

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

Government Gazette Staatskoerant

Vol. 363

PRETORIA, 15 SEPTEMBER 1995

No. 16669

GOVERNMENT NOTICE

SOUTH AFRICAN RESERVE BANK

No. 1426

15 September 1995

NOTICE IN TERMS OF SECTION 69 (7) OF THE BANKS ACT, 1990 (ACT No. 94 OF 1990)

It is hereby notified that the Minister of Finance has in terms of the provisions of sections 69 (1) and 69 (2) of the Banks Act, 1990 (Act No. 94 of 1990—"the Banks Act"), with effect from 8 September 1995, appointed Mr T. J. Louw, a chartered accountant attached to the firm KPMG Aiken & Peat, of P.O. Box 7400, Johannesburg, as curator ("the curator") to The African Bank Limited ("African Bank").

Powers of the curator:

In terms of the provisions of section 69 (3) of the Banks Act, the curator has been empowered by the Minister of Finance, in the curator's discretion, to—

(a) suspend or reduce, as from the date of his appointment as curator or any subsequent date, the right of creditors of African Bank to claim or receive interest on any money owing to them by that bank;

(b) make payments, whether in respect of capital or interest, to any creditor or creditors of African Bank at such time, in such order and in such manner as he may deem fit;

(c) cancel any agreement between African Bank and any other party to advance moneys due after the date of his appointment as curator, or to cancel any agreement to extend any existing facility, if, in the opinion of the curator, such advance or any loan under such facility would not be adequately secured or would not be repayable on terms satis-

GOEWERMENTSKENNISGEWING

SUID-AFRIKAANSE RESERWEBANK

No. 1426

15 September 1995

KENNISGEWING INGEVOLGE ARTIKEL 69 (7) VAN DIE BANKWET, 1990 (WET No. 94 VAN 1990)

Hiermee word bekendgemaak dat die Minister van Finansies kragtens die bepalings van artikels 69 (1) en 69 (2) van die Bankwet, 1990 (Wet No. 94 van 1990—"die Bankwet"), met ingang van 8 September 1995 mnr. T. J. Louw, 'n geoktrooieerde rekenmeester verbonde aan die firma KPMG Aiken & Peat, van Posbus 7400, Johannesburg, as kurator ("die kurator") oor The African Bank Beperk ("African Bank") aangestel het.

Bevoegdhede van die kurator:

Kragtens die bepalings van artikel 69 (3) van die Bankwet is die kurator deur die Minister van Finansies gemagtig om na die kurator se goeddunke—

(a) die reg van krediteure van African Bank om rente te vorder of te ontvang op geld wat deur daardie bank aan hulle verskuldig is, op te skort of te verminder vanaf die datum van sy aanstelling as kurator of enige later datum;

(b) aan enige krediteur of krediteure van African Bank betalings te doen, hetsy ten opsigte van kapitaal of rente, op die tyd, in die volgorde en op die wyse wat hy goed ag;

(c) enige ooreenkoms tussen African Bank en enige ander party om geld voor te skiet wat betaalbaar word na die datum van sy aanstelling as kurator, of enige ooreenkoms om bestaande fasiliteite te verleng, op te sê indien, na die oordeel van die kurator, so 'n voorskot of enige lening uit hoofde van sodanige fasiliteite nie voldoende ver-

factory to the curator, or if African Bank lacks the necessary funds to meet its obligations under any such agreement, or if it would not otherwise be in the interests of African Bank;

(d) convene from time to time, in such manner as he may deem fit, a meeting of creditors of African Bank for the purpose of establishing the nature and extent of the bank's indebtedness to such creditors and for consultation with such creditors in so far as their interests may be affected by decisions taken by the curator in the course of the management of the affairs of African Bank;

(e) negotiate with any individual creditor of African Bank with a view to the final settlement of the affairs of such creditor with the bank;

(f) make and carry out, in the course of his management of African Bank, any decision that, in terms of the provisions of the Companies Act, 1973 (Act No. 61 of 1973—"the Companies Act"), would have been required to be made by way of a special resolution contemplated in section 199 of the said Act;

(g) cancel any lease of movable or immovable property entered into by African Bank prior to its being placed under curatorship: Provided that, notwithstanding the provisions of subsection (6) of section 69 of the Banks Act, a claim for damages in respect of such cancellation may be instituted against the bank after the expiration of a period of one year as from the date of such cancellation;

(h) dispose, by public auction, tender or individual negotiation, of any asset of African Bank, including—

(i) any advance or any loan under a facility contemplated in paragraph (c); and

(ii) any asset for the disposal of which an approval contemplated in section 228 of the Companies Act would have been a prerequisite; or,

(iii) cancellation of any guarantee issued by African Bank prior to its being placed under curatorship, excluding such guarantee that the bank is required to make good within a period of 30 days as from the date of the appointment of the curator: Provided that, notwithstanding the provisions of subsection (6) of section 69 of the Banks Act, a claim for damages in respect of any loss sustained by or damage caused to any person as a result of the cancellation of a guarantee in terms of this paragraph may be instituted against African Bank after the expiration of a period of one year as from the date of such cancellation.

C. F. WIESE,
Registrar of Banks.

sekureer sal wees nie of nie terugbetaalbaar sal wees op voorwaardes wat vir die kurator aanneemlik is nie, of indien African Bank nie oor die nodige fondse beskik om sy verpligtinge uit hoofde van enige sodanige ooreenkoms na te kom nie, of indien dit andersins nie in belang van African Bank sal wees nie;

(d) op die wyse wat hy goedvind van tyd tot tyd 'n vergadering van krediteure van African Bank te belê met die doel om die aard en omvang van die bank se skuldelaas teenoor sodanige krediteure te bepaal en om oorleg te pleeg met sodanige krediteure vir sover hul belange geraak word deur besluite deur die kurator geneem in die loop van die bestuur van die sake van African Bank;

(e) met enige individuele krediteur van African Bank te onderhandel met die oog op die finale afsluiting van die sake van so 'n krediteur met die bank;

(f) in die loop van sy bestuur van African Bank, enige besluit te neem en uit te voer wat ingevolge die bepalinge van die Maatskappywet, 1973 (Wet No. 61 van 1973—"die Maatskappywet"), by wyse van 'n spesiale besluit beoog in artikel 199 van genoemde Wet geneem sou moes word;

(g) enige huurooreenkoms ten opsigte van roerende of onroerende goed wat deur African Bank aangegaan is voordat dit onder kuratele geplaas is, op te sê: Met dien verstande dat, ondanks die bepalinge van subartikel (6) van artikel 69 van die Bankwet, 'n eis om skadevergoeding ten opsigte van so 'n opsegging teen die bank ingestel kan word na verloop van 'n tydperk van 'n jaar vanaf die datum van sodanige opsegging;

(h) by wyse van openbare veiling, tender of individuele onderhandeling, enige bate van African Bank te vervreem, met inbegrip van—

(i) enige voorskot of enige lening uit hoofde van 'n fasiliteit bedoel in paragraaf (c); en

(ii) enige bate vir die vervreemding waarvan 'n goedkeuring bedoel in artikel 228 van die Maatskappywet 'n voorvereiste sou gewees het; of

(iii) enige waarborg deur African Bank uitgereik voordat dit onder kuratele geplaas is, uitgesonderd so 'n waarborg wat die bank vereis word om gestand te doen binne 'n tydperk van 30 dae vanaf die datum van die aanstelling van die kurator, op te sê: Met dien verstande dat, ondanks die bepalinge van subartikel (6) van artikel 69 van die Bankwet, 'n eis om skadevergoeding ten opsigte van enige verlies gelyk deur of skade berokken aan enige persoon ten gevolge van 'n opsegging van 'n waarborg ingevolge hierdie paragraaf, teen African Bank ingestel kan word na verloop van 'n tydperk van 'n jaar vanaf die datum van sodanige opsegging.

C. F. WIESE,
Registrateur van Banke.

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