba sekucala (1):

Budlelwane emkhatsini weMtsetfo kanye neMtsetfo wekuLawulwa kweMkhakha wetetiMali

1A. (1) Nangabe Ngcongcoshe ancume ngesatiso kuGazethi kutsi tichibiyelo taloMtsetfo leticuketiwe kushejuli 4 ku-Financial Sector Regulation Act kufuna ticalise kusebenta ngaphambi ikwekucauliswa kwetimiso te-Financial Sector Regulation Act lekusungulwe ngayo leliGatja, kuze kuyoba lusuku lekubunjwa ngalo loGatja—
   (a) irefurensi “kuliGatja” kufuna ifundvwe njengerefurensi kusohlovisi lophetse kanye nasekela lekucondziswe kibo esigabeni 1 se-Financial Sector Regulation Act, lekunguNobhala wetiNsita teMasheya kanye nasekela pheceleti; futsi
   (b) Nobhala wetinsita temasheya kanye nasekela wakhe basebentisa emandla bente imisebenti yeliGatja.
(2) Nangabe Ngcongcoshe ancume ngesatiso kuGazethi kutsi tichibiyelo taloMtsetfo leticuketiwe kushejuli 4 we-Financial Sector Regulation Act kufuna ticale kusebenta ngaphambi kwetimiso te-Financial Sector Regulation Act ngekwendlela leGatja leBungcwethi lisungulwe ngayo ticale kusebenta ngayo, kuze kuyoba lusuku lekubunjwa kweliGatja lebuNgcwethi—
   (a) irefurensi kuliGatja lebungcwethi kufuna ifundvwe njengerefurensi kubalala wamabang; futsi
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(b) | the Registrar of Banks designated under section 4 of the Banks Act, 1990 (Act No. 94 of 1990) exercises the powers and performs the functions of the Prudential Authority. |

(3) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(4) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice in the Register.

(5) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a prudential standard, a conduct standard, or a joint standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(6) (a) A reference in this Act to an on-site visit in terms of a provision of this Act, must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.

(b) A reference to an inspection in terms of a provision of this Act other than section 79(b) must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.

(7) (a) A reference in this Act to the Authority announcing or publishing information or a document on a website must be read as a reference to the Authority publishing the information or document in the Register.

(b) The Authority may also publish the information or document on the Authority’s website.

(8) A reference in this Act to a determined or prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.
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<td>(b) Nobhala wemabhange locokwe ngaphasi kwegisigaba 4 we-Banks Act (Umtsetfo Nom. 94 wanga 1990) usebentisa emandla ente imisebenti yeliGatja leBungcwethi.</td>
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<td>(3) Ngaphandle uma ngabe kuniketwe kuMtsetfo nobe i-Financial Sector Regulation Act, emandla nemisebenti yeliGatja ngekwemibandzela yalomtsetfo angetwa kulawo lesalele linawo ngekwemibandzela ye-Financial Sector Regulation Act.</td>
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<td>(4) Irefensi kuloMtsetfo leya kuliGatja lencuma nobe leshicilela ludzaba ngesatiso kuGatja kufanele ifundwve njengoba kufaka ekhatshi i-irefensi leya kuliGatja lencuma nobe leshicilela loludzaba ngesatiso kuRejista.</td>
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<td>(5) Ngaphandle nangabe kuloMtsetfo kushiwo ngalenye indlela, nome lomtsetfo udzinga loludzaba luncunywe ngemisetfisimiso, irefurenzi kuloMludabab—</td>
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<tr>
<td>(a) loluncunywi ifundwve njenge-irefurenzi kuloMludabab loluncunywe kumtsetfo yeBungcwethi, imitseto yenchubo, nome imitseto yekuhlanyangelay, nama nomal umbhalo, irefensi kuliGatja lencuma loludzaba ngembhalo kanye nekuhbalisa leso singumo kumiBhalab.</td>
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<td>(b) nakungabi njalo, irefensi kuliGatja lencuma loludzaba ngembhalo kanye nekuhbalisa leso singumo kumiBhalab.</td>
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<tr>
<td>(a) Ireferensi kuloMtsetfo ekuvakashelweni kwsayithi, kuhlola, nobe kuphenyana ngaphasi kwakoluksiwwo nguloMtsetfo, kufuna ifundwve njengerefurenzi ekulawulweni kuhlola, kwsayithi nobe kuphenyana ngekwemibandzela ye-Financial Sector Regulation Act.</td>
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<tr>
<td>(b) kuliGatja lingaphindze leshicilele lomniningwane nobe umbmulu kwe-hbuwashithi valo.</td>
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<td>(7) (a) Ireferensi kuloMlsetfo kuli-Gatja lebikako nome leshicilela lwatiso nome umcudlwana kuwebhusayithi kufuna ifundwve njengerefurenzi kuliGatja leshicilela lwatiso nome umcudlwana.</td>
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<tr>
<td>(b) liGatja lingaphindze leshicilele lomniningwane nobe umcudlulu kwe-bhusayithi valo.</td>
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<td>(8) Ireferensi ngemali lefanele lencunywe kuloMtsetfo kulele ifundwve njengerefurenzi lefanele kumali lencunywe ngakwemibandzela yesisigaba 237 se-Financial Sector Regulation Act.</td>
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(9) A reference in this Act to an appeal of a decision of the Authority or a market infrastructure to the appeal board must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

(10) For the purposes of the Financial Sector Regulation Act, conduct standards made in terms of section 74 are regulatory instruments.”.

4. The amendment of section 3—

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

“(3) Despite any other law, other than the Financial Intelligence Centre Act, if there is an inconsistency between any provision of this Act and a provision of any other national legislation, except the Financial Intelligence Centre Act and the Financial Sector Regulation Act, this Act prevails.”; and

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

“(5) Despite any other law, if other national legislation confers a power on or imposes a duty upon an organ of state, other than the South African Reserve Bank or the Prudential Authority, in respect of a matter regulated under this Act, that power or duty must be exercised or performed in consultation with the registrar Authority, and any decision taken in accordance with that power or duty must be taken with the approval concurrence of the registrar Authority.”.

5. The amendment of section 4—

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

“(e) act as a clearing member unless authorised by a licensed exchange or a licensed independent clearing house, a licensed central counterparty, a licensed external central counterparty or an external central counterparty that is exempt from the requirement to be licensed in terms of section 49A, as the case may be;”;

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<td>(9) A reference in this Act to an appeal of a decision of the Authority or a market infrastructure to the appeal board must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.</td>
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<td>(10)</td>
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(b) by the substitution for subsection (5) of the following subsection:

“(5) Despite any other law, if other national legislation confers a power on or imposes a duty upon an organ of state, other than the South African Reserve Bank or the Prudential Authority, in respect of a matter regulated under this Act, that power or duty must be exercised or performed in consultation with the registrar Authority, and any decision taken in accordance with that power or duty must be taken with the approval concurrence of the registrar Authority.”. |

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“(e) act as a clearing member unless authorised by a licensed exchange or a licensed independent clearing house, a licensed central counterparty, a licensed external central counterparty or an external central counterparty that is exempt from the requirement to be licensed in terms of section 49A, as the case may be;”; |
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<td>(9) Iriferensi kuloMsetfo ngekuburetšwa kwesinumuto seGatja diphedi yitshihle kufanele ifundive nje ngxute riferensi yekubuyeketa leso sincumo yINkantoloro ngxwegwemibandzela ye-Martment FAIR Act.</td>
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<td>(10) Ngetizatu te-Financial Sector Regulation Act, imsetfo wenchubo lowniwile ngekwegwesiga 74 nthikho ntho lethawulako. “”</td>
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4. kuchitjiyelwa kwesigaba 3—
(a) ngekunjintjwa kwesigatjana (3) ngesigatjana lesilandzelako:
   “”(3) Ngaphandle kwanoma mphi imsetfo, [kungasayo i-Financial Intelligence Centre Act,] uma ngabe kunekungcubutana kunoma ngabe nguyiphimi imbandzela yaloMsetfo nama imbandzela yanoma ngabe nguwuphi umtsetfo lomisiwe velonkhe, ngaphandle kwe-Financial Intelligence Centre Act kanye ne-Financial Sector Regulation Act kufakwama lomsetfo.”” futsi
(b) ngekunjintjwa kwesigatjana (5) ngesigatjana lesilandzelako:
   “”(5) Ngaphandle kwanoma mphi imsetfo, uma ngabe umtsetfo lomisiwe velonkhe uniketa emandla noma uniketa umsebenti kumtimba wawulamende, kungasilo lBhange Ngodla lasoNgizimu Afrika nobe ligatja lebungcwethi ngalokuphaselene neladzaba lolulawulwa ngaphansi kwaloMsetfo, lawo mandla noma umsebenti kufanele kwenxwe nama kusyetjentiswe ngekutsintsana [nanobhala] neliGatja, kantsi noma ngabe ngusiphi sincumo le시스afwe ngekugombasana nalawo mandla noma umsebenti kufanele sitshaphe ngekuyumela [tfolo invumey] [yanobhala] neliGatja.””;

5. kuchitjiyelwa kwesigaba 4—
(a) ngekunjintjwa kwendzima (e) esigatjaneni (1) ngalendzima lelandzelako:
   “”(e) asebente njengelilinga religunyatiwe ngaphandle kwekuwethi agunyatwe ligatja lelibhasiswe [nomaj], ligatja religunyaitse lthinanglelele noma ligatja lelisemkhatsini lelekuhweba, ligatja leletimali langaphandle lethalamulako noma ligatja lelisemkhatsini lelekuhweba lelikhululwe kulokudzingekile kute ligunyatiwe ngekwegwesiga 49A njengoba kunxwe kubekele;””
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<td><strong>(b)</strong> by the substitution in subsection (1) for paragraph (g) of the following paragraph: “(g) perform the functions of or operate as a trade repository unless that person is licensed under section 56 or section 56A, as the case may be; or”; <strong>(c)</strong> by the substitution for subsection (2) of the following subsection: “(2) A person who is not— <strong>(a)</strong> licensed as an exchange, a central securities depository, a trade repository or a clearing house or a central counterparty; <strong>(b)</strong> a participant; <strong>(c)</strong> an authorised user; <strong>(d)</strong> a clearing member; <strong>(e)</strong> an approved nominee; or <strong>(f)</strong> an issuer of listed securities; <strong>(g)</strong> licensed as an external central counterparty, or exempt from the requirement to be licensed in terms of section 49A, or <strong>(h)</strong> licensed as an external trade repository, may not purport to be an exchange, central securities depository, trade repository, clearing house, central counterparty, external central counterparty, external trade repository, participant, authorised user, clearing member, approved nominee or issuer of listed securities, as the case may be, or behave in a manner or use a name or description which suggests, signifies or implies that there is some connection between that person and an exchange, a central securities depository, trade repository, clearing house, central counterparty, external central counterparty, external trade repository, participant, authorised user or clearing member, as the case may be, where in fact no such connection exists.”; and</td>
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(b) ngekuntjintjwa kwendzima (g) 
yesigatjana (1) ngalendzima 
lelandzelako:

"(g) yente imisebenti ye-, nome
isebente njengemhwebeli
(indzawo yekuhwebelana),
ngaphandle nangabe loyo
muntfu ugunyatwe ngaphasi
kwegisiga 56 nome sigaba
56A njengobe kunqaba
kubekiwe; nome";

(c) ngekuntjintjwa sigatjana (2) ngesigatjana
lelandzelako:

"(2) Umuntfu—
(a) longenayo imvume njengeliligatja,
sikhungo semasheya
lesisemkhatsini, indzawo
yekuhwebelana [noma], sikhungo
lesigunyatako nome ligatja
lesisemkhatsini letekuhweba;
(b) longangeneleli;
(c) longasuye umsebentisi
losemtsetweni;
(d) longasilo lilunga leligunyathiwe;
(e) longakaphakanyiswa; nama
(f) longanayo imvume yekuniketela
ngemasheya labhalisiwe,
(g) longakagunyatawa njengemlamuli
wetetimali wangaphandle nome
lokuhlulelwe kolokudzinekile kuze
ugunyatwe ngakagunyata 49A; nome

(b) longakagunyatawa njengemhwebeli
wangaphandle (indzawo
yekuhwebelana yangaphandle)
angeke wafaka sicelo sekutsi abe
ligatja, sikhungo semasheya
lesisemkhatsini, indzawo
yekuhwebelana, sikhungo
lesigunyatako, ligatja lesisemkhatsini
letekuhweba, laphanga lesisemkhatsini
letekuhweba langaphandle, umthiwelelwe
wangaphandle (indzawo
yekuhwebelana yangaphandle),
labangenelelako, umsebentisi
losemtsetweni, lilunga leligunyathiwe,
laphakanyisiwe losemtsetweni nome
loniketa f emasheya labhalisiwe,
njengoba kunqaba kubekiwe, nome
kufhatsa ngendlela nome kusebentisa
ligama nome incha zelo lephakamisa
kutsi, lekhombisa nome lechaza kutsi
kunobudlwo emakhatsina walowo
muntfu neliligatja, sikhungo semasheya
lesisemkhatsini, indzawo
yekuhwebelana, sikhungo
lesigunyatako, ligatja letetimali
lelilamulako, ligatja lesisemkhatsini

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<td>letekuhweba langaphandle, umthiwelelwe</td>
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<td>wangaphandle (indzawo yekuhwebelana yangaphandle), labangenelelako, umsebentisi losemtsetweni, lilunga leligunyathiwe, laphakanyisiwe losemtsetweni nome loniketa f emasheya labhalisiwe, njengoba kunqaba kubekiwe, nome kutiphatsa ngendlela nome kusebentisa ligama nome incha zelo lephakamisa kutsi, lekhombisa nome lechaza kutsi kunebudlwo emakhatsina walowo muntfu neliligatja, sikhungo semasheya lesisemkhatsini, indzawo yekuhwebelana, sikhungo lesigunyatako, ligatja letetimali lelilamulako, ligatja lesisemkhatsini</td>
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### Extent of repeal or amendment

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<td><em>(d)</em> by the substitution for subsection <em>(5)</em> of the following subsection:</td>
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|                  |             | "*(5) (a)* A clearing member may only provide the clearing services or settlement services for which it is authorised by a licensed exchange *[or]*, licensed independent clearing house, or a licensed central counterparty, as the case may be, in terms of the exchange rules or clearing house rules, as the case may be.  
*(b)* A clearing member may only provide clearing services or settlement services for which it is authorised by a licensed external central counterparty or an external central counterparty that is exempt from the requirement to be licensed in terms of section 49A, with the joint prior written approval of the Authority, the Prudential Authority and the South African Reserve Bank.". |

6. The amendment of section 5—  
*(a)* by the substitution in subsection *(1)* for paragraphs *(b)* and *(c)* of the following paragraphs:  
"*(b)* a category of regulated persons, other than those specifically regulated under this Act, if the securities services provided, and the functions and duties exercised, whether in relation to listed or unlisted securities, *[provided]* by persons in such category, are not already regulated under this Act, and if, in the opinion of the Minister, it would further the objects of the Act in section 2 to regulate persons in such categories;"
### Nomoro ya Molao le ngwaga

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|                           | letekuwebea langaphandle, unhwebeli wangaphandle (indzawo yekuwebelana yangaphandle), labangenelelako, imsebenzisi lomsetsetweni noma lilunga leligunyatiwe, njengoba kungabe kubekiwe, laapho khona akunabudlelwano lobukhona.; futsi (d) kunjitjwja kwesigatjana (5) ngesigatjana lesilandezela:  
   “(5) (a) Lilunga leligunyatiwe linganiketa tinsita tekugunyata noma tekakhokhela ngalokugcwele letiniketwe imvume yekwenta ligatja lelibhalisiwe [noma], sikhungo lesitimele lesigunyatiwe lesinemvume, noma libhangxelise mkhatseni letekuwebea leligunyatiwe, njengoba kungabe kubekiwe, ngakehambisana nemitsetfo jelitjana noma imitsetfo yesikhungolesigunyatako, njengoba kungabe kubekiwe.
   (b) Lilunga leligunyatiwe linganiketa tinsita tekugunyata kufhela noma tinsita tekubhadala noma libhangxelise mkhatseni letekuwebea
   langaphandle leligunyatiwe nome ligatja lelesitsetse leletshwane letikunyeletshwane
   langaphandle lelibhalisiwe ngekumgqubaba 49A, ngekuvumela lokuhalwe ngekulunganya lephambilini kweliGatja, Umtsetfo weBungcwethi, njengoba kungabe kubekiwe, ukuhlanganyela phambilini kweliGatja, Umtsetfo weBungcwethi, njengoba kungabe kubekiwe. |
|                           | 6. kuchitjiyela kwesigaba 5—
   (a) ngekuntjintja tindzima (b) kanye ne-
   (c) ngaletindzima letilandzelako esigatjaneni (1): “(b) luha wesebantfu labalawulwakho, ngaphandle kwamalabo labalawulwe ngekwalonoMsetso, uma ngabe imisebenti yemasheya inkhetwe futsi kusebenta nemisebenti yentwi, noma ngabe kuya ngalabhalisiwe noma langakabhalisiwa, [uma ngabe] labo buntfu basengakalawulwa kulowo mkhakha ngekwalonoMsetfo, uma ngabe umbono waNgcongcoshe, utawuchubekisa tinjongo taloMsetfo letikisiga 2 tekukalulwe buntfu labanjalo labakuleyo mkhakha; |
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<td>(c) the securities services that may be provided, and the functions and duties that may be exercised, by an external authorised user, external exchange, external participant, external central securities depository, external clearing house, external clearing member, external central counterparty or external trade repository, as the case may be.”; and</td>
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<td>(b) by the substitution for subsection (2) of the following subsection:</td>
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<td>“(2) An external authorised user, external exchange, external participant, external central securities depository, external clearing house, or external clearing member [or external trade repository] may only provide those securities services or exercise functions or duties, as the case may be, prescribed by the Minister in terms of subsection (1)(c).”</td>
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<td>7.</td>
<td>The amendment of section 6:</td>
<td>(a) by the substitution for the heading of the section of following heading:</td>
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<td>“[Registrar and Deputy Registrar] Authority”;</td>
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<td>(b) by the deletion of subsections (1) and (2);</td>
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<td>(c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:</td>
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<td>“In performing [those] its functions in terms of this Act, the Authority—”</td>
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<td>(d) by the substitution in subsection (3) for paragraph (k) of the following paragraph:</td>
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<td>“(k) may issue [guidelines] guidance notices on the application and interpretation of this Act;”;</td>
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<td>(e) by the substitution in subsection (3) for paragraph (m) of the following paragraph:</td>
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<td>“(m) may exempt, for a specified period which may be renewed, any person or category of persons from the provisions of a section of this Act if the [Registrar] Authority is satisfied that—”</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<td>(c) lemisebenti yemasheya lenganiketwaanye nemisebenti lengentiwa ngumsebentisi longaphandle, ligatja lelitimele, bangeneleli labatimele, libhange lemasheya lelitimele langaphandle, indlu yangaphandle legunyatako, lilunga leligunyatako, ligatja lelimsekhatsemi letekuhweba langaphandle, lilunga langaphandle leligunyatako noma ligatja langaphandle lekuhwebelana, njengoba kungabe kubekiwe.</td>
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| (b) ngekuntjintja sigatjana (2) ngesigatjana  
esilandzelako: | | "(2) Umsebentisi wangaphandle logunyatiwe, ligatja langaphandle, longenelelako wangaphandle, sikhungo semasheya lelitimele sangaphandle, indlu yangaphandle legunyatako, noma lilunga Langaphandle leligunyatako [noma 
libhange langaphandle lekuhwebelana] lingahle linikete leto tinsita temasheya noma kusebentisa imisebenti, njengoba kungabe kubekiwe, cubekwe nguNgcongcoshe ngekuya ngalesigatjana (1)(c).". |
| 7. Kuchitjiyelwa kwesigaba 6: | | |
| (a) ngekuntjintja sihloko salesigaba  
galeshloko lesilandzelako: | | "[Nobhala nasekela waNobhala]
liGatja"; |
| (b) Ngekususwa kwetigatjana (1) kanye na (2); | | |
| (c) ngekuntjintjwa kwemagama langaphambikwendzima (a) ngemagama lalandzelako esigatjaneni (3): | | "Ekwenti [le]misebenti yalo ngewemibandzela yaloMtsetfo, liGatja—"; |
| (d) ngekushintjwa kwendzima (k) | | ngekuntjintjwa indzima lesigatjaneni sesi-(3): |
| | | "(k) anganiketa [tinkhombandlela]
lwati loloholako ngekusetejiteniswa nekuhunyushwa kwaloMtsetfo;"; |
| (e) ngekuntjintja indzima (m) ngale ndzima lelandzelako esigatjaneni (3): | | ngesikhatsi lesitsite leisingaphinde sivisetelwe [angavumela] angakhuula bantu nome tinholo tsite tebantitu kuletimiso talesigaba saloMtsetfo [noma bani noma |
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[(i) the application of said section will cause the applicant or clients of the applicant financial or other hardship or prejudice; and]

[(ii)(i) the granting of the exemption will not—

(aa) conflict with the public interest; or

(bb) frustrate the achievement of the objects of this Act; and

(ii) the application of the section will cause the applicant or clients of the applicant financial or other hardship or prejudice; and

(iii) in relation to an external market infrastructure, and with the concurrence of the South African Reserve Bank and the Prudential Authority, the applicant—

(aa) is based in an equivalent jurisdiction in terms of section 6A and is authorised by the supervisory authority of such jurisdiction;

(bb) complies with any criteria prescribed in joint standards for the exemption of such persons; and

(cc) undertakes to cooperate and share information with the Authority, the South African Reserve Bank and the Prudential Authority to assist with the performance of functions and the exercise of powers in terms of financial sector law;”;


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<td>(f)</td>
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<td>(f) by the substitution in subsection (3) for paragraph (n) of the following paragraph: “(n) must inform the Minister and the Governor of any matter that in the opinion of the registrar Authority may pose systemic risk [to the financial markets; and];”</td>
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<td>(h)</td>
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<td>(h) by the substitution for subsection (5) of the following subsection: “(5) The registrar Authority must, where an exemption or a directive applies to all persons, regulated persons or securities services generally, publish the directive in the Gazette and on the [official] Authority’s website, and a copy of the published exemption or directive must be tabled in Parliament.”</td>
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<td>(i)</td>
<td></td>
<td>(i) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words: “The registrar Authority may, with the concurrence of the Prudential Authority, and in accordance with the requirements prescribed by the Minister under section 5(1)(a), in conduct standards or joint standards for, or in respect of, securities services—”</td>
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<td>(j)</td>
<td></td>
<td>(j) by the substitution in subsection (7) for paragraph (b) of the following paragraph: “(b) prescribe conditions and requirements for the provision of securities services in respect of unlisted securities, including, but not limited to, prescribing a code of conduct and] imposing reporting requirements.”</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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<td>laseNingizimu Afrika kanye neli-hange lebungcwehi kuncedzisa ngekwetiwa kwemisebenti kanye nekusetsie-nitswa kwemandla ngekwemtsetfo wemkhakhah wetetimali;</td>
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<td>(f) ngekuntjintjwa kwendzima (n) ngalendzima lelandzelako esigatjaneni (3): “(n) kufanele kwatiswe Ngecongcoshe kanye neMbisi nganoma ngaluphi ludzaba Le- ngekwembono [wanobhala] weliGatja kungalaetsa bungoti [kutinhlelo tetimakethe temnotfo; kanye];”</td>
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<td>(g) ngekususwa kwendzima (o) esigatjaneni (3); ngekuntjintjwa kwesigatjana (5) ngalesigatjana lesilandzelako; “(5) [nobhala] liGatja kufanele, lapho kunekuniketwa kungasebenti noma umyalelo ufaka ekhatsi bonkhe bantu, bantu labasemtsetweni noma temnitsa temasheya ngalokutayelekile, kukhishwe lonlayelo kuGatja kuwebhugwethi yeliga [lesemsetweni], kantsi ikholo yalo mugwethi uma umyalelo kufanele yetfulwe ePhalamende.”</td>
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<td>(i) ngekuntjintjwa kwemagama landvulela indzima (a) ngerakwesha laNgekwembono esigatjaneni (7); “[nobhala] liGatja ngekuhlanga nyela neliga lebuNgwehlisi, nangkuhambisa netidzingo lethibekwe nguNgecongcoshe ngaphansi kwegubha 5(1)(a), kunchubo lesezingeni nemtsetfo wekuhlanganyela, nobe ngekwemisebenti yemasheya—“</td>
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<td>(j) ngekuntjintjwa kwendzima (b) esigatjaneni (7) ngendzima lelandzelako: “(b) abeke imibandzela netidzingo ngendlela lekuFanele kutsi imisebenti yemasheya ngalokuphatselene nalatsite langakabhaliswa lekuFanele aniketwe, kufaka ekhatsi,kutsi kungashiyi [ngapandle, ngekusho indlela yekuti phatsa] kugunyana nekuhko-kheleka kwalawo masheya kufanele kwenteke ngayo;”</td>
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<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td>(k)</td>
<td>by the substitution in subsection (7) for paragraph (d) of the following paragraph: “(d) prescribe conditions and requirements in terms of which securities services in respect of specified types of unlisted securities may be provided, including[, but not limited to,] the manner in which clearing and settlement of such securities must take place;”;</td>
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<td>(l)</td>
<td>by the substitution in subsection (8) for the words preceding paragraph (a) of the following words: “In relation to the persons in the category prescribed [by the Minister under] in terms of section 5(1)(b), [the registrar] standards may —”;</td>
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<td>(m)</td>
<td>by the substitution in subsection (8) for paragraph (b) of the following paragraph: “(b) prescribe conditions and requirements for the provision of securities services by such persons, including[, but not limited to,] prescribing [a code of conduct] conduct standards and imposing reporting requirements;”;</td>
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<td>(n)</td>
<td>by the substitution in subsection (8) for paragraph (d) of the following paragraph: “(d) prohibit such persons from providing securities services or undertaking any activities which may frustrate the objects of [the] this Act or the Financial Sector Regulation Act.”;</td>
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<td>(o)</td>
<td>by the addition of the following subsection: “(9) In relation to the securities services that may be provided, or the functions and duties that may be exercised by an external authorised user, external exchange, external participant, external central securities depository, external clearing house, external central counterparty, external clearing member or external trade repository, as the case may be, joint standards may prescribe additional criteria for the approval, authorisation, licensing or exemption of those persons in the Republic, and for the equivalence recognition of the applicable foreign country.”;</td>
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<td>Nomoro ya Molao le ngwaga</td>
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<tr>
<td>(k)</td>
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<td>ngekuntjintjiwa kwendzima (d)</td>
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<td>ngalendzima lelandzelako esigatjaneni (7):</td>
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<td>“(d) abake imibandzela netidzingo ngendlela lekufanæle kutsi imisebenti yemasheya ngalokuphatselele nalatsite langakabhaliswa lekufanæle aniketwe, kufaka ekhatsi, [kutsi kungashiyi ngaphandle], indlela kugunyata nekukhokheleka kwalawo masheya kufanele kwenke ngayo;”:</td>
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<td>(l)</td>
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<td>ngekuntjintjiwa kwemagama landvulela indzima (a) esigatjaneni (8) ngalamagama lalandzelako:</td>
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<td>“Ngalokuphatselele nalabantfu lababalwe kolumkhakha lobekwe [nguNgcongcoshe ngaphansi] ngekwesigaba 5(1)(b), [nobhala] inchubo yemsetfö inanga—”:</td>
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<td>(m)</td>
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<td>ngekushintjiwa kwendzima (b) ngalezidzima lelandzelako esigatjaneni (8):</td>
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<td>“(b) kubeka imibandzela netidzingo talembandzela yemisebenti yemasheya ngulabo bantfu kufaka ekhatsi, [kungashiyi ngaphandle],] kubeka [indlela] yemsetfö wenchubo [Y]wekuhiphasa nekubeka lokudzingekako uma ngabe Kubikwa;”:</td>
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<td>(n)</td>
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<td>ngekuntjintjiwa kwendzima (d) ngalezidzima lelandzelako esigatjaneni (8):</td>
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<td>“(d) kuvimbela bantfu labanjalo ekuniketi yemisebenti yemasheya noma kwenka noma ngabe miphthi imisebenti lengasebentisa kabi tinjongo taloMtsetfo noma ye-Financial Sector Regulation Act.”; iutsi</td>
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<td>(o)</td>
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<td>ngekungnetwa kwalestigatjana lesilandzelako:</td>
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<td>“(9) ngukhumbelana nemisebenti yemasheya lengabe inkhetwe ku-, kanye nemisebenti lengentiwa ngumsebentisi waphandle logunyatiwe, lushiintjo lwangaphandle, longenelakale waphandle, lindlu yaphandle yetekhubweja kwemashheya, ligatja lëlisemkhatsini letekhubweha langaphandle, njengobe ludzaba lungaba njalo, njengobe kuncunywe ngungcongcoshe ngapheksi kwesi-gaba 5(1)(c), lìGatja kukrathheriya yemsetfö wekuhlanganyela, kugunyata, kunaka, kufaka emsetfweni nobe kukhuluula kwalabantfu kuRiphabhulikhi, kanye nekwanjalo ngakungana kwelive lelifanele langaphandle.”.</td>
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<td></td>
<td>8.</td>
<td>The insertion after section 6 of the following sections:</td>
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<td>“Equivalence recognition of foreign jurisdictions”</td>
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<td>6A.</td>
<td>(1) On application by an interested party, the Authority, with the concurrence of the South African Reserve Bank and the Prudential Authority, may determine that the regulatory framework of a specified foreign country is equivalent (an “equivalent jurisdiction”) to the regulatory framework established in terms of financial sector law, if the legislative and regulatory framework established in that foreign country meets the objectives of the financial sector law.</td>
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<td>(2) A recognition in terms of section 6A(1) must be published on the Authority’s website and in the Register.</td>
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<td>(3) The Authority must maintain a list of all foreign countries recognised under this section.</td>
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<td>(4) When assessing the equivalence of the regulatory framework of a foreign country, the Authority, the South African Reserve Bank and the Prudential Authority must take into account —</td>
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<td>(a) the nature and intensity of the supervisory authority’s oversight processes, including direct comparison with the regime applied by the Authority, the Prudential Authority and the South African Reserve Bank, as the case may be;</td>
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<td>(b) alignment of the foreign country’s regulatory framework with relevant principles developed by international standard setting bodies applicable to market infrastructures;</td>
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<td>(c) observed outcomes of the foreign regulatory framework applicable to market infrastructures relative to those in South Africa; and</td>
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<td>(d) the need to prevent regulatory arbitrage.</td>
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<td><strong>Withdrawal of recognition</strong></td>
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<td>6B.</td>
<td>The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, withdraw recognition where the criteria set out in section 6A are no longer met.</td>
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Molao wa Taolo ya Lephata la Ditsheltele, 2017

Nomoro ya Molao le ngwaga | Setlhogo se se khutshwane | Bogolo jwa phimolo kgotsa tlhabololo
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8. | Ngekufakwa kwa leslandzelako ngemuva kwesigaba 6: | "Kwatiwa ngalokulinganako kweti le temsetfe tangaphandle"

**6A.** (1) ekusetjentisweni lilunga lelidzingile, liGalja, ngekuhlanganyela nelihBhange Ngodla laseNingizimu Afrika nemsetfe webungwethi, liGalja lingancuma kutsi sakihiwonchanti leslawulako selive langaphandle lelilinganako (kugunyata lokulinganako) kulusitonchanti lwemsetfeitimisisi luncunywe ngewemsetfe setshwane

(2) Kwatiwa ngalufikwa 6A(1) kufuna kwemsetfe setshwane

(3) liGalja kutiwa lwesigaba setshwane

(4) Nakuhloisiswa kulingana kwemsetfetshwane kwetshwane

(a) lehlalo kanye nesetjentu lehlalo

(b) lehlalo kanye nesetjentu lehlalo

(c) lehlalo kanye nesetjentu lehlalo

(d) lehlalo kanye nesetjentu lehlalo

Kukhishwa kwekwatiwa 6B, liGalja ngekuhlanganyela nelihBhange Ngodla laseNingizimu Afrika kanye neligatja lebungwethi kwatiwa setshwane

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### Principles of co-operation

6C. (1) The Authority must enter into a supervisory co-operation arrangement with the relevant supervisory authority from the equivalent jurisdiction for the purpose of performing its functions in terms of this Act.

(2) A supervisory co-operation arrangement referred to in subsection (1) must at least specify—

(a) the mechanism for the exchange of information between the Authority, the South African Reserve Bank, the Prudential Authority, and the relevant supervisory authorities (“the authorities”), including access to all information requested by the Authority regarding a licensed external market infrastructure;

(b) the mechanism for prompt notification to the Authority, the South African Reserve Bank and the Prudential Authority where the supervisory authority deems an external market infrastructure which it is supervising to be in breach of the conditions of its authorisation or of other law to which it is subject, or any other matter which may have an effect on the authorisation of the market infrastructure;

(c) the procedures concerning the coordination of supervisory activities including, where appropriate, for collaboration regarding the timing, scope and role of the authorities with respect to any cross-border supervisory on-site inspections;

(d) the processes the authorities should use if an authority subsequently determines that it needs to use requested supervisory information for law enforcement or disciplinary purposes, such as obtaining the consent of the requested authority and handling such information in accordance with the terms of existing memorandum of understanding for enforcement co-operation;

(e) the procedures for co-operation, including, where applicable, for discussion of relevant examination reports, for assistance in analysing documents or obtaining information from a licensed external market infrastructure and members of the controlling body or senior management; and
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<td><strong>Imitsetfo yekubandzakanyeka</strong></td>
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<td>6C. LiGatja kufuna lingene ehlelweni lekubambisana ngekualwulua likanye nemagatja lafanele lahalulako ehlelweni lwemtsetfo lolulangano ngetjinjongo tekwenta umsebenti walo ngekwalontoMistefo.</td>
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<td>(2) Luhlelo lokubambisana ngekualwulua lekucondziswe kilo esigatjaneni (1) kufuna lokungenani lufacise—</td>
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<td></td>
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<td>(a) indlola yekunjintjana ngemningwane emkhatsini weligatja, litBhange Ngodla ltaseNingizimu Afrika, ligatja lebungcwethi kanye nemaGatja ekualwula, ukuhlanganisele kuwo wonkhe umningwane locelwe lekucondziswe kilo esigatjaneni (1) kufuna lokungenani lufacise—</td>
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<td>(b) indlala yekukhishwa kwesatiso ngesikhatsi leSifanele kuliGatja, umtstefo webungcwethi kanye nelitBhange Ngodla ltaseNingizimu Afrika lafho khona LiGatja lelialwalula loitsatsa tinsitanchanti tetimakethe tangaphandle letitila-wulako kutsi tibe sekwephuleni kwetimo tekugunyaati kwato nobe kwalomunye umitsetfo lettibekelwe wona, nome lokanye lokungaba nemtselelaekugunyaatweni kwetinsitanchanti tetimakethe;</td>
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<td>(c) indlala letiphatselene nekutibandzakanya kwekualwulua letaka ekhatsi, lafho kuKufanele kholo, kuhlalanganye lokuphatsele nekubona ngesikhatsi, umtalamo kanye nelichaza leligatja ngekualwulua nekukhishwa kwamkhathini kwaluhiwa kwangakhehatsi kwalamananyama emave;</td>
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<td>(d) indlala emagatja lekuKufanele lekuKufanele atisebentise lafho ligatja selincuma kutsi kufanele lisebentise iminingwane yekualwula leceleiwe kusimamisa umtsetfo nobe ngenhlolo yekucondzisa tigwege, njengekuifola imvumo yeligatja lelencele kanye nekuhambisa umningwane locelwe ngekualwulua nekukhishwa kwamkhathini kwalamananyama emave;</td>
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<td>(e) indlala yekutibandzakanya, kuKufana ekhatsi, lafho kwenteka kholo, kucocihana ngemhibiko yekuhlopha lefanele, kuncedzisa ekukhathiyeni imiculu nobe kutfola lwati</td>
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This gazette is also available free online at [www.gpwnline.co.za](http://www.gpwnline.co.za)
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<td>(f)</td>
<td>the degree to which a supervisory authority may onward-share to a third party any non-public supervisory information received from another authority, and the processes for doing so.</td>
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<td>(3)</td>
<td>The Authority and supervisory authorities that have entered into supervisory co-operation arrangements in terms of subsection (1) must—</td>
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<td>(a)</td>
<td>establish and maintain appropriate confidential safeguards to protect all non-public supervisory information obtained from another supervisory authority;</td>
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<td>(b)</td>
<td>consult with each other and share risk analysis assessments and information to support the identification, assessment and mitigation of risks to markets and investors;</td>
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<td>(c)</td>
<td>consult, co-operate and, to the extent possible, share information regarding entities of systemic significance or whose activities could have a systemic impact on markets;</td>
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<td>(d)</td>
<td>co-operate in the day-to-day and routine oversight of internationally active licensed external market infrastructures;</td>
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<td>(e)</td>
<td>provide advance notification and consult, where possible and otherwise as soon as practicable, regarding issues that may materially affect the respective regulatory or supervisory interests of another authority;</td>
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<td>(f)</td>
<td>design mechanisms for supervisory co-operation to provide information both for routine supervisory purposes and during periods of crisis; and</td>
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<td>(g)</td>
<td>undertake ongoing and ad hoc staff communications regarding internationally active licensed external market infrastructure as well as more formal periodic meetings, particularly as new or complex regulatory issues arise.”</td>
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9. The amendment of section 7—
(a) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
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<td>nemalanga emitshwa lolawula kanye</td>
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<td>nome labaphetse futsi</td>
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<td>(f) lizinga ligatja lelikawula</td>
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<td>lekingabelo ngalo nalenye inhlangano</td>
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<td>lekwutfole lekelinye ligatja kanye</td>
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<td>netindlela tekwenta njalo</td>
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<td>(a) asunyale aphindze aqcinu kulondza</td>
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<td>lokuvumfihlo kuze kuvikeleke</td>
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<td>(b) kcuciswane kuphindi kwatjelwane</td>
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<td>ngelucweningo lekuhlati ya bungoti</td>
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<td>ngoba balindele kuzuza</td>
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<td>(c) baccisane, batibandzakanye</td>
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<td>lesebenta velonkhe</td>
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<td>(e) batise kusanesikhatsi baphindze</td>
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<td>baccisane, nakwentsikile, nobe-ke</td>
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<td>masisha nakukhoka, kuphatse-lane</td>
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<td>netinkinge letingatsikaketa</td>
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<td>sidzingo sekalawula kwalelinye</td>
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<td>(f) kwecaniwe indlela yekutibandzako-</td>
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<td>kanye Lokwentelela kukawula khona</td>
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<td>kutoniketa ngelwati lwako kokubili,</td>
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<td>tinhloso tekulawula njalo kanye</td>
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<td>nasetikhatzini tebutumata, futsi</td>
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<td>(g) kutsatsa sibopho setekechumana</td>
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<td>njalo nebasebenti ngetisitsichanthi</td>
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<td>wetimakele letisebentako</td>
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<td>tangaphandle letsetsefweni</td>
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<td>kanjalo nemhlangano yangeetikhati</td>
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<td>tonkh leyeletseka njalo lahpo</td>
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<td>kcubuka tinkinga lemotsha</td>
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<td>tekulawula ngelukhlanganyela&quot;</td>
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9. Kuchitjiyelwa kwesigaba 7—
(a) ngkuntjintjwa kwendzima (a)
ngendzima lelandzelako esigatjane (3):
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<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<td>“(a) be made in the manner and contain the information prescribed by the registrar Authority;”</td>
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<td>(b) by the substitution in subsection (3)(c) for subparagraph (v) of the following subparagraph:</td>
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<td>“(v) the application fee [prescribed by the registrar] determined in terms of the Financial Sector Regulation Act;”</td>
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<td>(c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:</td>
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<td>“(a) The registrar Authority must publish a notice of an application for an exchange licence in two national newspapers at the expense of the applicant, and on the [official] Authority’s website.”</td>
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<td>(d) by the substitution in subsection (4)(b) for subparagraphs (ii) and (iii) of the following subparagraphs:</td>
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<td>“(ii) [where] that the proposed exchange rules and listing requirements [may be inspected by] are available on the website of the Authority for comments from members of the public; and</td>
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<td>(iii) the period within, and the process by, which objections to the application or rules and listing requirements may be lodged with the registrar Authority;”</td>
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<td>(e) by the addition in subsection (4) of the following paragraph:</td>
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<td>“(c) The Authority must publish the proposed exchange rules and listing requirements referred to in paragraph (b)(ii) on the Authority’s website.”</td>
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10. The amendment of section 8—
(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:
“(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in relevant joint standards are met by the applicant, or the licensed exchange, as the case may be, [its directors] members of its controlling body and senior management;”
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td></td>
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<td>“(a)&quot; sentiwe ngendlela kanye nekucuketsa lwatilolubekwe [ngunobhala] lîGatja;”;</td>
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<td>(b) ngekuntjintjwa kwaletindzinyana (v) esigatjaneni (3)(c) ngendzinyana lelandzelako:</td>
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<td>“(v)'' linani lemali yekefaka sicelo [lebekwe ngunobhala] lencunywe ngkekwe-Financial Sector Regulation Act;”;</td>
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<td>(c) ngekuntjintjwa kwendzima (a) ngalendzima lelandzelako kusigatjana (4):</td>
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<td>“(a)'' [ngunobhala] lîGatja kufanele [a]likhiphe satiso sesicelo sekubá nelayisensi yeligatja kumaphephandzaba lamabili lafundvwa velonkhe locutawuba tinileko talona lofaka sicelo, kanye nakuwebhusayithi yeliGatja [lesentsetweni]”;</td>
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<td>(d) ngekuntjintjwa kwendzinyana (ii) kanye nendzinyana (iii) esigatjaneni (4)(b) ngetindzinyana letilandzelako:</td>
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<td>“(ii)'' [lapho] kutsi lakufanele kuhlolwe khona lemitsetfoye-ligatja lephakanyisiwe kanye naloKudzingekako [kute ubhaliswe ngalohkololwe] kuyatfolakala kuwebhusayithi yeliGatja kute emalungangomango abeke imibono; futsi isho lesikhatsi, kanye nenchubo, lapho kungabekwa khona lokuphikisa sicelo nome Limisetfo kanye naloKudzingekile kungeletfwa ngaphambi kweliGatja [lesibekwe ngunobhala].”; futsi</td>
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<td>(e) ngekungeta lendzima lelandzelako esigatjaneni (4);</td>
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<td>“(c)'' lîGatja kufanele lishicilele lemitsetfo yeligatja lephakanyisiwe kanye naloKudzingekile lekakuholunye ngako endzimenyeyi -(b)(ii)'' kuwebhusayithi.”;</td>
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<td>10. Kuchitjiyela kwesigaba 8—</td>
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<td>(a) ngekuntjintjwa kwendzima (c) esigatjaneni (1) ngalendzima lelandzelako:</td>
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<td>“(c) kukhombisa kutsi letidzingo letifanele letibekwe [ngunobhala] kumtsetfo wekuhlanganyela lofanele, lofaka sicelo uyatifeka, noma ligatja lelibhalisiwe, njengoba kungabe kubekiwe, [bacondzisile] bemalunga emtomba lolawuluak[halo] kanye nebaphatsi labasetulu;”; futsi</td>
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(b) by the addition of the following sub-section:

“(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.

(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.

(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).

(d) Requirements prescribed in terms of subsection (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.”.

11. The amendment of section 9(4) by the substitution for paragraph (a) of the following paragraph:

“(a) The registrar Authority must publish a notice of an application for an amendment of the terms of an exchange licence or the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the official Authority’s website.”.

12. The amendment of section 10—

(a) by substitution in subsection (2) for paragraph (j) of the following paragraph:

“(f) must, as soon as it becomes aware thereof, inform the registrar Authority of any matter that it reasonably believes may pose systemic risk to the financial markets give rise to, or increase systemic risk;”;

(b) by the substitution in subsection (2)(i) for subparagraph (ii) of the following subparagraph:

“(ii) may appoint an associated or independent a clearing house or central counterparty licensed under Chapter V to clear or settle transactions or both clear and settle transactions on behalf of the exchange;”.

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<td>(b) by the addition of the following sub-section:</td>
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<td>“(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.</td>
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<td>(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</td>
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<td>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</td>
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<td>(d) Requirements prescribed in terms of subsection (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.”.</td>
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<td>11. The amendment of section 9(4) by the substitution for paragraph (a) of the following paragraph:</td>
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<td>“(a) The registrar Authority must publish a notice of an application for an amendment of the terms of an exchange licence or the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the official Authority’s website.”.</td>
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<td>12. The amendment of section 10—</td>
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<td>(a) by substitution in subsection (2) for paragraph (j) of the following paragraph:</td>
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|                  |             | “(f) must, as soon as it becomes aware thereof, inform the registrar Authority of any matter that it reasonably believes may pose systemic risk to the financial markets give rise to, or increase systemic risk;”;
|                  |             | (b) by the substitution in subsection (2)(i) for subparagraph (ii) of the following subparagraph: |
|                  |             | “(ii) may appoint an associated or independent a clearing house or central counterparty licensed under Chapter V to clear or settle transactions or both clear and settle transactions on behalf of the exchange;”.

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<td>(b) ngekungetwa kwalesigatjana lesilandzelako:</td>
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<td>“(3) (a) Ngekunganakwa kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingeke masisha ngembikwe-kucała kwalesigatjana kuchubeka kudzingeke.</td>
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<td>(b) Ngekwetimiso temtsetfo letincunywe ngekwembandzela wesigatjana (1)(a). Ngccongcoshe angacitsa timiso temtsetfo, bese kutsi lokudzingekile lokusha kungabese sekuncunywa emitsetfweni yekuhlhanganyela nobe umtsetfo wenchubo.</td>
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<td>(c) Indzima (b) ayitsikabeti nobe ivimbele emandla aNgccongcoshe kuncuma nobe kuchibiyela timiso temtsetfo ngokwembandzelaye-sigatjana (1)(a).</td>
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<td>(d) Lokudzingekile lokuncunywe ngekwembandzela yesigatjana (1)(c) nobe (2)(c) ngembikwekucała kwalesigatjana kungachitjiyelwa nobe kucitfwe ngewenco wenchubo nobe umtsetfo wekuhlanganyela.”.</td>
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<td>11. Kuchitjiyelwa kwesigaba 9(4) ngekunjintjwa kwendzima (a) ngalendzima lelandzelako:</td>
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<td>“(a) kufanele akhiphe satiso sesicelo kwentela kuchibiyela imitsetfo yelayisensi yeligatja noma imibandzela ngekuywa ngekutsi nguyiphi ilayisesni leyanikwa kunaphephandzaba avelonkhe lamabili, ngetindleko talona lofako sicelo, kanye nakuwebhusavithi yeliga[ta lesemtsetfweni].”</td>
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<td>12. Kuchitjiyelwa kwesigaba10 (a) ngekunjintjwa kwendzima (f) esigatjaneni (2) ngalendzima lelandzelako:</td>
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<td>“(f) ngekushesha ngalesikhatsi sebati kufanele batise [nobhala] liGatja kanye nemBushi nganoma luphi ludzaba labatsemba ngalokufanele kutsi [lolungabangela bungoti kuloluhielo kutimakethe tennotfo] lungenhulisana nobe lanyuse bungoti beluhielo;”, “tufsi (b) ngekunjintjwa kwendzinyana (ii) ngendzinyana lelandzelako esigatjaneni (2)(i) “(ii) angabeka ligatja leligunyatiwe lelibhaliswпе nome ligatja letetimali leligunyatiwe</td>
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### Act No. and year | Short Title | Extent of repeal or amendment
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13. | The amendment of section 11 — 
(a) by the substitution in subsection (2) for paragraph (c) of the following paragraph:
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“(c) an exchange may take into account at a hearing information obtained by the [registrar] Authority in the course of [an] a supervisory on-site [visit or] inspection or investigation conducted [under section 95] in terms of the Financial Sector Regulation Act or obtained by the directorate in an investigation under section 84, read with section 85.”;
```
(b) by the substitution in subsection (6) by the substitution for paragraphs (c) and (d) of the following paragraphs:
```
“(c) The [registrar] Authority must, as soon as possible after the receipt of a proposed amendment, publish —
(i) the amendment on the [official] Authority’s website; and
(ii) a notice in the Gazette that the proposed amendment is available on the [official] Authority’s website, calling upon all interested persons who have any objections to the proposed amendment, to lodge their objections with the [registrar] Authority within a period of 14 days from the date of publication of the notice.
```
(d) If there are no such objections, or if the [registrar] Authority has considered the objections and, if necessary, has consulted with the exchange and the persons who raised such objections and has decided to approve or amend the proposed amendment, the [registrar] Authority must publish —
(i) the amendment and the date on which it comes into operation on the [official] Authority’s website; and
(ii) a notice in the Gazette, which notice must state—
```
(aa) that the amendment of the listing requirements has been approved;
```
13. Kuchitjiyelwa kwesigaba 11—
(a) ngekuntjintjwa kwendzima (c) ngendzima lelandzelako esigatjaneni
   (2):
   "(c) ligatja linganaka ngalesikhati
   kutsanyelwe licala lwatiso
   [lebelutfolakele]
   lelibowlukulupheno
   ngaphansi kwesigaba 84
   sifundvwe nesigaba 85."
(b) ngekuntjintjwa kwetindzima (c) neye
   (d) ngaletindzima letilandzelako
   esigatjaneni (6):
   "(c) [nohhalal]iGatja, ngemuvana
   kwekutfola kwechibilwe
   letiphakanyiswe kuFanele
   lishicilele masiha loku
   lokulandzelako—
   (i) tichibiyelo kuwebhusayithi
   yeligatja; futsi
   (ii) satiso kuGaziellhi leishhoko
   kutsi tichibiyelo
   letiphakanyiswe
   tiyafotakala
   kuwebhusayithi yeliGatja,
   sibite bonkhe bantfu
   labadzinga kuphakamisa
   imibono yabo
   ngaletchibilwe
   letiphakanyiswe kutsi
   bente ngalo kuliGatja
   ekhatsi kwemalanga lango
14 kushicikekwe satiso.
(d) Nangabe tingekho tiphakamiso,
   nome nangabe liGatja lisatsa
   tiphakamiso lelikhona, nangabe
   kudzingekile lachumana
   nebekuhweba kanye nebantfu
   labaphakamise leto
   tiphakamiso labese lincuma
   kutivumela kusebenta nome
   kuchibiyela tichibiyelo
   lebetiphakanyiswe, ligatja
   kufuna lishicilele—
   (i) sikhubephe kuwebhusayithi
   kanye nelusuku lekuFane
   sicala ngalo kusebenta
   yeligatja; futsi
   (ii) satiso kuGaziellhi, lekuFane
   sico—
   (aa) kutsi tichibiyelo
   talokudzingekile
   kweluhlu tivunyelwe
   kusebenta.
<table>
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<td>(bb) that the listing re-</td>
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<td>quirements as amended are av-</td>
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<td>Authority’s website and the</td>
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<td>website of the exchange; and</td>
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<td>(cc) the date on which the</td>
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<td>amendment of the listing</td>
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<td>requirements will come into</td>
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<td>operation.”;</td>
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<td>subsection (7)(a) for the</td>
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<td>words proceeding subparagraph</td>
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<td>(i) of the following words:</td>
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<td>“(a) The [registrar] Authority</td>
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<td>may, by notice in the Gazette</td>
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|                 |             | and on the [official] Author-
|                 |             | ity’s website, amend the list-
|                 |             | ing requirements of an ex-
|                 |             | change—”; and                  |
|                 |             | (d) by the substitution in    |
|                 |             | subsection (7)(b) for subpar-
|                 |             | graph (ii) of the following   |
|                 |             | subparagraph:                 |
|                 |             | “(ii) publish the reasons for  |
|                 |             | the amendment, and the imper-
|                 |             | ative for such amendment in   |
|                 |             | the Gazette and on the [offi-
|                 |             | cial] Authority’s website.”;   |
|                 |             | 14. The amendment of section 12(6) by |
|                 |             | the substitution for paragraph |
|                 |             | (b) of the following para-
|                 |             | graph:                        |
|                 |             | “(b) If the refusal to list se-
|                 |             | curities was due to any fraud |
|                 |             | or other crime committed by   |
|                 |             | the issuer, or any material   |
|                 |             | misstatement of its financial |
|                 |             | position or non-disclosure of |
|                 |             | any material fact, or if the   |
|                 |             | removal of securities was due |
|                 |             | to a failure to comply with    |
|                 |             | the listing requirements of   |
|                 |             | the exchange, no other ex-
|                 |             | change in the Republic may,   |
|                 |             | for a period of six months    |
|                 |             | from the date referred to in   |
|                 |             | paragraph (a), grant an appli-
|                 |             | cation for the inclusion of   |
|                 |             | the securities concerned in   |
|                 |             | the list kept by it, or allow  |
|                 |             | trading in such securities,   |
|                 |             | unless the refusal or re-     |
|                 |             | moval is withdrawn by the first |
|                 |             | exchange or set aside on [ape-
|                 |             | ppeal] reconsideration by the |
|                 |             | [appeal board in terms of sec-
<p>|                 |             | tion 105] Tribunal.”.         |</p>
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<td>Kutsi lokudzingekako</td>
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<td>kute kubahaliswe</td>
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<td>(c)</td>
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<td>Ngekuntjintjwa kwemagama landvulela</td>
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<td>indzinyana (i) ngalamagama lalandzela kusigatjana 7(a):</td>
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<td>“(a) nobhala] liGatja</td>
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<td>lokudzingekako kute</td>
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<td>kubahaliswe ligatja,</td>
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<td>ngekwenasato kuGazethi</td>
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<td>nakuwebhusayithi yeliGatja,</td>
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<td>[lesemsetfweni]—”</td>
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<td>Ngekuntjintjwa kwendzinyana (ii)</td>
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<td>ngendzinyana lelandzela kusigatjana</td>
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<td>7(b):</td>
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<td>“(ii) nekukhiphia tizatfu</td>
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<td>[lesemsetfweni].”</td>
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14. Kuchitjiyelwa kwesigaba 12(6) ngekuntjintja indzima (b) ngalandzima lelandzela ko:

“(b) Uma ngabe lokwala kutsi kufakwe emasheya eluhleni kubangelwe kukhohlakala noma buebengu lobentiwe ngoloninkelako, noma lenye yetinifo letikhiphe kabi sitatinimnde lesikhuluma ngesimi setimali noma kungavetwa noma yini lephatsele nempahola, noma kukhishwa kwemasheya kubangelwe kuhuleka kuhambisana nalokudzingekako kute ubhaliwse kuligatja, aliqho lelanye ligatja eRiphahbulikhi lelinga, sikhatsi leisingalinganiselwa kutinyanga letisifupha kusukela ngalolusuku lolubalwe kundzima (a), anikete siculo sekutsi kufakwe emasheya latsintsekako kuloluha lologcinwe ngilo, livumele kutsengiswa kwemacele ngakhu kutsi lokwala noma lokukhishwa nesigaba 105. “.
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<th>Act No. and year</th>
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<td>15.</td>
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<td>The amendment of section 17—</td>
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<td>standard made in terms of this Act or</td>
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<td>the Financial Sector Regulation Act.”;</td>
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<td>paragraph (a) of the following paragraph:</td>
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<td>“(a) Subject to section 5(1)(c) and</td>
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<td>(2) and the requirements prescribed</td>
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<td>[by the registrar] in joint standards,</td>
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<td>the exchange rules may provide for</td>
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<td>users to be authorised users of the</td>
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<td>The amendment of section 25(2) by</td>
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<td>paragraph (a) of the following words:</td>
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<td>“The [registrar] Authority may[,]</td>
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<td>prescribe standards in respect of [a</td>
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<td>report] reports referred to in subsection</td>
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<td>(1)[, prescribe] specifying—”.</td>
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<td>17.</td>
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<td>The amendment of section 27—</td>
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<td>“(a) The [registrar] Authority must</td>
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<td>publish a notice of an applica-</td>
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<td>tion for a central securities</td>
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<td>depository licence in two na-</td>
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<td>tional newspapers, at the ex-</td>
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<td>pense of the applicant, and on</td>
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<td>the [official] Authority’s</td>
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<td>website.”; and</td>
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<td>following paragraph:</td>
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<td>“(c) The Authority must publish the</td>
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<td>proposed depository rules re-</td>
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<td>ferred to in paragraph (b)(ii) on</td>
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<td>the Authority’s website.”.</td>
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<td>15.</td>
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<td>(a) ngekunjiniywa kwsigatjana (1) ngalesigatjana lesilandzelako:</td>
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<td>“(1) Lemitsetfo yeligatja kufanele ihambisane nalo Msetfo ne-Financial Sector Regulation Act kanye nayo yonke imitsetfo leentwe ngekwalomtsetfo nome i-Financial Sector Regulation Act.”;</td>
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<td>(b) ngekufakwa kwaigatjana lelandzelako ngekuntjintjwa kwesigatjana (2):</td>
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<td>“(2A) Umtsetfotimiso nome umitsetfo ungancuma tindzaba leletingetiwe kuleto letibaliwe esigatjaneni (2) lekufuna lifolakale emitsetfweni yeligatja.”; futsi</td>
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<td>(c) ngekushintja indzima (a) ngalandzima lelandzelako esigatjaneni (4):</td>
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<td>“(a) Ngekuya ngesigaba 5(1)(c) na (2) kanye netudzingo [letibekwe ngunobhala] kumsetfo wekuhla-nganyela, imitsetfo yeligatja inganikela kuvumeleka kwebasebentisi labagunyatiwe labangaphandle kutsi basebentisi labagunyatiwe beligatja.”.</td>
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<td>16.</td>
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<td>Kuchitjiyelwa kwesigaba 25(2) ngekunjiniywa kwemagama landvulela indzima (a) ngalamagama lelandzelako:</td>
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<td>“[nobhala] ligatja lingal,ncuma imhambo ngekuhambisana [nembiko] lobalwe kusigatjana (1), abeke] lochazisisako—”.</td>
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<td>Kuchitjiyelwa kwesigaba 27—</td>
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<td>(a) ngekunjiniywa kwendzima esigatjaneni (4) ngendzima lelandzelako:</td>
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<td>“(a) [nobhala] ligatja kufanele [akhiphe] lisicileo satiso sesicelo selayisensi yesikhungo semasheya lesisemkhatsimi kumaphephandzaba lamabili avelonkhe, ngetindleko letitawukhokhelwa ngulofake sicelo, kanye nokuwebhu-sayithi yeliGatja.”; futsi [lesemtsetfweni].</td>
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<td>(b) ngekungetwa kwakendzima esigatjaneni (4):</td>
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<td>“(c) ligatja kufuna lisicileo lemitsetfo yekusisa lephakanisise lekuhlanunya we ngayo endzimeni (b)(ii) kuwebhusayithi yeliGatja.”.</td>
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18. The amendment of section 28—
   (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:
   “…(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in the relevant joint standards are met by the applicant, or the central securities depository, as the case may be, [its directors] members of its controlling body and senior management;”;
   and
   (b) by the addition of the following subsection:
   “…(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.
   (b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.
   (c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).
   (d) Requirements prescribed in terms of subsection (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.”.

19. The amendment of section 29—
   (a) by the substitution for subsection (2) of the following subsection:
   “…(2) The licence must specify the registered office of the central securities depository in the Republic and the places where the central securities depository may be operated, and that the central securities depository may not be operated at any other place without the joint prior written approval of the [registrar] Authority, the Prudential Authority and the South African Reserve Bank.”; and
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<td>(c) esigatjaneni (1) ngalendzima</td>
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<td>“(c)” kukhombisa lokudzingekako</td>
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<td>nalokulungele lokubekwe</td>
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<td>[ngunobhala] kunchubo</td>
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<td>yemtsetfo lefanane, lofake</td>
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<td>sîcelo uyaînyeîleîla kulo,</td>
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<td>kusilulu semasheya</td>
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<td>lesisemkhatsini lesibhalisiwe</td>
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<td>labaphakeme;””; futsi</td>
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<td>“(3)(a)ngekunganakwa kwesisigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingekile masitha ngembikwekuca la kwalesigatjana luchubeka kudzingeke.</td>
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<td>(d) Lokudzingekile lokuncunyiwe</td>
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<td>ngekwe sigatjana (1) c ) nobe (2)(c)</td>
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<td>ngembikwekuca la kwalesigatjana</td>
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<td>kungachitijeyela nobe kuîtîfwe</td>
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<td>ngekwenchubo nobe umtsetfo yiwe</td>
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<td>wekuhlanguyenela.””</td>
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<td>ngalesigatjana lesilandzelako:</td>
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<td>“(2) Lelayiseni kufanele ibhalwe</td>
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<td>lellihovisi lelibhalisiwe kusikhungo semasheya lasemkhatsini eRiphabhulikhî naletindawo lapho khona lesikhungo semasheya lesisemkhatsini kufanele sibe khona, nekutsi lesikhungo semasheya lesisemkhatsini angeke sesetjentiswa kunoma ngabe nguyiphi indzawo ngaphandle kwemvume ngekuhlanganyela yangaphambilini lebhalwe [ngunobhala] liGatja, liGatja lebuNgcwethi kanye neliBhange Ngodla laseNingizimu.”;</td>
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<td><strong>Act No. 9 of 2017</strong></td>
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(b) by the substitution in subsection (4) for paragraph (a) of the following paragraph:

“(a) The registrar Authority must publish a notice of an application for an amendment of the terms of a central securities depository licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the official Authority’s website.”.

20. The amendment of section 30(2) by the substitution for paragraph (h) of the following paragraph:

“(h) must, as soon as it becomes aware thereof, inform the registrar Authority of any matter that it reasonably believes may pose systemic risk to the financial markets give rise to, or increase, systemic risk;”.

21. The amendment of section 33 by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“An issuer may convert certificated securities may be converted to uncertificated securities, at the election of the issuer or the holder of certificated securities, and an issuer may, subject to subsection (2), issue uncertificated securities despite any contrary provision in—”.

22. The amendment of section 35—

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

“(1) The depository rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.”;

(b) by the insertion after subsection (2) of the following subsection:

“(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the depository rules.”;
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<th>Nomoro ya Molao le ngwaga</th>
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<td>(b) Ngekuntjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4):</td>
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<td>“(a) [nobhala] liGatja kufanele [al]kihiphe satiso ngekuchitjiyelwa kwemigomo yelayisensi yesikhungo semasheya lesishemi hitlhotla iMakhoseni nemibandzela lafe khona ilayisensi beyimketiwe kumaphephandzaba lamabili avelonkhe ngekwenkilelo talofake siele kanye nakwebusayi iGatja [lesemetsetweni].’’.</td>
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<td>20. kuchitjiyelwa kwesigaba 30(2) ngekuntjintjwa kwendzima (h) ngenzima lelandzelako:</td>
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<td>“(h) kufanele ngekuchitjiyelwa kwesigaba 30(2) ngekuntjintjwa kwemigomo yelayisensi yesikhungo semasheya lesishemi hitlhotla iMakhoseni nemibandzela lafe khona ilayisensi beyimketiwe kumaphephandzaba lamabili avelonkhe ngekwenkilelo talofake siele kanye nakwebusayi iGatja [lesemetsetweni].’’.</td>
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<td>21. kuchitjiyelwa kwesigaba 33 ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (1):</td>
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<td>“Loniketako angagucula Emasheya [acinisekisiwe] lanestifiketi [Angaguculwa] abe masheya langekho emtsetweni, ekucoweni kwaloniketako nome umbambeli wemasheya lasemtsetweni, futsi loniketako [nemnikeli anga], ngekuya ngesigatjana (2)[,] anganiketera e[masheya langekho emtsetweni nomia kunghambisani nemibandzela—’’.</td>
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<td>22. kuchitjiyelwa kwesigaba 35— (a) ngekuntjintjwa kwelelengatjana (1) ngalelengatjana lesilandzelako:</td>
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<td>“(1) imitsetfo yesikhungo kufanele ihambisane naloMtsetfo, i-Financial Sector Regulation Act kanye nimitsetfo leyentifiwe ngekolwamotsetfo nome i-Financial Sector Regulation Act’’.</td>
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<td>(b) ngekungena leelengatjana lelandzelaka ngemuva kwesigatjana (2):</td>
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<td>“(2A) Umsetsetotimiso nome umitsetfo kungancuma tindzaba letingetiwe kuleto lesetibilwile esigatjaneni (2) lekufuna tibe khona kunumtsetfo wekugcina.’’;</td>
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</table>
### Extent of repeal or amendment

<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>(c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:</th>
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<tr>
<td></td>
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<td>&quot;(4) (a) Subject to section 5(1)(c) and (2) and requirements prescribed [by the registrar] in conduct standards or joint standards, the depository rules may provide for the approval of external participants or external central securities depositaries to be participants of the central securities depository.&quot;; and.</td>
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<td>(d) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:</td>
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<td>&quot;(ii) where a central securities depository has approved an external central securities depository as a participant, for the identification of the relevant laws or depository rules that apply to each aspect of the participation, including, but not limited to, the laws regulating effectiveness against third parties and insolvency proceedings.[— (aa) the identification of the supervisory authority that supervises that external central securities depository; (bb) the identification of the relevant laws or depository rules that apply to each aspect of the participation, including, but not limited to, the laws regulating effectiveness against third parties and insolvency proceedings.&quot;]&quot;.</td>
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</table>

23. The amendment of section 36 by the substitution for subsection (1) of the following subsection:

"(1) The [registrar] Authority may [direct] determine that any securities held by a central securities depository in its central securities account must, unless they are bearer instruments, money market securities or recorded in a uncertificated securities register in accordance with section 50 of the Companies Act and the depository rules, be registered in the name of that central securities depository or its wholly owned subsidiary, as defined in section 1 of the Companies Act, and approved by the [registrar] Authority.".
Molao wa Taolo ya Lephata la Ditselele, 2017

Nomoro ya Molao le ngwaga | Setlhogo se se khotshwane | Bogolo jwa phimolo kgotsa tlhabololo
--- | --- | ---

(c) ngekuntjintja indzima (a) ngalandzima lelandzelako esigatjaneni (4):
“(4) (a) Ngekuya ngesigaba 5(1)(c) na (3) kanye netidzingo letibekewe [ingunobhala] kumisetfo wenchubo nome wekuhlanganyela, imisetfo yesikhungo inga, niku etela labangenelele bangaphandle kanye nelihhange lesimenkhatshini langaphandle lemasheya kokutsi babe ngulabangenelelako besikhungo semasheya lesimenkhatshini.”

(f) ngekuntjintjwa kwendzinyana (ii) ngalendzinyana lelandzelako esigatjaneni (4)(b):
“(ii) Lapho [i] sikhungo semasheya lesimenkhatshini sivumele sikhungo semasheya lesimenkhatshini lesitimele njengalabangenelelako, ngetinjongo tekufolwa kwemisetfo lefanele nome imisetfo yesikhungo lesebenta kuko konkhle lekuhatselene nekungenelela, kufaka ekhatsi imisetfo lelawula kanye nakumalungu lamanye netinchubo letingakalunyisek.

(aa) lokubonwa kwalone-ligunya lekuhatsa kanye nebaphatsi baleso sikhungo semasheya lesimenkhatshini lesitimele;

(bb) kubona imisetfo lefanele nome imisetfo yesikhungo leebenta kuko konkhle kusebenta, kufaka ekhatsi, ingavimbi lemisetfo lelawula kusebenta kabile kwehesitsatfu netindlela teknukhakata.]”

23. kuchitjiyelwa kwesigaba 36 ngekuntjintjwa kwesisigatjana (1) ngalesigatjana lesimandelako:
“(1) [nobhala] liGatja [langasho] lincoma kutsi noma waphi emasheya kumabhange lesimenkhatshini labanjwa sikhungo semasheya lesimenkhatshini kufanele, ngaphandle kwekuti amathulusi, emasheya asemakelele yetimali noma barekhode emasheya langlekho emsetfweni kurejista ngukuhambisana nesigaba 50 se-Companies Act nemisetefo yesikhungo, abhaliswe ngaleligma lalesikhungo.
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<thead>
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<tbody>
<tr>
<td>24.</td>
<td></td>
<td>The amendment of section 39 by the substitution for subsection (3) of the following subsection: “(3) An interest in respect of uncertificated securities may be granted under this section, where applicable, and in the manner provided for in the depositary rules, and is effective against third parties, in relation to a central securities account or a securities account, where such an interest extends to all uncertificated securities standing to the credit of the relevant central securities account or securities account at the time the pledge is effected.”.</td>
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<td>25.</td>
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<td>The amendment of the heading in Chapter V preceding section 47 by the substitution for the heading of the following heading: “Licensing of clearing house and central counterparty”.</td>
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| 26.            |             | The amendment of section 47—
(a) by the substitution for the heading of the section of the following heading: “Application for clearing house licence and central counterparty licence”;
(b) by the substitution for subsection (1) of the following subsection: “(1) A clearing house and a central counterparty must be licensed under section 49.”;
(c) by the insertion after subsection (1) of the following subsection: “(1A) Subject to section 110(6), a central counterparty must be an independent clearing house.”;
(d) by the substitution for subsection (2) of the following subsection: “(2) A juristic person may apply to the [registrar] Authority for a clearing house licence or a central counterparty licence.”; |
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhgo se se khotshwane</th>
<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<td>semasheya lesisemkhatsini noma lababanikati baso, njengoba kuchazwe kusigaba 1 se-Companies Act, kwavunywa ngunobhala liGatja,“.</td>
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<td>24.</td>
<td>Kuchitjiyelwa kwesigaba 39 ngekunjintjiwa kwesigatjana (3) ngalesigaba lesilandzelako: “(3) Intalo ngalokuphatselene nemasheya langakabhaliswa inganiketwa ngaphansi kwalesigaba, uma kufanele, nangendela lekushebeka ngayo kulomtsetfo wemabhange, kantsi kusebena ngekumelana nemacembenywa esitsa, ngalokuphatselfene ne-akhwawuni yemasheya lasemkhatsini nome ne-akhwawuni yemasheya, lapho khona lenshisekelo ichubekela kuw[b]o onkhe emasheya langakacincisekiswa lene kaba tuyinu yey-akhwawuni yemasheya lasemkhatsini nome yale-akhwawuni yalamasheya lafanele ngalesikihtsi lesinumulo sentiwa.“.</td>
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<td>25. Kuchitjiyelwa kwesiwhite kuSehluko V lesandvulela sigaba 47 ngalesihloko lesilandzelako: “Ilayisensini yendlu legunyatako neligatja lelisemkhatsini letekuhweba“;</td>
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<td>26. Kuchitjiyelwa kwesigaba 47— (a) ngekunjintjiwa kwesiwhite lo salesigaba nganasi lesilandzelako: “kufaka sицеlo selayisensi yendlu legunyatako neligatja lelisemkhatsini letekuhweba“; (b) ngekunjintjiwa sigatjana (1) ngalesigatjana lesilandzelako: “(1) Indlu legunyatako kanye neligatja lelisemkhatsini letekuhweba kufanele [ɪ]kuniketwe ilayisensi ngaphansi kwesiwhite 49.“; (c) ngukufaka ngalesigaba lesilandzelako ngemuvua kwesiwhite (1): “(1A) ngukuya ngesiwhite 110(6), ligatja lelisemkhatsini letekuhweba kufuna ibhe yindlu legunyata ngakutimela.“; (d) ngekunjintjiwa sigatjana (2) ngalesigatjana lesilandzelako: “(2) Umsantsi losemtsetfweni angafa [kufanele afake] sицеlo selayisensi yendlu legunyatako nome ligatja lelisemkhatsini letekuhweba kunobhala kuliGatja [kwentela indlu legunyatako].“;</td>
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(e) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“An application for a clearing house licence or central counterparty licence must—”;

(f) by the substitution in subsection (3)(c) for subparagraph (iii) of the following subparagraph:

“(iii) the application fee [prescribed by the registrar] determined in terms of the Financial Sector Regulation Act;”;

(g) by the substitution in subsection (3)(c) for subparagraph (v) of the following subparagraph:

“(v) in relation to an application for an independent clearing house licence or a central counterparty licence, a copy of the proposed clearing house rules that must comply with section 53; and”;

(h) by the substitution in subsection (4) for paragraph (a) of the following paragraph:

“(a) The [registrar] Authority must publish a notice of an application for a clearing house licence in two national newspapers at the expense of the applicant and on the [official] Authority’s website.”;

(i) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:

“(ii) in relation to an independent clearing house or a central counterparty, [where] that the proposed clearing house rules [may be inspected by] are available on the Authority’s website for comments from members of the public; and”;

and

(j) by the addition in subsection (4) of the following paragraph:

“(c) The Authority must publish the proposed clearing house rules referred to in paragraph (b)(ii) on the Authority’s website.”.
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<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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<tr>
<td>(e) ngekuntjintja emagama landvulela sigaba (a) esigatjaneni (3) ngalamagama lalandzelako: <strong>&quot;Sicelo selayisensi yendlu legunyatako nome selayisensi yeligatja lelisemkhatsini letekuihweba kufanele—&quot;</strong>;</td>
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<td>(f) ngekuntjintjwa kwendzinyana (iii) ngalendzinyana lelandzelako esigatjaneni (3)(c): <strong>&quot;(iii) imali yesicelo [lebekwe ngunobhala] lenquinywe ngekwemibandzela ye-Financial Sector Regulation Act&quot;</strong>;</td>
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<td>(g) ngekuntjintjwa kwendzinyana (v) ngalendzinyana lelandzelako esigatjaneni (3)(c): <strong>&quot;(v) nekuhambisana nesicelo lesiphatseleni selayisensi yendlu legunyatako nobe ilayisensi yeligatja lelisemkhatsini letekuihweba, ikhophi yemisetelo yendlu legunyatako lekufanele kuhambisane nesigaba 53; kanye&quot;</strong>;</td>
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<td>(h) ngekuntjintjiwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): <strong>&quot;(a) [nobhala] ligaGatja kufanele [al]ikhiphe satiso sesicelo selayisensi yendlu legunyatako kumaphephandzaba lamabili avelonkhe ngetindleko talofake sicelo kanye nakuwebhuwebhusayithi yeliGatja [lesentsetfweni].&quot;</strong></td>
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<td>(j) ngekungeta lendzima lelandzelako esigatjaneni (4): <strong>&quot;(c) ligaGatja kufuna lishcilele kuwebhusayithi yalo imitsetfo lephakanyisiwe yendlu legunyatako lekukhulunywe ngayo kundzima (b)(ii).&quot;</strong></td>
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### Act No. 9 of 2017

#### Financial Sector Regulation Act, 2017

<table>
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<tr>
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<th>Short Title</th>
<th>Extent of repeal or amendment</th>
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<tbody>
<tr>
<td>27.</td>
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<td>The amendment of section 48 —</td>
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<td>(a) by the substitution for</td>
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<td>the heading of the section</td>
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<td></td>
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<td>of the following heading:</td>
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<td>“Requirements applicable to</td>
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<td></td>
<td>applicants for clearing house</td>
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<td>licence, central counterparty</td>
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<td>licence [and], licensed</td>
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<td>clearing house and licensed</td>
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<td>central counterparty”;</td>
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<td>(b) by the substitution for</td>
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<td>the following subsection:</td>
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<td>“(1) An applicant for a clearing</td>
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<td>house licence and a licensed</td>
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<td>clearing house, and an</td>
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<td>applicant for a central</td>
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<td>counterparty licence and a</td>
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<td>licensed central counterparty</td>
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<td>must —</td>
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<td>(a) subject to the requirements</td>
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<td>prescribed by the Minister,</td>
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<td>have sufficient assets and</td>
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<td>resources, which resources</td>
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<td>include financial, management</td>
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<td>and human resources with</td>
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<td>appropriate experience, to</td>
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<td>perform its functions as set</td>
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<td>out in this Act;</td>
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<td>(b) have governance arrangements</td>
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<td>that are clear and transparent,</td>
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<td>promote the safety and</td>
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<td>efficiency of the clearing</td>
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<td>house or central counterparty,</td>
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<td>and support the stability of</td>
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<td>the broader financial system,</td>
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<td>other relevant public interest</td>
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<td>considerations, and the</td>
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<td>objectives of relevant</td>
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<td>stakeholders;</td>
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<td>(c) demonstrate that the fit</td>
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<td>and proper requirements</td>
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<td>in the relevant joint</td>
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<td>standards are met by the</td>
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<td>applicant [or], the licensed</td>
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<td>clearing house or the licensed</td>
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<td>central counterparty, as the</td>
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<td>case may be, [its directors]</td>
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<td>members of its controlling</td>
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<td>body and senior management;</td>
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<td>(d) comply with the requirements</td>
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<td>in the joint standards for the</td>
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<td>clearing or settlement of</td>
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<td>transactions in securities, or</td>
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27. kuchitiyelwa kwesigaba 48—
(a) ngekuntjintjwa kwesihloko sesigaba ngalesihloko lesilandzelako:

```
[Tidzingo letikhona] lokudzingekile kulabafaka sikele sekuba nelayisensi [yeligatja] [l]
yendlu legunyatako, yeligatja lelisemkhatsini letekukhwebe, yendlu legunyata
ngalookusmetsetffeni kanye neyeligatja lelisemkhatsini letekukhwebe lelisemsetsetffeni''
```
(b) ngekuntjintja sigatjana (1) ngalesigatjana lesilandzelako:

```
''(1) Lofaka sicelo selayisensi yendlu legunyatako kanye neseligatja leligunyatwe
lelibhaliisiwe, kanye nalofofa sikele selayisensi yeligatja lelisemkhatsini
letekukhwebe kanye neseligatja lelisemkhatsini letekukhwebe
leligunyatwe kufanele—
(a) ngekuwa ngetidzingo letibhalwe nenguNgcongoshe, sibe
nemathulusi kanye nemitfombo-
lusito leyanie, letifaka ekhatsi
imali, kulawula netebasebenti
nelati lwemsebenti lolufanele,
kwenta inisebenti yabo
njengoba kubekiwe kuloMsetfo;
(b) kube nekuhlelwa kwekulawula
lokucacile nalookukhanyako,
kufutfukisa kuphepha
nekuphumelela kwendlu
legunyatako nome ligatja
lelisemkhatsini letekukhwebe,
nekusekela kusimama kwetimali
tonkhana, naletinye tinshisekelo
temmango letifanele tinake,
kanye netinjongo
talabatsintsekako labafanele;
(c) kukhombisa kutsi letidzingo
letingenako nafitefanele
[letibhalwe ngunobhala]
letincunywe kumstefo
letincunywe kumstefo
wekuhlanganyela lobafanele
iyatfolakala kaiona lofaka sikele
[noma], ligatja leligunyatwe
lelibhaliisiwe nome ligatja
lelisemkhatsini letekukhwebe
leligunyatwe, njengoba kungabe
kubekiwe, [baholi bayo]
emalunga emtimba wayo
lolawulako kanye nebahophatsi
labasetulu;
(d) kuhambisana netidzingo
[letabheke we ngunobhala]
letincunywe kumstefo
wekuhlanganyela kwentela
kugunyata noma kucedzelelwa
kwemtranksekhini kumasheya,
noma kokubili;
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### Extent of repeal or amendment

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<tr>
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<tr>
<td></td>
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<td>(e) implement an effective and reliable infrastructure to facilitate the clearing of securities cleared by the clearing house or central counterparty;</td>
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<td>(f) implement effective arrangements to manage the material risks associated with the operation of a clearing house or central counterparty;</td>
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<td>(g) have made arrangements for security and back-up procedures to ensure the integrity of the records of transactions cleared, settled or cleared and settled through the clearing house or central counterparty; and</td>
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<td>(h) in relation to an applicant for an independent clearing house licence[ or ], a central counterparty licence, a licensed independent clearing house or a licensed central counterparty, have made arrangements for the efficient and effective supervision of clearing members so as to ensure compliance with the clearing house rules and clearing house directives and this Act.”;</td>
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<td>(c) by the insertion after subsection (1) of the following subsection:</td>
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<td>“(1A) Subject to subsection (1) and the regulations prescribed by the Minister, a central counterparty must—</td>
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<td></td>
<td></td>
<td>(a) implement a margin system that establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and market it serves;</td>
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<td></td>
<td></td>
<td>(b) collect and manage collateral held for the due performance of the obligations of clearing members or clients of clearing members;</td>
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</tbody>
</table>
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<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
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</thead>
<tbody>
<tr>
<td>(c)</td>
<td>kusebentisa indlela[s] lekahle nalorembekile yetinsita kuhambisana nekugunyatwa kwemashaya lagunyatwe sikhungo lesigunyatako nome ligatja lelismekhatshini letekuhweba;</td>
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<tr>
<td>(f)</td>
<td>kusebentisa ivumelwano letikahle kulawula lokuyimphahla lenebungoti lehambisana nekubebenta kwendlu legunyatako nome ligatja lelismekhatshini letekuhweba;</td>
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</tr>
<tr>
<td>(g)</td>
<td>abe [sewente]sekente emalungiselelo ekuvikela kanye netindlela tekulandzelela kucinisekisa sitfunti semerekhodi ematransekshini lagunyatiwe, lakhirhiwe nome lagunyatiwe akhokhelwa kulendu legunyatwako nome ligatja lelismekhatshini letekuhweba; kanye</td>
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<tr>
<td>(h)</td>
<td>ngekuhambisana nekufaka sicelo selayisendi yendlu legunyatiwe letimele [noma], veligatja lelismekhatshini letekuhweba, yesikhungo lesitimele lesigunyatiwe lesinemvume nome veligatja lelismekhatshini letekuhweba leligunyatiwe, abe ente emalungiselele [kanye nc]lekuLawulwa kwelitjdja leligunyatiwe kute kutsi kucinisekise kuhambisana nemitsetfo yendlu legunyatako kanye nemibandzela yendlu legunyatako kanyenalo-Mtsetfo.”;</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>ngekuhambisana nekufaka sicelo selayisendi yendlu legunyatiwe letimele [noma], veligatja lelismekhatshini letekuhweba, yesikhungo lesitimele lesigunyatiwe lesinemvume nome veligatja lelismekhatshini letekuhweba leligunyatiwe;</td>
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<tr>
<td>(1)</td>
<td>“(1A) ngekuhambisana nekufaka sicelo selayisendi yendlu legunyatiwe letimele [noma], veligatja lelismekhatshini letekuhweba, yesikhungo lesitimele lesigunyatiwe lesinemvume nome veligatja lelismekhatshini letekuhweba kufanele—</td>
<td></td>
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<tr>
<td>(a)</td>
<td>isungule luhlelo lekweseka lelimisa kulingana kwemazinga ekweseka kanye nebungoti kanye netumanele letlitsitso temkhiicitso ngamunye, ema-Phothifoliyo, kanye netimakethi letisebentelako;</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>icokelele iphindze iphatse lokumele emahsuya lokuba- nelwe kuncunywa kwemsebenti wekusitophelela kwemalunga lagunyatako;</td>
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</tbody>
</table>
(c) establish and maintain a default fund to mitigate the risk should there be a default by a clearing member and to ensure, where possible, that the obligations of that clearing member continue to be fulfilled;

(d) maintain initial capital as prescribed, including an appropriate buffer;

(e) have a clearly defined default waterfall where the obligations of the defaulting clearing member, other clearing members and the central counterparty are legally and clearly managed;

(f) provide an appropriate segregation and portability regime to protect the positions of clients of a defaulting clearing member;

and

(g) provide the necessary infrastructure, resources and governance to facilitate its post trade management functions and, in the event of default of one or more of the clearing members—

(i) ensure that sufficient risk policies, procedures and processes are in place; and

(ii) have sound internal controls for robust transaction processing and management.’’;

(d) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:

‘‘(2) The [registrar] Authority may—

(a) require an applicant,[ or], a licensed clearing house or licensed central counterparty to furnish such additional information, or require such information to be verified, as the [registrar] Authority may deem necessary;

(b) take into consideration any other information regarding the applicant, a licensed clearing house or licensed central counterparty, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or a licensed clearing house and the latter is given a reasonable opportunity to respond thereto; and’’; and
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<tr>
<td>(c)</td>
<td>isungule iphindze igcine sikhwama lesifanele kunciphisa bungoti lapho kungaba khona nekapahlamba lokungentiwa lilunga leligunyatako, phindze nekucinisekisa, lapho kukhonakala khona, kutsi sibopho selilinga leligunyatako siyachubeka siyagwaiswa;</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>igcine imali yekucaala iphindze ichube njengoba kuncunyiwê, kufaka ekhatsi kulindza lokufanele;</td>
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<tr>
<td>(e)</td>
<td>Yati kahle lokungakahanjiswa kahle lapho khona lilunga leligunyatako lelente loko, lamanye emalungu lagunyatako kanye neligatja lelisemkhatsini letekhuweba kuphetfwe ngalokusemsetfweni futsi nglakucaacako;</td>
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<tr>
<td>(f)</td>
<td>Iwinele lushihtjö nekuhlanisa lokufanele kuveliela indrawo yebatsengi belilungu leligunyata ngendlela lengasiyo; futsi</td>
<td></td>
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<tr>
<td>(g)</td>
<td>Inkete ngetinsitchanti letifanele, tinsita kanye nekulawulwa kwenenta umsebenti wayo wekuphatsa tekuhweba, nasitimeni lapho khona munye nobe labanyentjö kumalungu lagunyataka baphule sibopho.</td>
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<tr>
<td>(i)</td>
<td>Kucinisekisa kutsi imigomo yebungoti, inhubo kanye nemimhambo kusendzaweni lefanele; phindze</td>
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<tr>
<td>(ii)</td>
<td>Ibe nekulawula, kubukisisa nekuhlanisa</td>
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<tr>
<td>(d)</td>
<td>Ngekuntjintjwa kwetindzima (a) kanye na-(b) ngaletindzima letilandzelako esigatjaneni (2):</td>
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<td>&quot;(2) nobhala&quot;</td>
<td>liGatja linga—</td>
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<tr>
<td>(a)</td>
<td>cela lofafe sicelo [noma], ligatja leligunyatiwe lelibhaliisiwe nome ligatja lelisemkhatsini letekhuweba lelisemsetfweni kutsi [a]liletse folwatiso folungetiwe, noema adzinge folwatiso kutsi lucinisekisiwe, njengoba liGatja [nabhala] [a]lingakubona kuveliela; [kanye] futsi</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>nekunaka nomo luphi lwatiso lulususelwa kunome wuphi umtombolo lopoluphatsheleni nolofake sicelo, indlu leligunyatako lekhaliisiwe nome ligatja lelisemkhatsini letekhuweba lelisemsetfweni,</td>
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<td>Act No. and year</td>
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<td>Extent of repeal or amendment</td>
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<td>(e) by the addition of the following subsection:</td>
<td>(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.</td>
<td>(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</td>
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<td></td>
<td>(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).</td>
<td>(d) Requirements prescribed in terms of subsection (1)(c) or (2)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.</td>
</tr>
<tr>
<td>28. The amendment of section 49—</td>
<td>(a) by the substitution for the heading of the section of the following heading:</td>
<td>“Licensing of clearing house and central counterparty”:</td>
</tr>
<tr>
<td></td>
<td>(b) by the substitution for subsection (1) of the following subsection:</td>
<td>“(1) The [registrar] Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank and after consideration of any objection received as a result of the notice referred to in section 47(4) and subject to the conditions which the [registrar] Authority may consider appropriate, grant a clearing house licence to perform the functions referred to in section 50, if—”;</td>
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### Molao wa Taolo ya Lephata la Ditshelete, 2017

#### Nomoro ya Molao le ngwaga

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<td></td>
<td>[noma ligatja leligunyatiwe lelibhaliowe, uma ngabe lolo lwatso luvetiwe kulolofake sicelo, ligatja leligunyatiwe lelibhaliowe,] kufaka ekhatisi lamanye emagatja lalawulako, uma ngabe lolo lwatso luvetiwe kumfakiseiculo nome indlu legunyatiwe lebalishiwe futsi nencwadzi iniketwe lifufa lelifanelo lekuphendvula ngaloko; kanye (e) ngekungetwa kwalesigatjana lesilandzelako: “(3) (a) ngekungananakwa kwesigatjana (1), lokudzingekile lokuncunuywe ngaphashi kwalesigaba lokudzingekile masisha ngembikwekucala kwalesigatjana kuchubeka kudzingekile. (b) Ngekwetimiso temtsetfo letincunywe ngekwembandzela wesigatjana (1)(a). Ngcongoshe angacitsa umtsetfotimiso, lokudzingekile lokusha kungabese kuyancunya kumtsetfo wekuhlanganyela nome kumtsetfo wenchubo. (c) Indzima (b) ayitsikabeta nobe ivimbele emandla aNgcongoshe kuncuma nobe kuchibeyela timiso temtsetfo ngokhambisana nesatiso lekungakavunywa lokufolakele kungachitjiyelwa nobe kucefane ngakwemabandzela yesigatjana (1)(c) ngembikwekucala kwalesigatjana kungachitjiyelwa nobe kuncuma nobe kuchibeyela timiso temtsetfo wekuhlanganyela.”. (d) Lokudzingekile lokuncunuywe ngokhambisana nesatiso lekungakavunywa lokufolakele kungachitjiyelwa nobe kucefane ngakwemabandzela yesigatjana (1)(c) ngembikwekucala kwalesigatjana kungachitjiyelwa nobe kuncuma nobe kuchibeyela timiso temtsetfo wekuhlanganyela.”.</td>
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|                           | 28. Kuchitjiyelwa kwesigaba 49— (a) ngekuntjintjwa kwesihloko salesigaba ngalesihloko lesilandzelako: “ilayisensi yendlu legunyatako kanye neligatja leliseakhatsini kutekuhweba” (b) ngekuntjintjwa kwesigaba 49— (a) ngalesihloko lesilandzelako: “(1) [nobhala] liGatja, ngekuhlanyenele kweligatja lebungcethi kanye nelihange Ngodla laaNingizimu Afrika phindze nangemuva kwekunaka kwamalomo ngukuphi lokungakavunywa lokutfolakele ngekuhambisana nesatiso lekualwe kusigaba 47(4) nangekuya |

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### Extent of repeal or amendment

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<thead>
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|                  |             | (c) by the insertion after subsection (1) of the following subsection: “(1A) Subject to the regulations or joint standards, the Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, and after consideration of any objection received as a result of the notice referred to in section 47(4) and subject to the conditions which the Authority may consider appropriate, grant a central counterparty licence to perform the functions referred to in section 50, if—

(a) the applicant complies with the relevant requirements of this Act; and

(b) the objects of this Act referred to in section 2 will be furthered by the granting of the licence.”; |
|                  |             | (d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: “The clearing house licence and the central counterparty licence —”;
|                  |             | (e) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs: “(a) must specify the functions that may be performed by the clearing house and central counterparty, and the securities in respect of which those functions may be performed, any other terms and conditions of the licence, the registered office of the clearing house and central counterparty, and the places where the clearing house and central counterparty may be operated, and stipulate that the clearing house and central counterparty, may not be operated at any other place without the joint prior written approval of the [Registrar]Authority, the Prudential Authority and the South African Reserve Bank; and” |
**Nomoro ya Molao le ngwaga** | **Setlhogo se se khutshwane** | **Bogolo jwa phimolo kgotsa tlhabololo**
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ngemibandzela lafho khona

**[nothhala]** lìGatja [a]lingakubona kufanele, [a][l]imikete ilayisensi yendlu legunyatako kutsi kwentiwe umsebenti lobalte kusigaba 50 uma ngabe—

(c) ngekufakwa kwalesigatjana

lesilandzelako ngemuvu kwesigatjana

(1):

“(1A) ngekuya ngemtsetfotimiso nome umtsetfo wekuhlanganyela, lìGatja ngekuhlanganyela neliGatja lebungweti kanye neliBhange Ngodla lasiNgingizimu Afrika ngemuvu kwekuhlanganyela ngamana kuphi kufhikisa lokumukelwe ngemiphumela vesatiso lekucondziswe kiso kusigaba sema:

47(4) nangkuya ngetimo lìGatja lelitibona tifanele, linganiketa lìGatja lesemkhatsini letekukhweba ilayisensi yekwenta imisebenti lekucondziswe kyo kusigaba 50, nangabe—

(a) lofaka sicelo uhambisana nako konkhe lokudzingekile kwaloamtsetfo; phindze

(b) tinjongo taloMtssetfo lekucondziswe ngatho kusigaba 2 titawuchutjekiswa ngekuniketwa kwelayisensi.

(d) ngekuntjintjwa kwemagama landvulela indzima (e) ngalamagama lalandzelako esigatjaneni (2):

“ilayisensi yendlu legunyatako nelayisensi yeligatja lesemkhatsini letekukhweba”

(e) ngekuntjintjwa kwetindzima (a) na (b) ngaletindzima letilandzelako kusigatjana (2):

“(a) kufanele ichaze lemisebenti lekucondziswe ngendlu legunyatako neligatja lesemkhatsini letekukhweba, kanye nalamasheya lafho khona lemisebenti ingentiwa khona, noma ngabe nguyiphi leminye imibandzela yalelayisensi, lelihovisi laendlu legunyatako lelibhaliisiwe neligatja lesemkhatsini letekukhweba, kanye nalaletindzavo lafho khona lendlu legunyatako neligatja lesisemkhati letekukhweba kufanele ikusebentele khona, nekuchaza kutsi lendlu legunyatako neligatja lesisemkhatsini letekukhweba [H]angeke [H]ikusebentele kûnoma ngabe
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<tr>
<td>(b)</td>
<td>may specify that insurance, a guarantee, compensation fund, or other warranty must be in place to enable the clearing house and central counterparty to provide compensation, subject to the clearing house rules, to clients of clearing members.”;</td>
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<tr>
<td>(f)</td>
<td>by the substitution in subsection (3) of the following subsection: “(3) A clearing house and a central counterparty, may at any time apply to the [registrar] Authority for an amendment of the terms of the licence and the conditions subject to which the licence was granted.”; and</td>
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<td>(g)</td>
<td>by the substitution in subsection (4) for paragraph (a) of the following paragraph: “(a) The [registrar] Authority must publish a notice of an application for an amendment of the terms of a clearing house licence and central counterparty licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the [official] Authority’s website.”.</td>
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29. The insertion after section 49 of the following section:

“Licensing of external central counterparty

49A. (1) An external central counterparty must be licensed under this section to perform functions or provide services, unless it is exempt from the requirement to be licensed in terms of section 6(3)(m).

(2) An external central counterparty from an equivalent jurisdiction may apply to the Authority for a licence.
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<td></td>
<td>nguyiphi indzawo ngaphandle kwemuvume lebalwa phansi vinhlanganyela yelifGatja, ligGatja lebungewethi kanye nelihBhange Ngodla laeNingizimu Afrika [yanobhala]; kanye (b) angachaza kutsi umshwalensi, siciniseko, sikhwama sesincepheteliso, noma siphi lesinye sicinisekiso kufanele sibekwe kahle kwentela kutsi imitsetfoyendlu ndlu legunyatako kanye neligatja lelisemkhatsini letekukhweba, kumaklayenti elflinga leligunyatiwe.”; (f) ngekunjintjwa kwesti sekhumela: “(3) Indlu legunyatiwe neligatja lelisemkhatsini letekukhweva, nome nini kungafaka sicelo kuliGatja [ingasebentisa nomu ngabe ngasiphi sikhatse ifake sicelo kunobhala kwekutso]; sekuhitiy甲醛 kwemidendza yiylayisele semibandzela lekwaniweka ngaphansi kwayo lelayisensi.”; futsi (g) Ngekushintjwa kwendzima (a) ngalendizima lelandzelo esigatjaneni (4): “(a) [nobhala] liGatja kufanele a[khiphe satiso sesicelo [sekuchibiya] sekuchitiy甲醛 kwemidendza yendlu legunyaiako kanye neyeligatja lelisemkhatsini letekukhweva, kanalo [kanye] semibandzela lekwaniweka iyiseliso: ngaphansi kwayo kumaphelandzaba lamabili avelonke ngakwetindo lelala lofake sicelo kanye nakuwebhusayithi yeliGatja [lesemtsetfweni].”</td>
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</table>

29. Kufakwa kwalesigaba lesilandzelo ngemuva kwesigaba 49: "Kufakwa emtsetfweni kwelebogatja lelisemkhatsini letekukhweva langaphandle

49A. (1) ligatja lelisemkhatsini letekukhweva kufuna fikake emtsetfweni ngaphasi kwalesigaba kute lente imisebeni nome linikete ngetinsita, ngaphandle nangabe likhululilewe kulokudzingakile kokufakwa emtsetfweni ngaphasi kweguwa 5(3)/(m). (2) Libhange lelilamulako letekukhweva langaphandle ekugunyatweni lokulinganako lingafaka sicelo selayisensi kuliGatja.
Act No. and year | Short Title | Extent of repeal or amendment
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| | | (3) An application for a licence in terms of this section must—
| | | (a) be made in the manner and contain information determined by the Authority;
| | | (b) be accompanied by a copy of the proposed rules;
| | | (c) be accompanied by the application fee determined in terms of the Financial Sector Regulation Act; and
| | | (d) be supplemented by any additional information that the Authority may reasonably require.
| | | (4) (a) The Authority must publish a notice of an application for a licence in two national newspapers at the expense of the applicant and on the Authority’s website.
| | | (b) The notice must state—
| | | (i) the name of the applicant; and
| | | (ii) the availability of the operating rules of the external central counterparty on the Authority’s website, for members of the public.
| | | (5) An applicant for a licence or a licensed external central counterparty must be either—
| | | (a) a company as defined in section 1(1) of the Companies Act; or
| | | (b) an external company as defined in section 1(1) of the Companies Act that is registered as required by section 23 of that Act.
| | | (6) The Authority may—
| | | (a) require an applicant or a licensed external central counterparty to furnish such information, or require such information to be verified, as the Authority may deem necessary in connection with the application; and
| | | (b) take into consideration any other information regarding the applicant or the external central counterparty, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or the external central counterparty, as the case may be, and the latter is given a reasonable opportunity to respond thereto.
| | | (7) Regulations or joint standards may prescribe additional criteria for the licensing or exemption of an external central counterparty.
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<td>(3) Kufaka sicelo selayisensi ngekwalesigaba kufanele—</td>
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<td></td>
<td>(a) kwentiwe ngendlela phinde</td>
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<td>sicukatse lwati lelincunywe leGatja;</td>
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<td></td>
<td>(b) kuhambisane nekhophi yemitsetfo</td>
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<td>lephakanyisiwe;</td>
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<td></td>
<td>(c) kuphekeletelwe yimali yekufaka sicelo ngtekwemibandzela ye-Financial Sector Regulation Act; futsi</td>
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<td>(d) kusekwe nanobe nguluphi lolunywe lwati lolungetwe leGatja lelingalidzinga.</td>
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<td>(4) (a) leGatja kufanele lishicilele</td>
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<td>saliso sesicelo setincwadzi letigunyayake emaphelphandzabenamalabili avelonkhe netindlendo talofaka sicelo kanye nakuwebhusayithi yeliGatja.</td>
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<td></td>
<td>(b) inothisi kufanele isho—</td>
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<td>(i) ligama talofaka sicelo; kanye</td>
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<td>(ii) bukhona kwemitsetfo</td>
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<td>lesetjentswa yeliga</td>
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<td>lelismekhatsini letekukhweba</td>
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<td>langaphandle kwimuwebhusayithi yeliga</td>
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<td></td>
<td>kwenentwe emalungka emphakatsi.</td>
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<td>(5) Lofaka sicelo selayisensi nome</td>
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<td></td>
<td>ligatja lelismekhatsini letekukhweba kufanele kuba—</td>
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<td>(i) yinkapane njengoba kushiamo</td>
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<td>esigabeni 1(1) we-Companies Act;</td>
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<td>(ii) inkapane vangaphandle njengoba</td>
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<td>kushiamo esigabeni 1(1) we-</td>
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<td>njengoba leGatja lingakunobona</td>
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<td>kubahulekhi ekufakweni kwesicelo;</td>
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<td>futsi</td>
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<td>(b) buka futsi nalolunye lwatiso</td>
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<td>loluphatselele nalofaka sicelo nome</td>
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<td>ligatja lelismekhatsini letekukhweba</td>
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<td>luluselwa kunome nguwuphi</td>
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<td>umtombolo, kufaka ekhati nome</td>
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<td>liphlilinye ligatja lelilawulako,</td>
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<td>ngakabe lolo lwatiso luthe</td>
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<td></td>
<td>kulefaka sicelo nome kuligatja lelismekhatsini letekukhweba, sekutsi</td>
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<td>incwadzi inkutwa lifuba lelifanele kuphendvula.</td>
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<td>(7) Imisitsetifimiso nome imisitsetfo yekuhalanganyela ingancuma tinhlobo letenggetiwe tekufaka emisitifimeni nome kukuhululwa kweigatja lelismekhatsini letekukhweba.</td>
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</tbody>
</table>
Act No. and year | Short Title | Extent of repeal or amendment
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(8) | The Authority may, with the con-currence of the South African Reserve Bank and the Prudential Authority, grant a licence or an exemption, if —
   (a) | the applicant or the external central counterparty undertakes to co-operate and share information with the Authority, the Prudential Authority and the South African Reserve Bank to assist with the performance of functions and the exercise of powers in terms of financial sector law; and
   (b) | the objects of this Act referred to in section 2 will be furthered by the granting of the licence.
(9) | A licence or exemption may only be granted after the following factors have been taken into consideration:
   (a) | Relevant international standards;
   (b) | the type and size of external central counterparty;
   (c) | the impact of the activities of the external central counterparty on the South African financial system;
   (d) | the degree of systemic risk posed by the activities of the external central counterparty; and
   (e) | any other factors that the Minister, the Authority, the South African Reserve Bank or the Prudential Authority, as the case may be, deem relevant.
(10) | A licensed external central counterparty must comply with the relevant requirements of this Act and any other terms and conditions of the licence.
(11) | The licence granted in terms of subsection (8) must specify those functions or duties, or services that may be provided by the external central counterparty and the securities in respect of which those functions or duties, or services may be performed.
(12) | A licensed external central counterparty may at any time apply to the Authority for an amendment of the terms of its licence or the conditions subject to which the licence was granted.
(13) | (a) The Authority must publish a notice of an application for an amend-ment of the terms of a licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the Authority’s website.
(8) liGatja ngekukhlanganyela nelihange Ngodla laseNingizimu Afrika neliGatja leBungcwethi kunganiketa ilayisensi nome kukhulula nangabe—
(a) lofaka sicelo nome ligatja lesisemkhatsini letekuhweba kutsatsa sibopho sekutsatsa lichaza nekwaba ngelwatiso kuliGatja ligatja lebungcwethi kanye nelihange Ngodla laseNingizimu Afrika kuncedzisa ngekwenza misebenti nemisebentsa emandla ngekwemibandzela yemtsetlo wemikhakhakwetimali; kanye
(b) tinjongo talomtsetfo lekhukulunywe ngato esigabeni 2 titawuchutjwa ngukhulula ilayisensi;
(9) ilayisensi nome kukhululwa kunganiketwa kuphela ngemuva kwekubukukalokolokulandzelako:
(a) Tinchubo tavelonkhe letifanele;
(b) luhlobo nebhukulu belihanganyela lesisemkhatsini letekuhweba;
(c) umtselela wemisebenti weligatja lesisemkhatsini letekuhweba chelwene lwetimali eNingizimu Afrika;
(d) umtselela wemisebenti welizemchatsi letekuhweba lelisemkhatsini letekuhweba; futsi
(e) nome ngukuphi lokunye
lokungabonwa kuqanakwa nguNgconcgoshe, liGatja, liBhange Ngodla laseNingizimu Afrika nome liGatja lebungcwethi.
(10) ligatja lesisemkhatsini letekuhwebe lelisemsetfweni kufuna ilandzele nome kuphi lokubalulekile lokudzingwa nguMolitseto kanye naleminye imigomo nemibandzela yalelayisensi.
(11) lelayisensi leniketwe ngekwenjigatjana (8) kufuna isho leyo misebenti nome tinjoni letinganiketwa nguleligatja lesisemkhatsini letekuhwebe kanye nemashaya lekuhweba ngawo leyo misebenti.
(12) liGatja lesisemkhatsini letekuhwebe langaphandle lelisemsetfweni, nome kunini lingafaka sicelo sekuchitjiyelwa kwemigomo yelayisensi netimo indlela ilayisensi yaniketwa ngato.
(13) (a) liGatja kufuna lishicilele satiso sesicelo sekuchitjiyelwa kwemigomo yelayisensi netimo indlela ilayisensi yaniketwa ngato kumaphethandzaba lamibili ngetindleko lephuma kumfakisicelo kanye nakuwebhusayithi yeliGatja.
No. 41060  GOVERNMENT GAZETTE, 22 AUGUST 2017

Financial Sector Regulation Act, 2017

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<td>(b)</td>
<td>The notice must state—</td>
<td>(i) the name of the applicant; (ii) the nature of the proposed amendments; and (iii) the period within which objections to the application may be lodged with the Authority.</td>
</tr>
<tr>
<td>(14)</td>
<td>The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, amend the terms of a licence or the conditions subject to which the licence was granted.</td>
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<td>(15)</td>
<td>In respect of regulations that may be prescribed in terms of subsection (7), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.</td>
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<td>(b)</td>
<td>Paragraph (a) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (7).</td>
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<td>(c)</td>
<td>Joint standards may be prescribed to address any matters that are not prescribed in regulations, or to provide detail that is additional to, but not inconsistent with, regulations prescribed by the Minister in terms of subsection (7).</td>
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<tr>
<td>30.</td>
<td>The amendment of the heading in Chapter V preceding section 50 by the substitution for the heading of the following heading:</td>
<td>“Functions of licensed clearing house and licensed central counterparty”.</td>
</tr>
<tr>
<td>31.</td>
<td>The amendment of section 50— (a) by the substitution for the heading of the section of the following heading:</td>
<td>“Functions of licensed clearing house and licensed central counterparty, and power of Authority to assume responsibility for functions”;</td>
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<tr>
<td></td>
<td>(b) by the substitution for subsection (1) of the following subsection:</td>
<td>“(1) A licensed clearing house and a licensed central counterparty must conduct its business in a fair and transparent manner with due regard to the rights of clearing members and their clients.”;</td>
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**Molao wa Taolo ya Lephata la Ditshelete , 2017**  
**Nmr 9 ya 2017**  

<table>
<thead>
<tr>
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<td>(b) satiso kufuna sisho—</td>
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<td>(i) ligama lemfakastsele;</td>
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<td>leshiphakanyisiwe ;</td>
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<td>(iii) sikhatsi lekingaphakanyiswa ngaso</td>
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<td>imibono kuliGatja mayelana</td>
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<td>nalesicelo lesifakiwe.</td>
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<td>(14) liGatja ngekuvumelana</td>
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<td>(15) (a) ngemsetfotimiso</td>
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<td>letingangunywa ngekgwesigatjana (7),</td>
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<td>Ngcongcoshe angacitsa imsetfotimiso,</td>
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<td>bese kusti lokudzingekile lokusha</td>
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<td>kuyanchunywa kumtsetfo</td>
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<td>wenchubo.</td>
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<td>(b) Indzima (a) ayitsikabeta nome</td>
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<td>ikanwulise emandla aNgcongcoshe</td>
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<td>ekuncumse nome achibiyele</td>
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<td>umtsetfotimiso ngekgwesigatjana (7).</td>
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<td>(c) umtseto wekuhlanganyela</td>
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<td>ungacunyelaywa kulungisa tindzaba</td>
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<td>longetiwe kodwva ungakagcili</td>
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<td>kumtsetfotimiso letincunywe</td>
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<td>nguNgcongcoshe ngekgwesigatjana (7).”</td>
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30. Kuchitjiyelwa kweShikoko kuSheluko  
V lesandvulela sigaba 50 ngekunftjintjwa  
kwaso ngaleshikoko leSindzelo:  
"**Imisebenzi yeligatja legunyatako**  
le[i]bhalisiwe kanye neligatja  
lelisemkhatsini leTekukhwebo  
lelisemsetfweni**" ;  

31. Kuchitjiyelwa kweShikoko 50—  
(a) ngekunftjintjwa kweShikoko leSindzelo:  
"**Imisebenzi yeligatja**  
le[i]gumunyatele[i]bhalisiwe  
kanye neyeligatja lelisemkhastini  
leTekukhweba kanjalo nemandla  
[anobhala] eliGatja ekucala  
Umsebenzi**" ;  
(b) ngekunftjintjwa kweShikoko (1)  
ngalesikhythana leSindzelo:  
"(1) Indlu legunyatako  
yemasheya kanye neligatja  
lelisemkhastini leTekukhweba  
kuFanele [i]kywenta umsebenzi  
wa[y]ko ngendlela lengavuni licala  
nangendlela lekhanyako  
galokuthatselene nemalungelo  
emaalunga lagunyatako  
nemaklayenti abo.” ;
### Extent of repeal or amendment

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<thead>
<tr>
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<tbody>
<tr>
<td>(c)</td>
<td></td>
<td>by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: “A licensed clearing house and a licensed central counterparty—”</td>
</tr>
<tr>
<td>(d)</td>
<td></td>
<td>by the substitution in subsection (2) for paragraph (b) of the following paragraph: “(b) must, as soon as it becomes aware thereof, inform the [registrar] Authority of any matter that it reasonably believes may pose systemic risk to the financial markets give rise to, or increase, systemic risk;”</td>
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<td>(e)</td>
<td></td>
<td>by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “A licensed independent clearing house and a licensed central counterparty, in addition to the functions referred to in subsection (2)—”</td>
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<td>(f)</td>
<td></td>
<td>by the insertion after subsection (3) of the following subsection: “(3A) A central counterparty, in addition to the functions referred to in subsections (1), (2) and (3), must— (a) interpose itself between counterparties to transactions in securities through the process of novation, legally binding agreement or open offer system; (b) manage and process the transactions from the date the central counterparty interposes itself between counterparties to transactions, becoming the buyer to every seller and seller to every buyer, to the date of fulfilment of the legal obligations in respect of such transactions; and (c) facilitate its post-trade management functions;”</td>
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<td>(g)</td>
<td></td>
<td>by the substitution in subsection (4) for paragraph (b) of the following paragraph: “(b) The [registrar] Authority must, before assuming responsibility as contemplated in paragraph (a)—”</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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<tr>
<td>(c)</td>
<td>ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako kusigatjana (2):</td>
<td>&quot;Indlu legunyatako lesemsetfweni kanye neligatja lelisemkhatsini letekuhweba—&quot;;</td>
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<tr>
<td>(d)</td>
<td>ngekuntjintjwa kwendzima (b) ngalezindzima lelandzelako esigatjaneni (2):</td>
<td>&quot;(b) kufanele ngalesikhatsi bakwati kutsi, batise [nobhala] liGatja nangoma luphi ludzaba lek[a]ukholelewa ekutseni lungahle [lubange tingoti teluhelo kutimakethe temnotfo] lukhulise nome lwenyuse bungoti;&quot;;</td>
</tr>
<tr>
<td>(e)</td>
<td>ngeshitjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (3):</td>
<td>&quot;Indlu legunyatwako le[ng]lbaliswe letimele kanye neligatja lelisemkhatsini letekuhweba lelisemsetfweni, [ngekuhambisana] kwengeta kumisebenti lekucondziswe kuyo esigatjaneni [nemisebenti ngalokubaliwe kusigatjana] (2)—&quot;;</td>
</tr>
<tr>
<td>(f)</td>
<td>ngekafa kafaka lestizimela longemvula kwesigatjana (3):</td>
<td>&quot;(3A) ligatja lelisemkhatsini leukekhuwebe, kungeta kumisebenti lekuhulunywe ngayo esigatjaneni (1), (2) na-(3) kufanele—</td>
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<tr>
<td>(a)</td>
<td>litsicu she emkhatsoni kwemagatja etetimali kuhwebelana kumashweya ngemihambo yekuvumelana, ngesivumelwe leliyisebontso nole lubale lewekuvumela louthulelele lekucondziswe kuyo esigatjaneni (nemisebenti ngalokubaliwe kusigatjana) (2)—&quot;;</td>
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<tr>
<td>(b)</td>
<td>liphatse liphindze libuyekete luhwebo kusuka ngelusuku libhange lelisemkhatsini litifake ekhatsoni kwetekuhwebe kuyo kuluhiwebe, ekubeni ngumitsengi kuyo wonkhe umtsengisi nekuba ngumitsengi kuyo wonkhe umtsengi esukwini lekucondziswe kwetibopho temtsetfo neluhwebo lolunjalo; futsi</td>
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<td>(c)</td>
<td>lilungiselelele kusebenta kwekuphatfwa kweteluhwebo lwayo lwangaphambilini;&quot;; futsi</td>
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<tr>
<td>(g)</td>
<td>ngekuntjintjwa kwendzima (b) ngalezindzima lelandzelako esigatjaneni (4):</td>
<td>&quot;(b) [nobhala] liGatja kufanele, ngembi kwekukuca la umsebenti njengoba kuvetwe kundzima (a)—&quot;</td>
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</table>
(i) inform the clearing house or central counterparty of the [registrar’s] Authority’s intention to assume responsibility;
(ii) give the clearing house or central counterparty the reasons for the intended assumption; and
(iii) call upon the clearing house or central counterparty to show cause within a period specified by the [registrar] Authority why responsibility should not be assumed by the [registrar] Authority.”.

32. The amendment of section 51—
(a) by the substitution for subsection (1) of the following subsection:
“(1) An independent clearing house or a central counterparty required under section 49(2)(b) to have insurance, a guarantee, a compensation fund, or other warranty in place, may impose a fee on any person involved in a transaction in listed or unlisted securities cleared or settled or both through the clearing house for the purpose of maintaining that insurance, guarantee, compensation fund or other warranty.”; and
(b) by the substitution for subsection (2) of the following subsection:
“(2) Any funds received or held by an independent clearing house or a central counterparty for the purpose of maintaining the insurance, guarantee, compensation fund or other warranty contemplated in section 49(2)(b), are for all intents and purposes considered to be “trust property” as defined in the Financial Institutions (Protection of Funds) Act and that Act applies to those funds.”.

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<td>(i) inform the clearing house or central counterparty of the [registrar’s] Authority’s intention to assume responsibility; (ii) give the clearing house or central counterparty the reasons for the intended assumption; and (iii) call upon the clearing house or central counterparty to show cause within a period specified by the [registrar] Authority why responsibility should not be assumed by the [registrar] Authority.”.</td>
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|                  |             | 32. The amendment of section 51—
(a) by the substitution for subsection (1) of the following subsection:
“(1) An independent clearing house or a central counterparty required under section 49(2)(b) to have insurance, a guarantee, a compensation fund, or other warranty in place, may impose a fee on any person involved in a transaction in listed or unlisted securities cleared or settled or both through the clearing house for the purpose of maintaining that insurance, guarantee, compensation fund or other warranty.”; and
(b) by the substitution for subsection (2) of the following subsection:
“(2) Any funds received or held by an independent clearing house or a central counterparty for the purpose of maintaining the insurance, guarantee, compensation fund or other warranty contemplated in section 49(2)(b), are for all intents and purposes considered to be “trust property” as defined in the Financial Institutions (Protection of Funds) Act and that Act applies to those funds.”. |
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<td>(i) latise [le]ndlu</td>
<td></td>
<td>(i) latise [le]ndlu legunyatako nome ligatja lelisemkhatsini letekuhweba ngetinjongo [fanobhala] teligatja tekutsi [allice]le kwenta umsebenti;</td>
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<td></td>
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<td>(ii) anikete indlu legunyatako nome ligatja lelisemkhatsini letekuhweba tizatfu talokuca la lokuhlosiwe; kanye</td>
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</table>

32. Kuchitjiyelwa kwesigaba 51—
(a) ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako:
   “(1) Indlu legunyatako letimele nome ligatja lelisemkhatsini letekuhweba lekudzingeka ngaphansi kwesigaba 49(2)(b) kutsi abe nemshwalensi, siciniseko, sikhwama sesincepheteliso, noma lenye iwaranti lekhona, kungabekwa imali kunoma ngubani umuntfu longenelelo kutransekkhini kuluhla nomakumahasheya labhalaliwe lagunyatiwe nomakufunzi kwesigaba 49(2)(b), futsi
(b) ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako:
   “(2) Noma tiphi timali letitfolwe no lebhidanwe yindlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba kwentela tizatfu tekucina umshwalensi, siciniseko, sikhwama sekuncpheteliso no lenye iwaranti lebalwe kusigaba 49(2)(b), [kwentela] tiltizatfu letitsatfwa njingemphahla yebatsenjwa njengoba kuchazwe ku-Financial Institutions (Protection of Funds) Act kantsi lowo Mfetfo usebenta kuleto timali.”.
It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

Act No. 9 of 2017: Financial Sector Regulation Act, 2017

Mo go tsebiswa gore Mo-Presidente o dumetse molao o latelago, wona o tla gatiswa e le tsebisso ya kakaretso:

Nmr 9 ya 2017: Molao wa Taolo ya Lephata la Ditshelete , 2017
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| 33. | The amendment of section 52 by the substitution for the section of the following section:  
“Funds of mutual independent clearing house or central counterparty”;  
“A mutual independent clearing house or a central counterparty may require its clearing members to contribute towards the funds of the clearing house for the purpose of carrying on the business of the clearing house.”. |
| 34. | The amendment of section 53—  
(a) by the substitution for subsection (1) of the following subsection:  
“(1) The clearing house rules must be consistent with this Act, the Financial Sector Regulation Act and any standard made in terms of this Act or the Financial Sector Regulation Act.”;  
(b) by the substitution in subsection (2) for paragraph (u) of the following paragraph:  
“(u) for the administration of securities and funds held for own account or on behalf of a client by a clearing member, including the settlement of unsettled transactions, under insolvency proceedings in respect of that clearing member; and”;  
(c) by the substitution in subsection (2) for paragraphs (z) and (aa) of the following paragraphs:  
“(z) for the segregation and portability of funds and securities held as collateral; [and]  
(aa) that clearing members must notify the clearing house as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it; and”;  
(d) by the addition in subsection (2) of the following paragraph:  
“(bb) in the case of a central counterparty, for the default procedures to be followed, including close-out procedures, in the event of a default of a clearing member;” |
### 33. Kuchitjiyelwa kwesigaba 52
ngekunjintjwa kwalesigaba ngalesigaba lesilandzelako:

""Timali tendlu legunyatako letimele nome ligatja lelisemkhatsini letekuhweba"";

""Indlu legunyatako letimele nome ligatja lelisemkhatsini letekuhweba
[i]kungadzinga kutsi [ii]malunga
ako[leli][lagunyatiwe kutsi [b]afake
sandla kuqetimali tendlu legunyatako
kwemela tizatfu tekuhambisa
ibhizimisi yendlu legunyatako."".

### 34. Kuchitjiyelwa kwesigaba 53—

(a) ngalesigatjana lesilandzelako:

""(1) Imitsetfo yendlu legunyatako
kuqenane nalo Mtsetfo,
Financial Sector Regulation Act
kanye naleminye Imitsetfo leyentiwe
ngekwalo Mtseto nome i-Financial
Sector Regulation Act.""

(b) Ngekunjintjwa kwendzima (u) ngale-
ndzima lelandzelako kusigatjana (2):

""(u) Kwentela kulawulwa
kwemasheya kanye netimali
labatibambele yona
[laphatselwe wena] noma
lilunga leligunyatiwe
lalabambele likayentiti
[ngekuhambisana nelilunga
leligunyatiwe], kufaka
ekhatsi kucedzela
kwematransekshini
langakacedzelelwana, kngaphansi
kwencubo yekuhlakatwa
ngekuhambisana nelilunga
leligunyatiwe; kanye"";

(c) ngekunjintjwa kwetindzima (z) na (aa)
ngaletindzima letilanadzelako
kusigatjana (2):

""(z) kwentela kuhlukanisa
nekusebentiseka kwetimali
nemashaya labanjwe
ndzawonye; [kanye]

(aa) nekutsi emalunga lagunyatako
kuqenane nalo Mtseto
legunyatako ngekushesha uma
ngabe icala inchubo
yekuhlakata noma inchubo
yekuhlakata ngekumelana
nayo[.] futsi ";

(d) ngekungetwana kwelendzima
lelandzelako esigatjaneni(2):

""(bb) eludzabeni iWelihange
lelisemkhatsini letekuhweba,
kuzo kulandzelwe inchubo
lejwayelekle, kufaka ekhatsi

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| | | (e) by the insertion after subsection (2) of the following subsection: 

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“(2A) Regulations or standards may prescribe additional matters to those listed in subsection (2) that must be contained in the clearing house rules.”; and
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(f) by the substitution in subsection (4) for paragraph (a) of the following subsection:

```
“(a) Subject to section 5(1)(c) and (2) and the requirements prescribed [by the registrar; the] in joint standards, clearing house rules may provide for the approval of external clearing members to be clearing members of the clearing house.”.
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35. The amendment of section 54—

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

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“(1) [Subject to the regulations prescribed by the Minister, a] A trade repository must be licensed under section 56.”;
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(b) by the substitution in subsection (3)(c) for subparagraph (iii) of the following subparagraph:

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“(iii) the application fee [prescribed by the registrar] determined in terms of the Financial Sector Regulation Act;”;
```

and

(c) by the substitution in subsection (4) for paragraph (a) of the following paragraph:

```
“(a) The [registrar] Authority must publish a notice of an application for a trade repository licence in two national newspapers, at the expense of the applicant, and on the [official] Authority’s website.”.
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36. The amendment of section 55—

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

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“(c) demonstrate that the fit and proper requirements prescribed [by the registrar] in the joint standards are met by the applicant; [its] [its directors] members of its controlling body and senior management;”;
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<td>levalewe etimeni tendlu legunyatiwe lejwayelekile;&quot;; (e) ngekungetwa kwalesigatjana lesilandzelako ngemva kwesigatjana (2): &quot;(2A) iMitsetfotimiso nome imitsetfo lebekiwe ingancuma letinye tindzaba lekufuna tibe khona kumitsetfo yendlu legunyatako kuleto lesetivele tibalwe kusigatjana (2);&quot;; futsi (f) ngekunjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): &quot;(a) Ngekuya ngesigaba 5(1)(c) na (2) kanye nalo kudzingekile lokuncunywe kumitsetfo wekuhlanguanyela, [lem]itsetfo y[al]endlu legunyatako ingahle inikete kutsi kuvunyelwe lifunga leligunyatiwe langaphandle kutsi libe lifunga leligunyatiwe lendlu legunyatako.&quot;.</td>
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<td>35. Kuchitjiyelwa kwesigaba 54— (a) ngekunjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: &quot;(1) [Ngekuya ngemitsetfo lemiswe lebekwe nguNgoco- ngoshe] Indzawo yekuhwebelana kufanele iniketwe ilayisensi ngaphansi kwesigaba 56.&quot;; (b) ngekunjintjwa kwendzinyana (iii) ngalendzinyana lelandzelako esigatjaneni (3)(c): &quot;(iii) Imali yekufaka sicelo lebekwe Ngunobhala letfolwwe ngekwe-Financial Sector Regulation Act;&quot;; futsi (c) ngekunjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (4): &quot;(a) [nobhala] iGatja kufanele akhiphe satsa sesicelo selayisensi yendzawo yekuhwebelana kumaphepha- ndzaba lamabili avelonkhe, ngekwetindleko tesicelo, kanye nakuwwebhusayithi yelGatja lesemtsetfweni].&quot;.</td>
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<td>36. Kuchitjiyelwa kwesigaba 55— (a) ngekunjintjwa kwendzima (c) ngalendzima lelandzelako esigatjaneni (1): &quot;(c) kukhombisa kutsi [letidzingo lekungito naletifanako letibhalwe ngunobhala] tidzingo lekungitona tifanele lettucekwe kumitsetfo</td>
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(b) by the substitution for subsection (2) of the following subsection:

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(2) The registrar Authority may [—

(a) require an applicant to furnish such additional information, or require such information to be verified, as the registrar may deem necessary;

(b) take into consideration any other information regarding the applicant, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant and the latter is given a reasonable opportunity to respond thereto ; and

(c) prescribe any of the requirements referred to in subsection (1) in greater detail].”;
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and

(c) by the addition of the following subsection:

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(3) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.

(b) In respect of regulations prescribed in terms of subsection (1)(a), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.

(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1)(a).

(d) Requirements prescribed in terms of subsection (1)(c) before the commencement of this subsection may be amended or repealed by conduct standards or joint standards.”.
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|                            |                       | wekuhlanganyela umfakisicelo umfakisicelo unato, kanye nemalunga emtimba wakhe lolawulako nebaphatsi labasetulu [kuqinyelelwa kuto ngulofake siculo, bacondzisi bakhona nebaphatsi labasetulu];”;
<p>| (b)                       |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
| (2)                       |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
| (a)                       |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
| (c)                       |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
|                           |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
| (c)                       |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
| (c)                       |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
| (c)                       |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
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|                           |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
|                           |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
|                           |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
|                           |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
|                           |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
|                           |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |
|                           |                       | ngakubona kufinyelelwa sihlanganyela; kanye ngukunye kufinele lekuhlanganyela; bacondzisi bakha phatsi labasetulu |</p>
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| 37. | The amendment of section 56—  
(a) by the substitution for subsection (1) of the following subsection:  
“(1) Subject to subsection (2) [and regulations prescribed by the Minister], the [registrar] Authority may, after consideration of any objection received as a result of the notice referred to in section 54(4), and subject to the conditions which the [registrar] Authority may consider appropriate, grant a trade repository a licence to perform the duties referred to in section 57.”; and  
(b) by the substitution in subsection (6) for paragraph (a) of the following paragraph:  
“(a) The [registrar] Authority must publish a notice of an application for an amendment of the terms of a trade repository licence and the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the [official] Authority’s website.”. |
| 38. | The insertion after section 56 of the following section:  
“Licensing of external trade repository  
56A. (1) An external trade repository must be licensed under this section to perform duties or provide services, unless it is exempt from the requirement to be licensed in terms of section 6(3)(m).  
(2) An external trade repository from an equivalent jurisdiction may apply to the Authority for a licence.  
(3) An application for a licence in terms of this section must—  
(a) be made in the manner and contain the information determined by the Authority;  
(b) be accompanied by the application fee determined in terms of the Financial Sector Regulation Act; and  
(c) be supplemented by any additional information that the Authority may reasonably require.” |
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<td>37.</td>
<td>kuchitjyelwa kwesigaba 56—(a) ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: “(1) Ngekuya ngesigatjana (2) kan ye [nemitsetfotimiso lebekwe nguNgcongcoshe] liGatja, [nobhala anga] linga, ngemuvwa kwekutsatsa noma kuphi kungavumelani lokutfolakele ngenca yesatsiso lesivetwe kusigaba 54(4), nangekuhambisana netimo lapho khona [nobhala] liGatja [a] lingakubona kufanele, kuniketa ilätyisensë yenjwa yekuhwebelana kutsi kwentsiwe umsebenti lobalwe kusigaba 57.”; futsi (b) ngekuntjintjwa kwendzima (a) ngalendzinyana lelandzelako esigatjaneni (6): “(a) [nobhala] LiGatja kufanele [a] likhiphate satiso sesicelo sekuchitjyelwa kwembimbandzela selayisensi yenjwa yekuhwebelana khalo nemigomo ilävisisi kumaphephandzaba lamabili avelonkhe, ngetindleko [kwetindleko] tesicelo letiphuma kumfaki sicelo, kanye nakuwebhusayithi yeliGatja [lesemtsetfweni].”</td>
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<td>38.</td>
<td>kufakwa kwalesigaba lesilandzelako ngemuvwa kwesigaba 56: “Kwenta libandla langaphandle letekuhweba lelisisako libe semtsetfweni.”</td>
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| 56A.                      | (1) Ligatja langaphandle letekuhweba kufanele libe semtsetfweni ngaphasi kwalesigaba kute lente umsebenti nobe limkete ngetinsita ngekwesigaba 6(3)(m). (2) Letekuhweba lelisisako ekugunyanya-tweni lokulinganano lingafaka sicelo selayisensi kuliGatja. (3) Sicelo selayisensi ngekwesigaba kufanele—(a) sentiwe ngendlela futsi sicukatsa umningwane lobekwe ligatja; (b) sibe sihamba nemali yekufaka sicelo lebekwe ngekwembimbandzela ye-Financial Sector Regulation Act, phindze (c) sigewaliwe nganobe ngumuphi lomunye umningwane liGatja lelingahle liwudzinge. |
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| | | (4) (a) The Authority must publish a
notice of an application for a licence in
two national newspapers, at the expense
of the applicant, and on the Authority’s
website.
(b) The notice referred to in paragraph
(a) must state—
(i) the name of the applicant; and
(ii) the period within, and the pro-
cess by, which objections to the
application may be lodged with
the Authority.
(5) Regulations or joint standards may
prescribe additional criteria for the
licensing of an external trade repository.
(6) The Authority may, with the con-
currence of the Prudential Authority and
the South African Reserve Bank, grant a
licence, if—
(a) the applicant undertakes to co-oper-
ate and share information with the
Authority, the Prudential Authority
and the South African Reserve Bank
to assist with the performance of
functions and the exercise of powers
in terms of financial sector law; and
(b) the objects of this Act referred to in
section 2 will be furthered by the
granting of the licence.
(7) A licence or exemption may only
be granted after the following factors
have been taken into consideration:
(a) Relevant international standards;
(b) the type and size of the external
trade repository;
(c) the impact of the activities of the
external trade repository on the
South African financial system;
(d) the degree of systemic risk posed by
the activities of the external trade
repository; and
(e) any other factors that the Minister,
the Authority, the South African Re-
serve Bank or the Prudential
Authority, as the case may be,
deem relevant.
(8) A licensed external trade reposit-
ory must comply with the relevant re-
quirements of this Act and any other
terms and conditions of the licence.
(9) The licence granted in terms of
subsection (6) must specify the services
that may be provided by the external
trade repository and the securities in re-
spect of which those services may be
provided.
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<td>(4) (a) liGatja kufanele lishicilele satiso sekufaka sicelo setincwadzi letigunyata kusebenta kwelihanda langaphandle letekuhweba lelisisako ngetindelelo talofaka sicelo kumapherhandzaba lamabili avelonkhe, futsi nakuwebhusayithi yelGatja.</td>
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<td>(b) Satiso lekukhulunywa ngaso endzimeni (a) kufanele sicafe—</td>
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<td>(i) ligama talofaka sicelo; kanye</td>
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<td>(ii) sikhatsi kanye nedlela lokungasetjentsiswa kubeka kuliGatja ngekuphikisana nesicelo.</td>
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<td>(5) imitsetfotimiso noe imitsetfo yekuhlanganyela ingancuma tinhlolo letengetiwe tekufaka entsetfweni— kweliGatja langaphandle letekuhweba.</td>
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<td>(6) liGatja ngekuhlanganyela neligatja lebungcwetehi kanye nelihBange Ngodla lasiNingizimu Afrika, kunganiketa ilayisensi nangabe—</td>
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<td>(a) lofaka sicelo utibophelela ngekutshikilela kanye nekwezelana ngelwati nelGatja ligatja lebungcwethi kanye nelihBange Ngodla lasiNingizimu Afrika kucedziza ekusebenteni kanye nashekubestiseni emandla ngkekwehubandzelisa yentsetfo wezikuthi yachiGatja.</td>
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<td>(b) tinjongo talomtsetfo lekukhulunywa ngato esigabeni 2 titawuchutjekiswa ngekuniketwa kwaletimphepha letigunyatako.</td>
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<td>(7) Ilayisensi nome kukhululwa kunganiketwa kuphela ngemva kwakubukisiswa kwalo kwokudzilo:</td>
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<td>(i) Tinchabo letibekiwe letifanele tavelonkhe;</td>
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<td>(ii) tinhlolo nefakanhu belGatja langaphandle letekuhweba;</td>
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<tr>
<td>(iii) umtsetfweni wemisebenti yeligatja langaphandle letekuhweba kulehlelotimali lwaseNingizimu Afrika;</td>
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<td>(iv) umtsamo webungoti lobekwa misebenti yeligatja langaphandle letekuhweba; futsi</td>
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<td>(v) nalokunyelubunona kuwalulekile nguNgcongcoshe, liBhange Ngodla lasiNingizimu Afrika nome liGatja lebungcweteni.</td>
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<td>(8) ligatja letekuhweba langaphandle lelisimsetfweni kufuna lence konkhe lokudzingwa ngolumtsetfo nalemnye imigomo nemiphandzela yelayisensi.</td>
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<tr>
<td>(9) Ilayisensi lenketiwe ngkekwegatjana (46) kufanele isho ngetinsita letinganiketwa nguleligatja letekuhweba langaphandle kanye nemasheya lekuwawentwa ngawo leto tininsita.</td>
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(10) A licensed external trade repository may at any time apply to the Authority for an amendment of the terms of its licence or the conditions subject to which the licence was granted.

(11) (a) The Authority must publish a notice of an application for an amendment of the terms of a licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the Authority’s website.

(b) The notice must state—
(i) the name of the applicant;
(ii) the nature of the proposed amendments; and
(iii) the period within which objections to the application may be lodged with the Authority.

(12) The Authority may, with the concurrence of the South African Reserve Bank and the Prudential Authority, amend the terms of a licence or the conditions subject to which the licence was granted.

(13) (a) In respect of regulations that may be prescribed in terms of subsection (5), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.

(b) Paragraph (a) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (5).

(c) Joint standards or conduct standards may be prescribed to address any matters that are not prescribed in regulations, or to provide detail that is additional to, but not inconsistent with, regulations prescribed by the Minister in terms of subsection (5).''.

39. The amendment of section 57—
(a) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

"(b) make [the] information [prescribed by the registrar] prescribed by the Authority in joint standards made with the concurrence of the South African Reserve Bank available to the [Registrar] Authority, the Prudential Authority, the South African Reserve Bank, other relevant supervisory authorities and other persons, subject to the requirements prescribed by the [Registrar] Authority in joint standards made with the"
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<tr>
<td>(10)</td>
<td>(ligatja langaphandle letekukhweba lelisemtsetfweni lingafaka cicelo sekuchitjiyelwa kwemibandzela yelayisensi yayo nome timo ilayisensi leniketwe ngato.</td>
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<td>(11) (a)</td>
<td>l.Gatja kufuna lishicilele satiso sekufakwa kwescicelo sekuchitjiyelwa kwemibandzela yelayisensi kanye netimo lekimietwe ngato lelayisensi kumaphethandzaba lamabili avelonkhhe ngethendlele talona lofaka cicelo, phinde futsi nakwehbusayithi yeliGatja.</td>
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<td>(b) Lesatiso kufuna sichaze— (i) ligama lafofaka cicelo; kanye (ii) neluhlobo letchibiyelo letpakhanyisiwe; (iii) sihaltshi lekungaphakanyiswa ngasomibono kuliGatja mayelana naleclo lelesifakwe.</td>
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<td>(12)</td>
<td>l.Gatja ngelihumelana neliBhange Ngodla laseNingizimu Afrika kanye neliGatja lebuNgwethi kungachibiyela imigomo yelayisensi nome timo ilayisensi leyaniketwa ngato.</td>
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<tr>
<td>(13)(a)</td>
<td>ngeMsetfotimiso letingancunyuwa ngkekwestigatjana (5), Ngcongcoshe angacitsa imitssetfotimiso; bese kusi lokudzingekile lokusha kuyanchunywa kumtsetfo wekuhlanganyela nome umtsetfo wenchubho. (b) Indzima (a) ayitsikabeti nome ikhawulise emandla aNgcongcoshe ekuncuma nome achibivle umtsetfotimiso ngkekwestigatjana (5). (c) imitssetfo yekuhlanganyela ingancunyelwa kulungisa tindzaba letingakuncunyuwa kumtsetfotimiso, nome kuniketa ngeminingwane longeikwe kodwywa ungakagilel kumtsetfotimiso letincunywe nguNgcongcoshe ngkekwestigatjana (5).”</td>
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40. The amendment of section 58 by the addition of the following subsection, the existing section becoming subsection (1):

“(2) (a) Despite subsection (1), requirements prescribed under this section that are in force immediately before the commencement of this subsection continue to be in force.

(b) In respect of regulations prescribed in terms of subsection (1), the Minister may repeal regulations, and new requirements may then be prescribed in joint standards or conduct standards.

(c) Paragraph (b) does not affect or limit the power of the Minister to prescribe or amend regulations in terms of subsection (1).

(d) Requirements other than those that were prescribed in regulations referred to in paragraph (b) that were prescribed in terms of subsection (1) before the commencement of this subsection, may be amended or repealed by conduct standards or joint standards.”.

41. The substitution for section 59 of the following section:

“Annual assessment

59. The [registrar] Authority, in consultation with the Prudential Authority, must annually assess whether a licensed market infrastructure—

(a) complies with this Act, the Financial Sector Regulation Act and the rules of the market infrastructure;
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<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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<td>wekuhlanganyela lowentiwe ngkekhanganyela [nemsetfo webungcwethi nobe]</td>
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<td>nelihhange Ngodla laseNingizimu Afrika ngaphasi kwesigaba sema58 njengobo kungakhona, indlela, kanye nekuvetwa kanoi;”; futsi</td>
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<td>(b) ngekuntjintjwa kwesigatjana (3) ngalesigatjana lesilandzelako:</td>
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<td>“(3) [Nobhala] Umtsetfo wekuhlanganyela [a]lunguwe [leminey] imisebeni lengetiwe kulena lehalwe kusigatjana (2) [ngalokucacile].”</td>
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<td>40. Kuchitjiyelwa kwesigaba 58 ngekungetwa kwaletigatjana letilandzelako, sigaba besesivele sikhona siba sigatjana (1):</td>
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<td>“(2) (a) Ngekungankaka kwesigatjana (1), lokudzingekile lokuncunywe ngaphasi kwalesigaba lokudzingekile masshaka ngembikwekucale kwalesigatjana kuchubeka kudzingekile.</td>
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<td>(b) Ngekwetimiso temsetfo letîncunywe ngekwembibandzela wesigatjana (1), Nqoconqoshe angacitsa timiso temsetfo, bese kutsi lokudzingekile lokusha kungabese sekuncunywa kumisweni yekungakwekucale nabo yenchubu.</td>
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<td>(c) Indzima (b) ayitsikakete nobe ivimbele emandla aNqoconqoshe kuncuma nobe kuchibika nobe ukuhlanganyela temiso temsetfo ngekwembibandzelayesigatjana (1).</td>
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<td>(d) Lokunye lokudzingekile ngaphandle kwalokolokuncunywe etimisweni temsetfo lekukhulunywe ngato endziment (b), lokuncunywa ngekwembibandzela wesigatjana (1) ngaphambili kwekucale kwalesigatjana, tîngachitjiyelwa nobe ticitlwwe ngemtsetfo wenchubo nome wekuhlanganyela.”</td>
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<td>41. Ngekushintjwa kwesigaba 59 ngalesigaba lesilandzelako:</td>
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<td></td>
<td>“Kuhlolwa minyaka yonke</td>
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<td>59. [Nobhala] LiGatja ngekiucucisana neligatja lebungcwethi kufuna njalo ngemnyaka kuhlole kutsi tîmsitanchani tetimakethe,—</td>
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<td>(a) tiyahambisana naloMsetfo [kanye nemsetfo ye tîmsitanchani temakethe], i-Financial Sector Regulation Act kanye nemsetfo yesakhiwonehi tîmsitanchani setimakethe;</td>
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42. The amendment of section 60—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The [registrar] Authority may, with the concurrence of the Prudential Authority and the South African Reserve Bank, cancel or suspend a licence if—”;

(b) by the substitution in subsection (1)(a) for subparagraphs (ii) and (iii) of the following subparagraphs:

“(ii) comply with a directive, request, condition or requirement of the [registrar] Authority in terms of [this Act] a financial sector law; or

(iii) give effect to a decision of the [appeal board in terms of section 105] Tribunal;”;

(c) by the substitution in subsection (1)(b) for the words preceding subparagraph (i) of the following words:

“(b) after an [inspection in terms of section 95 of the affairs of the market infrastructure] investigation, the [registrar] Authority is satisfied on reasonable grounds that the manner in which it is operated is—”;

and

(d) by the substitution in subsection (1)(b) for subparagraph (i) of the following subparagraph:

“(i) not in the best interests of clearing members of independent clearing houses or of central counterparties, authorised users or participants, or users or members of the market infrastructure, as the case may be, and their clients; or”.

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<td>(b) where applicable, complies with directives, and with requests, conditions or requirements of the [registrar] Authority in terms of [this Act] a financial sector law; or (c) where applicable, gives effect to decisions of the [appeal board in terms of section 105] Tribunal.”.</td>
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<tr>
<td>(b)</td>
<td>laapho kufanele khona, kuhambisana nemiya lelo, ticelo, imbimbela nomo tidingo [tanobhala] telitGatja [ngkekwalotsetso] ngekwemibandzela yemtsetfotse wemkhakha wetetimali; nomo</td>
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<tr>
<td>(c)</td>
<td>laapho kufanele khona, kuphumeleliswe tincumo [talebhodi yetikhalo ngekwesigaba 105] teNkhundla yemacala; “</td>
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42. kuchitjiyelwa kwesigaba 60—
(a) ngkekuntjintjwa kwemagama landvulela indzima (a) esigatjaneni (1)
ngalamagama lalandzelako: “[Nobhala] LiGatja anga, ngemvumwo yeliGatja lebungcwethi kanye neliBhange Ngodla leNingizimu Afrika [khanse] susa noma amise ilayisensi uma ngage—”;
(b) ngkekuntjintjwa kwemagama kwemagama indzinyana (ii) kanye nene (iii) esigatjaneni (1)(a) ngalendzinyana indzinyana lelilelala;
“(ii) Kuhambisana netinkhomba, sicelo, simo nomo tidingo [tanobhala] telitGatja [ngkekumbisana naloMtseto] Ngekwemsetfotse wemkhakha wetetimali; nomo
(iii) Kuhambisana nesincumo [sebtho yetikhalo ngkekumbisana nesigaba 105] seNkhundla yemacala;”;
(c) ngkekuntjintjwa kwemagama landvulela indzinyana (i) esigatjaneni (1)(b):
“(b) Ngemuva [kwelucwaninga] kweluphentsho ngkekumbisana nesigaba 95 seSehluko 9 se-Financial Sector Regulation Act se kutindzaba tetinshilintshi temakethi [nobhala] LiGatja [ulijiyaliseka ngetitzatifuf] letivakalako kuti lendlela lekusetjentwa ngayo i—”; fusit
(d) ngkekuntjintjwa kwemagama kwemagama indzinyana (i) esigatjaneni (1)(b) ngalendzinyana lelandzelako;
“(i) Akukho kunshisekelo lebalulelele yeleliiunga leligunyatiwe yendlu legunyatiwe kanye nobe ecugatja etetetimali;
alamulako, basebentisi labagunyatiwe nomo labangeneleloko nomo basebentisi nomo emalungu etinshilintshi temakethi, njengoba kungabe kubekiwe, kanye nemaklayenti abo; nomo;”;
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<td>43.</td>
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<td>(a) by the substitution for subsection (1) of the following subsection: &quot;(1) A market infrastructure may not conduct any additional business [which may introduce] if to do so would create or increase systemic risk.&quot;;</td>
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<td>(b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: &quot;The [registrar] Authority may, if [the registrar is of the opinion] it considers that [the] a business, function or service referred to in subsection [(1) (2)] may — &quot;;</td>
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<td>(c) by the substitution for the words following paragraph (b) of the following words: &quot;[prohibit or lay down requirements in respect of the] after consultation with the Prudential Authority and the South African Reserve Bank, make a determination specifying requirements in relation to the market infrastructure carrying on of such business, function or service.&quot;;</td>
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<td>(d) by the insertion after subsection (3) of the following subsection: &quot;(3A) The Authority may not make a determination in terms of subsection (3) in respect of a particular market infrastructure unless— (a) a draft of the determination has been given to the market infrastructure; (b) the market infrastructure has had a reasonable period of at least 14 days to make submissions to the Authority about the matter; and (c) the Authority had regard to all submissions made to it in deciding whether or not to make the determination. (3B) If the Authority considers on reasonable grounds that it is necessary to make the determination urgently, it may do so without having complied, or complied fully, with subsection (3A).&quot;; and</td>
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|                 |             | (e) by the substitution for subsection (4) of the following subsection: "(4) The Authority must, within 14 days after making a determination in terms of subsection (3), give the market infrastructure a statement of its reasons for making a determination in terms of subsection (3), and a statement of the material facts on which the determination was made.".

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| **43.** | kuchitjiyelwa kwesigaba 61 | **(a)** ngekuntjintjwa kwesigatjana (1) ngalesigatjana lesilandzelako: “(1) Tinsitanchanti temakethe angeke teta lamanye emabhizinisi [langangenisa] nangabe kwenta njalo kutawakha nobe kuhulise bungoti beluhlile.”;  
(b) ngekuntjintjwa kwemagama landvulela indzima (a) esigatjaneni (3) ngalamagama lalondzela: “**[nobhala]** liGatja [a]linga, uma ngabe [nobhala analomeondo] iyakabala kwemalanga la-14 lokungenani lesiphaleng, ngabe ekukhetla (4) kufanele, ekhatsi kwemalanga la-14 nangabe.  
(c) ngekuntjintjwa kwemagama kwalaleng e: “(3A) LiGatja ngeke lethandza sikuthi-lo nangabe—  
(a) luhi hafa la walethuleng a nangabe  
(b) nangabe  
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44. | The amendment of section 62 by the substitution for paragraph (b) of the following paragraph: "(b) an annual assessment, [in the manner prescribed by the registrar] in accordance with conduct standards or joint standards, of the arrangements referred to in [sub-paragraph] paragraph (a), the results of which must be published." |  
45. | The amendment of section 63—  
(a) by the substitution for the heading of the section of the following heading: "Demutualisation of exchange, central securities depository, [or] independent clearing house or central counterparty";  
(b) by the substitution for subsection (1) of the following subsection: "(1) An exchange, central securities depository, [or] independent clearing house or central counterparty which is not a public company or a private company as defined in section 1 of the Companies Act, may convert to a public company or private company with the approval of the [registrar] Authority and subject to [the conditions that the registrar may prescribe] requirements imposed by the Authority.";  
(c) by the substitution in subsection (2) for paragraphs (a) to (k) of the following paragraphs: "(a) the exchange, central securities depository, [or] independent clearing house or central counterparty referred to in subsection (1) is deemed to be a company incorporated in terms of the Companies Act from a date determined by the [registrar] Authority in consultation with the exchange, central securities depository, [or] independent clearing house or central counterparty in question;"
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<td>sitatimende setizatifu tekwenta</td>
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<td>yesigatjana (3), phindze</td>
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<td>nesitatimende lesionemaciniso</td>
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<td>lekwentiwe ngawo lesincumo.&quot;</td>
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44. Kuchitjiyelwa kwesigaba 62 ngekunjintjwa kwendzima (b) ngalendzima lelandzelako: "(b) kuhlola ngemnyaka ngekuhambisana nemisiteto wenchubo nome wekuhlanganyela kwalalamungisi-selelo labalwe kundzima (a), imiphumela yakhona kufanele iikhishwe.".

45. kuchitjiyelwa kwesigaba 63—(a) ngekunjintjwa kwesigaba ngalesihloko lesilandzelako: "Kuguculwa kwetinhlangano letilawulako, libhange lemasheya lelisemkhatsini, nendu legunyatako letimele nome ligatja lelisemkhatsini letekuhweba"; (b) ngekunjintjwa kwesigaba ngalesigatjana (1) ngalesigatjana lesilandzelako: "(1) LiGatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyatako nobe ligatja lelisemkhatsini letekuhweba LekungasiliJiyo inkhapani yahulumende noma inkhapani letimele njengoba kuchazwe kusigaba 1 se-Companies Act kungaguculwa kuba yinkhapani yahulumende nomaxhululwe khonakakheleleleqatsi (1) ivunyelwe kutsi kube liGatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyatako nome ligatja lelisemkhatsini lelitimele lelikuhweba [le]lokubalwe kusigatjana (1) ifanele kutsi kuteyisxese kwelapha nomaxhululwe khonakakheleleqatsi (1) ifanele kutsi kubake lehlanganiswe ngekuhambisana ne-Companies Act kusukela.
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<td>(b)</td>
<td>the Companies and Intellectual Property Commission, established by section 185 of the Companies Act, must accept the filed notice of incorporation of the exchange, central securities depository, [or] independent clearing house or central counterparty in terms of section 13 of that Act and register the entity in question as a company in terms of section 14 of that Act on the date referred to in paragraph (a);</td>
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<td>(c)</td>
<td>the continued corporate existence of the exchange, central securities depository, [or] independent clearing house or central counterparty from the date on which it was first licensed [by the registrar] in terms of this Act is unaffected and any actions of the exchange, central securities depository, [or] independent clearing house or central counterparty before its conversion remain effectual;</td>
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<td>(d)</td>
<td>the terms and conditions of service of employees of the exchange, central securities depository, [or] independent clearing house or central counterparty are not affected;</td>
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<td>(e)</td>
<td>all the assets and liabilities of the exchange, central securities depository[ or], independent clearing house or central counterparty, including any insurance, guarantee, compensation fund or other warranty owned or maintained by the</td>
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<td>ngelusuku loluncunywe [ngunobhala] liGatja ngekutsintsana nemhlangano letilawulako;</td>
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<td>(b)</td>
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<td>leTinkhapani kanye neNkhomishana Yemphahla Yebuhlakani, lesungulwe ngekwesigaba 185 se-Companies Act, kufanele atsatse lesaiso lesifiakiwe sekuhlanganisa sale ligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba ngekwalesigaba 13 saloMtsetfo nekubhalisa lenhlanganlenkulunywa ngayo njengenkhapani ngekwesigaba 14 saloMtsetfo ngalolusuku lulubalwe kunzima (a);</td>
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<td>(c)</td>
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<td>lokuchubeka kube khona kwelihizinisi leligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyatako nome ligatja lelisemkhatsini letekuhweba kasukela ngalolusuku leyaniketwa ngalo iayisensi yekucala [ngunobhala] ngekwaloMtsetfo alikatsintseki naleminye imisebenzi yalenhlanganlenbulawulako ngembini kwelungululwa kuhlala kunemandla;</td>
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<td>(d) [lemibandzela yekusebenta kwebasebentl labatilawulako ayitsintseki] [imogoma nemibandzela yeintsita tebasebentl beligatja letekuhweba, ligatja lelisemkhatsini letekuhweba, indlu legunyata ngekutimela nome ligatja lelisemkhatsini letekuhweba ayitsintseketsi;</td>
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<td>(e)</td>
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<td>tonkhe timphahla kanye nemitiwalo kwelegatja, libhange lelisemkhatsini lemasheya, indlu legunyata ngekutimela nome libhange lelisemkhatsini, kuvala ekhatshi nanome yiphi imishwaliensi, siciniseko, sikhwama sekunencepetelisa nome letnyie ticintseko letilawulwa ligatja letekuhweba, libhange lelisemkhatsini lemasheya, indlu legunyata ngekutimela nome ligatja lelisemkhatsini letekuhweba kwentela tibophelelo temsebentsi</td>
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<td>exchange, central securities depository[ or], independent clearing house or central counterparty to cover any liabilities of the clearing members of independent clearing houses or central counterparties, authorised users or participants, as the case may be, to clients, remain vested in and binding upon the company or such other entity acceptable to the [Registrar] Authority as the company may designate;</td>
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<td>(f) the company has the same rights and is subject to the same obligations as were possessed by or binding upon the exchange, central securities depository, [or] independent clearing house or central counterparty immediately before its conversion;</td>
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<td>(g) all agreements, appointments, transactions and documents entered into, made, executed or drawn up by, with or in favour of the exchange, central securities depository[ or], independent clearing house or central counterparty and in force immediately before the conversion remain in force and effectual, and are construed for all purposes as if they had been entered into, made, executed or drawn up by, with or in favour of the company, as the case may be;</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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<td>logunyatiwe wetindlu, leligunyatiwe ngekutimela nome, emagatja lasemkhatsini, etekuhweba, basebentisi, labagunyatiwe nome, labangenelelako, njengobe, kungaba njalo, kumaklayenti, agcinwa phindze asibopho, kunkapani nome lelinye ligatja, lelivunyelwako kulıGatja, njengoba inkapani ingancuma; [tonkhe timphahla kanye nemifwalo yenkapana letilawulako, kufaka ekhatsi, nama muphi umshwalese, siciniseko, sikhwama sekuncepetelisa nama lenye iwaranti lephetfwe nama, legcinwe yinhlangano kuvala nama muphi umifwalo yalellungu leligunyatiwe, yendlu legumyakako letimele, basebentisi labagunyatiwe nama LaBANGenelelako, njengoba kungabe kubelekiwe, kumaklayenti, kutawuhlala kubelekiwe futsi kusibopho, kulenkhasi nama kulesinye sikhungo lesiVumelekile, kunobhala njengoba inkhapani ingabahekile];</td>
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<td>inkhapani inemalungelo lafanako kantsi, iya ngemisebenti lebeiyiphetfwe, nama isibopho kuligatja, libhange lemasheya lalisenkhatsini, [noma] indlu letimele legumyakako nome ligatja lalisenkhatsini, telékuhweba ngekusheshwa, ngembi kwekuhlangana;</td>
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<td>tonkhe tivumelwano, kuncuma ngetinsuku, ematransekshini, kanye nemiculu, lekukhulunywa ngayo, leyentiwe, lesungulwe nama ledvwdetiwe, ngekuhambisana neligatja, libhange lemasheya lalisenkhatsini, [noma] indlu letimele legumyakako nome ligatja lalisenkhatsini, telékuhweba nai[elokusebenza ngekusheshwa, ngembi kwalokuhucula lokuhlala, kukhona naloreNkemphumelelo, kantsi kwenetela tonkhe tidzingo njengoba kungabe, kuvunyelwene, kwenetiwe, kucalesiwe nama kuduVwetjwe, ngu, ngekuumela neninkhapani, njengoba kungabe kubelekiwe;</td>
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(h) | any bond, pledge, guarantee or other instrument to secure future advances, facilities or services by the exchange, central securities depository, [or] independent clearing house or central counterparty which was in force immediately before the conversion, remains in force, and is construed as a bond, pledge, guarantee or instrument given to or in favour of the company, as the case may be;
(i) | any claim, right, debt, obligation or duty accruing to any person against the exchange, central securities depository, independent clearing house or central counterparty or owing by any person to such exchange, central securities depository, [or] independent clearing house or central counterparty is enforceable against or owing to the company, subject to any law governing prescription;
(j) | any legal proceedings that were pending or could have been instituted against the exchange, central securities depository, [or] independent clearing house or central counterparty before the conversion may be continued or instituted against the company, subject to any law governing prescription; and
### Nomoro ya Molao le ngwaga

#### Setlhogo se se khutshwane

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<tr>
<th>Product Number</th>
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<th>Bojolo jwa phimolo kgotsa tlbabololo</th>
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<td>531</td>
<td>(h)</td>
<td>noma yini lehlenganisiwe, sifungo, siciniseko noma lelinye lithulusi kucinisekisa lokungenteka ngalokutako, tindzawo noma imisebenti lekwentiwa tinhlangano letimele lebeysibenta ngekushesha ngembika kwetungcuko letitawuhlala tikhona, kantsi kutsatfwa njengebhondi, sifungo, siciniseko noma lithulusesi- liniketwe ngekuhambisana nenkhapani, njengoba kungabe kubekwane;</td>
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<td>(i)</td>
<td>noma yiphi ikleyimu, lilungelo, sikweleti, umtfwalo noma umsebenti lotalela noma bani ngekumelana naligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyata noma ligatja lelisemkhatsini letekhuweba noma lekwentiwa nguqube nayile yinhambe lekubeka ngunoma ngembi kwetingucuko letitawuhlala tikhona, kantsi kutsatfwa njengebhondi, sifungo, siciniseko noma lithulusesi liniketwe ngekuhambisana nenkhapani, njengoba kungabe kubekwane;</td>
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<td>(j)</td>
<td>noma ngabe nguyiph whenhubo iselesetshweni lebeysngaka- pheleli noma ingabe ibekwane ngekumelana naleligatja, libhange lemasheya lelisemkhatsini, [noma] indlu letimele legunyata noma ligatja lelisemkhatsini letekhuweba ngembika</td>
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46. The amendment of section 64 by the substitution in subsection (5) for paragraph (a) of the following paragraph:

“(a) all the assets and liabilities of the amalgamating entities (or in the case of a transfer of assets and liabilities, of the entity by which the transfer is effected), including any insurance, guarantee, compensation fund or other warranty owned or maintained by any of them to cover any liabilities of clearing members of independent clearing houses or central counterparties, authorised users or participants, as the case may be, to clients, vest in and become binding upon the amalgamated entity or, as the case may be, the entity taking over such assets and liabilities or such other entity acceptable to the [registrar] Authority as the parties to the amalgamation may designate;”.

47. The amendment of section 65 by the substitution for subsection (2) of the following subsection:

“(2) The members of the controlling body of a market infrastructure owe a fiduciary duty and a duty of care and skill to the market infrastructure, in the exercise of the functions as a market infrastructure.”.
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<td>tjekwa noma letibekwe ngekumelana nenkhapani,</td>
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<td>ngekuya nганома muphi umtsetfo lolawula lokube-</td>
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<td>kwako; kanye</td>
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<td>ilayisensi yaleligatša, libhange</td>
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<td>lemasheya lelisemkhatsini,</td>
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<td>[noma] indlu letimele</td>
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<td>legunyatšako nobe ligatša</td>
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<td>emandleni alenkapani uma</td>
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<td>nato tonkhe tidzingo talo-</td>
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<td>Mtsetfo ngekuya ngenhlangano letilawulako,</td>
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<td>indlu legunyatšako</td>
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<td>letimele nobe libhange</td>
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<td>lelisemkhatsi letekuliwebo.</td>
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46. Kuchitjiyelwa kwesigaba 64 ngekunjitšiwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (5):

"(a) yonkhe impahla kanye nemifwalo yalo kuhlanqaniswa kwetinhlangano (noma umgabi kunalokuduli lenswako lkyuimpahla noma umtifwalo, walenhlangano lape phona lokuduliselwe kusetjentiswa phona), kufaka ekhatši noma muphi umshwalense, siciniseko, sikhwama sekuncepetelisa noma iwaranti lekunyelomunye wabo noma loyilawulako kutsi ifake ekhatshi noma miphi imifwalo yelilungo leligunyatiwe [y]endlu yekugunyata [le]ngakutemelane[le] nome emagatša lesemkhatsen letekuliwebo, basebentisi labungunyatiwe noma Labangenelelako, njengoba kungabe kubeke, kunaklayenti, kutawuhlala futsi kutawuropa sibopho kurenhlangano lehlanganiswe noma, njengoba kungabe kubeke, lenhlangano letabawe isebentisa leto timphahla nemifwalo noma lokunye lokukhona kulopaditjati lokuvumelwele kile [kubobhala] kulikatša njengobaletinfillangano kulokuhlanqaniswa kungabekwa;". 

47. Kuchitjiyelwa kwesigaba 65—

(a) ngekunjitšiwa kwesigatšana (2) ngaleisigatšana lelandzelako:

"(2) Lamalungaalomtimba lophetsi tinsitanchantsetetimakete [le]akweletu budlelwano"
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<tr>
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<td>Financial Sector Regulation Act, 2017</td>
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**48.** The amendment of section 66—
(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:
"(c) does not meet the fit and proper requirements prescribed [by the registrar] in the relevant joint standards."; and
(b) by the deletion of subsections (8) and (9).

**49.** The amendment of section 67—
(a) by the substitution for subsection (4) of the following subsection:
"(4) A person may not, without the prior approval of the [registrar] Authority, acquire shares or any other interest in a market infrastructure in excess of that approved under subsection (3), [but not exceeding 49 per cent].";
(b) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:
"[The] An approval referred to in subsection (3), (4) or (5)—";
(c) by the substitution in subsection (7) for paragraph (a) of the following paragraph:
"(a) compelling that person to reduce, within a period determined by the court, the shareholding or other interests in the market infrastructure to a shareholding with a total nominal value not exceeding [15 or 49 per cent, as the case may be,]—
(i) in a case where subsection (3) applies, 15 per cent; or
(ii) 49 per cent, of the total nominal value of all the issued shares of the market infrastructure; and"; and
(d) by the substitution for subsection (8) of the following subsection:
"(8) An application referred to in [subsections] subsection (3), (4) or (5) must be made in the manner and form prescribed by the [registrar] Authority.".
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
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<td>emkhatsini walabanemasheya [kute] kanye [ba]nekunakekela nelikhono kulitinsianchanti tetimakethe, ekwentedi imisebeni njengenhlango letimele.”.</td>
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48. Kuchitjiyelwa kwesigaba 66—
   (a) ngekuntjintja indzima (c) ngalandzima lelandzelako esigatjaneni sekucala:
   “(c) akufinyeleli kuletidzingo tekuvu neungle ungenentlebeke [ngunobhala] kumsetfo wekuhlanganyelisa lofanele.”;
   (b) ngekususwa kwetigatjana (8) kanye nese (9).

49. Kuchitjiyelwa kwesigaba 67—
   (a) ngekuntjintjwa kwetigatjana (4) ngaletigatjana letilandzelako:
   “(4) Umuntu angeke, ngaphandle kwemvume yangaphambilini [yanobhala] yeligaTjiga, afune emasheya nomwa lenye intalo kutinsianchanti tetimakethe, kutfola loko lokuvunyelwe ngaphansi kwesigatjana (3), kodywa kungandluli kumaphesenti langema-49].”;
   (b) ngekuntjintjwa kwemagama landvulela indzima (a) esigatjaneni (6) ngalamagama lalandzelako:
   “[Le]Imvume lecondziswe kusigatjana (3), (4) noma (5)—”;
   (c) ngekuntjintjwa kwendzima (a) esigatjaneni (7) ngalandzima lelandzelako:
   “(a) acindzetele lowo munufu kutsi anciphise, ngesikhatsi lesincunywe yinkhantolo, lokuba nemasheya nomwa lenye intalo kulitinsianchanti tetimakethe kulelonzinga lellinganiswiwe lelingandluli [emaphesenti la15 noma 49]—
   (i) esimeni laphe khona sigatjana (3) siSizwatha, emaphesenti la-15; nobe nasekaphilele, [njengoba kungabe kubekele] kulelonzinga lellinganiswiwe leliphelele yawo onkhe emasheya laniketiwe kutinsianchanti tetimakethe; kanye”;
   (d) ngekuntjintjwa kwesigatjana (8) ngaletigatjana lesilandzelako:
   “(8) Sicelo lesibalwe ku[s]tigaTjana (3), (4) noma (5) kufanele sentiwe ngendiela lebekwe [Ngunobhala] liGatja.”.
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<tr>
<td>50.</td>
<td></td>
<td>The substitution for section 69 of the following section:</td>
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<td>“Report to [registrar] Authority”</td>
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<td>69. Within four months after the financial year-end of a market infrastructure, that market infrastructure must submit to the [registrar] Authority an annual report containing the details [prescribed by the registrar] determined in joint standards and audited annual financial statements that fairly present the financial affairs and status of the market infrastructure.”.</td>
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<td>51.</td>
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<td>The amendment of section 71— (a) by the insertion after subsection (1) of the following subsection: “(1A) Rules that are made by a market infrastructure may not contradict any regulation, conduct standard, prudential standard, or joint standard issued in term of this Act or the Financial Sector Regulation Act.”; (b) by the substitution in subsection (2) for paragraph (b) of the following paragraph: “(b) The [registrar] Authority may, after consultation with the Prudential Authority and the South African Reserve Bank, subject to this section, amend the rules or issue an interim rule.”; (c) by the substitution in subsection (3) for paragraphs (b) and (c) of the following paragraphs: “(b) The [registrar] Authority must as soon as possible after the receipt of a proposed amendment publish— (i) the amendment on the [registrar’s] Authority’s website; and (ii) a notice in the Gazette that the proposed amendment is available on the [registrar’s] Authority’s website;</td>
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50. Ngebokhwana kwesigaba 69 ngalesigaba lesilandzelako:

"Umbiko [wanobhala] kuliGatja [wenhlangano letilawulako]

69. Ekhatsi kwetinyanga letine nasekuphele umnyaka timali wetinstanchanti tetimakethe, letinstanchanti tetimakethe kufanele tefule [kunobhala] kuliGatja umbiko wemnyaka wonkhe locuketse imininingwane [lehalwe ngunobhala] letfowlwe kuma-Joint standards kanfolye netitatimende temnyaka temali letihloliwile letikhombisa simo setimali kanye nesimo saletinsitanchintsetsetsetsetsetsetsetsetsetsetse tetimakethe.".

51. Kuchitjiyelwa kwesigaba 71-

(a) Ngebokhwana kwtesigatjana lesilandzelako ngemuva kwesigatjana (1)

"(1A) Imitsetfo leventiwe tinsitanchanti tetimakethe tingete tashayisana nanobhe nguphithi timiso temtsifwe, umtsetfo wenchubo, ligatja lebungcwethi, umtsetfo wekuhlanganyela lokhoshwe ngekwinobhala. Ngobhala anga, ngekuya ngalesigaba, kuchibiyela lemitsetfo noma kukhipha umtsetfo wesikhashane.

(b) Ngebokhwana kwetendzima (b) ngalendzima lelandzelako esigatjaneni (2):

"(b) [Nobhala anga, ngekuya ngalesigaba, kuchibiyela lemitsetfo nomakhuhloka umtsetfo wesikhashane] LiGatja ngemuva kwekuhlanganyela nemitsetfo webungcwethi kanye neliBhange Ngodla laseNingizimu Afrika, ngekuya ngalomtsetfo lingachibiyela umtsetfo wesikhashane.";

(c) Ngebokhwana kwetindzima (b) na (c) naletindzima lesilandzelako esigatjaneni (3):

"(b) [Nobhala] LiGatja kufanele ngekushesha ngemuva kwekuhlanganyela [t]sichibiyelo le[T]siphakanyiswe [tikhihisiwe] lishicilele—

(i) [kuchitjiyelwa] sichibiyelo kwekuhlanganyela yeliGatja [lesemtsetfweni]; kanye

(ii) satiso kuGaZethi kutshi lokuchibiyela lokuphakanyiswe kuyatfolakala kuwebhusayithi yeliGatja [lesemtsetfweni], kubita bonkhe bantu labanenshisekelo labaphiki-sanako naletichibiyelo letiphakanyiswe kutshi bafake
calling upon all interested persons who have any objections to the proposed amendment to lodge their objections with the [registrar] Authority within a period of 14 days from the date of publication of the notice.

(c) If there are no such objections, or if the [registrar] Authority has considered the objections and, if necessary, has consulted with the market infrastructure and the persons who raised such objections and has decided to approve or amend the proposed amendment, the [registrar] Authority must publish—

(i) the amendment and the date on which it comes into operation on the [official] Authority’s website; and

(ii) a notice in the Gazette, which notice must state—

(aa) that the amendment to the rules has been approved;

(bb) that the rules as amended are available on the [official] Authority’s website and the website of the market infrastructure; and”;

(d) by the substitution in subsection (4) for paragraph (a) of the following paragraph;

“(a) The [registrar] Authority, after consultation with the Prudential Authority and the South African Reserve Bank, by notice in the Gazette and on the [official] Authority’s website, may amend the rules of that market infrastructure—”;

(e) by the substitution in subsection (4) for paragraph (b) of the following:

“(b) Where the [registrar] Authority has amended the rules of a market infrastructure under paragraph (a), the [registrar] Authority must—”; and

(f) by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:

“(ii) give reasons for the amendment, and explain the imperative referred to in paragraph (a)(i), in the Gazette and on the [official] Authority’s website.”;

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<td>(c) Uma ngabe kunegkho lokuphikiswako, nona umngabe [noglobhla] liGatja [a]likutsetse loku lokuphikiswako kanye, uma kufanele, [a]lisimisitse netinsitsi-tsetse khuthwane</td>
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<td>(c) Uma ngabe kunegkho lokuphikiswako, nona umngabe [noglobhla] liGatja [a]likutsetse loku lokuphikiswako kanye, uma kufanele, [a]lisimisitse netinsitsi-tsetse khuthwane</td>
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<td>(g) by the substitution in subsection (5) for paragraphs (a) and (b) of the following paragraphs:</td>
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<td>&quot;(a) Subject to prior approval of the registrar Authority, a market infrastructure may suspend any of the rules of that organisation for a period not exceeding 30 days at a time after reasonable notice of the proposed suspension has been advertised on the official Authority’s website.</td>
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<td>(b) The registrar Authority may after consultation with the Prudential Authority and the South African Reserve Bank, for the period of such suspension, issue an interim rule by notice in the Gazette to regulate the matter in question.&quot;;</td>
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<td>(h) by the substitution in subsection (6)(a) for subparagraphs (iv) to (vii) of the following subparagraphs:</td>
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<td>&quot;(iv) suspension or cancellation of the right to be a clearing member of an independent clearing house or central counterparty, an authorised user or a participant;</td>
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<td>(v) disqualification, in the case of a natural person, from holding the office of a director or officer of a clearing member of an independent clearing house or central counterparty, an authorised user or a participant, as the case may be, for any period of time;</td>
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<td>(vi) a restriction on the manner in which a clearing member of an independent clearing house or central counterparty, an authorised user or a participant may conduct business or may utilise an officer, employee or agent;</td>
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<td>kuGazethi kanye nakuwe-bhusesane yeliGatja [lesemtsetfweni];</td>
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<td>(g) ngekuntjintjwa kwetindzima (a) na (b) ngalelindzima letilandzelako esigabeni (5):</td>
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<td>&quot;(a) Ngekuwa ngemvuwe yangaphambilini [yanobhala] yeliGatja, tintsitanchanti Tetimakethe ingamisa noma muphi yalelindzeto yalenhlanganako kwentela sikhati lesemitsetfo yelelindzimo emalanga langema-30 ngeshikhati ngemvuwa kwesta leselelindzimo salokumiswa lokuphakanya isisilwane kukuwebhu [lesemtsetfweni].</td>
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<td>(b) [Nobhala] LiGatja, ngemvuwa kwekucocisana neliGatja lebuNgcwethi kanye neliBhange Ngodla laseNingizimu Afrika [a]lingakhokha umtsetfo wesikhashana ngesatiso kuGazethi kwentela kulawula loludzaba. [kulesikhatsi sekumiswa, kube khona umtsetfo wesikhashane ngekwenisa kugazethi kulawula loludzaba lekuhlo o wyena ngalo.]</td>
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<td>(h) ngekuntjintjwa kwetindzima (iv) kuya ku-(vii) ngalelindzinyana esigatjaneni (6)(a):</td>
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<td>&quot;(iv) kumiswa noma kuhanselwa kwelulungelo lekuba lilunga lelegunyatiwe lendlu letimele legunyatiwe nome ligatja leliselembhathini letekuhweba, usambentisi losemtsetfweni noma labangenelelako;</td>
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<td>(v) kungasavumeli, uma ngabe kungumuntu, kutsi aphatse lihhovisi lembondzisi noma abe sisebeni selulungo lelegunyatiwe sendlu letimele legunyatiwe nome ligatja leliselembhathini letekuhweba, usambentisi losemtsetfweni noma labangenelelako, njengoba kungabe kubeku, ngingona sikhati lesingakanani;</td>
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<td>(vi) imitsetfo levimbela indlela lilunga lelegunyatiwe yendlu letimele legunyatiwe nome ligatja leliselembhathini letekuhweba, usambentisi losemtsetfweni noma labangenelelako bangenta usambentisa usambentisi, sisebeni ne ejeni;</td>
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52. The amendment of the heading for Chapter VIII by the substitution for the heading of the following heading:

“[CODE OF CONDUCT]

CHAPTER VIII

CONDUCT STANDARDS”.

53. The amendment of section 74—

(a) by the substitution for the heading of the section of the following heading:

“[Code of conduct] Conduct standards for regulated persons”;

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

“(1) [The registrar may in an appropriate consultative manner prescribe a code of conduct for] Conduct standards may prescribe requirements in relation to—

[(i)](a) authorised users, participants or clearing members of independent clearing houses or central counterparties; or

[(ii)](b) any other regulated person, where the required standard of conduct is not prescribed in another law or [code of conduct] conduct standard, and a [code of conduct] conduct standard is necessary or expedient for the achievement of the objects of this Act.”; and
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<td>(vii)</td>
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<td>kumisa noma kukhansela kweligionya lesisebenti noma umsebenzi wellilunga leligunyatiwe wendlu letimele legunyatiwe nome ligatja lelisemkhatsini letekuhiweba, an umsebenstisi losemtsetweni noma labangenelelako kutsi bente umsebeni ngekuhambisana nalemitseto;“”; futsi</td>
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<td>52. Kuchitjiyelwa kwesiho skesihoko VIII ngekuntjintjwa kwalesihoko ngesihoko lesilandzelako:</td>
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<td>“[INDLELE YEKUTIPHATS] SEHLUKO VIII UMTSETFO WENCHUBO”</td>
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| 53. Kuchitjiyelwa kwesiho-skahlo-74— (a) ngekuntjintjwa kwesiho skesihoko salesigaba ngesihoko lesilandzelako: “Umtsetfo wenchubo webantfu labalawulwako”; (b) ngekuntjintjwa kwesiho-skahlo (1) ngesihoko lesilandzelako: “(1) [Nobhala angenta ngendlela lefanele yekutsintsana anikete indlela Yekutiphatsa] Umtsetfo wenchubo ungancuma lokudzingekile ngalokuphatsele— [l[le]lutsyana (a) nesibhlophe, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatiwe noke emagatja etetimali; lalamulako; noke (b) noma ngabe ngubani umuntu losemtsetweni, lapho khona lizinga lelelelako lelitsidzekako lekutiphatsa [alikabekwa noke] alikancunywa kulomunye utsetfo wenchubo [noma]
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<td>(c) by the substitution for subsection (2) of the following subsection: “(2) A [code of conduct] conduct standard is binding on authorised users, participants or clearing members of independent clearing houses or central counterparties or any other regulated person in respect of whom the [code of conduct] conduct standard was prescribed, as the case may be, and on their officers and employees and clients.”.</td>
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<td>54.</td>
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<td>(a) by the substitution for the heading of the section of the following heading: “Principles [of code of conduct] for conduct standards”;</td>
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<td>(b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: “A [code of conduct] conduct standard for authorised users, participants or clearing members of independent clearing houses or central counterparties must be based on the principle that—”;</td>
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<td>(c) by the substitution in subsection (1) for paragraph (a) of the following paragraph: “(a) an authorised user, participant or clearing member of an independent clearing house or central counterparty must—”;</td>
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<td>(d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: “A [code of conduct] conduct standard for regulated persons, other than the regulated persons mentioned in subsection (1), must be based on the principle that the regulated person must—”;</td>
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<td>indlela yekutiphatsa], [kantsi] phindze futsi [indlela yekutiphatsa] nemsetfo wenchubo [i]uyadzingeka noma [i]uyaphutfuma kwentela kuphumelela kwaletinjongo taloMtsetfo.”; futsi</td>
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<td>(c) ngekuntjintjwa kwesigatjana (2) ngalesigatjana lesilandzelako: “(2) [Indlela yekutiphatsa] Umtsetfo wenchubo [i]uyabopha kabasebentisi labagunyatiwe, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako nome ligatja lelisemkhatsini letekuhwebla noma lomunye umuntu lalawulwako lekgungye umtsetfo wancunyelwa yena [losemtsetfweni] [lona lewakishelwa indlela yekutiphatsa], njengoba kungabe kake, nakutisebenti kanye nebasebenti nemaklayenti.”.</td>
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<td>54. Kuchitjiyelwa kwesigaba 75— (a) ngekuntjintjwa kwsihloko salesigaba ngalesihloko lesilandzelako: “Imigomo yekuchutjwa kwemsetfo [yekutiphatsa]”; (b) ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama lalandzelako esigatjaneni (1): “[Indlela yekutiphatsa] umsetfo wenchubo [y]webasebentisi labasemtsetfweni, labangenelelako, noma emalunga lagunyatiwe latimele endlu legunyatako nome ligatja lelisemkhastini letekuhwebla kufanele icondziswe kulumgomo wekutsi—”. (c) ngekuntjintjwa kwendzima (a) ngalendzima lelandzelako esigatjaneni (1): “(a) umsebentisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako nome ligatja lelisemkhastini letekuhwebla kufanele—”; (d) ngekuntjintjwa kwemagama landvulelaindzima (a) ngalamagama lalandzelako esigatjaneni (2): “[Indlela yekutiphatsa] umsetfo wenchubo [y]webaqnufu labasemtsetfweni, ngaphandle kwalaba labasemtsetfweni lababalwe kusigatjana (1), kufanele icondziswe kumigomo yekutsi lomunfu losemtsetfweni kufanele—”.</td>
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| (e) | by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: “A [code of conduct] conduct standard may provide for—”; and | (f) | by the substitution in subsection (3) for paragraph (f) of the following paragraph: “(f) any other matter which is necessary or expedient to be regulated in a [code of conduct] conduct standard for the achievement of the objects of this Act.”. |
55. The amendment of section 76— (a) | by the substitution for subsection (2) of the following subsection: “(2) The criteria for the approval of a nominee of an authorised user or a participant and the ongoing requirements applicable to it must be equivalent to [that applied by the registrar when approving a nominee under subsection (3)] criteria determined in conduct standards for nominees.”; and | (b) | by the substitution for subsection (3) of the following subsection: “(3) (a) [The registrar may prescribe requirements for— (i) the approval of a nominee that is not approved as a nominee in terms of subsection (1); and (ii) approved nominees.] A nominee that is not approved as a nominee in terms of subsection (1) must— (i) be approved by the Authority; and (ii) comply with conduct standards determined by the Authority. (b) The [registrar] Authority must maintain a list of all nominees approved under this section.”. |
56. The amendment of section 77— (a) | by the deletion of the definition of “claims officer”; |
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<td>(e) Ngekunjintjwa kwemagama landvulela indzima <em>(a)</em> ngalamagama lalandzelako esigatjaneni <em>(3)</em>:</td>
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<td>“[Indlela yekutiphatsa] Umtsetfo wenchubo [H]unganiketa—”*; futsi</td>
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<td>(f) Ngekunjintjwa kwendzima <em>(f)</em> ngalendzima lelandzelako esigatjaneni <em>(3)</em>:</td>
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<td>“<em>(f)</em> noma ngabe yiphi lenye indzaba lefanele noma lekufanele ilawulwe ngekushesha [yendlela yekutiphatsa] kumtsetfo wenchubo ngekuphumeleleisa tinjongo taloMsetfo.”*</td>
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55. Kuchitjiyela kwasigaba 76—
(a) Ngekunjintjwa kwesigatjana *(2)* ngalesigatjana lesilandzelako;
“(2) Lendlela yekuvunyelwa kwalophakanyisiwe wemsebenzisini losemtsitweni noma labangenelelako kanye naloKudzingeka njalo lokusebenta kibo kufanele kuhambisane [nalo]lokubhalelewe ngunobhala ngalesikhatsi avumela lophakanyisiwe ngaphansi kwesigatjana *(3)* nendlela yalabakhetsiwe lenchunywe mtsetfo wenchubo.”*; futsi
(b) Ngekunjintjwa kwesigatjana *(3)* ngalesigatjana lesilandzelako:
“(3) *(a)* Nobhala angabeka tidzingo—
(i) tekuvunyelwa kwalophakanyisiwe longakuvunyelwa kutsi aphasaksisiwe ngeskwestijana *(1)*, kanye
(ii) labaphakanyisiwe labavunyie
(b) Nobhala kufanele agcine luHla lwako konkhe lokuvunyelwe kwa lophakanyisiwe ngaphansi kwalesigaba.]
(a) lophakanyisiwe longakuvunyelwa njengalophakanyisiwe ngekwestijana *(1)* kufanele—
(i) avunyelwa liGatja; futsi
(ii) ahambisane nemtsetfo wenchubo lencunywe liGatja ngaphansi kwe—Financial Sector Regulations Act.
(b) [Nobhala] liGatja kufanele liGatja kufanele liGatja kufanele liGatja kufanele liGatja kufanele liGatja kufanele liGatja kufanele liGatja kufanele liGatja kufanele

56. Kuchitjiyela kwasigaba 77—
(a) ngkususwa kwenchazelo ye—
“lithhovis lemakleyimu”;
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<td>(b) by the substitution for paragraph (b) of the definition of “inside information” of the following paragraph: “(b) if it were made public, would be likely to have a material effect on the price or value of any security listed on a regulated market or of any derivative instrument related to such a security;”; and (c) by the substitution in paragraph (a) of the definition of “insider” for subparagraph (i) of the following subparagraph: “(i) being a director, employee or shareholder of an issuer of securities listed on a regulated market or an issuer of derivative instruments related to such securities to which the inside information relates; or”;</td>
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<td>57. The amendment of section 78 — (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: “(a) An insider who knows that he or she has inside information and who deals, directly or indirectly or through an agent for his or her own account, in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence.”; (b) by the substitution in subsection (2) for paragraph (a) of the following paragraph: “(a) An insider who knows that he or she has inside information and who deals, directly or indirectly or through an agent for any other person, in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence.”; (c) by the substitution in subsection (3) for paragraph (a) of the following paragraph: “(a) Any person who deals for an insider, directly or indirectly or through an agent, in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information possessed by the insider relates or which are likely to be affected by it, who knew that such person is an insider, commits an offence.”;</td>
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(b) ngekuntjintjwa kwendzima (b) enchazelweni ye— “Iwati lwangekhatsi” ngalendzima lelandzelako:
“(b) uma ngabe bekwatiwa nguwonkhe umuntfu bekungaba nemtselela wempahla kulelinani noma bungako banoma maphi emasheya kumakethe lelawulwako nobe-ke ngukuphi lokususelwa eluhlwimi lwetetimali loluphatselene nemasheya lanjalo,” phindzhe
(c) ngekuntjintjwa kwendzinyana (i) enchazelweni ye- “ngkekhati” lesendzimeni (a) ngalendzinyana lelandzelako:
“(i) angumcondzisi, umsebenti noma lonemasheya kantsi angumniketti wemasheya labhaliswe kumakethe lesemsetfweni nobe lulususelwa eluhlwimi lwetetimali loluphatselene nemasheya lanjalo, lutawubangela kutsi abe nelicala.”

57. Kuchitjiyelwa kwesigaba 78—
(a) ngekuntjintjwa kwendzima (a) esigatjaneni (1) ngalendzima lelandzelako:
“(a) Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalosebenta ngonoma pheceleti noma ngekuhambisana ne-cjenti kutentela yena kumashaya labhaliswe kumakethe lesemsetfweni lifapo khona lolwatiso lolunghekatsi luhambisana nobe lulususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo, lutawubangela kutsi abe nelicala.”
(b) ngekuntjintjwa kwendzima (a) esigatjaneni (2) ngalendzima lelandzelako:
“(a) Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalosebenta ngonoma pheceleti noma ngekuhambisana i-cjenti yanoma ngumuphi umuntfu kulamashaya labhaliswe kumakethe lesemsetfweni lifapo khona lolwatiso lolunghekatsi luhlose khona noma nalekungafanele lutsintfwe ngaibo, nobe lulususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo, lutawubangela kutsi abe nelicala.”
(c) ngekuntjintjwa kwendzima (a) esigatjaneni (3) ngalendzima lelandzelako;
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 |  | (d) by the substitution in subsection (4) for paragraph (b) of the following paragraph:
 |  | “(b) An insider is, despite paragraph (a), not guilty of the offence contemplated in that paragraph if such insider proves on a balance of probabilities that he or she disclosed the inside information because it was necessary to do so for the purpose of the proper performance of the functions of his or her employment, office or profession in circumstances unrelated to dealing in any security listed on a regulated market or trading with a derivative instrument related to such a security and that he or she at the same time disclosed that the information was inside information.”; and
 |  | (e) by the substitution for subsection (5) of the following subsection:
 |  | “(5) An insider who knows that he or she has inside information and who encourages or causes another person to deal or discourages or stops another person from dealing in the securities listed on a regulated market or in derivative instruments related to such securities, to which the inside information relates or which are likely to be affected by it, commits an offence.”.

58. The amendment of section 82—
(a) by the substitution for the expression “Enforcement Committee”, wherever it occurs in the section, of the expression “Authority”;
(b) by the substitution for subsection (4) of the following subsection:
“(4) Any amount recovered by the Authority as a result of the proceedings contemplated in this section must be deposited by the Authority directly into a specially designated trust account and—
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<td>(d)</td>
<td>Noma ngabe ngubani lotsengisela nemuntfu longekhatsi noma ngekumelela yena noma ngekusebentisa i-ejenti kulamasheya labhalisiwe kumakethe lesemtsetfweni lapho khona lwatiso laloekhatsi loluuketfwe nguloloekhatsi luhambelana nalo noma lutawutsintfwa ngilo, nobe lulususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo lowatiko kutsi umuntfu lonjalo ungekhatsi, unelicala.</td>
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<td>(e)</td>
<td>ngekuntjintjwa kwendzima (b) esigatjaneni (4) ngadzindzinyana lelandzelako: “(b) Umuntfu longekhatsi, kkungabukwa inzi (a), akamacala lelivetwe kundzima uma ngabe lona longekhatsi uya ucinisekisa ngalokwanele kutsi uluvetile loafwatiso loangekhatsi ngoba bekufanele kutsi ente njalo kute kutsi kusebentake kahile emsebentini wakhe, elhovisi noma emsebentini kutinto letingalahlobananga nekuhwebelana kunoma nguwaphi emasheya lahambisanako lasefihlwene lusemakethe lesemtsetfweni nobe luhwebo ngeku suselwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo nekutsi ngakho sikhati uvete kutsi lowatiso bekulwatiso lwangekhatsi.</td>
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<td>(g)</td>
<td>ngekuntjintjwa kwesigatjana (5) ngalesigatjana lesilandzelako: “(5) Umuntfu longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalogcugcutela noma abangele lomunye umuntfu kutsi ahwebelane noma advumate noma amise lomunye umuntfu kutsi ahwebelane kulamasheya laseluhlweni kumakethe lesemtsetfweni nobe lulususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo lapho lowatiso lwangekhatsi luhhekise khona noma uma kungatisintfwa ngilo [nobe lulususelwa eluhlwini lwetetimali loluphatselene nemasheya lanjalo] angaba nicala.”</td>
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<td>58.</td>
<td>kuchitjiyelwa kwesigaba 82—</td>
<td>(a) ngekuntjintjwa kwekwetwaka wwe “likomidi lilebeka imitsetfo” ngeligama leltisi “iGatja” nobe”; kukuphi lapho livela khona kulesigaba;</td>
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|                          |                           | (b) ngekuntjintjwa kwesigatjana (4) ngalesigatjana lesilandzelako: “(4) Noma ngabe nguliphithi linani lelibekwe [yibhodi] iGatja njengemplhumela walechundo;

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<td>(a) the [board] Authority is, as a first charge against the trust account, entitled to reimbursement of all expenses reasonably incurred by it in bringing such proceedings and in administering the distributions made to claimants in terms of subsection (5);</td>
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<td>(b) the balance, if any, must be distributed by the [claims officer] Authority to the claimants referred to in subsection (5) in accordance with subsection (6); and</td>
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<td>(c) any amount not paid out in terms of paragraph (b) accrues to the [board] Authority.’’;</td>
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<td>(c) by the substitution in subsection (5) for paragraph (a) of the following paragraph: “(a) submit claims to the [directorate] Authority within 90 days from the date of publication of a notice in one national newspaper or on the [official] Authority’s website inviting persons who are affected by the dealings referred to in section 78(1) to (5) to submit their claims; and”; and</td>
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<td>(d) by the substitution in subsection (5)(b) for the words preceding subparagraph (i) of the following words: “prove to the reasonable satisfaction of the [claims officer] Authority that—’’.</td>
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</table>

55. The substitution for section 83 of the following section:

“Attachments and interdicts

83. On application by the [board] Authority, a court may in relation to any matter referred to in Chapter X grant an interdict or order the attachment of assets or evidence to prevent their concealment, removal, dissipation or destruction.”.
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<tr>
<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khotshwane</th>
<th>Bogolo jwa phimoło kgotsa tlhabololo</th>
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</table>
|                           |                          | levetwe kulesigaba kufanele ifakwe ku-akhawunti leyakhele loko [yibhodi] liGatja kube yi-akhawunti [yebatsenjwa] yesikhwama semfelazawonye futsi—
| (a)                       |                          | [ibhodi] liGatja, njengoba ngiyo yekucala lemeline ne-akhawunti yebatsenjwa,inemvume yekunjitjela tonkhe tindleko letitfolakele ngalokungakho- nakala ngekutsi yenta leto tinchubo nangekulawula lokusatjalaliswa lokwentwwe ngulabafake tikhalo temali ngekwasigatjana (5); |
| (b)                       |                          | lelinani lelisele, uma likhona, kufanele lisatjalaliswe [sisebenti semakleyimu] liGatja kulabo labafake tikhalo lababalwe kusigatjana (5) ngekuhambisana nesigatjana (6); kantsi futsi |
| (c)                       |                          | noma ngabe ngunikhipi linani lelingakakhokhela ngekwendzima (b) nentalo [Kubhodi] kuliGatja.”; |
|                           |                          | (c) ngekunjitjwa kwendzima (a) esigatjaneni (5) ngalandzima lelandzelako: “(a) batfumelo emakleyimu [ehhovisi] kuliGatja kungakapheli emalanga lali-90 kusukela ngalelilanga lekuhkishwe ngalo satiso ephephandzabeni lavelonkhe noma kuwebhuyiseni [lesentsetfweni] [yalolo] yeliGatja kumenywa bantfu labatsintsekako ngekuhwebelana lokubalwe kusigaba 78(1) kuyi (5) kutsi batfumelo emakleyimu; kanye”; futsi |
| (d)                       |                          | ngekunjitjwa kwemagama landvulela indzinyana (1) esigatjaneni (5)/(b) ngalamagama lalandzelako; “bavumele ngekwenetiseka lokufanele [kusisebenti semakleyimu] kuliGatja [lekuFanele] kutsi—”. |
|                           |                          | 59. Kuntjintjwa kwesigaba 83 ngalesigaba lesilandzelako: “Lokufakiwe netivimbo” |
|                           |                          | 83. Ngesicelo lesfakwe [yibhodi] liGatja, inkhantolo inguniketa incwadi yekubhiela enkhantolo ngakuhambela na nalolulzaba lolubalwe kuSehluko X noma ngeluhlelo lwalempahla lefakiwe nama bufakazi bekuvikela lokufihlwe, lokukhishwe, lokungahambi kahle noma lokuphatamisako.”; |
### Act No. and year | Short Title | Extent of repeal or amendment
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60. | The substitution for section 84 of the following section: |
| | **“Additional powers of Authority**** |
| | **84.** The Authority may— |
| | (a) after consultation with the relevant |
| | regulated markets in the Republic,— |
| | (i) make conduct standards, or |
| | (ii) give regulator’s directives for |
| | the implementation of such systems as are necessary for the |
| | effective monitoring and identification of possible contraventions of this Chapter; and |
| | (b) make conduct standards for the disclosure of inside information.”. |
61. | The substitution for section 85 of the following section: |
| | **“Composition and functions of directorate**** |
| | **85.** (1) (a) The Directorate established by section 12 of the Insider Trading Act, 1998 (Act No. 135 of 1998), and that |
| | continued to exist under the Securities Services Act, 2004 (Act No. 36 of 2004), |
| | continues to exist under the name Directorate of Market Abuse, despite the repeal of those Acts, |
| | (b) A reference to the Insider Trading Directorate in any law must, unless |
| | clearly inappropriate, be construed as a reference to the Directorate of Market Abuse. |
| | (c) The Authority may determine the functions, powers and duties of the directorate, which may include to consider and |
| | make recommendations relating to investigations into offences referred to in |
| | sections 78, 80 and 81 of this Act and section 135(2) of the Financial Sector Regulation Act. |
| | (2)(a) The directorate consists of members and alternate members appointed by the Authority. |
| | (b) The members of the directorate holding office at the date that Part 6 of |
| | Chapter 17 of the Financial Sector Regulation Act comes into force remain as |
| | members for the terms and subject to the conditions applicable to them on their |
| | respective appointments.
<table>
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<th>Nomoro ya Molao le ngwaga</th>
<th>Setlhogo se se khutshwane</th>
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<td>60.</td>
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<td>&quot;Emandla langetiwe eliGatja&quot;</td>
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<td>84. liGatja linga—</td>
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<td>(a) ngemuva kwekubuta kutimakethe</td>
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<td>letifanele letilawuliwe kuRiphabhu-</td>
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<td>lukhi,</td>
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<td>(i) ente umtsetfo wenchubo, nome</td>
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<td>(ii) amikete ngemandla kute</td>
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<td>kwekwaphulwa lokungahle kube</td>
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<td>khona kuleSelhukho; fusi;</td>
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<td>(b) ente umtsetfo wenchubo wekuwetwa</td>
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<td>kwelwati lwangakhesi.&quot;</td>
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<td>61.</td>
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<td>&quot;Kwakheka nekusebenta kwebhodi</td>
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<td>yebacondzisi&quot;</td>
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<td>85. (1) (a) iBhodi yeBacondzisi</td>
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<td>lesungulwe sigaba 12 Insider Trading</td>
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<td>Act, 1998 (Umtsetfo Nom. 135 wanga</td>
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<td>1998), futsi lechubeke yaphila</td>
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<td>ngaphasi kwe-Securities Services Act,</td>
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<td>nome seyicitisiwe leMumsetfo.</td>
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<td>yebacondzisi beteluhwebo lwangakhesi</td>
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<td>kunome nguquphi umtsetsetfo kufuna</td>
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<td>(c) liGatja lingancuma imisebenti,</td>
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<td>emandla nekusebenta kwebhodi</td>
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<td>yebacondzisi, lokungafka ekuhisi</td>
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<td>lokuphatselene nekuphena kuhlukubeta</td>
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<td>lekucondziswe kuko kutigaba 70, 80</td>
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<td>kanye na-81taloMumsetfo kanze nesigaba</td>
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<td>malungu nemalungu langetiwe lacokwe</td>
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<td>liGatja.</td>
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<td>(b) Emalungu lebhodi yebacondzisi</td>
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<td>lasehovisi ngelusuku lulusiwo</td>
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<td>kuSelhukho 17 se-Financial Sector</td>
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<td>Regulation Act, achubeka abe</td>
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<td>ngemalungu ngekwenjigomo netimo</td>
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<td>lababekelwe kona ngekucokwa kwabo.</td>
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(c) A member and an alternate member hold office for a period, not exceeding three years, as the Authority may determine at the time of the member’s appointment, and is eligible for reappointment upon the expiry of the member’s term of office.

(d) If on the expiry of the term of office of a member, a reappointment is not made or a new member is not appointed, the former member must remain in office for a further period of not more than six months.

(e) The Authority may remove a member of the directorate from office on good cause shown and after having given the member sufficient opportunity to show why the member should not be removed.

(3) The members of the directorate may comprise of—

(a) not more than two members of staff of the Authority;

(b) one person and an alternate from each of the licensed exchanges in the Republic;

(c) one commercial lawyer of appropriate experience and an alternate;

(d) one accountant of appropriate experience and an alternate;

(e) one person of appropriate experience and an alternate from the insurance industry;

(f) one person of appropriate experience and an alternate from the banking industry;

(g) one person of appropriate experience and an alternate from the fund management industry;

(h) one person of appropriate experience and an alternate that represents institutional investors;

(i) one person of appropriate experience and an alternate nominated by the South African Reserve Bank;

(j) one person of appropriate experience and an alternate nominated by the Prudential Authority; and

(k) two other persons of appropriate experience and alternates, to ensure that the directorate is comprised of an appropriate mix of skills and experience.

(4) The persons referred to in subsection (3) who are nominated—

(a) must be available to serve as members of the directorate;

(b) must have appropriate knowledge of financial markets; and

(c) may not be practising authorised users.

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<td>(c)</td>
<td>Lilunga kanye nekilunga lelingetiwe bababa lihhovisi iminyaka lengedluli kulemitsetatu, njengoba ligatja lingancuma esikhatssimi sekucokwa kwelilunga, futsi ligunyatwile kubuyisela lilunga futsi laphe sekupelele sikhitshisafo sekabamba ehovisi.</td>
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<td>(d)</td>
<td>Nangabe lilunga lingacokwa futsi laphe liphelwele sikhatsi ehovisi, lelo lunga kufuna lhlalele hhhovisi tnyanga letinye letingedluli kulemitsetu. (e) lGatja lingasusa lilunga lebhodi yebancocondzisi ehovisi ngesihlele phindle nangemuva kwekuniketa lelo lunga litfutha lelanelo kukhombisa kutsi kungani kulelelele kungani lelingaswa.</td>
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<td>(3)</td>
<td>Lmalunga ebhodi yebancocondzisi ingakhiwa—</td>
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<td>(a)</td>
<td>malunga langadluli kulumabili ebasebenti belGatja;</td>
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<td>(b)</td>
<td>umuntu loyedwva kanye nalogetiwe bemagatja etekuhweba lasemtsetweni kuRiphabhi;</td>
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<td>(c)</td>
<td>ummeli wetemnotfo leyedwva lonelwati lolowanele kanye nemlekeleli;</td>
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<td>(d)</td>
<td>ngcwethi wetemnotfo nonelwati lolowanele kanye nemlekeleli;</td>
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<td>(e)</td>
<td>umuntu loyedwva lonelwati lolowanele nemlekeleli labaphuma kumkhakha wemishwalesi;</td>
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<td>(f)</td>
<td>umuntu loyedwva lonelwati lolowanele nemlekeleli labaphuma kumkhakha wetelelwananga;</td>
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<td>(g)</td>
<td>umuntu loyedwva lonelwati lolowanele nemlekeleli labaphuma kumkhakha wekukulawulwa kwelusitotimali;</td>
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<td>(h)</td>
<td>umuntu loyedwva lonelwati lolowanele kanye nemlekeleli labamele basisi kutikhungo;</td>
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<td>(i)</td>
<td>umuntu loyedwva lonelwati lolowanele kanye nemlekeleli labacokwe lifhange Ngodla laseNingizimu Afrika;</td>
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<td>(j)</td>
<td>umuntu loyedwva lonelwati lolowanele kanye nemlekeleli labacokwe ngumisento webungcweti; futsi</td>
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<td>(k)</td>
<td>bantu labanye lababili labanekwati lolowanele kanye nebalekeleli, kucinisekisa kutsi lebhodi yebancocondzisi yakhiwe yinthlango umselela yemakhono nelwati. (4) bantu lekucondzise kibo kusigatjana (3) labacokwe—</td>
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<td>kufuna bebha khona ekusebenenti njengemalunga ebhodi yebancocondzis;</td>
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<td>(b)</td>
<td>kufuna bebha nelwati lolowanele ngetimakethe temnottoto; futsi</td>
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<td>(c)</td>
<td>angeke bebha basebenthis labasebenta ngekugunyatra.</td>
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Act No. and year | Short Title | Extent of repeal or amendment
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(5) | The Authority must designate a chairperson, who may not be the Commissioner of the Authority, and a deputy chairperson who performs the functions of the chairperson when the office of chairperson is vacant or when the chairperson is unable to perform the chairperson’s functions. |  
(6) | All members of the directorate, other than the additional members, have one vote in respect of matters considered by the directorate, but an alternate member only has a vote in the absence from a meeting of the member whom the alternate is representing. |  
(7) | A meeting of the directorate is convened by the chairperson. |  
(8) | If four members of the directorate in writing request the chairperson of the directorate to convene a meeting of the directorate, a meeting must be held within seven business days of the date of receipt of the request. |  
(9) | A meeting of the directorate is chaired by the chairperson or, in the chairperson’s absence, by the deputy chairperson or another member designated by the chairperson or the remaining members. |  
(10) | The directorate determines its procedures, subject to any directions of the Authority. |  
(11) | The decision of a majority of the members of the directorate constitutes the decision of the directorate. |  
(12) | The Authority must ensure that written minutes of each meeting of the directorate are kept in a manner determined by the Authority. |  
(13) | A member of the directorate must disclose, at a meeting of the directorate, or in writing to each of the other members of the directorate, any interest in a matter that is being or is intended to be considered by the directorate, being an interest that— |  
(a) | the member has; or |  
(b) | a person has who is a related party to the member. |  
(14) | A disclosure in terms of subsection (13) must be given as soon as practicable after the member concerned becomes aware of the interest. |  
(15) | A member referred to in subsection (13) may not participate in the consideration of or decision on that matter by the directorate unless— |  
(a) | the member has disclosed the interest in accordance with subsection (13); and |  
(b) | the other members of the directorate have decided that the interest does not affect the proper execution of the member’s functions in relation to the matter.” |  

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Molao wa Taolo ya Lephata la Ditshelete , 2017

Nomoro ya Molao le ngwaga | Setlhogo se se khotshwane | Bogolo jwa phimolo kgotsa tshabololo

(5) LiGatja kufuna licoke sihlalo, longebe abe ngukomishi weliGatja, nasekelasihlalo lowenta imisebenti yashihlalo lapho kungekho muntu ebhovisi lasihlalo nome lapho sihlalo angakhoni kwenta imisebenti yakhe njengashihlalo.

(6) Onkhe emalunga ebhodi yeicondziso, ngaphandle kwemalunga lanagentiwe aneliviti lelilodvwa etindzabeni letiphakanyiswa yibhodi yebacondzisi, kepha lilunga lelingetiwe liba neliviti kuphela nangabe lona lelimmele angekho kumhlangano.

(7) Umhlangano webhodi yebacondzisi uhlanganiswa ngusihlalo.

(8) Nangabe emalunga lamane ngekubhala acela sihlalo kutsi ahlanganise umhlangano webhodi yebacondzisi, lomhlangano kufuna ubanjwe ekhatsi kwemalunga lasikhomba ekusebenta kusuka ngelusuku sihlalo latfole ngalo lesimile emalungo lakhona.

(9) Umhlangano webhodi yebacondzisizaphethwa ngusihlalo nome, lapho angekho sihlalo, kuma sekela wakhe entinsanjeni nome lelimyile litunga lelieweke ngusihlalo nome-ke lamanye emalungo lakhona.

(10) Ibhodi yeicondzisi incuma tinchubu tayo ngekwestindlela teliGatja.

(11) Sincumo selinyenti lemalunga ebhodi yeicondzisi sakha sincumo sebhodi.

(12) LiGatja kufanele licinisekise kutsi emaminitsi labhaliwe emhlangano ngamunye webhodi yebacondzisi agcinwe ngendlela lenyuniwe liGatja.

(13) Lilunga lebhodi yeicondziso kufuna livete kubhodi, nome ngekubhalela ngamunye wemalunga ebhodi nome siphi sifiso eludzabeni loluphakanyiswe nome lolusawuphakanyiswa yiwebhodi, kungaba sifiso—

(a) lilunga lelina; nome

(b) umuntu lanaso lohlobene

(14) Kuveta ngekwestigatjana (13) kufuna kwentiwe masisha ngemuya kwekuba lelo lunga selati ngalesifiso.

(15) Lilunga lekucondziswe kulo kusigatjana (13) angake labambo lichaza lapho ibhodi iphakamitsa nome incuma ngaloludzaba, ngaphandle nangabe—

(a) kufuna livete lesimile

(b) lamanye emalunga ebhodi ancume kutsi lesimile asitsikabeti tinchubu letifanele tekusebenta kwelilunga

ngalokuyamene naloludzaba."
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<tr>
<td>62.</td>
<td>The repeal of section 86.</td>
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<td>63.</td>
<td>The substitution for section 88 of the following section:</td>
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<td>“Confidentiality and sharing of information</td>
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<td>88. The [directorate] Authority may share information concerning any matter dealt with in terms of this Chapter with the [institutions which have nominated persons to the directorate, the] Take-over Regulation Panel[,] established by section 196 of the Companies Act, the South African Reserve Bank, the Prudential Authority, the Independent Regulatory Board for Auditors constituted in terms of the Auditing Profession Act, a [licensed exchange, a licensed central securities depository, or a licensed independent clearing house] market infrastructure, the Financial Intelligence Centre established by the Financial Intelligence Centre Act, the National Treasury, the Minister and the persons, inside the Republic or elsewhere, responsible for regulating, investigating or prosecuting insider trading, prohibited trading practices and other market abuses.”.</td>
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<td>64.</td>
<td>The amendment of section 90 by the substitution for paragraphs (a) and (b) of the following paragraphs:</td>
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<td>“(a) maintain on a continual basis the accounting records [prescribed by the registrar] determined in joint standards and prepare annual financial statements that conform with the financial reporting standards prescribed under the Companies Act and contain the information that may be [prescribed by the registrar] determined in joint standards;</td>
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<td>(b) cause such accounting records and annual financial statements to be audited by an auditor appointed under section 89, within a period [prescribed by the registrar] determined in joint standards or such later date as the [registrar] Authority may allow on application by a regulated person; and”.</td>
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<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khutshwane</td>
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<td>62.</td>
<td>Kucitfwa kwesigaba 86</td>
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<td>63. Kuntjintjwja kwesigaba 88 ngalesigaba lesilandzelako:</td>
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<tr>
<td>&quot;Kubamba imfihlo nekwabelana agelwatiso&quot;</td>
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<td>64.</td>
<td>Kuchitjiyelwa kwesigaba 90 ngekuntjintjwa kwetindzima (a) neye (b) esigabeni 90 ngaletindzima letilandzelako:</td>
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<td>&quot;(a) aqecine njalo emarekhodi etimali [lekakhishwe] [ngunobhala] lancunywe ngekwemtsetfo wekühlänganyela abuye alunging[ng]se titimatimende temali temanyakwa wonkhe lekuhambisana naloKubikwa ngetimali lokubekwe ngaphansi kwe-Companies Act kantsi kwekalolwatiso [loulungakhishwa] [ngunobhala] loulungancunywa ngeKwenchubo yemtsetfo, futsi</td>
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<td>(b) abangęle kutsi lawo marekhodi etimali kanye netitimatimende temanyakwa wonkhe titholwe ngumhlole mabhuku locashwe ngaphansi kwesigaba 89, ngesihatsi [lesibekwe] [ngunobhala] lesicunywe ngekwemtsetfo wekuhlanganyela noma lolo lusuku lwamuva loulungavunyelwa [ngunobhala] iGatja ngesicelo lesifakwe ngumuntu losemsetfiweni; kanye&quot;.</td>
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Act No. and year | Short Title | Extent of repeal or amendment
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65. | The amendment of section 91 — (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: “When an auditor of a regulated person has conducted an audit in terms of subsection (1), the auditor must, subject to subsection (3), report to the regulated person or to the exchange, central securities depository, [or] independent clearing house or central counterparty in question, if the auditor is the auditor of an authorised user, participant or clearing member of an independent clearing house or central counterparty, and on request to the [registrar] Authority — ”; and (b) by the substitution for paragraph (b) of the following paragraph “(b) on the matters prescribed [by the registrar, including matters relating to the nominees of those regulated persons] in conduct standards.”. | 66. The substitution in Chapter XII for the heading preceding section 94 of the following heading: “Powers of [registrar] Authority and court”.
67. | | “General powers of [registrar] Authority
94. (1) If the [registrar] Authority receives a complaint, charge or allegation that a person (hereinafter referred to as) “the respondent”) who provides securities services (whether the respondent is licensed or authorised in terms of this Act or not) is contravening or is failing to comply with any provision of this Act, or if the [registrar] Authority has reason to believe that such a contravention or failure is taking place, the [registrar] Authority may investigate the matter [by directing that respondent in writing to— (i) provide the registrar with any information, document or record reasonably required by the registrar about such services;
65. Kuchitjitelwa kwesigaba 91
(a) ngekuntjintjwa kwemagama landvulela indzima (a) ngalamagama
lalandzelako:
“Nangabe umhleli timali
wemuntfu lolawulwako ente kuhlela
timali ngkewesigatjana (1), umhleli
timali kufanele ngkewesigatjana (3),
abike kuloyo muntfu lolawulwako
nobe kuteluhlwebo, libhang
fesimkhatseni lemasheya, indlu
legunyata ngekutimela nome ligatja
lehlamulako lekungayo, nangabe
umhleli timali weamagama
logunyatiwe, longenelelako nome
llelilunga lelogunyatiwe
legunyata ngekutimela nome ligatja
lehlamulako, futsi ngefaka sicelo
kuligatja—”; futsi
(b) ngekuntjintjwa indzima (b) ngalendzima
lelandzelako:
“(b) ngeletindzaba letibekiwe
[ngunobhala, kufaka ekhatsi
tindzaba letiphetselele
nalophakanyiswe walabo
bantfu labasemtsetfweni]
lelilunye kutchubo yemtsetfo.”.

66. Ngekuntjintjelwa kuSahluko XII
sisho lolelandzelako igi gaba 94
ngalesihloko lesilandzelako:
[Kushintjwa kwesigaba 94
ngalesigaba lesilandzelako;]
“Emandla [anobhala] eliGatja
nenkhantolo”

67. Kunitionjwa kwesigaba 94
ngalesigaba lesilandzelako:
“Emandla latayelekile [anobhala]
liGatja

94. (1) Uma ngabe [nobhala] liGatja
lingati fola sikhalo, kube kwa licela noma
kucatjangelwa kutsi umuntfu (lapha
njengoba abekwe njengalophendvu
lelako) loniketa umsebenti wemasheya
(noma ngabe lona lophendvulako
unelayisensi noma umganyiwe
ngkewaloMsetfo noma cha) uphula
noma uyaahluleka kuhambisana nanoma
miphi imibandzela yaloMsetfo, noma
uma ngabe [nobhala] liGatja
[a]linesizatfu sekukhofo kutsi
lokungi lelelako noma lokuhluleka
kuyenteka, [nobhala] liGatja
[a]lingaphenyana louludzaba [ngekutsi
acondzise lophendvulako
ngekumbalela kutsi—
(i) anikete nobhala nomi
lwatiso, imiculu noma emarekho
diladzinga ngunobhala ngalemise
benti;
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(ii) appear before the registrar at a specified time and place in terms of the Financial Sector Regulation Act.

(2) [Despite any contrary law, the registrar may, if] The power of the Authority to give a regulator’s directive in terms of the Financial Sector Regulation Act extends to giving such a directive in respect of an advertisement, brochure or other document relating to securities that is [misleading or] for any reason objectionable, [direct that the advertisement, brochure or other document not be published or the publication thereof be stopped or that such amendments as the registrar considers necessary be effected].”.

68. The repeal of section 95.

69. The amendment of section 96—

(a) by the substitution for the heading of the section of the following heading:

“Powers of [registrar] Authority after supervisory on-site [visit or] inspection or investigation”;

(b) by the substitution for the words preceding paragraph (a) of the following words:

“After [an] a supervisory on-site [visit or] inspection or an investigation has been conducted [under section 95], the [registrar] Authority may, in order to achieve the objects of this Act referred to in section 2—”; and

(c) by the substitution for paragraph (c) of the following paragraph:

“(c) direct the respondent to take any steps, or to refrain from performing or continuing to perform any act, in order to terminate or remedy any irregularity or state of affairs disclosed by the supervisory on-site [visit or] inspection or investigation: Provided that the registrar may not make an order contemplated in section 6D(2)(b) of the Financial Institutions (Protection of Funds) Act.]”.

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<td>(ii) avele ngembi kwanobhala ngesihekhtsi nedzawo layibekile.] ngekwemibandzela ye-Financial Sector Regulation Act.</td>
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<td>(2) [Ngaphandle kwekutsi kube nemsetfo longcubutanako, nobhala anga, uma ngabe] emandla eliGatja ekuniketa sicondziso semlawuli ngekwemibandzela ye-Financial Sector Regulation Act achubeka anikutete sicondziso lesinjena ngekweesikhangiso, icwajana noma lemiyie imiculu lephatselele nemasheya [iyalahlekisa Noma] lenganoma siphi sizatfu iyaphikiweka], ngoba lesikhangiso, icwajana noma lomunye umsculuna ungakakhishwa noma lokukhishwa kwawo kumiswe noma letio tichibiyelo njengoba nobhala akubona kufanele kweni.</td>
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<td>68. Kucitfwa kwesigaba 95.</td>
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<td>69. Kuchitjiyelwa kumesigaba 96—</td>
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<td>(a) Ngekuntjintjwa kwesihloko salesigaba ngalesihloko lelendzela [ngalesihloko lelendzela]: &quot;Emandla [anobhala] eliGatja ngemuva kwkuphatsa kuhlofa nobe kuphenywa kwesayithi [kwekuvakashela] kwasayithi [noma]&quot;;</td>
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<td>(c) Ngekuntjintjwa kwendzima (c) ngalesigabga lelendzelako: &quot;(c) acondzise lopolophendulako kutsi atsatse noma tiphi tinyatselo, noma angasenti noma achubeke kwena noma yini, kute acedzse noma alungise okungakahambisise kahle noma simo setintfo letivetwe kuphatfwa kwelulhlolo [ngulebevakashele] lwangekhatsi nobe luphenyo [noma labatho] Uma ngabe nobhala anekhe ente siphakamiso lesivetwe</td>
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70. | The repeal of section 97. | 
71. | The amendment of section 98 by the addition of the following subsection: “(5) This section does not affect Part 5 of Chapter 10 of the Financial Sector Regulation Act.” | 
72. | The deletion of the following heading in Chapter XII preceding section 99: “Enforcement Committee” | 
73. | The repeal of section 99. | 
74. | The amendment of section 105— (a) by the substitution for subsection (1) of the following subsection: “(1) A person aggrieved by a decision of— (a) the [registrar] Authority under a power conferred or a duty imposed upon the [registrar] Authority by or under this Act or the Financial Sector Regulation Act; (b) an exchange to refuse an application by that person to be admitted as an authorised user; (c) an exchange to withdraw the authorisation of an authorised user or to direct an authorised user to terminate the access to the exchange by an officer or employee of such authorised user; (d) an exchange to defer, refuse or grant an application for the inclusion of securities in the list or to remove securities from the list or to suspend the trading in listed securities; (e) a central securities depository to refuse an application by a person to be accepted as a participant; (f) a central securities depository to terminate the participation of a participant or to direct a participant to terminate the access to the central securities depository by an officer or employee of a participant; |
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<td>70.</td>
<td>Kucitfwana kwesigaba sema-97.</td>
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<td>71.</td>
<td>Kuchitjiyelwa kwesigaba 98 ngekuungtwata kwaesigatjana lesilandzelako;</td>
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<td>&quot;'(5) lesigaba lesi asiyitsikabiti inceny 5 yeSehluko 10 seFinancial Sector Regulation Act.&quot;.&quot;</td>
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<td>72.</td>
<td>Kususwa kwalesihloko lesilandzelako kuSehluko XII lesandvulela sigaaba 99:</td>
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<td>&quot;Likomidi leliciti sikisako&quot;.</td>
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<td>73.</td>
<td>Kucitfwana kwesigaba 99.</td>
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<td>74.</td>
<td>Kuchitjiyelwa kwesigaba 105—</td>
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<td>(a) ngukuntjintjwa kwesigatjana (1) ngalesigatjana lelandzelako:</td>
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<td>&quot;(1) Umuntfu longakaphatfwa kahle sincumo se—</td>
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<td>(a) [noba] liGatja ngaphasi kwemandla leliivamente wona nome umseenti lobekwe kile yi-, nome ngaphasi kwaloMtsetfo nome i-Financial Sector Regulation Act.&quot;;</td>
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<td>(b) tingcoco tekuncaitalwa kwesicelo lesi enitwana nguloyo muntfu sekumukela njengesembentisi logunyatiwe;</td>
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<td>(c) tingcoco tekususwa kwekugunyatwa kwesembentisi lokunyatiwe no kucondzisa umsebentisi logunyatiwe kutsi acite kufinyelela etingege wekunye temphatsi nome sisebenti saloyo mesebentisi loguyatiwe;</td>
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<td>(d) tingcogco tshulitshula, kuncabela nome kunixheta niecwe nguksabandzakanika kwemasheya lakuloluhlu nome kususa emasheya kululohlu nome kumisa loluhwebo kumasheya labaliwe;</td>
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<td>(e) liphange lelisemkhatsini lemasheya ngkwailela sieclo lesentiwa ngumuntfu lekufuna amakelwe njengalwenelelako;</td>
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<td>(f) liphange lelisemkhatsini lemasheya ngukucitsa kungenelela kwalongenelelako nome kucindzisa longenelelako kutsi acite kufinyelela kuleliphange lelisemkhatsini lemasheya ngesicelo nome sisebenti salongenelelako;</td>
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| | | (g) an independent clearing house or central counterparty to refuse an application by a person to be admitted as a clearing member;
| | | (h) an independent clearing house or central counterparty to withdraw the authorisation of a clearing member or to direct a clearing member to terminate the access to the independent clearing house or central counterparty by an officer or employee of such clearing member;
| | | (i) an exchange, central securities depository, independent clearing house or central counterparty to impose a penalty on an authorised user, issuer, participant or clearing member of an independent clearing house or central counterparty, as the case may be, or on an officer or employee of an authorised user, issuer, participant or clearing member of an independent clearing house or central counterparty;
| | | (j) the claims officer referred to in Chapter X, may appeal to the appeal board on the conditions determined by or under section 26 of the Financial Services Board Act and subject to this section approach the Tribunal for a reconsideration of the decision;” and
| | | (b) by the deletion of subsection (2).

75. The amendment of section 108 by the substitution for subsection (1) of the following subsection:

“(1) The [registrar] Authority may [prescribe] determine fees in respect of matters contemplated in this Act and, in relation to [such] those fees [as well as fees payable in terms of this Act], the person by whom the fee must be paid, the manner of payment thereof and, where necessary, the interest payable in respect of overdue fees.”.

76. The amendment of section 109 by the substitution for paragraph (c) of the following paragraph:

“(c) contravenes or fails to comply with the provisions of sections 4, 7(1), 24, 25(1), 27(1), 47(1), 49A(1), 54(1), 56A(1) or a prohibition by the [registrar] Authority referred in terms of section 6(7) commits
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<td>(g) indlu legunyata ngekutimela nome ligatja lelilamulako ngekuncabela sicoelo leseptiwa ngumuntfu lotuna kumukelwa njengelilunga lelegunyatako;</td>
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<td>(h) indlu legunyata ngekutimela nome ligatja lelilamulako ngekususa kugunyatwa kwelilunga lelegunyatako nome kucondzisa lilunga lelegunyatako kutsi liyewuncamula kufinyelela endimi legunyata ngekutimela nome ligatja lelilamulako ngempahatsi nome sisebenti salelo lunga lelegunyatako;</td>
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<td>(i) tingcogco, libhange lelisemkhatsini lemasheya, indlu legunyata ngekutimela nome ligatja lelilamulako ngekuhlawulisa umsebentisi logunyatiwe, umsebentisi, longenelelako nome lilunga lelegunyatako lendlu legunyata ngekutimela nome ligatja lelilamulako, nome kusohhovisi nome sisebenti sensebentisi logunyatiwe, loniketako, longenelelako nome lilunga lelegunyatako lendlu legunyata ngekutimela nome ligatja lelilamulako;</td>
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<td>(j) sohhovisi wetikhalo lekucondziswa kuye kuSehluko X, angaya enkhundleni ngekuhuye-ketwa kwesincumo.”; futsi</td>
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75. Kuchitijeyela kwasigaba 108 Ngekushintjwa esigatjaneni (1) ngalesigatjanana lesilandzelako: "(1) lGatja lingancuma timali ngekwetindzaba letibekwe kulomtsetfo phindze, ngekuyamana alalo timali umuntfu lekuftana abhadale leto timali indlela yekubhadala, futsi lapo kufanele khona, nentalo lehbalalwa lapho timali tidlulelwe sikhati.");."

76. Kuchitijeyela kwasigaba 109 ngekunjitjwa kundzima (c) ngalendzima leilandzelako: "(c) kuphulwa nome kuhuleka kulandzela lokushiwo sigaba 4, 7(1), 24, 25(1), 27(1), 49A(1), 54(1), 56A(1), nome kuvimbela lokweniwa [ngunobhala] ligatja lekucondziswa kuko ngekwesigaba 6(7), kulicala nome ufanele kuhlawulwa imali lengedluli R10 kgdzisnome kuboshwa iminyaka lengedluli iminyaka lesihlanu nome.
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| | | to both such fine and such imprisonment.”.

77. The amendment of section 110—
(a) by the deletion of subsection (5); and
(b) by the addition of the following subsection:

“(6) Despite any other provision of this Act, a clearing house performing the functions of a central counterparty must comply with any requirements imposed by regulations or standards, and must—

(a) until 31 December 2021, be licensed as either an associated clearing house or an independent clearing house, and be approved by the Authority, the South African Reserve Bank and the Prudential Authority, in the manner and form prescribed by the Authority, to perform the functions of a central counterparty;

(b) as of 1 January 2022, be licensed as both an independent clearing house and a central counterparty.”.

78. The substitution for the long title of the following long title:

“To provide for the regulation of financial markets; to license and regulate exchanges, central securities depositories, clearing houses, central counterparties and trade repositories; to regulate and control securities trading, clearing and settlement, and the custody and administration of securities; to prohibit insider trading, and other market abuses; to provide for the approval of nominees; to provide for [codes of conduct] conduct standards; to replace the Securities Services Act, 2004, as amended by the Financial Services Laws General Amendment Act, 2008, so as to align this Act with international standards; and to provide for matters connected therewith.”.

79. The substitution for the expression “registrar”, wherever it occurs, of the expression “Authority”, except in section 1(1) and 1A(1).
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<td>kokubili kulawula kanye nako kuvala wa.</td>
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<td>77. Kuchitjiyelwa kwesigaba 110</td>
<td>(a) ngkususwa kwesigatjana (5); futsi</td>
<td>“(6) Indlu legunyatako leyenta umsebeni kugatjana lelilamulako kufanele ihambisane nanome ngokuphi lokuzingekile lokusho wwo ngumitsetfotimiso nome lokufanele; phindze kufanele—</td>
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<td></td>
<td>(b) ngkususwa kwalesigatjana</td>
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<td>lesilandzelako:</td>
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<td>“(6) Indlu legunyatakaka leyenta umsebeni kugatjana lelilamulako kufanele ihambisane nanome ngokuphi lokuzingekile lokusho wwo ngumitsetfotimiso nome lokufanele; phindze kufanele—</td>
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<td>(a) Kusuka ngamhla tingema- 31</td>
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<td>Ingongo 2021, ibe isemelweni ngalokuyamene nendlu legunyatakaka nome nendlu legunyata ngekutimela, bese ikuyamene lidGatja, lidBhange laseNingizimu Afrika; lidGatja lebuhlakani ngendlela lenqunyise lidGatja kwenta imisebeni yeligatja lelilamulako;</td>
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<td></td>
<td>(b) Kusuka ngamhla tingema- 22</td>
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<td></td>
<td>Bhambidzwane igunya woku kokubili nendlu legunyata ngekutimela kanye neliGatja lelilamulako.</td>
<td></td>
</tr>
<tr>
<td>78. Kuntjintjwa kwesihloko lesidze kufakwe lesihloko lesidze lesilandzelako:</td>
<td>&quot;Kuniketela kunsetfotimiso wetimaketye tetimali; kugunyata kuphindze kulawulwe kuwebelana, libhange lelisemkhatsini lemasheya, indlu legunyatakaka, emagatja lalamulako kanye neluwebo lwetemasheya; kulawulwe kuwebelana ngemasheya, kugunyata nekuwedzelo neku wandjwa nekuwathifa kwemasheya; kuvimbela kuweba kwabangakhasi nalo kyu kuhlukumete ka kwemakhethe; kuniketa liguyla lalabakhetsiwe; kuniketa nge[nchubomgomo] inchubo lefanele; kususa i-Securities Services Act, 2004 njengoba ichitjiyelwa yi-Financial Services Laws General Amendment Act, 2008, kute iyamanise lomisheeto nemisheeto yavelomkhe; nekuniketa ngekutimela ngalokuyamene naloko.</td>
<td></td>
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<tr>
<td>79. Kushintjwa kwesihloko lesidze kufakwe lesihloko lesidze lesilandzelako:</td>
<td>&quot;Nobhala&quot; ngkususwa kanye neliGatja</td>
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<td></td>
<td>neko kuku kubhala la kuvetshwa khona, [1], Ngapandle kwasekigabene 1(1) kanye na 1A(1).</td>
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<tr>
<td>Act No. and year</td>
<td>Short Title</td>
<td>Extent of repeal or amendment</td>
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<td>80.</td>
<td>The amendment of the arrangement of sections—</td>
<td></td>
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<tr>
<td>(a)</td>
<td>by the insertion after item 1 of the following item:</td>
<td></td>
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<tr>
<td></td>
<td>“1A. Relationship between Act and Financial Sector Regulation Act”;</td>
<td></td>
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<tr>
<td>(b)</td>
<td>by the substitution for item 6 of the following item:</td>
<td></td>
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<td></td>
<td>“6. Authority”;</td>
<td></td>
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<tr>
<td>(c)</td>
<td>by the insertion after item 6 of the following items:</td>
<td></td>
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<td></td>
<td>“6A. Criteria for recognition of external market infrastructures. 6B. Withdrawal of recognition. 6C. Principles of co-operation”;</td>
<td></td>
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<tr>
<td>(d)</td>
<td>by the substitution for the heading in Chapter V preceding item 47 of the following heading:</td>
<td></td>
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<tr>
<td></td>
<td>“Licensing of clearing house and central counterparty”;</td>
<td></td>
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<tr>
<td>(e)</td>
<td>by the substitution for item 47 of the following item:</td>
<td></td>
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<tr>
<td></td>
<td>“47. Application for clearing house licence and central counterparty licence”;</td>
<td></td>
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<tr>
<td>(f)</td>
<td>by the substitution for item 48 of the following item:</td>
<td></td>
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<tr>
<td></td>
<td>“48. Requirements applicable to applicants for clearing house licence, central counterparty licence, licenced clearing house and licensed central counterparty”;</td>
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<tr>
<td>(g)</td>
<td>by the insertion after item 49 of the following item:</td>
<td></td>
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<tr>
<td></td>
<td>“49A. Licensing of external central counterparty”;</td>
<td></td>
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<tr>
<td>(h)</td>
<td>by the substitution for the heading in Chapter V preceding item 50:</td>
<td></td>
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<tr>
<td></td>
<td>“Functions of licensed clearing house and licensed central counterparty”;</td>
<td></td>
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</tbody>
</table>
### Nomoro ya Molao le ngwaga  
### Setlhogo se se khutshwane  
### Bogolo jwa phimolo kgotsa tlhabololo

<table>
<thead>
<tr>
<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
</tr>
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</table>
| 80.                       | Kuchitjiyelwa kwendlela yekuhlelwa kwetigaba—  
  (a) ngekufakwa kwaloluhlavu lolulandzelako ngemuva kweluhlavu 1:  
  “1A. Budlelwane emkhatsini weMtsetfo kanye neMtsetfomiso weMkhakha weteMnotfo”;  
  (b) ngekuntjintja luhlavu 6 ngaloluhlavu lolulandzelako:  
  “6. tiGatja”;  
  (c) ngekufakwa kwaletinhlavu letilandzelako ngemunwa kweluhlavu 6:  
  “6A. Luhlelo lekwatiwa kwesakhiwonchanti semakethe yangaphandle.  
  6B. Kusulwa kwekwatwini.  
  6C. Tinchubu tekuncedziza”;  
  (d) ngekuntjintja sihloko kuSehluko V lesandvulela luhlavu 47 ngalesehloko lesilandzelako:  
  “kufakwa emtsetfweni kwendlu legunyatako kanye neligatja letekukweba lelisemkhatsini”;  
  (e) ngekufakwa luhlavu 47 ngaloluhlavu lolulandzelako:  
  “47. Sicelo selayisensi yendlu legunyatako kanye nelayisensi yeligatja letekukweba lelisemkhatsini”;  
  (f) ngekuntjintja luhlavu 48 ngaloluhlavu lolulandzelako:  
  “48. Lokadzingekile lokusetjentiswako kulahafaka ticelo telayisensi yendlu legunyatako, ligatja letekukweba lelisemkhatsini, indlu legunyatiwe lesemsetfweni kanye neligatja letekukweba lelisemkhatsini lelisemsetfweni”;
  (g) ngekufakwa kwaloluhlavu lolulandzelako ngemuva kweluhlavu 49:  
  “49A. Kufakwa emtsetfweni kweligatja letekukweba lelisemkhatsini langaphandle”;
  (h) ngekuntjintja sihloko kuSehluko V lesandvulela luhlavu 50 :  
  “Imisebenti yendlu legunyatako lesemsetfweni kanye neligatja letekukweba lelisemkhatsini lelisemsetfweni”;  
|
### Act No. and year

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<tr>
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<tr>
<td></td>
<td>(i) by the substitution for item 50 of the following item:</td>
<td>“50. Functions of licensed clearing house and licensed central counterparty, and power of Authority to assume responsibility for functions”;</td>
</tr>
<tr>
<td></td>
<td>(j) by the insertion after item 56 of the following item:</td>
<td>“56A. Licensing of external trade repository”;</td>
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<tr>
<td></td>
<td>(k) by the substitution for item 63 of the following item:</td>
<td>“63. Demutualisation of exchange, central securities depository, independent clearing house or central counterparty”;</td>
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<td>(l) by the substitution for item 69 of the following item:</td>
<td>“69. Report to Authority”;</td>
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<td></td>
<td>(m) by the substitution for the heading of Chapter VIII of the following heading:</td>
<td>“CHAPTER VIII CONDUCT STANDARDS”;</td>
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<td>(n) by the substitution for item 74 of the following item:</td>
<td>“74. Conduct standards for regulated persons”;</td>
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<td>(o) by the substitution for item 75 of the following item:</td>
<td>“75. Principles for Conduct standards”;</td>
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<td>(p) by the substitution for item 84 of the following item:</td>
<td>“84. Additional powers of Authority”;</td>
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<td></td>
<td>(q) by the substitution for the heading in Chapter XII preceding section 94 of the following heading:</td>
<td>“Powers of Authority and court”;</td>
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<td>(r) by the substitution for item 94 of the following item:</td>
<td>“94. General powers of Authority”;</td>
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<td>(s) by the substitution for item 96 of the following item:</td>
<td>“96. Powers of Authority after supervisory on-site inspection or investigation”; and</td>
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<td>(t) by the deletion of the following heading in Chapter XII preceding item 99:</td>
<td>“Enforcement Committee”</td>
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<tr>
<td>Nomoro ya Molao le ngwaga</td>
<td>Setlhogo se se khotshwane</td>
<td>Bogolo jwa phimolo kgotsa tlhabololo</td>
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</table>
| (i) ngekuntjintja lulavu 50 ngaloluhlavu lolulandzelako: | (i) ngekuntjintja lulavu 50 ngaloluhlavu lolulandzelako: | “50. Imisebenti yendlu legunyatako lesemsetfweni kanye neligatja letekuhweba lelismekhatsini lelismsetfweni, kanye nemandla eliGatja kwentela kucalisa tidzingo temisebenti”;
| (j) ngekufakwa kwaloluhlavu lolulandzelako ngemuva kweluhlavu 56: | (j) ngekufakwa kwaloluhlavu lolulandzelako ngemuva kweluhlavu 56: | “56A. Kafaka emsetfweni kwelibhange letekuhweba lelismekhatsini”;
| (k) ngekuntjintja lulavu 63 ngaloluhlavu lolulandzelako: | (k) ngekuntjintja lulavu 63 ngaloluhlavu lolulandzelako: | “63. Kuguculwa kwebuniyo kuteluhwebo, libhange lemasheya lelismekhatsini, indlu legunyatako letimele nome ligatja letekuhweba lelismekhatsini”;
| (l) ngekuntjintja lulavu 69 ngaloluhlavu lolulandzelako: | (l) ngekuntjintja lulavu 69 ngaloluhlavu lolulandzelako: | “69. Bika kuliGatja”;
| (m) ngekuntjintjwa kwesihloko seSehluko VIII ngalesihloko lesilandzelako: | (m) ngekuntjintjwa kwesihloko seSehluko VIII ngalesihloko lesilandzelako: | “SEHLUKO VIII UMTSETFO WENCHUBO”;
| (n) ngekuntjintja lulavu 74 ngaloluhlavu lolulandzelako: | (n) ngekuntjintja lulavu 74 ngaloluhlavu lolulandzelako: | “74. Imitsetfo yenchubo yebantfu labalawulwako”;
| (o) ngekuntjintja lulavu 75 ngaloluhlavu lolulandzelako: | (o) ngekuntjintja lulavu 75 ngaloluhlavu lolulandzelako: | “75. Timiso temtsetfo weNchubo”;
| (p) ngakuntjintja lulavu 84 ngaloluhlavu lolulandzelako: | (p) ngakuntjintja lulavu 84 ngaloluhlavu lolulandzelako: | “84. Emandla lengetiwe eliGatja”;
| (q) ngekuntjintjwa kwesihloko kuSehluko XII lesandvulela sigaba 94 ngalesihloko lesilandzelako: | (q) ngekuntjintjwa kwesihloko kuSehluko XII lesandvulela sigaba 94 ngalesihloko lesilandzelako: | “Emandla eliGatja nenkantolo”;
| (r) ngekuntjintja lulavu 94 ngaloluhlavu lolulandzelako: | (r) ngekuntjintja lulavu 94 ngaloluhlavu lolulandzelako: | “94. Emandla jikelele eliGatja”;
| (s) ngekuntjintja lulavu 96 ngaloluhlavu lolulandzelako: | (s) ngekuntjintja lulavu 96 ngaloluhlavu lolulandzelako: | “96. Emandla eligatja ngemuva kwelucwangingo lolulawulwako kusayithi nome luphenyo”;
| (t) ngekususwa kwalesihloko lesilandzelako kuSehluko XII lesandvulela lulavu 99: | (t) ngekususwa kwalesihloko lesilandzelako kuSehluko XII lesandvulela lulavu 99: | “kuciniswa kwekomidi”.

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<table>
<thead>
<tr>
<th>Act No. and year</th>
<th>Short Title</th>
<th>Extent of repeal or amendment</th>
</tr>
</thead>
</table>
| Act No. 24 of 2012 | Credit Rating Services Act, 2012 | 1. The amendment of section 1—
(a) by the insertion in subsection (1) after the definition of “associate” of the following definition:

‘Authority’ means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act;”;
(b) by the insertion in subsection (1) after the definition of “Companies Act” of the following definition:

‘conduct standard’ has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;”;
(c) by the deletion in subsection (1) of the definition of “deputy registrar”;
(d) by the insertion in subsection (1) after the definition of “external credit rating agency” of the following definition:

‘Financial Sector Regulation Act’ means the Financial Sector Regulation Act, 2017;”;
(e) by the deletion in subsection (1) of the definitions of “Financial Services Board Act”, “FSB official web site” and “prescribe”;
(f) by the insertion in subsection (1) after the definition of “rating category” of the following definition:

‘Register’ means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;”;
(g) by the deletion in subsection (1) of the definition of “registrar”;
(h) by the insertion in subsection (1) after the definition of “this Act” of the following definition:

‘Tribunal’ means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;”; and |
<table>
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<th>Nomoro ya Molao le ngwaga</th>
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<th>Bogolo jwa phimolo kgotsa tlhabololo</th>
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| Mulayo wa nombor ya. 24 wa 2012 | Mulayo wa zwa Tshumelo dza u Kala Zwikolodo, 2012 | 1. U khwiniswa ha khethekanyo ya vhu 1 —  
(a) nga u dhzenisa kha khethekanyo 
thukhu ya vhu (1) nga murahu ha 
thalutshedzo ya iphi “mushumisani”  
hu tshi khou dhzeniswa thalutshedzo i 
tevhelaho:  
  “’Maandalanga’ zwi amba  
Maandalanga a Vhudiifiri kha  
Sekithara ya Masheleli o thomiwoho  
hu tshi khou tevhedzwa khethekanyo 
 ya vhu 36 ya Mulayo wa Financial 
Sector Regulation Act’”;  
(b) nga u dhzenisa kha khethekanyo 
thukhu ya vhu (1) nga murahu ha 
thalutshedzo ya iphi “Mulayo wa zwa 
Dzikhamphani” hu tshi khou 
dhzeniswa thalutshedzo i tevhelaho:  
  “’tshiandadi tsha vhudiifari’ iphi  
ili Ji na [thalutshedzo ine ya fana na 
yo vhofhekanywaho na iphi ili u ya 
ga khethekanyo ya vhu 1(1) ya 
Mulayo wa Financial Sector 
Regulation Act’”;
(c) nga u thutha kha khethekanyo 
thukhu ya vhu (1) hu tshi khou thuthwa 
thalutshedzo ya iphi “muthusare-
thshira’’;  
(d) nga u dhzenisa kha khethekanyo 
thukhu ya vhu (1) nga murahu ha 
thalutshedzo ya iphi “zhendedzi ja u 
kala zwikolodo ja m’dja’’ hu tshi khou 
dhzeniswa thalutshedzo i tevhelaho:  
  “’Mulayo wa Financial Sector 
Regulation Act’ zwi amba Mulayo 
wa Financial Sector Regulation Act, 
2012’’;
(e) nga u thutha kha khethekanyo 
thukhu ya vhu (1) hu tshi thuthwa 
thalutshedzo ya maiphi “Mulayo wa Bodo ya 
Tshumelo dza zwa Masheleli”,  
“webusaithi ya tshiofisi ya Bodo ya 
Tshumelo dza zwa Masheleli (FSB)”  
a ndi: “u randela’’;
(f) nga u dhzenisa kha khethekanyo 
thukhu ya vhu (1) nga murahu ha 
thalutshedzo ya iphi “khethekanyo ya u kala’’ hu tshi 
dhzeniswa thalutshedzo i tevhelaho:  
  “’Redzhisitara’ zwi amba  
Redzhisitara ya Matungo a 
Sekithara ya zwa Masheleli yo  
ambwaho kha khethekanyo ya vhu 
236 ya Mulayo wa Financial Sector 
Regulation Act’’;
(g) nga u thutha kha khethekanyo 
thukhu ya vhu (1) hu tshi thuthwa 
thalutshedzo ya iphi “redzhisitara’’;  
(h) nga u dhzenisa kha khethekanyo 
thukhu ya vhu (1) nga murahu ha 
thalutshedzo ya iphi “uyu Mulayo’’ hu |
(i) by the addition of the following subsection:

“(7) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act.”.

2. The insertion after section 1 of the following sections:

“Relationship between Act and Financial Sector Regulation Act

1A. (1) A reference in this Act to the registrar must be read as a reference to the Authority.

(2) Except as otherwise provided by this Act or the Financial Sector Regulation Act, the powers and duties of the Authority in terms of this Act are in addition to the powers and duties that it has in terms of the Financial Sector Regulation Act.

(3) A reference in this Act to the Authority determining or publishing a matter by notice in the Gazette must be read as including a reference to the Authority determining or publishing the matter by notice published in the Register.

(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed, a reference in this Act to a matter being—

(a) prescribed must be read as a reference to the matter being prescribed in a conduct standard; or

(b) determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.

(5) A reference in this Act to an on-site visit in terms of a provision of this Act must be read as a reference to a supervisory on-site inspection in terms of the Financial Sector Regulation Act.
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<td></td>
<td>tshi dzhineswa thalutshedzo i tevhelaho:</td>
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<td></td>
<td><strong>“Khothe”</strong> zwi amba Khothe ya Tshumelo dza zwa Masheleli ‘ u ya nga khethekanyo ya vhu 219 ya Mulayo wa Financial Sector Regulation Act;”; na</td>
</tr>
<tr>
<td>(i)</td>
<td>nga u engedza khethekanyo thukhu i tevhelaho;</td>
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<tr>
<td></td>
<td>“(7) Nga nda ha musi zwo sumbedzwa nga inwe ndila, maipfi na khamalele hu songo thalutshedzwa ho ka khethekanyo thukhu ya vhu (1) thalutshedzwa kana zwine a amba zwi fanana na zwo zwa vhofhekanywa nazwo u ya nga Mulayo wa Financial Sector Regulation Act.”</td>
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<td>2.</td>
<td>U dzheniswa nga murahu ha khethekanyo ya vhu 1 ya khethekanyo dni tevhelaho:</td>
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<td>“Vhushaka vhukati ha Mulayo na Mulayo wa Financial Sector Regulation Act”</td>
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<tr>
<td>1A.</td>
<td>(1) Kha uyu Mulayo musi hu tshi ambwiwa nga redzhisira hu vha hu khou ambwiwa Maandalanga.</td>
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<td>(2) Nga nda ha musi zwo vhetshelwa nga inwe ndila nga uno Mulayo kana Mulayo wa Financial Sector Regulation Act, maandla na mishumo zwa Maandalanga u ya nga uno Mulayo ndi u tou engedza maandla na mishumo zwa Maandalanga u ya nga Mulayo wa Financial Sector Regulation Act.</td>
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<td>(3)</td>
<td>Kha uno Mulayo Maandalanga a lavhelesaho kana u andadza fhungo nga ndivhadoopo ka Gazette zwi tea u vhalwa zwi tshi katela Maandalanga a lavhelesaho kana am; a andadza fhungo nga ndivhadoopo ka Redzhisira,</td>
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<td>(4)</td>
<td>Nga nda ha musi zwo vhetshelwa kha uno Mulayo, kana uno Mulayo u tshi toda fhungo li tshi randelwa, zwo ambiwaho ka uyu Mulayo kha fhungo line ja khou—</td>
</tr>
<tr>
<td></td>
<td>(a) randelwa li tea u vhalwa sa zwo ambiwaho kha fhungo line ja khou randelwa kha tshitandadi tsha vhudifari; kana</td>
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<td></td>
<td>(b) tiwa li tea u vhalwa na zwine zwa khou ambwiwa kha Maandalanga a lavhelesaho fhungo nga u tou nwala na u nywala na ndavheleso kha Redzhisira,</td>
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<td>(5)</td>
<td>Zwi ambiwaho kha uno Mulayo zwi tshi kwama u dalela hunc ha khou shunya hone hu tshi tevhedzwa mbetshele ya uno Mulayo zwi tea u</td>
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</table>
(6) A reference in this Act to an inspection in terms of a provision of this Act must be read as a reference to an investigation in terms of the Financial Sector Regulation Act.

(7) (a) A reference in this Act to the Authority announcing or publishing information or a document on a web site must be read as a reference to the Authority publishing the information or document in the Register.

(b) The Authority may also publish the information or document on its web site.

(8) A reference in this Act to a prescribed fee must be read as a reference to the relevant fee determined in terms of section 237 and Chapter 16 of the Financial Sector Regulation Act.

(9) A reference in this Act to a review of a decision of the Authority must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.

**Regulatory instruments**

1B. For the purposes of the definition of "regulatory instrument" in section 1(1) of the Financial Sector Regulation Act, any matter prescribed by the Authority in respect of which notice in the *Gazette* is specifically required by this Act is a regulatory instrument.”.

3. The amendment of section 5(1) by the substitution for paragraph (e) of the following paragraph:

“(e) the application fee prescribed [by the registrar]; and”.

4. The repeal of sections 21 and 22.

5. The deletion in section 23(1) of paragraphs (c), (e) and (h).
### Molao wa Taolo ya Lephata la Ditshelete , 2017

#### Nomoro ya Molao le ngwaga
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<td>vhalwa sa zwo ambiwaho nga vhulavhelesi ha fethu hune ha khou shumelwa hone u ya nga Mulayo wa Financial Sector Regulation Act. (6) Zwi ambiwaho kha uyu Mulayo malugana na nyingamelo hu tshi khou tevhedzwa mbetshele ya uyu Mulayo zwi tea u vhalwa sa zwi ambiwaho malugana na tsekdzulu u ya nga Mulayo wa Financial Sector Regulation Act. (7) (a) Kha uno Mulayo Maandˆalanga ane a dˆivhadza kana u andˆadza maufungo kana jînwa sa jînwa kha webusaitihi a tea u vhalwa sa Maandêlanga a andâdzaho maufungo kana jînwa kha Redzhisitara. (b) Maandêlanga a nga andâdzaho maufungo kana jînwa kha webusaitihi yao. (8) Kha uno Mulayo mbadelo yo randelwaho i tea u vhalwa sa zwo ambiwaho kha mbadelo yo teaho yo tiwaho u ya nga khethekanyo ya vhu 237 na Ndima ya 16 ya Mulayo wa Financial Sector Regulation Act. (9) Zwi ambiwaho kha uno Mulayo u tola tsheo ya Maandêlanga zwi tea u vhalwa sa u lavhelesi hafhu ha tsheo yo dzhiwaho nga Khothe u ya nga Mulayo wa Financial Sector Regulation Act.</td>
<td>Zwishumiswa zwa ndangulo 1B. Hu tshi itelwa ndivho dzâ thalutshedzo ya “tshishumiswa tsha ndangulo”kha khethekanyo ya vhu 1(1) ya Mulayo wa Financial Sector Regulation Act, tshiniwe na tshiniwe tsho randelwaho nga Maandêlanga malugana na ndîvhadza kwa Gazette zwi ﬁgwa nga uyu Mulayo une wa vha wone u lângulaho.”. 3. U khwiuiswa ha khethekanyo ya vhu 5(1) nga u imelwa kha khethekanyo ðhukhu kha phara ya (e) ya phara i tevhelaho: “(e) mbadelo yo randelwaho ya u ita khumbelo [nga redzhisøra]; na”. 4. U fheliswa ha khethekanyo dzâ vhu 21 na 22. 5. U thutha kha khethekanyo ya vhu 23(1) ya phara dzâ (c), (e) na (h).</td>
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| 6.                       | U kwhiniswa ha khethekanyo ya vhu 24—  
|                          | (a) nga u imelwa kha khethekanyo ðhukhu ya vhu (1) ya maipfi a rangelwaho nga phara ya (a) ya maipfi a tevhelaho: 
|                          | “Tshitandadi tsha vhudifari kha kana malugana na mazhendedzi a u kala zwikolodo tshi nga itwa kha mafhungo a tevhelaho:”; na  
|                          | (b) nga u imelwa kha khethekanyo ðhukhu ya vhu (2) kha maipfi a rangelaho phara ya (a) ya maipfi a tevhelaho: 
|                          | “[milayo] tshitandadi tsha vhudifari tsho ambiwaho kha khethekanyo ðhukhu ya vhu (1) tshi nga—”. |
| 7.                       | U thutha kha khethekanyo ya vhu 24 ya khethekanyo ðhukhu dza vhu (3) na (4). |
| 8.                       | U fheisiswa ha khethekanyo dza vhu 25, 26, 27, 28, 30, 31 na 33. |
| 9.                       | U thuthwa kha khethekanyo ya vhu 34 ya khethekanyo ðhukhu ya vhu (2). |
| 10.                      | U kwhiniswa ha nzudzanyo ya khethekanyo nga u dzhenisa tshiteńwa tshi tevhelaho nga murahu ha zwitenwa zwa: 
|                          | “1A. Vhushaka vhukati ha Mulayo na Mulayo wa Financial Sector Regulation Act”  
|                          | 1B. Zwishumiswa zwa ndangu³” |