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

No. 70 of 1996: Safe Deposit of Securities Amendment Act, 1996.

PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 1870.

20 November 1996

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

No. 70 van 1996: Wysigingswet op die Veilige Bewaring van Effekte, 1996.

GENERAL EXPLANATORY NOTE:

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

To amend the Safe Deposit of Securities Act, 1992, so as to amend, delete or insert certain definitions; to further regulate the deposit of securities with a depositary institution and with a central securities depository; to provide that a depositary institution may disclose certain information to an issuer of securities; to regulate a certain cession of securities; to further regulate the deliveries of securities; to empower the Registrar of Financial Markets to amend terms and conditions subject to which a central securities depository had been registered; to extend the provisions relating to the rules of a central securities depository; to effect certain technical amendments to the Act; and to provide for matters connected therewith.

*(English text signed by the President.)
(Assented to 6 November 1996.)*

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

Amendment of section 1 of Act 85 of 1992, as amended by section 70 of Act 104 of 1993

1. Section 1 of the Safe Deposit of Securities Act, 1992 (Act No. 85 of 1992), hereinafter referred to as the principal Act, is hereby amended— 5

(a) by the substitution for the definition of “central securities account” of the following definition:

“ ‘central securities account’ means an account kept by a central securities depository for a [depositary institution] participant and reflecting the number or nominal value of securities of each kind [deposited for safe deposit] and all entries made in [respect of] such [securities] account;”;

(b) by the substitution for the definition of “central securities repository” of the following definition:

“ ‘central securities repository’ means a [central] collection of securities [repository] of the same kind as contemplated in section 11;”;

(c) by the insertion after the definition of “central securities repository” of the following definitions:

“ ‘client’ means any person, including a depositary institution, who deposits securities with a depositary institution for the purposes of this Act and who may be the beneficial owner of such securities;”

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ALGEMENE VERDUIDELIKENDE NOTA:

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

Tot wysiging van die Wet op die Veilige Bewaring van Effekte, 1992, ten einde sekere woordomskrywings te wysig, te herroep of in te voeg; die deponering van effekte by 'n bewaarnemende instelling en 'n sentrale effektebewaarnemer verder te reguleer; voorsiening te maak dat 'n bewaarnemende instelling sekere inligting aan 'n uitgawe van effekte kan openbaar; 'n sekere sessie van effekte te reël; die lewering van effekte verder te reguleer; die Registrateur van Finansiële Markte te magtig om bedinge en voorwaardes onderhewig waaraan 'n sentrale effektebewaarnemer geregistreer is, te wysig; die bepalings met betrekking tot die reëls van 'n sentrale effektebewaarnemer uit te brei; sekere tegniese wysigings aan die Wet aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 6 November 1996.)

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

Wysiging van artikel 1 van Wet 85 van 1992, soos gewysig deur artikel 70 van Wet 104 van 1993

- 5 1. Artikel 1 van die Wet op die Veilige Bewaring van Effekte, 1992 (Wet No. 85 van 1992), hieronder die Hoofwet genoem, word hierby gewysig—
 (a) deur die volgende omskrywing voor die omskrywing van "bewaarnemende instelling" in te voeg:
 "beherende liggaam", met betrekking tot 'n sentrale effektebewaarnemer, die raad van direkteure van die sentrale effektebewaarnemer;";
 10 (b) deur die omskrywing van "bewaarnemende instelling" deur die volgende omskrywing te vervang:
 "bewaarnemende instelling" 'n [instelling of] persoon of kategorie persone wat deur die Registrateur magtig is om effekte vir die doeleindes van hierdie Wet in veilige bewaring te hou;";
 15 (c) deur die volgende omskrywing na die omskrywing van "bewaarnemende instelling" in te voeg:
 "deelnemer" 'n bewaarnemende instelling wat deur 'n sentrale effektebewaarnemer ingevolge artikel 2(1A) as 'n deelnemer aanvaar word;";
 20 (d) deur die omskrywing van "depositant" te skrap;

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- ‘controlling body’, in relation to a central securities depository, means the board of directors of the central securities depository;
 ‘deposit’ means a deposit of securities for safe custody;”;
- (d) by the deletion of the definition of “depositor”; 5
- (e) by the substitution for the definition of “depositary institution” of the following definition:
 “‘depositary institution’ means [an institution or] a person or category of persons authorized by the Registrar to hold securities in safe deposit for the purposes of this Act;”;
- (f) by the insertion after the definition of “depositary institution” of the following definition: 10
 “‘directive’ means a directive issued by a central securities depository in terms of the rules;”;
- (g) by the substitution for the definition of “entry” of the following definition:
 “‘entry’ includes an electronic recording of any deposit, withdrawal, transfer, attachment, [or] pledge, cession in securitatem debiti or other transaction in respect of an interest in securities;”;
- (h) by the insertion after the definition of “entry” of the following definition:
 “‘issuer’ means a person who issues securities and whose securities are accepted for deposit by a depositary institution or by a central securities depository, as the case may be;”;
- (i) by the insertion after the definition of “Minister” of the following definition:
 “‘participant’ means a depositary institution accepted by a central securities depository as a participant in terms of section 2(1A);”;
- (j) by the substitution for the definition of “securities account” of the following definition: 25
 “‘securities account’ means an account kept by or on behalf of a depositary institution for a [depositor] client and reflecting the number or nominal value of securities of each kind deposited [for safe deposit] and all entries made in respect of such securities relating to such client;”;
- (k) by the insertion after the definition of “securities account” of the following definition:
 “‘securities of the same kind’ means securities of the same class and issued by the same issuer;”; and 30
- (l) by the substitution for the definition of “securities repository” of the following definition:
 “‘securities repository’ means [all] a collection of securities of the same kind [held by—
 (a) a depositary institution; and
 (b) another depositary institution or a central securities depository 40 with which the depositary institution mentioned in subparagraph (a) has deposited or re-deposited securities of that kind; and
 (c) a central securities depository with which the other depositary institution mentioned in subparagraph (b) has deposited or 45 re-deposited securities of that kind] as contemplated in section 3;”.

Substitution of section 2 of Act 85 of 1992

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

“Deposit of securities

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2. (1) The Registrar may—

- (a) authorise any person; or
 (b) authorise any category of persons by notice in the *Gazette*,

- (e) deur die volgende omskrywing na die omskrywing van "deelnemer" in te voeg:
 " deposito 'n deposito van effekte vir veilige bewaring;";
- (f) deur die volgende omskrywing na die omskrywing van "effekte" in te voeg:
 " effekte van dieselfde soort effekte van dieselfde klas en uitgereik deur dieselfde uitgawer;";
- (g) deur die omskrywing van "effektedepot" en "effekterekening" deur onderskeidelik die volgende omskrywings te vervang:
 " effektedepot [alle] 'n versameling van effekte van dieselfde soort wat gehou word deur
 (a) 'n bewaarnemende instelling; en
 (b) 'n ander bewaarnemende instelling of 'n sentrale effektebewaarnemer by wie die bewaarnemende instelling waarna in subparagraaf (a) verwys word effekte van daardie soort gedeponeer of hergedeponeer het; en
 (c) 'n sentrale effektebewaarnemer by wie die ander bewaarnemende instelling waarna in subparagraaf (b) bewys word effekte van daardie soort gedeponeer of hergedeponeer het] soos in artikel 3 beoog;
- (h) deur die omskrywing van "inskrywing" deur die volgende omskrywing te vervang:
 " 'inskrywing' ook 'n elektroniese aantekening van enige deposito, onttrekking, oordrag, beslaglegging, [of] verpanding, sessie in securitatem debiti of ander transaksie ten opsigte van 'n belang in effekte';";
- (i) deur die volgende omskrywing na die omskrywing van "inskrywing" in te voeg:
 " kliënt 'n persoon, met inbegrip van 'n bewaarnemende instelling, wat effekte vir die doeleinnes van hierdie Wet by 'n bewaarnemende instelling deponeer en wat die bevoordeelde eienaar van sodanige effekte kan wees;";
- (j) deur die omskrywing van "sentrale effektedepot" en "sentrale effekterekening" deur onderskeidelik die volgende omskrywings te vervang:
 " 'sentrale effektedepot' 'n [sentrale effektedepot] versameling van effekte van dieselfde soort soos in artikel 11 beoog;
 'sentrale effekterekening' 'n rekening wat deur 'n sentrale effektebewaarnemer vir 'n [bewaarnemende instelling] deelnemer gehou word en wat die getal of nominale waarde van effekte van elke soort wat vir veilige bewaring gedeponeer is, asook alle inskrywings in [verband met] sodanige [effekte] rekening gedoen, aandui;";
- (k) deur die volgende omskrywing na die omskrywing van "sentrale effekterekening" in te voeg:
 " uitgawer 'n persoon wat effekte uitrek en wie se effekte deur 'n bewaarnemende instelling of deur 'n sentrale effektebewaarnemer, na gelang van die geval, vir deposito aanvaar word;"; en
- (l) deur die volgende omskrywing na die omskrywing van "voorgeskrewe" in te voeg:
 " voorskrif 'n voorskrif wat deur 'n sentrale effektebewaarnemer ingevolge die reëls uitgereik word;".

Wysiging van artikel 2 van Wet 85 van 1992

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

"Deponering van effekte

2. (1) Die Registrateur kan—

- (a) 'n persoon; of
 (b) enige kategorie van persone by kennisgewing in die *Staatskoerant*,

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to act as a depositary institution for the purposes of this Act on such terms and conditions as [he] the Registrar may determine in writing to such person or publish in the notice concerned in respect of such category of persons.

(1A) A depositary institution authorised by the Registrar in terms of subsection (1) may be accepted by a central securities depository as a participant in terms of the rules of that central securities depository. 5

(2) Where securities are deposited [for safe custody] with a depositary institution such institution shall, unless the [depositor] client expressly directs otherwise in writing, be entitled to [re-deposit] deposit them with another depositary institution [**which is a member of a central securities depository**] or if it is a participant deposit them with a central securities depository. 10

(3) (a) Every [depositor] client, depositary institution and participant shall be deemed to warrant [to the depositary institution or central securities depository, as the case may be], that [he] such person is entitled to deposit [such] the securities deposited by that person and that any document relating to such securities and lodged by [him with such institution or depository] that person is genuine and correct in all respects and [he] that person shall be deemed to have agreed to indemnify [such] the depositary institution, participant or the central securities depository against any claim made upon [it] the depositary institution, participant or central securities depository and against any loss suffered by [it] the depositary institution, participant or central securities depository arising out of such deposit or breach of warranty. 15 20 25

(b) A central securities depository shall not be deemed to have given any such warranty or indemnity.”.

Substitution of section 3 of Act 85 of 1992

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

“Securities repository” 30

3. (1) A depositary institution holding securities may hold all securities of the same kind deposited with it [for safe custody] collectively in a separate securities repository.

(2) A depositary institution shall notify the client having a securities account with it of any entry made in such account. 35

(3) A depositary institution shall on request disclose information with regard to the holdings of a client in a securities repository, unless the client concerned directs otherwise in writing.”.

Substitution of section 4 of Act 85 of 1992

4. The following section is hereby substituted for section 4 of the principal Act: 40

“Ownership of securities”

4. (1) Where securities of any kind are deposited with a depositary institution or with a central securities depository [for safe deposit], or accrue to securities held by such institution in a securities repository or by such depository in a central securities repository, the person who was the owner of the securities at the time of deposit or accrual shall become entitled to an interest as co-owner of all the securities of the same kind comprised in the securities repository or central securities repository, [for securities of that kind] as the case may be. 45

(2) In so far as any limited right exists in respect of any securities at the 50

magtig om as 'n bewaarnemende instelling vir doeleindes van hierdie Wet op te tree op die bedinge en voorwaardes wat [hy] die Registrateur skriftelik ten opsigte van sodanige persoon of in die bepaalde kennisgewing ten opsigte van sodanige kategorie persone bepaal.

5 (1A) 'n Bewaarnemende instelling wat ingevolge subartikel (1) deur die Registrateur gemagtig is, kan deur 'n sentrale effektebewaarnemer ingevolge die reëls van daardie sentrale effektebewaarnemer as 'n deelnemer aanvaar word.

10 (2) Indien effekte [vir veilige bewaring] by 'n bewaarnemende instelling gedeponeer word, kan sodanige instelling, tensy die [depositant] kliënt uitdruklik skriftelik anders gelas, die effekte by 'n ander bewaarnemende instelling [wat 'n lid van 'n sentrale effektebewaarnemer is] of, indien dit 'n deelnemer is, by 'n sentrale effektebewaarnemer [herdeponeer] deponeer.

15 (3) (a) Elke [depositant] kliënt, bewaarnemende instelling en deelnemer word geag [om teenoor die bewaarnemende instelling of sentrale effektebewaarnemer, na gelang van die geval,] te waarborg dat [hy] sodanige persoon geregtig is om [genoemde] die effekte wat deur daardie persoon gedeponeer word, te deponeer en dat enige dokument wat op daardie effekte betrekking het en wat deur [hom aan sodanige instelling of bewaarnemer] daardie persoon gelewer word eg en in alle opsigte korrek is en [hy] daardie persoon word geag ooreen te gekom het, om [sodanige] die bewaarnemende instelling, deelnemer of [bewaarnemer] die sentrale effektebewaarnemer te vrywaar teen enige eis wat teen [hom] die bewaarnemende instelling, deelnemer of sentrale effektebewaarnemer ingestel word en teen enige verlies wat deur [hom] die bewaarnemende instelling, deelnemer of sentrale effektebewaarnemer gely word en wat ontstaan uit bedoelde deponering of breuk van waarborg.

20 (b) 'n Sentrale effektebewaarnemer word nie geag enige sodanige waarborg of vrywaring te gegee nie."

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Vervanging van artikel 3 van Wet 85 van 1992

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

"Effektedepot

35 3. (1) 'n Bewaarnemende instelling wat effekte hou, kan alle effekte van dieselfde soort wat by hom [vir veilige bewaring] gedeponeer is gesamentlik in 'n aparte effektedepot hou.

(2) 'n Bewaarnemende instelling moet die kliënt wat 'n effekterekening by hom het, in kennis stel van enige inskrywing wat in daardie rekening gedoen word.

40 (3) 'n Bewaarnemende instelling moet inligting met betrekking tot die belang van 'n kliënt in 'n effektedepot op versoek bekend maak, tensy die betrokke kliënt skriftelik anders gelas."

Vervanging van artikel 4 van Wet 85 van 1992

4. Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang:

45 **"Eiendomsreg van effekte**

4. (1) Indien effekte van enige soort by 'n bewaarnemende instelling of by 'n sentrale effektebewaarnemer [vir veilige bewaring] gedeponeer word of aanwas by effekte wat deur sodanige instelling in 'n effektedepot of deur sodanige bewaarnemer in 'n sentrale effektedepot gehou word, word die persoon wat eienaar van die effekte ten tyde van die deponering of aanwas daarvan was, geregtig op 'n belang as mede-eienaar van al die effekte van dieselfde soort wat in die effektedepot of sentrale effektedepot, [vir effekte van daardie soort] na gelang van die geval, vervat is.

(2) Vir sover as 'n beperkte reg ten opsigte van enige effekte ten tyde

time of such deposit or accrual, such limited right shall extend to the interest of such co-owner and to any securities delivered to [him] that co-owner.

(3) The interest of [an owner] a co-owner, client or participant in all the securities in a securities repository or central securities repository, as the case may be, shall be calculated with reference to the proportion that the number or nominal value of securities deposited by [him] or on [his] behalf of that co-owner, client or participant and accruing to such securities bears from time to time to the total number or nominal value of all securities of that kind held in the securities repository or central securities repository, as the case may be. 10

(4) A [certificate] written acknowledgement signed by or on behalf of a depositary institution [or] in respect of an owner of securities or of a client, or by or on behalf of a central securities depository in respect of a participant or client, as the case may be, and specifying the interest of [the depositor] that owner, client, or participant, as the case may be, shall be *prima facie* evidence of the title of [the depositor of] that person in such interest.”. 15

Substitution of section 6 of Act 85 of 1992

5. The following section is hereby substituted for section 6 of the principal Act: 20

“Pledge, or cession in securitatem debiti, of securities

6. (1) A pledge or cession in securitatem debiti in respect of an interest in securities held by a depositary institution in a securities repository shall be effected by agreement completed by entry in the securities account of—

- (a) the pledgor in favour of the pledgee specifying the name of the pledgee, the interest pledged and the date; or
 - (b) the cedent in favour of the cessionary specifying the name of the cessionary, the interest ceded and the date,
- as the case may be.

(2) Such an interest shall not be transferred except with the written consent of the pledgee or cessionary. 30

(3) The pledgee or cessionary of such an interest shall be entitled to all the rights of a pledgee or cessionary in securitatem debiti of movable [corporal] property [in possession of that property].”.

Repeal of section 7 of Act 85 of 1992

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6. Section 7 of the principal Act is hereby repealed.

Substitution of section 8 of Act 85 of 1992

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

“Delivery of securities

8. Subject to the provisions of [section] sections 4 and 6, the owner of an interest in securities held in a securities repository, or a participant holding an interest in a central securities repository, as the case may be, shall at all times be entitled to delivery, within a reasonable time, by the depositary institution or central securities depository concerned, of the same number of securities, or securities of the same nominal value, and of the same kind as the securities held on [his] such person's behalf in such securities repository or central securities repository, as long as such person has a sufficient unencumbered credit balance of securities with the depositary institution or central securities depository concerned.”. 40 45

van sodanige deponering of aanwas bestaan, bestaan sodanige beperkte reg ook ten opsigte van die belang van sodanige mede-eienaar en ten opsigte van enige effekte wat aan daardie mede-eienaar gelewer is.

5 (3) Die belang van 'n [eienaar] mede-eienaar, kliënt of deelnemer in al die effekte in 'n effektedepot of sentrale effektedepot, na gelang van die geval, word bereken met verwysing na die verhouding waarin die getal of nominale waarde van effekte wat deur of namens [hom] daardie mede-eienaar, kliënt of deelnemer gedeponeer is en wat by sodanige effekte aanwas van tyd tot tyd staan tot die totale getal of nominale waarde van alle effekte van daardie soort wat in die effektedepot of sentrale effektedepot gehou word, na gelang van die geval.

10 15 (4) 'n [Sertifikaat] Skriftelike erkenning wat deur of namens 'n bewaarnemende instelling [of] ten opsigte van 'n eienaar van effekte of kliënt, of deur of namens 'n sentrale effektebewaarnemer ten opsigte van 'n deelnemer of kliënt, na gelang van die geval, onderteken is en die belang van [die deposant] daardie eienaar, kliënt, of deelnemer, na gelang van die geval, vermeld, is *prima facie*-bewys van die titel van [die deposant] daardie persoon in sodanige belang.”.

Vervanging van artikel 6 van Wet 85 van 1992

20 5. Artikel 6 van die Hoofwet word hierby deur die volgende artikel vervang:

“Pand, of sessie *in securitatem debiti*, van effekte

25 6. (1) 'n Pand, of sessie *in securitatem debiti*, ten opsigte van 'n belang in effekte wat deur 'n bewaarnemende instelling in 'n effektedepot gehou word, vind plaas deur ooreenkoms voltooi deur inskrywing in die effekterekening van—

(a) die pandgowler ten gunste van die pandhouer waarin die naam van die pandhouer, die belang verpand en die datum vermeld word; of
 (b) die sedent ten gunste van die sessionaris waarin die naam van die sessionaris, die belang sedeer en die datum vermeld word,
 na gelang van die geval.

30 (2) Sodanige belang word nie oorgedra sonder die skriftelike toestemming van die pandhouer of sessionaris nie.

(3) Die pandhouer of sessionaris van sodanige belang is geregtig op al die regte van 'n pandhouer of sessionaris *in securitatem debiti* van 'n roerende [liggaamlike] saak [wat in besit van sodanige saak is].”.

Herroeping van artikel 7 van Wet 85 van 1992

6. Artikel 7 van die Hoofwet word hierby herroep.

Vervanging van artikel 8 van Wet 85 van 1992

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

40 40 “Lewering van effekte

45 50 8. Behoudens die bepalings van [artikel] artikels 4 en 6, is die eienaar van 'n belang in effekte wat in 'n effektedepot gehou word of 'n deelnemer wat 'n belang in 'n sentrale effektedepot, [gehou word] na gelang van die geval, hou, te alle tye geregtig op lewering binne 'n redelike tyd deur die betrokke bewaarnemende instelling of sentrale effektebewaarnemer, van dieselfde getal effekte, of effekte van dieselfde nominale waarde, en van dieselfde soort, as die effekte wat namens [hom] sodanige persoon in sodanige effektedepot of sentrale effektedepot gehou word, mits sodanige persoon 'n genoegsame onbeswaarde kredietbalans van effekte by die betrokke bewaarnemende instelling of sentrale effektebewaarnemer het.”.

Amendment of section 9 of Act 85 of 1992, as amended by section 71 of Act 104 of 1993**8. Section 9 of the Act is hereby amended—**

- (a) by the substitution for subsections (4) and (5) of the following subsections, respectively:

“(4) The Registrar may, after considering all the information, documents and reports furnished [to him] in terms of this section, grant or refuse the relevant application or grant the application subject to such terms and conditions as [he] the Registrar may deem fit, and the Registrar may thereafter amend those terms and conditions if prevailing circumstances necessitate any amendment.”

(5) The Registrar shall not grant an application under this section for the registration of a central securities depository unless the prescribed fee has been paid and [he] the Registrar is satisfied—

- (a) that the establishment of the proposed central securities depository will be in the public interest; 15

(b) that the applicant will be able to establish itself successfully as a central securities depository; and

(c) that the business of the applicant will be conducted in a prudent manner and with due regard to the rights of [depositors, members] 20 clients, participants and issuers of securities[; and

(d) **that the members of the proposed central securities depository have agreed in writing to abide by and are able to comply with the requirements of the rules of the central securities depository and the Act and that they are depositary institutions which have been approved by the Registrar as members of the central securities depository].”;** 25

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

“(b) if [he] the Registrar is of the opinion that it is not in the public interest to allow the central securities depository to continue its activities; or”;

- (c) by the substitution for subparagraph (i) of paragraph (a) of subsection (7) of the following subparagraph:

“(i) inform the central securities depository of [his] the intention to 35 cancel such registration;”;

- (d) by the substitution for paragraph (b) of subsection (7) of the following paragraph:

“(b) After considering any representations received within the specified period from the central securities depository concerned, the 40 Registrar may [in his discretion]—

(i) proceed with the cancellation; or

(ii) refrain from taking any further steps,

and the Registrar shall in writing inform the central securities depository concerned of [his] the decision in terms of this subsection.”; and 45

- (e) by the substitution for subsections (8) and (9) of the following subsections, respectively:

“(8) Whenever the Registrar grants or refuses an application in terms of this section or cancels the registration of a central securities depository, [he] the Registrar shall give written notice of the fact to the 50 applicant or to the central securities depository, as the case may be.

(9) Whenever a central securities depository becomes aware of a particular depositary institution ceasing to be a [member of it] participant, the central securities depository shall as soon as practicable notify the Registrar thereof.”.

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Amendment of section 10 of Act 85 of 1992**9. Section 10 of the Act is hereby amended—**

- (a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

Wysiging van artikel 9 van Wet 85 van 1992, soos gewysig deur artikel 71 van Wet 104 van 1993**8. Artikel 9 van die Hoofwet word hierby gewysig—**

- 5 (a) deur subartikels (4) en (5) deur onderskeidelik die volgende subartikels te vervang:

“(4) Die Registrateur kan, nadat [hy] al die inligting, dokumente en verslae wat ingevolge hierdie artikel **[aan hom]** verstrek is en oorweeg **[het]** is, die betrokke aansoek toestaan of weier of die aansoek onderworpe aan die **bedinge en voorwaardes** wat **[hy]** **die Registrateur** goeddink, toestaan, en die Registrateur kan daardie bedinge en voorwaardes daarna wysis indien die heersende omstandighede 'n wysisig noodsak.

(5) Die Registrateur staan nie 'n aansoek kragtens hierdie artikel om die registrasie van 'n sentrale effektebewaarnemer toe nie tensy die voorgeskrewe geld betaal is en **[hy]** **die Registrateur** oortuig is—

(a) dat die oprigting van die voorgestelde sentrale effektebewaarnemer in die openbare belang sal wees;

(b) dat die aansoeker in staat sal wees om homself met welslae as 'n sentrale effektebewaarnemer te vestig; en

20 (c) dat die besigheid van die aansoeker op omsigtige wyse bedryf sal word en met behoorlike inagneming van die belang van **[de-posante, lede]** **kliënte, deelnemers** en die uitgewers van effekte[; en

25 (d) dat die lede van die voorgestelde sentrale effektebewaarnemer ingestem het om aan die vereistes van die reëls van die sentrale effektebewaarnemer en die Wet gebonde te wees en in staat is om daaraan te voldoen en dat hulle bewaarnevende instellings is wat deur die Registrateur as lede van die sentrale effektebewaarnemer goedgekeur is].”;

- 30 (b) deur paragraaf (b) van subartikel (6) deur die volgende paragraaf te vervang:

“(b) indien **[hy]** **die Registrateur** van mening is dat dit nie in die openbare belang is om die sentrale effektebewaarnemer toe te laat om met sy bedrywighede voort te gaan nie; of”;

- 35 (c) deur subparagraph (i) van paragraaf (a) van subartikel (7) deur die volgende subparagraph te vervang:

“(i) stel die sentrale effektebewaarnemer van **[sy]** **die voorneme** om die registrasie in te trek in kennis;”;

- (d) deur paragraaf (b) van subartikel (7) deur die volgende paragraaf te vervang:

40 “(b) Nadat enige vertoe wat binne die gemelde tydperk van die betrokke sentrale effektebewaarnemer ontvang is, oorweeg is, **[mag]** **kan** **die Registrateur** **[na sy ordeel]**—

(i) voortgaan met die intrekking; of

(ii) geen verdere stapte doen nie,

en die Registrateur stel die betrokke sentrale effektebewaarnemer skriftelik van **[sy]** **die beslissing** ingevolge hierdie subartikel in kennis.”; en

- 45 (e) deur subartikels (8) en (9) deur onderskeidelik die volgende subartikels te vervang:

50 “(8) Wanneer die Registrateur 'n aansoek ingevolge hierdie artikel toestaan of weier of die registrasie van 'n sentrale effektebewaarnemer intrek, moet **[hy]** **die Registrateur** die aansoeker of die sentrale effektebewaarnemer, na gelang van die geval, skriftelik daarvan verwittig.

(9) Wanneer 'n sentrale effektebewaarnemer bewus word daarvan dat 'n bepaalde bewaarnevende instelling ophou om 'n **[lid van hom]** **deelnemer** te wees, moet die sentrale effektebewaarnemer so gou doenlik die Registrateur daarvan in kennis stel.”.

Wysiging van artikel 10 van Wet 85 van 1992**9. Artikel 10 van die Hoofwet word hierby gewysig—**

- 60 (a) deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

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- “(1) Only a participant shall be entitled to have a central securities account with a central securities depository, and to—
 (a) deposit securities with or withdraw securities from that depository;
 or
 (b) transfer, pledge or cede securities through the medium of that depository.”
- (2) [If the owner] In the event of rights being exercised in respect of securities deposited [by a depository institution] with a central securities depository [wishes to exercise his] such rights [he] shall [do so] be exercised through [that depository institution] a participant, and that [depository institution] participant shall exercise those rights in its own name on behalf of the relevant clients.”; and
- (b) by the addition of the following subsections:
- “(4) (a) No central securities depository or depository institution shall become the owner, co-owner, holder, pledgee or cessionary *in securitatem debiti*, of securities merely because of—
 (i) a deposit of securities; or
 (ii) the registration in its name of—
 (aa) securities;
 (bb) limited rights in securities;
 (cc) other rights in securities;
 (dd) benefits in respect of securities; or
 (ee) benefits accruing to securities.
- (b) Paragraph (a) shall also apply to a wholly owned subsidiary (as defined in section 1(1) of the Companies Act, 1973 (Act No. 61 of 1973)) of a central securities depository or depository institution.
- (5) A central securities depository shall not be obliged to recognise any relationship of trust or agency of its participants in respect of securities.
- (6) A central securities depository shall on request disclose information with regard to the holdings of a participant or client in a central securities repository, unless the participant or client concerned directs otherwise in writing.”.

Substitution of section 11 of Act 85 of 1992

10. The following section is hereby substituted for section 11 of the principal Act: 35

“Central securities repository

11. (1) A central securities depository may hold all securities of the same kind deposited with it by a [depository institution] participant [for safe custody] collectively in a separate central securities repository.
- (2) [A central securities repository shall comprise all securities of the same kind held by the central securities depository.] 40
- (3) The provisions of sections 5 and 6 shall apply *mutatis mutandis* to the transfer, [and] pledge and cession *in securitatem debiti* by one [depository institution] participant to another of an interest in securities held *in deposit* by a central securities depository [in safe deposit]. 45
- (4) A central securities depository shall notify the [depository institution] participant having a central securities account with it of any entry made in such account.”.

Substitution of section 12 of Act 85 of 1992, as amended by section 72 of Act 104 of 1993 50

11. (1) The following section is hereby substituted for section 12 of the principal Act:

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- “(1) Slegs ’n deelnemer is geregtig om ’n sentrale effekterekening by ’n sentrale effektebewaarnemer te hou, en om—
- (a) effekte by daardie bewaarnemer te deponeer of daaruit te onttrek; of
 - (b) effekte deur middel van daardie bewaarnemer oor te dra, te verpand of te sedeer.
- (2) [Indien die eienaar] In die geval van regte wat uitgeoefen word ten opsigte van effekte wat [deur ’n bewaarnemende instelling] by ’n sentrale effektebewaarnemer gedeponereer is, [sy] word sodanige regte [wil uitoefen, moet hy dit] uitgeoefen deur [daardie bewaarnemende instelling doen] ’n deelnemer, en sodanige [bewaarnemende instelling] deelnemer oefen sodanige regte uit in sy eie naam namens die betrokke kliënte.”; en
- (b) deur die volgende subartikels by te voeg:
- “(4) (a) Geen sentrale effektebewaarnemer of bewaarnemende instelling word die eienaar, mede-eienaar, houer, pandhouer of sessionaris *in securitatem debiti*, van effekte nie bloot as gevolg van—
- (i) ’n deposito van effekte; of
 - (ii) die registrasie in sy naam van—
 - (aa) effekte;
 - (bb) beperkte regte in effekte;
 - (cc) ander regte in effekte;
 - (dd) voordele ten opsigte van effekte;
 - (ee) voordele wat by effekte aanwas.
- (b) Paragraaf (a) is ook van toepassing op ’n volfiliaal (soos omskryf in artikel 1(1) van die Maatskappyewet, 1973 (Wet No. 61 van 1973)) van ’n sentrale effektebewaarnemer of ’n bewaarnemende instelling.
- (5) ’n Sentrale effektebewaarnemer is nie verplig om enige verhouding van trust of verteenwoordiging van sy deelnemers ten opsigte van effekte te erken nie.
- (6) ’n Sentrale effektebewaarnemer moet inligting met betrekking tot die belang van ’n deelnemer of kliënt in ’n sentrale effektedepot op versoek bekend maak, tensy die betrokke deelnemer of kliënt skriftelik anders gelas.”.

35 Vervanging van artikel 11 van Wet 85 van 1992

10. Artikel 11 van die Hoofwet word hierby deur die volgende artikel vervang:

“Sentrale effektedepot

11. (1) ’n Sentrale effektebewaarnemer kan alle effekte van dieselfde soort wat by hom [vir veilige bewaring] deur ’n [bewaarnemende instelling] deelnemer gedeponereer is gesamentlik in ’n aparte sentrale effektedepot hou.
- (2) [**’n Sentrale effektedepot behels alle effekte van dieselfde soort wat deur die sentrale effektebewaarnemer gehou word.**]
- (3) Die bepalings van artikels 5 en 6 is *mutatis mutandis* van toepassing op die oordrag, [en] verpanding en sessie *in securitatem debiti* deur een [bewaarnemende instelling] deelnemer aan ’n ander van ’n belang in effekte wat deur ’n sentrale effektebewaarnemer in [veilige bewaring] deposito gehou word.
- (4) ’n Sentrale effektebewaarnemer moet die [bewaarnemende instelling] deelnemer wat ’n sentrale effekterekening by hom het in kennis stel van enige inskrywing wat daarin gedoen is.”.

Vervanging van artikel 12 van Wet 85 van 1992, soos gewysig deur artikel 72 van Wet 104 van 1993

11. Artikel 12 van die Hoofwet word hierby deur die volgende artikel vervang:

"Rules of central securities depository"

- 12.** (1) The rules of any central securities depository shall be framed so as to ensure, to the satisfaction of the Registrar—
- (a) that the business of the central securities depository is carried out with due regard to the public interest and the interests of [depositors, members] owners, clients, participants and the issuers of securities;
 - (b) that the central securities depository is managed and administered in an efficient manner;
 - (c) that only a person or category of persons [approved] authorised by the Registrar [is admitted as a member of the central securities depository] to act as a depository institution in terms of section 2(1) and accepted by the central securities depository in terms of section 2(1A) may be a participant and that the rules governing the [admission] acceptance and expulsion of a person as a [member] participant are equitable and in the public interest; 10
 - (d) that the central securities accounts kept for [depository institutions] each participant are conducted with due regard to their interests;
 - (e) that adequate steps are available against any [depository institution] participant which contravenes or fails to comply with [the provisions] any provision of this Act, [or these] the rules, interim rules or 20 directives, and—
 - (i) that sanctions including penalties which shall not exceed R1 000 000 are prescribed in respect of any such contravention or failure to comply therewith;
 - (ii) that full particulars regarding the imposition of a penalty may be published in the *Gazette*;
 - (iii) that any person found guilty in terms of the rules may be ordered to pay the costs incurred in an investigation or hearing; and
 - (iv) that a central securities depository may take into account any relevant information at a hearing, including information provided to it by the Registrar in accordance with section 18(2)(b);
 - (f) that each of the participants is financially sound and has entered into, and is maintaining, valid and adequate guarantees in respect of—
 - (i) its actual and potential liabilities; and
 - (ii) conditional and contingent liabilities to the central securities depository; and
 - (iii) liabilities which existed before, or accrue after, a person has ceased to be a participant;
 - (g) that adequate steps are taken on a regular basis by a central securities depository and by its participants according to generally accepted accounting practice for the auditing of the central securities accounts [held by it] and securities accounts, as the case may be, and that [where the securities accounts and central securities accounts are not kept by the making of entries in bound books,] adequate precautions are taken for guarding against falsification [and for the ascertainment of the interest of the owner of securities]; 40
 - (h) that proper measures are taken to pay to the [depositors] participants or clients all dividends and other payments made by the [issuer] issuers of securities and to convey to them all notices regarding rights and other benefits accruing to the securities and to give effect to the lawful instructions of the [depositors] participants or clients with regard to voting rights and other matters and to ensure that the rights of [depositors] participants or clients are not in any way diminished by the fact that securities held by them or on their behalf are held collectively in a central securities repository as provided for by this Act; [and] 55

“Reëls van sentrale effektebewaarnemer

12. (1) Die reëls van enige sentrale effektebewaarnemer moet opgestel word ten einde tot oortuiging van die Registrateur te verseker—

- (a) dat die besigheid van die sentrale effektebewaarnemer met behoorlike inagneming van die openbare belang en die belang van **[depositante, lede]** eienaars, kliënte, deelnemers en die **[uitreikers]** uitgewers van effekte bedryf word;
- (b) dat die sentrale effektebewaarnemer op 'n effektiewe wyse bestuur en geadministreer word;
- (c) dat slegs 'n persoon of kategorie persone deur die Registrateur **[goedgekeur, lid van]** ingevolge artikel 2(1) gemagtig om as bewaarnemende instelling op te tree en deur die sentrale effektebewaarnemer **[word]** ingevolge artikel 2(1A) aanvaar as deelnemer, 'n deelnemer kan wees en dat die reëls wat die **[toelating]** aanvaarding en uitsetting van 'n persoon as [lid] deelnemer beheer, billik en in die openbare belang is;
- (d) dat die sentrale effekterekeninge wat vir **[bewaarnemende instellings]** elke deelnemer gehou word, met behoorlike inagneming van hulle belang bedryf word;
- (e) dat gepaste stappe beskikbaar is teen 'n **[bewaarnemende instelling]** deelnemer wat [die bepalings] 'n bepaling van hierdie Wet, [of hierdie] die reëls, tussentydse reëls of voorskrifte oortree of [nie] versuim om daaraan te voldoen [nie], en—
 - (i) dat strafmaatreëls met inbegrip van boetes wat nie R1 000 000 oorskry nie ten opsigte van enige sodanige oortreding of versuim voorgeskryf word;
 - (ii) dat volle besonderhede met betrekking tot die oplê van 'n boete in die *Staatskoerant* gepubliseer kan word;
 - (iii) dat enige persoon wat ingevolge die reëls skuldig bevind word, gelas kan word om die kostes aangegaan in 'n ondersoek of verhoor te betaal; en
 - (iv) dat 'n sentrale effektebewaarnemer enige toepaslike inligting, met inbegrip van inligting wat in ooreenstemming met artikel 18(2)(b) deur die Registrateur aan hom verskaf is, by 'n verhoor in ag kan neem;
- (f) dat elkeen van die deelnemers finansieel gesond is en geldige en afdoende waarborgs aangegaan het en in stand hou ten opsigte van—
 - (i) sy werklike en moontlike verpligte; en
 - (ii) voorwaardelike en toevallige verpligte aan die sentrale effektebewaarnemer; en
- (iii) verpligte wat bestaan het voor, of aanwas na, 'n persoon opgehou het om 'n deelnemer te wees;
- (g) dat toereikende stappe op 'n gereelde grondslag volgens algemeen aanvaarde rekeningkundige praktyk vir die ouditering van die **sentrale effekterekeninge** **[wat deur hom gehou word]** en effekterekeninge, na gelang van die geval, deur 'n sentrale effektebewaarnemer en sy deelnemers gedoen word, en **[waar die effekterekeninge en sentrale effekterekeninge nie bygehou word deur die maak van inskrywings in gebinde boeke nie.]** toereikende voorsorg getref word om te waak teen vervalsing [**en vir die vasstelling van die belang van die eienaar van effekte**];
- (h) dat gepaste stappe gedoen word om aan **[depositante]** deelnemers of kliënte alle dividende en ander betalings wat deur die **[uitreiker]** uitgewers van effekte gemaak word, oor te betaal, en om hulle te verwittig van alle kennisgewings ten opsigte van regte en ander voordele wat die effekte toekom en om gevolg te gee aan die wettige opdragte van die **[bewaargewers]** deelnemers of kliënte ten opsigte van stemreg en ander aangeleenthede en om te verseker dat die regte van **[depositante]** deelnemers en kliënte nie op enige wyse verminder word vanweë die feit dat effekte gesamentlik in 'n sentrale effekte-depot deur of ten behoeve van hulle soos deur hierdie Wet voorsien, gehou word nie; **[en]**

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(i)	that fees and charges required by it for its services shall be made known to its [depositors and members] participants and that the fees and charges required by a participant for its services shall be made known to its client;	5
(j)	that proper measures are taken by a participant— (i) to pay clients all moneys in respect of securities received by a participant from the central securities depository or issuer or a company; and (ii) to convey to clients all information regarding rights and other benefits accruing to the securities; and (iii) to give effect to the lawful instructions of clients with regard to voting rights and other matters; and (iv) to ensure that the rights of clients are not in any way diminished by the fact that securities held on their behalf are held collectively in a securities repository or central securities repository as provided for by this Act;	10
(k)	that, on written request from an owner or client of an interest in securities held in a securities repository or central securities repository, a participant be required to deliver the same number of securities, or securities of the same nominal value and of the same kind, as the securities held on behalf of that owner or client in a securities repository or central securities repository, as long as the owner or client has a sufficient unencumbered credit balance of securities with the participant;	15
(l)	that a participant's central securities accounts shall be prohibited from showing a debit balance;	20
(m)	that a central securities depository shall be entitled to issue directives and interim rules;	25
(n)	that a central securities depository may refuse to accept securities from any particular issuer of securities;	30
(o)	that a central securities depository may keep records of clients, owners and beneficial owners of securities and limited or other interests in the securities;	35
(p)	that the right of participants to withdraw instruments in respect of securities be subject to a time limit from the date and time of deposit;	40
(q)	that provisions are made for instructions to be given by participants to a central securities depository.	45
(1A)	The rules of any central securities depository may provide, to the satisfaction of the Registrar, for the limitation of the liability of the central securities depository, a director, officer, employee or representative of the central securities depository, or any member of the controlling body or subcommittee of the controlling body, for any loss sustained by or damage caused to any person as a result of anything done or omitted by the central securities depository, a director, officer, employee, representative or member in the <i>bona fide</i> or negligent (but not grossly negligent) exercise of any power or carrying out of any duty or performance of any function under or in terms of this Act or the rules.	50
(1B)	Subject to this Act and the approval of the Registrar, the controlling body may make rules with regard to any matter which is necessary or expedient in order to achieve the objects of this Act.	55
(2)	[At the request of the] The Registrar shall as soon as possible after granting an application for the registration of a central securities depository, [shall publish its rules] cause the rules of the central securities depository and a list of its [members as directed by the Registrar, at its own] participants to be published in the <i>Gazette</i> in English and one other official language at the expense of the central securities depository concerned.	55
(3)	No addition to, amendment of or deletion from (other than a suspension of) the rules of a central securities depository or the said list of [members] participants shall be valid [until] unless—	

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- (i) dat geldie en heffings deur hom vir sy dienste gevorder, aan sy **[depositante en lede]** deelnemers bekendgemaak word en dat geldie en heffings deur 'n deelnemer vir sy dienste gevorder aan sy kliënte bekendgemaak word;
- 5 (j) dat gepaste stappe deur 'n deelnemer gedoen word—
(i) om alle geldie wat deur 'n deelnemer ten opsigte van effekte van die sentrale effektebewaarner of uitgewer of 'n maatskappy ontvang is, aan kliënte oor te betaal; en
(ii) om alle inligting ten opsigte van regte en ander voordele wat by die effekte aanwas aan kliënte oor te dra; en
(iii) om gevolg te gee aan die geldige opdragte van kliënte met betrekking tot stemreg en ander aangeleenthede; en
(iv) om te verseker dat die regte van kliënte nie op enige wyse verminder word nie vanweë die feit dat effekte wat namens hulle gehou word, gesamentlik in 'n effektedepot of sentrale effektedepot soos deur hierdie Wet voorsien, gehou word;
- 10 (k) dat daar, op skriftelike versoek van 'n eienaar of kliënt van 'n belang in effekte wat in 'n effektedepot of sentrale effektedepot gehou word, van 'n deelnemer vereis word om dieselfde getal effekte, of effekte van dieselfde nominale waarde, en van dieselfde soort, as die effekte wat namens daardie eienaar of kliënt in 'n effektedepot of sentrale effektedepot gehou word, te lewer, mits die eienaar of kliënt 'n toereikende onbeswaarde kredietbalans van effekte by die betrokke deelnemer het;
- 15 (l) dat die sentrale effekterekening van 'n deelnemer verbied word om 'n debietbalans te toon;
(m) dat 'n sentrale effektebewaarner geregtig is om voorskrifte en tussentydse reëls uit te reik;
(n) dat 'n sentrale effektebewaarner kan weier om effekte van enige besondere uitgewer van effekte te aanvaar;
- 20 (o) dat 'n sentrale effektebewaarner rekords van kliënte, eienaars en bevoordeelde eienaars van effekte en beperkte of ander belang in die effekte kan hou;
(p) dat die reg van deelnemers om instrumente ten opsigte van effekte te onttrek onderworpe sal wees aan 'n tydsbeperking vanaf die datum en tyd van deposito;
- 25 (q) dat voorsiening gemaak word vir opdragte wat deur deelnemers aan 'n sentrale effektebewaarner gegee word.
- (1A) Die reëls van 'n sentrale effektebewaarner kan, ten genoeë van die Registrateur, voorsiening maak vir die beperking van die aanspreeklikheid van die sentrale effektebewaarner, of 'n direkteur, beampte, werknemer, of verteenwoordiger van die sentrale effektebewaarner, of enige lid van die beherende liggaam of subkomitee van die beherende liggaam, vir enige verlies of skade gely deur enige persoon as gevolg van enigiets wat deur die sentrale effektebewaarner, 'n direkteur, beampte, werknemer, verteenwoordiger of lid gedoen of nagelaat is in die *bona fide*-of nalatige (maar nie growwe nalatige nie) uitoefening van 'n bevoegdheid of uitvoering van 'n plig of verrigting van 'n werkzaamheid kragtens of ingevolge hierdie Wet of die reëls.
- 30 (1B) Behoudens hierdie Wet en die goedkeuring van die Registrateur, kan die beherende liggaam reëls maak met betrekking tot enige aangeleentheid wat nodig of dienstig is ten einde die oogmerke van hierdie Wet te bereik.
- 35 (2) **[Op versoek van die]** Die Registrateur **[moet]** laat so gou doenlik nadat 'n aansoek om registrasie van 'n sentrale effektebewaarner toegestaan is, die reëls van 'n sentrale effektebewaarner **[sy reëls]** en 'n lys van sy **[lede soos deur die Registrateur gelas op eie koste publiseer]** deelnemers in Engels en in een ander amptelike taal in die *Staatskoerant* op die onkoste van die betrokke sentrale effektebewaarner, publiseer.
- 40 (3) Geen byvoeging by, wysiging van of skrapping uit **(behalwe 'n opskorting van)** die reëls van 'n sentrale effektebewaarner of genoemde lys van **[lede]** deelnemers is geldig nie tensy—
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- (a) it has been approved by the Registrar in writing;
 (b) [against payment of] the prescribed fee has been paid; and
 (c) a date has been stipulated in the Registrar's approval for the coming into operation of the addition, amendment or deletion.

(4) [A] Upon receipt of an application for approval in terms of subsection (3), the Registrar shall cause to be published at the expense of the central securities depository in English and one other official language in the *Gazette* a notice setting out the proposed addition to, amendment of or deletion from the said rules or the list of [members, shall be published by notice in the *Gazette* by the central securities depository in both official languages] participants.

(5) (a) The said notice shall call upon members of the public who have objections to the proposed addition, amendment or deletion, to lodge such objections with the Registrar within a period of 30 days from the date of publication in the *Gazette*.

(b) The Registrar shall consider the objections, if any, and shall approve or disapprove of the addition, amendment or deletion within a period of two months after expiry of the period referred to in paragraph (a).

(c) The Registrar may, within the period of two months contemplated in paragraph (b), extend that period by notice to the central securities depository concerned for a period which in the circumstances is reasonable.

(d) If the Registrar does not disapprove of an addition, amendment or deletion within the period of two months, or any period extended in terms of paragraph (c), the Registrar shall be deemed to have approved thereof and such addition, amendment or deletion shall come into operation on the day immediately following upon the date of expiry of the said period of two months.

(6) Whenever [the Registrar deems] it is in the public interest, [he] the Registrar may, after reasonable consultation with the central securities depository and with the consent of the Minister, by notice in the *Gazette* amend, add to or rescind any provision of the rules of that central securities depository with effect from the date immediately following upon the date of publication of the notice or such later date as [he] may be [specify] specified [in the *Gazette*] therein.

(7) (a) Subject to the prior approval of the Registrar, the controlling body may suspend any of the rules of the central securities depository concerned for a period not exceeding 90 days at a time after notice of the proposed suspension has been given to the participants of the central securities depository concerned.

(b) Subject to the prior approval of the Registrar, the central securities depository may, for the period of the suspension referred to in paragraph (a), issue an interim rule to regulate the matter in question until such time as an appropriate amendment to the rules can be made in terms of this section.

(c) The Registrar shall as soon as possible after the suspension of a rule and the issue of an interim rule, cause to be published at the expense of the central securities depository in English and one other official language in the *Gazette* a notice setting out the rule suspended, the period of suspension, the interim rule and the period of the operation of the interim rule.

(d) Any contravention of or non-compliance with an interim rule shall *mutatis mutandis* have the same legal effect as a contravention of or non-compliance with a rule.

(8) The provisions of any rule made under this section shall be binding on all participants and on every person utilising the services of a participant.”.

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WYSIGINGSWET OP DIE VEILIGE BEWARING VAN
EFFEKTE, 1996

Wet No. 70, 1996

- (a) dit [**teen betaling van die voorgeskrewe geld**] skriftelik deur die Registrateur goedgekeur [**word nie**] is;
- (b) die voorgeskrewe geld betaal is; en
- (c) 'n datum vir die inwerkingtreding van sodanige byvoeging, wysiging of skrapping in die Registrateur se goedkeuring bepaal is.
- 5 (4) [**'n Kennisgewing**] By ontvangs van 'n aansoek om goedkeuring ingevolge subartikel (3), laat die Registrateur 'n kennisgewing in Engels en in een ander ampelike taal, op die onkoste van die sentrale effektebewaarnemer, in die *Staatskoerant* publiseer waarin die voorgestelde byvoeging by, wysiging van of skrapping uit genoemde reëls of die lys van [lede] deelnemers uiteengesit word [**moet deur die sentrale effektebewaarnemer in beide ampelike tale by kennisgewing in die Staatskoerant gepubliseer word**].
- 10 (5) (a) Genoemde kennisgewing moet lede van die publiek wat besware teen die voorgestelde byvoeging, wysiging of skrapping het, versoek om sodanige besware by die Registrateur aanhangig te maak binne 'n tydperk van 30 dae vanaf die datum van publikasie in die *Staatskoerant*.
- 15 (b) Die Registrateur moet die besware, indien enige, oorweeg en moet die byvoeging, wysiging of skrapping binne 'n tydperk van twee maande na die verstryking van die tydperk bedoel in paragraaf (a) goedkeur of afkeur.
- 20 (c) Die Registrateur kan gedurende die tydperk van twee maande beoog in paragraaf (b) daardie tydperk by kennisgewing aan die betrokke sentrale effektebewaarnemer vir 'n tydperk wat in die omstandighede redelik is, verleng.
- 25 (d) Indien die Registrateur 'n byvoeging, wysiging of skrapping nie binne die tydperk van twee maande, of 'n tydperk wat ingevolge paragraaf (c) verleng is, afkeur nie, word die Registrateur geag dit goed te keur het, en tree sodanige byvoeging, wysiging of skrapping in werking op die dag wat onmiddellik volg op die datum van verstryking van die vermelde tydperk van twee maande.
- 30 (6) Wanneer [**die Registrateur**] dit in die openbare belang [**ag**] is, kan [**hy**] die Registrateur, na redelike oorlegpleging met die sentrale effektebewaarnemer en met die instemming van die Minister, by kennisgewing in die *Staatskoerant* enige bepaling van die reëls van daardie sentrale effektebewaarnemer met ingang van [**'n**] die datum wat onmiddellik volg op die datum van die publikasie van die kennisgewing of sodanige later datum [wat hy] in die *Staatskoerant* vermeld, wysig, uitbrei of herroep.
- 35 (7) (a) Behoudens die voorafverkreë goedkeuring van die Registrateur, kan die beherende liggaam enige van die reëls van die betrokke sentrale effektebewaarnemer vir 'n tydperk van hoogstens 90 dae op 'n keer opskort nadat kennis van die voorgestelde opskorting aan die deelnemers van die betrokke sentrale effektebewaarnemer gegee is.
- 40 (b) Behoudens die voorafverkreë goedkeuring van die Registrateur, kan die sentrale effektebewaarnemer, vir die tydperk van die opskorting bedoel in paragraaf (a), 'n tussentydse reël uitvaardig om die betrokke aangeleentheid te reël totdat 'n gepaste wysiging aan die reëls ingevolge hierdie artikel gemaak kan word.
- 45 (c) Die Registrateur laat so gou doenlik na die opskorting van 'n reël en die uitvaardiging van 'n tussentydse reël 'n kennisgewing in Engels en in een ander ampelike taal, op die onkoste van die sentrale effektebewaarnemer, in die *Staatskoerant* publiseer waarin die opgeskorte reël, die tydperk van opskorting, die tussentydse reël en die tydperk van die werking van die tussentydse reël uiteengesit word.
- 50 (d) Enige oortreding of nie-nakoming van 'n tussentydse reël het *mutatis mutandis* dieselfderegsgevolge as 'n oortreding of nie-nakoming van 'n reël.
- 55 (8) Die bepalings van enige reël uitgevaardig kragtens hierdie artikel is bindend op alle deelnemers en op elke persoon wat die dienste van 'n deelnemer gebruik.”.
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Act No. 70, 1996

SAFE DEPOSIT OF SECURITIES AMENDMENT
ACT, 1996**Amendment of section 13 of Act 85 of 1992**

12. Section 13 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The attachment of an interest in securities deposited [for safe custody] with a depositary institution and [**comprised**] held in a securities repository or central securities repository shall only be complete when—

(a) notice of the attachment has been given in writing by the sheriff to the depositary institution;

(b) the sheriff has taken possession of any securities account as evidenced by a [**certificate**] written acknowledgement issued by a [**central securities depository or member of such depository, as the case may be,**] participant or has certified that he or she has been unable, despite diligent search, to obtain possession of such [**certificate**] written acknowledgement; and

(c) the sheriff has made an entry of the attachment on such securities account or caused it to be made by such depositary institution.”.

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Amendment of section 15 of Act 85 of 1992

13. Section 15 of the principal Act is hereby amended—

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

“(1) The Registrar or a person nominated by [him] the Registrar may attend any meeting of a controlling body of a central securities depository or a subcommittee of such a body, and may take part, but not vote, in all the proceedings at such meeting.”; and

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

“(3) For the purposes of this section ‘executive officer’ means the person appointed by the controlling body of the central securities depository in terms of the rules concerned as executive officer of that central securities depository or, in [his] the executive officer’s absence, [his] the deputy or, if there is no such deputy, such other person as may be appointed by the controlling body to perform all the functions which shall or may be performed by the executive officer.”.

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Amendment of section 18 of Act 85 of 1992

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

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

“(1) The provisions of the Inspection of Financial Institutions Act, 1984 (Act No. 38 of 1984), shall *mutatis mutandis* apply to a central securities depository, [**and a member thereof, a central securities repository, a depositor**] participant or depositary institution, and for such purposes the central securities depository, [**member, central securities repository, depositor**] participant or depositary institution shall be deemed to be a financial institution, and the Registrar [as defined in section 1 of this Act shall] to be the registrar [in relation to the central securities depository, member, central securities repository, depositor or depositary institution] defined in section 1 of the Inspection of Financial Institutions Act, 1984.”;

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

“(b) the proviso to section 8(1) thereof shall be construed as if the following further [proviso] paragraph were added [at the end thereof]:

‘(e) the registrar [**may in his discretion**] shall communicate to the controlling body of a central securities depository any relevant information obtained by [him] the registrar in the course of an inspection under this Act, or from a report by an inspector on such an inspection [of the affairs of a person who is or was a member of that central securities depository].’ ”; and

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Wysiging van artikel 13 van Wet 85 van 1992

12. Artikel 13 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) Beslaglegging op ’n belang in effekte wat [vir veilige bewaring] by ’n bewaarnemende instelling gedeponeer is en in ’n effektedepot [bevat is] of sentrale effektedepot gehou word, is slegs voltooid indien—
- (a) kennis van die beslaglegging skriftelik deur die balju aan die bewaarnemende instelling gegee is;
 - (b) die balju besit van enige effekterekening soos gestaaf deur ’n [sertifikaat] skriftelike erkenning uitgereik deur ’n [sentrale effektebewaarneemer of lid van sodanige bewaarnemer, na gelang van die geval] deelnemer verkry het of gesertifiseer het dat hy of sy, ondanks sorgvuldige nasporing, nie in staat was om besit van sodanige [sertifikaat] skriftelike erkenning te verkry nie; en
 - (c) die balju ’n inskrywing van die beslaglegging op sodanige effekterekening gemaak of deur die bewaarnemende instelling laat maak het.”.

Wysiging van artikel 15 van Wet 85 van 1992

13. Artikel 15 van die Hoofwet word hierby gewysig—

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

“(1) Die Registrateur of ’n persoon deur [hom] die Registrateur benoem, kan enige vergadering van ’n beherende liggaam van ’n sentrale effektebewaarneemer of ’n subkomitee van so ’n liggaam bywoon, en, behalwe vir stemming, aan al die verrigtinge by so ’n vergadering deelneem.”; en
- (b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) By die toepassing van hierdie artikel beteken ‘uitvoerende beampete’ die persoon wat die beherende liggaam van die sentrale effektebewaarneemer ingevolge die betrokke reëls as die uitvoerende beampete van daardie sentrale effektebewaarneemer aanstel of, in [sy] die uitvoerende beampete se afwesigheid, [sy] die plaasvervanger of, as daar nie so ’n plaasvervanger is nie, die ander persoon wat die beherende liggaam aanstel om die werksaamhede te verrig wat deur die uitvoerende beampete verrig moet of kan word.”.

Wysiging van artikel 18 van Wet 85 van 1992

14. Artikel 18 van die Hoofwet word hierby gewysig—

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

“(1) Die bepalings van die Wet op Inspeksie van Finansiële Instellings, 1984 (Wet No. 38 van 1984), is mutatis mutandis van toepassing op ’n sentrale effektebewaarneemer, [en ’n lid daarvan, ’n sentrale effektedepot, ’n deposant] n deelnemer en ’n bewaarnemende instelling, en by sodanige toepassing word die sentrale effektebewaarneemer, [lid, sentrale effektedepot, deposant] deelnemer of bewaarnemende instelling geag ’n finansiële instelling te wees, en [is] die Registrateur [soos omskryf in artikel 1 van hierdie Wet,] die registrateur [met betrekking tot die sentrale effektebewaarneemer, lid, sentrale effektedepot, deposant of bewaarnemende instelling] soos omskryf in artikel 1 van die Wet op Inspeksie van Finansiële Instellings, 1984.”;
- (b) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:

“(b) word die voorbehoudsbepaling by artikel 8(1) daarvan uitgelê asof die volgende verdere [voorbehoudsbepaling] paragraaf [aan die end daarvan] bygevoeg is:

‘(e) die registrateur [na goeddunke] aan die beherende liggaam van ’n sentrale effektebewaarneemer enige toepaslike inligting [kan] moet oordra wat deur [hom] die registrateur bekom is in die loop van ’n inspeksie kragtens hierdie Wet, of uit ’n verslag deur ’n inspekteur oor so ’n inspeksie [van die sake van ’n persoon wat ’n lid is of was van daardie sentrale effektebewaarneemer].’”; en

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ACT, 1996**

(c) by the deletion of subsection (3).

Substitution of long title of Act 85 of 1992

15. The following long title is hereby substituted for the long title of the principal Act:
“To provide for the registration of a central securities depository for the safe custody of securities in terms of a predetermined set of rules; to permit a depositary institution to become a [member] participant of a central securities depository; to permit [investors] clients to deposit securities through a [depositary institution] participant with a central securities depository; and to provide for the ownership, transfer, pledge and delivery of securities held in safe custody; and to provide for matters connected therewith.”.

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Short title

16. This Act shall be called the Safe Deposit of Securities Amendment Act, 1996.

(c) deur subartikel (3) te skrap.

Vervanging van lang titel van Wet 85 van 1992

15. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:
“Om voorsiening te maak vir die registrasie van ’n sentrale effektebewaarnemer
vir die veilige bewaring van effekte ingevolge ’n vooropgestelde stel reëls; om ’n
bewaarnemende instelling toe te laat om [lid te word van] deel te neem aan ’n
sentrale effektebewaarnemer; om [beleggers] kliënte toe te laat om effekte deur ’n
[bewaarnemende instelling] deelnemer by ’n sentrale effektebewaarnemer te
deponeer; en om voorsiening te maak vir die eienaarskap, oordrag, verpanding en
lewering van effekte wat in veilige bewaring gehou word; en om voorsiening te
maak vir aangeleenthede wat daarmee in verband staan.”.

Kort titel

16. Hierdie Wet heet die Wysigingswet op die Veilige Bewaring van Effekte, 1996.

