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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS**

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**DEPARTMENT OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES****NOTICE 115 OF 2021****DEPARTMENT OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES****SOUTH AFRICAN POSTBANK SOC LTD AMENDMENT BILL, 2021**

The Minister of Communications and Digital Technologies would like to solicit written comments and inputs from members of the public on the Amendment of the South African Postbank Act of 2010, Act No 33 of 2010.

The Amendment Bill provides:

- a) For the amendment of the shareholding arrangements for the Postbank through the creation of a new holding company to facilitate its establishment and registration as a Bank Controlling Company (BCC) in terms of the Banks Act.
- b) For matters connected therewith and other sections of the Postbank Act impacted by the change in the Postbank ownership structure.

Interested persons are invited to provide written comments, within 30 calendar days of the date of publication, addressed to:

The Director-General: Department of Communications and Digital Technologies; for the attention of:

Mr Moses Ntshabele, Director: SOC Oversight Branch  
Block A3, First Floor, iParioli Office Park, 1166 Park Street, Hatfield, Pretoria  
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Comments received after the closing date may be disregarded.



**MS STELLA NDABENI-ABRAHAMS, MP**  
**MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES**

DATE: 09-03-2021

**REPUBLIC OF SOUTH AFRICA**

**SOUTH AFRICAN POSTBANK LIMITED AMENDMENT BILL**

—————  
*(As introduced in the National Assembly as section 75 Bill, explanatory summary of Bill  
published in Gazette No of 2020) (The English text of the Bill is the official text of the  
Bill)*  
—————

**(MINISTER OF COMMUNICATIONS)**

**[B - 2020]**

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**GENERAL EXPLANATORY NOTE:**

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

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**BILL**

**To amend the South African Postbank Limited Act, 2010, so as to provide for the incorporation of the Postbank Division of the South African Post Office; to provide for the transfer of the enterprise of that Division to the postbank company; to provide for the governance and functions of the postbank company; to provide for the establishment and shareholding arrangements for the South African Postbank SOC Limited through the creation of a bank controlling company in terms of the Banks Act, 1990; and to provide for matters connected therewith.”.**

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

**Amendment of section 1 of Act 9 of 2010, as amended by section 1 of Act 44 of 2013**

1. Section 1 of the South African Postbank Limited Act, 2010 (hereinafter referred to as "the principal Act"), is hereby amended—
  - (a) by the insertion after the definition of “Banks Act” of the following definition:

" 'bank controlling company' means the holding company and controlling company of the South African Postbank SOC Limited and has the meaning ascribed to it in section 1(1) of the Banks Act;"

(b) by the insertion after the definition of "Board" of the following definitions:

" 'chief executive officer' means the chief executive officer appointed in terms of section 18;

'chief financial officer' means the chief financial officer appointed in terms of section 18;

'Commissioner' means the Commissioner as defined in section 1 of the Companies Act;"

(c) by the substitution for the definition of "Companies Act" of the following definition:

" 'Companies Act' means the Companies Act, [1973 (Act No. 61 of 1973] 2008 (Act No. 71 of 2008);"

(d) by the substitution for the definition of "Company" of the following definition:

" 'Company' means South African Postbank SOC Limited contemplated in section 3;"; and

(e) by the insertion after the definition of "Minister" of the following definition:

" 'person' means a juristic or natural person;".

#### **Amendment of section 2 of Act 9 of 2010**

2. Section 2 of the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of the following words:

"The object of this Act is to provide for the incorporation of the Postbank Division of the Post Office as a **[legal person]** company and a holding company for the company, with the aim of—";

(b) by the substitution for paragraph (b) of the following paragraph:

"(b) rendering **[transactional]** financial and banking services and lending facilities through, amongst others, **[existing]** the infrastructure of the Post Office";

(c) by the deletion of the word "and" at the end of paragraph (e);

(d) by the substitution for the full stop at the end of paragraph (f) of "; and"; and

(e) by the addition after paragraph (f) of the following paragraph:

"(g) acting as the delivery arm of government to effectively deliver financial and payment services to citizens";

### **Amendment of section 3 of Act 9 of 2010, as amended by section 2 of Act 44 of 2013**

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

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

"(1) The Minister must take the necessary action for the formation and incorporation of a **[public]** state-owned company **[with a share capital and for a certificate to commence business to be issued to the Company]** and a bank controlling company in terms of the Companies Act.";

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

"(2) (a) **[Notwithstanding section 32 of the Companies Act, the Post Office]** The Minister shall, upon the incorporation of the Company and the bank controlling company, be the sole member and shareholder of the Company and the bank controlling company.

(b) The Minister shall consider and approve any other shareholding with the concurrence of the Minister of Finance and in accordance with the requirements of the Banks Act and the Companies Act.";

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

"(3) (a) The name of the Company is the "South African Postbank SOC Limited" and no other person, except the Company, may carry on any business or be registered with that name or with a name that is similar to **[“Postbank”]** "South African Postbank SOC Limited".

(b) The name of the bank controlling company is the South African Postbank Holding Company SOC Limited and no other entity, other than the Postbank, may carry on any business or be registered with that name or with a name that is similar to "South African Postbank Holding Company SOC Limited."

(d) by the substitution for subsection (4) of the following subsection:

"(4) The Minister must **[, on behalf of the Post Office,]** sign and file the **[memorandum and articles of association]**

Memorandum of Incorporation, Notice of Incorporation and all other documents necessary for the formation and incorporation of the Company and the bank controlling company.";

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

"(5) The **[Registrar of Companies]** Commissioner must—

(a) register the **[memorandum and articles of association]** Memorandum of Incorporation as signed and filed in terms of subsection (4);

(b) incorporate the Company as a **[public]** state-owned company under the name "South African Postbank SOC Limited"; and

(bA) incorporate the bank controlling company as a company under the name "South African Postbank Holding Company SOC Limited".

**[(c) with the concurrence of the Minister, issue to the Company a certificate to commence business.]**";

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

"(6) The sole business of the bank controlling company is to act as the holding company (as defined in section 1 of the Companies Act) of the Company. "; and

(g) by the addition after subsection (6) of the following subsection:

"(7) The Minister must apply to register the bank controlling company in accordance with section 43 of the Banks Act."

**Amendment of section 6 of Act 9 of 2010**

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

**"Determination of transfer date of enterprise**

6. As soon as possible after **[a certificate to commence business has been issued to the Company,]** incorporation of the Company and the bank controlling company as contemplated in section 3, the Minister must, by notice in the *Gazette*, determine the transfer date of the enterprise of the former Postbank to the Company."

**Amendment of section 9 of Act 9 of 2010, as amended by section 5 of Act 44 of 2013**

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

(1) (f) render **[any or all of]** its services through the **[physical assets, systems,] [employees and general]** infrastructure of the Post Office in accordance with the agreement entered into as contemplated in subsection

(g) the company may use any infrastructure to render its services where the Post Office is not available or does not cater for its operational needs.

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

"(a) The Company, the bank controlling company and the Post Office must, with the concurrence of the Minister **[and the Minister of Finance,]** conclude an agreement which governs cooperation between the Company, the bank controlling company and the Post Office."



**Amendment of section 10 of Act 9 of 2010**

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

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

"(2) The members of the Board are appointed or reappointed by the Minister, with the concurrence of the Minister of Finance **[and the Post Office]**."; and

(b) by the addition after subsection (2) of the following subsections:

"(3) The members of the Board of the Company are also the members of the Board of the bank controlling company.

(4) The Board of directors must exercise control over the Company.

(5) The members of the Board are appointed or reappointed by the Minister in the same manner contemplated in section 12(1) and in accordance with the requirements of the Banks Act.

(6) The Board of the bank controlling company shall be the same as the one serving on the Company."

**Amendment of section 12 of Act 9 of 2010**

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

(a) by the substitution in subsection (1) for paragraphs (a) and (c) of the following paragraphs respectively:

"(a) **[seven]** not less than five and not more than nine non-executive members appointed from among the persons nominated in terms of section 14(1)(a);

(b) by the deletion of subsection (1) (b)

(c) the **[managing director]** chief executive officer and the chief financial officer, who are executive members of the Board by virtue of office that they hold.";

(c) by the substitution for subsection (2) of the following subsection:

(c) by the deletion of the word "and" at the end of paragraph (a);

(d) by the substitution for the full stop at the end of subparagraph (ii) of the word ";and" and the addition of the following paragraph:

"(c) are determined to be fit and proper persons in terms of section 1(1A) of the Banks Act."

(c) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

"(a) The non-executive members of the Board must not be appointed for **[a period not exceeding five years]** more than two consecutive terms."; and

(d) by the deletion of subsection (1) (b).

**Amendment of section 14 of Act 9 of 2010, as amended by section 7 of Act 44 of 2013**

8. Section 14 of the principal Act is hereby amended—

(a) by the deletion of subsection (1) (b)

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

"(b) If a suitable person or the required number of suitable persons are not nominated as contemplated in subsections (1)(b) or (4), the Minister may, with the concurrence of the Minister of Finance **[and the Post Office]**, identify and appoint the required number of further members.";

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

"(a) The Minister must, within 30 days after consensus has been reached with the Minister of Finance **[and the Post Office]** regarding the appointment of members as contemplated in section 10 (2)—";

(d) by the deletion of subsection (6)(a)(i); and

(e) by the substitution in subsection (8) for paragraph (a) of the following paragraph:

"(a) Any vacancy occurring in the Board must be filled in the same way the departing members was appointed **[to the Board]**."

**Insertion of section 15A in Act 9 of 2010**

9. The following section is hereby inserted in the principal Act, after section 15:

**"Functions of bank controlling company"**

**15A.** (1) The bank controlling company will be the controlling company for the company.

(2) The bank controlling company shall itself not conduct any operating activities of its own, other than ownership of company.

The bank controlling company will hold 100% of the company, "the bank".

(3) The bank controlling company shall exercise additional oversight over the bank, ensuring that bank operating company exercises sound risk management and governance practices, in line with the South African Reserve Bank requirements as provided for in the Banks Act and its regulations."

**Amendment of section 17 of Act 9 of 2010**

10. Section 17 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

"(b) Seventy percent of serving members constitutes a quorum at any meeting

of the Board: Provided that a majority of non-executive members are present."

**Amendment of section 18 of Act 9 of 2010, as amended by section 9 of Act 44 of 2013**

11. Section 18 of the principal Act is hereby amended—

(a) by the substitution of the heading of the following heading:

**"Appointment of [managing director] chief executive officer and chief financial officer";**

(b) by the substitution in subsection (1) of the following subsection:

"(1) (a) The Board must, with the approval of the Minister, appoint a [managing director] chief executive officer who [must perform any work incidental to the functions of] shall have the overall responsibility for implementation of the Board strategy for the Company and [ensure that the] management of the day-to-day affairs of the Company and any other functions as delegated by the Board from time to time.

(b) The chief executive officer shall be appointed for a term not exceeding five years, which appointment may, with the approval of the Minister be renewed for one additional term not

exceeding five years.";

(c) by the substitution for subsection (2) of the following subsection:

"(2) The Board must invite applications for the posts of **[managing director]** chief executive officer and chief financial officer by publishing advertisements in the media.";

(d) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"A person appointed as **[managing director]** chief executive officer or the chief financial officer—"; and

(e) by the addition after subsection (3) of the following subsections:

"(4) The Board with the concurrence of the Minister, shall appoint the chief financial officer who shall assist the chief executive officer and the Board with discharging their respective responsibilities over the financial affairs of the company and any other functions as may be delegated from time to time.

"(5) The chief financial officer shall be appointed for a term not exceeding five years, which appointment may, with the approval of the Minister be renewed for a further term not exceeding five years."

**Amendment of section 19 of Act 9 of 2010**

12. Section 19 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

**"Conditions of appointment of [managing director] chief executive officer and chief financial officer"**;

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

"(a) The appointment of the **[managing director] chief executive officer and chief financial officer** is subject to the conclusion of a performance contract entered into between the Board and the **[managing director] chief executive officer and the Board and the chief financial officer, respectively.**";

(c) by the substitution for subsection (2) of the following subsection:

"(2) The **[managing director] chief executive officer** holds office on the terms and conditions determined by the Board, with the concurrence of the Minister.";

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

"(3) The **[managing director] chief executive officer and chief financial officer [is] are** entitled to a remuneration package determined by the Board, with the concurrence of the Minister and the Minister of Finance.";

(e) by the substitution for subsection (4) of the following subsection:

"(4) The **[managing director]** chief executive officer and chief financial officer [is] are accountable to the Board."; and

(f) by the addition after subsection (4) of the following subsections:

"(5) The Board may in writing appoint any senior employee of the Company to act as chief executive officer or chief financial officer when the holder of that office—

(a) is temporarily unable to perform the duties connected with that office;

(b) has been suspended from office; or

(c) has vacated or has been removed from that office and a new chief executive officer or chief financial officer or chief operating officer, as the case may be, has not yet been appointed.

(6) In the case of a vacancy contemplated in subsection (5), the Board must fill the vacancy within a reasonable period of time, which may not exceed 90 days.

(7) An acting chief executive officer or acting chief financial officer may exercise all the powers and must perform all the duties of the chief executive officer, chief financial officer or chief operating officer, for a period not exceeding 90 days."



**Amendment of section 20 of Act 9 of 2010**

13. Section 20 of the principal Act is hereby amended—

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

"(b) such persons as the **[managing director]** chief executive officer may, with the concurrence of the Board, appoint."; and

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

"(2) The Board must determine the structure or organogram of the Company and the conditions of service, remuneration and service benefits of the personnel of the Company after consultation with the **[managing director]** chief executive officer and with the concurrence of the Minister and the Minister of Finance".

**Insertion of section 20A in Act 9 of 2010**

14. The following section is hereby inserted in the principal Act after section 20:

**"Bank controlling company's organisational structure"**

**20A.** (1) The operations of the bank controlling company will consist primarily of a compliance, risk management and the governance functions.

(2) The Board shall remain ultimately responsible for ensuring that its approved strategy is implemented and that the

group's purpose is fulfilled.

- (3) The Board also accepts its responsibility to ensure that risks are adequately identified, measured, managed and monitored and that good governance is maintained.
- (4) The Board will be supported by the Company Secretary and shall provide governance support to the Board. The secretariat resource shall be shared with the Company.
- (5) The Board shall discharge its duties through policies and frameworks supported by Board committees established in terms of the Companies Act, the Banks Act and the Public Finance Management Act."

#### **Amendment of section 23 of Act 9 of 2010**

15. The following section is hereby substituted for section 23 of the principal Act:

##### **"Inspection of financial accounts and documents of Company**

23. The Minister or any officer in the public service authorised by the Minister in writing has full access to all the financial accounts and documents of the Company and of the bank controlling company, and the Board must at all times furnish to the Minister or to such officer, as the case may be, all such information as may reasonably be required."

**Amendment of section 24 of Act 9 of 2010**

16. The following section is hereby substituted for section 24 of the principal Act:

**"Application of Public Finance Management Act**

24. The Company and the bank controlling company [is] are subject to the Public Finance Management Act."

**Amendment of section 28 of Act 9 of 2010**

17. Section 28 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading:

**"[Certain] Exemption from certain provisions of Companies Act [may be declared inapplicable to Company]";**

- (b) by the substitution for subsection (1) of the following subsection:

"(1) (a) The Minister, with the concurrence of the Minister of Finance, may, in terms of section 9 of the Companies Act, request the Minister of Trade and Industry to **[declare any provision] grant a total, partial or conditional exemption from one or more provisions of the Companies Act [to be inapplicable]** applicable to the Company or the bank controlling company.";

(b) The request must be fully motivated by the Company or the bank controlling company, as the case may be.";

(c) by the substitution for subsection (2) of the following subsection:

"(2)(a) The **[Registrar of Companies]** Commissioner must publish particulars about the request and the motivation contemplated in subsection (1) by notice in the *Gazette*.

(b) In **[such]** the notice [,] contemplated in paragraph (a), the **[Registrar]** Commissioner must invite interested persons to submit representations to a person named in the notice within a period stipulated in that notice."; and

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

"(b) **[The]** Before granting an exemption in terms of section 9 of the Companies Act and in addition to the provisions of that section, the Minister of Trade and Industry **[may only issue the declaration]** must consider the representations contemplated in subsection (2) and be [if] satisfied on reasonable grounds that the **[inapplicability of that provision]** request for exemption for [to] the Company or the bank controlling company—

(i) will contribute to the Company's or the bank controlling company's efficiency;

(ii) will not reduce or limit the Company's or the bank controlling company's accountability as a public entity or reduce the transparency of its functioning and operations; **[and]**

- (iii) will not be prejudicial to the rights, interests or claims of the Company's creditors or employees or to the rights or interests of any other person[.];
- (iv) will not reduce or limit the Company's or bank controlling company's functioning or accountability as a bank, or the bank controlling company; and
- (v) will not affect the effective regulation and supervision of the Company and the bank controlling company in terms of the Banks Act."

#### **Amendment of long title of Act 9 of 2010**

18. The following long title is hereby substituted for the long title to the principal Act:

**"To provide for the incorporation of the Postbank Division of the South African Post Office; to provide for the transfer of the enterprise of that Division to the postbank company; to provide for the governance and functions of the postbank company; to provide for the establishment and shareholding arrangements for the South African Postbank SOC Limited through the creation of a bank controlling company in terms of the Banks Act, 1990; and to provide for matters connected therewith."**

**Amendment of Arrangement of Sections in Act 9 of 2010**

19. The Arrangement of Sections after the long title of the principal Act is hereby amended—

(a) by the insertion after “15. Resignation, removal from office and vacating of office” of the following:

“15A. Functions of bank controlling company”;

(b) by the substitution for “18. Appointment of managing director” of the following:

“18. Appointment of [managing director] chief executive officer and chief financial officer”;

(c) by the substitution for “19. Conditions of appointment of managing director” of the following:

“19. Conditions of appointment of [managing director] chief executive officer and chief financial officer”;

(d) by the insertion after “20. Personnel of Company” of the following:

“20A. Bank controlling company’s organisational structure”;

and

(e) by the substitution for “28. Certain provisions of Companies Act may be declared inapplicable to Company” of the following:

“28. [Certain] Exemption from certain provisions of Companies Act [may be declared inapplicable to Company]”.

**Substitution of short title of Act 9 of 2010**

20. The following short title is hereby substituted for the short title of the principal Act:

**21. Short title and commencement**

This Act is called the South African Postbank SOC Limited Amendment Act, 2010, and takes effect on a date determined by the President by notice in the *Gazette*.”

## EXPLANATORY MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN POSTBANK AMENDMENT BILL, 2021

### OBJECTS OF THE BILL (PREAMBLE)

#### Clause 1

The objects of the Bill is to amend the South African Postbank Limited Act, 2010, so as to substitute and insert certain definitions; to adjust the establishment and shareholding arrangements for the Postbank through the creation of a new holding company to facilitate its establishment and registration as a bank controlling company in terms of the Banks Act; and to provide for matters connected therewith.

### SUMMARY OF THE BILL

#### Clause 2

The definitions contained in the Bill are amended, repealed or inserted for better understanding and interpretation as follows:

“company”

**The definition of “Company’ is amended to** mean South African Postbank SOC Limited contemplated in section 3. It is amended to just add “SOC” as required by Companies Act

“Companies Act”

**The definition of “Companies Act” is inserted to mean Companies Act (Act No. 71 of 2008) as it has been used in the amendments.**

“Controlling Company”

**The definition of “Bank Controlling Company” is inserted to have the same meaning ascribed to it in section 1(1) of the Banks Act. The definition is inserted as it has been used in the Bill.**



“Minister:

The definition of “Minister” is amended to replace the words “responsible for Communication” with “responsible for Communications and Digital Technologies”

**“Department”**

**The definition of “department” is amended to mean the Department of Communications and Digital Technologies in line with the new department name.**

“Minister”

The definition of “Minister” is amended to mean the Minister [responsible for communications] of Communications and Digital Technologies. This is in line with the new Department name.

“Person”

The definition of person is inserted to mean juristic or natural person as the term has been used in the Bill. The definition is a common definition used for the term.

“SOC”

The definition of SOC is inserted to mean state owned company.

**Clause 3**

Clause 3 provide for the amendment of section 2 to remove legal person and replace it with “company and holding company” and by deleting “transactional” and “existing”. This is to ensure better use of the language and interpretation.

**Clause 4**

Clause 4 provide for the amendment of Section 3 to ensure the establishment of the bank controlling company by the Minister and for the Minister or any other person appointed by the Minister to be the Shareholder instead of the Post Office in line with the executive decision.

The section further allow the Minister to consider and approve any other shareholding with the concurrence with the Minister of Finance and in line with the requirements of the Banks Act.

It further provide for the name of the bank controlling Company as the South African Postbank Holding Company SOC Limited and that no other person, other than the Postbank, may carry on any business or be registered with that name.

It also provide for the Minister to apply to register the Bank Controlling Company in accordance with section 43 of the Banks Act.

#### **Clause 5**

Clause 5 provide for the amendment of Section 6 of the Postbank Act to remove **[a certificate to commence business has been issued to the Company]** and insert “incorporation as contemplated in section 3, the Minister must by notice in the gazette determine the transfer date of the enterprise of the former Postbank to the company”.

#### **Clause 6**

Clause 6 provide for the amendment of Section 9 of the Postbank Act to ensure that the use of Post Office infrastructure and employees is accordance with the agreement entered into between the Postbank and the Post Office as contemplated in subsection (2) (a).

#### **Clause 7**

Clause 7 provide for the amendment of section 10 to delete reference to “**[with the concurrence of the Post Office]**”. This is to allow only the Minister to appoint the Board **only with the concurrence of the Minister of Finance**. The section is also amended to provide for the members of the Board of the Company to also be the members of the Board of the Holding Company and for the members of the Bank Controlling Board to be appointed or reappointed by the Minister in the same manner prescribes in section 12(1) of the Postbank Act and in accordance with the requirements of the Banks Act.

#### **Clause 8**

Clause 8 provide for the amendment of section 12 to ensure that the Members of the Board are fit and proper persons in terms of the Banks Act and for the first Board Members to be appointed with the concurrence of the Minister of Finance.

## Clause 9

Clause 9 provide for the amendment of section 13 to delete reference to the Post Office as they will no longer be the controlling company of the Postbank

## Clause 10

Clause 11 provide for the insertion of section 15A to provide for the functions of Bank Controlling Company. It provides for the BCC to only operate as Postbank BCC and hold 100% of Postbank.

The provision further provide for the BCC to exercise additional oversight over the Postbank and ensuring that bank operating company exercises sound risk management and governance practices, in line with SARB requirements of the Banks Acts and its regulations).

## Clause 11

Clause 11 provide for the amendment of section 17 by the substitution for paragraph (b) subsection (1) of the following “(b) Seventy percent of serving] of the serving members constitutes a quorum at any meeting of the Board provided that a majority of non-executive members are present.”

## Clause 12

Clause 12 provide for the amendment of section 18 to provide for the substitution of **[managing director]** with Chief Executive Officer and by the addition of chief financial officer.

Section 18 if further amended to provide for the appointment of acting CEO and CFO by the board.

## Clause 13

Clause 13 provide for the amendment of section 19 to provide for the substitution of **[managing director]** with Chief Executive Officer and by the addition of chief financial officer on the heading. This is to ensure that the condition of employment for the chief financial officer is also catered for.

Section 19 is further amended to ensure the process in the appointment of the chief financial officer, the requirement to conclude performance agreement with the Board, and determination of the CFO remuneration by the Board with the concurrence of the Minister.

#### **Clause 14**

Clause 14 provide for the amendment of section 20 to provide for the substitution of **[managing director] with Chief Executive Officer to ensure consistency**

#### **Clause 15**

Clause 15 provide for the insertion of section 20A to provide for the organisational structure and operations of the BCC which shall consist primarily of a compliance, risk management and the governance functions.

The section also provide for the Board to remain responsible for ensuring that its approved strategy is implemented and that the group's purpose is fulfilled. The Board shall also accepts responsibility to ensure that risks are adequately identified, measured, managed and monitored and that good governance is maintained and that the board shall discharge its duty through policies and frameworks supported by board committees.

The section further provides for the Board Committees to be established in line with the Companies Act, the Banks Act and the PFMA:

#### **Clause 16**

Clause 16 provide for the amendment of section 23 to insert the holding company to also furnish to the Minister or to such officer, as the case may be all such information as may reasonably be required.

#### **Clause 17**

Clause 17 provide for the amendment of section 24 to ensure that the bank controlling Company is also subjected to Public Finance Management Act.

#### **Clause 18**

Clause 18 provide for the amendment of section 28 to allow the Minister to request the Minister of Trade and Industry exemption from certain provisions of the Companies Act applicable to the company or the Holding Company for the purposes of ensuring incorporation of the two companies and conditions under which exemptions to the Company, the Holding Company and the controlling Company can be granted.

#### **Clause 19**

Clause 19 provide for the amendment of the short title and commencement by deleting “limited” in the short title.