SOUTH AFRICAN RESERVE BANK
SUID-AFRIKAANSE RESERVEBANK

No. 620 **15 August 2014**

Designation of an activity not falling within the meaning of "The Business of a Bank" (A group of persons between the members of which exists a common bond)

Under paragraph (*cc*) of the definition of "the business of a bank" in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), I René van Wyk, Registrar of Banks, with the approval of the Minister of Finance, hereby designate, with effect from 1 March 2014, the activity set out in paragraph 2 of the Schedule as an activity that does not fall within the meaning of "the business of a bank", in order to be in line with the provisions of paragraph (*cc*) of the Banks Act, 1990 (Act No. 94 of 1990).

René van Wyk
Registrar of Banks

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Schedule

1. **Definitions.**—In this Schedule—

"a common bond" exists between—

(*a*)

i. members of a Financial Co-operative, Financial Services Co-operative, Credit Union or Savings and Credit Co-operative which members—

a. consist of persons who are employed by common employer(s) or who are employed within the same business district; or
b. have common membership in an association or organisation, including religious, social, co-operative, labour or educational groups; or
c. reside within the same defined community within a rural or urban district.

ii. members of a secondary financial co-operative consisting of primary financial co-operatives registered in terms of paragraph 3 (a) below.

(*b*) members of a specific group consisting of employees of the same employer who are members of the same savings and credit scheme that is operated and administered on behalf of such group of employees in accordance with set rules agreed upon between such group of employees and their employer; or

(c) members of a specific group that may be described by the term or concept known as "stokvel", which—

i. is a formal or informal rotating credit scheme with entertainment, social and economic functions;

ii. fundamentally consists of members who have pledged mutual support to each other towards the attainment of specific objectives;

iii. establishes a continuous pool of capital by raising funds by means of the subscriptions of members;

iv. grants credit to and on behalf of members;

v. provides for members to share in profits and to nominate management; and

vi. relies on self-imposed regulation to protect the interest of its members; or

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(*d*) members of a specific group, governed in terms of rules agreed to and signed by the group's founders, exclusively established for the purpose of raising funds and applying or holding available such funds for housing advances to members, irrespective of whether or not such group is bound by its rules to terminate upon the expiration of a fixed period or upon the occurrence of an event specified in its rules.

"employee" means any person who is employed by or working for an employer and is receiving or entitled to receive any remuneration;

"employer" means any person whosoever employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him;

"group" means a number of natural persons;

"member", in relation to a group as mentioned in subparagraph (*a*), (*b*), (*c*) and (*d*), means a person who contributes towards the funding of the group in order to obtain any benefit in terms thereof.

"co-operative financial institution" means any of the entities referred to in subparagraph (a) of the definition of "common bond" above;

"other savings groups", means groups referred to in subparagraph (b),(c) and (d) of definition of "common bond" above; and

"CBDA", means the Co-operative Banks Development Agency, established under section 54 of the Co-operative Banks Act, Act No 40 of 2007.

2. Designated activity-

2.1. Subject to the conditions set out in paragraph 3, a co-operative financial institution may only provide, participate in or undertake the following services:

(a) solicit and accept money from members;

(b) open savings accounts for its members, in the name of each member, into which that member may deposit or withdraw money and from which that member may instruct the co-operative financial institution to transfer or pay money;

(c) borrow money from other organisation including government agencies and banking institutions up to a percentage of the assets held by it as prescribed by the CBDA;

(d) open a savings account or cheque account in the name of that co-operative financial institution with any banking institution;

(e) grant secured and unsecured loans to members to a maximum aggregate value prescribed by the CBDA;

(f) conduct any additional services as may be prescribed by the CBDA, which services shall be limited to those prescribed under section 14 of the Co-operative Banks Act, Act No 40 of 2007; and

(g) Invest money from its members in investments prescribed by the CBDA.

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2.2. Subject to the conditions set out in paragraph 3, other savings groups may accept by or on behalf of a group, between the members of which there exists a common bond, money from such members, the pooling of such money, and the utilisation thereof for one or more of the following objectives:

(*a*) The contribution to maintenance during minority, old age, widowhood, sickness or other infirmity, whether bodily or mental, of members or their husbands, wives, widows, widowers, children or other relatives or dependants;

(*b*) the granting of annuities, whether immediate or deferred, to members or to nominees of members or the endowment of members or nominees of members;

(c) the provision of a sum of money to be paid or other benefit to be provided—

i. on the birth of a member's child;

ii. on the death of a member or any other person mentioned in paragraph (*a*) or in the form of an endowment insurance on the life of a member or such a person;

iii. towards the expenses in connection with the death or funeral of any member or any such person; or

iv. during a period of confined mourning by a member or such a person;

(*d*) the acquisition of movable goods by a member;

(*e*) the acquisition of any land by a member;

(f) the erection, on any land, of buildings for residential or business purposes or the acquisition of any such buildings by a member;

(g) the insurance against fire or other contingencies of the implements of the trade or calling of any member;

(h) towards expenses in connection with any recreational or social event of a member;

(i) the provision of a sum of money to a member on a member's leaving the services of his employer owing to dismissal, resignation or otherwise;

(j) the relief or maintenance of members, or any group of members, when unemployed or in distressed circumstances;

(k) the provision of money for the advancement of the education or training of members or of the children of members;

(l) the establishment of any business by a member;

(m) the development of the community to which the members belong;

(n) the provision of means whereby members may receive interest or a dividend on their respective contributions or subscriptions.

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3. **Conditions.**—the following conditions are applicable to co-operative financial institutions and other savings groups, namely:-

(a) a co-operative financial institution shall at all times subject itself to the requirements of the Cooperatives Act, No 14 of 2005 and the supervision and regulation of the CBDA. The CBDA may delegate any such function or duty or part thereof to a representative body or support organisation accredited by the CBDA in terms of the Co-operatives Banks Act, Act No 40 of 2007.

(b) in case of stokvels, they shall be a member of a self-regulatory body approved by the Registrar of Banks in writing, which names may be listed on the official website of the South African Reserve Bank. Such bodies must issue a certificate of registration to its members. Stokvels that do not at any time hold contributions from members amounting in the aggregate to more than R100 000 need not register with such bodies;

(c) none of the activities of a co-operative financial institution and other savings groups may fall within the objectives of a pension fund organisation as set out in paragraph (a) or (b) of the definition of "pension fund organisation" in section 1 of the Pension Funds Act, 1956;

(d) the rules of a co-operative financial institution and other savings groups shall not entitle any member at any time, albeit subject to any such notice as may be prescribed in the rules of a co-operative financial institution and other savings groups, to withdraw the full amount of his or her contributions;

(e) the benefits of members of the co-operative financial institution and other savings group shall not be provided exclusively by way of loans that, in terms of the rules of a co-operative financial institution and other savings groups, must be repaid;

(f) a co-operative financial institution and other savings groups shall keep, in one of the official languages of the Republic of South Africa, such accounting records as are necessary to fairly reflect the state of affairs and business of a co-operative financial institution and other savings groups and to explain the transactions and financial position of such co-operative financial institution and other savings groups;

(g) a co-operative financial institution and other savings groups shall fix a date on which, in each year, its financial year will end, and such financial year shall be its annual accounting period;

(h) a co-operative financial institution and other savings groups shall within 120 days after the end of each financial year cause annual financial statements, pertaining to its affairs and business in respect of that financial year, to be made out in one of the official languages of the Republic of South Africa;

(i) subject to the provisions of (j) and (k) below, co-operative financial institutions and other savings groups may not at any time hold contributions from members amounting in the aggregate to more than R30 million.

(j) co-operative financial institutions that have reached the limit mentioned in (i) above must apply to the CBDA in writing for approval to hold contributions from members to an amount not exceeding R40 million in aggregate.

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(k) applications in terms of (j) above must be received by the CBDA within 60 days from the date of the publication of this notice.

(l) the financial statements of a co-operative financial institution shall be presented in accordance with the Co-operatives Act, Act No 14 of 2005;

(m) the financial statements of other savings groups that at any time hold contributions from members amounting in the aggregate to more than R3 million must be presented to a person duly registered as an accountant and auditor, in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005), for purposes of the drawing up and presentation of a report. In the event of the accountant and auditor being unable to make such report or to make it without qualification, he shall include in his report a statement to that effect and set forth the facts or circumstances that prevent him from so making his report or from making it without qualification;

(n) copies of such financial statements shall within 60 days after completion thereof also be presented—

i. in the case of a co-operative financial institution to the members of such co-operative financial institution and to the CBDA in writing.

ii. in case of other savings groups-

a. a group mentioned in subparagraph (*b*) of paragraph 1, to the members of such group and to their employer; or
b. a group mentioned in subparagraph (*c*) of paragraph 1, to the members of such group and, if applicable, to the relevant self-regulatory body approved by the Registrar in writing; or
c. a group mentioned in subparagraph (d) of paragraph 1, to the members of such group.

4. **Reporting** — The Office of the Registrar of Banks may request written information from CBDA or self-regulatory bodies on their activities and the activities of the institutions supervised by them.

5. **Repeal of notice** — Government Notice No. 404 published in Government Gazette No 35368 of 25 May 2012 is hereby repealed and substituted by this notice.