



REPUBLIC OF SOUTH AFRICA



GOVERNMENT GAZETTE

ACT

STAATSKOERANT VAN DIE REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

No. 369. 10 March 1993

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

No. 9 of 1993: Deposit-taking Institutions Amendment Act, 1993.

KANTOOR VAN DIE STAATSPRESIDENT

No. 369. 10 Maart 1993

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

No. 9 van 1993: Wysigingswet op Depositonemende Instellings, 1993.

GENERAL EXPLANATORY NOTE:

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

ACT

To amend the Deposit-taking Institutions Act, 1990, so as to substitute for the expression "deposit-taking institution" or any derivative thereof, wherever that expression or derivative appears in the said Act, the word "bank" or the appropriate derivative thereof; to further define the expression "the business of a bank"; to create criteria according to which it can be established whether or not a particular person is a fit and proper person to hold the office of a director or an executive officer of a bank or a controlling company; to allow a right of appeal to the board of appeal against a decision of the Registrar of Banks in connection with an application for authorization to establish a bank; to compel the Registrar of Banks to give notice in the *Gazette* of every consent granted by him to the establishment in the Republic of a representative office of a foreign institution; to provide for the submission of a written report to the Registrar of Banks regarding the advisability of the continuation of the curatorship of a bank that is under curatorship; to further define the expressions "primary share capital", "primary unimpaired reserve funds", "secondary share capital" and "secondary unimpaired reserve funds", respectively; to substitute the expression "debt instruments" for the word "debentures" in section 70; to make further provision in connection with the minimum share capital and unimpaired reserve funds to be maintained by a subsidiary by way of which a bank or controlling company conducts the business of a bank in a country other than the Republic; to repeal the provisions relating to the maintenance by banks of a minimum reserve balance with the South African Reserve Bank, in view of the insertion of corresponding provisions in the South African Reserve Bank Act, 1989; to render the acquisition by a bank or an associate thereof of more than 49 per cent of the issued shares of a registered insurer subject to approval by the Registrar of Banks; and to prescribe a penalty for a further offence; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 26 February 1993.)

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

Amendment of section 1 of Act 94 of 1990, as amended by Government Notice No. R.1765 of 30 July 1991 and section 1 of Act 42 of 1992

1. Section 1 of the Deposit-taking Institutions Act, 1990 (hereinafter referred to as the principal Act), is hereby amended— 5

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Depositonemende Instellings, 1990, ten einde die uitdrukking “depositonemende instelling” of enige daarvan afgeleide woord, oral waar daardie uitdrukking of afgeleide woord in genoemde Wet voorkom, deur die woord “bank” of die toepaslike daarvan afgeleide woord te vervang; die uitdrukking “die bedryf van ’n bank” nader te omskryf; maatstawwe te skep waarvolgens daar bepaal kan word of ’n bepaalde persoon ’n geskikte en gepaste persoon is, al dan nie, om die amp van ’n direkteur of ’n uitvoerende beamppte van ’n bank of ’n beherende maatskappy te beklee; ’n reg van appèl na die appèlraad toe te laat teen ’n besluit van die Registrateur van Banke in verband met ’n aansoek om magtiging tot oprigting van ’n bank; die Registrateur van Banke daartoe te verplig om in die *Staatskoerant* kennis te gee van elke toestemming deur hom verleen tot die opening in die Republiek van ’n verteenwoordigende kantoor van ’n buitelandse instelling; voorsiening te maak vir die voorlegging van ’n skriftelike verslag aan die Registrateur van Banke aangaande die raadsaamheid van die voortsetting van die kuratele van ’n bank wat onder kuratele is; die uitdrukkings “primêre aandelekapiitaal”, “primêre onaangetaste reserwefondse”, “sekondêre aandelekapiitaal” en “sekondêre onaangetaste reserwefondse”, onderskeidelik, nader te omskryf; in artikel 70 die woord “skuld-briewe” deur die woord “skuldaktes” te vervang; verdere voorsiening te maak in verband met die minimum aandelekapiitaal en onaangetaste reserwefondse wat in stand gehou moet word deur ’n filiaal deur middel waarvan ’n bank of beherende maatskappy die bedryf van ’n bank in ’n ander land as die Republiek uitoefen; die bepalinge betreffende die instandhouding deur banke van ’n minimum reserwesaldo by die Suid-Afrikaanse Reserwebank te herroep met die oog op die invoeging van ooreenstemmende bepalinge in die Wet op die Suid-Afrikaanse Reserwebank, 1989; die verkryging deur ’n bank of ’n geassosieerde daarvan van meer as 49 persent van die uitgereikte aandele van ’n geregistreerde versekeraar onderworpe te stel aan goedkeuring deur die Registrateur van Banke; en ’n straf vir ’n verdere misdryf voor te skryf; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 26 Februarie 1993.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 94 van 1990, soos gewysig deur Goewermentskennisgewing No. R.1765 van 30 Julie 1991 en artikel 1 van Wet 42 van 1992

- 5 1. Artikel 1 van die Wet op Depositonemende Instellings, 1990 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) by the insertion in subsection (1) after the definition of "agency" of the following definition:

"**'bank'** means a public company registered provisionally or finally as a bank in terms of this Act;"

- (b) by the deletion in subsection (1) of the definition of "deposit-taking institution";

- (c) by the substitution in subsection (1) for paragraph (a) of the definition of "liquid assets" of the following paragraph:

"(a) Reserve Bank notes, subsidiary coin (excluding such notes or coin to the extent to which it is taken into account in the calculation of the minimum reserve balance a bank is required to maintain in an account with the Reserve Bank in terms of section 10A of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989)), gold coin and bullion;"

- (d) by the substitution in subsection (1) for paragraph (b) of the definition of "liquid assets" of the following paragraph:

"(b) any credit balance **[in an account maintained with the Reserve Bank in terms of section 71 or]** in a clearing account with the Reserve Bank;"

- (e) by the deletion in subsection (1) of paragraphs (c), (e), (h) and (i) of the definition of "liquid assets";

- (f) by the substitution in subsection (1) for paragraph (a) of the definition of "the business of a deposit-taking institution" of the following paragraph:

"(a) the acceptance of deposits from the general public as a regular feature of the business in question, including, in relation to **[such an institution]** a bank, from persons in its employ;"

- (g) by the substitution in subsection (1) for paragraph (ff) of the definition of "the business of a deposit-taking institution" of the following paragraph:

"(ff) the effecting, subject to the provisions of any other Act of Parliament and to such conditions as the Registrar may from time to time determine by notice in the *Gazette*, of a money lending transaction directly between a lender and a **[deposit-taking institution] bank** as borrower through the intermediation of a third party who does not act as a principal to the transaction (hereinafter in this paragraph referred to as the **agent**), provided **[such money lending transaction is so effected on the same day on which the third party concerned receives from the lender]** the funds to be lent in terms of the money lending transaction are entrusted by the lender to the agent subject to a written contract of agency in which, in addition to any other terms thereof, at least the following matters shall be recorded:

(i) Confirmation by the lender that the agent acts as his agent; and

(ii) that the lender assumes, except in so far as he may in law have a right of recovery against the agent, all risks connected with the administration by the agent of the funds entrusted to him by the lender, as well as the responsibility to ensure that the agent executes his instructions as recorded in the written contract of agency:

Provided that, notwithstanding the preceding provisions of this paragraph, an agent that —

- (i) is a natural or juristic person registered or established in terms of, by or under any other Act of Parliament and the main business activities of whom or of which are regulated or controlled in terms of, by or under such other Act of Parliament; and

- (ii) has been designated by the Registrar by notice in the *Gazette*,

may, for the purposes of the effecting of the money lending transaction and subject to such conditions as the Registrar

- (a) deur in subartikel (1) na die omskrywing van "appèlraad" die volgende omskrywing in te voeg:
 " 'bank' 'n publieke maatskappy wat ingevolge hierdie Wet voor-
 lopig of finaal as 'n bank geregistreer is;"
- (b) deur in subartikel (1) die omskrywing van "deposidonemende instelling" te skrap;
- (c) deur in subartikel (1) paragraaf (a) van die omskrywing van "die bedryf van 'n deposidonemende instelling" deur die volgende paragraaf te vervang:
- (a) die neem van deposito's van die algemene publiek as 'n staande kenmerk van die betrokke bedryf en, met betrekking tot **[so 'n instelling] 'n bank**, met inbegrip van die persone wat by hom in diens is;"
- (d) deur in subartikel (1) paragraaf (ff) van die omskrywing van "die bedryf van 'n deposidonemende instelling" deur die volgende paragraaf te vervang:
- (ff) die bewerkstelling, onderworpe aan die bepalings van 'n ander Wet van die Parlement en aan die voorwaardes wat die Registrateur van tyd tot tyd by kennisgewing in die Staatskoerant bepaal, van 'n geldleningstransaksie regstreeks tussen 'n uitlener en 'n **[deposidonemende instelling] bank** as lener deur bemiddeling van 'n derde party wat nie as 'n prinsipaal by die transaksie optree nie (hieronder in hierdie paragraaf die agent genoem), mits **[sodanige geldleningstransaksie aldus bewerkstellig word op dieselfde dag waarop die betrokke derde party van die uitlener]** die fondse **[ontvang]** wat ingevolge die geldleningstransaksie uitgeleen staan te word deur die uitlener aan die agent toevertrou word onderworpe aan 'n skriftelike agentskapskontrak waarin, benewens die ander bepalings daarvan, minstens die volgende aangeleenthede geboekstaaf moet wees:
- (i) Bevestiging deur die uitlener dat die agent as sy agent optree; en
- (ii) dat die uitlener, behalwe vir sover hy regtens 'n verhaalsreg teenoor die agent mag hê, alle risiko's verbonde aan die administrasie deur die agent van die fondse deur die uitlener aan hom toevertrou, aanvaar, asook die verantwoordelikheid om toe te sien dat die agent sy opdragte soos geboekstaaf in die skriftelike agentskapskontrak uitvoer:
- Met dien verstande dat, ondanks die voorafgaande bepalings van hierdie paragraaf, 'n agent wat —
- (i) 'n natuurlike of 'n regspersoon is wat ingevolge, deur of kragtens enige ander Wet van die Parlement geregistreer of ingestel is en van wie of waarvan die hoof-sakebedrywighede gereguleer of beheer word ingevolge, deur of kragtens so 'n ander Wet van die Parlement; en
- (ii) deur die Registrateur by kennisgewing in die Staatskoerant aangewys is, vir die doeleindes van die bewerkstelling van die geldleningstransaksie en onderworpe aan die voorwaardes wat die Registrateur in die tersaaklike kennisgewing bepaal, die fondse wat deur die uitlener aan daardie agent toevertrou is, mag verpoel met fondse wat deur ander uitleners aan daardie agent toevertrou is;"
- (e) deur in subartikel (1) paragraaf (a) van die omskrywing van "likwiede bates" deur die volgende paragraaf te vervang:
- (a) Reserwebanknote, pasmunt (uitgesonderd sodanige note of munt in die mate waarin dit ingereken word by die berekening van die minimum reserwesaldo wat 'n bank ingevolge artikel 10A van die Wet op die Suid-Afrikaanse Reserwebank, 1989 (Wet No.

may determine in the relevant notice, pool the funds entrusted by the lender to such agent with funds entrusted to such agent by other lenders;";

(h) by the insertion of the following subsection after subsection (1):

"(1A) (a) In order to determine, for the purposes of this Act, whether a particular person is a fit and proper person to hold the office of a director or an executive officer of a bank or a controlling company, the Registrar shall have regard to the following qualities, in so far as they are reasonably determinable, of the person concerned:

- (i) His general probity;
- (ii) his competence and soundness of judgement for the fulfilment of the responsibilities of the office in question; and
- (iii) the diligence with which the person concerned is likely to fulfil those responsibilities.

(b) For the purposes of and without prejudice to the generality of the provisions of paragraph (a), the Registrar may have regard to the previous conduct and activities of the person concerned in business or financial matters and, in particular, to any evidence that such person—

- (i) was convicted of the offence of fraud or any other offence of which dishonesty, or the commission of violence, was an element;
- (ii) had contravened the provisions of any law appearing to the Registrar to be designed for protecting members of the public against financial loss due to the dishonesty or incompetence of, or malpractices by, persons engaged in—
(aa) the provision of banking, insurance, investment or other financial services; or
(bb) the management of juristic persons, or against financial loss due to activities relating to insolvency;
- (iii) was a director who had been indicated, as contemplated in section 421(2) of the Companies Act, as the effective cause of a particular company having been unable to pay its debts;
- (iv) had taken part in any business practices that, in the opinion of the Registrar, were deceitful, prejudicial or otherwise improper (whether unlawful or not) or which otherwise brought discredit on his methods of conducting business; or
- (v) had taken part in or been associated with any such other business practices as would, or had otherwise conducted himself in such a way as to, cast doubt on his competence and soundness of judgement.

(c) The Registrar shall be entitled to request any person to complete a questionnaire that is designed to enable the Registrar to form an opinion, as contemplated in this subsection, regarding the qualities of that person;"; and

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

"(a) The Minister may, on the recommendation of the Registrar and after consultation with the Governor of the Reserve Bank, by regulation amend the [definitions] definition of "deposit" ["deposit-taking institution" and] or "the business of a [deposit-taking institution] bank" for the purposes of the application of any of or all the provisions of this Act.".

90 van 1989), in 'n rekening by die Reserwebank in stand moet hou), goudmunt en staafgoud;";

(f) deur in subartikel (1) paragraaf (b) van die omskrywing van "likwiede bates" deur die volgende paragraaf te vervang:

5 “(b) 'n kredietsaldo **[in 'n rekening wat ingevolge artikel 71 by die Reserwebank gehou word of]** in 'n verrekeningsrekening by die Reserwebank;”;

2 (g) deur in subartikel (1) paragraaf (c), (e), (h) en (i) van die omskrywing van “likwiede bates” te skrap;

10 (h) deur die volgende subartikel na subartikel (1) in te voeg:

10 “(1A) (a) Ten einde, by die toepassing van hierdie Wet, te bepaal of 'n bepaalde persoon 'n geskikte en gepaste persoon is om die amp van 'n direkteur of 'n uitvoerende beampte van 'n bank of 'n beherende maatskappy te beklee, moet die Registrateur die volgende eienskappe, vir sover dit redelik bepaalbaar is, van die betrokke persoon in aanmerking neem:

15 (i) Sy algemene onkreukbaarheid;

15 (ii) sy bekwaamheid en gesonde oordeelsvermoë vir die nakoming van die verantwoordelikhede van die betrokke amp; en

20 (iii) die ywer waarmee die betrokke persoon waarskynlik daardie verantwoordelikhede sal nakom.

25 (b) Vir die doeleindes, en sonder om afbreuk te doen aan die algemene aard, van die bepalinge van paragraaf (a), kan die Registrateur kennis neem van die vroeëre gedrag en bedrywighede van die betrokke persoon by sy deelneming aan die sake- of finansiële verkeer en, in die besonder, van getuienis dat die persoon —

25 (i) skuldig bevind is aan die misdryf van bedrog of enige ander misdryf waarvan oneerlikheid, of geweldpleging, 'n element was;

30 (ii) die bepalinge oortree het van enige wet wat na die oordeel van die Registrateur daarop gerig is om lede van die publiek te beskerm teen finansiële verlies as gevolg van die oneerlikheid of onbevoegdheid van, of wanpraktyke deur, persone betrokke by—

35 (aa) die verskaffing van bank-, versekerings-, beleggings- of ander finansiële dienste; of

35 (bb) die bestuur van regspersone, of teen finansiële verlies as gevolg van handeling in verband met insolvensie;

40 (iii) 'n direkteur was wat, soos beoog in artikel 421(2) van die Maatskappywet, aangedui is as die deurslaggewende oorsaak dat 'n bepaalde maatskappy nie in staat was om sy skulde te betaal nie;

45 (iv) deelgeneem het aan sakepraktyke wat na die oordeel van die Registrateur bedrieglik, benadelend of andersins onbehoorlik (hetsy onwettig al dan nie) was, of wat andersins sy besigheidsmetodes in diskrediet gebring het; of

50 (v) deelgeneem het aan of betrokke was by enige ander sakepraktyke, of hom op 'n ander wyse gedra het, wat twyfel wek aangaande sy bekwaamheid en gesonde oordeelsvermoë.

55 (c) Die Registrateur kan enige persoon versoek om 'n vraelys te voltooi wat ontwerp is om die Registrateur in staat te stel om, soos beoog in hierdie subartikel, 'n oordeel te vorm aangaande die eienskappe van daardie persoon.”; en

55 (i) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

60 “(a) Die Minister kan, op aanbeveling van die Registrateur en na oorleg met die President van die Reserwebank, by regulasie die **[omskrywings] omskrywing** van “deposito” **[“depositonemende instelling” en] of “die bedryf van 'n [depositonemende instelling] bank”** wysig vir die doeleindes van die toepassing van enige van of al die bepalinge van hierdie Wet.”.

Substitution of section 3 of Act 94 of 1990

2. The following section is hereby substituted for section 3 of the principal Act:

“Office for Banks

3. For the registration as banks of **[institutions as deposit-taking institutions]** public companies desiring to conduct the business of a bank and for the other purposes of this Act there shall, as part of the Reserve Bank, be an office in Pretoria called the Office for **[Deposit-taking Institutions] Banks**, and at the head of such office shall be a person to be styled the Registrar of **[Deposit-taking Institutions] Banks**.”

Amendment of section 7 of Act 94 of 1990

3. Section 7 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) direct such **[institution] bank**, controlling company or subsidiary to furnish the Registrar with a report by a public accountant as defined in section 1 of the Public Accountants' and Auditors' Act, **[1951 (Act No. 51 of 1951)]** 1991 (Act No. 80 of 1991), or by any other person with appropriate professional skill, on any matter, or any aspect of any matter, about which the Registrar has directed or may direct under paragraph (a) the **[institution] bank**, controlling company or subsidiary to furnish information.”

Amendment of section 9 of Act 94 of 1990, as amended by section 2 of Act 42 of 1992

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

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

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

(b) by the substitution for paragraphs (b) and (c) of subsection (2) of the following paragraphs, respectively:

“(b) three shall be persons who in the opinion of the Minister have wide experience of, and are knowledgeable about the latest developments in, the **[deposit-taking institutions] banking industry**; and
(c) one shall be a person registered as an accountant and auditor under section **[23] 15** of the Public Accountants' and Auditors' Act, **[1951 (Act No. 51 of 1951)]** 1991 (Act No. 80 of 1991), and who in the opinion of the Minister has wide experience of, and is knowledgeable about the latest developments in, the accountants' and auditors' profession.”

Amendment of section 12 of Act 94 of 1990

5. Section 12 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (3) of the following paragraph:

“(b) a report by a public accountant as defined in section 1 of the Public Accountants' and Auditors' Act, **[1951 (Act No. 51 of 1951)]** 1991 (Act No. 80 of 1991), or by any other knowledgeable person approved by the Registrar, on such aspects relating to the application in question.”

Vervanging van artikel 3 van Wet 94 van 1990

2. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

“Kantoor vir Banke

- 5 3. Vir die registrasie as banke van **[instellings as depositonemende instellings]** publieke maatskappye wat die bedryf van 'n bank wil uitoefen en vir die ander doeleindes van hierdie Wet is daar, as deel van die Reserwebank, 'n kantoor in Pretoria wat die Kantoor vir **[Depositonemende Instellings] Banke** genoem word, en aan die hoof van daardie kantoor staan 'n persoon genoem die Registrateur van **[Depositonemende Instellings] Banke.**”.

Wysiging van artikel 7 van Wet 94 van 1990

3. Artikel 7 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

- 15 “(b) so 'n **[instelling] bank**, beherende maatskappy of filiaal gelas om die Registrateur te voorsien van 'n verslag deur 'n openbare rekenmeester soos omskryf in artikel 1 van die Wet op Openbare Rekenmeesters en Ouditeurs, **[1951 (Wet No. 51 van 1951)] 1991 (Wet No. 80 van 1991)**, of deur enige ander persoon met toepaslike professionele kundigheid, aangaande enige aangeleentheid, of enige aspek van enige aangeleentheid, waaromtrent die Registrateur kragtens paragraaf (a) die **[instelling] bank**, beherende maatskappy of filiaal gelas het of kan gelas om inligting te verstrek.”.

- 25 **Wysiging van artikel 9 van Wet 94 van 1990, soos gewysig deur artikel 2 van Wet 42 van 1992**

4. Artikel 9 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 30 “(1) **[Behoudens die bepalings van artikel 13(4), kan 'n persoon]** Iemand wat hom veronreg voel deur 'n besluit wat deur die Registrateur kragtens 'n bepaling van hierdie Wet geneem is, kan binne die voorgeskrewe tydperk en op die voorgeskrewe wyse en by betaling van die voorgeskrewe gelde teen daardie besluit appèl aanteken by die appèlraad ingestel by subartikel (2).”; en
- 35 (b) deur paragrafe (b) en (c) van subartikel (2) deur onderskeidelik die volgende paragrafe te vervang:
- 40 “(b) drie persone moet wees wat na die oordeel van die Minister wye ervaring het van, en oor kundigheid beskik aangaande die jongste ontwikkelinge in, die **[depositonemende instellingsbedryf] bankbedryf**; en
- 45 (c) een 'n persoon moet wees wat kragtens artikel **[23] 15** van die Wet op Openbare Rekenmeesters en Ouditeurs, **[1951 (Wet No. 51 van 1951)] 1991 (Wet No. 80 van 1991)**, as 'n rekenmeester en ouditeur geregistreer is en wat na die oordeel van die Minister wye ervaring het van, en oor kundigheid beskik aangaande die jongste ontwikkelinge in, die rekenmeesters- en ouditeursberoep.”.

Wysiging van artikel 12 van Wet 94 van 1990

5. Artikel 12 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (3) deur die volgende paragraaf te vervang:

- 55 “(b) 'n verslag deur 'n openbare rekenmeester soos omskryf in artikel 1 van die Wet op Openbare Rekenmeesters en Ouditeurs, **[1951 (Wet No. 51 van 1951)] 1991 (Wet No. 80 van 1991)**, of deur 'n ander kundige persoon wat deur die Registrateur goedgekeur is, aangaande die aspekte wat op die betrokke aansoek betrekking het.”.

Amendment of section 13 of Act 94 of 1990

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

(a) by the insertion after paragraph (f) of subsection (2) of the following paragraph:

“(fA) that every person who is to be a director or an executive officer of the proposed bank is, as far as can reasonably be ascertained, a fit and proper person to hold the office of such director or executive officer;” and

(b) by the deletion of subsection (4).

Amendment of section 22 of Act 94 of 1990

7. Section 22 of the principal Act is hereby amended—

(a) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:

“No person shall use in respect of any business a name or description which includes the word “bank”, or any derivative thereof, or the words “deposit-taking institution” or “building society”, or any derivative thereof, unless—”;

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

“(6) Notwithstanding the prohibition contained in subsection (5), a company—

(a) of which the formation has been approved by the Registrar in terms of section 15, may be formed under a name which includes the word “bank” or the words “deposit-taking institution” or “building society”, or a derivative thereof; or

(b) whose application for provisional registration as a **[deposit-taking institution] bank** has been granted by the Registrar under section 17 and which has not been formed in accordance with paragraph (a) of this subsection under a name which already includes the word “bank” or the words “deposit-taking institution” or “building society”, or a derivative thereof, may before its provisional registration take the necessary steps in accordance with the Companies Act to include such word, words or derivative in its name.”; and

(c) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words:

“The Registrar may in writing direct a company referred to in subsection (6) whose name includes the word “bank” or the words “deposit-taking institution” or “building society”, or any derivative thereof, to remove such word, words or derivative from its name—”.

Substitution of section 30 of Act 94 of 1990

8. The following section is hereby substituted for section 30 of the principal Act:

“Publication of information relating to banks and representative offices of foreign institutions

30. The Registrar shall publish a notice in the *Gazette*—

(a) of every—

[(a)] (i) provisional or final registration of an institution as a **[deposit-taking institution] bank**;

[(b)] (ii) cancellation or suspension of such a registration;

[(c)] (iii) expiration of such a provisional registration;

[(d)] (iv) restriction of the activities of a **[deposit-taking institution] bank**;

[(e)] (v) withdrawal of such suspension or restriction; or

Wysiging van artikel 13 van Wet 94 van 1990

6. Artikel 13 van die Hoofwet word hierby gewysig—

- (a) deur na paragraaf (f) van subartikel (2) die volgende paragraaf in te voeg:
- 5 “(fA) dat elke persoon wat ’n direkteur of ’n uitvoerende beampte van die beoogde bank gaan wees, sover redelik bepaalbaar ’n geskikte en gepaste persoon is om die amp van so ’n direkteur of uitvoerende beampte te beklee;” en
- (b) deur subartikel (4) te skrap.

10 Wysiging van artikel 22 van Wet 94 van 1990

7. Artikel 22 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (5) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- 15 “Niemand mag ten opsigte van enige sakeonderneming ’n naam of beskrywing gebruik wat die woord “bank”, of enige daarvan afgeleide woord, of die **[woord]** woorde “depositonemende instelling” of “bouvereniging”, of enige daarvan afgeleide woord, insluit nie tensy—”;
- (b) deur subartikel (6) deur die volgende subartikel te vervang:
- 20 “(6) Ondanks die verbod vervat in subartikel (5) kan ’n maatskappy—
- (a) waarvan die oprigting deur die Registrateur ingevolge artikel 15 goedgekeur is, opgerig word onder ’n naam wat die woord “bank” of die **[woord]** woorde “depositonemende instelling” of “bouvereniging” of ’n daarvan afgeleide woord insluit; of
- 25 (b) wie se aansoek om voorlopige registrasie as ’n **[depositonemende instelling] bank** kragtens artikel 17 deur die Registrateur toegestaan is en wat nie ooreenkomstig paragraaf (a) van hierdie subartikel opgerig is onder ’n naam wat reeds die woord “bank” of die **[woord]** woorde “depositonemende instelling” of “bouvereniging” of ’n daarvan afgeleide woord insluit nie, voor sy voorlopige registrasie die nodige stappe ooreenkomstig die Maatskappywet doen om genoemde woord, woorde of afgeleide woord by sy naam in te sluit.”; en
- 30 (c) deur in subartikel (7) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- 35 “Die Registrateur kan ’n maatskappy bedoel in subartikel (6) wie se naam die woord “bank” of die **[woord]** woorde “depositonemende instelling” of “bouvereniging” of ’n daarvan afgeleide woord insluit, skriftelik gelas om daardie woord, woorde of afgeleide woord uit sy naam te verwyder—”.
- 40

Vervanging van artikel 30 van Wet 94 van 1990

8. Artikel 30 van die Hoofwet word hierby deur die volgende artikel vervang:

45 **“Publikasie van inligting aangaande banke en verteenwoordigende kantore van buitelandse instellings**

30. Die Registrateur moet ’n kennisgewing in die Staatskoerant publiseer—

- (a) van elke—
- 50 **[(a)] (i)** voorlopige of finale registrasie van ’n instelling as ’n **[depositonemende instelling] bank**;
- [(b)] (ii)** intrekking of opskorting van sodanige registrasie;
- [(c)] (iii)** verstryking van sodanige voorlopige registrasie;
- [(d)] (iv)** beperking van die bedrywighede van ’n **[depositonemende instelling] bank**;
- 55 **[(e)] (v)** opheffing van sodanige opskorting of beperking; of

[(f)] (vi) change of the name of a **[deposit-taking institution]** bank;

which is effected or which takes place in terms of this Act; and

(b) of every consent to the establishment in the Republic of a representative office of a foreign institution which has been granted by him in terms of section 34.”. 5

Substitution of section 33 of Act 94 of 1990

9. The following section is hereby substituted for section 33 of the principal Act:

“Reregistration in terms of this Act

33. (1) Every institution which on the date immediately preceding the date of commencement of the Deposit-taking Institutions Amendment Act, 1993 (hereinafter in this section referred to as the Amendment Act), is a deposit-taking institution that has been provisionally or finally registered as such under the provisions of this Act as those provisions existed prior to the amendment thereof by the Amendment Act shall, in accordance with and subject to the provisions of subsections (2) and (3)—

(a) in the case of an institution that has so been provisionally registered as a deposit-taking institution, be provisionally registered as a bank; and

(b) in the case of an institution that has so been finally registered as a deposit-taking institution, be finally registered as a bank, by the Registrar in terms of the provisions of this Act as so amended, as soon as is practicable after the said date of commencement.

(2) The Registrar shall when complying with the provisions of subsection (1) issue to the institution in question a certificate of provisional or final registration as a bank, as the case may be.

(3) The reregistration of an institution in terms of this section shall in the case of a provisional registration be for the unexpired portion of the period of the institution's former provisional registration as a deposit-taking institution.

(4) Upon the reregistration of an institution in terms of this section its previous registration as a deposit-taking institution shall be deemed to have lapsed and any certificate of registration issued in respect thereof shall be deemed to have been cancelled.

(5) No fees shall be payable in respect of a reregistration in terms of this section.”.

Amendment of section 44 of Act 94 of 1990

10. Section 44 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

“(7) A public company which on the date immediately preceding the date of commencement of the Deposit-taking Institutions Amendment Act, 1993 (hereinafter in this subsection referred to as the Amendment Act), is, in terms of the provisions of this Act as those provisions existed prior to the amendment thereof by the Amendment Act, registered as a controlling company in respect of a deposit-taking institution, shall, with effect from the date of the reregistration of the deposit-taking institution concerned as a bank in terms of section 33, be deemed to be a controlling company registered as such in terms of this section in respect of the bank as so reregistered.”.

Amendment of section 51 of Act 94 of 1990

11. Section 51 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“The Minister may with the concurrence of the Minister of Trade and

- 5 **[(f)] (vi)** verandering van die naam van 'n **[depositonemende instelling]** bank, wat ingevolge hierdie Wet gedoen word of plaasvind; en
 15 **(b)** van elke toestemming tot die opening in die Republiek van 'n verteenwoordigende kantoor van 'n buitelandse instelling wat ingevolge artikel 34 deur hom verleen is.”.

Vervanging van artikel 33 van Wet 94 van 1990

9. Artikel 33 van die Hoofwet word hierby deur die volgende artikel vervang:

“Herregistrasie ingevolge hierdie Wet

- 10 **33. (1)** Elke instelling wat op die datum onmiddellik voor die datum van inwerkingtreding van die Wysigingswet op Depositonemende Instellings, 1993 (hieronder in hierdie artikel die Wysigingswet genoem), 'n depositonemende instelling is wat voorlopig of
 15 finaal as sodanig geregistreer is kragtens die bepalings van hierdie Wet soos daardie bepalings gegeld het voor die wysiging daarvan deur die Wysigingswet moet so gou doenlik na genoemde datum van inwerkingtreding en met inagneming van en behoudens die bepalings van subartikels (2) en (3)—
 20 **(a)** in die geval van 'n instelling wat aldus voorlopig geregistreer is as 'n depositonemende instelling, voorlopig geregistreer word as 'n bank; en
(b) in die geval van 'n instelling wat aldus finaal geregistreer is as 'n depositonemende instelling, finaal geregistreer word as 'n bank, deur die Registrateur ingevolge die bepalings van hierdie Wet soos
 25 aldus gewysig.
(2) Die Registrateur moet wanneer hy die bepalings van subartikel (1) nakom, aan die betrokke instelling 'n sertifikaat van voorlopige of finale registrasie, na gelang van die geval, as 'n bank uitreik.
(3) Die herregistrasie van 'n instelling ingevolge hierdie artikel geskied in die geval van 'n voorlopige registrasie vir die onverstreke gedeelte van die tydperk van die instelling se voormalige voorlopige registrasie as 'n depositonemende instelling.
 30 **(4)** By die herregistrasie van 'n instelling ingevolge hierdie artikel word sy vorige registrasie as 'n depositonemende instelling geag te verval het en word enige registrasiesertifikaat ten opsigte daarvan uitgereik, geag gerojear te wees.
 35 **(5)** Geen gelde is ten opsigte van 'n herregistrasie ingevolge hierdie artikel betaalbaar nie.”.

Wysiging van artikel 44 van Wet 94 van 1990

- 40 **10.** Artikel 44 van die Hoofwet word hierby gewysig deur subartikel (7) deur die volgende subartikel te vervang:

- 45 “**(7)** 'n Publieke maatskappy wat op die datum onmiddellik voor die datum van inwerkingtreding van die Wysigingswet op Depositonemende Instellings, 1993 (hieronder in hierdie subartikel die Wysigingswet genoem), ingevolge die bepalings van hierdie Wet soos daardie bepalings gegeld het voor die wysiging daarvan deur die Wysigingswet, geregistreer is as 'n beherende maatskappy ten opsigte van 'n depositonemende instelling, word, met ingang van die datum van die herregistrasie ingevolge artikel 33 van die betrokke depositonemende instelling as 'n bank, geag 'n beherende
 50 maatskappy te wees wat ingevolge hierdie artikel as sodanig geregistreer is ten opsigte van die bank soos aldus herregistreer.”.

Wysiging van artikel 51 van Wet 94 van 1990

- 55 **11.** Artikel 51 van die Hoofwet word hierby gewysig deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die Minister kan met die instemming van die Minister van Handel en

Industry **[and Tourism]** by notice in the *Gazette* declare that a provision of the Companies Act specified in such notice—”.

Amendment of section 54 of Act 94 of 1990, as substituted by section 6 of Act 42 of 1992

12. Section 54 of the principal Act is hereby amended—

(a) by the substitution in subsection (8) for the words following upon paragraph (b) of the following words:

“any **[deposit-taking institution] bank** which has amalgamated with any other **[such institution] bank** or any **[deposit-taking institution] bank** which has transferred all its assets and liabilities to any other **[such institution] bank**, shall, if he is satisfied—

(i) that the Minister has in terms of subsection (1) consented to the amalgamation or transfer; and

(ii) that such amalgamation or transfer has been duly effected, and upon the production to him of any relevant deed, bond, certificate, letter of appointment, licence or other document, make such endorsements thereon and effect such alterations in his registers as may be necessary to record the transfer thereof and of any rights thereunder to the amalgamated **[institution] bank** or, as the case may be, the **[institution] bank** which has so taken over the said assets and liabilities.”;

(b) by the substitution for subsection (9) of the following subsection:

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

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

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

Amendment of section 59 of Act 94 of 1990

13. Section 59 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) If the total nominal value of the shares in a **[deposit-taking institution] bank** or controlling company registered in the name of a shareholder is less than the lower of R100 000 or one per cent of the total nominal value of all the issued shares of the **[institution] bank** or controlling company concerned, such **[institution] bank** or controlling company may, for the purposes of this section, summarily accept, unless it has knowledge to the contrary, that the shareholder concerned—

(a) is a domestic shareholder, if the address entered in respect of such shareholder in the register of members referred to in section 105 of the Companies Act is an address in the Republic; and

(b) is not an associate of any other shareholder of the **[institution] bank** or controlling company.”.

Nywerheid [en Toerisme] by kennisgewing in die *Staatskoerant* verklaar dat 'n bepaling van die Maatskappywet in die kennisgewing vermeld—”.

Wysiging van artikel 54 van Wet 94 van 1990, soos vervang deur artikel 6 van Wet 42 van 1992

12. Artikel 54 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (8) die woorde wat op paragraaf (b) volg deur die volgende woorde te vervang:

“ 'n [depositonemende instelling] bank wat met 'n ander [sodanige instelling] bank geamalgameer het of 'n [depositonemende instelling] bank wat al sy bates en laste aan 'n ander [sodanige instelling] bank oorgedra het, moet, indien hy daarvan oortuig is—

(i) dat die Minister ingevolge subartikel (1) tot die amalgameasie of oordrag toegestem het; en

(ii) dat bedoelde amalgameasie of oordrag behoorlik geskied het,

en by voorlegging aan hom van 'n tersaaklike akte, verbandakte, sertifikaat, aanstellingsbrief, lisensie of ander stuk, die endossemente daarop aanbring en die veranderings in sy registers aanbring wat nodig is om die oordrag daarvan en van enige regte daarkragtens aan die geamalgameerde [instelling] bank of, na gelang van die geval, die [instelling] bank wat bedoelde bates en laste aldus oorgeneem het, te boekstaaf.”;

(b) deur subartikel (9) deur die volgende subartikel te vervang:

“(9) Die bepalings van hierdie artikel raak nie die regte nie van 'n skuldeiser van 'n [depositonemende instelling] bank wat met 'n ander [sodanige instelling] bank geamalgameer het, of al sy bates en laste aan 'n ander [sodanige instelling] bank oorgedra het, of al die bates en laste van 'n ander [sodanige instelling] bank oorgeneem het, behalwe vir sover in hierdie artikel bepaal.”; en

(c) deur subartikel (10) deur die volgende subartikel te vervang:

“(10) Die voorwaardes en enige belastingvoordeel wat onmiddellik voor die datum van 'n oordrag van bates en laste bedoel in hierdie artikel, van toepassing was ten opsigte van 'n belegging, bedoel in artikel 10(1)(i)(xii), (xiiA) of (xiii), 10(1)(v), (vA) of (w) of 19(5A) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), by die oordraggewende [depositonemende instelling] bank bly, ondanks so 'n oordrag van bates en laste maar behoudens die bepalings van genoemde Wet, op die belegging van toepassing tot by verstryking van 'n tydperk van tien jaar vanaf die datum waarop dit aanvanklik gedoen is, of totdat dit afgelos word, watter ook al eerste voorval.”.

Wysiging van artikel 59 van Wet 94 van 1990

13. Artikel 59 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Indien die totale nominale waarde van die aandele in 'n [depositonemende instelling] bank of 'n beherende maatskappy wat op die naam van 'n aandeelhouer geregistreer is, minder is as die kleinste van R100 000 of een persent van die totale nominale waarde van al die uitgereikte aandele van die betrokke [instelling] bank of beherende maatskappy, kan so 'n [instelling] bank of beherende maatskappy by die toepassing van hierdie artikel sonder meer aanvaar, tensy hy van die teendeel bewus is, dat die betrokke aandeelhouer—

(a) 'n binnelandse aandeelhouer is, indien die adres wat ten opsigte van so 'n aandeelhouer in die lederegister bedoel in artikel 105 van die Maatskappywet aangeteken is, 'n adres in die Republiek is; en

(b) nie 'n geassosieerde van enige ander aandeelhouer van die [instelling] bank of beherende maatskappy is nie.”.

Amendment of section 61 of Act 94 of 1990

14. Section 61 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) A **[deposit-taking institution]** bank shall within 30 days of the appointment in accordance with the provisions of Chapter X of the Companies Act of a person as auditor **[of that institution]** thereof, apply to the Registrar on the prescribed form for his approval of such appointment.”.

Amendment of section 63 of Act 94 of 1990, as amended by section 7 of Act 42 of 1992

15. Section 63 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“Notwithstanding anything to the contrary contained in the Public Accountants’ and Auditors’ Act, **[1951 (Act No. 51 of 1951)]** 1991 (Act No. 80 of 1991), or the Companies Act, but subject to the provisions of subsections (2) and (3) of this section, the auditor referred to in section 61 or 62—”.

Amendment of section 68 of Act 94 of 1990

16. Section 68 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) the Registrar shall have the right to apply to a competent court for the winding-up of any **[deposit-taking institution]** bank or for an order placing any **[such institution]** bank under judicial management in terms of the said Act, and the Registrar shall have the right to oppose any such application made by any other person; and”.

Amendment of section 69 of Act 94 of 1990, as amended by section 8 of Act 42 of 1992

17. Section 69 of the principal Act is hereby amended by the insertion after subsection (6) of the following subsection:

“(6A) While a bank is under curatorship the curator shall, on the expiration of a period of one year as from the date of his appointment as such, and thereafter biannually upon the expiration of every period of six months, furnish the Registrar with a written report in which it is stated whether or not, in the opinion of the curator, it is in the interest of the depositors of the bank concerned that the bank remains under curatorship.”.

Amendment of section 70 of Act 94 of 1990, as amended by section 9 of Act 42 of 1992

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

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

“(1) For the purposes of this Act—
 ‘primary share capital’ means capital obtained through the issue of ordinary shares or non-redeemable non-cumulative preference shares, excluding such ordinary or non-redeemable non-cumulative preference shares issued in pursuance of the capitalization of reserves resulting from a revaluation of assets;
 ‘primary unimpaired reserve funds’ means funds obtained from actual earnings or by way of recoveries, premiums on the issue of ordinary or non-redeemable non-cumulative preference shares or a surplus on the realization of capital assets, and which have been set aside as a general or special reserve, are disclosed as such a reserve in the financial statements of the **[deposit-taking institution]** bank concerned and are available for the purpose of meeting liabilities of

Wysiging van artikel 61 van Wet 94 van 1990

14. Artikel 61 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- 5 “(2) ’n **[Depositonemende instelling]** Bank moet binne 30 dae na die aanstelling ooreenkomstig die bepalings van Hoofstuk X van die Maatskappywet van iemand as ouditeur **[van daardie instelling]** daarvan, by die Registrateur op die voorgeskrewe vorm aansoek doen om sy goedkeuring van sodanige aanstelling.”.

10 **Wysiging van artikel 63 van Wet 94 van 1990, soos gewysig deur artikel 7 van Wet 42 van 1992**

15 15. Artikel 63 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:

- 15 “Ondanks andersluidende bepalings van die Wet op Openbare Rekenmeesters en Ouditeurs, **[1951 (Wet No. 51 van 1951)] 1991 (Wet No. 80 van 1991)**, of die Maatskappywet, maar behoudens die bepalings van subartikels (2) en (3) van hierdie artikel—”.

Wysiging van artikel 68 van Wet 94 van 1990

20 16. Artikel 68 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

- 25 “(a) is die Registrateur bevoeg om by ’n bevoegde hof aansoek te doen om die likwidasië van enige **[depositonemende instelling]** bank of om ’n bevel waarby **[so ’n instelling]** ’n bank onder geregtelike bestuur geplaas word ingevolge genoemde Wet, en is die Registrateur bevoeg om so ’n aansoek wat deur iemand anders gedoen word, te bestry; en”.

30 **Wysiging van artikel 69 van Wet 94 van 1990, soos gewysig deur artikel 8 van Wet 42 van 1992**

30 17. Artikel 69 van die Hoofwet word hierby gewysig deur na subartikel (6) die volgende subartikel in te voeg:

- 35 “(6A) Terwyl ’n bank onder kuratele is, moet die kurator, by verstryking van ’n tydperk van ’n jaar vanaf die datum van sy aanstelling as sodanig, en daarna halfjaarliks by verstryking van elke tydperk van ses maande, die Registrateur van ’n skriftelike verslag voorsien waarin daar verklaar word of, na die oordeel van die kurator, dit in die belang van die deposante van die betrokke bank is dat die bank onder kuratele bly of nie.”.

40 **Wysiging van artikel 70 van Wet 94 van 1990, soos gewysig deur artikel 9 van Wet 42 van 1992**

40 18. Artikel 70 van die Hoofwet word hierby gewysig—
(a) deur subartikel (1) deur die volgende subartikel te vervang:

- 45 “(1) By die toepassing van hierdie Wet beteken—
‘primêre aandeelkapitaal’ kapitaal verkry deur die uitreiking van gewone aandele of nie-aflosbare nie-kumulatiewe voorkeuraandele, uitgesonderd sodanige gewone of nie-aflosbare nie-kumulatiewe voorkeuraandele uitgereik uit hoofde van die kapitalisering van reserwes wat voortspruit uit ’n herwaardering van bates;
‘primêre onaangetaste reserwefondse’ fondse verkry uit werklike verdienstes of by wyse van invorderings, premies op die uitreiking van **[aandele]** gewone of nie-aflosbare nie-kumulatiewe voorkeuraandele of ’n oorskot by die tegeldemaking van kapitale bates, en wat as ’n algemene of besondere reserwe opsygesit is, as so ’n reserwe in die finansiële state van die betrokke **[depositonemende instelling]** bank aangetoon word en beskikbaar is vir die

or losses suffered by the **[deposit-taking institution] bank**, but does not include any fund required to be maintained in terms of any other law;

'secondary share capital' means—

(a) capital obtained through the issue, with the prior written approval of the Registrar and in accordance with conditions approved by the Registrar in writing, of cumulative preference shares, excluding, in the case of such cumulative preference shares issued in pursuance of the capitalization of reserves resulting from a revaluation of assets, 50 per cent of the capital represented thereby; and

(b) 50 per cent of the capital represented by ordinary shares, or preference shares other than cumulative preference shares, issued in pursuance of the capitalization of reserves resulting from a revaluation of assets,

and includes loan capital obtained by way of **[debentures] debt instruments** issued subject to—

[(a)] (i) the condition that the **[debentures] debt instruments** are issued for a minimum period of five years;

[(b)] (ii) the condition that the **[debentures] debt instruments** may be redeemed before maturity only at the option of the **[deposit-taking institution] bank** concerned and with the prior written approval of the Registrar;

[(c)] (iii) the condition that, notwithstanding the provisions of any other Act, in the event of the winding-up of the **[deposit-taking institution] bank** concerned, the capital amount of the **[debentures] debt instruments** shall not be repaid until the claims of other creditors have been fully satisfied; and

[(d)] (iv) such further conditions, if any, as may be prescribed; 'secondary unimpaired reserve funds' means funds obtained and set aside as contemplated in the definition of 'primary unimpaired reserve funds' in this subsection (except such funds obtained by way of premiums on the issue of ordinary or non-redeemable non-cumulative preference shares), and which are available for the purpose contemplated in that definition, but which are not disclosed as a general or special reserve in the financial statements of the **[deposit-taking institution] bank** concerned, and includes—

(a) 50 per cent of the amount of any surplus resulting from a revaluation of assets and determined as prescribed in subsection (4); **[and]**

(b) general provisions held against unidentified and unforeseen losses; and

(c) funds obtained by way of premiums on the issue of cumulative preference shares or debt instruments issued in accordance with the provisions of paragraphs (i) to (iv), inclusive, of the definition of 'secondary share capital', whether or not such funds are disclosed as a general or special reserve in the financial statements of the bank concerned,

but does not include any fund required to be maintained in terms of any other law.”;

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

“(a) the amount obtained by way of the issue, after the date of commencement of this Act, of **[debentures] debt instruments** and which may in terms of this section rank as secondary share capital shall (except in the case of such **[debentures] debt instruments** which are to be converted into **[preference] shares** representing capital which may in terms of this section rank as

nakoming van verpligtinge van of die bestryding van verliese gelyk deur die **[depositonemende instelling]** bank, maar nie ook enige fonds wat ingevolge 'n ander wet in stand gehou moet word nie; 'sekondêre aandeelkapitaal'—

5 (a) kapitaal verkry deur die uitreiking, met die vooraf verkreeë skriftelike goedkeuring van die Registrateur en ooreenkomstig voorwaardes skriftelik deur die Registrateur goedgekeur, van kumulatiewe voorkeuraandeel, uitgesonderd, in die geval van sodanige kumulatiewe voorkeuraandeel uitgereik uit hoofde van die kapitalisering van reserwes wat voortspruit uit 'n herwaardering van bates, 50 persent van die kapitaal daardeur verteenwoordig; en

10 (b) 50 persent van die kapitaal verteenwoordig deur gewone aandele, of ander voorkeuraandeel as kumulatiewe voorkeuraandeel, uitgereik uit hoofde van die kapitalisering van reserwes wat voortspruit uit 'n herwaardering van bates, en ook leningskapitaal verkry by wyse van **[skuldbriewe]** skuldaktes uitgereik onderworpe aan—

20 **[(a)]** (i) die voorwaarde dat die **[skuldbriewe]** skuldaktes vir 'n minimum termyn van vyf jaar uitgereik word;

[(b)] (ii) die voorwaarde dat die **[skuldbriewe]** skuldaktes voor die vervaldatum terugbetaal kan word slegs na die keuse van die betrokke **[depositonemende instelling]** bank en met die voorafverkreeë skriftelike goedkeuring van die Registrateur;

25 **[(c)]** (iii) die voorwaarde dat, ondanks die bepalinge van enige ander wet, by likwidasië van die betrokke **[depositonemende instelling]** bank die kapitaalbedrag van die **[skuldbriewe]** skuldaktes nie terugbetaal word nie voordat die eise van ander skuldeisers ten volle bevredig is; en

30 **[(d)]** (iv) die verdere voorwaardes, as daar is, wat voorgeskryf word;

35 'sekondêre onaangetaste reserwefondse' fondse verkry en opgesit soos beoog in die omskrywing van 'primêre onaangetaste reserwefondse' in hierdie subartikel (uitgesonderd sodanige fondse verkry by wyse van premies op die uitreiking van gewone of nie-aflosbare nie-kumulatiewe voorkeuraandeel), en wat beskikbaar is vir die doeleindes beoog in daardie omskrywing, maar wat nie as 'n algemene of besondere reserwe in die finansiële state van die betrokke **[depositonemende instelling]** bank aangetoon word nie, en ook—

40 (a) 50 persent van die bedrag van enige oorskot wat voortspruit uit 'n herwaardering van bates en wat vasgestel word soos in subartikel (4) voorgeskryf; **[en]**

45 (b) algemene voorsienings gehou teen ongeïdentifiseerde en onvoorsiene verliese; **[en]**

50 (c) fondse verkry by wyse van premies op die uitreiking van kumulatiewe voorkeuraandeel of skuldaktes uitgereik ooreenkomstig die bepalinge van paragrafe (i) tot en met (iv) van die omskrywing van 'sekondêre aandeelkapitaal', hetsy sodanige fondse as 'n algemene of besondere reserwe in die finansiële state van die betrokke bank aangetoon word al dan nie,

55 maar nie ook enige fonds wat ingevolge 'n ander wet in stand gehou moet word nie.”;

(b) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:

60 “(a) moet die bedrag verkry by wyse van die uitreiking, na die datum van inwerkingtreding van hierdie Wet, van **[skuldbriewe]** skuldaktes, en wat ingevolge hierdie artikel as sekondêre aandeelkapitaal gereken kan word (behalwe in die geval van sodanige **[skuldbriewe]** skuldaktes wat **[in voorkeuraandeel]** omskep staan te word in aandeel wat kapitaal verteen-

primary or secondary share capital) during the fifth year preceding the maturity of such **[debentures]** debt instruments be reduced by an amount equal to 20 per cent of the amount so obtained and annually thereafter by an amount which in each successive year is increased by 20 per cent of the amount so obtained; and”;

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

“(bb) **[debentures]** debt instruments held by the **[deposit-taking institution]** bank which **[debentures]** debt instruments have been issued by any other **[deposit-taking institution]** bank and the amounts of which may in terms of this section rank as secondary share capital of that other **[deposit-taking institution]** bank; and”;

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

“(6) (a) The provisions of subsection (2) shall apply *mutatis mutandis* to the affairs of a subsidiary by way of which a **[deposit-taking institution]** bank or controlling company conducts the business of a **[deposit-taking institution outside]** bank in a country other than the Republic, except if, in terms of the laws regarding capital and reserves in force in such other country, such subsidiary will be required to maintain a minimum share capital and unimpaired reserve funds in an aggregate amount equal to or higher than the aggregate amount it will be required to maintain in terms of subsection (2), in which event the subsidiary shall be subject to the said laws of that other country.

(b) A bank or a controlling company that conducts the business of a bank by way of a subsidiary in a country other than the Republic, as contemplated in paragraph (a), shall be obliged to ensure that such subsidiary at all times complies with the provisions of the laws regarding minimum share capital and unimpaired reserve funds applicable to such subsidiary in terms of paragraph (a) and shall, whenever necessary, make sufficient funds available to enable such subsidiary so to comply with the provisions of the said laws.

(c) A bank shall in respect of a foreign branch thereof be subject, *mutatis mutandis*, to the obligations imposed upon it in paragraph (b) in respect of a foreign subsidiary thereof, as if such a foreign branch were such a foreign subsidiary.”

Repeal of section 71 of Act 94 of 1990

19. Section 71 of the principal Act is hereby repealed.

Amendment of section 74 of Act 94 of 1990

20. Section 74 of the principal Act is hereby amended—

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

“(1) If a **[deposit-taking institution]** bank fails to comply with a provision of section 70 **[71]** or 72, or is unable to comply with any such provision, it shall forthwith in writing report its failure or inability to the Registrar, stating the reasons for such failure or inability.”;

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

“(a) in the case of any failure or inability to comply with the provisions of section 70 **[or 71]**, not exceeding one-tenth of one per cent of the amount of the shortfall for each day on which such failure or inability continues; or”.

- woordig wat ingevolge hierdie artikel as primêre of sekondêre aandeelkapitaal gereken kan word), gedurende die vyfde jaar wat die vervaldatum van die **[skuldbriewe]** skuldaktes voorafgaan, verminder word met 'n bedrag gelyk aan 20 persent van die bedrag aldus verkry, en jaarliks daarna met 'n bedrag wat in elke opeenvolgende jaar met 20 persent van die bedrag aldus verkry, vermeerder word; en”;
- (c) deur item (bb) van subparagraaf (vi) van paragraaf (a) van subartikel (5) deur die volgende item te vervang:
- “(bb) **[skuldbriewe]** skuldaktes wat deur die **[depositonemende instelling]** bank gehou word welke **[skuldbriewe]** skuldaktes deur 'n ander **[depositonemende instelling]** bank uitgereik is en waarvan die bedrae ingevolge hierdie artikel as sekondêre aandeelkapitaal van daardie ander **[depositonemende instelling]** bank gereken kan word; en”;
- (d) deur subartikel (6) deur die volgende subartikel te vervang:
- “(6) (a) Die bepaling van subartikel (2) is *mutatis mutandis* van toepassing op die bedrywighede van 'n filiaal deur middel waarvan 'n **[depositonemende instelling]** bank of beherende maatskappy die bedryf van 'n **[depositonemende instelling buite]** bank in 'n ander land as die Republiek uitoefen, tensy, ingevolge die wette betreffende kapitaal en reserwes wat in daardie ander land van krag is, sodanige filiaal verplig sal wees om 'n minimum aandeelkapitaal en onaangetaste reserwefondse in stand te hou tot 'n totale bedrag gelyk aan of hoër as die totale bedrag wat dit ingevolge subartikel (2) verplig sal wees om in stand te hou, in welke geval die filiaal onderworpe is aan genoemde wette van daardie ander land.
- (b) 'n Bank of 'n beherende maatskappy wat, soos beoog in paragraaf (a), deur middel van 'n filiaal die bedryf van 'n bank in 'n ander land as die Republiek uitoefen, is gebonde om daarvoor te sorg dat sodanige filiaal te alle tye voldoen aan die bepaling van die wette betreffende minimum aandeelkapitaal en onaangetaste reserwefondse wat ingevolge paragraaf (a) op sodanige filiaal van toepassing is en moet, wanneer dit ook al nodig is, voldoende fondse beskikbaar stel ten einde sodanige filiaal in staat te stel om aldus aan die bepaling van genoemde wette te voldoen.
- (c) 'n Bank is ten opsigte van 'n buitelandse tak daarvan *mutatis mutandis* onderworpe aan die verpligtinge in paragraaf (b) hom opgelê ten opsigte van 'n buitelandse filiaal daarvan, asof so 'n buitelandse tak so 'n buitelandse filiaal was.”.

Herroeping van artikel 71 van Wet 94 van 1990

19. Artikel 71 van die Hoofwet word hierby herroep.

Wysiging van artikel 74 van Wet 94 van 1990

20. Artikel 74 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- “(1) Indien 'n **[depositonemende instelling]** bank versuim om aan 'n bepaling van artikel 70 **[71]** of 72 te voldoen of nie in staat is om aan so 'n bepaling te voldoen nie, moet hy onverwyld die Registrateur skriftelik in kennis stel van sy versuim of onvermoë, met vermelding van die redes vir sodanige versuim of onvermoë.”; en
- (b) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:
- “(a) in die geval van 'n versuim of onvermoë om aan die bepaling van artikel 70 **[of 71]** te voldoen, van hoogstens een tiende van een persent van die bedrag van die tekort vir elke dag waarop die versuim of onvermoë voortduur; of”.

Amendment of section 75 of Act 94 of 1990, as amended by section 12 of Act 42 of 1992

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

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

“(a) whether the **[deposit-taking institution] bank** is complying with the provisions of—

(i) sections **[71]** 70 and 72; or

(ii) section **[70]** 10A of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989); or”; and

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

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

Amendment of section 80 of Act 94 of 1990

22. Section 80 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) No **[deposit-taking institution] bank** and no associate of a **[deposit-taking institution] bank** shall, without the prior written approval of the Registrar, either jointly or individually acquire or hold shares in any registered insurer as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), to the extent to which the nominal value of those shares exceeds 49 per cent of the nominal value of all the issued shares of such insurer.”.

Amendment of section 91 of Act 94 of 1990

23. Section 91 of the principal Act is hereby amended—

(a) by the deletion of the word “or” at the end of paragraph (a) of subsection (1);

(b) by the insertion after paragraph (a) of subsection (1) of the following paragraph:

“(aA) in completing any questionnaire contemplated in section 1(1A)(c) furnishes the Registrar with any information which to the knowledge of such person is untrue or misleading in any material respect; or”; and

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

“(b) contravenes or fails to comply with a provision of section 34, 35, 36(1), (6) or (7), 37(1), 38(1), 39, 41, 42(1), 52(1) or (4), 53, 55, 58, 59, 61(2), 65, 66, 67, 70(2), **[71]** 72, 73, 75, 76, 77, 78(1) or (3), 79, 80 or 84(2).”.

Substitution of section 93 of Act 94 of 1990

24. The following section is hereby substituted for section 93 of the principal Act:

“**Interpretation of certain references in existing laws and in other documents**

93. A reference in any law in force immediately prior to the

Wysiging van artikel 75 van Wet 94 van 1990, soos gewysig deur artikel 12 van Wet 42 van 1992

21. Artikel 75 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) te bepaal of die **[depositonemende instelling]** bank voldoen aan die bepalings van—
 (i) artikels **[71]** 70 en 72; of
 (ii) artikel **[70]** 10A van die Wet op die Suid-Afrikaanse Reserwebank, 1989 (Wet No. 90 van 1989); of”; en

- (b) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) ’n **[Depositonemende instelling]** Bank moet, binne die tydperk wat die Registrateur op aansoek van **[sodanige instelling]** so ’n bank goedkeur, ten opsigte van daardie een van die opgawes in subartikel (1)(b) bedoel wat die naaste saamval met die einde van die finansiële jaar van die **[instelling]** bank aan die Registrateur ’n verslag verstrek van die ouditeur van die **[instelling]** bank waarin verklaar word of daardie opgawe daardie sake van die **[instelling]** bank waarop die opgawe betrekking het redelik en ooreenkomstig algemeen aanvaarde rekeningkundige praktyk weergee of nie, en die Registrateur kan, indien hy dit nodig ag, van die **[instelling]** bank vereis om aldus so ’n verslag aan hom te verstrek ten opsigte van enige ander van daardie opgawes wat gedurende die finansiële jaar verstrek word.”.

25 Wysiging van artikel 80 van Wet 94 van 1990

22. Artikel 80 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Geen **[depositonemende instelling]** bank en geen geassosieerde van ’n **[depositonemende instelling]** bank mag sonder die voorafverkreë skriftelike goedkeuring van die Registrateur, hetsy gesamentlik of afsonderlik, aandeel in ’n geregistreerde versekeraar soos omskryf in artikel 1 van die Versekeringwet, 1943 (Wet No. 27 van 1943), verkry of hou nie vir sover die nominale waarde van dié aandeel 49 persent van die nominale waarde van al die uitgereikte aandeel van die versekeraar oorskry.”.

35 Wysiging van artikel 91 van Wet 94 van 1990

23. Artikel 91 van die Hoofwet word hierby gewysig—

- (a) deur die woord “of” aan die einde van paragraaf (a) van subartikel (1) te skrap;

- (b) deur die volgende paragraaf na paragraaf (a) van subartikel (1) in te voeg:

“(aA) by die voltooiing van ’n vraelys beoog in artikel 1(1A)(c) enige inligting wat na die wete van so ’n persoon in enige wesenlike opsig onwaar of misleidend is, aan die Registrateur verstrek; of”; en

- (c) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) ’n bepaling van artikel 34, 35, 36(1), (6) of (7), 37(1), 38(1), 39, 41, 42(1), 52(1) of (4), 53, 55, 58, 59, 61(2), 65, 66, 67, 70(2), **[71]** 72, 73, 75, 76, 77, 78(1) of (3), 79, 80 of 84(2) oortree of versuim om daaraan te voldoen.”.

Vervanging van artikel 93 van Wet 94 van 1990

24. Artikel 93 van die Hoofwet word hierby deur die volgende artikel vervang:

“**Uitleg van sekere verwysings in bestaande wette en in ander stukke**

93. ’n Verwysing in ’n wet wat onmiddellik voor die inwerking-

commencement of **[this Act]** the Deposit-taking Institutions Amendment Act, 1993, or in any other document, to—

- (a) a **[bank]** deposit-taking institution, discount house, banking institution, banking institution registered under or in terms of the Banks Act, 1965 (Act No. 23 of 1965), or building society registered in terms of the Building Societies Act, 1986 (Act No. 82 of 1986), shall, unless inconsistent with the context or otherwise clearly inappropriate, be construed as a reference to a **[deposit-taking institution]** bank;
- (b) the Registrar of **[Banks]** Deposit-taking Institutions or the Registrar of Building Societies shall be construed as a reference to the Registrar:

Provided that—

- (i) any such reference in section 10(1)(i)(xii)(bb), (xiiA) or (xiii)(bb) **[10(1)(v) or (vA)]** or 19(5A) of the Income Tax Act, 1962 (Act No. 58 of 1962), to a building society shall be so construed as a reference to a **[deposit-taking institution]** bank which, **[immediately]** prior to its registration as **[a deposit-taking institution in terms of section 33]** such, **[was]** had been a building society **[registered as such in terms of]** (within the meaning of the Building Societies Act, 1986) that after the commencement of this Act was registered as a deposit-taking institution by virtue of the provisions of section 33 as those provisions existed prior to the amendment thereof by the Deposit-taking Institutions Amendment Act, 1993; and
- (ii) any such reference in section 10(1)(w) of the Income Tax Act, 1962, to a **[banking]** deposit-taking institution shall be so construed as a reference to a **[deposit-taking institution]** bank which, **[immediately]** prior to its registration as **[a deposit-taking institution in terms of section 33]** such, **[was]** had been a banking institution **[registered as such in terms of]** (within the meaning of the Banks Act, 1965) that after the commencement of this Act was registered as a deposit-taking institution by virtue of the provisions of section 33 as those provisions existed prior to the amendment thereof by the Deposit-taking Institutions Amendment Act, 1993.”.

Substitution of certain expressions in Act 94 of 1990

25. The principal Act is hereby amended—

- (a) by the substitution for the expressions “Deposit-taking Institutions”, “deposit-taking institutions”, “deposit-taking institution” and “deposit-taking institution’s”, wherever they occur, of the expressions “Banks”, “banks”, “bank” and “bank’s”, respectively: Provided that the provisions of this paragraph shall not apply to the expression “Deposit-taking Institutions” forming part of the expression “Deposit-taking Institutions Amendment Act, 1992” appearing in section 37(3) of the principal Act;
- (b) by the substitution for the words “institution” and “institutions”, wherever they occur in sections 6(3), 54(3), (6)(a) and (7), 56(5)(b), 57(3), 60(3)(a), 62(2), 63(1)(b)(i), 64(4), 67, 68(2), 69(1)(a), (2)(d), (3), (3A), (5) and (6), 70(3)(b), 72(3), 74(2), (3) and (4), 78(2)(a) and 87(2), of the words “bank” and “banks”, respectively; and
- (c) by the substitution—
 - (i) in section 12(1) for the expression “an institution”; and
 - (ii) in section 14(1) for the word “institution”, of the expression “a bank”.

Substitution of section 96 of Act 94 of 1990

26. The following section is hereby substituted for section 96 of the principal Act:

treding van **[hierdie Wet]** die Wysigingswet op Depositonemende Instellings, 1993, van krag is, of in enige ander stuk, na—

- (a) 'n **[bank]** depositonemende instelling, diskontohuis, bankinstelling, bankinstelling geregistreer kragtens of ingevolge die Bankwet, 1965 (Wet No. 23 van 1965), of bouvereniging geregistreer ingevolge die Wet op Bouverenigings, 1986 (Wet No. 82 van 1986), word, tensy dit met die samehang onbestaanbaar of andersins duidelik onvanpas is, uitgelê as 'n verwysing na 'n **[depositonemende instelling] bank**;
- (b) die Registrateur van **[Banke]** Depositonemende Instellings of die Registrateur van Bouverenigings, word uitgelê as 'n verwysing na die Registrateur:
- Met dien verstande dat—
- (i) enige sodanige verwysing in artikel 10(1)(i)(xii)(bb), (xiiA) of (xiii)(bb) **[10(1)(v) of (vA)]** of 19(5A) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), na 'n bouvereniging, aldus uitgelê word as 'n verwysing na 'n **[depositonemende instelling] bank** wat, **[onmiddellik]** voor sy registrasie as **[’n depositonemende instelling ingevolge artikel 33]** sodanig, 'n bouvereniging was **[wat as sodanig geregistreer was ingevolge]** (binne die bedoeling van die Wet op Bouverenigings, 1986) wat na die inwerkingtreding van hierdie Wet as 'n depositonemende instelling geregistreer is uit hoofde van die bepalings van artikel 33 soos daardie bepalings gegeld het voor die wysiging daarvan deur die Wysigingswet op Depositonemende Instellings, 1993; en
- (ii) enige sodanige verwysing in artikel 10(1)(w) van die Inkomstebelastingwet, 1962, na 'n **[bankinstelling]** depositonemende instelling aldus uitgelê word as 'n verwysing na 'n **[depositonemende instelling] bank** wat, **[onmiddellik]** voor sy registrasie as **[’n depositonemende instelling ingevolge artikel 33]** sodanig, 'n bankinstelling was **[wat as sodanig geregistreer was ingevolge]** (binne die bedoeling van die Bankwet, 1965) wat na die inwerkingtreding van hierdie Wet as 'n depositonemende instelling geregistreer is uit hoofde van die bepalings van artikel 33 soos daardie bepalings gegeld het voor die wysiging daarvan deur die Wysigingswet op Depositonemende Instellings, 1993.”

Vervanging van sekere uitdrukkings in Wet 94 van 1990

25. Die Hoofwet word hierby gewysig—
- (a) deur die uitdrukkings “Depositonemende Instellings”, “depositonemende instellings” en “depositonemende instelling”, waar dit ook al voorkom, deur onderskeidelik die woorde “Banke”, “banke” en “bank” te vervang: Met dien verstande dat die bepalings van hierdie paragraaf nie van toepassing is nie op die uitdrukking “Depositonemende Instellings” wat deel uitmaak van die uitdrukking “Wysigingswet op Depositonemende Instellings, 1992” wat voorkom in artikel 37(3) van die Hoofwet;
- (b) deur die woorde “instelling” en “instellings”, waar dit ook al in artikels 6(3), 12(1), 14(1), 54(3), (6)(a) en (7), 56(5)(b), 57(3), 60(3)(a), 62(2), 63(1)(b)(i), 64(4), 67, 68(2), 69(1)(a), (2)(a) en (d), (3), (3A), (5) en (6), 70(3)(b), 72(3), 73(2), 74(2), (3) en (4), 78(2)(a) en 87(2) voorkom, deur onderskeidelik die woorde “bank” en “banke” te vervang; en
- (c) deur in die Engelse teks—
- (i) in artikel 12(1) die uitdrukking “an institution”; en
- (ii) in artikel 14(1) die woord “institution”, deur die uitdrukking “a bank” te vervang.

Vervanging van artikel 96 van Wet 94 van 1990

26. Artikel 96 van die Hoofwet word hierby deur die volgende artikel vervang:

“Short title

96. [(1)] This Act shall be called the [Deposit-taking Institutions] Banks Act, 1990 [and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the Gazette.

(2) Different dates may be fixed in terms of subsection (1) in respect of the different provisions of this Act.

(3) Any reference in this Act to the date of commencement thereof shall be construed as a reference to the applicable date so fixed].”.

Short title

27. This Act shall be called the Deposit-taking Institutions Amendment Act, 1993.

“Kort titel

5 96. [(1)] Hierdie Wet heet die [Wet op Depositonemende Instellings] Bankwet, 1990 [en die bepalings daarvan tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van die verskillende bepalings van hierdie Wet bepaal word.

10 (3) 'n Verwysing in hierdie Wet na die datum van inwerkingtreding daarvan word uitgelê as 'n verwysing na die toepaslike datum wat aldus bepaal is].”.

Kort titel

27. Hierdie Wet heet die Wysigingswet op Depositonemende Instellings, 1993.

Wet No. 92 of 1992

25. Hierdie Wet heet die Wet op Depositionerende Instellings. [Hierdie Wet heet die Wet op Depositionerende Instellings.]

26. Hierdie Wet heet die Wet op Depositionerende Instellings. [Hierdie Wet heet die Wet op Depositionerende Instellings.]

27. Hierdie Wet heet die Wet op Depositionerende Instellings. [Hierdie Wet heet die Wet op Depositionerende Instellings.]

Wet No. 92 of 1992

28. Hierdie Wet heet die Wet op Depositionerende Instellings. [Hierdie Wet heet die Wet op Depositionerende Instellings.]