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GOVERNMENT NOTICE GOEWERMENSKENNISGEWING

SOUTH AFRICAN RESERVE BANK SUID-AFRIKAANSE RESERWEBANK

No. R. 1422

28 December 2000

DESIGNATION OF INSTITUTION OF WHICH THE ACTIVITIES DO NOT FALL WITHIN THE MEANING OF "THE BUSINESS OF A BANK" ("FINANCIAL SERVICE CO-OPERATIVE")

Under paragraph (dd)(i) of the definition of "the business of a bank", in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), I, Trevor Andrew Manuel, Minister of Finance, hereby designate, for the period commencing 1 January 2001 and expiring on 31 December 2003, and subject to the conditions set out in paragraph 3 of the Schedule, an institution specified in paragraph 2 of the Schedule as an institution of which the activities do not fall within the meaning of "the business of a bank".

T A MANUEL,
Minister of Finance

SCHEDULE

1. Definitions

In this Schedule, "the Banks Act" means the Banks Act, 1990 (Act No. 94 of 1990), and any word or expression to which a meaning has been assigned in the Banks Act or the Regulations relating to Banks shall bear the meaning so assigned thereto and, unless the context otherwise indicates-

"bank" includes a mutual bank;

"business arrangement" means a legally enforceable agreement, arrangement or understanding between a bank and a financial service co-operative, in terms of which -

- (a) the financial service co-operative, for purposes of conducting its business, maintains an account with the bank;
- (b) a bank/client relationship exists between the bank and the financial service co-operative; and
- (c) the bank provides support, training services and advice to the financial service co-operative;

"closed co-operative" means a co-operative that does not conclude transactions with persons who are not members thereof to a greater extent than is essential to the proper carrying out of the co-operative's objects;

"co-operative" means a trading co-operative incorporated in terms of the Co-operatives Act;

"Co-operatives Act" means the Co-operatives Act, 1981 (Act No. 91 of 1981);

"defined geographical area" means a geographical area as defined in the statute of a financial service co-operative;

"link bank" means a bank that has entered into a business arrangement with a financial service co-operative;

"member of a financial service co-operative" means a person to whom, in compliance with the requirements determined in the statute of a financial service co-operative, a share in that financial service co-operative has been issued or transferred;

"Regulations relating to Banks" means the Regulations relating to Banks published under Government Notice No. R.628 of 26 April 1996 and amended from time to time;

"financial service co-operative" means a closed co-operative, the members of which are not serviced by banks and who are members of a community within a defined geographical area, which -

- (a) with the objective of providing banking-related financial services to its members-
 - (i) accepts funds from such members against the issue of shares;
 - (ii) accepts deposits from members;
 - (iii) advances loans to members; and/or
 - (iv) provides for members to share in profits of the co-operative and to nominate management;
- (b) has entered into, and maintains, a business arrangement with a link bank; and
- (c) subject to the prior written consent of the Registrar of Banks, has been incorporated as a co-operative, as contemplated in this notice.

Institution

Any financial service co-operative.

Conditions

- 3.1 The activities of a financial service co-operative, in so far as they correspond to the activities contemplated in paragraphs (a), (b), (c) and (d) of the definition of "the

business of a bank", in section 1(1) of the Banks Act, shall be performed solely-

3.1.1 in respect of its members;

3.1.2 in pursuit of such financial service co-operative's objective of providing banking-related financial services to its members, which are not serviced by banks and are members of a community within a defined geographical area; and

3.1.3 within the geographical area defined in respect of such financial service co-operative.

3.2 A financial service co-operative shall not-

3.2.1 conduct any business unless there is a business arrangement in force between such co-operative and a link bank;

3.2.2 in the performance of its activities, use, or refer to itself by, any name, description or symbol indicating, or calculated to lead persons to infer, that it is a bank;

3.2.3 in respect of itself or any of its undertakings use a name or description that includes the word "bank", or any derivative thereof, unless such name or description is composed of words that include the word "bank" as part of a place-name or a personal name;

3.2.4 notwithstanding any provisions to the contrary-

3.2.4.1 perform any of the acts provided for in paragraphs (d), (f), (g), (k), (o) and (sA) of subsection (1) of section 49 of the Co-operatives Act;

3.2.4.2 advance any money as envisaged in section 52 of the Co-operatives Act;

3.2.4.3 overdraw a banking account as envisaged in section 53 of the Co-operatives Act;

3.2.4.4 issue shares not fully paid up;

3.2.4.5 without the prior written approval of the Registrar of Banks, register its statute with the Registrar of Co-operatives, or register an amendment or replacement of its statute with the Registrar of Co-operatives;

3.2.5 pursue any objective or perform any function not authorised by its statute; or

3.2.6 at any time, hold deposits from members amounting in the aggregate to more than R10 million.

3.3 A financial service co-operative shall strictly comply with-

3.3.1 the provisions relating to-

3.3.1.1 the management of co-operatives contained in Chapter VI of the Co-operatives Act; and

3.3.1.2 accounting records, accounting and auditing of co-operatives contained in Chapter VII of the Co-operatives Act;

3.3.2 any additional prescriptions of or conditions imposed by the Registrar of Co-operatives.

3.4 A financial service co-operative shall for purposes of self-regulation be a member of a regulatory body approved by the Registrar of Banks in writing.

4. Exemption

A financial service co-operative shall be exempt from the provisions of regulation 66 of the Regulations relating to Banks.

This notice substitutes Government Notice No. 367 as published in *Government Gazette* No. 18741 dated 10 March 1998.

No. R. 1422

28 Desember 2000

AANWYSING VAN 'N INSTELLING WAARVAN DIE BEDRYWIGHEDENIE BINNE DIE BETEKENIS VAN "DIE BEDRYF VAN 'N BANK" VAL NIE ("FINANSIËLE DIENS KOÖPERASIE")

Kragtens paragraaf (dd)(i) van die omskrywing van "die bedryf van 'n bank" in artikel 1 van die Bankwet, 1990 (Wet No. 94 van 1990), wys ek, Trevor Andrew Manuel, Minister van Finansies, hiermee vir die tydperk wat op 1 Januarie 2001 begin en op 31 Desember 2003 verstryk, en onderworpe aan die voorwaardes uiteengesit in paragraaf 3 van die Bylae, 'n instelling vermeld in paragraaf 2 van die Bylae aan as 'n instelling waarvan die bedrywighede nie binne die betekenis van "die bedryf van 'n bank" val nie.

T A MANUEL,
Minister van Finansies

BYLAE

1. Woordoms krywing

In hierdie Bylae beteken "die Bankwet" die Bankwet, 1990 (Wet No. 94 van 1990), en het 'n woord of uitdrukking waaraan in die Bankwet of die Regulasies aangaande Banke 'n betekenis geheg is daardie betekenis en, tensy uit die samehang anders blyk, beteken -

"bank" ook 'n onderlinge bank;

"besigheidsooreenkoms" 'n regtens afdwingbare ooreenkoms, reëling of verstandhouding tussen 'n bank en 'n finansiële diens koöperasie, ingevolge waarvan-

- (a) die finansiële diens koöperasie, vir doeleindes van die bedryf van sy besigheid, 'n rekening in stand hou by die bank;
- (b) 'n bank/kliënt verhouding bestaan tussen die bank en die finansiële diens koöperasie; en
- (c) die bank ondersteuning, opleidingsdienste en advies bied aan die finansiële diens koöperasie;

"finansiële diens koöperasie" 'n geslote koöperasie die lede waarvan nie deur banke bedien word nie en wat ook lede is van 'n gemeenskap binne 'n omskrewe geografiese gebied, en welke koöperasie-

- (a) met die doelwit om bankverwante finansiële dienste aan sy lede te verskaf-
 - (i) fondse aanvaar van sodanige lede teen die uitreiking van aandele;
 - (ii) depositos aanvaar van lede;
 - (iii) lenings voorskiet aan lede; en/of
 - (iv) voorsiening maak vir lede om te deel in wins van die koöperasie en om bestuur te benoem;
- (b) 'n besigheidsooreenkoms aangegaan het, en in stand hou, met 'n verbonde bank; en
- (c) onderworpe aan die vooraf verkreeë skriftelike toestemming van die Registrateur van Banke, ingelyf is as 'n koöperasie soos bedoel in hierdie kennisgewing.

"geslote koöperasie" 'n koöperasie wat nie in 'n groter mate as wat noodsaaklik is vir die behoorlike uitvoering van die koöperasie se doelstellings, met persone wat nie lede daarvan is transaksies aangaan nie;

"koöperasie" 'n handelskoöperasie ingelyf ingevolge die Koöperasiewet;

"Koöperasiewet" die Koöperasiewet, 1981 (Wet No. 91 van 1981);

"lid van 'n finansiële diens koöperasie" 'n persoon aan wie, ooreenkomstig die vereistes gestel in die statuut van 'n finansiële diens koöperasie, 'n aandeel in daardie finansiële diens koöperasie uitgereik of oorgedra is;

"omskrewe geografiese gebied" 'n geografiese gebied soos omskryf in die statuut van 'n finansiële diens koöperasie;

"Regulasies aangaande Banke" die Regulasies aangaande Banke soos gepubliseer in Goewermentskennisgewing No. R.628 van 26 April 1996, soos van tyd tot tyd gewysig;

"verbonde bank" 'n bank wat 'n besigheidsooreenkoms met 'n finansiële diens koöperasie aangegaan het;

2. Instelling

Enige finansiële diens koöperasie.

3. Voorwaardes

- 3.1 Die bedrywighede van 'n finansiële diens koöperasie moet, vir sover hulle ooreenstem met die bedrywighede bedoel in paragrawe (a), (b), (c) en (d) van die omskrywing van

"die besigheid van 'n bank", in artikel 1(1) van die Bankwet, alleenlik verrig word -

3.1.1 ten behoeve van sy lede;

3.1.2 ter nastrewing van die finansiële diens koöperasie se doelwit om bankverwante finansiële dienste te bied aan sy lede wat nie deur banke bedien word nie en wat ook lede is van 'n gemeenskap binne 'n omskrewe geografiese gebied; en

3.1.3 binne die geografiese gebied ten opsigte van daardie finansiële diens koöperasie omskryf.

3.2 'n Finansiële diens koöperasie mag nie-

3.2.1 enige besigheid bedryf nie tensy 'n besigheidsooreenkoms van krag is tussen sodanige koöperasie en 'n verbonde bank;

3.2.2 by die verrigting van sy werksaamhede, enige naam, beskrywing of teken wat aandui, of daarop gemik is om persone te laat aflei, dat hy 'n bank is, gebruik nie;

3.2.3 ten opsigte van homself of enige van sy ondernemings 'n naam of beskrywing gebruik wat die woord "bank", of enige daarvan afgeleide woord, insluit nie, tensy sodanige naam of beskrywing saamgestel is uit woorde wat die woord "bank" as deel van 'n pleknaam of 'n persoonsnaam insluit;

3.2.4 Nieteenstaande enige bepalings tot die teendeel-

3.2.4.1 enige van die handelingte waarvoor voorsiening gemaak word in paragrawe (d), (f), (g), (k), (o) en (sA) van subartikel (1) van artikel 49 van die Koöperasiewet verrig nie;

3.2.4.2 enige geld voorskiet soos beoog in artikel 52 van die Koöperasiewet nie;

3.2.4.3 'n bankrekening oortrek soos beoog in artikel 53 van die Koöperasiewet nie;

3.2.4.4 aandele uitreik wat nie ten volle opbetaald is nie;

3.2.4.5 sonder die vooraf verkreeë skriftelike goedkeuring van die Registrateur van Banke sy statuut registreer by die Registrateur van Koöperasies nie, of 'n wysiging of vervanging van sy statuut registreer by die Registrateur van Koöperasies nie;

3.2.5 'n doelwit nastreef of 'n funksie verrig wat nie deur sy statuut gemagtig is nie; of

3.2.6 te eniger tyd depositos hou van sy lede wat in totaal 'n bedrag van meer as R10 miljoen beloop nie.

3.3 'n Finansiële diens-koöperasie moet streng voldoen aan--

3.3.1 die bepalings met betrekking tot-

3.3.1.1 die bestuur van koöperasies soos vervat in Hoofstuk VI van die Koöperasiewet; en

3.3.1.2 rekenkundige aantekeninge, verantwoording en ouditering van koöperasies soos vervat in Hoofstuk VII van die Koöperasiewet;

3.3.2 enige addisionele voorskrifte van of voorwaardes opgelê deur die Registrateur van Koöperasies.

3.4 'n Finansiële diens koöperasie moet, vir doeleindes van selfregulering, 'n lid wees van 'n regulerende liggaam wat deur die Registrateur van Banke skriftelik goedgekeur is.

4. **Vrystelling**

'n Finansiële diens koöperasie is vrygestel van die bepalings van regulasie 66 van die Regulasies aangaande Banke.

Hierdie kennisgewing vervang Goewermentskennisgewing No. 367 soos gepubliseer in Staatskoerant No. 18741 gedateer 10 Maart 1998.

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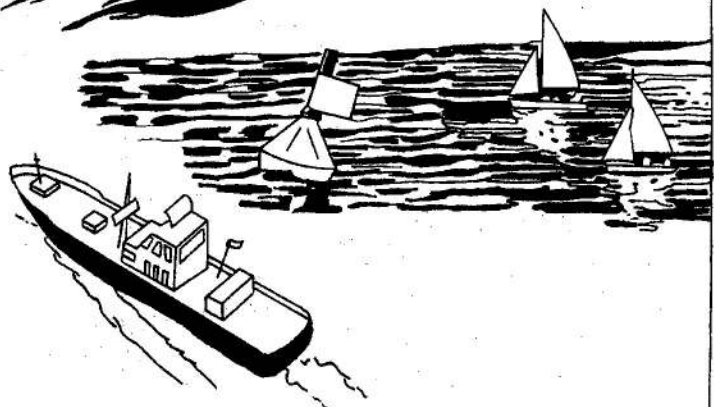
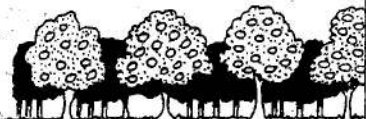
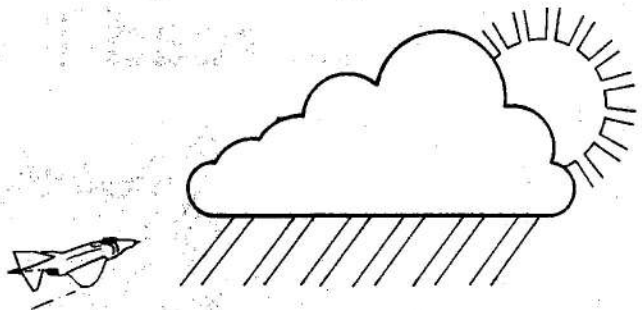
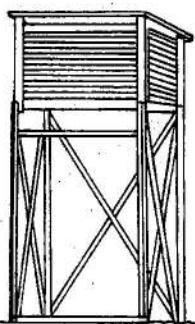
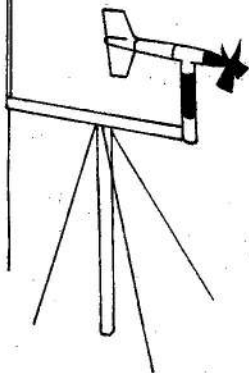
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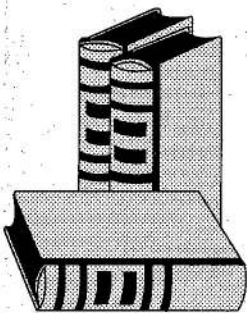
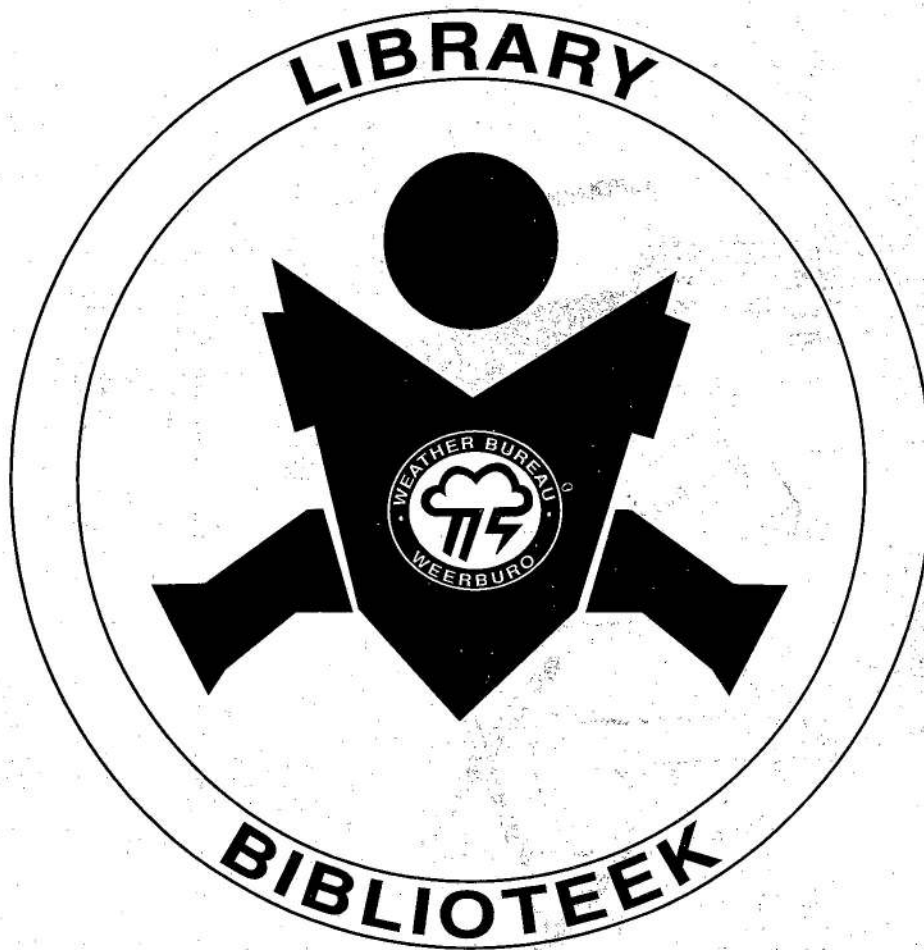
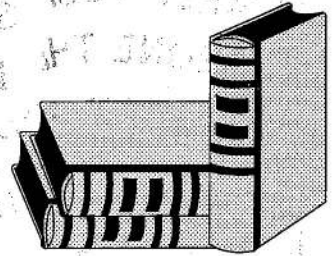
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