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THE PRESIDENCY

No. 70 1 February 2013

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

Act No. 19 of 2012: Financial Markets Act, 2012

LIHHOVISI LEMENGAMELI

No. 70 1 February 2013

Ngaloku kwentiwa satiso sekutsi uMengameli uwuvumile lomTsetfo lolandzelako, lekungumTsetfo lokhishwako lapha kutsi watiwe ngumphakatsi wonkhe:—

No 19 wa 2012: UmTsetfo Wetimakethe lemnotfo, 2012



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

(English text signed by the President)
(Assented to 30 January 2013)

ACT

To provide for the regulation of financial markets; to license and regulate exchanges, central securities depositories, clearing houses and trade repositories; to regulate and control securities trading, clearing and settlement, and the custody and administration of securities; to prohibit insider trading, and other market abuses; to provide for the approval of nominees; to provide for codes of conduct; to replace the Securities Services Act, 2004, as amended by the Financial Services Laws General Amendment Act, 2008, so as to align this Act with international standards; and to provide for matters connected therewith.

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4. Prohibitions and adherence to authorisation by authorised users, participants and clearing members

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11. Listing of securities
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13. Application of amended listing requirements to previously listed securities
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(English text signed by the President)
(Assented to 30 January 2013)

UMTSETFO

Kwentela kulawulwa kwekuphatfwa kwetimakethe temnotfo; kuniketa imvume nekulawula lokuguculwako, bemasheya labasemkhatsini kuvikela emabhange, netindlu tekucacisa and netindzawo tekuhwebelana lapho kusiwa khona; kuphatsa nekulawula kuhanjiswa kwemasheya kanye nekugcinwa nekuphatfwa kwemasheya; kuvikela kutsengiselana kwangekhatsi; kwentela kutfolo imvume yalabaphakanyisiwe; kwentela kutfolo indlela yekutiphatsa; kuvala i-*Securities Services Act, 2004* (Umtsetfo Nom. 36 wanga 2004) njengoba uchitjiyelwe yi-*Financial Services Laws General Amendment Act, 2008* (Umtsetfo Nom. 22 wanga 2008), kute kutsi loMtsetfo uhambisane nemazinga amhlabawonkhe; kanye nekuniketela kutindzaba letiphatselene naleto.

KUHLELWA KWETIGABA

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IMIBANDZELA KUSINGENISO

1. Tinchazelo nekuhumusha
2. Tinjongo talomtsetfo
3. Kusetjentiswa kweMtsetfo neTindlela tekwenta
4. Lokuvimbako nekuhambisana nemitsetfo yebasebentisi labavunyelwe, bangeleleli nemalunga lagunyatako

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5. Emandla aNgcongcoshe
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9. Kuniketwa lilayisensi kweligatja

Imisebenti yeligatja lelinemvume

10. Imisebenti yeligatja nemandla anobhala ekucala umsebenti
11. Kubhalwa phansi kwalokungenile
12. Kukhishwa eluhlweni kanye nekumiswa kwekutsengiselana
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- 15. Maintenance of insurance, guarantee, compensation fund or other warranty
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Exchange rules

- 17. Requirements with which exchange rules must comply

Authorised users

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- 27. Application for central securities depository licence
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Functions of licensed central securities depository

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Participant

- 31. Authorisation of participant

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15. Kuphatfwa kwemshwalense, siciniseko, sikhwama sekuncepheteliswa noma lenye iwaranti
16. Timali teligatja letetayelekile

Imitsetfo yeligatja

17. Tidzingo lekufanele imitsetfo yeligatja ihambisane nato

Basebentisi labagunyatiwe

18. Imitsetfo lecinile ngekuboleka noma kutsatsa usebentise bekuvikela labangebalomunye umuntu
19. Kumaka kwe noma kubhalwa kwemininingwane yebemasheya
20. Kuvimbela kwehlukana kwemasheya
21. Kuhlukaniswa kwetimali
22. Kwehlukaniswa kwemasheya

Imibandzela leyeyelekile ngalokuphatselene nemasheya labhalisiwe

23. Kusetjentiswa kwesikhundla “semtsengisi wemashezi” kanye naletinye tikhundla
24. Kutsenga nekutsengisa masheya lseluhlweni
25. Kubikwa kwetintfo letentekile kumasheya labhalisiwe

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Kuniketwa kwemalaysensi kwemasheya kulibhange lelisemkhatsini

27. Kufaka sicelo selayisensi yebunikati kulibhange lelisemkhatsini
28. Lokudzingekako kubafaki sicelo kutfoli emalaysensi asebhange lelisemkhatsini
29. Kuniketwa kwemalaysensi kwemasheya kulibhange lelisemkhatsini

Imisebenti yemabhange emasheya lasemkhatsini

30. Imisebenti yemabhange emasheya lasemkhatsini kanye nemandla anobhala kucala umtfwalo wemsebenti

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31. Kugunyatwa kwalabangenelelako

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32. Umsebenti walabangenelelako

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33. Emasheya lankho emtsetfweni
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- 63. Demutualisation of exchange, central securities depository and independent clearing house
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37. Bunikati bemasheya
38. Kudlulisela emasheya langedlo emtsetfweni noma intalo yemasheya langedlo emtsetfweni
39. Sifungo noma kuyekela kwemasheya kuvikela tikweleti
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41. Kutfolo lilungelo lekudlulisa
42. Kuhociswa kanye nekuniketwa kwemasheya
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44. Iwaranti nekuvikeleka
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Ilayisensi yendlu legunyatako

47. Kufaka sicelo selayisensi yendlu legunyatako
48. Tidzingo letikhona kulofake sicelo sekuba nelayisensi yeligatja lendlu legunyatako
49. Ilayisensi yendlu legunyatako

Imisebenti yendlu legunyatako

50. Imisebenti yeligatja leligunyatiwe lelibhalisiwe nemandla anobhala ekucala umsebenti
51. Kuphatfwa kwemshwalense, siciniseko, sikhwama sekuncepheteliswa noma lenye iwaranti.
52. Timali tebudlelwa tendlu legunyatako letimele

Imitsetfo yendlu legunyatako

53. Tidzingo lekufanele indlu legunyatako nemitsetfo lekufanele iyilandzele

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54. Kufaka sicelo selayisensi yenzawo yekuhwebelana.
55. Tidzingo letifunekako kusicelo selayisensi yenzawo yekuhwebelana.
56. Kubhaliswa kwenzawo yekuhwebelana.
57. Imisebenti yenzawo yekuhwebelana.
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61. Kwenta lomunye umsebenti longetiwe
62. Kungcubutana kwetinsishisekelo
63. Kuguculwa kwenhlangano letilawulako, libhange lemasheya lelisemkhatsini nedlu legunyatako letimele
64. Kuhlanganisa, kudlulisela noma kususa
65. Umsebenti wemalunga emtimba lophetse enhlangano letilawulako
66. Kubekwa kwemalunga emtimba lophetse inhlangano letilawulako

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68. Kuniketwa kwemisebenti
69. Umbiko wanobhala wenhlangano letilawulako
70. Kungenelwa kwemihlangano ngunobhala, kanye nekuniketwa kwemiculu
71. Indlela imitsetfo yenhlangano letilawulako kufanele yentiwe ngayo, ichitjiyelwe noma ihociswe kanye netinhlawulo tekwephula leyo mitsetfo
72. Tihibe netingcinamba
73. Kuvetwa kwelwatiso

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INDELELA YEKUTIPHATSA

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75. Imigomo yekutiphatsa

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KUPHATFWA KABI KWETIMAKETHE

77. Tinchazelo

Emacala

78. Kuhwebelana ngekhatsi
79. Lushicilelo
80. Kuhwebelana ngekhatsi lokungakavumeleki
81. Titatimende letingemanga, letilahlekisako naletikhohlisako, titsembiso kanye nelikusasa

Kucindzeteleka lokubangelwa kuhwebelana ngekhatsi

82. Imibandzela yekuncepheteliswa lokubangelwe kuhwebelana ngekhatsi

Lokuphatselene nenchubo

83. Lokufakiwe netivimbo

Kulawulwa kweSahluko

84. Emandla nemisebenti yeBhodi yeMisebenti Yetimali
85. Kwakheka nemisebenti yalabaphetse
86. Kusitwa ngetimali kwalabaphetse

Imibandzela leyetayekile

87. Kuvikelwa kwemalungelo lasavele akhona
88. Kubamba imfihlo nekwabelana ngelwatiso

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- 104. General interpretation of Act
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- 107. Regulations
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SCHEDULE

LAWS REPEALED OR AMENDED

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

CHAPTER I

PRELIMINARY PROVISIONS

Definitions and interpretation

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- 1. (1) In this Act, unless the context indicates otherwise—
 - “**advice**” means any recommendation, guidance or proposal of a financial nature furnished, by any means or medium, to a client or group of clients—
 - (a) in respect of the buying and selling of securities;
 - (b) on any corporate action or other event affecting the rights or benefits in respect of securities; or
 - (c) on the exercise or lapse of any right in respect of securities irrespective of whether or not such advice results in any such transaction being effected, but does not include—
 - (i) factual advice given merely—

15

92. Kucedzelelwa kwelwatiso ngendlela lekahle icedzelelwa ngumhloli mabhuku
93. Emandla anobhala ekucela emabhuku lahloliwe

SAHLUKO XII

IMIBANDZELA LEYETAYELEKILE

Emandla anobhala nenkhantolo

94. Emandla latayelekile anobhala
95. Emandla anobhala ekuvashela ngekhati noma ekuhlola
96. Emandla anobhala ngemuva kwekuvakashela ngekhati noma kwekuhlola
97. Emandla anobhala ekubeka tinhlawulo
98. Emandla enkhantolo ekucinisekisa kutsi umuntfu ukhishiwe

Likomidi lelucinisekisa

99. Kudluliselwa kulikomidi lelucinisekisa

Kubuyeketa, kuhlengwa kwelibhizinisi nemlawuli

100. Kubuyeketa noma kumukwa imphahla kwesikhashane yinkhantolo
101. Kuhlengwa kwelibhizinisi
102. Kubekwa kwemlawuli
103. Kubekwa kwesisebenti lesitawuhlenga ibhizinisi noma umcitsi nkhangani kanye nekuvunyelwa kweluhlelo lekuhlenga ibhizinisi

Inchubevange

104. Kuhlatiwa kweMtsetfo ngalokutayelekile
105. Lilungelo lekufaka sikhalo
106. Bufakazi
107. Imitsetfosimiso
108. Timali
109. Emacala netinhlawulo
110. Lokongiwe
111. Imitsetfo lechitjiyelwe
112. Sihloko lesifushane nekucala kusebenta

ISHEJULI

IMITSETFO LECITSIWE NOMA LECHITJIYELWE

NGAKO-KE KUTAWUMISWA yiPhalamende yase Riphahulikhi neNgingi-zimu Afrika, ngalendlela:—

SAHLUKO I

IMIBANDZELA LESEKUCALENI

Tinchazelo nekuhumusha

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1. (1) KuloMtsetfo, ngaphandle kwekutsi ingcikitsi ikubeke ngaleny indlela—
“seluleko” kushiwo noma ngabe ngusiphi sincomo, kuboniswa noma siphakamiso lesiphatselene nemali, nganoma ngayiphi indlela noma sento, lesicondziswe kulikhasimende noma licembu lemakhasimende—
(a) ngalokuphatselene nekutsenga nekutsengiselana kwemasheya; 10
(b) kunoma ngabe nguliphi libhizinisi noma siphi sehlakalo lesitsintsa emalungelo noma lokuhlonyulwako ngalokuphatselene nemasheya; noma
(c) ngalesikhatsi kusetjentiswa noma kuphela noma liphilungelo ngalokuphatselene nesitifiketi sebunikati; noma ngabe leso seluleko sibangela kutsi loko kusebenta kutsintseke, kodvwa akufaki ekhati— 15
(i) seluleko lesiliciniso lesiniketwe—

- (aa) on the procedure for entering into a transaction in respect of securities;
 - (bb) on the procedure relating to a corporate action or other event affecting the rights or benefits in respect of securities;
 - (cc) in relation to the description of securities; 5
 - (dd) in reply to routine administrative queries;
 - (ee) in the form of objective information about securities; or
 - (ff) by the display or distribution of promotional material;
 - (ii) an analysis or report on securities without any express or implied recommendation, guidance or proposal that any particular transaction in respect of the securities is appropriate to the particular investment objectives, financial situation or particular needs of a client; 10
- “appeal board”** means the appeal board established by section 26A of the Financial Services Board Act;
- “associated clearing house”** means a clearing house that clears transactions in securities on behalf of one or more exchanges in accordance with the rules of the relevant exchange and that does not approve or regulate clearing members; 15
- “attachment”** means a judicial act or process to freeze, restrict or impound the securities or interest in securities held in a central securities account or securities account, as the case may be, in order to enforce or satisfy a judgment or warrant of execution; 20
- “Auditing Profession Act”** means the Auditing Profession Act, 2005 (Act No. 26 of 2005);
- “auditor”** means an auditor registered in terms of the Auditing Profession Act;
- “authorised user”** means a person authorised by a licensed exchange to perform one or more securities services in terms of the exchange rules, and includes an external authorised user, where appropriate; 25
- “bank”** means a bank as defined in the Banks Act, 1990 (Act No. 94 of 1990), a mutual bank as defined in the Mutual Banks Act, 1993 (Act No. 124 of 1993); or a co-operative bank as defined in the Co-operative Banks Act, 2007 (Act No. 40 of 2007); 30
- “board”** means the Financial Services Board established by section 2 of the Financial Services Board Act;
- “central securities account”** means an account that reflects the number or nominal value of securities of each kind deposited and all entries made in respect of such securities, held by a licensed central securities depository for a participant or external central securities depository in the name of— 35
- (a) a participant;
 - (b) an external central securities depository; or
 - (c) any other persons as determined in the depository rules; 40
- “central securities depository”** means a person who constitutes, maintains and provides an infrastructure for holding uncertificated securities which enables the making of entries in respect of uncertificated securities, and which infrastructure includes a securities settlement system;
- “certificated securities”** means securities evidenced— 45
- (a) in relation to securities issued by an issuer other than a public company, by a certificate or written instrument; or
 - (b) in relation to securities issued by a public company, by a certificate;
- “clear”**, in relation to a transaction or group of transactions in securities, means—
- (a) to calculate and determine, before each settlement process— 50
 - (i) the exact number or nominal value of securities of each kind to be transferred by or on behalf of a seller; and

- (aa) ngendlela yekungenelela ekusetjentisweni kwetimali ngenca yesitifiki sethuni; 5
- (bb) kulenchubo lephatselene nesento selibhizinisi noma siphil sehlakalo lesitsintsa emalungelo noma kuhlomula ngalokuphatselene nesitifiki sethuni; 5
- (cc) ngalokuphatselene nekuchazwa kwemasheya; 10
- (dd) ngekuphendula imibuto lehlala ikhona ngekulawula; 10
- (ee) ngeluhlobo lwelwatiso lolunenjongo ngalokuphatselene nemasheya; noma 10
- (ff) ngekukhangisa noma kukhicitwa kwemaphepha ekukhangisa; 10
- (ii) kuhlatywa noma umbiko ngemasheya ngaphandle kwetincomo letishiwo noma letilindzelekile, kuholwa noma kubikwa ngemasheya tifanele leto tinjongo talokusiswako, simo sesetimali noma tidzingo telikhasimende lelitsite; 10
- “ibhodi yetikhlo”** kushiwo ibhodi yetikhlo lesungulwe ngekwasigaba 26A se-*Financial Services Board Act*; 15
- “indlu legunyatako lehambisanako”** kushiwo indlu legunyatako lekhulula ematransekshini emasheya ngekumela ligatja linye noma langetulu noma emagatja ngekuhambisana nemitsetfo aleligatja lelifanele kantsi loko akuvumeli noma akulawuli lilunga leligunyatiwe; 20
- “Lokufakiwe”** kushiwo sento lesisemtsetfweni noma inchubo yekucedza, kuvimbela noma kuvalela masheya noma inzuzo yemasheya letigcinwe ku-akhawunti yavelonkhe noma i-akhawunti yemasheya, ngendlela lekungabekwa ngayo, kute kutsi kusetjentiswe noma kucinisekisewe sincumo noma imvume yekwenta lokutsite; 25
- “Auditing Profession Act”** kushiwo i-*Auditing Profession Act*, 2005 (Umtsetfo Nom. 26 wanga 2005); 25
- “umhloli mabhuku”** kushiwo umhloli mabhuku lobhaliswe ngekwe- *Auditing Profession Act*; 25
- “umsebensisi logunyatiwe”** kushiwo umuntfu logunyatiwe ligatja lelisemtsetfweni kutsi ente umsebensisi munye noma lengetulu yetitifiki tebu nikati ngekwemitsetfo yeligatja, kantsi kufaka ekhatsi nemsebensisi logunyatiwe, lapho kufanele khona; 30
- “libhange”** kushiwo libhange njengoba lichazwe ku-*Banks Act*, 1990 (Umtsetfo Nom. 94 wanga 1990), kanye nelibhange kanye neligatja leligunyatiwe ngekwe- *Mutual Banks Act*, 1993 (Umtsetfo Nom. 124 wanga 1993) noma libhange lemakhophorethivi njengoba lichazwe ku co-operative banks Act, 2007 (Umtsetfo Nom. 40 wanga 2007); 35
- “ibhodi”** kushiwo Ibhodi Lesebenta ngeTimali lesungulwe ngesigaba 2 se-*Financial Services Board Act*; 40
- “i-akhawunti yemasheya avelonkhe”** kushiwo i-akhawunti lekhombisa inombolo nelinani lemasheya lweluhlobo ngalunye lolufakiwe noma nako konkhe lokungenile ngalokuphatselene naleto masheya, letigcinwe ngulabanemvume kumasheya kwentela labangenelelako noma masheya letingaphandle letifakwe egameni— 45
- (a) lalabangenelelako; 45
- (b) libhange lemasheya leliphatselene netangaphandle; noma 45
- (c) noma ngabe ngubani njengoba kuncunyiwe kumitsetfo yelibhange; 45
- “libhange lelisemkhatsini lemasheya”** kushiwo umuntfu lobeka umtsetfo, aphaatse abuye anikete tinsitanchanti tekuba neemasheya langekho emtsetfweniletenta kutsi kube nalokungenako ngalokuphatselene neemasheya langekho emtsetfweni, lapho khona tinsitanchanti tifaka ekhatsi luhlelo lwekucedzelelwa kwemasheya; 50
- “emasheya lanetitifiki”** kushiwo masheya letifakazelwa— 55
- (a) ngalokuphatselene nemasheya letikhokhwe ngulonemvume yekukhipha kungasiyo inkhampani yembuso, citifiketi noma lithulusi ;lelibhalwe phansi; noma 55
- (b) ngalokuphatselene kumasheya letiniketwe yinkhampani yembuso, sitifiketi; 55
- “kucacisa”**, ngalokuphatselene nalokukhishwako noma lokufakwako noma livembu lalokukhishwako noma lokufakwako kutitifiki tebhunikati, kushiwo— 60
- (a) kubala bese uncuma, ngembi kwenchubo ngayinye yekucedzelela— 60
- (i) lenombolo lekungiyiwo noma lelinani lelilinganiselwe lesitifiki sethuniyo loluhlobo ngalunye kufanele ludliliselwe noma ngekumela umtsengisi; 60

- (ii) the amount of money to be paid by or on behalf of a buyer, to enable settlement of a transaction or group of transactions; or
 - (b) where applicable, the process by means of which—
 - (i) the functions referred to in paragraph (a) are performed; and
 - (ii) the due performance of the transaction or group of transactions by the buyer and the seller is underwritten from the time of trade to the time of settlement, 5
- and “**clearing**” has a corresponding meaning;
- “**clearing house**” means a person who constitutes, maintains and provides an infrastructure to clear transactions in securities; 10
- “**clearing house directive**” means a directive issued by a licensed independent clearing house in accordance with its rules;
- “**clearing house rules**” means the rules made by a licensed independent clearing house in accordance with this Act;
- “**clearing member**” means— 15
- (a) in relation to an associated clearing house, a person authorised by a licensed exchange with which it is associated to perform clearing services or settlement services or both clearing services and settlement services in terms of the exchange rules;
 - (b) in relation to a licensed independent clearing house, a person authorised by that independent clearing house to perform clearing services or settlement services or both clearing services and settlement services in terms of the clearing house rules, 20
- and includes an external clearing member, where appropriate;
- “**clearing services**” means services offered and activities performed by a clearing member in terms of the exchange rules or clearing house rules, as the case may be, to facilitate clearing of transactions in securities; 25
- “**client**” means any person to whom a regulated person provides securities services, and includes a person that acts as an agent for another person in relation to those services in which case it will include the agent or exclude the other person if the contractual arrangement between the parties indicates this to be the intention; 30
- “**Companies Act**” means the Companies Act, 2008 (Act No. 71 of 2008);
- “**confidential information**” means personal information that belongs to a person and is not generally available to or known by others;
- “**deposit**” means a deposit of securities, and includes a deposit by means of an entry in a securities account or a central securities account; 35
- “**depository directive**” means a directive issued by a licensed central securities depository in accordance with its rules;
- “**depository rules**” means the rules made by a licensed central securities depository in accordance with this Act; 40
- “**derivative instrument**” means any—
- (a) financial instrument; or
 - (b) contract,
- that creates rights and obligations and whose value depends on or is derived from the value of one or more underlying asset, rate or index, on a measure of economic value or on a default event; 45
- “**directive**” means a directive issued by the registrar in terms of section 6(4);
- “**director**” means the Directorate of Market Abuse referred to in section 85;
- “**document**” includes a book, record, security or account, and any information stored or recorded electronically, photographically, magnetically, mechanically, electro-mechanically or optically or in any other form; 50
- “**electronic**” includes created, recorded, transmitted or stored in digital or other intangible but visible form by electronic, magnetic, optical or any similar means;

- (ii) lelinani lemali lekufanele likhokhwe ngekumelana nalotsengisako, Kwentela kucedzelelwa kwekukhishwa noma kufakwa kwemali noma licembu lekwentla lowo msebenti; noma
- (b) lapho kufanele khona, lechubo lapho khona—
- (i) lemisebenti lebalwe kundzima (a) yentiwa; kanye 5
- (ii) lokwentiwa kwalomsebenti nyalo noma licembu lemisebenti ngulona lotsengako nalotsengisako agunyatiwe kusukela ngalesikhatsi sekutsengiselana kuya kulesikhatsi sekucedza kukhokha; kanye nalomucu;
- “kugunyata”** inenchazelo lefanako; 10
- “indlu legunyatako”** kushiwo umuntfu losungula, agcine abuye anikete luhlakancanti kutsi agunyate ematransekshini emasheya;
- “tinkhambiso tendlu legunyatako”** kushiwo inkhambiso leniketwe sikhungo lesitimele lesigunyatiwe lesinemvume ngekuhambisana nemitsetfo yayo;
- “imitsetfo yesikhungo lesigunyatako”** kushiwo imitsetfo leyentiwe sikhungo lesigunyatako lesitimele ngekuhambisana naloMtsetfo; 15
- “lilunga leligunyatako”** kushiwo—
- (a) ngekuhambisana nesikhungo lesigunyatako, umuntfu logunyatiwe ligatja lelo leliphatselene naloko lekuniketela ngetimvume kutsi ente umsebenti logunyatiwe noma wekukhokhela noma yomibili imisebenti tekugunyata noma wekukhokhela ngekuhambisana nemitsetfo yeligatja; 20
- (b) ngalokuphatselene nesikhungo lesitimele lesigunyatako umuntfu loniketwe imvume kutsi ente umsebenti logunyatiwe noma imisebenti yekukhokhela noma kokubili umsebenti logunyatiwe newekukhokhelwa ngekwemitsetfo yesikhungo lesigunyatako, Kantsi kufaka ekhatsi lilunga lelitimele noma lelingasilo lesikhungo, lapho kufanele khona; 25
- “kwenta imisebenti legunyatiwe”** kushiwo imisebenti leniketiwe kanye naleyentiwa lilunga leligunyatiwe ngekwemitsetfo yeligatja noma imitsetfo yesikhungo lesigunyatako, njengtoba kungabe kubekiwe, kutsi ibukete kuhanjiswa kahle kwemisebenti legunyatiwe emagatjeni; 30
- “iklayenti”** kushiwo umuntfu lapho khona umuntfu losemtsetfweni aniketa imisebenti yetinsita teligatja kantsi kufaka ekhatsi u8muntfu losebenta njengesitfunywa salomunye umuntfu ngalokuphatselene naleyo misebenti ngaleso sizatfu kutawufakwa ekhatsi lesitfunywa noma kukhishwe lomuntfu uma ngabe lesivumelwano lesihleliwe lesikhona emkhatsini wetinhlango sikhombisa loku njengesizatfu; 35
- “i-Companies Act”** kushiwo *i-Companies Act*, 2008 (Umtsetfo Nom. 71 wanga 2008);
- “lwatiso loluyimfihlo”** kushiwo lwatiso loluphatselene nemuntfu kantsi alutfolakali kunoma ngubani noma lwatiwa ngulabanye; 40
- “lokufakwako”** kushiwo timali letifakwako kantsi tifaka ekhatsi lokufakwe ngalokuphatselene ngalokungene ku-akhawunti noma i-akhawunti yalokusisiwe;
- “umtsetfo wekufaka”** kushiwo umtfo lokhishwe ligatja lelisemkhatsini lelinemvume yekufaka ngekuhambisana nemitsetfo yalo;
- “imitsetfo yekufaka”** kushiwo imitsetfo leyentiwe ligatja lelisemkhatsini lelinemvume yekufaka ngekuhambisana naloMtsetfo; 45
- “lithulisi lekungasilo mbamba”** kushiwo noma ngabe nguliphi—
- (a) lithulisi leliyimali; noma
- (b) sivumelwano, lesakha emalungelo linani lawo leyame noma lesuselwa kumanani emphahla yinye noma ngetulu, lizinga noma i-indeksi, ngesilinganiso semanani emnotfo noma kusehlakalo lekungasiso; 50
- “umtsetfo”** kushiwo umtsetfo lokhishwe ngunobhala ngekwesigaba 6(4) saloMtsetfo;
- “lihhovisi lemcondzisi”** kushiwo Lihhovisi Lekuphatfwa kabi kweTimakethe lelibalwe kusigaba 85; 55
- “umculu”** ufaka ekhatsi libhuku, emarekhodi, kuvikela noma i-akhawunti, noma luphi lwatiso lolubekwe noma lolubhalwe ngekelelektronikhi, lolutwetjuliwe, ngekwemagnethi, umshini, umshini wagezi noma ngekwemehlo noma nganoma luphi luhlobo;
- “i-elektronikhi”** kufaka ekhatsi lokwakhiwe, lokurekhodiwe, lokudluliselwe noma lokubekwe kudijithali noma lokuphatsekako kodvwa kube ngendlela ye-elektronikhi lebukekako, imagnethiki, kwekubona noma ngalenywe indlela; 60

- “enforcement committee”** means the enforcement committee established by section 10A of the Financial Services Board Act;
- “entry”** means an electronic recording of any issuance, deposit, withdrawal, transfer, attachment, pledge, cession *in securitatem debiti* or other instruction in respect of securities or an interest in securities; 5
- “exchange”** means a person who constitutes, maintains and provides an infrastructure—
- (a) for bringing together buyers and sellers of securities;
 - (b) for matching bids and offers for securities of multiple buyers and sellers; and
 - (c) whereby a matched bid and offer for securities constitutes a transaction; 10
- “exchange directive”** means a directive issued by a licensed exchange in accordance with its rules;
- “exchange rules”** means the rules made by a licensed exchange in accordance with this Act;
- “external authorised user”** means a foreign person who is authorised by a supervisory authority to perform a service or services similar to one or more securities services as defined in this Act and who is subject to the laws of a country other than the Republic, which laws— 15
- (a) establish a regulatory framework equivalent to that established by this Act; and 20
 - (b) are supervised by a supervisory authority;
- “external central securities depository”** means a foreign person who is authorised by a supervisory authority to perform a function or functions similar to one or more of the functions of a central securities depository as set out in this Act and who is subject to the laws of a country other than the Republic, which laws— 25
- (a) establish a regulatory framework equivalent to that established by this Act; and
 - (b) are supervised by a supervisory authority;
- “external clearing house”** means a foreign person who is authorised to perform a function or functions similar to one or more of the functions of a clearing house in terms of the laws of a country other than the Republic, which laws— 30
- (a) establish a regulatory framework equivalent to that established by this Act; and
 - (b) are supervised by a supervisory authority;
- “external clearing member”** means a foreign person who is authorised by a supervisory authority to perform a service or services similar to one or more clearing services or settlement services as defined in this Act and who is subject to the laws of a country other than the Republic, which laws— 35
- (a) establish a regulatory framework equivalent to that established by this Act; and 40
 - (b) are supervised by a supervisory authority;
- “external exchange”** means a foreign person who is authorised by a supervisory authority to perform a function or functions similar to one or more of the functions of an exchange as set out in this Act and who is subject to the laws of a country other than the Republic, which laws— 45
- (a) establish a regulatory framework equivalent to that established by this Act; and
 - (b) are supervised by a supervisory authority;
- “external participant”** means a foreign person who is authorised by a supervisory authority to perform a service or services similar to one or more of the services of a participant or an external central securities depository as set out in this Act, and who is subject to the laws of a country other than the Republic, which laws— 50
- (a) establish a regulatory framework equivalent to that established by this Act; and
 - (b) are supervised by a supervisory authority; 55
- “external trade repository”** means a foreign person who is authorised by a supervisory authority to perform a duty or duties similar to one or more of the

“likomidi lelibeka imitsetfo” kushiwo likomidi lelibeka imitsetfo lelisungulwe ngekwesigaba 10A se-*Financial Services Board Act*;

“lokubhaliwe” kushiwo lokurekhodwe ngekwe-elektronikhi kwanoma yini lokuniketiwe, lokufakiwe, lokukhishiwe, lokudluliselwe, lokucinisekisiwe, njengesibambiso sesikweleti noma leminyane imiyalelo ngalokuphatselene netibambiso noma intalo kutibambiso; 5

“ligatja” kushiwo umuntfu lowenta, agcine abuye anikete tinsitancanti—

- (a) kuhlanguanisa ndzawonye batsengi nebotsengisi bemasheya;
- (b) kulinganisa emabhidi kanye nalokubekelwe emasheya ebatsengi labahamba ngababili kanye nebotsengisi; 10
- (c) nalapho khona ibhidi lecatsanisiwe kanye nalokubekelwe emasheya kufaka ekhatsi itransekshini;

“umtsetfo lokhishwe ligatja” kushiwo umtsetfo lokhishwe ligatja lelisemtsetfweni ngekuhambisana nemitsetfo yalo;

“Imitsetfo yeligatja” kushiwo imitsetfo leyentiwe ligatja lelisemtsetfweni ngekuhambisana naloMtsetfo; 15

“umsebentisi longaphandle logunyatiwe” kushiwo umuntfu wangaphandle nalogunyatwe ngulabaphetse kutsi ente umsebenti noma imisebenti lofana noma lefana nemisebenti yetibambiso njengoba ichazwe kuloMtsetfo nalehambisana nemitsetfo yalelive ngaphandle kweRiphabhulikhi, imitsetfo yakhona— 20

- (a) isungula luhlaka lwekulawula loluhambisana nalolo lolusungulwe nguloMtsetfo; kanye
- (b) nalaphetfwe ngulabagunyatwe kutsi baphatse;

“libhange lelingaphandle lelitimele kumasheya” kushiwo umuntfu wangaphandle nalogunyatwe ngulabaphetse kutsi ente umsebenti noma imisebenti lefana namunye noma leminyenti yalemisebenti yelibhange lelingaphandle lelitimele njengoba kubekiwe kuloMtsetfo kanye nalohambisana nemitsetfo yalelo live ngaphandle kweRiphabhulikhi, imitsetfo yakhona— 25

- (a) isungula luhlaka lwekulawula loluhambisana nalolo lolusungulwe nguloMtsetfo; kanye 30
- (b) nalaphetfwe ngulabagunyatwe kutsi baphatse;

“indlu legunyatako yangaphandle” kushiwo umuntfu wangaphandle naloniketwe imvume kutsi ente umsebenti noma imisebenti lefana namunye noma leminyenti yemisebenti yesikhungo lesigunyatako ngekwemistsetfo yelive ngaphandle kweRiphabhulikhi, lapho khona imitsetfo— 35

- (a) isungula luhlaka lwekulawula loluhambisana nalolo lolusungulwe nguloMtsetfo; kanye
- (b) nalaphetfwe ngulabagunyatwe kutsi baphatse;

“lilunga leligunyatako langaphandle” kushiwo umuntfu wangaphandle nalogunyatwe ngulabaphetse kutsi ente umsebenti noma imisebenti noma imisebenti yekukhokhela njengoba ichazwe kuloMtsetfo kanye nalohambisana nemitsetfo yalelive kungasiyo yaseRiphabhulikhi, lapho khona imitsetfo— 40

- (a) isungula luhlaka lwekulawula loluhambisana nalolo lolusungulwe nguloMtsetfo; kanye
- (b) nalaphetfwe ngulabagunyatwe kutsi baphatse; 45

“ligatja langaphandle” kushiwo umuntfu wangaphandle nalogunyatwe ngulabaphetse kutsi ente umsebenti noma imisebenti noma imisebenti yekukhokhela njengoba ichazwe kuloMtsetfo kanye nalohambisana nemitsetfo yalelive kungasiyo yaseRiphabhulikhi, lapho khona imitsetfo—

- (a) isungula luhlaka lwekulawula loluhambisana nalolo lolusungulwe nguloMtsetfo; kanye 50
- (b) nalaphetfwe ngulabagunyatwe kutsi baphatse;

“bangaphandle labangenelelako” kushiwo umuntfu wangaphandle nalogunyatwe ngulabaphetse kutsi ente umsebenti noma imisebenti noma imisebenti yekungenelela njengoba ichazwe kuloMtsetfo kanye nalohambisana nemitsetfo yalelive kungasiyo yaseRiphabhulikhi, lapho khona imitsetfo— 55

- (a) isungula luhlaka lwekulawula loluhambisana nalolo lolusungulwe nguloMtsetfo; kanye
- (b) nalaphetfwe ngulabagunyatwe kutsi baphatse;

“libhange langaphandle lekuhwebelana” kushiwo umuntfu wangaphandle loniketwe ligunya ngulolawulako kutsi ente umsebenti noma imisebenti lefana namunye noma leminyenti yalemisebenti yekuhwebelana njengoba kubekiwe 60

duties of a trade repository as set out in this Act, and who is subject to the laws of a country other than the Republic, which laws—

(a) establish a regulatory framework equivalent to that established by this Act; and

(b) are supervised by a supervisory authority; 5

“financial institution” means—

(a) any pension fund organisation registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), or any person referred to in section 13B of that Act administering the securities of such a pension fund or the disposition of benefits provided for in the rules of such a pension fund; 10

(b) any friendly society registered in terms of the Friendly Societies Act, 1956 (Act No. 25 of 1956), or any person in charge of the management of the affairs of such a society;

(c) any collective investment scheme as defined in section 1 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), or any manager or nominee in relation to such a scheme; 15

(d) any long-term or short-term insurer registered as such under the Long-term Insurance Act, 1998 (Act No. 52 of 1998), or the Short-term Insurance Act, 1998 (Act No. 53 of 1998), respectively; and

(e) a bank; 20

“Financial Institutions (Protection of Funds) Act” means the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001);

“Financial Intelligence Centre Act” means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);

“Financial Services Board Act” means the Financial Services Board Act, 1990 (Act No. 97 of 1990); 25

“foreign collective investment scheme” means a scheme, in whatever form, carried on in a country other than the Republic, in pursuance of which members of the public—

(a) are invited or permitted to invest money or other assets in one or more groups of assets (whether called a portfolio or by any other name) of such scheme; 30

(b) acquire an interest or undivided share (whether called a unit or by any other name) in such a group of assets upon such investment; and

(c) participate proportionately in the income or profits and the risk derived from such investment; 35

“Governor” means the Governor of the South African Reserve Bank appointed in terms of section 4 or 6(1)(a) of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989);

“independent clearing house” means a clearing house that clears transactions in securities on behalf of any person, and authorises and supervises its clearing members in accordance with its clearing house rules; 40

“index” means an indicator that reflects changes in the value of a group of securities on one or more exchanges or external exchanges;

“insolvency administrator” means a person authorised to administer an insolvency proceeding by a court or any national legislation, or the laws of a country other than the Republic, including a person authorised on an interim basis; 45

“insolvency proceeding” means a judicial or administrative proceeding, or both, authorised in or by national legislation or the laws of a country other than the Republic, including an interim proceeding, in which the assets and affairs of a person are subject to the control or supervision by a court or an insolvency administrator for the purpose of reorganisation, business rescue, curatorship or liquidation, and includes, but is not limited to, any such proceeding under— 50

(a) the Companies Act;

(b) the Insolvency Act, 1936 (Act No. 24 of 1936);

(c) the Banks Act, 1990 (Act No. 94 of 1990); 55

(d) the Financial Institutions (Protection of Funds) Act; and

- kuloMtsetfo, nalohambisana nemitsetfo yalamanye emave kungasiyi iRiphabhulikhi, lapho khona lemitsetfo—
- (a) Kusungulwa luhlaka lwekulawula loluhambisana nalolo lolusungulwe ngekwaloMtsetfo; kanye
- (b) Nelelawulwa ngumlawuli losemtsetfweni; 5
“**Financial Intelligence Centre Act**” kushiwo i-*Financial Intelligence Centre Act*, 2001 (Umtsetfo Nom. 38 wanga 2001);
“**sikhungo setimali**” kushiwo—
- (a) noma ngabe nguyiphi inhlangano yesikhwama sempesheni lebhaliwe ngekw-*Pension Funds Act*, 1956 (Umtsetfo Nom. 24 wanga 1956), noma 10
ngabe muphi umuntfu lobalwe kusigaba 13B salowo Mtsetfo lolawula emasheya aleso sikhwama sempesheni noma kubukeka kwaloko kuhlomula lokuniketiwe kuleyo imitsetfo yesikhwama sempesheni;
- (b) noma ngabe ngabe ngumuphi ummango lonebuntfu lobhaliswe ngaphansi kwe- *Friendly Societies Act*, 1956 (Umtsetfo Nom. 25 wanga 1956), noma 15
ngabe ngubani lophetse tindlela tekulawulwa kwetindzaba talowo mmango;
- (c) noma ngabe ngukuphi lokubutselwe kwetinhlangano tekusisa njengoba kuchazwe kusigaba 1 se-*Collective Investment Schemes Control Act*, 2002 (Umtsetfo Nom. 45 wanga 2002), noma ngumuphi umlawuli noma 20
lokhetsiwe ngekuhambisana naleso sikhwama;
- (d) noma ngabe ngubani lonemshwalensi wesikhashane noma wesikhatsi lesidze lobhaliswe njalo ngaphansi kwe-*Long-term Insurance Act*, 1998 (Umtsetfo Nom. 52 wanga 1998), noma *Short-term Insurance Act*, 1998 (Umtsetfo Nom. 53 wanga 1998), ngaleyo ndlela; kanye
- (e) nelibhange; 25
“**i-Financial Institutions (Kuvikelwa kwetimali) Act**” kushiwo i-*Financial Institutions (Kuvikelwa kwetimali) Act*, 2001 (Umtsetfo Nom. 28 wanga 2001);
“**i-Financial Intelligence Centre Act**” kushiwo i-*Financial Intelligence Centre Act*, 2001 (Umtsetfo Nom. 38 wanga 2001);
“**Financial Services Board Act**” kushiwo i-*Financial Services Board Act*, 1990 30
(Umtsetfo Nom. 97 wanga 1990);
“**sikhwama sekusisa lesiyinhlanganyela yebangaphandle**” kushiwo sikhwama, nganoma nguyiphi indlela, lesisetjentiswa kunoma nguliphi live ngaphandle kweRiphabhulikhi, ekwenteni loku emalunga emmango—
- (a) amenyiwe noma avunyelwe kutsi asise imali noma letinye tintfo ngakunye 35
noma ngemacembvu (noma kungabitwa ngeligama tsetse noma lelinye nje ligama) laleso sikhwama;
- (b) kutfolo intalo noma sehluhaniso lesingakahlukaniswa (noma kungabitwa ngeyuniti nanoma nguliphi lelinye nje ligama) kulelo licembu letintfo letikhona kuloko lokusisiwe; kanye 40
- (c) kungenelela ngalokuyincenye kulokuzuziwe noma lokungenako kanye nebungoti lobuvela kuloko lokusisiwe;
- “**Umbusi**” kushiwo Umbusi weLibhange Ngodla wase Ningizimu Afrika lobekwe ngekwesigaba 4 noma 6(1)(a) se-*South African Reserve Bank Act*, 1989 (Umtsetfo Nom. 90 wanga 1989); 45
- “**ligatja lelitimele leligunyatako**” kushiwo ligatja leligunyatako lelikhipha ematransekshini kumasheya ngalokuphatselele nanoma ngubani, ibuye ilawule iphatse emalunga ayo lagunyatiwe ngekuhambisana neligatja leligunyatako ngekuhambisana nemitsetfo yeligatja leligunyatako;
- “**tinkhomba**” kushiwo tinkhomba letikhombisa tingucuko kulinani lelicembu 50
lemasheya kumunye noma kumagatja lamanyenti noma emagatja angaphandle;
- “**inchubo yekuhlakatwa**” kushiwo inchubo ngekwemtsetfo noma kulawula noma kokubili, lehunyatwe noma ngekwemtsetfo loshayiwe velonkhe noma imitsetfo yelive ngaphandle kweRiphabhulikhi, kufaka ekhatsi inchubo yesikhashane, lapho khona imphahla kanye netindzaba temuntfu titawuphatfwa noma tilawulwe 55
yinkhantolo noma umphatsi wekuhlakatwa kwemphahla kwentelwe tizatfu tekutsi kubuye kuhlelwe kabusha, kusindziswa kwebhizinisi, kugcinwa noma kutfunjwa kwemphahla, kantsi kufaka ekhatsi, kodvwa ayikavinjelwa kunoma ngabe nguyiphi yaletto tinchubo ngaphansi kwe—
- (a) *Companies Act*; 60
(b) *Insolvency Act*, 1936 (Umtsetfo Nom. 24 wanga 1936);
(c) *Banks Act*, 1990 (Umtsetfo Nom. 94 wanga 1990);
(d) *Financial Institutions (Protection of Funds) Act*; ne

- (e) the National Payment System Act;
“**in writing**”, in relation to anything which must be done in writing in terms of this Act, includes electronic actions;
- “**inter-dealer broker**” means a person who acts as an intermediary between two authorised users or between an authorised user and another person in relation to the purchase and sale of securities; 5
- “**issuer**” means an issuer of securities and, in Chapter IV, includes an issuer of money market securities;
- “**juristic person**” means a person incorporated in terms of the Companies Act, a foreign company or another form of body corporate; 10
- “**licensed central securities depository**” means a central securities depository licensed under section 29;
- “**licensed clearing house**” means a clearing house licensed under section 49;
- “**licensed exchange**” means an exchange licensed under section 9;
- “**licensed trade repository**” means a trade repository licensed under section 56; 15
- “**listing requirements**” means the requirements, determined by a licensed exchange and approved by the registrar, that must be met before a security may be included in the list of securities of that exchange, or be traded, or continue to be traded, on that exchange;
- “**listed securities**” means securities included in the list of securities kept by an exchange in terms of section 11; 20
- “**management of securities and funds**” means—
- (a) to exercise discretion in buying or selling securities or in exercising any rights attached to those securities on behalf of another person;
- (b) the safeguarding of securities on behalf of another person; or 25
- (c) the safeguarding of another person’s funds intended for the purchase of securities on behalf of that other person;
- “**market infrastructure**” means each of the following—
- (a) a licensed central securities depository;
- (b) a licensed clearing house; 30
- (c) a licensed exchange;
- (d) a licensed trade repository;
- “**Minister**” means the Minister of Finance;
- “**money market securities**” means money market instruments that are uncertificated securities reflected in an uncertificated securities register; 35
- “**National Payment System Act**” means the National Payment System Act, 1998 (Act No. 78 of 1998);
- “**nominal value**” means—
- (a) in relation to securities other than shares in a public company, the fixed value assigned to a security by the issuer when it is first issued and is used to assess dividend, capital ownership or interest; or 40
- (b) in relation to shares in a public company—
- (i) prior to the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the fixed value assigned to a security by the issuer when it is first issued and is used to assess dividend, capital ownership or interest; or 45
- (ii) after the conversion of shares issued with a nominal value or par value in accordance with the Companies Act, the value of the shares calculated or determined in accordance with the manner prescribed under the Companies Act; 50

- (e) *National Payment System Act*, 1998 (Umtsetfo Nom. 78 wanga 1998);
“**umlawuli wekuhlakata**” kushiwo umuntfu logunyatwe yinkhantolo kutsi
alawule inkhambiso yekuhlakatwa noma ngumuphi umtsetfo wavelonkhe
loshayiwe, noma imitsetfo yelive kungasiyo iRiphabhulikhi, kufaka ekhatsi
umuntfu logunyatwe kwesikhashane; 5
“**ngalokubhaliwe**”, ngalokuphatselene nganoma ngani lekufanele kwentiwe
ngalokubhaliwe ngekwaloMtsetfo, kufaka ekhatsi lokwentiwe nge-elektronikhi;
“**loniketako**” kushiwo loniketa ngemasheya kanye, nakuSahluko IV, kufaka
ekhatsi loniketla ngemasheya etimakethe temnotfo;
“**umtsengisi longumlamuli**” kushiwo umuntfu losebenta njengalongenelela 10
emkhatsini webasebentisi lababili labasemtsetfweni kanye nalomunye umuntfu
ngalokuphatselene nekutsengiswa nekutsengwa kwemasheya;
“**silulu semasheya lesisemkhatsini lesibhalisiwe**” kushiwo a silulu semasheya
lesisemkhatsini lesibhalisiwe ngaphansi kwesigaba 29;
“**umuntfu losemtsetfweni**” kushiwo umuntfulofakwe ngekuhambisana 15
neComanies Act, inkhapani yangaphandle noma lolunye luhlobo lwemtimba
webalawuli;
“**ligatja leligunyatiwe lelibhalisiwe**” kushiwo ligatja leligunyatiwe lelibhalisiwe
ngaphansi kwesigaba 49;
“**ligatja lelibhalisiwe**” kushiwo ligatja lelibhalisiwe ngaphansi kwesigaba 9; 20
“**lokudzingekako kute ubhalisiwe**” kushiwo tidzingo, letitawuncunyuwa ligatja
lelibhalisiwe kantsi tivunyelwe ngunobhala, lekufanele ube nato ngembi kwekutsi
emasheya angafakwa kuluhla lwemasheya lalelo gatja, noma atsengiswe, noma
achubeke nekutsengiswa, kulelo ligatja;
“**sikhungo sekuhwebelana lesibhalisiwe**” kushiwo sikhungo sekuhwebelana 25
lesibhalisiwe ngaphansi kwesigaba 56;
“**emasheya labhalisiwe**” kushiwo emasheya lafakwe kuluhla
lwemasheyalagcinwe ligatja ngekwesigaba 11;
“**kulawulwa kwemasheya netimali**” kushiwo—
(a) kucaphelisisa uma ngabe ustenga noma utsengisa emasheya noma uma ngabe 30
usebentisa noma liphi lilungelo lelihambisana nalawo masheya ngekumela
lomunye umuntfu;
(b) lokuvikela emasheya ngekumela lomunye umuntfu; noma
(c) kuvikela timali talomunye umuntfu lebekufanele atsenge lamasheya
ngekumela lowo muntfu; 35
“**Ngcongcoshe**” kushiwo Ngcongcoshe weTimali;
“**sakhiwoncanti semakethe**” kushiwo kunye kwaloku lokulandzelako—
(a) Ligatja lemasheya lelisemkhatsini lelibhalisiwe;
(b) Indlu legunyatiwe yemasheya;
(c) Ligatja leligunyatiwe; 40
(d) Indzawo yekuhwebelana legunyatiwe;
“**emasheya asemakethe yetimali**” kushiwo emathulusi emakethe yetimali
lekaemasheya langekho emtsetfweniletikhonjiswe kurejista yeemasheya langekho
emtsetfweni;
“**National Payment System Act**” kushiwo i-*National Payment System Act*, 1998 45
(Umtsetfo Nom. 78 wanga 1998);
“**Lizinga lelilinganisiwe**” kushiwo—
(a) ngalokuphatselene nalokusibambiso ngaphandle kwemasheya kunkhapani
yemango, lelinani lelibekiwe lelibekelwe emasheya ngulona loniketako
ngalesikhatsi kukhishwa kwekucala kantsi isetjentiselwa kuhlola 50
lokuhlukanisiwe, umnikati wemali noma intalo; noma
(b) ngalokuphatselene nemasheya kunkhapani yahulumende,—
(i) ngembi kwekuntjintjwa kwemasheya laniketwe ngelizinga
lelilinganisiwe noma lelilinganene ngekuhambisana ne *Companies Act*,
lelinani lelibekiwe leliniketwe sibambiso ngulokhiphako ngalesikhatsi 55
likhishwa kwekucala kantsi isetjentiselwa kuhlola lokuhlukaniswako;
noma
(ii) ngemuva kwetingucuko kumasheya laniketwe ngelizinga lelilinganisiwe
noma lelilinganako ngekuhambisana ne *Companies Act*, lelinani
lemasheya lelibaliwe noma lincunye ngekuhambisana nalendlela 60
lekhiswe ngaphansi kwe-*Companies Act*;

- “nominee”** means a person approved under section 76 to act as the holder of securities or of an interest in securities on behalf of other persons;
- “official website”** means the website of the board;
- “participant”** means a person authorised by a licensed central securities depository to perform custody and administration services or settlement services or both in terms of the central securities depository rules, and includes an external participant, where appropriate; 5
- “prescribed by the Minister”** means prescribed by the Minister by regulation in the *Gazette*;
- “prescribed by the registrar”** means prescribed by the registrar by notice in the *Gazette*; 10
- “registrar”** means the person referred to in section 6;
- “regulated person”** means—
- (a) a licensed central securities depository;
 - (b) a licensed clearing house; 15
 - (c) a licensed exchange;
 - (d) a licensed trade repository;
 - (e) an authorised user;
 - (f) a clearing member;
 - (g) a nominee; 20
 - (h) a participant;
 - (i) except for purposes of section 3(6), sections 74 and 75, sections 89 to 92, and sections 100 to 103, an issuer; or
 - (j) any other person prescribed by the Minister in terms of section 5; 25
- “regulation”** means a regulation made under section 5 or 107;
- “rules”** means exchange rules, depository rules or clearing house rules;
- “safeguarding”** means the activities performed by an authorised user—
- (a) for the purposes of holding securities or funds in custody on behalf of another person; or
 - (b) where the authorised user is accountable to another person for a third party’s holding of securities or funds in custody on behalf of that other person, and includes the administration of matters incidental to those securities or funds; 30
- “securities”** means—
- (a) listed and unlisted—
 - (i) shares, depository receipts and other equivalent equities in public companies, other than shares in a share block company as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980); 35
 - (ii) debentures, and bonds issued by public companies, public state-owned enterprises, the South African Reserve Bank and the Government of the Republic of South Africa; 40
 - (iii) derivative instruments;
 - (iv) notes;
 - (v) participatory interests in a collective investment scheme as defined in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), and units or any other form of participation in a foreign collective investment scheme approved by the Registrar of Collective Investment Schemes in terms of section 65 of that Act; and 45
 - (vi) instruments based on an index;
 - (b) units or any other form of participation in a collective investment scheme licensed or registered in a country other than the Republic; 50
 - (c) the securities contemplated in paragraphs (a)(i) to (vi) and (b) that are listed on an external exchange;
 - (d) an instrument similar to one or more of the securities contemplated in paragraphs (a) to (c) prescribed by the registrar to be a security for the purposes of this Act; 55

- “lokhetsiwe”** kushiwo umuntfu lovunyelwe ngaphansi kwesigaba 76 kusti asebente njengalonemasheya noma lonentalo kumasheya ngekumelela labanye labantfu;
- “iwebhuayithi lesemtsetfweni”** kushiwo iwebhusayithi yebhodi;
- “Labangenelelako”** kushiwo imuntfu logunyatwe silulu semasheya 5
lesisemkhatsini lesibhalisiwey kusti abe libambela kantsi futsi alawule leminywe imisebenti noma imisebenti yekucedzelela noma kokubili ngekuhambisana nemitsetfo yekufakwa kwemasheya lasemkhatsini, kantsi kungafaki ekhatsi bangaphandle labangenelelako, lapho kunesidzingo khona;
- “njengoba kubekwe nguNgcongcoshe”** kushiwo njengoba kubekwe 10
nguNgcongcoshe ngekwemtsetfo lomisiwe *kuGazethi*;
- “njengoba kubekwe ngunobhala”** kushiwo lokubekwe ngunobhala ngesatiso *kuGazethi*;
- “nobhala”** kushiwo lomuntfu lekukhulunywa ngaye kusigaba 6;
- “umuntfu losemtsetfweni”** kushiwo— 15
- (a) silulu semasheya lesisemkhatsini lesibhalisiwe;
 - (b) ligatja leligunyatiwe lelibhalisiwe;
 - (c) ligatja lelibhalisiwe;
 - (d) indzawo yekuhwebelana;
 - (e) umsebentisi losemtsetfweni; 20
 - (f) lilunga leligunyatiwe;
 - (g) lophakanyisiwe;
 - (h) labangenelelako;
 - (i) ngaphandle kwetizafu tesigaba 3(6), tigaba 100 kuya 103, netigaba 102 kuya 105, loniketako; 25
 - (j) noma ngab ngubani lobekwe nguNgcongcoshe ngekwesigaba 5;
- “umtsetfosimiso”** kushiwo umtsetfo lomise ngaphansi kwesigaba 107;
- “imitsetfo”** kushiwo imitsetfo yeligatja, imitsetfo yesikhungonoma imitsetfo yesikhungolesigunyatako;
- “kuvikela nekuphepha”** kushiwo imisebenti leyentiwa ngumsebentisi 30
losemtsetfweni—
- (a) kwentela tizafu tekuba nemasheya noma timali letibekwe ngalokuphephile ngekumelela lomunye muntfu; noma
 - (b) lapho khona umsebentisi losemtsetfweni kufanele achazele lomunye umuntfu kwentela losemkhatsini lophetse emasheya noma timali letisisiwe tabekelwa 35
lowo muntfu, kantsi kufaka ekhatsi kuphatfwa kwetintfo letihambelana nalawo masheya noma timali;
- “emasheya”** kushiwo—
- (a) labhalisiwe noma langakabhaliswa—
 - (i) emasheya, kumarisidi emasheya kanye nakutilinganiso letifanako, 40
kungasiwo emasheya lakubhuloki yemasheya njengoba achaziwe *kuShare Blocks Control Act, 1980* (Umtsetfo Nom. 59 wanga 1980);
 - (ii) kusikhungo, nemabhondi etinkhapanini temmango; emabhizinisi ahulumende, Libhange Ngodla laseNingizimu Afrika kanye nahulumende waseNingizimu Afrika; 45
 - (iii) Emathulusi lokungewona mbamba;
 - (iv) emanotsi;
 - (v) inshisekelo yekungenelela ekusiseni ndzawonye njengenhlangano njengoba kuchazwe *kuCollective Investment Schemes Control Act, 2002* (Umtsetfo Nom. 45 wanga 2002), kanye nemayunithi nanoma ngayiphi 50
lenye indlela yekungenelela kunhlangano yekusisa ndzawonye yangaphandle levunyelwe nguNobhala weNhlango yeKusisa ngeKuhlanganyela ngekwesigaba 65 saloMtsetfo; kanye
 - (vi) nemathulusi labhekiswe kunkhomba;
 - (b) emayunithi noma lenye indlela yekungenelela kunhlangano yekusisa 55
ngekuhlanganyela lenemvume noma lebhaliwe kulinye live kungasiyo iRiphabhulikhi;
 - (c) lamasheya labalwe kundzima (a)(i) kuya ku (vi) na (b) labhaliswe kuligatja lelitimele; kanye
 - (d) lithulusi lelifana nalinye noma emasheya lamanyenti lavetwe kundzima (a) 60
kuya ku (c) lebekwe ngunobhala kusti abe ngumvikeli kwentela tinjongo taloMtsetfo;

(e) rights in the securities referred to in paragraphs (a) to (d),
but excludes—

- (i) money market securities, except for the purposes of Chapter IV; or if prescribed by the registrar as contemplated in paragraph (d);
- (ii) the share capital of the South African Reserve Bank referred to in section 21 of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989); and
- (iii) any security contemplated in paragraph (a) prescribed by the registrar;

“securities account” means an account kept by—

- (a) a participant or an authorised user for its own account or for a client; or
 - (b) a nominee for a person for whom it acts as a nominee,
- which reflects the number or nominal value of securities of each kind held for its own account or on behalf of that client or person, as the case may be, and all entries made in respect of such securities;

“securities of the same kind” means securities of the same class and issued by the same issuer;

“securities register” means any register of securities required by any law to be established by an issuer and, in respect of securities issued in terms of the Companies Act, has the meaning assigned to it in section 1 of that Act;

“securities services” means—

- (a) the buying or selling of securities for own account or on behalf of another person as a business, a part of a business or incidental to conducting a business;
- (b) the use of the trading system or infrastructure of an exchange to buy or sell listed securities;
- (c) the furnishing of advice to any person;
- (d) the custody and administration of securities by a participant or nominee;
- (e) the management of securities and funds by an authorised user;
- (f) clearing services; or
- (g) settlement services;

“senior management” refers to the level of management that is directly accountable to the chief executive officer or to the person in charge of an entity, and includes the chief executive officer if that person is not a director of the entity;

“settle” means—

- (a) in respect of listed securities, other than listed derivative instruments, the completion of a transaction by effecting the transfer of a security in the relevant uncertificated securities registers and the payment of funds or any other consideration payable in respect of that transaction, through a settlement system as defined in the rules; or
- (b) in respect of a listed derivative instrument, the completion of a transaction by the fulfilment of all contractual obligations associated with the resultant position in the derivative instrument in accordance with the rules; or
- (c) in respect of unlisted securities, other than money market securities or derivative instruments, the crediting and debiting of the accounts of the transferee and transferor, respectively, with the aim of completing a transaction in securities and receipt of a notification that payment has been received, unless—
 - (i) otherwise prescribed by the registrar; or
 - (ii) the parties have appointed a licensed independent clearing house or a licensed central securities depository to settle a transaction, in which case it has the meaning assigned in paragraph (a);
- (d) in respect of money market securities, the completion of a transaction by effecting the transfer of a security in the relevant uncertificated securities

- (e) emalungelo kumasheya labalwe kundzima (a) kuya ku (d); Kodvwa kungafaki ekhatsi—
- (i) emasheya asemakethe yetimali ngaphandle kwetizatfu teSahluko IV; noma uma ngabe kubekwe ngunobhala njengoba kuvetwe kundzinyana (d); 5
- (ii) inzuzo yemasheya yeLibhange Ngodla lelibalwe kusigaba 21 seSouth African Reserve Bank Act, 1989 (Act Nom. 90 yanga 1989);
- (iii) noma waphi emasheya lavetwe kundzima (a) abekwe ngunobhala;
- “i-akhawunti yemasheya”** kushiwo i-akhawunti legcinwa ngu—
- (a) labangenelelako noma umsebenzisi losemtsetfweni kwentela i-akhawunti yabo noma kwentela iklayenti; noma 10
- (b) lophakanyisiwe kwentela umuntfu lolibambela lona lophakanyisiwe, Lekhombisa lenombolo noma lizinga lelilinganisiwe lemasheya leluhlobo ngalunye lolubanjelwe i-akhawunti yabo noma ngekumelela leyo klayenti noma umuntfu, njengoba kungabe kubekiwe, kanye nawo onkhe emasheya laphatselene nalawo masheya; 15
- “emasheya lafanako”** kushiwo emasheya lasezingeni lelilinganako kantsi akhishwe endzaweni lefanako;
- “irejista yemasheya”** kushiwo noma ngabe nguyiphi irejista yemasheya ledzingwa ngunoma muphi umtsetfo letawusungulwa nguloniketako kanye, nangekuhambisana nemasheya laniketwe ngekuhambisana ne-Companies Act, analenchazelo laniketwe yona kusigaba 1 salowo Mtsetfo; 20
- “imisebenti yemasheya”** kushiwo—
- (a) kutsenga nekutsengisa emasheya utitsengisela wena noma umelele lomunye umuntfu njengebhizinisi, incenye yebhizinisi noma ngandlela tsite wenta libhizinisi; 25
- (b) kusebentisa indlela yekuhwebelana noma tinsitanchanti teligatja kutsenga noma kutsengisa emasheya labhalisiwe;
- (c) kululeka noma ngabe ngubani;
- (d) kuvikela kanye nekulawula emasheya ngulabangenelelako noma lophakanyisiwe; 30
- (e) kulawulwa kwemasheya netimali ngumsebenzisi losemtsetfweni;
- (f) imisebenti legunyatiwe; noma
- (g) imisebenti yekukhokhela;
- “baphatsi labaphakeme”** kushiwo baphatsi lababikela umphatsi losesikhundleni lesiphakeme noma kulomuntfu lophetse sikhungo, nekufaka ekhatsi umphatsi losesikhundleni lesiphakeme uma ngabe lowo muntfu akasuye umcondzisi walesikhungo; 35
- “kubhadala konkhe”** kushiwo—
- (a) ngalokuphatselene nemasheya labhalisiwe, kungasiwo emathulusi lokungewona mbamba labhalisiwe, lokucedzelelwa kwetransekshini ngekutsi kwedluliselwe emasheya kuemasheya langekho emtsetfweniletifanele kany nemarejista nekukhokhelwa kwetimali noma ngabe ngukuphi lokunye lokutsatfwako lokukhokhelwa ngekwaleyo transekshini, ngekweluhlelo lekukhokhela konkhe njengoba luchazwe kumitsetfo; noma 45
- (b) ngalokuphatselene nelithulusi lekungasilo mbamba, lokucedzelelwa kwetransekshini ngekuvalwa yonkhe imibandzela yetivumelwano lehambisana nalesimo lesivelako kulelithulusi lekungasilo mbamba ngekuhambisana nemitsetfo; noma
- (c) ngekuhambisana nemasheya labhalisiwe, ngaphandle kwemasheya asemakethe yetimali noma emathulusi lokungewona mbamba, lokufakwa nekukhishwa kwemali kuma-akhawunti yalowo loyifakako noma loyikhiphako ngasikhatsi sinye ngesizatfu sekucedzelela itransekshini kumasheya kanye nekutfola satiso sekutsi lokukhokhiwe kutfolakele, ngaphandle kwekutsi— 55
- (i) kubekwe ngunobhala; noma
- (ii) tinhlango tibeke sikhungo lesigunyatako lesitimele nalesibhalisiwe noma silulu semasheya lesisemkhatsini lesibhalisiwe kutsi bacedzelele itransekshini, ngaleyo ndlela itawuba nenchazelo leniketwe kundzima (a); 60
- (d) ngekwemasheya asemakethe yetimali, lokucedzelela kwetransekshini ngekusebentisa kudluliselwa kwemasheya aye kuemasheya langekho emtsetfwenine kubhaliswa ngendlela lefanele kanye nekukhokhelwa

- registers and the payment of funds or any other consideration payable in respect of that transaction, through a settlement system as defined in the rules;
- (e) in respect of an unlisted derivative instrument, the completion of a transaction by the fulfilment of all contractual obligations associated with the resultant position in the derivative instrument, unless otherwise prescribed by the registrar; 5
- (f) in respect of other securities, the discharge of the obligations arising from a transaction in such securities,
- and **“settling”** or **“settlement”** has a corresponding meaning;
- “settlement services”** means any services offered and activities performed by an authorised user, a participant or a clearing member in terms of the relevant rules to facilitate settlement of transactions in securities; 10
- “stockbroker”** means a natural person who is a member of the South African Institute of Stockbrokers;
- “supervisory authority”** means a body designated in national legislation to supervise, regulate or enforce legislation or a similar body designated in the laws of a country other than the Republic to supervise, regulate or enforce legislation of that country; 15
- “systemic risk”** means the danger of a failure or disruption of the whole or a significant or substantial part of the Republic’s financial system; 20
- “this Act”** includes the regulations, rules, and any notices or directives issued, exemption granted, determinations made, requirements determined or conditions imposed by the registrar, that have general application;
- “trade repository”** means a person who maintains a centralised electronic database of records of transaction data; 25
- “transaction”** means a contract of purchase and sale of securities;
- “transfer”** means the transfer of uncertificated securities or an interest in uncertificated securities by debiting the account in the uncertificated securities register from which the transfer is effected and crediting the account in the uncertificated securities register to which the transfer is effected in accordance with the depository rules, and in respect of securities issued in terms of the Companies Act, in the manner provided for in Part E of Chapter 2 of that Act; 30
- “uncertificated securities”** means—
- (a) securities that are not evidenced by a certificate or written instrument; or
- (b) certificated securities that are held in collective custody by a central securities depository or its nominee in a separate central securities account, 35
- and are transferable by entry without a certificate or written instrument;
- “uncertificated securities register”** means the record of uncertificated securities administered and maintained by a participant or a licensed central securities depository, as determined in accordance with the depository rules, and, in respect of securities issued in terms of the Companies Act, has the meaning assigned to it in section 1 of that Act; 40
- “unlisted securities”** means securities that are not—
- (a) listed securities; or
- (b) listed on an external exchange; 45
- “website”** has the meaning set out in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002); and
- “withdraw”** means the conversion of uncertificated securities to certificated securities, and **“withdrawal”** has a corresponding meaning.
- (2) For purposes of the definition of **“insolvency proceeding”**, a proceeding referred to in that definition commences— 50
- (a) in relation to business rescue proceedings, as contemplated in section 132(1) of the Companies Act;

kwetimali noma ngabe ngukuphi lokungatsatfwa lokungakhokhelwa ngekwaleyo transekshini, ngekwekuhlelo lekukhokhela njengoba lichaziwe kulemitsetfo;

- (e) ngalokuphatselene nemathulusi langasiwo mbamba, lokucedzelelwa kwetransekshini ngekuzeza yonkhe imigomo yesivumelwano lehambisana naleso sikhundla lesiyimbangela yalelithulusi lekungasilo mbamba lehambisana nalembangela yelithul;usi lekungasilo mbamba, ngaphansle kwekutsi kubekwe ngunobhala ngaleny indlela; 5
- (f) ngalokuphatselene nalamanye emasheya, lokukhishwa kwemigomo levela kutransekshini kulawo masheya, ngalokuphatselene nemasheya, kanye nalamagama “**kucedzelela**” noma “**kubhadala konkhe**” anenchazelo lehambisanako; 10

“**imisebenti yekucedzelela**” kushiwo noma miphi imisebenti kanye nemisebenti leyentiwa ngumsebentisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe ngekuhambisana nemitsetfo lefanele kute kuhlolwe imisebenti yekucedzelela ematransekshini lakumasheya; 15

“**losebenta ngemasheya**” kushiwo umuntfu lolilunga leSikhungo SaseNingizimu Afrika longumtsengisi wemasheya;

“**ligunya lekulawula**” kushiwo umtimba loniketwe emandla kumtsetfo loshaywe velonkhe kutsi lilawule, libuse noma lisebentise umtsetfo loshayiwe noma umtimba lofanako lobekiwe kulemitsetfo yalelo live kungasiyo iRiphabhulikhi kutsi lilawule, libuse nekutsi lisebentise umtsetfo loshayiwe kulelo live; 20

“**bungoti lobutayelekile**” kushiwo ingoti yekuhluleka noma yekuphatamiseka ngalokuphelele noma incence yeluhlelo lwetimali taseRiphabhulikhi;

“**lomtsetfo**” kufaka ekhatsi imitsetfosimiso, tinkhambiso, knye naletinye tatiso noma tinkhomba letikhishiwe, kuniketwe imvume, tincumo letentiwe, tidzingo letincunyiwe noma imibandzela lebekiwe ngunobhala, lenekusetjentiswa lokwetayelekile; 25

“**indzawo yekuhwebelana**” kushiwo umuntfu logcina imininingwane ngeelektronikhi ndzawonye ngemarekhodi edatha yalokufakiwe nalokukhishiwe; 30

“**itranssekshini**” kushiwo sivumelwano sekutsenga nekutsengisa emasheya;

“**kudlulisela**” Kudluliselwa kweemasheya langekho emtsetfweninoma intalo yeemasheya langekho emtsetfweningekukhipha imali ku-akhawunti yerejista yemasheya langekho emtsetfweni lapho khona lokudlulisela kwentelwa kufaka kwemali kule-akhawunti kurejista yalamasheya langekho emtsetfweni lapho khona lokudluliswa kwentiwa ngekuhambisana nemitsetfo yesikhungo, kantsi ngalokuphatselene nemasheya lakhishwe ngekw-*Companies Act*, ngendlela lebekelwe loko kuSahluko 2 Incenye yalowo Mtsetfo; 35

“**emasheya langekho emtsetfweni**” kushiwo—

(a) emasheya langafakazelwa sitifiketi noma lithulusi lelibhaliwe; noma 40

(b) emasheya lanesitifiketi lekagcinwe lapho kuphephe khona agcinwe kusikhungo semasheya lesisemkhatsini noma lesiphakanyisiwe kumasheya lasemkhatsini kodvwa ahlukene kuma-akhawunti,

Kantsi angadluliseka ngekuwafaka ngaphandle kwesitifiketi noma lithulusi lelibhaliwe; 45

“**irejista yemasheya langekho emtsetfweni**” kushiwo emarekhodi emasheya langekho emtsetfweni lalawula abuye apha fwe ngu labangenelelako noma silulu semasheya lesisemkhatsini lesibhalisiwe, njengoba kuncunye ngemitsetfo yesikhungo, kanye, nangalokuphatselene nemasheya lakhishwe ngekw-*Companies Act*, inalenchazelo leniketwe yona kusigaba 1 saloMtsetfo; 50

“**unemasheya labhalisiwe**” kushiwo emasheya lekungasiwo—

(a) emasheya labhalisiwe; noma

(b) labhalisiwe kuligatja lelitimele;

“**iwebhusayithi**” inalenchazelo lebekwe kusigaba 1 se-*Electronic Communications Act*, 2005 (Umtsetfo Nom. 36 wanga 2005); 55

“**kukhipha**” kushiwo lokuguculwa kwemasheya langekho emtsetfweni abe titifiketi temasheya, kantsi “**kukhipha**” kunenchazelo lefanako.

(2) kwentela tizatfu talenchazelo “**inchubo yekuhlakata**”, inchubo lechazwe kulenchazelo icala—

(a) ngalokuphatselene nenchubo yekuhlenga libhizinisi, njengoba kuvetwe kusigaba 132(1) se-*Companies Act*; 60

- (b) in relation to a judicial proceeding, other than a judicial proceeding under paragraph (a), on the filing at court of an application for an insolvency proceeding; and
 - (c) in relation to an administrative proceeding, other than an administrative proceeding under paragraph (a), on the filing of a resolution by a company, or the appointment of an insolvency administrator, as the case may be, in accordance with national legislation or the laws of a country other than the Republic. 5
- (3) Where in this Act any supervisory authority is required to take a decision in consultation with the registrar, such decision requires the concurrence of the registrar. 10

Objects of Act

2. This Act aims to—
- (a) ensure that the South African financial markets are fair, efficient and transparent;
 - (b) increase confidence in the South African financial markets by— 15
 - (i) requiring that securities services be provided in a fair, efficient and transparent manner; and
 - (ii) contributing to the maintenance of a stable financial market environment;
 - (c) promote the protection of regulated persons, clients and investors; 20
 - (d) reduce systemic risk; and
 - (e) promote the international and domestic competitiveness of the South African financial markets and of securities services in the Republic.

Application of Act and rules

3. (1) Sections 100 to 103 do not apply in relation to the South African Reserve Bank, or a bank. 25
- (2) Any law or the common law relating to gambling or wagering does not apply to any activity regulated by or under this Act.
- (3) Despite any other law, other than the Financial Intelligence Centre Act, if there is an inconsistency between any provision of this Act and a provision of any other national legislation, this Act prevails. 30
- (4) Without affecting the generality of subsection (3), the provisions of this Act and the rules relating to insolvency proceedings and settlement effectiveness of entries in a central securities account and securities account, prevail over any other law, legislation, agreement or founding document of any person, and are binding on any person. 35
- (5) Despite any other law, if other national legislation confers a power on or imposes a duty upon an organ of state in respect of a matter regulated under this Act, that power or duty must be exercised or performed in consultation with the registrar, and any decision taken in accordance with that power or duty must be taken with the approval of the registrar. 40
- (6) Despite the provisions of the Consumer Protection Act, 2008 (Act No. 68 of 2008), that Act does not apply to any activities of a regulated person, or goods or services provided by a regulated person, that are subject to this Act.

- (b) ngalokuphatselene nenchubo yemtsetfo, ngaphandle kwenchubo yemtsetfo ngaphansi kwendzima (a), ekufakweni kwesicelo enkhantolo kutsi kube nenchubo yekuhlakatwa; kanye
- (c) ngalokuphatselene nenchubo yekuphatsa, kungasiyo inchubo yekuphatsa lengaphansi kwendzima (a), ngekubekwa kwetisombululo tenkapani, noma kucashwa kwemlawuli wekuhlakata, njengoba kungabe kudzingekile, ngalokuhambisana nemtsetfo loshaywe velonkhe noma imitsetfo yelive kungasiyo iriphabhulikhi. 5
- (3) Uma ngabe kuloMtsetfo noma ngabe ngubani logunyatwe kutsi aphantse udzingeka kutsi atsatsa sincumo ngekutsintsana nanobhala, leso sincumo sidzinga kubambisana nanobhala. 10

Tinjongo temtsetfo

2. LoMtsetfo uhlose—

- (a) kucinisekisa kutsi timakethe temnotfo tase Ningizimu Afrika tineliciniso, tiyafinyeleleka kantsi ticacile; 15
- (b) kutfutukisa kutetsemba timakethe temnotfo tase Ningizimu Afrika ngeku—
 - (i) dzinga kutsi tinsita ngemasheya tiniketwe ngalokuliciniso, kufinyeleleka nangendlela lecacile; kanye
 - (ii) kufaka sandla ekuphatfweni kwesimondzawo setimakethe temnotfo lesisimeme; 20
- (c) kutfutukisa kuvikelwa kwebantfu labashayelwa umtsetfo, emaklayenti kanye nebasisi;
- (d) kwehlisa luhlelo lwebungoti; kanye
- (e) kutfutukisa kuncintisana kwetimakethe takuleli netanmgaphandle temnotfo taseNingizimu Afrika kanye netinsita temasheya eRiphabhulikhi. 25

Kusetjentiswa kweMtsetfo netindlela tekwenta

- 3. (1) (a) Tigaba 100 kuya ku-103 atisebenti ngekwe-*South African Reserve Bank*.
- (b) Tigaba 102 kuya ku-105 kufanele tisetjentiswe ngekuhambisana nesigaba 8 se-*National Payment System Act*, nesigaba-8 se-*National Payment System Act* siba ngetulu uma ngabe kube nekungcubutana kwanoma nguyiphi imibandzela yetigaba 102 kuya ku-105. 30
- (2) Noma ngabe ngumuphi umtsetfo noma umtsetfo lowancunywa be-Roma- emadashi lophatselene nekugembula noma kubheja awusebenti kunoma tiphi tintfo letilawulwa ngulo noma ngaphansi kwaloMtsetfo.
- (3) Ngaphandle kwanoma miphi imitsetfo, kungasiyo i-*Financial Intelligence Centre Act*, uma ngabe kunekungcubutana kunoma ngabe nguyiphi imibandzela yaloMtsetfo noma imibandzela yanoma ngabe ngu-wuphi umtsetfo loshaywe velonkhe, kutawuma loMtsetfo. 35
- (4) Ngaphandle kwekutsintseka kwesigatjana (3), lemibandzela yaloMtsetfo kanye nalemitsetfo lephatselene kunchubo yekuhlakatwa nekukhokheleka kahle kwalokungenako ku-akhawunti yemasheya lasemkhatsini kanye ne-akhawunti, ungetulu kwanoma ngabe ngumuphi umtsetfo, umtsetfo loshaywe, sivumelwano noma imiculu letfolakele yanoma bani. 40
- (5) Ngaphandle kwanoma miphi imitsetfo, uma ngabe umtsetfo loshaywe velonkhe uniketa emandla noma uniketa umsebeni kumtimba wahulumende ngalokuphatselene neludzaba lolulawulwa ngaphansi kwaloMtsetfo, lawo mandla noma umsebeni kufanele kwentiwe noma kusetjentiswe ngekutsintsana nanobhala, kantsi noma ngabe ngusiphi sincumo lesitsatfwe ngekuhambisana nalawo mandla noma umsebeni kufanele sitsatfwe ngekutfolala invume yanobhala. 45
- (6) Ngaphandle kwalemibandzela ye-*Consumer Protection Act*, 2008 (Umtsetfo Nom. 68 wanga 2008), lowo Mtsetfo awusebenti kunoma ngabe ngumiphi imisebenti yemuntfu losemtsetfweni, noma timphahla noma imisebenti leyentiwa ngulomuntfu losemtsetfweni ngalokuphatselene naloMtsetfo. 50

Prohibitions and adherence to authorisation by authorised users, participants and clearing members

4. (1) No person may—
- (a) act as an authorised user unless authorised by a licensed exchange in terms of the exchange rules; 5
 - (b) carry on the business of buying or selling listed securities unless that person complies with section 24;
 - (c) provide securities services in respect of unlisted securities in contravention of conditions imposed or prescribed under section 6(7);
 - (d) act as a participant unless authorised as a participant by a licensed central securities depository in terms of section 31; 10
 - (e) act as a clearing member unless authorised by a licensed exchange or a licensed independent clearing house, as the case may be;
 - (f) act as a nominee unless that person is approved under section 76;
 - (g) perform the functions of or operate as a trade repository unless that person is licensed under section 56; or 15
 - (h) in any manner, directly or indirectly, advertise or canvass for carrying on the business of an authorised user, participant or clearing member, unless that person is an authorised user, participant or clearing member, or an officer or employee of an authorised user, participant or clearing member, who is so permitted in terms of exchange rules, depository rules or clearing house rules, as the case may be. 20
- (2) A person who is not—
- (a) licensed as an exchange, a central securities depository, a trade repository or a clearing house; 25
 - (b) a participant;
 - (c) an authorised user;
 - (d) a clearing member;
 - (e) an approved nominee; or
 - (f) an issuer of listed securities, 30
- may not purport to be an exchange, central securities depository, trade repository, clearing house, participant, authorised user, clearing member, approved nominee or issuer of listed securities, as the case may be, or behave in a manner or use a name or description which suggests, signifies or implies that there is some connection between that person and an exchange, a central securities depository, trade repository, clearing house, participant, authorised user or clearing member, as the case may be, where in fact no such connection exists. 35
- (3) An authorised user may only provide the securities services for which it is authorised by a licensed exchange in terms of the exchange rules.
- (4) A participant may only provide the securities services for which it is authorised by a licensed central securities depository in terms of the depository rules. 40
- (5) A clearing member may only provide the clearing services or settlement services for which it is authorised by a licensed exchange or licensed independent clearing house, as the case may be, in terms of the exchange rules or clearing house rules, as the case may be. 45

Lokuvimbako nekuhambisana nemitsetfo yebasebentisi labavunyelwe, bangeneleli nemalunga lagunyatako

4. (1) Akekho umuntu langa—
- (a) tenta njengembentisi losemtsetfweni ngaphandle kwekutsi aniketwe imvume ligatja lelibhalisiwe ngekuhambisana nemitsetfo yeligatja; 5
 - (b) achubeke nelibhizinisi lekutsengisa nekutsengiselana emasheya labhalisiwe ngaphandle kwekutsi lowo muntu ahambisana nesigaba 24;
 - (c) anikete tinsita ngalokuphatselene nemasheya noma ngabe anemasheya labhalisiwe ngekuphula imigomo lebekiwe noma levetwe ngaphansi kwesigaba (6)7; 10
 - (d) asebente njengalabangenelelako ngaphandle nabagunyatwe njengalabangenelelako silulu semasheya lesisemkhatsini lesibhalisiwe ngekwesigaba 31;
 - (e) asebente njengelilunga leligunyatiwe ngaphandle kwekutsi agunyatwe ligatja lelibhalisiwe noma ligatja leligunyatako lelitimele, njengoba kungabe kubekiwe; 15
 - (f) asebente njengalophakanyisiwe ngaphandle kwekutsi lowo muntu avunyelwe ngaphansi kwesigaba 76;
 - (g) kwenta umsebenti noma asebente njengendzawo yekuhwebelana ngaphandle kwekutsi lowo muntu abe nemvume layiniketwe ngaphansi kweigaba 56; noma 20
 - (h) nganoma yiphi indlela, ngalokucondzile noma ngalokungakacondzi, kukhangisa noma kukhankasa kute kwentiwe libhizinisi lemsebentisi losemtsetfweni, labangenelelako, noma lilunga leligunyatiwe, ngaphandle kwekutsi lowo muntu abe ngumsebentisi losemtsetfweni, labangenelelako, lilunga leligunyatiwe, noma umsebenti noma sisebenti semsebentisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe lekaniketwe imvume ngekwemitsetfo yeligatja, imitsetfo yesikhungonoma imitsetfo yesikhungoleligunyatako, njengoba kungaba njalo. 25
- (2) Umuntu longena— 30
- (a) mvume njengelihatja, sikhungo semasheya lesisemkhatsini, indzawo yekuhwebelana noma sikhungo lesigunyatako;
 - (b) yalabangenelelako;
 - (c) msebentisi losemtsetfweni;
 - (d) silo lilunga leligunyatiwe; 35
 - (e) ngakaphakanyiswa; noma
 - (f) mvume yekuniketela ngemasheya labhalisiwe,
- Angeke wafaka sicelo sekutsi abe ligatja, sikhungo semasheya lesisemkhatsini, indzawo yekuhwebelana, sikhungo lesigunyatako, labangenelelako, umsebentisi losemtsetfweni, lilunga leligunyatiwe, lophakanyisiwe losemtsetfweni noma loniketa f emasheya labhalisiwe, njengoba kungabe kubekiwe, noma kutiphatsa ngendlela noma kusebentisa ligama noma inchazelo lephakamisa kutsi, lekhombisa noma lechaza kutsi kunebudlelwano emkhatsini walowo muntu nelihatja, sikhungo semasheya lesisemkhatsini, indzawo yekuhwebelana, sikhungo lesigunyatako, labangenelelako, umsebentisi losemtsetfweni noma lilunga leligunyatiwe, njengoba kungabe kubekiwe, laphe khona akunabudlelwano lobukhona. 40 45
- (3) Umsebentisi losemtsetfweni anganiketa tinsita ngemasheya letisemtsetfweni ligatja lelibhalisiwe ngekuhambisana nemitsetfo yeligatja.
- (4) Labangenelelako banganiketa kuphela emasheya lagunyatwe silulu semasheya lesisemkhatsini lesibhalisiwe ngekuhambisana nemitsetfo yesikhungo. 50
- (5) Lilunga leligunyatiwe linganiketa tinsita tekugunyata noma tekukhokhela ngalokugcwele letiniketwe imvume yekwenta ligatja lelibhalisiwe noma sikhungo lesitimele lesigunyatiwe lesinemvume, njengoba kungabe kubekiwe, ngekuhambisana nemitsetfo yeligatja noma imitsetfo yesikhungolesigunyatako, njengoba kungabe kubekiwe. 55

CHAPTER II

REGULATION AND SUPERVISION OF FINANCIAL MARKETS

Powers of the Minister

5. (1) The Minister may prescribe, in accordance with section 107(2),—
- (a) requirements for the regulation of unlisted securities; 5
 - (b) a category of regulated person, other than those specifically regulated under this Act, if the securities services, whether in relation to listed or unlisted securities, provided by persons in such category are not already regulated under this Act, and if, in the opinion of the Minister, it would further the objects of the Act in section 2 to regulate persons in such categories; 10
 - (c) the securities services that may be provided and the functions and duties that may be exercised by an external authorised user, external exchange, external participant, external central securities depository, external clearing house, external clearing member or external trade repository, as the case may be.
- (2) An external authorised user, external exchange, external participant, external central securities depository, external clearing house, external clearing member or external trade repository may only provide those securities services or exercise functions or duties, as the case may be, prescribed by the Minister in terms of subsection (1)(c). 15
- (3) In performing the Minister's functions, the Minister must take into account the objects of the Act and the principle that competition between regulated persons should not be impeded or distorted. 20

Registrar and Deputy Registrar of Securities Services

6. (1) The executive officer and a deputy executive officer referred to in section 1 of the Financial Services Board Act are the Registrar and the Deputy Registrar of Securities Services, respectively. 25
- (2) The registrar must perform the functions assigned to the registrar by or under this Act and must supervise and enforce compliance with this Act.
- (3) In performing those functions the registrar—
- (a) must act in a manner which— 30
 - (i) is compatible with the objects of this Act;
 - (ii) is most appropriate for meeting those objects;
 - (b) must have regard to—
 - (i) international supervisory standards;
 - (ii) the principle that a restriction which is placed on a regulated person, or on the rendering of securities services, should be proportionate to the purpose for which it is intended; 35
 - (iii) the desirability of facilitating innovation in securities services;
 - (iv) the international nature of regulated persons and securities services;
 - (v) the principle that competition between regulated persons should not be impeded or distorted; and 40
 - (vi) the need to use resources in the most effective and cost-efficient way;
 - (c) must take steps he or she considers necessary to protect investors in their dealings in relation to securities services or regulated persons;
 - (d) may require any person, including a regulated person, to furnish the registrar, within a specified period, with specified information or documents; 45
 - (e) may, despite the provisions of any law, furnish information acquired by him or her under this Act to any person charged with the performance of a function under any law, including a supervisory authority;
 - (f) must act in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); 50
 - (g) must take reasonable steps to verify any documentation, information or report given to the registrar by a licence applicant or regulated person, where such

SAHLUKO II

UMTSETFOSIMISO NEKULANDZELELWA KWETIMAKETHE TEMALI

Emandla aNgcongcoshe

5. (1) Ngcongcoshe angabeka, ngekuhambisana nesigaba 107(2),—
- (a) tidzingo tekulawulwa kwemasheya langakabhaliswa; 5
 - (b) luhla lwebantfu labalawulwako, ngaphandle kwalabo labalawulwe ngekwaloMtsetfo, uma ngabe tinsita temasheya, noma ngabe kuya ngalabhalisiwe noma langakabhaliswa, uma ngabe labo bantfu basengakalawulwa kulowo mkhakha ngekwaloMtsetfo, uma ngabe umbono waNgcongcoshe, utawuchubekisa tinjongo taloMtsetfo letikusigaba 2 10 tekulawula bantfu labanjalo labakuleyo mikhakha;
 - (c) lemisebenti yemasheya lenganiketwa kanye nemisebenti lengentiwa ngumsebentisi longaphandle, ligatja lelitimele, bangeleleli labatimele, libhange lemasheya lelitimele langaphandle, indlu yangaphandle legunyatako, lilunga langaphandle leligunyatako noma ligatja langaphandle 15 lekuhwebelana, njengoba kungabe kubekiwe.
- (2) Umsebentisi wangaphandle logunyatiwe, ligatja langaphandle, longenelelako wangaphandle, sikhungo semasheya lesitimele sangaphandle, indlu yangaphandle legunyatako, lilunga langaphandle leligunyatako noma libhange langaphandle lekuhwebelana lingahle linikete leto tinsita temasheya noma kusebentisa imisebenti, 20 njengoba kungabe kubekiwe, kubekwe nguNgcongcoshe ngekuya ngalesigatjana (1)(c).
- (3) Ekwenteni imisebenti yaNgcongcoshe, Ngcongcoshe kufanele kutsi anake tinjongo taloMtsetfo nalomgomo wekutsi umncintiswano bantfu labagunyatiwe akufanele babanjelelwe.

Nobhala naSekela Nobhala weMisebenti Yemasheya 25

6. (1) Umphatsi losetulu kanye nelisekela lakhe lababalwe kusigaba 1se-*Financial Services Board Act* labo-ke nguNobhala kanye naSekela Nobhala weTinsita Temasheya, ngekulandzelana kwabo.
- (2) Nobhala kufanele ente lemisebenti leniketwe nobhala ngaphansi kwaloMtsetfo kantsi kufanele alawule abuye acinisekise kutsi kuyahanjiswa naloMtsetfo. 30
- (3) Ekwenteni lemisebenti nobhala—
- (a) kufanele asebente ngendlela—
 - (i) lehambisana netinjongo taloMtsetfo;
 - (ii) ufanele anakanjani ahlangatane naleto tinjongo;
 - (b) kufanele abuke ngalokuphatselene— 35
 - (i) nemazinga ekulawula mhlabawonkhe;
 - (ii) lomgomo lobekelwe umbandzela lewubekwa kumuntfu loshayelwe umtsetfo, noma ekwentiweni kwemisebenti wemasheya, kufanele uhambisane nalesizatfu lebewuhloselwe sona;
 - (iii) lelilukuluku lekuhlola tingucuko kutinsita temasheya; 40
 - (iv) simo savelonkhe semuntfu losemtsetfweni kanye netinsita temasheya;
 - (v) lomgomo wekutsi umncintiswano emkhatsini webantfu labasemtsetfweni akukafaneli uphatanyiswe noma uguculwe; nekutsi
 - (vi) lesidzingo sekusebentisa tinsita ngendlela leyengako nalenemphumelelo; 45
 - (c) kufanele atsatse tinyatselo latibona kutsi tifanele kuvikela basisi ekusebenteni kwabo ngetinsita temasheya kanye nebantfu labasemtsetfweni;
 - (d) kungadzinga noma ngabe ngubani, kufaka ekhatsi umuntfu losemtsetfweni, kutsi anikete nobhala, ngesikhatsi lesibekiwe, ngelwatiso lolubaliwe noma imiculu; 50
 - (e) anganiketa lwatiso lolutfolwe nguyi ngaphansi kwaloMtsetfo kunoma ngabe ngubani lobekwe licala lekwenza umsebenti ngaphansi kwanoma ngumuphi umtsetfo, kufaka ekhatsi labaneligunya lekulawula;
 - (f) kufanele asebente ngekuhambisana ne-*Promotion of Administrative Justice Act*, 2000 (Umtsetfo Nom. 3 wanga 2000); 55
 - (g) kufanele atsatse tinyatselo letifanele kucinisekisa noma maphi emaphepha, lwatiso noma umbiko loniketiwe kunobhala ngulofake sicelo semvume noma umuntfu losemtsetfweni, lapho khona lawo maphepha, lwatiso noma umbiko,

- documentation, information or report, in the opinion of the registrar, is material to giving effect to the objects of this Act set out in section 2;
- (h) may impose conditions that are consistent with this Act in respect of any licence, authorisation, approval, consent or permission granted by the registrar, and may amend or withdraw such conditions at any time; 5
 - (i) may determine the form, manner and period, if not specified in this Act, in which or within which any documentation, information or report that a regulated person is required to publish, disclose, provide or submit under this Act, must be published, disclosed, provided or submitted;
 - (j) may, on the written request of a regulated person, extend any period within which any documentation, information or report must be submitted to the registrar; 10
 - (k) may issue guidelines on the application and interpretation of this Act;
 - (l) may take any measures he or she considers necessary for the proper performance and exercise of his or her functions, or for the implementation of this Act; 15
 - (m) may exempt any person or category of persons from the provisions of a section of this Act if the registrar is satisfied that—
 - (i) the application of said section will cause the applicant or clients of the applicant financial or other hardship or prejudice; and 20
 - (ii) the granting of the exemption will not—
 - (aa) conflict with the public interest; or
 - (bb) frustrate the achievement of the objects of this Act;
 - (n) must inform the Minister and the Governor of any matter that in the opinion of the registrar may pose systemic risk to the financial markets; and 25
 - (o) must make adequate arrangements for effective co-operation with the Governor in respect of the monitoring and mitigation of systemic risk.
- (4) (a) The registrar may, in order to ensure the implementation and administration of this Act, compliance with this Act or achieving of the objects of this Act, issue a directive to any person, including a regulated person— 30
- (i) to implement specific practices, procedures or processes;
 - (ii) to take specific actions or measures;
 - (iii) to desist from undertaking specific practices, procedures, processes, actions or measures; or
 - (iv) prohibiting certain practices, procedures, processes, actions or measures. 35
- (b) A directive referred to in paragraph (a) may—
- (i) apply to any person, regulated person or securities services generally;
 - (ii) apply to a specific person, regulated person or securities service; or
 - (iii) be limited in its application to a particular kind or type of person, regulated person or securities service. 40
- (c) A directive issued in terms of paragraph (a) takes effect on the date determined by the registrar in the directive, and may take effect immediately.
- (d) The registrar may cancel or revoke any previously issued directives.
- (5) The registrar must, where an exemption or a directive applies to all persons, regulated persons or securities services generally, publish the directive in the *Gazette* 45 and on the official website, and a copy of the published exemption or directive must be tabled in Parliament.
- (6) (a) The registrar may—
- (i) liaise with any supervisory authority on matters of common interest;
 - (ii) negotiate agreements with any supervisory authority to co-ordinate and 50 harmonise the reporting and other obligations of a regulated person, an external exchange, an external clearing house, an external central securities depository or

- ngekwembono wanobhala, ngemaphepha latawuphumelelisa tinjongo taloMtsetfo letibekwe kusigaba 2;
- (h) angabeka imibandzela angabeka imibandzela lehambisana naloMtsetfo ngalokuphatselene nanoma nguyiphi imvume, kugunyatwa, imvume, siciniseko noma imvume leniketwe ngunobhala kantsi angachibiyela noma asuse leyo mibandzela noma nini; 5
- (i) angancuma ngelifomu, indlela nesikhatsi, uma ngabe kungakafakwa kuloMtsetfo, lapho khona noma waphi emaphepha, lwatiso noma umbiko lekudzingeke kutsi umuntfu losemtsetfweni kufanele awukhiphe, awuvete, noma awunikete noma awetfule ngaphansi kwaloMtsetfo kufanele ukhishwe, uvetwe, uniketwe noma wetfulwe; 10
- (j) angatfutukisa sikhatsi lapho khona emaphepha, lwatiso noma imibiko kufanele yetfulwe kunobhala, ngekutfole imvume lebhaliwe levela kumuntfu losemtsetfweni;
- (k) anganiketa tinkhombandlela kulesicelo kanye nasekuchazweni kwaloMtsetfo; 15
- (l) angatsatsa noma tiphi tindlela lekatibona tifanele kwentela kusebenta kahle kanye nekwenta imisebenti yakhe noma lekayalelwe kona, noma kwentela kusetjentiswa kwaloMtsetfo;
- (m) angavumela noma bani noma bantfu labatsite kutsi bangatsintfwa nguloMtsetfo uma ngabe nobhala aneliseka kutsi— 20
- (i) lokusetjentiswa kwaleso sigaba lekukhulunywa ngaso sitawenta kutsi lofaka sicelo noma emaklayenti alofaka sicelo ngekwetimali noma lobunye bumatima noma kungalungi; kanye
- (ii) kuniketwa kwemvume yekungatsintseki angeke— 25
- (aa) kwangcubutana netishinsekelo tahulumende; noma
- (bb) kuhlukumete kuphumelela kwaletinjongo taloMtsetfo; kanye
- (n) kufanele kwatiswe Ngcongcoshe kanye neMbusi nganoma ngaluphi ludzaba le ngekwembono wanobhala, kungaletsa bungoti kutinhlelo tetimakethe temnotfo; kanye 30
- (o) kufanele kwentiwe emalungiselelo ekusebentisana ngempumelelo neMbusi ngekuya ngekulawulwa netindlela tebungoti bekuvikela.
- (4) (a) Nobhala, kute kutsi acinisekise kwentiwa kanye nekulawulwa kwaloMtsetfo, kuhambisana naloMtsetfo noma ngekutsi letinjongo taloMtsetfo tiyafinyeleleka, anikete buholi kunoma ngubani, kufaka ekhatsi umuntfu losemtsetfweni,— 35
- (i) kwenta tintfo letitsite, inchubo noma tindlela;
- (ii) kutsatsa tinyatselo letibonakalako noma tindlela tsite;
- (iii) kuyekela kwenta tento letibonakalako, tindlelo, tinchubo, tento noma tindlela; noma
- (iv) kuvikela letinye tintfo letitsite, tindlela, tinchubo, tento kanye netinkhambiso. 40
- (b) inkhomba lebalwe kundzima (a) anga—
- (i) setjentiswa ngunoma ngubani, bantfu labasemtsetfweni noma tinstita temasheya nje;
- (ii) kusebenta kumuntfu lotsite, umuntfu losemtsetfweni noma imisebenti yemasheya; noma 45
- (iii) valeleka ekusetjentisweni kuluhlobo lolutsite lwemuntfu, umuntfu losemtsetfweni noma lusito ngemasheya.
- (c) Umyalelo lokhishwe ngekwendzima (a) ucala kusebenta ngalolusuku loluncu-nywe ngunobhala kulomyalelo, kantsi ungasebenta ngekushesha.
- (d) Nobhala angacitsa noma akhansela leminyane imiyalelo yangaphambilini leyake yakhishwa. 50
- (5) Nobhala kufanele, lapho kunekuniketwa kungasebenti noma umyalelo ufaka ekhatsi bonkhe bantfu, bantfu labasemtsetfweni noma netinsita temasheya ngalokutayelekile, kukhishwe lomlayelo *kuGazethi* kuwebhu lesemntsetfweni, kantsi ikhophi yalokuvunyelwa noma umyalelo kufanele yetfulwe ePhalamende. 55
- (6) (a) Nobhala anga—
- (i) sebentisana nanoma ngabe ngubani lophetse kutindzaba letitsintsa bantfu ngalokufanako;
- (ii) angacocisana ngetivumelwano nanoma ngabe bobani labaphetse kutsi bachumanise futsi bente indlela yekubika ihambisane kanye naleminyane imisebenti yemuntfu lobekiwe, tingucuko tangaphandle, sikhungo lesigunyatako sangaphandle, sikhungo semasheya lasemkhatsini 60

- its subsidiary or holding company including, but not limited to, circumstances which may indicate systemic risk;
- (iii) assist any supervisory authority in regulating and enforcing any laws of that supervisory authority that are similar to this Act;
 - (iv) participate in the proceedings of any supervisory authority; and 5
 - (v) advise or receive advice from any supervisory authority.
- (b) The registrar, without detracting from the generality of paragraph (a), may enter into a written agreement, including a memorandum of understanding, with a supervisory authority, which agreement may include—
- (i) a provision that the registrar may conduct an on-site examination or an inspection of a regulated person, on the request of a supervisory authority, and that the supervisory authority may assist the registrar in such on-site examination or inspection; 10
 - (ii) a provision that the registrar and supervisory authority may share information relating to the financial condition and conduct of a regulated person, an external exchange, an external authorised user, an external clearing house, an external clearing member, an external central securities depository or an external participant or its subsidiary or holding company including, but not limited to, circumstances which may indicate systemic risk; 15
 - (iii) a provision that the registrar or supervisory authority— 20
 - (aa) be informed of adverse assessments of qualitative aspects of the operations of a regulated person, an external exchange, an external authorised user, an external clearing house, an external clearing member, an external central securities depository, an external participant or its subsidiary or holding company including, but not limited to, circumstances which may indicate systemic risk; or 25
 - (bb) may provide information regarding significant problems that are being experienced within a regulated person, an external exchange, a trade repository, an external authorised user, an external clearing house, an external clearing member, an external central securities depository, an external participant or its subsidiary or holding company including, but not limited to, circumstances which may indicate systemic risk; 30
 - (iv) such other matters as the registrar may deem relevant.
- (7) The registrar may, in accordance with the requirements prescribed by the Minister under section 5(1)(a),— 35
- (a) prescribe criteria for the authorisation of persons providing securities services in respect of unlisted securities;
 - (b) prescribe conditions and requirements for the provision of securities services in respect of unlisted securities, including, but not limited to, prescribing a code of conduct and imposing reporting requirements; 40
 - (c) prescribe standards in accordance with which securities services in respect of unlisted securities must be carried on;
 - (d) prescribe conditions and requirements in terms of which securities services in respect of specified types of unlisted securities may be provided, including, but not limited to, the manner in which clearing and settlement of such securities must take place; 45
 - (e) prescribe criteria for the authorisation of issuers of unlisted securities; and
 - (f) prohibit a person from providing any securities services in respect of unlisted securities if that person provides securities services in a manner which defeats one or more of the objects of this Act referred to in section 2. 50
- (8) In relation to the persons in the category prescribed by the Minister under section 5(1)(b), the registrar may—
- (a) prescribe criteria for the authorisation of such persons;
 - (b) prescribe conditions and requirements for the provision of securities services by such persons including, but not limited to, prescribing a code of conduct and imposing reporting requirements; 55
 - (c) prescribe standards in accordance with which securities services by such persons must be carried on; and
 - (d) prohibit such persons from providing securities services or undertaking any activities which may frustrate the objects of the Act. 60

- lesingaphandle noma labanye noma inkhampani lelibambela kufaka ekhatsi kodvwa kungavimbela, tintfo letingafaka ekhatsi luhlelo lwebungoti;
- (iii) sita noma bani lophetse ekushayeni umtsetfo kanye nekusebentisa noma miphi imitsetfo yalowo lophetse lehambisana naloMtsetfo;
- (iv) ngenelela kunoma ngutiphi tinchubo tanoma ngubani lophetse; kanye 5
- (v) nekubonisa noma kutfolo imibono kunoma ngubani lophetse.
- (b) Nobhala, ngaphandle kwekuba netinsolo ngalokushiwo yindzima (a), angangena esivumelwaneni lesibhalwe phansi, kufaka ekhatsi sivumelwano lesishicilelwe, nemphatsi lapho khona lesivumelwano singafaka ekhatsi—
- (i) ligunya lekutsi nobhala, angahlala ngekhatsi noma kuhlolwa kwemuntfu 10
losemtsetfweni, uma ngabe kunesicelo salophetse, nekutsi lona lophetse angasita nobhala kuloko kuhlolwa lokusemagunjini;
- (ii) umyalelo wekutsi nobhala kanye nalabaphetse bangaba lwati loluphatselene nesimo setimali kanye nekutiphatsa kwalabasemtsetfweni, ligatja langaphandle, umsebentisi losemtsetfweni longaphandle, sikhungo sangaphandle 15
lesigunyatako, lilunga leligunyatiwe lelingaphandle, sikhungo semasheya lasemkhatsini lesingaphandle noma labangenelelako labangaphandle noma lenye inkhapani noma leyo lelibambela kufaka ekhatsi kodvwa kungavimbela, tintfo letingafaka ekhatsi luhlelo lwebungoti ;
- (iii) umyalelo wekutsi nobhala noma umphatsi— 20
- (aa) atiswe ngekungahlolwa kahle kwetintfo letiphatsakako temsebenti wemuntfu losemtsetfweni, ligatja langaphandle, umsebentisi losemtsetfweni longaphandle, sikhungo sangaphandle lesigunyatako, lilunga leligunyatiwe lelingaphandle, libhange lemasheya lasemkhatsini langaphandle, labangenelelako labangaphandle noma lenye inkhapani 25
noma lelibambela kufaka ekhatsi kodvwa kungavimbela, tintfo letingafaka ekhatsi luhlelo lwebungoti ; noma
- (bb) anganiketa lwatiso ngalokuphatselene netinkhinga lekuhlangabetwana nato ngumuntfu losemtsetfweni, ligatja lelingaphandle, indzawo yekuhwebelana, umsebentisi losemtsetfweni longaphandle, sikhungo 30
sangaphandle lesigunyatako, lilunga leligunyatiwe lelingaphandle, libhange lemasheya lasemkhatsini langaphandle, labangenelelako labangaphandle noma lenye inkhapani noma lelibambela;
- (iv) letinye tindzaba njengoba nobhala angatibona tifanelekile.
- (7) Nobhala anga, ngekuhambisana netidzingo letibekwe nguNgcongcoshe nga- 35
phansi kwesigaba 5(1)(a),—
- (a) abeke indlela yekuba semtsetfweni kwalabo bantfu;
- (b) abeke imibandzela netidzingo temibandzela yemisebenti yemasheya ngulabo bantfu kufaka ekhatsi, kungashiyi ngaphandle, kusho indlela yekutiphatsa nekubeka indlela ledzingekako yekubika; 40
- (c) kubeka emazinga latawuhambisana nemisebenti yemasheya ngekuhambisana nemasheya langakabhaliswa lekufanele kusetjentwe ngawo;
- (d) abeke imibandzela netidzingo ngendlela lekufanele kutsi imisebenti yemasheya ngalokuphatselene nalatsite langakabhaliswa lekufanele aniketwe, kufaka ekhatsi, kutsi kungashiyi ngaphandle, indlela kugunyata 45
nekukhokheleka kwalawo masheya kufanele kwenteke ngayo;
- (e) kubeka indlela yekugunyatwa kwebanikeli bemasheya labangakabhaliswa; kanye
- (f) kuvimbela umuntfu kutsi anikete noma muphi umsebenti wemasheya ngalokuphatselene nemasheya langakabhaliswa uma ngabe lowo muntfu 50
aniketa umsebenti wemasheya ngendlela lehlulekisa yinye noma ngetulu taletinjongo taloMtsetfo letibalwe kusigaba 2.
- (8) Ngalokuphatselene nalabantfu lababalwe kulomkhakha lobekwe nguNgcongcoshe ngaphansi kwesigaba 5(1)(b), nobhala anga—
- (a) kubeka indlela yekugunyatwa kwalabo bantfu; 55
- (b) kubeka imibandzela netidzingo talemibandzela yemisebenti yemasheya ngulabo bantfu kufaka ekhatsi, kungashiyi ngaphandle, kubeka indlela yekutiphatsa nekubeka lokudzingekako uma ngabe kubikwa;
- (c) kubekwe emazinga laphatselene netindlela imisebenti yemasheya lekufanele tisetjentwe ngayo ngulabo bantfu; kanye 60
- (d) kuvimbela bantfu labanjalo ekuniketeni imisebenti yemasheya noma kwenta noma ngabe miphi imisebenti lengasebentisa kabi tinjongo taloMtsetfo.

CHAPTER III

EXCHANGES

Licensing of exchange

Application for exchange licence

7. (1) An exchange must be licensed under section 9. 5
- (2) A juristic person may apply to the registrar for an exchange licence in respect of one or more types of securities.
- (3) An application for an exchange licence must—
- (a) be made in the manner and contain the information prescribed by the registrar;
 - (b) show that the applicant complies with the requirements listed in section 8; 10
 - (c) be accompanied by—
 - (i) a copy of the proposed exchange rules that must comply with section 17;
 - (ii) a copy of the proposed listing requirements that must comply with section 11;
 - (iii) a copy of the founding documents of the applicant; 15
 - (iv) such information in respect of members of the controlling body of the applicant as may be prescribed by the registrar;
 - (v) the application fee prescribed by the registrar;
 - (d) be supplemented by any additional information that the registrar may reasonably require. 20
- (4) (a) The registrar must publish a notice of an application for an exchange licence in two national newspapers at the expense of the applicant, and on the official website.
- (b) The notice must state—
- (i) the name of the applicant;
 - (ii) where the proposed exchange rules and listing requirements may be inspected by members of the public; and 25
 - (iii) the period within, and the process by, which objections to the application may be lodged with the registrar.

Requirements applicable to applicant for exchange licence and licensed exchange

8. (1) Subject to subsection (2), an applicant for an exchange licence and a licensed exchange must— 30
- (a) subject to the requirements prescribed by the Minister have assets and resources in the Republic, which resources include financial, management and human resources with appropriate experience, to perform its functions as set out in this Act; 35
 - (b) have governance arrangements that are clear and transparent, promote the safety and efficiency of the exchange, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders;
 - (c) demonstrate that the fit and proper requirements prescribed by the registrar are met by the applicant, or the licensed exchange, as the case may be, its directors and senior management; 40
 - (d) have made arrangements for the efficient and effective surveillance of all transactions effected through the exchange and for the supervision of authorised users so as to identify possible market abuse and ensure compliance with the exchange rules and exchange directives and this Act; 45
 - (e) have made arrangements for the efficient and effective monitoring of compliance by issuers of securities listed on the exchange with the exchange's listing requirements;

SAHLUKO III

EMAGATJA

Kuniketwa lilayisensi kweligatja

Kufaka sicelo sekugucula lilayisensi

7. (1) Ligatja kufanele libe nelayisensi ngekwesigaba 9. 5
- (2) Umuntfu losemtsetfweni angafaka sicelo kunobhala kutsi atfole ilayisensi yeligatja ngalokuphatselene neluhlobo lunye noma ngetulu lwemasheya.
- (3) Sicelo selayisensi yeligatja kufanele—
- (a) sentiwe ngendlela kanye nekucuketsa lwati lolubekwe ngunobhala;
 - (b) kukhombisa kutsi lofake sicelo uyahambisana nalokudzingekako lokubalwe kusigaba 8; 10
 - (c) kuhambisane ne—
 - (i) khophi yalemitsetfo yeligatja leliphakanyisiwe lekufanele ihambisane nesigaba 17;
 - (ii) ikhophi yalokudzingekako lokuphakanyisiwe kute ubhaliswe lekufanele ihambisane nesigaba 11; 15
 - (iii) ikhophi yemaphepha ekucala alofake sicelo;
 - (iv) lolo lwatiso ngalokuphatselene nemalunga emtimba lolawulako walabafake ticelo njengoba kungabekwa ngunobhala;
 - (v) linani lemali yekufaka sicelo lebekwe ngunobhala; 20
 - (d) inetetelwe nganoma ngabe nguluphi lwatiso lolungetelelwe nobhala langahle aludzinge. 25
- (4) (a) Nobhala kufanele akhiphe satiso sesicelo sekuba nelayisensi yeligatja kumaphephandzaba lamabili lafundvwa velonkhe lokutawuba tindleko talona lofaka sicelo, kanye nakuwebhu lesemtsetfweni. 25
- (b) Lesatiso kufanele—
- (i) sisho ligama lalofake sicelo;
 - (ii) lapho kufanele kuhlolwe khona lemitsetfo yeligatja lephakanyisiwe kanye nalokudzingekako kute ubhaliswe ngalokuhlolwe malunga emmango; kanye
 - (c) isho lesikhatsi, kanye nenchubo, lapho kungabekwa khona lokuphikisa sicelo lesibekwe ngunobhala. 30

Tidzingo letikhona kulofaka sicelo ngetingucuko telayisensi yeligatja

8. (1) Ngekuya ngesigatjana (2), lofake sicelo selayisensi yeligatja kanye neligatja lelibhalisiwe kufanele—
- (a) ngekuya ngetidzingo letibalwe nguNgcongcoshe, kuba netimphahla kanye netinsita kuRiphabhulikhi, letinsita letifaka ekhatsi imali. Kulawula, kanye nekucashwa kwebasebenti labanelwati lolufanele, kute kwentiwe umsebenti noma imisebenti njengoba kuvetiwe kuloMtsetfo; 35
 - (b) kuba emalungiselelo ekubusa lacacile nalakhanyako, latfutukisa kuvikeleka kanye nekuphumelela kweligatja, nekusekela kusimama yeluhlelo lonkhe lwetimali, lokunye lokufanele lokufaka ekhatsi tinshisekelo temmango, kanye netinjongo talabatsintsekako labafanele; 40
 - (i) netinsita tetimali; kanye
 - (ii) nekuphatfwa netinsita temisebenti ngelwati loludzingekako, Lokufanele kube khona ekusebenteni kweligatja ngekwaloMtsetfo; 45
 - (c) kukhombisa kutsi letidzingo letifanele letibekwe ngunobhala lofake sicelo uyatifeza, noma ligatja lelibhalisiwe, njengoba kungabe kubekiwe, bacondzisi balo kanye nebaphatsi labasetulu;
 - (d) wente emalungiselelo ekuhambisa kahle nangemphumelelo kuhlolwa kwawo wonkhe umsebenti lowentiwe kuleligatja kanye nekulawulwa kwebasebentisi labagunyatiwe kute kutsi kubonakale kungaphatfwa kahle kwetimakethe kanye nekucinisekisa kuhambisana nalemitsetfo yeligatja kanye netinkhomba teligatja kanye naloMtsetfo; 50
 - (e) kwentiwe emalungiselelo ekuhlola ngemphumelelo nakahle kutsi bayahambisana nemasheya lakhishiwe labhaliwe kuligatja lahambisana netidzingo tekukhipha kweligatja; 55

- (f) implement arrangements to efficiently and effectively manage the material risks associated with the operation of an exchange;
 - (g) have made arrangements for efficient and effective security and back-up procedures to ensure the integrity of the records of transactions effected through the exchange; 5
 - (h) have insurance, a guarantee, compensation fund or other warranty in place to enable it to provide compensation, subject to the exchange rules, to clients;
 - (i) make arrangements for the efficient and effective clearing and settlement of transactions effected through the exchange and for the management of settlement risk; 10
 - (j) have made arrangements for the efficient and effective supervision of authorised users so as to ensure compliance with the Financial Intelligence Centre Act; and
 - (k) implement an effective and reliable infrastructure to facilitate the trading of securities listed on the exchange. 15
- (2) The registrar may—
- (a) require an applicant or a licensed exchange to furnish such information, or require such information to be verified, as the registrar may deem necessary to determine whether the applicant or the exchange meets the requirements of subsection (1); 20
 - (b) take into consideration any other information regarding the applicant or the exchange, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or the exchange, as the case may be, and the latter is given a reasonable opportunity to respond thereto; and 25
 - (c) prescribe any of the requirements referred to in subsection (1) in greater detail.

Licensing of exchange

9. (1) The registrar may, after consideration of any objection received as a result of the notice referred to in section 7(4) and subject to any conditions which the registrar may consider appropriate, grant an exchange a licence to perform the functions referred to in section 10 if— 30
- (a) the applicant complies with the relevant requirements of this Act; and
 - (b) the objects of this Act referred to in section 2 will be furthered by the granting of an exchange licence.
- (2) An exchange licence must specify the terms and conditions of the licence, the categories of securities that may be listed on that exchange, the registered office of the exchange in the Republic and the places where the exchange may be operated, and stipulate that the exchange may not be operated at any other place without the prior written approval of the registrar. 35
- (3) An exchange may at any time apply to the registrar for an amendment of the terms of its licence or the conditions subject to which the licence was granted. 40
- (4) (a) The registrar must publish a notice of an application for an amendment of the terms of an exchange licence or the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the official website.
- (b) The notice must state— 45
 - (i) the name of the applicant;
 - (ii) the nature of the proposed amendments; and
 - (iii) the period within which objections to the application may be lodged with the registrar.

Functions of licensed exchange 50

Functions of licensed exchange and power of registrar to assume responsibility for functions

10. (1) A licensed exchange must conduct its business in a fair and transparent manner with due regard to the rights of authorised users and their clients.

- (f) kwenta emalungiselelo kanhle nangemphumelelo nekuphatsa kahle imphahla lesengotini lephatselene nekusebenta kweligatja;
 - (g) kwentiwa kwemalungiselelo ekuvikeleka kahle nangemphumelelo kanye netindlela tekulandzelela kucinisekisa sitfunti semarekhodi ematransekshini lentiwe kuleligatja; 5
 - (h) kuba nemshwalensi, siciniseko, sikhwama sesincepheteliso noma lenye iwaranti lekhona kute kutsi kukhonakale kuniketa sincepheteliso, ngekuya ngemitsetfo yeligatja, kumaklayenti;
 - (i) kwenta emalungiselelo ekugunyata kahle nangemphumelelo kanye nekukhokhelwa kwematsansekshini lekentiwe kuleligatja kanye nekulawula bunoti bekukhokhela; 10
 - (j) kwenta emalungiselelo ekusebentisa kahle nangemphumelelo kulawulwa kwebasebentisi labagunyatiwe kute kutsi kucinisekiswe kuhambisana ne-*Financial Intelligence Centre Act*; ne
 - (k) kwenta indlela lekahle naletsembekile yelusitonchanti kute kulandzelelwe kutsengiswa kwemasheya labhaliswe kuligatja. 15
- (2) Nobhala kufanele—
- (a) acele lofake sicelo noma ligatja lelibhalisiwe kutsi anikete lolo lwatiso, noma acele kutsi lolo lwatiso lucinisekiswe, njengoba nobhala angakubona kufanele kutsi ancume kutsi lofake sicelo noma ligatja liyahambisana nalokudzingeka kusigatjana (1); 20
 - (b) anake noma luphi lwatiso loluphatselene nalofaka sicelo noma ligatja, lalutfole kunoma ngumuphi umtfombo, kufaka ekhatsi noma ngabe ngumuphi umlawuli, uma ngabe lolo lwatiso lukhishiwe kulofake sicelo noma egatjeni, njengoba kungabe kubekiwe kantsi lokwekugcina kuniketwe litfuba lelivalakalo kutsi baphendvule; kanye 25
 - (c) kuniketa noma ngabe ngukuphi lokudzingekako lokubalwe kusigatjana (1) ngalokugcwele.

Kuniketwa ilayisensi kweligatja

9. (1) Nobhala anganiketa ligatja ilayisensi kutsi lente imisebenti lebalwe kusigaba 10, ngemuva kwekubuka noma kuphi kungavumelani lokutfolakale ngenca yesatiso lesibalwe kusigaba 7(4) kanye nangekuya ngunoma ngumiphi imibandzela lengabonwa ngunobhala kutsi ifanele— 30
- (a) lofake sicelo ahambisane netidzingo letifanele taloMtsetfo; kanye
 - (b) netinjongo taloMtsetfo letibalwe kusigaba 2 titawuchutjekiswa ngekuniketwa kwelayisensi yeligatja. 35
- (2) Ilayisensi yeligatja kufanele ivete imigomo nemibandzela yelayisensi, lemazinga emasheya lelingabalwa kuluhla lweligatja, lelihho visi lelibhalisiwe laleligatja eRiphabhulikhi kanye netindzawo lapho khona leligatja kungafanele lisebentele khona, bese iyachaza kutsi leligatja angeke lasebenta kunoma nguyiphi indzawo ngaphandle kwemvume lebbhalwe phansi yanobhala. 40
- (3) Ligatja lingafaka sicelo kunobhala noma nini kutsi kuchitjiyelwe imiyalelo yelayisensi yalo kanye nemibandzela leyachaza kutsi nguyiphi ilayisensi lebayitfole.
- (4) (a) Nobhala kufanele akhiphe satiso sesicelo kwentela kuchibiyela imitsetfo yelayisensi yeligatja noma imibandzela ngekuya ngekutsi nguyiphi ilayisesni leyanikwa kumaphephandzaba avelonkhe lamabili, ngetindleko talona lofake sicelo, kanye nakuwebhu lesemtsetfweni. 45
- (b) Lesatiso kufanele sisho—
- (i) ligama lalofake sicelo;
 - (ii) indlela lebayiphakamisile lebafuna kuchibiyela ngayo; ne 50
 - (iii) sikhatsi lapho kuphikisana nalesicelo kungentiwa ngaso ngekufaka sicelo kunobhala.

Imisebenti yeligatja lelibhalisiwe

Imisebenti yeligatja nemandla anobhala ekucala umisebenti

10. (1) Ligatja lelibhalisiwe kufanele lente umsebenti walo ngendlela lecacile nalekhanyako ngekuhambisana nemalungelo ebasebentisi labasemtsetfweni nebasebenti babo. 55

- (2) A licensed exchange—
- (a) must provide an infrastructure for the trading of securities listed on that exchange;
 - (b) must issue exchange rules in accordance with section 17;
 - (c) must supervise compliance by its authorised users with the exchange rules and exchange directives; 5
 - (d) must supervise compliance with this Act by its authorised users and issuers of securities listed on that exchange, report any non-compliance to the registrar and assist the registrar in enforcing this Act;
 - (e) must enforce the exchange rules, listing requirements and exchange directives; 10
 - (f) must, as soon as it becomes aware thereof inform the registrar of any matter that may pose systemic risk to the financial markets;
 - (g) may issue exchange directives;
 - (h) may amend or suspend the exchange rules in terms of section 71, and may amend its listing requirements in terms of section 11(6)(a); 15
 - (i) (i) must make provision for the clearing and settlement of transactions in listed securities effected through the exchange;
 - (ii) may appoint an associated or independent clearing house licensed under Chapter V to clear or settle transactions or both clear and settle transactions on behalf of the exchange; 20
 - (iii) must consult with an appointed associated clearing house when making or amending the exchange rules in accordance with which the associated clearing house will clear or settle transactions on behalf of the exchange;
 - (j) must, if it has not appointed a clearing house to clear transactions on behalf of the exchange,— 25
 - (i) establish and maintain an infrastructure for the clearing of transactions effected through the exchange; and
 - (ii) manage the clearing of transactions effected through the exchange, in relation to those transactions which the exchange rules determine will be cleared; 30
 - (k) must supervise compliance by issuers of securities listed on that exchange with that exchange's listing requirements;
 - (l) must notify the registrar as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it, or when it has received a notification regarding insolvency proceedings against authorised users; 35
 - (m) may do all other things that are necessary for, incidental or conducive to the proper operation of an exchange and that are not inconsistent with this Act.
- (3) (a) The registrar may assume responsibility for one or more of the regulatory or supervisory functions referred to in subsection (2) if the registrar considers it necessary in order to achieve the objects of this Act referred to in section 2. 40
- (b) The registrar must, before assuming responsibility for a function as contemplated in paragraph (a)—
- (i) inform the exchange of the registrar's intention to assume responsibility;
 - (ii) give the exchange the reasons for the intended assumption; and 45
 - (iii) call upon the exchange to show cause within a period specified by the registrar why responsibility should not be assumed by the registrar.

Listing of securities

- 11.** (1) An exchange must, to the extent applicable to the exchange in question, make listing requirements which prescribe— 50
- (a) the manner in which securities may be listed or removed from the list or in which the trading in listed securities may be suspended;
 - (b) the requirements with which issuers of listed securities and of securities which are intended to be listed, as well as such issuers' agents, must comply;
 - (c) the standards of conduct that issuers of listed securities and their directors, officers and agents must meet; 55
 - (d) the standards of disclosure and corporate governance that issuers of listed securities must meet;

- (2) Ligatja lelibhalisiwe—
- (a) kufanele banikete tinsitanchanti tekutsengisa emasheya labhaliswe egatjeni;
 - (b) kufanele kuniketwe imitsetfo yeligatja ngekuhambisana nesigaba 17;
 - (c) kufanele balawule sivumelwano lesentiwe basebentisi labagunyatiwe ngemitsetfo yeligatja kanye nemiyalelo yeligatja; 5
 - (d) kufanele alawule sivumelwano naloMtsetfo ngebasebentisi labagunyatiwe kanye nemasheya labhaliswe kulelo gatja, kubika kungavumelani kunobhala nekusita nobhala ekusebentiseni loMtsetfo;
 - (e) kufanele asebentise imitsetfo yeligatja, lokudzingekako kute ubhaliswe kanye nemiyalelo yeligatja; 10
 - (f) ngekushesha ngalesikhatsi sehati kufanele batise nobhala kanye neMbusi nganoma luphi ludzaba lolungabangela bungoti kuloluhlelo kutimakethe temnotfo;
 - (g) anikete imiyalelo yeligatja;
 - (h) kufanele achihiyele noma acitse imitsetfo yeligatja ngekwesigaba 72, kantsi kungachitjiyelwa lokudzingekako kute ubhaliswe ngekwesigaba 10(6)(a); 15
 - (i) (i) kufanele bente imibandzela yekugunyata nekubhadalwa kwematransekshini kumasheya labhalisiwe lekentiwe ngekusebentisa emagatja; (ii) angabeka ligatja leligunyatiwe lelibhalisiwe lelihambisanako noma lelitimele ngaphansi kweSahluko V kugunyata noma kubhadala ematransekshini noma kokubili kugunyata nekubhadala ngekumelela ligatja; 20 (iii) kufanele atsintsane nendlu legunyatako lebekiwe ngalesikhatsi enta noma achihiyela imitsetfo yeligatja ngekuhambisana nekutsi lendlu legunyatako itawugunyata noma ibhadale ematransekshini ngekumelela ligatja; 25
 - (j) kufanele, uma ngabe bangakabeki indlu legunyatako kutsi igunyate ematransekshini ngekumelela ligatja—
 - (i) basungule futsi balawule lusitonchanti kute kutsi kugunyatwe ematransekshini lentiwe kuleligatja; kanye
 - (ii) kulawulwe kugunyatwa kwematransekshini lentiwe ngekusebentisana neligatja, ngalokuphatselene nalowo matransekshini imitsetfo yeligatja incuma kutsi atawugunyatwa; 30
 - (k) kufanele balawule tivumelwano letikhishwe ngulabakhipha emasheya labhaliswe kulelo gatja kulokudzingekako kute ubhaliswe;
 - (l) kufanele atise nobhala ngekushesha uma ngabe acala inchubo yekuhlakata noma nasekucalwe inchubo yekuhlakatwa ngekumelana nalo, noma uma ngabe sebatfole satiso ngalokuphatselene nenchubo yekuhlakata ngekumelana nebasebentisi labasemtsetfweni; 35
 - (m) angenta tonkhe tintfo lekufanele atente, ngeliphutsa noma ngebdlela lefanele kute kusebente kahle leligatja kanye nalokungancubutani naloMtsetfo. 40
- (3) (a) Nobhala angacala umsebenti ente munye noma longetulu webalawuli noma lababukelele balemisebenti lebalwe kusigatjana (2) uma ngabe nobhala akubona kufanele kute kutsi atfole tizatfu taloMtsetfo lobalwe kusigaba 2.
- (b) Nobhala kufanele, ngembi kwekucala umsebenti lotawentiwa njengoba kuvetiwe kundzima (a)— 45
- (i) atise ligatja ngenhloso yanobhala yekucala umsebenti;
 - (ii) kuniketa leligatja tizatfu talokucala lokuhlosiwe; kanye
 - (iii) nekubita leligatja kutsi likhombise sizatfu ngesikhatsi lesibekwe ngunobhala nekutsi kungani umsebenti kungafanele wentiwe ngunobhala.

Kubhalwa phansi kwalokungenile 50

11. (1) Ligatja kufanele, kulelizinga lelifanele leligatja lekukhulunywa ngalo, lente lokudzingekako kute kubhaliswe lokubekiwe—

- (a) indlela emasheya lekangabhaliswa ngayo noma akhishwe kuloluhla noma ngendlela kutsengiswa kwemasheya labhalisiwe lekungakhishwa ngayo;
- (b) lolokudzingekako kulabo labaniketa emasheya labhalisiwe kanye nemasheya labahlose kuwabhalisa, kanye nebasebenti labawaniketako, kufanele bahambisane nemtsetfo; 55
- (c) emazinga ekutiphatsa ebanikeli bemasheya labhalisiwe kanye nebacondzisi, basebenti netitfunywa kufanele bafinyelele;
- (d) emazinga ekuveta nekubusa ngekubambisana lekufanele bakhokhi bemasheya labhalisiwe kufanele bakwente; 60

- (e) such details relating to the listed securities as may be necessary;
- (f) the steps that must be taken by the exchange, or a person to whom the exchange has delegated its disciplinary functions, for the investigation and discipline of an issuer, or director, officer or employee of an issuer, that contravenes or fails to comply with the listing requirements; 5
- (g) for any contravention of or failure to comply with the listing requirements, any one or more of the following penalties that may be imposed by the exchange or by a person to whom the exchange has delegated its disciplinary functions:
 - (i) A reprimand; 10
 - (ii) a fine not exceeding R7.5 million, to be adjusted by the registrar annually to reflect the Consumer Price Index, as published by Statistics South Africa;
 - (iii) disqualification, in the case of a natural person, from holding the office of director or officer of a listed company for any period of time; 15
 - (iv) suspension or termination of listing; or
 - (v) any other penalty that is appropriate in the circumstances.
- (2) The listing requirements may prescribe that—
 - (a) full particulars regarding the imposition of a penalty may be published in the *Gazette*, other national newspapers, the website of the exchange or through the news service of the exchange; 20
 - (b) any person who contravenes or fails to comply with the listing requirements may be ordered to pay the costs incurred in an investigation or hearing;
 - (c) an exchange may take into account at a hearing information obtained by the registrar in the course of an on-site visit or inspection conducted under section 95 or obtained by the directorate in an investigation under section 84, read with section 85. 25
- (3) If a person fails to pay a fine referred to in subsection (1)(g), the exchange may file with the clerk or registrar of any competent court a statement certified by it as correct, stating the amount of the fine imposed and such statement thereupon has all the effects of a civil judgment lawfully given in that court against that person in favour of the exchange for a liquid debt in the amount specified in the statement. 30
- (4) The listing requirements must prescribe the purpose for which a fine referred to in subsection (1)(g) must be appropriated.
- (5) Listing requirements and any other conditions of listing are binding on an issuer and an authorised user and their directors, officers, employees and agents. 35
- (6) (a) An exchange may amend its listing requirements in accordance with the consultation process set out in the listing requirements, which process must provide for—
 - (i) the persons who are to be consulted; and 40
 - (ii) the manner in which consultation will happen, including the time period or periods allowed for consultation.
- (b) An exchange must submit any proposed amendment of its listing requirements, after licensing, together with an explanation of the reasons for the proposed amendment, and any concerns or objections raised during the consultation process, to the registrar for approval. 45
- (c) The registrar must, as soon as possible after the receipt of a proposed amendment, publish—
 - (i) the amendment on the official website; and
 - (ii) a notice in the *Gazette* that the proposed amendment is available on the official website, calling upon all interested persons who have any objections to the proposed amendment, to lodge their objections with the registrar within a period of 14 days from the date of publication of the notice. 50

- (e) leyo mininingwane lephatselene nemasheya labhalisiwe njengoba kungabe kudzingekile;
- (f) letinyatselo lekufanele titsatfwe ligatja, noma umuntfu lapho khona leligatja linikele imisebenti yalo yekucondziswa kwetigwegwe, kwentela kuphenya nekucondziswa kwetigwegwe kwalona loniketako, loko kuphatamisa noma kuhluleka kuhambisana nalokudzingekako kute ubhaliswe; 5
- (g) nonoma kuphi kungenelela noma kuhluleka kuhambisana nalokudzingekako kute ubhaliswe, sinye noma letinyenti taletigwebo lekufanele tibekwe ligatja noma umuntfu lapho khona ligatja liniketele khona ngemandla alo ekucodzisa tigwegwe: 10
- (i) kucondziswa;
- (ii) inhlawulo lengadluli kutigidzi letingu-R7.5, kantsi tingalungiswa ngunobhala njalo ngemnyaka kute tikhombise Linani Lelinemkhawulo Lolinganisiwe, njengoba kukhishwe Betelubalo LwaseNingizimu Afrika; 15
- (iii) kukhishelwa ngaphandle, uma ngabe kungumuntfu, ekutseni asebente ehhovisi lemcondzisi noma sisebenti senkhapani leseluhleni nganoma sikhatsi lesingakanani;
- (iv) kumiswa noma kuvalwa kwekufakwa eluhleni; noma
- (v) noma ngabe nguyiphi inhlawulo lefanele kuleto tehlakalo. 20
- (2) Lolokudzingekako kute ubhaliswe kungahle kusho kutsi—
- (a) imininingwane legcwele yekuniketwa kwesigwebo ingakhishwa *kuGazethi*, lamanye emaphephandzaba avelonkhe, iwebhusayithi yeligatja noma kubetindzaba balelo gatja;
- (b) noma ngabe ngubani lophatamisa noma ahluleke kuhambisana nalokudzingekako kute ubhaliswe angatjelwa kutsi akhokhe letindleko latidalile kuluphenyo noma nakutsanyelwe licala; 25
- (c) ligatja linganaka ngalesikhatsi kutsanyelwe licala lwatiso lebelutfolakele kunobhala ngalesikhatsi ahambe ngekwemsebenti noma khatsi ayohlola ngalokugunyatwe sigaba 95 noma lokutfolwe lihhovisi lemcondzisi kuluphenyo ngaphansi kwesigaba 84 sifundvwe nesigaba 85. 30
- (3) Uma ngabe umuntfu ahluleka kukhokhela inhlawulo lesibalwe kusigatjana (1)(g), ligatja lingafaka sicelo kunobhala wanoma yiphi inkhantolo lesebentako sitatimende lesicinisekiswa ngibo njengalesikahle, sisho lelinani lalenhlawulo lebekiwe lekufanele sikhokhwe, leso sitatimende sinemiphumela yelicala lembango nemphumela lotawube uniketwe ngekwemtsetfo kuleyo nkhantolo ngekumelana nalowo muntfu kodvwa sivuna ligatja kutsi liniketwe leso samba lesibhalwe kulesitatimende. 35
- (4) Lolokudzingekako kute ubhaliswe kufanele kuvete injongo lekufanele inhlawulo levetwe kusigatjana (1)(g) iniketwe khona.
- (5) Lolokudzingekako kute ubhaliswe kanye naleminyane imibandzela yekubhalisa asibopho kulowo lokhiphako kanye nemsebentisi losemtsetfweni nebacondzisi babo, basebenti, tisebenti netigijimi. 40
- (6) (a) Ligatja lingachibiyela lokudzingekako kute ubhaliswe ngekuhambisana nenchubo yekuchumana lechazwe kulokudzingekako kute ubhaliswe, lapho lenchubo kufanele— 45
- (i) isho lomuntfu lekufanele atsintfwe; kanye
- (ii) lendlela kubhaliswa lekufanele kwenteke ngayo, kufaka ekhatsi lesikhatsi noma tikhatsi letibekiwe tekuchumana.
- (b) Ligatja kufanele letfule noma ngabe yini lechitjiyelwe kwalokudzingekako kute ubhaliswe, ngemuva kwekutfola ilayisensi, ihambisane netinchazelo taletizatfu talokuchitjiyelwa lokuphakanyisiwe, nalokunye lokubatsintsako noma kungavumelani lokuvele ngalesikhatsi kuchunywana, tinikwe nobhala kutsi ativumele. 50
- (c) Nobhala kufanele ngekushesha ngemuva kwekutsi kukhishwe tichibiyelo letiphakanyisiwe—
- (i) lokuchitjiyelwa kwewebhusayithi; kanye 55
- (ii) nesatiso *kuGazethi* kutsi letichibiyelo letiphakanyisiwe tiyatfolakala kuwebhusayithi lesemtsetfweni, kubitwa bonkhe bantfu labanenshisekelo labangavumelani nganoma yini lekuletichibiyelo letiphakanyisiwe kutsi babeke kungavumelani kwabo kutsi baletse kungavumi kwabo kunobhala kungakapheli sikhatsi lengemalanga lali-14 kusukela ngalelilanga lekukhishwa kwesatiso. 60

- (d) If there are no such objections, or if the registrar has considered the objections and, if necessary, has consulted with the exchange and the persons who raised such objections and has decided to approve or amend the proposed amendment, the registrar must publish—
- (i) the amendment and the date on which it comes into operation on the official website; and 5
 - (ii) a notice in the *Gazette*, which notice must state—
 - (aa) that the amendment of the listing requirements has been approved;
 - (bb) that the listing requirements as amended are available on the official website and the website of the exchange; and 10
 - (cc) the date on which the amendment of the listing requirements will come into operation.
- (7) (a) The registrar may, by notice in the *Gazette* and on the official website, amend the listing requirements of an exchange—
- (i) if there is an urgent imperative under exceptional circumstances; 15
 - (ii) if it is necessary to achieve the objects of this Act referred to in section 2; and
 - (iii) after consultation with the exchange concerned.
- (b) Where the registrar has amended the listing requirements of an exchange in terms of paragraph (a), the registrar must—
- (i) inform the Minister of the amendment, giving reasons for the amendment and explaining the imperative referred to in paragraph (a)(i); and 20
 - (ii) publish the reasons for the amendment, and the imperative for such amendment in the *Gazette* and on the official website.
- (c) Subsection (6) does not apply to an amendment by the registrar under this subsection. 25
- (8) An exchange—
- (a) must keep a list of the securities which may be traded on the exchange;
 - (b) must receive and consider, and may grant, defer or refuse, subject to its listing requirements, applications for the inclusion of securities in the list;
 - (c) may, when granting an application referred to in paragraph (b) or at any time thereafter, in consultation with the registrar, delay compliance by an issuer of securities with a specific provision of the listing requirements for a limited period and on conditions determined in the approval, if—
 - (i) practicalities impede the strict application of a specific provision; or
 - (ii) the delay is justified in furtherance of the national government's objective to encourage participation in the financial markets: 35Provided that the delay in compliance does not impede the objectives of this Act;
 - (d) may, when granting an application referred to in paragraph (b) or at any time thereafter, in consultation with the registrar, impose conditions in addition to those provided for in the listing requirements, on an issuer of securities, if—
 - (i) necessary or desirable to facilitate the sustainability of that issuer; or
 - (ii) it is justifiable in furtherance of the national government's objective to encourage participation in the financial markets; 40
 - (e) may include securities issued by it in its own list subject to the approval of and the conditions prescribed by the registrar; and 45
 - (f) may, despite any arrangement entered into before or after the commencement of this Act according to which listed securities may be bought and sold on the exchange, charge the fees provided for in the listing requirements or the exchange rules. 50
- (9) An exchange must, before refusing an application to include securities in the list—
- (a) inform the issuer of its intention to refuse the application;
 - (b) give the issuer the reasons for the intended refusal; and
 - (c) call upon the issuer to show cause within a period specified by the exchange why the application should not be refused. 55

- (d) Uma ngabe kungekho lophikisako, noma uma ngabe nobhala akutsetse lokungavumelani, uma ngabe kwenteka, kufanele atsintsane neligatja kanye nemuntfu lophakamise lokungavumelani kantsi ancume kuvumela noma kuchibiyela lokuphakanyisiwe, nobhala kufanele akhiphe—
- (i) lokuchibiyela kanye nalolusuku lekucala ngalo kusebenta kuwebhu lesemsetfweni; kanye 5
 - (ii) nesatiso ku*Gazethi*, lapho lesatiso kufanele sisho kutsi—
 - (aa) lokuchitjiyelwa kwalokudzingekako kute ubhaliswe sekuvunyelwe;
 - (bb) lolokudzingekako kute ubhaliswe njengoba kuchitjiyelwe kuyatfolakala kuwebhusayithi lesemsetfweni kanye nakuwebhusayithi yeligatja; 10
 - (cc) lolusuku lapho khona lokuchitjiyelwa kwalokudzingekako kute ubhaliswe kutawucala kusebenta.
- (7) (a) Nobhala angachibiyela lokudzingekako kute kubhaliswe ligatja, ngekwesatiso ku*Gazethi* nakuwebhu lesemsetfweni—
- (i) uma ngabe kukhona lokubalulekile ngaphansi kwetizatfu letitsite; 15
 - (ii) uma ngabe kubalulekile kuphumelelisa tinjongo taloMtsetfo lobalwe kusigaba 2; kanye
 - (iii) ngemuva kwekutsintsana neligatja lelitsintekako.
- (b) Lapho khona nobhala achibiyele lolokudzingekako kute kubhaliswe ligatja ngekwendzima (a), nobhala kufanele— 20
- (i) kwatisa Ngcongcoshe ngalokuchibiyela, ngekuniketa tizatfu talokuchibiyela nekuchaza kubaluleka lokubalwe kundzima (a)(i); kanye
 - (ii) nekukhipha tizatfu tekuchibiyela, kanye nekubaluleka kwaloko kuchibiyela ku*Gazethi* kanye nakuwebhu lesemsetfweni.
- (c) Sigatjana (6) akasebenti uma ngabe kuchibiyele nobhala ngaphansi kwalesi- 25 gatjana.
- (8) Ligatja—
- (a) kufanele agcine luhla lwemasheya lolungatsengiswa egatjeni;
 - (b) kufanele atfole abuye atsitse, kantsi anganiketa, noma ale, ngekuya ngalokudzingekako kute ubhaliswe, ticelo tekufakwa kwemasheya kuloluhla; 30
 - (c) anga, ngalesikhatsi aniketwa sicelo lesibalwe kundzima (b) noma ngasiphi sikhatsi ngemuva kwaloko, ngekutsintsana nanobhala, kubambelela kuhambisana nalowo loniketa emasheya ngemibandzela leniketiwe kuloku- dzingekako kute ubhaliswe ngesikhatsi lesibekiwe kanye nemibandzela lencunye kulemvume, uma ngabe— 35
 - (i) tintfo tsite tivimbela lokufakwa kwesicelo sembandzela lotsite; noma
 - (ii) lokuphuta kuyavakala uma ngabe kutfutukisa tinhloso tahlumende tekukhutsata kungenelela kutimakethe temnotfo; nekutsi lokuphuta akuphazamisi letinjongo taloMtsetfo.
 - (d) anga, ngalesikhatsi aniketwa sicelo lesibalwe kundzinyana (b) noma ngasiphi sikhatsi ngemuva kwaloko, ngekutsintsana nanobhala, abeke imibandzela ngekungeta kulawo laniketiwe kwaloku lokudzingekako kute ubhaliswe, kulokhipha emasheya, uma ngabe—
 - (i) kunesidzingo noma kufanele ahambise kahle lokusimama kwalowo lokhiphako; noma 45
 - (ii) kuyameleleka ngekutfutukisa tinjongo tahlumende wavelonkhe kute kugcugcutelwe kungenelela kutimakethe temnotfo;
 - (e) angafaka emasheya lakhishwe ngibo kuluhla ngekuya ngekwemvume nemibandzela yanobhala; kanye
 - (f) anga, ngaphandle kwanoma ngabe ngukuphi lokuhleliwe lokungenelelwe kuko ngembi noma ngemuva kwekucala kusebenta kwaloMtsetfo lapho khona emasheya labhalisiwe angatsengwa abuye atsengiswe egatjeni, kubitwe lemali levetwe kulokudzingekako kute ubhaliswe noma kumitsetfo yeligatja. 50
- (9) Ligatja kufanele, ngembi kwekukhahlela sicelo sekufaka emasheya kuluhla— 55
- (a) latise lokhiphako ngenhloso yekwala lesicelo;
 - (b) linikete lokhiphako sizatfu salenhloso yekwala; kanye
 - (c) nekubita lokhiphako kutsi akhombise imbanga kungakadluli sikhatsi lesibekwe ligatja kutsi kungani lesicelo kufanele singaliwa.

Removal of listing and suspension of trading

12. (1) An exchange may, subject to this section, the exchange rules and the listing requirements, remove securities from the list, even to the extent that a removal may have the effect that an entire board or substantial portion of the board on the exchange is closed, or suspend the trading in listed securities, if it will further one or more of the objects of this Act referred to in section 2. 5

(2) An exchange must, subject to subsection (3), before a removal or suspension referred to in subsection (1)—

- (a) inform the issuer of its intention to remove or suspend;
- (b) give the issuer the reasons for the intended removal or suspension; and 10
- (c) call upon the issuer to show cause, within a period specified by the exchange, why the removal or suspension should not be effected.

(3) If the listing requirements, any conditions imposed under section 11(8)(c) or (d) or the exchange rules are not complied with or if a circumstance arises which the exchange rules or the listing requirements envisage as a circumstance justifying the immediate suspension of trading, an exchange may, subject to subsection (1), order an immediate suspension referred to in that subsection for a period not exceeding 30 days, which period may be extended for further periods of 30 days. 15

(4) If the trading of listed securities has been suspended in terms of this section, an exchange may, despite subsections (1) and (3), permit authorised users to buy and sell those securities for the sole purpose of fulfilling their obligations entered into in relation to those securities before the suspension. 20

(5) (a) If an issuer requests an exchange to remove its securities from the list but the exchange considers the securities to be eligible for continued inclusion in the list, the removal must be approved by the holders of those securities in a manner specified by the exchange and the exchange must be satisfied on reasonable grounds that the interests of minority holders of the securities have been considered. 25

(b) An issuer must provide reasons for the request contemplated in paragraph (a).

(6) (a) If an exchange refuses an application for the inclusion of securities in the list under section 11(8)(b), or under subsection (1) removes securities from the list, the exchange concerned must immediately notify every other exchange in the Republic of the reasons for and date of the refusal or removal. 30

(b) If the refusal to list securities was due to any fraud or other crime committed by the issuer, or any material misstatement of its financial position or non-disclosure of any material fact, or if the removal of securities was due to a failure to comply with the listing requirements of the exchange, no other exchange in the Republic may, for a period of six months from the date referred to in paragraph (a), grant an application for the inclusion of the securities concerned in the list kept by it, or allow trading in such securities, unless the refusal or removal is withdrawn by the first exchange or set aside on appeal by the appeal board in terms of section 105. 35 40

(c) If an exchange withdraws a refusal or removal before the expiry of the six months, it must notify the issuer and every other exchange in the Republic.

Application of amended listing requirements to previously listed securities

13. (1) Amended listing requirements may be applied by the exchange to securities listed before the amendment of the listing requirements, by notice in writing to the issuer of such listed securities. 45

(2) Listing requirements so applied take effect from a date determined by the exchange, which date must not be earlier, except when special circumstances justify an earlier date, than one month after the date on which the exchange so notifies the issuer, but the exchange may postpone the former date on written request by the issuer. 50

(3) If an exchange refuses a request for a postponement in terms of subsection (2) the issuer concerned may make representations in writing to the registrar, and if the request for a postponement is reasonable, the registrar may, after consultation with the

Kukhishwa eluhlweni kanye nekumiswa kwekutsengiselana

12. (1) Ligatja linga, ngekuhambisana nalesigaba, imitsetfo yeligatja kanye nalokudzingekako kute ubhaliswe, kukhishwe emasheya kuloluhla, noma kungafinyelela ezingeni lekutsi lokukhishwa kungaba nemtselela wekutsi ibhodi yonkhe kuleligatja ivalwe, noma imise kutsengisa emasheya labhalisiwe, uma ngabe itawufeza sinye noma ngetulu kuletizatfu taloMtsetfo letibalwe kusigaba 2. 5

(2) Ligatja kufanele, ngekuya ngesigaba (3), ngemuva kwekukhipha noma kumiswa lokubalwe kusigatjana (1)—

- (a) atise banikeli ngenhloso yekukhipha noma kumisa;
- (b) anikete lomnikeli tizatfu talenjongo yekukhipha noma yekumisa; kanye 10
- (c) abite umnikeli kutsi atokhombisa sizatfu, ngesikhatsi lesibalwe ligatja, kutsi kungani lokukhishwa noma kumiswa kungafanele kweniwe.

(3) Uma ngabe lolokudzingekako kute ubhaliswe, noma yiphi imibandzela lebekwe ngaphansi kwesigaba 11(8)(c) noma (d) semitsetfo yeligatja akukahanjiswana nayo noma uma ngabe kuba netizatfu tsite laphe khona imitsetfo yeligatja noma lokudzingekako kute ubhaliswe kubonwa njengesizatfu lesimelela lokumiswa ngekushesha kwekutsengisa, ligatja linga, ngekuya ngesigaba (1), bacele kutsi kumiswe ngekushesha ngalokubalwe kuleso sigatjana sikhatsi lesingadluli emalanga langema-30, leso sikhatsi singabuye sikhuliswe ngalamanye emalanga langema-30. 15

(4) Uma ngabe kutsengiswa kwemasheya labhalisiwe sekumisiwe ngekwaesigaba, ligatja linga, ngaphandle kwesigatjana (1) na (3), lingavumela basebentisi labagunyatiwe kutsi batsenge babuye batsengise lawo masheya kwentela sizatfu sinye sekuphumelelisa imisebenti yabo lebangene kuyo ngalokuphatselele nalawo masheya ngembi kwekumiswa. 20

(5) (a) Uma ngabe umnikeli acela ligatja kutsi likhiphe masheya kuluhla kodvwa ligatja libone lamasheya njengalafanele kutsi achubeke afakwe kuloluhla, lokukhishwa kufanele kuvunyelwe ngulabaphetse lawo masheya ngendlela lebalwe nguleligatja kantsi neligatja kufanele lineliseke ngetizatfu letivakalako kutsi inshisekelo yelindlazana lelinemasheya kufanele linakwe. 25

(b) Umnikeli kufanele anikete tizatfu talesicelo lesivetwe kundzima (a). 30

(6) (a) Uma ngabe ligatja lala kutsatsa sicelo kutsi kufakwe emasheya kuloluhla ngaphansi kwesigaba 11(8)(b), noma ngaphansi kwesigatjana (1) kukhishwe emasheya kuloluhla, leligatja lelitsitsekako kufanele latise ngekushesha onkhe lamanye emagatja eRiphabhulikhi ngaletizatfu talokwaliwa kanye nelusuku lalokukhishwa.

(b) Uma ngabe lokwala kutsi kufakwe emasheya eluhleni kubangelwe kukhohlakala noma bugebengu lobentiwe ngolonikelako, noma lenye yetintfo letikhiphe kabi sitatimende lesikhuluma ngesimi setimali noma kungavetwa noma yini lephatselele nemphahla, noma kukhishwa kwemasheya kubangelwe kuhluleka kuhambisana nalokudzingekako kute ubhaliswe kuligatja, alikho lelinye ligatja eRiphabhulikhi lelinga, sikhatsi lesingalinganisela kutinyanga letisitfupha kusukela ngalolusuku lolubalwe kundzima (a), anikete sicelo sekutsi kufakwe emasheya latsintsekako kuloluhla lolugcinwe ngilo, livumele kutsengiswa kwalawo masheya, ngaphandle kwekutsi lokwala noma lokukhishwa kususwe ligatja lekucala noma kubekelwe eceleni ngekufaka sikhalo lobhodi letikhalo ngekuya ngesigaba 105. 35 40

(c) Uma ngabe ligatja lihocisa kwala noma kukhishwa ngembi kwekutsi kuphele tinyanga letisitfupha, kufanele latise lomnikeli kanye nawo onkhe emagatja eRiphabhulikhi. 45

Kusetjentiswa kweluhlu loluchitjiyelwe kubemasheya lebebabhalisiwe

13. (1) Kuchitjiyelwa lokudzingekako kute ubhaliswe kungasetjentiswa ligatja kumasheya labhalisiwe ngembi kwekuchibiyela lolokudzingekako kute ubhaliswe, ngesatso lesibhaliwe kumnikeli walawo masheya labhalisiwe. 50

(2) Lokudzingekako kute ubhaliswe kutawucala kusebenta ngelusuku lolutawu-ncunywa ligatja, laphe khona lusuku akufanele lube sedvute, ngaphandle kwekutsi kunetizatfu letibangela kutsi lusuku lube sedvute, kunenyanga yinye kulolusuku laphe khona ligatja kufanele latise umnikeli, kodvwa ligatja lingahocisa lolusuku lebelubekwe ekucaleni ngesicelo lesibhalwe phansi ngumnikeli. 55

(3) Uma ngabe ligatja lingatsatsi sicelo ngekuhociswa ngekuhambisana nesigatjana (2) lomnikeli lotsintsekako angenta tetfulo ngalokubhaliwe anikete nobhala, uma ngabe sicelo sekuhlehliswa siyavakala, nobhala anga, ngemuva kwekutsintsana neligatja, ahlehlise lusuku laphe khona lolokudzingekako kute ubhaliswe kutawucala kusebenta 60

exchange, postpone the date on which the listing requirements take effect by not more than three months and must inform the exchange accordingly in writing.

Disclosure of information by issuers of listed securities

14. (1) (a) An exchange may require an issuer of listed securities to disclose to it any information at the issuer's disposal about those securities, or about the affairs of that issuer, if such disclosure is necessary to achieve one or more of the objects of this Act referred to in section 2. 5

(b) An exchange may require the issuer to disclose that information to the registered holders of the securities, within a period specified by the exchange.

(c) If the issuer refuses to disclose the information to the exchange or the registered holders of the securities, the exchange may, unless the issuer obtains a court order excusing it from such disclosure, suspend trading in those securities until such time as the required disclosure has been made to the satisfaction of the exchange. 10

(2) When an issuer discloses information in terms of this section to the registered holders of securities that may influence the price of those securities, the issuer must at the same time make the information available to the public. 15

Maintenance of insurance, guarantee, compensation fund or other warranty

15. (1) An exchange may impose a fee on any person involved in a transaction in listed securities affected through the exchange for the purpose of administering and maintaining the insurance, guarantee or compensation fund or other warranty contemplated in section 8(1)(h). 20

(2) Any funds received or held by an exchange for purpose of maintaining the insurance, guarantee or compensation fund or other warranty contemplated in section 8(1)(h), are for all intents and purposes considered to be "trust property" as defined in the Financial Institutions (Protection of Funds) Act and that Act applies to those funds. 25

Funds of mutual exchange

16. A mutual exchange may require its authorised users to contribute towards the funds of the exchange for the purpose of carrying on the business of the exchange.

Exchange rules

Requirements with which exchange rules must comply 30

17. (1) The exchange rules must be consistent with this Act.

(2) The exchange rules must provide—

(a) for equitable criteria for authorisation and exclusion of authorised users and, in particular, that no person may be admitted as an authorised user or allowed to continue such person's business as an authorised user unless the person— 35

(i) is of good character and high business integrity or, in the case of a corporate body, is managed by persons who are of good character and high business integrity; and

(ii) complies, or, in the case of a corporate body, is managed by persons or employs persons who comply, with the standards of training, experience and other qualifications required by the exchange rules; 40

(b) for the authorisation and criteria for authorisation of the securities services that authorised users may provide, and if—

(i) there are different categories of—

(aa) authorised users, for the authorisation and criteria for authorisation of the securities services that each category of authorised user may provide; 45

(bb) securities listed on an exchange, for the authorisation and criteria for authorisation of the categories in respect of which

kungakadluli tinyanga letintsatfu kantsi kufanele batise ligatja ngalokufanele ngalokubhalwe phansi.

Kukhishwa kwelwatiso lebelufihlakele ngulabaneluhlu lebemasheya

14. (1) (a) Ligatja lingadzinga kutsi umnikeli wemasheya labhalisiwe kutsi alivetele noma luphi lwatiso loluvela kumnikeli loluphatselene nalamasheya, noma ngalokuphatselene netindzaba talowo mnikeli, uma ngabe loko lokuvetiwe kufanele kutsi kungafeza sinye noma letinye taletizatfu taloMtsetfo lekucondziswe kuto kusigaba 2. 5

(b) Lingagatja lingacela kutsi umnikeli avete lwatiso kulabhalisiwe kumasheya, ngesikhatsi lesibalwe ligatja. 10

(c) Uma ngabe umnikeli angavumi kuveta lwatiso egatjeni noma banikati bemasheya, ligatja linga, ngaphandle kwekutsi umnikeli atfole umyalelo wenkhantolo imvikela kutsi avete loko, amise kutsengisa kulawo masheya kuze kufike leso sikhatsi lokuvetwa lekubekelwe sona ngekuneliseka kweligitja. 15

(2) Uma ngabe umnikeli aveta lwatiso ngekwaesigaba kubanikati lababhalisiwe bemasheya loko kungaba nemtselela kumanani alawo masheya, lomnikeli kufanele ngesikhatsi lesifanako ente lolwatiso lwatiwe kubantfu. 15

Kuphatfwa kwemshwalense, siciniseko, sikhwama sekuncepheteliswa noma lenye iwaranti

15. (1) Ligatja lingabeka imali kunoma ngubani lotsintsekako kumatransekshini kumasheya labhalisiwe latsintseka kuleligatja kwentela tinjongo tekulawula kanye nekucina lomshwalensi, kucinisekisa noma sikhwama sesincepheteliso noma imali yesincepheteliso noma noma yiphi iwaranti levetwe kusigaba 7(1)(h). 20

(2) Noma ngabe ngutiphi timali letitfolakele noma letibanjwe ligatja kwentela tizatfu tekucina umshwalense, siciniseko noma sencepheteliso noma lenye iwaranti levetwe kusigaba 8(1)(h), kwentela tonkhe tinjongo letitsetfwe njengaleti “yimphahla yebatsenjwa” njengoba ichazwe ku-*Financial Institutions (Protection of Funds) Act* kantsi nalowo Mtsetfo uyasebenta kuleto timali. 25

Timali teligitja letetayelekile

16. Ligatja leletayelekile lingadzinga basebentisi labagunyatiwe kanye nemaklayenti abo kutsi afake sandla kuletimali teligitja kwentela tizatfu tekuchubeka nelibhizinisi laleligatja. 30

Imitsetfo yeligatja

Tidzingo lekufanele Imitsetfo yeligatja ihambisane nato

17. (1) Lemitsetfo yeligatja kufanele ihambisane naloMtsetfo. 35

(2) Lemitsetfo yeligatja kufanele inikete—

(a) kwentela indlela yekuvumela nekukhipha basebentisi labagunyatiwe kanye, ikakhulukati, kutsi akekho umuntfu longatsatfwa umsebentisi losemtsetfweni noma avunyelwe kuchuba ibhizinisi yalowo muntfu njengemsebentisi losemtsetfweni ngaphandle kwekutsi umuntfu— 40

(i) yetento letihle kanye nebhizinisi lesezingeni leliphakeme noma, uma ngabe kulibhizinisi, kuphatfwa bantfu labatiphetse kahle kanye nalabanemabhizinisi lahloniphekile; kanye

(ii) ihambisane noma, uma ngabe kungumtimba walabaphetse, iphetfwe ngebantfu noma icasha bantfu labahambisana nemazinga ekucechesha, lwati lwemsebenti kanye nalatinye ticu letidzingwa mitsetfo yeligatja; 45

(b) kuvunyelwa kanye nendlela yekuvunyelwa kwemsebenti wemasheya kutsi basebentisi labagunyatiwe banganiketa, kantsi uma ngabe—

(i) kunemazinga lahlukene—

(aa) basebentisi labagunyatiwe, kwentelwa kuvunyelwa nendlela yekuvunyelwa kwemasheya kutsi lihlangotsi linye lemsebentisi losemtsetfweni linganiketa; 50

(bb) emasheya labhalwe kuligitja, kwentelwa kuvunyelwa nendlela yekuvunyelwa kulihlangotsi ngalokuphatselene nemsebentisi

- an authorised user may provide one or more securities services;
- (ii) the exchange authorises its authorised users to perform securities services in respect of securities not listed on the exchange, for the authorisation and criteria for authorisation of the categories of such securities in respect of which an authorised user may provide one or more securities services; 5
 - (c) (i) for the capital adequacy, guarantee and risk management requirements with which an authorised user must comply; 10
 - (ii) that capital adequacy, guarantee and risk management requirements must be prudent although they may differ in respect of different categories of authorised users or different activities of an authorised user's business; 15
 - (d) for an efficient, honest, transparent and fair manner in which and terms and conditions subject to which transactions in listed securities must be effected by authorised users, whether for own account or on behalf of other persons; 15
 - (e) for the manner in which transactions in listed securities must be cleared and settled;
 - (f) if the exchange has not appointed a clearing house for the clearing of transactions effected through the exchange,—
 - (i) for the determination as to which transactions will be cleared by the exchange; 20
 - (ii) for the circumstances in which the exchange may refuse to clear a transaction in securities which would otherwise be cleared in terms of the rules in subparagraph (i);
 - (iii) for the monitoring of settlement obligations of authorised users and their clients; 25
 - (g) for the regulation of transactions in listed securities entered into as a result of any first communication made to a person without an express or tacit invitation from such person;
 - (h) subject to the provisions of section 38(3) and section 41, for the circumstances in which a transaction in listed securities may be declared void by the exchange; 30
 - (i) that no authorised user may conduct business with a person whom the authorised user believes or suspects requires approval as a nominee under section 76 or approval to undertake management of securities in terms of any law, without having taken reasonable measures to ascertain that such person has the necessary approval; 35
 - (j) for the approval by the exchange of a nominee of an authorised user which nominee holds securities in a securities account or central securities account as defined in Chapter IV; 40
 - (k) for the manner in which the exchange monitors compliance by its authorised users with this Act, and the exchange rules and exchange directives;
 - (l) for the conditions subject to which an officer or employee of an authorised user may, in relation to the buying and selling of listed securities, advise on or conclude any transaction on behalf of an authorised user in the course of that authorised user's business and for the circumstances in which an officer or employee of an authorised user may be denied access to the exchange; 45
 - (m) for the circumstances in which trading in any listed security may be suspended or halted;
 - (n) for the manner in which an authorised user is required to conduct the securities services for which it is authorised generally; 50
 - (o) for the operation by an exchange or authorised user of a trust account contemplated in section 21;
 - (p) for the manner in which authorised users must comply with section 22;
 - (q) for the— 55
 - (i) recording of transactions effected through the exchange;
 - (ii) monitoring of compliance by authorised users with the exchange rules and exchange directives; and

- losemtsetfweni anganiketa umsebenti munye noma ngetulu wetinsita temasheya;
- (ii) leligatja livumela basebentisi labagunyatiwe kutsi bente umsebenti lophatselene nemasheya ngekwemasheya langabhaliswa kuleligatja, kwentelwa kuvunyelwa nendlela yekuvunyelwa kwalawo masheya 5
lapho khona umsebentisi losemtsetfweni anganiketa noma leminye imisebenti yemasheya;
- (c) (i) kwentela kuneliseka ngekwetimali, sicinisekiso kanye netidzingo tekulawulwa kwebungoti lapho khona umsebentisi losemtsetfweni kufanele kuhambisane; 10
(ii) loko kuneliseka ngekwetimali, siciniseko netidzingo tekulawulwa kwebungoti kufanele kunakisiswe noma ngabe kungahluka ngekuya ngetigaba tebasebentisi labagunyatiwe noma imisebenti lehlukene yemabhizinisi emsebentisi losemtsetfweni;
- (d) kwentela kuhambisa kahle, kutsembeka, kucaca nendlela lengavuni lapho khona imigomo nemibandzela ngekuya ngekutsi ematransekshini kumasheya labhalisiwe kufanele acalwe basebentisi labagunyatiwe, noma ngabe batentela bona noma ngalokuphatselene nalabanye bantfu; 15
- (e) lendlela emasheya labhalisiwe lekufanele agunyatwe nobe akhokheleke ngayo; 20
- (f) uma ngabe ligatja lingakabeki indlu legunyatako kwentela kugunyatwa kwematransekshini itawugunyatwa ligatja;
(i) kwentela sincumo lapho khona itransekshini itawugunyatwa ligatja;
(ii) kwentela tizatfu lapho khona ligatja lingala kugunyata itransekshini yemasheya langagunyatwa ngekwemtsetfo wendzinyana (i); 25
(iii) kwentela kulawula kwekukhokha ngalokugcwele kwebasebentisi labasemtsetfweni kanye nemaklayenti;
- (g) kwentela kumiselwa kwemtsetfo wematransekshini kumasheya labhalisiwe lekungenelwe kuko ngenca yesizatfu yanoma kuphi kuchumana kwekucala lokwentelwe umuntfungaphandle kwesimemo lesivetiwe lesivela kulowo muntfu; 30
- (h) ngekuya ngemibandzela yesigaba 38(3) nesigaba 41, kwentela letimo lapho khona itransekshini yemasheya labhalisiwe kungacinisekiswa njengaloku-ngasebenti nguleligatja;
- (i) kutsi akekho umsebentisi losemtsetfweni longenta umsebenti nemuntfu le umsebentisi losemtsetfweni lekakholelwa noma asolela kutsi udinga imvume njengalophakanyisiwe ngaphansi kwesigaba 76 noma imvume yekulawula emasheya ngekuhambisana nanoma muphi umtsetfo ngaphandle kwekutsatsa tindlela letiphatsakako tekucinisekisa kutsi lowo muntfu unemvume lefanele; 40
- (j) kwentela kuvunyelwa ligatja leliphakanyisiwe lemsebentisi losemtsetfweni lapho khona lophakanyisiwe anemasheya ku-akhawunti yemasheya noma kumasheya ku-akhawunti yemasheya lesemkhatsini njengoba ichazwe kuSahluko IV;
- (k) ngalendlela leligatja lelihlola ngayo kuhambisana nemtsetfo kwebasebentisi labagunyatiwe ngaloMtsetfo, nemitsetfo yeligatja netinkhomba teligatja; 45
- (l) kwentela lemibandzela ngekuya ngekutsi sicelo noma sisebenti sembentisi losemtsetfweni anga, ngalokuphatselene nekutsenga nekutsengiswa kwemasheya labhalisiwe, aluleke noma acedzelele itransekshini ngekubambisana nelibhizinisi lemsebentisi losemtsetfweni nekwentela imiphumela lapho khona umsebenti noma sisebenti semsebentisi losemtsetfweni angalelwa kutsi angene egatjeni; 50
- (m) kwentela tindlela lapho khona kutsengiselwana kunoma ngabe nguwaphi emasheya laseluhlweni angahle amiswe noma akhishwe;
- (n) lendlela umsebentisi losemtsetfweni lekufanele ente ngayo umsebenti wemasheya lapho ubekwe khona emtsetfweni ngalokutayelekile; 55
- (o) lokusebenta kweligatja noma umsebentisi losemtsetfweni nge-akhawunti yebatsenjwa levetwe kusigaba 21;
- (p) Ngalendlela basebentisi labagunyatiwe kufanele bahambisane nesigaba 22;
- (q) kwentela— 60
(i) kurekhodwa kwematransekshini lentiwe kuleligatja;
(ii) kulandzelela kwekuhambisana nemtsetfo kwebasebentisi labagunyatiwe nemitsetfo yeligatja kanye netinkhomba teligatja; kanye

- (iii) surveillance of any matter relevant for the purposes of this Act, and the exchange rules and exchange directives;
- (r) for the circumstances and manner in which an authorised user may advertise or canvass for business;
- (s) for a process whereby complaints by authorised users against the exchange in respect of the exercise of functions by the exchange may be made, considered and responded to; 5
- (t) for the manner in which complaints against an authorised user or officer or employee of an authorised user must be investigated;
- (u) for the steps to be taken by the exchange, or a person to whom the exchange has delegated its investigative and disciplinary functions, to investigate and discipline an authorised user or officer or employee of an authorised user who contravenes or fails to comply with the exchange rules, the interim exchange rules or the exchange directives, and for a report on the disciplinary proceedings to be furnished to the registrar within 30 days after the completion of such proceedings; 10 15
- (v) for the manner in which an authorised user, officer or employee of an authorised user who is believed to—
 - (i) be able to furnish any information on the subject of any investigation referred to in paragraphs (u); or 20
 - (ii) have in such person's possession or under such person's control any document which has bearing upon that subject, may be required to appear before a person conducting an investigation, to be interrogated or to produce such document;
- (w) in respect of the insurance, guarantee, compensation fund or other warranty referred to in section 8(1)(h), for— 25
 - (i) the persons who must contribute to maintain such insurance, guarantee, compensation fund or other warranty; and
 - (ii) the amount of the fee imposed by the exchange for this purpose;
- (iii) different categories of claims that may be brought against the insurance, guarantee, compensation fund or other warranty; 30
- (iv) restrictions on the amount of any claim;
- (v) the control and administration of the insurance, guarantee, compensation fund or other warranty; and
- (vi) the ownership of the insurance, guarantee, compensation fund or other warranty; 35
- (x) that authorised users must disclose to their clients the fees for their services, which disclosure must give the specific monetary amount for each service rendered; or if such amount is not pre-determinable, the basis of the calculation; 40
- (y) that authorised users may charge a fee for different categories of transactions;
- (z) for the purposes for which, and the process by which, an exchange may issue exchange directives;
- (aa) for supervisory measures that enable the exchange to comply with section 10(2)(c), (d) and (e); 45
- (bb) for the authority of, and the manner in, and circumstances under which—
 - (i) an exchange may limit the revocation of any settlement instruction given by an authorised user or its client;
 - (ii) on the commencement of insolvency proceedings, an authorised user or client may revoke any settlement instruction before the point in time when settlement instructions become irrevocable as determined in the exchange rules, but prior to settlement; 50
 - (iii) an exchange or an authorised user may terminate transactions on the commencement of insolvency proceedings;
- (cc) for the arrangements to be made in relation to the administration of securities and funds held for own account or on behalf of a client by an authorised user, including the settlement of unsettled transactions, under insolvency or default proceedings in respect of that authorised user; 55

- (iii) kuhlolisiswa kwanoma luphi ludzaba lolubalulekile kwentela tinjongo taloMtsetfo, nemitsetfo yeligatja netinkhomba teligatja;
- (r) kwentela tindlela nemiphumela umsebentisi losemtsetfweni angakhankasa ngato noma akhangise ibhizinisi;
- (s) kwentela inchubo lapho khona tikhalo letifakwe ngekumelana nebasebentisi labagunyatiwe basegatjeni ngalokuphatselene nekweniwa kwemsebenti waleligatja kungentiwa, kunakwe futsi kuphendvulwe; 5
- (t) kwentela tinyatselo lekufanele titsatfwe ligatja, noma umuntfu lobekwe ligatja lelimnikete umsebenti wekuphenya noma wekubuyisa endleleni, kutsi aphenye abuye acondzise tigwegwe temsebentisi losemtsetfweni noma umsebenti noma sisebenti semsebentisi losemtsetfweni lophula noma lohluleka kuhambisana nemitsetfo yeligatja, lemitsetfo yeligatja lekhona netinkhomba teligatja kwentela nemibiko kulokwenteka uma ngabe kucondziswa tigwegwe lekufanelwe kuniketwe nobhala kungakapheli emalanga langema-30 ngemuva kwekucedza kwaleyo misebenti; 10
- (u) ngalendlela umsebentisi losemtsetfweni, umsebenti noma umsebentisi wemsebentisi losemtsetfweni lokukholelwa kutsi—
- (i) akhone kuniketa nanoma luphi lwatiso ngalokuphatselene nganoma luphi luphenyo lolucondziswe kutigatjana (t) na (u); noma
- (ii) abe nanoma namaphi emaphepha noma abe ngaphansi kwalowo muntfu lolawulako lekanemtselela kuloko lokukhulunywa ngako, angacelwa kutsi avele kumuntfu lowenta luphenyo, kutsi atotselwa ngemibuto noma akhiphe lawo maphepha; kanye 15
- (v) ngalophatselene nemshwalense, sicinisekiso, sikhwama sesincepheteliso noma iwaranti lebalwe kusigaba 8(1)(h),— 25
- (i) kwentela lomuntfu lekufanele afake sandla ekugcineni lowo mswalensi, sicinisekiso, sikhwama sesincepheteliso noma iwaranti;
- (ii) lelinani lemali lebekiwe nguleligatja kwentela letizatfu;
- (iii) emazinga emakleyimu lahlukene langaletfwa nekumelana nalomshwalensi, siciniseko, sikhwama sekuncephetelisa noma lenye iwaranti; 30
- (iv) imibandzela ngekwelinani lanoma yiphi ikleyimu;
- (v) kulawula nekuphatsa kwemshwalensi, siciniseko, sikhwama sekuncephetelisa noma lenye iwaranti;
- (vi) lokuphatfwa kwalomshwalense, siciniseko, sikhwama sekuncephetelisa noma lenye iwaranti; 35
- (w) kutsi basebentisi labagunyatiwe kufanele bavete kumaklayenti abo timali tekwenta imisebenti yabo;
- (x) kutsi basebentisi labagunyatiwe bangabita imali kumazinga lahlukene ematransekshini, lokuvetwa kufanele kunikete emanani email emsebenti ngamunye lowentiwe; noma uma ngabe leso samba singancumeke kalula, lolokuphatselene nalokubala; 40
- (y) kwentela tizatfu lapho khona, ligatja linganiketa imiyalelo yeligatja;
- (z) kwentela tizatfu tekulawula letenta kutsi ligatja lihambisane nesigaba 10(2)(c), (d) na (e);
- (aa) kwentela imitsetfo, netindlela, kanye netimo le ngaphansi kwato— 45
- (i) Ligatja lingehlisa lizinga lingacitsa noma ngabe nguyiphi imiyalelo y kukhokhelwa leniketwe ngumsebentisi losemtsetfweni noma emaklayenti akhe;
- (ii) Ngalesikhatsi kuchubeka tingcongco tekuhlakata, umsebentisi losemtsetfweni noma iklayenti ingacitsanoma nguyiphi imiyalelo yekukhokhelwa ngembi kwalesikhatsi lapho khona kukhokhelwa kungasacitseki njengoba kuncunyiwe kumitsetfo yeligatja, kodvwa ngembi kwekukhokhela; 50
- (iii) ligatja noma umsebentisi losemtsetfweni angamisa itransekshini ngalesikhatsi kucala tingcongco tekuhlakatwa; 55
- (bb) kute kutsi kwentiwe emalungiselelo ngalokuphatselene nekulawulwa kwemasheya netimali letibanjelwe i-akhawunti yakho noma ngalokuphatselene neklayenti nemsebentisi losemtsetfweni, kufaka ekhatsi kukhokhelwa kwematransekshini lebekangakakhokhelwa, lahlakatwako kungakhokhelwa ngekumelana nalowo msebentisi losemtsetfweni; 60
- (cc) lokulawulwa ligatja ngekuhambisana nemisebenti leniketwe basebentisi labagunyatiwe yi-*Financial Intelligence Centre Act*.

- (dd) for the manner in which an authorised user who is acting as an inter-dealer broker is required to conduct its inter-dealer broking services, including the manner in which the inter-dealer broker broadcasts bids and offers that it receives, if applicable;
 - (ee) for the circumstances in which an authorised user may or may not transact in listed securities using the services of an inter-dealer broker who is not an authorised user; 5
 - (ff) that authorised users must notify the exchange as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it; and 10
 - (gg) for the supervision by an exchange of compliance with the duties imposed on its authorised users by the Financial Intelligence Centre Act.
- (3) (a) Any rules made in terms of subsection 2(e) or 2(bb) or 2(cc) must have due regard for, and not be in conflict with, any applicable depository rules.
- (b) Any rules made in terms of subsection (2)(bb) and (cc) must have due regard for, and not be in conflict with, section 8 of the National Payment System Act. 15
- (4) (a) Subject to section 5(1)(c) and (2) and the requirements prescribed by the registrar, the exchange rules may provide for the approval of external authorised users to be authorised users of the exchange.
- (b) If the exchange rules provide for this, the rules must provide, in accordance with paragraph (a), for the identification of those securities services that will be authorised and regulated by the exchange in terms of the exchange rules and those that will be authorised and regulated by the supervisory authority of the country under whose laws the external authorised user is authorised and supervised. 20
- (5) The exchange rules made under this section apply to an authorised user only to the extent that those rules apply to— 25
- (a) all authorised users generally; and
 - (b) the securities service or services for which that authorised user has been authorised by the exchange.
- (6) An exchange may, with the approval of the registrar, make exchange rules on additional matters that are not inconsistent with this Act. 30
- (7) An exchange rule made under this section is binding on—
- (i) the exchange;
 - (ii) the authorised users of the exchange;
 - (iii) issuers of securities listed on that exchange; 35
 - (iv) the officers and employees of the exchange, its authorised users and issuers; and
 - (v) clients of its authorised users.

Authorised users

Restriction on borrowing against and repledging of securities belonging to other persons 40

18. No authorised user may—
- (a) borrow against pledged listed securities an amount in excess of the outstanding balance of any amount which the authorised user may have lent the pledgor against the pledged securities;
 - (b) repledge listed securities without the written consent of the pledgor. 45

Marking of or recording details of securities

19. When a document of title relating to listed securities comes into the possession of an authorised user, the authorised user must, as soon as possible—
- (a) mark it; or
 - (b) record and store the necessary details, in a manner which will render it possible at any time thereafter readily to establish the identity of the owner of those securities. 50

Restriction on alienation of securities

20. Subject to the exchange rules, an authorised user may only alienate listed securities deposited with the authorised user if the person who deposited them has authorised such alienation in writing. 55

- (dd) ngalendlela umsebenzisi losemtsetfweni losebenta njengalobolekisa kuzingeka kutsi ente umsebenzisi wakhe wekuba ngumbolekisi losemkhatsini amemetela emabhidi kanye nemanani lawatfolako, uma ngabe kufanele;
- (ee) kutindlela lapho khona umsebenzisi losemtsetfweni angatsenga noma angatsengi emasheya asebenzisi imisebenzisi yembolekisi losemtsetfweni lekangasuye umsebenzisi losemtsetfweni; 5
- (ff) kutsi basebenzisi labasemtsetfweni kufanele batise ligatja ngekushesha uma ngabe kucala inchubo yekuhlakata ngekumelana nabo;
- (3) (a) Nima miphil imitsetfo leyentiwe ngekwasigaba 2(e), 2(bb) noma 2(cc) kufanele ibe ingakakhokhelwa, kantsi ingancubutani, nanoma miphil imitsetfo yesikhungo. 10
- (b) Noma miphil imitsetfo leyentiwe ngekwasigatjana 2(bb) na (cc) kufanele kutsi isebente ngalokufanako, futsi ingancubutani nesigaba 8 se-National Payment System Act.
- (4) (a) Ngekuya ngesigaba 5(1)(c) na (2) kanye netidzingo letibekwe ngunobhala, nemitsetfo yeligatja inganiketela kuvumeleka kwebasebenzisi labagunyatiwe labangaphandle kutsi babe basebenzisi labagunyatiwe beligatja. 15
- (b) Uma ngabe imitsetfo yeligatja iniketela kuloku, imitsetfo kufanele iniketele, ngekuhambisana nendzima (a), ngekuvetwa kwaleyo misebenzisi yemasheya leyitawugunyatwa ibuye ilawulwe ligatja ngekwemitsetfo yeligatja kanye naleyo letawugunyatwa kantsi ilawulwe kumlawuli losemtsetfweni walelive lapho lemitsetfo yemsebenzisi losemtsetfweni wangaphandle isebenta futsi ilawulwa khona. 20
- (5) Lemitsetfo yeligatja leyentiwe ngaphansi kwalesigaba isebenta kumsebenzisi losemtsetfweni kuphela ngekuya ngekutsi leyo mitsetfo—
- (a) bonkhe basebenzisi labagunyatiwe ngalokujwayelekile; kanye 25
- (b) umsebenzisi wemasheya noma imisebenzisi lapho khona lomsebenzisi losemtsetfweni agunyatwe ligatja.
- (6) Lingatja lingahle, ngekwemvume yanobhala, lente imitsetfo yeligatja ngetindzaba letinye letingahambisani naloMtsetfo.
- (7) Umitsetfo weligatja lowentiwe ngaphansi kwalesigaba usibopho— 30
- (i) kuleligatja,
- (ii) basebenzisi labagunyatiwebaleligatja,
- (iii) banikeli bemasheya lababhalwe kuluhla lalelo gatja kanye nakutisebenzisi nebasebenzisi balo, njalo njalo
- (iv) nemaklayenti ebasebenzisi labagunyatiwe. 35

Basebenzisi labagunyatiwe

Imitsetfo lecinile ngekuholeka noma kutsatsa usebenzisi bekuvikela labangebalomunye umuntfu

18. Akekho umsebenzisi losemtsetfweni langa—

- (a) aboleke emasheya labhalisiwe ekubanjiswe ngawo langetulu kwelinani lelibekiwe lalelinani lemali lesele lapho khona lomsebenzisi losemtsetfweni angabe aboleke lolobambisako ngekumelana nalamasheya labanjisiwe; 40
- (b) kubambisa kabusha emasheya labhalisiwe ngaphandle kwemvume lebhalewe phansi yalobambisako.

Kumaka kwe noma kubhalwa kwemininingwane yebemasheya 45

19. Uma ngabe umculo welitativela lophatselene nemasheya labhalisiwe ufika kumsebenzisi losemtsetfweni, umsebenzisi losemtsetfweni kufanele, ngekushesha—

- (a) awamake; noma
- (b) awabhale abuye abeke imininingwane lefanele, ngendlela lengawaniketela njengalasebenzisekako nanoma nini ngemuva kwaloko ngemuva kwaloko alungele kusungula imvelaphi yemnikati walawo masheya. 50

Kuvimbela kwehlukana kwemasheya

20. Ngekuya ngemitsetfo yeligatja, umsebenzisi losemtsetfweni angahlukanisa kuphela emasheya labhalisiwe lafakwe kumsebenzisi losemtsetfweni uma ngabe lomuntfu lawafakile abhale phansi kutsi ahlukaniswe. 55

Segregation of funds

21. (1) (a) Every authorised user must open and maintain a trust account at a bank designated for client funds, or may use such an account opened and maintained by an exchange, into which any instruments of payment or cash received from a client must be deposited on the day of receipt: Provided that any deposit that is made by a client directly into an authorised user's own account, or any deposit that is received after banking hours, must be transferred into such trust account by the start of business on the next day. 5

(b) A trust account referred to in this subsection may contain only funds of clients and not those of an exchange or authorised user. 10

(2) Funds received from a client need not be deposited into a trust account if payment—

(a) is made to the authorised user by a buyer of listed securities—
(i) against delivery of such securities to the buyer; or
(ii) against such securities being marked or recorded as the property of the buyer; or 15

(b) is preceded by a payment made by the authorised user to the seller of listed securities against delivery of such securities to the authorised user; or

(c) is made to pay a debt due to the authorised user: Provided that a debt arising from the purchase of listed securities which have not been marked or recorded as the property of the buyer of the securities, may not be regarded as a debt due for this purpose; or 20

(d) is made in terms of any other law or exchange rule which specifically provides for such payment to be deposited into some other account.

(3) Funds held in a trust account and any funds which have not been deposited into a trust account as envisaged in subsection (1) but which are identifiable as belonging to a specific person, are considered to be “trust property” as defined in the Financial Institutions (Protection of Funds) Act, and that Act applies to those funds, subject to this section. 25

(4) Funds deposited into a trust account may only be withdrawn by an authorised user for the purpose of making payment— 30

(a) to the person entitled to the payment; or

(b) in terms of any other law or the exchange rules:

Provided that if, after the withdrawal, any deposited cheque, draft or other instrument against which the withdrawal was made is not subsequently honoured, the authorised user must pay the shortfall arising from the default into the trust account immediately. 35

(5) All bank charges accruing in respect of a trust account are for the account of the authorised user except that bank charges specifically relating to a deposit or withdrawal of the funds of a client are for that client's own account.

(6) Any interest accruing to the funds in a trust account is payable to the owner of the funds after any fees owed to the authorised user or exchange has been deducted. 40

(7) Any excess remaining in a trust account after payment of or provision for all claims of persons whose funds have or should have been deposited in the trust account, is not trust property as contemplated in subsection (3).

(8) The division of the High Court of South Africa having jurisdiction over an authorised user may, on the application of an exchange, the registrar or any other person having a claim against a trust account of the authorised user, on good cause shown, prohibit the authorised user from operating the trust account, and may appoint a curator to control and administer the trust account with such rights, powers and duties in relation thereto as the court may consider necessary. 50

Segregation of securities

22. (1) Every authorised user must deposit securities held for its own account and for or on behalf of its clients in separate securities accounts or other accounts, maintained by the person who holds or otherwise safeguards such securities on behalf of the

Kuhlukaniswa kwetimali

21. (1) (a) Wonkhe umsebentisi losemtsetfweni kufanele avule abuye agcine i-akhawunti yebatsenjwa ebhange leyentelwe timali temaklayenti, noma angasebentisa leyo akhawunti levulwe yabuye yagcinwa ligatja, lapho khona noma ngabe liphilithulusi lekukhokhela noma imali letfolakele lengukheshi letfolwe ivela kuklayenti kufanele ifakwe ngalolusuku letfolakala ngalo: Inkhani nje uma ngabe noma yini lefakiwe kwafakwa yiklayenti ku-akhawunti yemsebentisi losemtsetfweni iya kuye, noma ngabe yini lefakwa ngemuva kwemahora ekusebenta kwelibhange, kufanele idluliselwe kule-akhawunti yebatsenjwa ekucaleni kwelusuku lolulandzelako. 5

(b) I-akhawunti yetitsenjwa lebalwe kulesigatjana ingacuketsa timali kuphela temaklayenti hayi leto teligatja noma umsebentisi losemtsetfweni. 10

(2) Imali letfolwe ivela kuklayenti akufanele ifakwe ku-akhawunti yebatsenjwa uma ngabe loko kukhokhelwa—

(a) ifakwe kumsebentisi losemtsetfweni ngumtsengi wemasheya labhalisiwe—
(i) ngekumelana nekuletfwa kwalawo masheya kulona lotsengako; noma 15
(ii) ngekumelana nalawo masheya lamakiwe noma labhalwe njengempahla yalolotsengako; noma

(b) ilandzelwa inkhokhelo leyentiwe umsebentisi losemtsetfweni kulotsengisa emasheya labhalisiwe ngekumelana nekuletfwa kwalawo masheya kumsebentisi losemtsetfweni; noma 20

(c) yentiwe kutsi kukhokhelwe sikweleti semsebentisi losemtsetfweni: Inkhani nje uma ngabe lawo masheya labhalisiwe avela kulawo langakamakwa noma abhaliswe njengempahla yemtsengi wemasheya angeke atsafwa njengesikweleti ngenca yalesizatfu; noma

(d) yentiwe ngekuhambisana nanoma muphi umtsetfo noma umtsetfo weligatja loniketela loko kukhokhelwa kutsi kufakwe kulenye i-akhawunti. 25

(3) Timali letifakwe ku-akhawunti yebatsenjwa njengoba kobonakele kusigatjana (1) kodwa lokubonakala njengalokukwalomunye umuntfu, kubonakala “njengempahla yebatsenjwa” njengoba kuchaziwe ku-*Financial Institutions (Protection of Funds) Act* kantsi lowo Mtsetfo usebenta kuleto timali, letihambisana nalesigaba. 30

(4) Timali letifakwe ku-akhawunti yebatsenjwa tingakhishwa kuphela ngumsebentisi losemtsetfweni kwentela tinjongo tekubhadala—

(a) kulomuntfu lekufanele kutsi akhokhelwe; noma

(b) ngalokuhambisana nanoma ngumuphi umtsetfo noma imitsetfo yeligatja.

Ngekuya ngekutsi, ngemuva kwekukhipha, noma ngabe nguliphi lisheke lelifakiwe, luhlaka noma lelinye lithulusi lelimelele nalokukhishwa lokwentiwe bekungakahlonishwa, umsebentisi losemtsetfweni kufanele akhokhele lolokushodako lokuvetwa ngulokungakhokhi kule-akhawunti yebatsenjwa ngekushesha. 35

(5) Tonkhe tindleko telibhange letikhule ngenca ye-akhawunti yebatsenjwa titawuniketwa umsebentisi losemtsetfweni ngaphandle kwekutsi tindleko telibhange ikakhulukati letiphatselene nekufaka noma kukhishwa kwemali yeklayenti tale-akhawunti yaleyo klayenti. 40

(6) Noma ngabe nguyiphi intalo lengenile kuletimali tale-akhawunti yebatsenjwa titawukhokhelwa umnikati waletimali ngemuva kwekutsi timali letikweletwa umsebentisi losemtsetfweni noma ligatja liyikhiphile. 45

(7) Noma ngabe yini lesele ku-akhawunti yebatsenjwa ngemuva kwekukhokhela noma kuniketela onkhe emakleyimu emuntfu timali takhe lekufanele betifakwe ku-akhawunti yebatsenjwa, akusiyo imphahla yebatsenjwa njengoba bekushiwo kusigatjana (3).

(8) Lokuhlukanisa kweNkhantolo Lephakeme yase Ningizimu Afrika lenemtsetfo wekulawula kumsebentisi losemtsetfweni inga, ngesicelo lesifakwe ligatja, nobhala noma lomunye umuntfu lofake ikleyimu ngekumelana ne-akhawunti yebatsenjwa yemsebentisi losemtsetfweni, ngesento lesihle lasibonisile, vimbela umsebentisi losemtsetfweni kutsi asebentise le-akhawunti yebatsenjwa, kantsi angabeka umlawuli kutsi alawule abuye aphantse le-akhawunti yebatsenjwa ngalawo malungelo, emandla nemisebenti ngekuhambisana naloko njengoba inkhantolo ingakubona kufanele. 55

Kwehlukaniswa kwemasheya

22. (1) Wonkhe umsebentisi losemtsetfweni kufanele afake emasheya lanawo ku-akhawunti yakhe kanye nalakawabambele emaklayenti akhe kuma-akhawunti lahlukene noma lamanye ema-akhawunti, lephatfwa ngulomuntfu loyibambile noma 60

authorised user, and must ensure that securities held for or on behalf of its clients are identifiable as belonging to specific persons.

(2) (a) Every authorised user must balance and reconcile the aggregate number of each security reflected in securities accounts maintained by the authorised user, and held by a participant, another third party, or a licensed central securities depository if so authorised by the registrar, on behalf of the authorised user and its clients, with the number of securities held by the participant, other third party or licensed central securities depository, whichever may be applicable, on a daily basis unless otherwise provided for in the exchange rules. 5

(b) Any reconciling differences must be rectified within the time period prescribed in the exchange rules. 10

(3) Any securities held by an authorised user for or on behalf of another person must be identifiable as belonging to a specific person and are considered to be trust property as defined in the Financial Institutions (Protection of Funds) Act, and that Act applies to those securities. 15

General provisions in relation to listed securities

Use of designation “stockbroker” and related designations

23. (1) A stockbroker may use the designation “stockbroker”, “stockbroker (South Africa)” or “stockbroker (SA)”. 20

(2) A person who is not a stockbroker, may not—

(a) purport to be a stockbroker; or

(b) use any designation referred to in subsection (1) or any other name, title, description or symbol, or perform any act implying, or tending to induce the belief, that such person is a stockbroker.

(3) A person to whom the rules of an external exchange apply, and whose business is substantially similar to that of a stockbroker, may use the designation “stockbroker” if the country in which the use of the designation authorised is indicated after the designation. 25

Buying and selling listed securities

24. A person may only carry on the business of buying or selling listed securities if that person— 30

(a) is an authorised user and acts in compliance with the relevant exchange rules;

(b) effects such buying or selling through an authorised user in compliance with the relevant exchange rules;

(c) is not an authorised user, but is a financial institution transacting as principal with another financial institution also transacting as principal, subject to section 25; or 35

(d) is a person who, subject to any condition that the registrar may prescribe, buys or sells listed securities in order to—

(i) give effect to a reconstruction of a company or group of companies by the issue or reallocation of shares, or a takeover by one company of another or an amalgamation of two or more companies; or 40

(ii) effect a change in the control over management or the business of a company.

Reporting of transactions in listed securities

45

25. (1) Any transaction in listed securities resulting in a change of beneficial ownership of those securities that is concluded outside of an exchange by—

(a) a financial institution referred to in section 24(c); or

(b) a person referred to in section 24(d),

must be reported by that financial institution or person, as the case may be, to the registrar. 50

(2) The registrar may, in respect of a report referred to in subsection (1), prescribe—

(a) the information required in respect of any transaction; and

lokungenani logadza lawo masheya ngekubambela umsebentisi losemtsetfweni, kantsi kufanele acinisekise kutsi emasheya lawabambele emaklayenti akhe achazwe njengewalabo bantfu.

(2) (a) Wonkhe umsebentisi losemtsetfweni kufanele asimamise ahlanganise silingano nombolo selisheya ngalinye lelikhonjiswe ku-akhawunti yemasheya lenakwa ngumsebentisi losemtsetfweni, yaphatfwa ngulabangenelelako, kusilulu semasheya lesisemkhatsini lesibhalisiwe noma lenye incenye yesitsatfu ngekumelela umsebentisi losemtsetfweni kanye nenombolo yemasheya laphetfwe ngulabangenelelako, silulu semasheya lesisemkhatsini lesibhalisiwey noma besitsatfu lokungahle kube khona, malanga onkhe ngaphandle kwekutsi kuniketelwe kumitsetfo yeligatja.

(b) Noma ngabe ngumuphi umehluko lohlukaniwe kufanele ulungiswe ngalesikhatsi lesibalwe kumitsetfo yeligatja.

(3) Noma maphi emasheya labanjwe umsebentisi losemtsetfweni awabambele lomunye umuntfu kufanele kutsi atiwe kutsi abani kantsi atsatswe njengempahla yebatsenjwa njengoba achazwe ku-*Financial Institutions (Protection of Funds) Act* naloMtsetfo usetjentiswa usetjentiswe kulawo masheya.

Imibandzela letayelekile ngalokuphatselene nemasheya labhalisiwe

Kusetjentiswa kwesikhundla “semtsensigi wemashezi” kanye naletinye tikhundla

23. (1) Umtsensigi wemasheya angasebentisa leligama “umtsensigi wemasheya”, “umtsensigi wemasheya (Ningizimu Afrika)” noma “umtsensigi wemasheya (SA)”. (2) Umuntfu longasuye umtsensigi wemasheya angeke—

(a) atibita ngemtsensigi wemasheya; noma

(b) asebentise noma liphi ligama lelibalwe kusigatjana (1) noma ngabe nguliphi ligama, simeligama, inchazelo noma luphawu, noma ente noma ngabe yini lechaza, noma lengabangela kutsi kukholelwe, kutsi lowo muntfu ngumtsensigi wemasheya.

(3) Umuntfu lapho khona kusebenta imitsetfo yeligatja langaphandle, kantsi nemsebenti wakhe ufana ngalokugcwele nalowo wemtsensigi wemasheya, angasebentisa leligama “umtsensigi wemasheya” uma ngabe lelive lasebentisa kulo leligama liniketiwe imvume kantsi libaliwe ngemuva kwalelogama.

Kutsenga nekutsengisa emasheya laseluhlweni

24. Umuntfu angachubeka nebhizinisi yekutsenga noma kutsengisa emasheya labhalisiwe uma ngabe lowo muntfu—

(a) ngumsebentisi losemtsetfweni kantsi usebenta ngekuhambisana nemitsetfo yeligatja;

(b) wenta loko kutsenga nekutsengiselana ngekusebentisana nemsebentisi losemtsetfweni ngekuhambisana nemitsetfo yeligatja;

(c) akusuye umsebentisi losemtsetfweni, kodvwa sikhungo setimali sisebenta njengalesikhulu kanye nalesinye sikhungo sisebenta njengalesikhulu, ngekuya ngesigaba 25; noma

(d) ngumuntfu, ngekuya nganoma nguyiphi imibandzela nobhala langayibeka, atsenge abuye atsengise emasheya labhalisiwe kute kutsi—

(i) kucalwe kwakhiwa kabusha kwenkhapani noma licembu letinkhapani ngekuniketwa noma kuniketwa kabusha kwemashezi, noma kutsatsa kwenkhapani yinye kunalenywe noma kuhlangukiswa kwetinkhapani letimbili noma ngetulu; noma

(ii) kube nelushintjo ekulawuleni kwalabaphetse noma umsebenti wenkhapani.

Kubikwa kwetintfo letentekile kumasheya labhalisiwe

25. (1) Noma ngabe nuwaphi ematransekshini emasheya labhalisiwe latawubangela kuntjitiwa kwebunikati balawo masheya lekucedzelelwe ngaphandle kweligatja—

(a) sikhungo setimali lesibalwe kusigaba 24(c); noma

(b) umuntfu lobalwe kusigaba 24(d); kufanele kubikwe sikhungo setimali noma umuntfu, njengoba kungabe kubekiwe, ngunobhala.

(2) Nobhala anga, ngekuhambisana nembiko lobalwe kusigatjana (1), abeke—

(a) lwatiso loludzingekako ngalokuphatselene nanoma yiphi itransekshini; kanye

- (b) the manner in and time within which reports are to be rendered.
- (3) (a) The registrar must disclose information about a transaction reported in terms of subsection (1) to the exchange on which the securities are listed.
- (b) The registrar may disclose information about a transaction reported in terms of subsection (1) to the public, if the registrar is satisfied that such disclosure will enhance the objects of this Act referred to in section 2 or regulatory effectiveness and transparency. 5
- (4) The exchange referred to in subsection (3) may publish any information disclosed to it in terms of that subsection.

CHAPTER IV 10

CUSTODY AND ADMINISTRATION OF SECURITIES

Definition

26. For purposes of this Chapter, unless the context indicates otherwise, “securities” means uncertificated securities, including money market securities.

Licensing of central securities depository 15

Application for central securities depository licence

27. (1) A central securities depository must be licensed under section 29.
- (2) A juristic person may apply to the registrar for a central securities depository licence.
- (3) An application for a central securities depository licence must— 20
- (a) be made in the manner and contain the information prescribed by the registrar;
- (b) show that the applicant complies with the requirements referred to in section 28;
- (c) be accompanied by— 25
- (i) a copy of the proposed depository rules that must comply with section 35;
- (ii) a copy of the founding documents of the applicant;
- (iii) such information in respect of members of the controlling body of the applicant as may be prescribed by the registrar; and
- (iv) the application fee prescribed by the registrar; 30
- (d) be supplemented by any additional information that the registrar may reasonably require.
- (4) (a) The registrar must publish a notice of an application for a central securities depository licence in two national newspapers, at the expense of the applicant, and on the official website. 35
- (b) The notice must state—
- (i) the name of the applicant;
- (ii) where the proposed depository rules may be inspected by members of the public; and
- (iii) the period within and the process by which objections to the application may be 40 lodged with the registrar.

Requirements applicable to applicant for central securities depository licence and licensed central securities depository

28. (1) An applicant for a central securities depository licence and licensed central securities depository must— 45
- (a) subject to the requirements prescribed by the Minister have assets and resources in the Republic, which resources include financial, management and human resources with appropriate experience, to perform its functions as set out in this Act;
- (b) have governance arrangements that are clear and transparent, promote the safety and efficiency of the central securities depository, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of the relevant stakeholders; 50

- (b) indlela kanye nesikhatsi lapho khona imibiko kufanele iniketwe khona.
- (3) (a) Nobhala kufanele avete lwatiso loluphatselene nematransekshini labikwe ngekwesigatjana (1) kuleligatja lapho lamasheya abhaliswe khona.
- (b) Nobhala angaveta lwatiso ngembiko wetransekshini lebhikwe ngekwesigatjana (1) kubantfu, uma ngabe nobhala uyaneliseka kutsi loko kuveta kutawutfutukisa tinjongo taloMtsetfo letibalwe kusigaba 2 noma kulawuleka kahle ngekwemtsetfo noma ngalokucacile. 5
- (4) Ligatja lelibalwe kusigatjana (3) lingakhipha lwatiso lebavetelwe lona ngekwalesigatjana.

SAHLUKO IV

10

KUGCINWA NEKULAWULWA KWEMASHEYA

Tinchazelo

26. Kwentela tizatfu taleSahluko, ngaphandle kwekutsi ingcikitsi ikubeke ngaleny indlela, “emasheya”, kushiwo emasheya langekho emtsetfweni, kufaka ekhatsi emasheya asemakethe yetimali. 15

Kuniketwa kwemalaysensi kwemasheya kulibhange lelisemkhatsini

Kufaka sicelo selayisensi yebunikati kulibhange lelisemkhatsini

27. (1) Sikhungo semasheya lelisemkhatsini kufanele sibhaliswe ngaphansi kwesigaba 29.
- (2) Umuntfu lobekwe ngekwemtsetfo angafaka sicelo kunobhala kutfolo ilayisensi yesikhungo semasheya lelisemkhatsini. 20
- (3) Sicelo semvume selibhange lelisemkhatsini lemasheya—
- (a) abe ngalolo hlobo kantsi abe nelwatiso lolubhalwe ngunobhala;
- (b) akhombise kutsi lofake sicelo uyahambisana netidzingo letibhalwe kusigaba 28; 25
- (c) kuhambisane—
- (i) nekhophi yesiphakamiso semtsetfo yesikhungo lekufanele ihambisane nesigaba 35;
- (ii) emaphepha ekusungula alona lofaka sicelo;
- (iii) lolo lwatiso ngalokuphatselene nemalunga alomtimba lolawulako alona lofake sicelo njengoba kungabe kubekwe ngunobhala; kanye 30
- (iv) linali lemali yekufaka sicelo njengoba ibekwe ngunobhala;
- (d) kuhambisane nanoma luphi lwatiso nobhala langaludzinga.
- (4) (a) Nobhala kufanele akhiphe satiso sesicelo selayisensi yesikhungo semasheya lelisemkhatsini kumaphephandzaba lamabili avelonkhe, ngetindleko letitawukho- 35
- khelwa ngulofake sicelo, kanye nakuwebhu lesemtsetfweni.
- (b) Satiso kufanele sivete—
- (i) ligama lalofake sicelo;
- (ii) lapho lemitsetfo yesikhungo lephakanyisiwe ingahlolwa malunga emmango; kanye ikhophi ye 40
- (iii) nesikhatsi nenchubo lapho kungaphikiswa khona khona kungavumelani nalesicelo kunobhala.

Lokudzingekako kubafaki sicelo kutfolo emalaysensi asebhange lelisemkhatsini

28. (1) Lofaka sicelo selayisensi yesikhungo semasheya lelisemkhatsini nesilulu semasheya lelisemkhatsini lesibhalisiwe kufanele— 45
- (a) kutawuya nbgetidzingo letibalwe nguNgcingcoshe, kuba nemphahla netinsita kumitfombolusito eRiphabhulikhi, leto tinsita tifaka ekhatsi imali, kulawula nekuphatfwa kwetisebenti letinelwati lolufanele, kutsi bente imisebenti yabo njengoba kubekiwe kulomtsetfo;
- (b) kube nemalungiselelo ekubusa lacacile nalakhanyako, kutfutukiswe kuphepha nekufinyelela kulibhange lemasheya lelisemkhatsini, nekusekela kusimama kwaloluhlelo lwetimali lonkhe, kutsatfwa kwaletinye tinshisekelo tebantfu letifanele, kanye netinjongo talabatsintsekako labafanele; 50

- (c) demonstrate that the fit and proper requirements prescribed by the registrar are met by the applicant, or the licensed central securities depository, as the case may be, its directors and senior management;
 - (d) have made arrangements for the efficient and effective monitoring of compliance by participants with the depository rules; 5
 - (e) have the infrastructure necessary for the sustained operation of a central securities depository in terms of this Act;
 - (f) have arrangements in place to manage operational risk associated with the operation of a central securities depository;
 - (g) make provision to the satisfaction of the registrar for settlement of transactions and for the management of settlement risk; and 10
 - (h) have made arrangements for security and back-up procedures to ensure the integrity of its records.
- (2) The registrar may—
- (a) require an applicant or a licensed central securities depository to furnish such additional information, or require such information to be verified, as the registrar may deem necessary; 15
 - (b) take into consideration any other information regarding the applicant or a licensed central securities depository, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or a central securities depository and the latter is given a reasonable opportunity to respond thereto; and 20
 - (c) prescribe any of the requirements referred to in subsection (1) in greater detail.

Licensing of central securities depository

- 29.** (1) The registrar may, after consideration of any objection received as a result of the notice referred to in section 27(4) and subject to the conditions which the registrar may consider appropriate, grant a central securities depository licence to perform the functions referred to in section 30 if— 25
- (a) the applicant complies with the relevant requirements of this Act; and
 - (b) the objects of this Act referred to in section 2 will be furthered by the granting of such a licence. 30
- (2) The licence must specify the registered office of the central securities depository in the Republic and the places where the central securities depository may be operated, and that the central securities depository may not be operated at any other place without the prior written approval of the registrar. 35
- (3) A central securities depository may at any time apply to the registrar for an amendment of the terms of its licence and the conditions subject to which its licence was granted.
- (4) (a) The registrar must publish a notice of an application for an amendment of the terms of a central securities depository licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the official website. 40
- (b) The notice must state—
- (i) the name of the applicant;
 - (ii) the nature of the proposed amendments; and 45
 - (iii) the period within which objections to the application may be lodged with the registrar.

Functions of licensed central securities depository

Functions of licensed central securities depository and power of registrar to assume responsibility for functions 50

- 30.** (1) A licensed central securities depository must conduct its business in a fair and transparent manner with due regard to the rights of participants and their clients, and issuers.
- (2) A licensed central securities depository—

- (c) kukhombisa lokudzingekako lokulungele lokubekwe ngunobhala lofake sicelo uyafinyelela kulo, kusilulu semasheya lesisemkhatsini lesibhalisiwe njengoba kungabe kubekiwe, bacondzisi babo kanye nebaphatsi labaphakeme;
- (d) bente emalungiselelo ekulawula kahle nangemphumelelo ngekuhambisana nemitsetfo kwalabangenelelako ngekwemitsetfo yesikhungo; 5
- (e) kube neluhlakanchanti lolufanele lwalokusebenta kwesikhungo semasheya lesisemkhatsini ngekwaloMtsetfo;
- (f) kubenemalungiselelo lakhona ekulawula bungoti bekusebenta lobuhambelana nekusebenta kwelibhange lemasheya lelisemkhatsini; 10
- (g) kwenta imibandzela leyanelisa nobhala ngekuhadeleka kwematransekshini nekulawulwa kwebungoti bekubhadalwa; kanye
- (h) kwentiwe emalungiselelo ekuvikela newekulandzelela kucinisekisa sitfunti semarekhodi aso.
- (2) Nobhala anga— 15
 - (a) cela lofake sicelo noma silulu semasheya lesisemkhatsini lesibhalisiwey kutsi simnikete lolo lwatiso lolungetiwe, noma acele kutsi lolo lwatiso lucinisekiske, njengoba nobhala angakubona kufanele;
 - (b) anake noma luphi lwatiso loluphatselene nalofake sicelo noma into silulu semasheya lesisemkhatsini lesibhalisiwe, lesisuselwa kunoma ngumuphi umtfombo, kufaka ekhatsi noma ngabe ngubaphi labaphetse, uma ngabe lolo lwatiso luvetwe kulofake sicelo sikhungo semasheya lesisemkhatsini kantsi nako lolokugcinile kuniketwe litfuba lelivisisekako kutsi kuphendvulwe kuko; kanye 20
 - (c) kusho letinye taletintfo letidzingekako letibalwe kusigatjana (1) ngeminini- ngwane legcwele. 25

Kuniketwa kwemalayisensi kwemasheya kulibhange lelisemkhatsini

29. (1) Nobhala anga, ngemuva kwekutsatsa noma kuphi kungavumelani lokutfolakele njengemphumela walesatiso lobhalwe kusigaba 27(4) nangekuya ngemibandzela lengatsatfwa ngunobhala njengalefanele, anikete ilayisensi yesikhungo semasheya lesisemkhatsini kutsi sente lemisebenti lebalwe kusigaba 30 uma ngabe— 30
- (a) lolofake sicelo uyahambisana naletidzingo letifanele taloMtsetfo; kanye
 - (b) naletinjongo taloMtsetfo letibalwe kusigaba 2 titawuchutjekiswa ngekuniketa lelayisensi lenjalo.
- (2) Lelayisensi kufanele ibhalwe lelihhovisi lelibhalisiwe kusikhungo semasheya lasemkhatsini eRiphabhulikhi naletindzawo lapho khona lesikhungo semasheya lesisemkhatsini kufanele sibe khona, nekutsi lesikhungo semasheya lesisemkhatsini angeke sasetjentiswa kunoma ngabe nguyiphi indzawo ngaphandle kwemvume yangaphambilini lebhale ngunobhala. 35
- (3) Sikhungo semasheya lesisemkhatsini singabhalela noma nini kunobhala kute kutsi kuchitjiyelwe lemigomo yalelayisensi kanye nemibandzela ngekuya ngekutsi ilayisensi beyiniketiwe. 40
- (4) (a) Nobhala kufanele akhiphe satiso ngekuchitjiyelwa kwemigomo yelayisensi yesikhungo semasheya lesisemkhatsini nemibandzela lapho khona ilayisensi beyiniketiwe kumaphephandzaba lamabili avelonkhe ngekwetindleko talofake sicelo kanye nakuwebhu lesemsetfweni. 45
- (b) Satiso kufanele sisho—
 - (i) ligama lalofake sicelo;
 - (ii) simo setichibiyelo letiphakanyisiwe; kanye
 - (iii) lesikhatsi lapho khona lokungavumelani ngalesicelo kungadluliselwa kunobhala. 50

Imisebenti yemabhange emasheya lasemkhatsini

Imisebenti yemabhange emasheya lasemkhatsini kanye nemandla anobhala kucala umtfwalo umsebenti

30. (1) Silulu semasheya lesisemkhatsini lesibhalisiwe kufanele sente umsebenti waso ngendlela lecacile nalekhanyako ngekuhambisana nemalungelo alabangenelelako nemaklayenti abo, nalabaniketako. 55
- (2) Silulu semasheya lesisemkhatsini lesibhalisiwe kufanele—

- (a) must constitute, maintain and provide an infrastructure for holding uncertificated securities which enables the making of entries in respect of uncertificated securities;
- (b) must constitute, maintain and provide an infrastructure, which infrastructure will include a securities settlement system; 5
- (c) must perform custody and administration in respect of a central securities account;
- (d) must issue depository rules in accordance with section 35;
- (e) must supervise compliance by participants with the depository rules and depository directives; 10
- (f) must supervise compliance with this Act by its participants, report any non-compliance to the registrar and assist the registrar in enforcing this Act;
- (g) must enforce the depository rules and depository directives;
- (h) must as soon as it becomes aware thereof, inform the registrar of any matter that it reasonably believes may pose systemic risk to the financial markets; 15
- (i) may issue depository directives;
- (j) may amend or suspend the depository rules in terms of section 71;
- (k) must maintain a central securities account with due regard to the interests of the participant and its clients;
- (l) may hold all securities of the same kind deposited with it by a participant collectively in a separate central securities account; 20
- (m) must notify a participant in writing or as otherwise agreed of an entry made in the central securities account of the relevant person;
- (n) must balance and reconcile the total number and where applicable, the nominal value of each kind of uncertificated securities held on its uncertificated securities register with the records of the relevant issuer— 25
 - (i) in respect of certificated securities of the same kind reflected in the central securities account, not less than once every six months;
 - (ii) in respect of uncertificated securities of the same kind—
 - (aa) if that aggregate has not changed, not less than once every month; 30
 - (bb) if that aggregate has changed, on the business day after such change;
- (o) must administer and maintain a record of uncertificated securities deposited with it;
- (p) is entitled to access to the records of uncertificated securities administered and maintained by its participants to perform the functions for which it is licensed; 35
- (q) may, if the central securities depository is licensed as a clearing house under Chapter V, clear transactions in securities in accordance with its clearing house licence;
- (r) must disclose to persons for whom central securities accounts are kept, participants and issuers the fees and charges required by it for its services, and which disclosure must give the specific monetary amount for each service rendered; or if such amount is not pre-determinable, the basis of the calculation; 40
- (s) must on request disclose to— 45
 - (i) the registrar information about the securities held in a central securities account;
 - (ii) an issuer information about the securities issued by that issuer and held in central securities accounts;
- (t) must notify the registrar as soon as it becomes aware that a participant will cease or has ceased to be a participant; 50
- (u) subject to sections 5(1)(c) and (2) and 35(4), may enter into an agreement with an external central securities depository for the provision of securities services in the Republic by that external central securities depository;
- (v) must establish and maintain effective, efficient and sustainable infrastructure to perform the functions for which it is licensed; 55
- (w) must notify the registrar as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it; and

- (a) kufanele sibe, netinsitanchanti letilawulwako tibuye tiniketwe kute libambe emasheya langenamvume lelenta kube khona kufakwa kwalokungenako ngalokuphatselene nemasheya langakabhaliswa;
- (b) kufanele kube, kuniketwe kubuye kugcinwe tinsitanchanti, leto tinsitanchanti titawufaka ekhatsi luhlelo lwekukhokhelwa kwemasheya; 5
- (c) kufanele libe baphatsi nebalawuli ngalokuphatselene nema-akhawunti emasheya;
- (d) kufanele banikete imitsetfo yelibhange ngalokuhambisana nesigaba 35;
- (e) kufanele kulandzelelwe kuhambisana naloMtsetfo basebentisi bawo ngekuhambisana nemtsetfo welibhange nemiyalelo yelibhange; 10
- (f) kufanele alawule lokuhambisana naloMtsetfo ngulabo labangenelelako, kubikwe noma ngabe ngukuphi lokuhanjiswa kahle kunobhala nekusita nobhala ekusebentiseni loMtsetfo;
- (g) kufanele asebentise lemitsetfo yesikhungo kanye netinkhomba tesikhungo;
- (h) kufanele ngekushesha uma ngabe bacala kwati, atise nobhala nganoma luphi ludzaba lebalukholwako lolungabangela luhlelo lolunebungoti kutimakethe temnotfo; 15
- (i) linganiketa tinkhomba tesikhungo;
- (j) singachibiyela noma simise lemitsetfo yesikhungo ngekwesigaba 71;
- (k) kufanele kusimamiswe i-akhawunti yemasheya lasemkhatsini ngalokupha- 20
tselene nentalo yalabangenelelako kanye nemaklayenti aso;
- (l) angaba nawo onkhe emasheya lafanako lekafakwe ngulabangenelelako ngesikhatsi sinye ku-akhawunti yemasheya lesemkhatsini;
- (m) Kufanele atise labangenelelako ngalokubhalwe phansi noma ngalendlela lekuvunyelwene ngayo ngalokungenako lokwentiwe ku-akhawunti yema- 25
sheya lesemkhatsini yalabantfu labafanele;
- (n) kufanele kusimame kubuye kubuyiswe lokulingana ku-akhawunti yemasheya lesemkhatsini nemarekhodi aloniketako lokunguye—
 - (i) ngalokuphatselene nemasheya lanetitifiketi letifanako letikhonjiswe ku-akhawunti yemasheya lesemkhatsini, ngalokungeko ngaphansi 30
ngakunye njalo ngemuva kwetinyanga letisitfupha;
 - (ii) ngalokuphatselene nemasheya langekho emtsetfweni eluhlobo lolufana-
nako—
 - (aa) uma ngabe lolokuphelele akukaguculwa, hayi kanye njalo nge-
nyalo; 35
 - (bb) uma ngabe lolokuphelele kuguculiwe, ngalelo langa lebhizinisi
ngemuva kwaletu tingucuko;
- (o) kufanele aphantse abuye alawule lirekhodi lemasheya langekho emtsetfweni lafakwe nalo;
- (p) kuvumelekile ekufinyeleleni kwemarekhodi emasheya langekho emtsetfweni 40
lokulawulwe kwabuye kwagcinwa ngulabangenelelako;
- (q) anga, uma ngabe sikhungo semasheya lesisemkhatsini sibhaliswe njengendlu legunyatako ngaphansi kweSahluko V, ematransekshini ekugunyata kumasheya ngekuhambisana nemvume yendlu legunyata emasheya;
- (r) kufanele avete kubantfu labo ku-akhawunti yemasheya lesemkhatsini 45
agcinwe khona, labangenelelako kanye nebanikeli betimali kanye netimali letidzingekako kwentela tinsita tabo;
- (s) ngesicelo kufanele kufanele avete—
 - (i) kunobhala lwatiso ngemasheya labanjwe ku-akhawunti yemasheya lesemkhatsini; 50
 - (ii) umnikeli welwatiso ngemasheya lakhishwe ngulowo mnikeli abanjwa ku-akhawunti yemasheya lesemkhatsini;
- (t) kufanele kwatiswe nobhala ngekushesha ngaleikhatsi ati kutsi labangenelelako bayekela kuba ngulabangenelelako;
- (u) ngekuya ngetigaba 5(1)(c) na (2) na 35(4), bangangenelela ngesivumelwano 55
ngesikhungo semasheya lesisemkhatsini lesingaphandle ngekuniketwa kwemsebenti wemasheya eRiphabhulikhi ngulelo bhange lemasheya lelisemkhatsini lelingaphandle
- (v) kufanele kusungulwe agcine indlela lenemphumelelo, lekahle nalesimeme kutinsitancanti ekwenteni umsebenti wemasheya laniketwe imvume yabo; 60
kanye
- (w) kufanele atise nobhala ngekushesha ngalesikhatsi kucala inchubo yekuhlakata noma inchubo yekuhlakata iyacala ngekumelana naye, kanye

- (x) may do all other things that are necessary for, incidental or conducive to the proper operation of a central securities depository and that are not inconsistent with this Act.
- (3) (a) The registrar may assume responsibility for one or more of the regulatory or supervisory functions referred to in subsection (2) if the registrar considers it necessary in order to achieve the objects of this Act referred to in section 2. 5
- (b) The registrar must, before assuming responsibility as contemplated in paragraph (a)—
- (i) inform the central securities depository of the registrar's intention to assume responsibility; 10
- (ii) give the central securities depository the reasons for the intended assumption; and
- (iii) call upon the central securities depository to show cause within a period specified by the registrar why responsibility should not be assumed by the registrar. 15

Participant

Authorisation of participant

31. A licensed central securities depository may authorise a person as a participant in that central securities depository in terms of the depository rules.

Duties of participant 20

Duties of participant

- 32.** (1) A participant must conduct its business in a fair and transparent manner with due regard to the rights of its clients.
- (2) A participant—
- (a) must, if securities are deposited with the participant, deposit them with a licensed central securities depository; 25
 - (b) must maintain a securities account for a client in respect of securities deposited;
 - (c) must reflect the number or nominal value of securities of each kind deposited in a securities account; 30
 - (d) must administer and maintain a record of all securities deposited with it in accordance with the depository rules;
 - (e) must record all securities of the same kind deposited with it in an uncertificated securities register if so required by the depository rules;
 - (f) must disclose to clients and issuers the fees and charges required by it for its services; which disclosure must give the specific monetary amount for each service rendered; or if such amount is not pre-determinable, the basis of the calculation; 35
 - (g) must notify a client in writing or as otherwise agreed to by the client of an entry made in the client's securities account; 40
 - (h) must on request disclose to—
 - (i) the registrar information about the securities recorded in a securities account;
 - (ii) an issuer information about the securities issued by that issuer and recorded in a securities account in accordance with the depository rules; 45
 - (i) must have a central securities account with a licensed central securities depository, and may—
 - (i) deposit securities with or withdraw securities from that central securities depository; or
 - (ii) transfer, attach, pledge, cede or give effect to any other lawful instruction in respect of a security or an interest in securities through that central securities depository; 50
 - (j) must exercise the rights in respect of securities deposited by it with a licensed central securities depository in its own name on behalf of a client when so instructed by the client; 55
 - (k) must balance and reconcile the aggregate of the securities accounts with the central securities accounts on a daily basis;

- (x) angatenta tonkhe letinye tintfo letifanele, letincane noma letifanele kulomsebenti lekungiwo wesikhungo semasheya lesisemkhatsini nekutsi atihambisani naloMtsetfo.
- (3) (a) Nobhala angacabangela umsebenti wamunye noma ngetulu kuphatfwa noma kulawulwa kwalemisebenti lebalwe kusigatjana (2) uma nobhala akubona kufanele kute kutsi kufinyelelwe kutinjongo talomtsetfo lobalwe kusigaba 2. 5
- (b) Nobhala kufanele, ngembi kwekutsi atsatse umsebenti njengoba kubalwe kundzima (a)—
- (i) atise sikhungo semasheya lesisemkhatsini ngetinhloso tanobhala tekucala umsebenti; 10
- (ii) kuniketa sikhungo semasheya lesisemkhatsini letizatfu talokucabangela; ne
- (iii) kucela sikhungo semasheya lesisemkhatsini kukhombisa sizatfu ngesikhatsi lesibalwe ngunobhala kutsi kungani umsebenti ungacalwa ngunobhala.

Labangenelelako

Kugunyatwa kwalabangenelelako 15

31. Silulu semasheya lesisemkhatsini lesibhalisiwe singagunyata, umuntfu lonjengalabangenelelako kuleso sikhungo semasheya lesisemkhatsini ngekuya ngemitsetfo yesikhungo.

Umsebenti waLabangenelelako

Umsebenti walabangenelelako 20

32. (1) Longenelelako kufanele ente umsebenti wakhe ngendlela lengavuni licala nalecacile ngekuhambisana nemalungelo emaklayenti akhe.
- (2) Labangenelelako—
- (a) kufanele, uma ngabe emasheya afakiwe labangenelelako, batawafaka nesilulu semasheya lesisemkhatsini lesibhalisiwe; 25
- (b) kufanele bagcine i-akhawunti yemasheya yemaklayenti ngekuhambisana nemasheya langeniswiwe;
- (c) kufanele kukhombise inombolo yelizinga lelilinganisiwe lemasheya leluhlobo ngalunye lolufakiwe ku-akhawunti yemasheya;
- (d) kufanele alawule nekugcina emarekhodi awo onkhe emasheya lafakwe kuwo ngekuhambisana nemitsetfo yesikhungo nekulawula nekuphatsa emarekhodi awo onkhe emasheya lafakwe ngalokuphatselene nemitsetfo yesikhungo; 30
- (e) kufanele babhalise onkhe emasheya lafanako lafakiwe kumasheya langekho emtsetfweni uma ngabe kudzingwa imitsetfo yesikhungo;
- (f) kufanele batjele emaklayenti ngetimali netindleko letidzingekako kwentelwa imisebenti lokuvetwa kwayo kufanele iniketwe linani lemali lebekiwe yemsebenti ngamunye lowentiwako; noma uma ngabe lelo nani alincumeki ngaphambilini, lesisekelo salokubala; 35
- (g) kufanele atise iklayenti ngekubhala noma avunyelwe yiklayenti kulokufakwe ku-akhawunti yaleklayenti; 40
- (h) kufanele avete nakaceliwe—
- (i) Iwatiso Iwanobhala ngemasheya labhaliswe ku-akhawunti yemasheya;
- (ii) Iwati Ilwemnikeli ngemasheya lakhishwe ngumnikeli abhaliswe ku-akhawunti yemasheya ngekuhambisana nemitsetfo yesikhungo;
- (i) abe ne-akhawunti yemasheya lesemkhatsini nesilulu semasheya lesisemkha- 45
- tsini lesibhalisiwe, kantsi anga—
- (i) angafaka noma akhiphe emasheya kusikhungo semasheya lesisemkha-
tsini; noma
- (ii) adlulise, anamatselele, afakazele, acedze noma anikete leminyane imiya-
lelo lesemtsetfweni lahambisan nemasheya nentalo yemasheya kuleso
sikhungo semasheya lesisemkhatsini; 50
- (j) kufanele asebentisa emalungelo ngekwawo masheya lafakiwe kusilulu semasheya lesisemkhatsini lesibhalisiwe ngeligama lakhe ngekumelela iklayenti uma ngabe acelwe yiklayenti;
- (k) kufanele asimamise anuye ente ahambisane ne-akhawunti yemasheya laku- 55
- akhawunti yemasheya lesemkhatsini onkhe malanga;

- (l) must correct discrepancies which are revealed in the reconciliation of the aggregate of its securities accounts with the central securities depository, and the participant must make good or provide any reconciled shortfall for which there are reasonable grounds for concluding that the participant is responsible;
- (m) must deposit securities held by it for its own account and those held for or on behalf of its clients in separate securities accounts and must ensure that securities held for or on behalf of its clients are segregated and identifiable as belonging to a specific person; 5
- (n) must, on a daily basis, ensure that its securities accounts and central securities accounts do not show a debit balance; 10
- (o) may not alienate, invest, pledge, hypothecate, encumber or otherwise make use of securities held for or on behalf of its clients, except with the client's express consent;
- (p) must make adequate arrangements for the safeguarding of clients' ownership rights, including, but not limited to insolvency proceedings; 15
- (q) must notify the registrar and central securities depository as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it; and
- (r) may perform securities services to the extent necessary to perform the duties referred to in this subsection. 20

Uncertificated securities

Uncertificated securities

33. (1) Certificated securities may be converted to uncertificated securities and an issuer may, subject to subsection (2), issue uncertificated securities despite any contrary provision in— 25

- (i) any other law;
- (ii) the common law;
- (iii) an agreement;
- (iv) the memorandum of incorporation of an issuer;
- (v) a prospectus; or 30
- (vi) any other conditions applicable to the issuing of securities.

(2) When any new issue of listed securities is made by an issuer or when an issuer issues securities in contemplation of the listing of that issuer's securities by an exchange, the securities must be issued in uncertificated form.

(3) An issuer and a licensed central securities depository and its participants must make arrangements in accordance with depository rules for uncertificated securities to be evidenced by way of entry. 35

(4) An issuer has the same obligations in respect of uncertificated securities as it has in respect of certificated securities except that no certificate or written instrument is issued in respect of uncertificated securities. 40

Duties of issuer of uncertificated securities

34. An issuer of uncertificated securities must—

- (a) record in its securities register the total number and, where applicable, the nominal value of each kind of uncertificated securities issued by it;
- (b) maintain separate records for each central securities depository holding uncertificated securities unless all those securities are held by one central securities depository; 45
- (c) if required by section 36(1), record the name of that central securities depository or its wholly owned subsidiary as the registered holder of the uncertificated securities; 50
- (d) balance and reconcile with a central securities depository the total number and, where applicable, the nominal value of each kind of uncertificated securities issued by it and recorded in its securities register—
 - (i) if the register has not changed, not less than once every month;
 - (ii) if the register has changed, on the business day after such change; and 55

- (l) kufanele alungis lokungahambi kahle lokuvetwe ekubuyisaneni kwesiliganiso salama-akhawunti emasheya nelibhange lemasheya lasemkhatsini, kantsi longenelelako kufanele ente kahle noma anikete noma ngabe yini leshodako lehlanganisiwe lapho khona kunesisekelo lesivakalako sekucedzelela kutsi lolongenelelako uyavisiseka; 5
- (m) kufanele afake emasheya labanjwe ngibo ku-akhawunti yabo kanye nalawo labanjenlwe iklayenti kumasheya lahlukene lanjelwe emaklayenti abo akhonjiswe njengewemuntfu lotsite;
- (n) kufanele onkhe malanga acinisekise kutsi i-akhawunti yemasheya abo naku-akhawunti yemasheya lesemkhatsini akubi nebhalsi yalokukhishiwe; 10
- (o) angeke bahlukanisa, basise, bafunge, bacabangele, afake ekhatsi nboma basebentise emasheya labekwe noma ngekumelela emaklayenti, ngaphandle kwemvume leniketwe maklayenti;
- (p) kufanele bente emalungiselelo lafanele kwentela kuvikela kahle emaklayenti nemalungelo ebunikati, kufaka ekhatsi, kungashiya ngaphandle inchubo yekuhlakata 15
- (q) kufanele batise nobhala kanye nelibhange lemasheya lelisemkhatsini ngeku-phutfuma uma ngabe kucala nenchubo yekuhlakata noma inchubo yekuhlakata icalile ngekumelana nabo; kanye
- (r) angenta umsebenti wemasheya ngendlela lefanele yekwenta lemisebenti lebhawle kulesigatjana. 20

Emasheya langekho emtsetfweni

Emasheya langekho emtsetfweni

33. (1) Emasheya lanesitifiketi angaguculwa abe emasheya langekho emtsetfweni nemnikeli anga, ngekuya ngesigatjana (2), anikete e masheya langekho emtsetfweni noma kungahambisani nembandzela— 25
- (i) wanoma muphi umtsetfo;
 - (ii) umtsetfo wemaRoma;
 - (iii) Sivumelwano;
 - (iv) sivumelwano sekusebentisana semnikeli; 30
 - (v) incwajana; noma
 - (vi) Noma miphi imibandzela ngekuniketwa kwemasheya.
- (2) Uma ngabe kuniketwa kwanoma maphi emasheya labhalisiwe lamasha kwentiwa ngumnikeli ngekuhambisana nalelo gatja, lamasheya kufanele aniketwe ngaphandle kwesitifiketi. 35
- (3) U mnikeli ne silulu semasheya lelisemkhatsini lesibhalisiwe kanye naLabange-nelelako kufanele bente emalungiselelo nemitsetfo yesikhungo semasheya langekho emtsetfweni kutsi kufakazelwe ngumtsetfo wekungena.
- (4) Umnikeli unemtfwalo lofanako ngekwe masheya langekho emtsetfweni ngekwemasheya lanesitifiketi ngaphandle kwekutsi asikho sitifiketi noma lithulusi lelibhaliwe lelinganiketwa ngekumelela emasheya langekho emtsetfweni. 40

Umsebenti wemnikeli wemasheya langekho emtsetfweni

34. Umnikeli wemasheya langekho emtsetfweni kufanele—
- (a) abhale kurejista yemasheya inombolo lephelele, lapho kufanele khona, lizinga lelilinganisiwe leluhlobo ngalunye lemasheya langekho emtsetfweni laniketwe nguyey; 45
 - (b) abe nelirekhodi lelihlukile lesikhungo semasheya lelisemkhatsini ngasinye lesiphetse emasheya langekho emtsetfweni ngaphandle kwekutsi lamasheya aphetfwe sikhungo semasheya lelisemkhatsini;
 - (c) uma ngabe kudzingwa sigaba 36(1), lirekhodi leligama lalesikhungo semasheya lelisemkhatsini noma yonkhe infto labanayo njngebunikati lababhalisiwe kumasheya langekho emtsetfweni; 50
 - (d) kulinganisa nekucatsanisa nesikhungo semasheya lelisemkhatsini inombolo lapho kufanele khona, silinganiso sebungako bentfo ngayinye yonkhe yemasheya laniketwe ngibo nalolubhalisiwe kurejista yabo yemasheya— 55
 - (i) uma ngabe lerejista ingakantjintji, hayi ngaphansi kwakunye ngenyanga;
 - (ii) uma ngabe intjintjile, ngalelo langa lekusebenta ngemuva kwekuntjintja; kanye

- (e) where applicable, comply with Chapter II, Part E and Part F of the Companies Act.

Depository rules

Requirements with which depository rules must comply

- 35.** (1) The depository rules must be consistent with this Act. 5
- (2) The depository rules—
- (a) must provide for the manner in which transactions in securities settled through the central securities depository must be settled;
 - (b) must provide for equitable criteria for authorisation and exclusion of participants and, in particular, that no person may be admitted as a participant or allowed to continue such person's business as a participant unless the person—
 - (i) is of good character and high business integrity or, in the case of a corporate body, is managed by persons who are of good character and high business integrity; and 15
 - (ii) complies or, in the case of a corporate body, is managed by persons or employs persons who comply with the standards of training, experience and other qualifications required by the depository rules;
 - (c) must provide for an orderly process by which a participant ceases to be a participant; 20
 - (d) if applicable, must provide for arrangements for certificated securities to be converted to uncertificated securities and for issuers to issue uncertificated securities;
 - (e) must provide for the steps to be taken by the central securities depository, or a person to whom the central securities depository has delegated its investigative and disciplinary functions, to investigate, and discipline a participant or officer or employee of a participant who contravenes or fails to comply with the depository rules, the interim depository rules or the depository directives and must require a report on the disciplinary proceedings to be furnished to the registrar within 30 days after the completion of such proceedings; 25
 - (f) must provide for the manner in which a participant who is believed to—
 - (i) be able to furnish any information on the subject of any investigation; or
 - (ii) have in that participant's possession or under that participant's control any document, which has bearing upon that subject, 35may be required to appear before a person conducting an investigation, to be interrogated or to produce such document;
 - (g) must provide for requirements in respect of a participant's financial soundness and valid financial cover that the participant must hold in respect of—
 - (i) the participant's actual and potential liabilities; 40
 - (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;
 - (h) must provide for requirements in respect of corporate actions, including, but not limited to, that— 45
 - (i) dividends paid and other payments made by issuers in respect of securities are paid by issuers to the central securities depository, participants or clients and, if applicable, by the central securities depository to participants, and by participants to clients; 50
 - (ii) notices regarding rights and other benefits accruing to the owners of securities deposited with the central securities depository are conveyed to the central securities depository, participants or clients; and if applicable, that effect is given to the lawful instructions of clients with regard to voting rights and other matters, and 55
 - (iii) the rights of 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 account or securities account as the case may be;

- (e) laphe kufanele khona, kuhambisane ne Sahluko II, incenye E nencenye F ye *Companies Act*.

Imitsetfo Yesikhungo

Lokudzingekako laphe khona imitsetfo yemabhange kufanele ihambisane nako

- 35.** (1) imitsetfo yesikhungo kufanele ihambisane naloMtsetfo. 5
- (2) Imitsetfo yesikhungo—
- (a) kufanele baniketele indlela laphe khona ematransekshini emasheya lakhokhelwe ngekusebentisa libhange lemasheya lasemkhatsini kufanele kukhokhelwe;
- (b) kufanele inikete indlela lekahle yekuvumela nekukhipha labangenelelako kanye, ikakhulukati, kutsi akekho umuntu longatsatfwa njengalabangenelelako noma achubeke nebhizinisi njengalabangenelelako ngaphandle kwekutsi lomuntu— 10
- (i) ukahle abe nesitfunti lesiphakeme sebhizinisi noma, uma ngabe kumtimba webhizinisi, iphetfwe bantfu labakahle nalabahloniphekile emabhizinisini, kanye 15
- (ii) ahambisane noma, uma kumtimba wemabhizinisi, iphetfwe bantfu labahambisana nemitsetfo yekucasha, lwati kanye nalokunye lokudzingekako kumitsetfo yesikhungo;
- (c) aletse inchubo lehlelekile laphe labangenelelako bayekela kula ngulabangenelelako; 20
- (d) uma kunesidzingo, kufanele ente emalungelo ekutsi emasheya lanetitifiketi aguculwe abe emasheya langekho emtsetfweni nekutsi banikeli banikete emasheya langekho emtsetfweni;
- (e) anikete tinyatselo letifanele titsatfwe sikhungo semasheya lesisemkhatsini, noma umutsu le sikhungo semasheya lesisemkhatsini simbeke njenge-mphenyi nalocondzisa tigwegwe, aphenye, acondzise labangenelelako noma sisebenti nemcashu walabangenelelako who labangahambisano nemitsetfo yesikhungo, lemitsetfo yesikhungo lekhona noma tinkhomba te sikhungo titfole umbiko ngalenchubo lekufanele kuniketwe nobhala kungakapheli emalanga langema-30 ngemuva kwekucedza lelo cala; 30
- (f) kufanele avete indlela labangenelelako lekufanele—
- (i) bakhone kuniketa noma luphi lwati ngaloludzaba lweluphenyo; noma
- (ii) abe nemculo walabangenelelako labawuphetse noma labawulawulako, lonemtselela ngaloludzaba, 35
- Bacele bavele phambi kwalowenta luphenyo, bashushiswe noma baletse lomculu;
- (g) banikete tindzingo ngekusho kwalabangenelelako ngekuma kwabo etimalini kanye nekhava lekungiyi yetimali talabangenelelako lekufanele bayibambe— 40
- (i) yalabangenelelako labanayo mbamba nemsebenti wabo;
- (ii) lebanako lokubonakalako kwesikhungo semasheya lesisemkhatsini; kanye
- (iii) lebebanako ngaphambilini noma labakutfole ngemuva kwekutsi umuntu ayekela kuba ngulongenelelako; 45
- (h) banikete lokufunekako ngekwwebhizinisi, kufaka ekhatsi, kungakhishwa, kutsi—
- (i) incenye lekhokhwe naletinye timali letikhokhwe banikeli ngalokuphatselene nemasheya kusikhungo semasheya lesisemkhatsini, Labangenelelako noma emaklayenti, uma kukhona, ngulesikhungo semasheya lesisemkhatsini kulabangenelelako, namklayenti alabangenelelako; 50
- (ii) tatiso letiphatselene nemalungelo nalokunye lokutfolakele kulabangenelelako semasheya lafakwe kusikhungo semasheya lesisemkhatsini adluliselwa kusikhungo semasheya lesisemkhatsini, labangenelelako noma emaklayenti, uma ngabe akhona, loku kuniketwa imiyalelo lesemsetfweni yeklayenti ngekwemalungelo akuvota naletinye tidzingo; kanye 55
- (iii) emalungelo alabangenelelako awapheli ngaloludzaba lwekutsi emasheya lebanawo noma ngekubamelela abanjwe kanye kanye ku-akhawunti yemasheya lesemkhatsini noma ku-akhawunti yemasheya njengoba kungabekwa; 60

- (i) must require that a participant, on written request from a client to withdraw securities or an interest in securities held in a securities account or central securities account, deliver a certificate or written instrument evidencing 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 client in the securities account or central securities account, as long as the client has a sufficient unencumbered credit balance of those securities with the participant concerned; 5
- (j) must provide for requirements in respect of same day debit balances and prohibit debit balances at the end of a day in a securities account or a central securities account; 10
- (k) may provide that a central securities depository may refuse to accept securities issued by any particular issuer with due regard to the clearing and settlement arrangements of an exchange for transactions in those securities;
- (l) must provide for— 15
 - (i) the duty of persons for whom securities accounts or central securities accounts are kept to disclose to a participant or central securities depository, as the case may be, and the duty of a participant to disclose to a central securities depository, information about a beneficial, limited or other interest in securities deposited with the participant or central securities depository, as the case may be; and 20
 - (ii) the manner, form and frequency of such disclosure;
- (m) must provide for the manner in which a central securities depository or a participant must keep records of clients, or owners or beneficial owners of securities and limited or other interests in securities; 25
- (n) must provide for the manner in which participants must give instructions to a central securities depository;
- (o) if the central securities depository is appointed as a clearing house by an exchange, may regulate, in a manner consistent with the exchange rules, the clearing and settlement functions to be performed by participants in the clearing and settlement process; 30
- (p) must provide for the purposes for which, and the process by which, a central securities depository may issue depository directives;
- (q) must provide for the manner in which a participant must hold and administer securities; 35
- (r) must provide for the approval by the central securities depository of a nominee of a participant;
- (s) must provide that no participant may open a securities account or a central securities account for a person whom the participant believes or suspects requires approval as a nominee under section 76 without having taken reasonable measures to ascertain that such person has the necessary approval; 40
- (t) must provide for supervisory measures that enable the central securities depository to comply with section 30(2)(e), (f) and (g);
- (u) must provide for the manner in which complaints against a participant or officer or employee of a participant must be addressed ; 45
- (v) must provide for a process whereby complaints by participants against the central securities depository in respect of the exercise of functions by the central securities depository may be made, considered and responded to;
- (w) must provide for the authority of, and the manner in and circumstances under which— 50
 - (i) a central securities depository may limit the revocation of any settlement instruction given by a participant or its client;
 - (ii) a participant or client may revoke any settlement instruction before the point in time when settlement instructions become irrevocable as determined in the depository rules, but prior to settlement; or 55
 - (iii) a central depository or a participant may terminate transactions on the commencement of insolvency proceedings;

- (i) Utawucela kutsi labangenelelako, ngesicelo lesibhalwe yiklayenti bakhiphe noma banikete intalo kumasheya laku-akhawunti yemasheya noma ku-akhawunti yemasheya lesemkhatsini, banikete sitifiketi noma bufakazi lobuphatsekako, noma emasheya lasezingeni lelilinganisiwe ngeluhlobo lolufanako, ngengoba lamasheya abanjenlwe leyo klayenti ku-akhawunti yemasheya noma ku-akhawunti yemasheya lesemkhatsini, inkhanyisa nje uma ngabe leklayenti inebhalansi leyanele njengekusho kwalabangenelelako; 5
- (j) anikete lokudzingekako ngekukhishwa kwemali kule-akhawunti angavumeli emabhalansi ekukhipha ekugcineni ku-akhawunti yemasheya noma ku-akhawunti yemasheya lesemkhatsini; 10
- (k) anganiketa lesikhungo semasheya lesisemkhatsini imvume yekwala kubhalisa emasheya lakhishwe noma ngumuphi umnikeli ngalokuphatselene nekugunyata kanye neluhlelo lwekulungisa egatjeni ngematrasekshini kuye akhawunti; 15
- (l) kufanele anikete—
 - (i) umsebenzi wemuntfu lapho i-akhawunti yemasheya noma ku-akhawunti yemasheya lesemkhatsini abekelwe kuvetwa labangenelelako noma sikhungo semasheya lesisemkhatsini, njengoba kungaba njalo, nemsebenzi walabangenelelako kuwuveta kusikhungo semasheya lesisemkhatsini, lwatiso ngebazuzi, noma lamanye emasheya lafakwe kulabangenelelako noma sikhungo semasheya lesisemkhatsini, njengoba kungabe kubekiwe; kanye 20
 - (ii) indlela, yekuvetwa kwaloko ngekushesha;
- (m) kufanele kuniketwe indlela le sikhungo semasheya lesisemkhatsini noma labangenelelako kufanele bagcine emarekhodi eklayenti, noma banikati noma bazuzi lababanikati bemasheya noma lalinganene noma lenye inshisekelo yemasheya; 25
- (n) kufanele banikete indlela lapho labangenelelako kufanele banikete imiyalelo sikhungo semasheya lesisemkhatsini; 30
- (o) uma ngabe lesikhungo semasheya lesisemkhatsini sibekwe njengendlu legunyata noma ligatja, singalawula, ngekuhambisana nemitsetfo yeligatja, kugunyata nekufakwa kwemali kwalabangenelelakos kuluhlelo lwekugunyata nekukhokhela; 35
- (p) kufanele banikete tizatfu tekkutsi, netizatfu lapho khona, sikhungo semasheya lesisemkhatsini singaniketa imiyalelo yesikhungo; 40
- (q) banikete indlela lapho labangenelelako kufanele baphatse babuye balawule emasheya; 45
- (r) banikete imvume lebuya kusikhungo semasheya lesisemkhatsini salophakanyisiwe walabangenelelako; 50
- (s) anikete kutsi abekho labangenelelako longavula i-akhawunti yemasheya noma ku-akhawunti yemasheya lesemkhatsini nemuntfu lapho labangenelelako bakholelwa kutsi udzinga imvume yalophakanyisiwe ngaphansi kwesigaba 78 ngaphandle kwekutsatsa tinyatselo letifanele acinisekise kutsi lowo muntfu unemvume; 55
- (t) kwentela tindlela tekulawula sikhungo semasheya lesisemkhatsini kutsi sihambisane nesigaba 30(2)(e), (f) kanye (g); 60
- (u) kufanele sinikete indlela tikhalo letimelene nalabangenelelako noma sisebenzi noma losebentela labangenelelako kufanele kusetjentwe ngaye ngakhona; 65
- (v) kwentela inchubo lapho kufakwa khona tikhalo ngulabangenelelako ngekumelana nelibhange lemasheya lesisemkhatsini ngalokuphatselene nemsebenzi lowentiwa libhange lemasheya lesemkhatsini, lekanakiwe avunyelwa; 70
- (w) anikete ligunya lekutsi, nendlela lekufanele—
 - (i) Sikhungo semasheya lesisemkhatsini singavikelwa kucitfwa kwanoma muphi umyalelo loniketwe labangenelelako noma emaklayenti abo; noma 75
 - (ii) Labangenelelako nama iklayenti ingacitsa noma ngabe ngukuphi kukhokhelwa kuba gulokungasebenzi njengoba kuncunywe kumitsetfo yesikhungo, ngembi kwekukhokhelwa; 80
 - (iii) sikhungo lesisemkhatsini noma labangenelelako bangamisa ematrasekshini emasheya ngenchubo yekuhlakata; 85

- (x) must provide for—
 - (i) arrangements in relation to the administration of securities held for own account or on behalf of a client by a participant, including the settlement of unsettled transactions;
 - (ii) arrangements in relation to the administration of dividends and other payments made by issuers for the benefit of participants or clients; and 5
 - (iii) the manner in which a shortfall in securities in the securities account or central securities account must be apportioned amongst the persons whose securities are held in such account; 10
- under insolvency proceedings in respect of that participant; 10
- (y) must provide for netting arrangements if transactions in one or more categories of securities settled through the central securities depository settle on a net basis;
- (z) must provide for the manner in which a participant is required to conduct the securities services for which it is authorised; 15
- (aa) must provide for the manner in which the central securities depository monitors compliance by its participants with this Act, the depository rules and the depository directives.
- (3) (a) Any rules made in terms of subsection (2)(w) must have due regard for, and not be in conflict with, any applicable exchange rules. 20
- (b) Any rules made in terms of subsection (2)(w), (x) and (y) must have due regard for, and not be in conflict with, section 8 of the National Payment System Act.
- (4) (a) Subject to section 5(1)(c) and (2) and requirements prescribed by the registrar, the depository rules may provide for the approval of external participants to be participants of the central securities depository. 25
- (b) If the depository rules provide for this, the rules must, provide for—
 - (i) the identification of those securities services that will be authorised and regulated by the central securities depository in terms of the depository rules and those that will be authorised and regulated by the supervisory authority of the country under whose laws the external participant is authorised and supervised; 30
 - (ii) where a central securities depository has approved an external central securities depository as a participant—
 - (aa) the identification of the supervisory authority that supervises that external central securities depository;
 - (bb) the identification of the relevant laws or depository rules that apply to each aspect of the participation, including, but not limited to, the laws regulating effectiveness against third parties and insolvency proceedings. 35
- (5) A central securities depository may, with the approval of the registrar, make depository rules, that are not inconsistent with this Act, on additional matters.
- (6) A depository rule made under this section is binding on— 40
 - (i) the central securities depository;
 - (ii) participants of the central securities depository;
 - (iii) issuers of securities deposited with that central securities depository;
 - (iv) any other person that has a central securities account with the central securities depository; 45
 - (v) the officers and employees of the central securities depository, its participants, issuers, and of other persons that have a central securities account with the central securities depository; and
 - (vi) clients of participants.

General provisions relating to custody and administration of securities 50

Registration of securities

36. (1) The registrar may direct that any securities held by a central securities depository in its central securities account must, unless they are bearer instruments, money market securities or recorded in a uncertificated securities register in accordance with section 50 of the Companies Act and the depository rules, be registered in the name of that central securities depository or its wholly owned subsidiary, as defined in section 1 of the Companies Act, and approved by the registrar. 55

- (x) kufanele banikete—
- (i) emalungiselelo ngalokuphatselene nekulawulwa kwemasheya labanjwe ngekumelela iklayentingulongenelelako, kufaka ekhatsi kukhokhelwa kwematansekshini langakalungiswa;
 - (ii) emalungiselelo ngalokuphatselene ngekulawulwa kwalokuhlukani- 5
swako nalokunye lokukhokhwako lokwentiwe banikeli kwentela kuhlomula kwalabangenelelako noma emaklayenti; kanye
 - (iii) indlela lokushodako kumasheya ku-akhawunti yemasheya noma i-akhawunti yemasheya lasemkhatsini kufanele ahlukaniswe ngayo 10
kulabantfu emasheya abo lafakwe kuleyo akhawunti;
- (y) kufanele bente emalungiselelo uma ematansekshini kulizinga linye noma ngetulu kwemasheya alungiswe kusikhungo semasheya lesisemkhatsini acedzelelwe ngekwenethi;
- (z) anikete indlela lapho labangenelelako kudingeke kwenta umsebenti wemasheya lagunyatelwe kona; 15
- (aa) kufanele anikete indlela lapho sikhungo semasheya lesisemkhatsini sihlola kuhambisana nalabangenelelako kuloMtsetfo, lemitsetfo yesikhungo ne imiyalelo yesikhungo.
- (3) (a) noma miphi imitsetfo leyentiwe ngekuhambisana nesigatjana (2)(w) kufanele 20
ibe naloko, kantsi ungancubutani, nanoma muphi umitsetfo weligatja.
(b) Noma miphi imitsetfo leyentiwe ngekwesigatjana (2)(w), (x) na (y) kufanele ifake ekhatsi, futsi ingancubutani nesigaba 8 se-*National Payment System Act*.
- (4) (a) Ngekuya ngesigaba 5(1)(c) na (3) kanye netidzingo letibekwe ngunobhala, imitsetfo yesikhungo inga, niketela labangenelelakokutsi bane ngulabangenelelako 25
besikhungo semasheya lesisemkhatsini.
(b) Uma ngabe lemitsetfo yesikhungo ikwenta loku, imitsetfo kufane, iniketele—
- (i) kukhomba leyo misebenti yemasheya letawugunyatwa ibuye ilawulwe sikhungo semasheya lesisemkhatsini ngekwemitsetfo yesikhungo nalabo labatawugunyatwa balawule ngumseki lohloko wakulelive ngaphansi kwakhe imitsetfo batawulawulwa bahlolwe labangenelelako. 30
 - (ii) Laphi sikhungo semasheya lesisemkhatsini sivumele sikhungo semasheya lesisemkhatsini lesitimele njengalabangenelelako,—
(aa) lokubonwa kwalonelligunya lekuphatsa kanye nebaphatsi baleso sikhungo semasheya lesisemkhatsini lesitimele;
 - (bb) kubona imitsetfo lefanele noma imitsetfo yesikhungo leebenta kuko 35
konkhe kusebenta, kufaka ekhatsi, ingavimbi lemitsetfo lelawula kusebenta kahle kwebesitsatfu netindlela tekuhlakata.
- (5) Sikhungo semasheya lesisemkhatsini singa, ngemvume yanobhala, sente imitsetfo yesikhungo lengahambisani naloMtsetfo kutindzaba letingetiwe.
- (6) umtsetfo wesikhungo lowentiwe ngaphansi kwalesigaba usibopho— 40
- (i) kusikhungo semasheya lesisemkhatsini;
 - (ii) Labangenelelako bemabhange emasheya lasemkhatsini latimele;
 - (iii) banikeli bemasheya Sikhungo semasheya lesisemkhatsini;
 - (iv) noma lomunye nje umuntfu lone akhawunti yemasheya lesemkhatsini ne sikhungo semasheya lesisemkhatsini; 45
 - (v) basebenti baso netisebenti belibhange lemasheya lasemkhatsini, labangenelelako, labaniketako, kanye nalabanye bantfu labane-akhawunti yemasheya lasemkhatsini nelibhange lemasheya lasemkhatsini; kanye
 - (vi) nemaklayenti alabangenelelako.

Imibandzela leyetayelekile lecondziswe kugcinwa nekuphatfwa kwemasheya 50

Kubhaliswa kwemasheya

36. (1) Nobhala angasho kutsi noma waphi emasheya kumabhange lasemkhatsini labanjwa sikhungo semasheya lesisemkhatsini kufanele, ngaphandle kwekutsi amathulusi, emasheya asemakethe yetimali noma barekhode emasheya langekho emtsetfweni kurejista ngekuhambisana nesigaba 50 se*Companies Act* nemitsetfo 55
yesikhungo, abhaliswe ngaleligama lalesikhungo semasheya lesisemkhatsini noma lababanikati baso, njengoba kuchazwe kusigaba 1 se*Companies Act*, kwavunywa ngunobhala.

(2) (a) No central securities depository or participant may become the owner, co-owner, holder, pledgee or cessionary for the purpose of securing a debt, 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) also applies to a wholly owned subsidiary, as defined in section 1 of the Companies Act, of a central securities depository or participant.

Ownership of securities

37. (1) Where securities of any kind are deposited with a participant or with a central securities depository, or accrue to the owner of securities of the same kind held collectively by a participant, authorised user, nominee or external central securities depository in a securities account or by a central securities depository in a central securities account, the person who was the owner of the securities at the time of deposit or accrual becomes entitled to an interest as co-owner of all the securities of the same kind comprised in the securities account or central securities account, as the case may be.

(2) In so far as any limited right exists in respect of any securities at the time of such deposit or accrual, such limited right extends to the interest of such co-owner and to any securities delivered to that co-owner.

(3) The interest of a co-owner in all the securities in a securities account or central securities account, as the case may be, must be calculated by reference to the proportion that the number or nominal value of securities deposited by or on behalf of that co-owner 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 account or the central securities account.

(4) A written statement issued by or on behalf of a participant in respect of an owner of securities or of a client or by or on behalf of a central securities depository in respect of an owner of securities or of a participant, external central securities depository or other person as the case may be, and specifying the interest of that owner, client, participant, external central securities depository or other person, is sufficient proof of the title or interest of that person in such securities.

(5) Any securities held by a central securities depository, participant or nominee for or on behalf of another person, must be segregated and identifiable as belonging to a specific person and are considered to be trust property as defined in the Financial Institutions (Protection of Funds) Act, and that Act applies to those securities.

Transfer of uncertificated securities or interest in uncertificated securities

38. (1) (a) The transfer of uncertificated securities or of an interest in uncertificated securities on the uncertificated securities register held by a central securities depository or participant must be effected in the manner provided for in Chapter 2, Part E of the Companies Act, where applicable, and the depository rules, by making the debit and credit entries respectively in the central securities account or securities account of the transferor and the transferee kept by the central securities depository or the participant, as the case may be.

(b) The transferee of uncertificated securities or an interest in uncertificated securities referred to in paragraph (a) is entitled to all the rights of a transferee of movable property.

(c) Nothing in this section prejudices any power of a participant or central securities depository, as the case may be, to effect a transfer to a person to whom the right to any

(2) (a) Asikho sikhungo semasheya lesisemkhatsini noma Labangenelelako labangaba banikati, lababambisene, baniyo, bafunge ngesizatfu sekutsatsa sikweleti, kwemasheya ngoba—

- (i) kufakwe emasheya; noma
- (ii) kubhaliswa egameni le— 5
 - (aa) emasheya;
 - (bb) emalungelo lalinganene emasheya;
 - (cc) lamanye emalungelo emasheya;
 - (dd) inzuzo ngekwemasheya; noma
 - (ee) inzuzo lekhulako kumasheya. 10

(b) Indzima (a) iyasebenta kubanikati njengoba ivetiwe kusigaba 1 *se-Companies Act* sesikhungo semasheya lesisemkhatsini noma Labangenelelako.

Bunikati bemasheya

37. (1) Lapho khona emasheya anoma luphi luhobo afakwa kulabangenelelako noma ngesikhungo semasheya lesisemkhatsini, noma kukhulele emasheya emnikati yaloluhlobo lolubanjwa ngekubambisana ngulabangenelelako, umsebenzisi losemtsetfweni, lophakanyisiwe noma emasheya langaphandle kusikhungo ku-akhawunti yemasheya noma sikhungo semasheya lesisemkhatsini ku-akhawunti yemasheya lesemkhatsini, lomuntfu longumnikati walamasheya ngalesikhatsi sekufaka noma kukhula kuba khona kuntalo njengalomunye umnikati wawo onkhe lamasheya alokufanako letfolakala kumasheya noma ku-akhawunti yemasheya lesemkhatsini, njengoba kungabe kubekiwe. 15 20

(2) Kwanyalo njengoba kunemalungelo lanemgomo ngalokuphatselene noma nguwaphi emasheya ngalesikhatsi sekufaka noma kukhula, lawo malungelo lanemgomo akhulela kulentalo yalowo lomnikati nakulamanye emasheya laniketwe lomunye lomnikati. 25

(3) Inshisekelo yalomunye umnikati kuwo onkhe emasheya laku-akhawunti yemasheya noma ku-akhawunti yemasheya lesemkhatsini, njengoba kungabe kubekiwe, kufanele kubalwe ngekuferera kulesicephu leyo nombolo yalenombolo noma lizinga lelilinganisiwe lemasheya lafakwe ngekuhambisana nalowo mnikati nekukhula kwalawo masheya, kwenteka ngaleso naleso sikhatsi kulenombolo lephelele noma lizinga lelilinganisiwe lawo onkhe emasheya aloluhlobo kule-akhawunti yemasheya noma ku-akhawunti yemasheya lesemkhatsini. 30

(4) Sitatimende lesibhaliwe lesiniketwe ngekumelela Labangenelelako ngekuhambisana nemnikati wesikhungo semasheya lesisemkhatsini ngekumelela umnikati wemasheya noma labangenelelako, sikhungo semasheya lesisemkhatsini lesingaphandle noma lomunye umuntfu njengoba kungabe kubekiwe, kukhombise intalo yalowo muntfu, iklayenti, Labangenelelako, Sikhungo semasheya lesisemkhatsini lesingaphandle noma lomunye umuntfu, bufakazi lobanele belitativela noma intalo yalowo muntfu kulawo masheya. 35 40

(5) Noma maphi emasheya labanjwe kusikhungo semasheya lesisemkhatsini, labangenelelako noma lophakanyisiwe ngekumelela lomunye umuntfu kufanele ahlukaniwe atsafwe njengewemuntfu lotsite kantsi atsafwa njengemphahla yebatsenjwa njengoba kuchazwe ku-*Financial Institutions (Protection of Funds) Act* naloMtsetfo losebenta ngalawo masheya. 45

Kudlulisela emasheya langekho emtsetfweni noma intalo yemasheya langekho emtsetfweni

38. (1) (a) Lokudluliselwa kwemasheya langekho emtsetfweni noma kwentalo yemasheya langekho emtsetfweni noma yemasheya langekho emtsetfweni register laphetfwe sikhungo semasheya lesisemkhatsini noma Labangenelelako kufanele batsintseke ngendlela leniketwe kusahluko 2, Incenye ye *Companies Act*, lapho kufanele khona, nemitsetfo yesikhungo, ngekuhambisana imali nekuyiboleka ngalokufanako ku-akhawunti yemasheya lesemkhatsini noma ku-akhawunti yemasheya yalolodluliselako ngulesikhungo semasheya lesisemkhatsini noma labangenelelako, njengoba kungabe kubekiwe. 50 55

(b) Lona lodlulisela emasheya langekho emtsetfweni noma intalo yemasheya langekho emtsetfweni labalwe kundzima (a) unemalungelo ekudlulisela.

(c) Akukho kulesigaba lokuvimbela noma maphi emandla alongenelelako noma libhange lemasheya lasemkhatsini, njengoba kungabe kubekiwe, kutsi andlulisele

uncertificated securities or an interest in uncertificated securities referred to in paragraph (a) has been transmitted by operation of law.

(2) A central securities depository, participant, authorised user, nominee or external central securities depository, as the case may be, must act in accordance with this section, the rules of the central securities depository and the Companies Act, where applicable, to give effect to a transfer referred to in subsection (1). 5

(3) A transfer effected in accordance with subsection (1) is effective against third parties.

Pledge or cession of uncertificated securities *in securitatem debiti*

39. (1) (a) A pledge or cession *in securitatem debiti*, as constituted by an agreement, in respect of uncertificated securities or an interest in uncertificated securities held by a central securities depository, participant, authorised user or nominee, as the case may be, must be effected by entry in the central securities account or the securities account, as the case may be, of— 10

(i) the pledgor in favour of the pledgee specifying the name of the pledgee, the number or nominal value of the uncertificated securities, the interest in the uncertificated securities pledged and the date of entry; or 15

(ii) the cedent in favour of the cessionary specifying the name of the cessionary, the number or nominal value of the uncertificated securities, the interest in the uncertificated securities ceded and the date of entry, as the case may be. 20

(b) Uncertificated securities or an interest in uncertificated securities referred to in paragraph (a) may not be transferred or otherwise dealt with, and no instruction by the pledgor or cedent may be given effect to, without the written consent of the pledgee or cessionary.

(c) The pledgee or cessionary of uncertificated securities or an interest in uncertificated securities referred to in paragraph (a) is entitled to all the rights of a pledgee of movable property or cessionary of a right in movable property pledged or ceded to secure a debt. 25

(d) A pledge or cession *in securitatem debiti* effected in accordance with paragraph (a) is effective against third parties. 30

(e) Nothing in this section prejudices any power of a participant or central securities depository, as the case may be, to effect a pledge or cession *in securitatem debiti* to a person to whom the right to any uncertificated securities or an interest in uncertificated securities referred to in paragraph (a) has been transmitted by operation of law.

(2) This section does not apply to an out-and-out cession in respect of securities or an interest in securities and such a cession must be effected in accordance with section 38. 35

(3) An interest in respect of uncertificated securities may be granted under this section, where applicable, and in the manner provided for in the depository rules, and is effective against third parties, in relation to a securities account, where such an interest extends to all uncertificated securities standing to the credit of the relevant securities account at the time the pledge is effected. 40

Ranking of interests in securities

40. (1) Despite any other law, if more than one interest or limited interest is entered against the same securities, priority must be granted to the interest or limited interest entered first in time in the securities account or central securities account, as the case may be. 45

(2) (a) Despite subsection (1), the order of priority in any interest or limited interest may be varied by agreement between the parties.

(b) Any variation referred to in paragraph (a) is not effective against third parties.

kulomunye umuntfu lamalungelo anoma nguwapfi emasheya langenasitifiketi noma intalo yemasheya langenasitifiketi labalwe kundzima (a) ngaphandle kwekundluliswa ngekwemtsetfo.

(2) Sikhungo semasheya lesisemkhatsini, labangenelelako, umsebtisi losemtsetfweni, lophakanyisiwe, noma sikhungo semasheya lesisemkhatsini lesingaphandle, njengoba kungabe kubekiwe, kutawusebentisana ngekuhambisana nalamasheya ngekwalesigaba, lemitsetfo yesikhungo semasheya lesisemkhatsini ne *Companies Act*, lapho kufanele khona, kundlulisela lokubalwe kusigatjana (1).

(3) Kudlulisela lokwentiwe ngekuhambisana nesigatjana (1) kuyasebenta ngekumelana nebantfu besitsatfu.

Sifungo noma kuyekela kwemasheya kuvikela tikweleti

39. (1) (a) Sifungo noma kumiswa kute kucinisekiswa sikweleti, njengoba kufakwe ngalesivumelwano, ngekuhambisana nemasheya langekho emtsetfweni intalo ayikaniketwa sitifiketi semasheya labanjwe ligatja lemasheya lasemkhatsini, labangenelelako, umsebtisi losemtsetfweni noma lophakanyisiwe, njengoba kungabe kubekiwe, kufanele kukhonjiswa ngalokufakiwe ku-akhawunti yemasheya lesemkhatsini noma i-akhawunti yemasheya, njengoba kungabe kubekiwe, kwe—

(i) lona lofake sicelo ngekumelela lona locelako, lelilasi, inombolo lelilinganisiwe lemasheya langekho emtsetfweni, lentalo yemasheya langekho emtsetfweni lafungelwe kanye nelusuku lekangene ngalo; noma

(ii) lolomisiwe ngekuhambisana ngalokuyekela lokuchaza leligama lalona lomisiwe, lelilasi, inombolo lelilinganisiwe semasheya langekho emtsetfweni, intalo kumasheya langekho emtsetfweni lamisiwe kanye nelilanga lekufakwa njengoba kungabe kubekiwe.

(b) Emasheya langekho emtsetfweni noma intalo yemasheya langekho emtsetfweni labalwe kundzima (a) angeke adluliselwa noma kusetjentwe ngawo, kantsi akukho sifungo noma lesekeyekelile longaba nemtselela we, ngaphandle kwemvume lebhaliwe yalona loetfula bufakazi noma loyekelako.

(c) Lona lofungako noma loyekelako wemasheya langekho emtsetfweni noma intalo yemasheya langekho emtsetfweni lekucondziswe kuwo kundzima (a) unemvume kuwo onkhe emalungelo alona lofungako lonemphahla lephatsekako noma lemiswako kuinisekisa sikweleti.

(d) Sifungo noma kumiswa kucinisekisa sikweleti lokwentiwe ngekuhambisana nendzima (a) kunemtselela kulabangenelelako besetsatfu.

(e) Akukho kulesigaba lokucwasa noma maphi emandla alabangenelelako noma ligatja lemasheya lasemkhatsini, njengoba kungabe kubekiwe, kutsi kuphunyeleliswe sifungo noma kumiswa kwekucinisekiswa sikweleti semuntfu lapho khona lilungelo lemasheya langekho emtsetfweni noma intalo yemasheya langekho emtsetfweni lekabaliwe kundzima (a) andluliselwe ngekusebenta kwemtsetfo.

(2) Lesigaba asingeni ekucedzeni lokubekwe ngaphandle ngekuhambisana nemasheya noma intalo lekumasheya kantsi nako lokucedvwa kufanele isetjentiswe ngekuhambisana nesigaba 38.

(3) Intalo ngalokuphatselene nemasheya langakabhaliswa inganiketwa ngaphansi kwalesigaba, uma kufanele, nangendlela lekubekwe ngayo kulomtsetfo wemabhange, kantsi kusebenta ngekumelana nemacembu esitsatfu, ngalokuphatselene ne-akhawunti yemasheya, lapho khona lenshisekelo ichubekela kubo onkhe emasheya langacacinisekiswa lamele kuba yinzuzo yale-akhawunti yalamasheya lafanele ngalesikhtsi lesincumo sentiwa.

Kubekwa ezingeni kwentalo kwemasheya

40. (1) Ngaphandle kwanoma ngabe ngumuphi umtsetfo, uma ngabe intalo lendlula yinye noma lelinganisiwe kungenelelwa kuyo ngekumelana nemasheya lafanako, ematfuba kufanele aniketwe kulentalo noma intalo lelinganiselwe lengene kucala ngesikhatsi sale-akhawunti yemasheya noma ku-akhawunti yemasheya lesemkhatsini, njengoba kungabe kubekiwe.

(2) (a) Ngaphandle kwesigatjana (1), kulandzelana kwalokuhambembili kunoma yiphi intalo noma intalo lelinganiselwe kufanele icinisekiswa ngesivumelwano emkhatsini walamacembu.

(b) Noma ngabe ngumuphi umehluko lobalwe kundzima (a) awunamphumelelo ngekuhambisana nemacembu langenelela kwesitsatfu.

Acquisition by *bona fide* transferee

41. (1) An entry effected in terms of section 38 or 39 is valid and effective against third parties despite any fraud or illegality that may have resulted in the entry being effected, unless a transferee to the transaction resulting in the entry was a party to or had knowledge of the fraud or illegality. 5

(2) This section does not modify the order of priorities determined by section 40.

(3) Section 53(4), (5) and (6) of the Companies Act applies to an entry referred to in subsection (1) with the changes required by the context.

Withdrawal and delivery of securities

42. The withdrawal of uncertificated securities held in an uncertificated securities register by a central securities depository or participant, as the case may be, must be effected in the manner provided for in Chapter 2 of the Companies Act and the depository rules, where applicable. 10

Records

43. If the records of a licensed central securities depository are inconsistent with those of a participant regarding securities deposited with the licensed central securities depository by the participant, the records of the central securities depository are deemed to be correct until the contrary is proved. 15

Warranty and indemnity

44. (1) Every person who deposits securities with a participant or central securities depository, as the case may be, is deemed to warrant that such person is entitled to deposit the securities deposited by that person and that any document or instruction relating to such securities and lodged or given by that person is genuine and correct in all respects and that person is deemed to have agreed to indemnify the participant or the central securities depository against any claim made upon the participant or central securities depository and against any loss suffered by the participant or central securities depository arising out of such deposit or breach of warranty. 20 25

(2) A central securities depository is not deemed to have given a warranty or indemnity referred to in subsection (1).

(3) Every person, whether a client, participant or central securities depository, must provide the indemnities referred to in section 55 of the Companies Act. 30

Attachment

45. (1) The attachment of securities or an interest in securities is only complete when—

- (a) written notice of the attachment has been given by the sheriff to the person that holds the securities in a securities account or a central securities account; and 35
- (b) the central securities depository, participant, authorised user or nominee, as the case may be, has made an entry of the attachment on the central securities account or securities account, as the case may be, on behalf of the sheriff. 40

(2) A central securities depository, participant or authorised user, as the case may be, must ensure that only the securities or interest in securities of the person against whom the warrant of execution was granted, are attached.

Kutfola lilungelo lekudlulisa

41. (1) Lokungenako lokwentiwe ngekuhambisana nesigaba 38 noma 39 itawuba semtsetfweni ibuye isebente ngekumelana nebesitsatfu ngaphandle kwanoma kuphi kukhwabanisa noma lokusemtsetfweni lokungabangela kutsi lolokufakiwe kube nemtselela, ngaphandle kwekutsi lona lodluliselako kulamatransekshini kubangele kutsi lolokungenako kube yincenye noma abe nelwati ngalengkohlakalo noma lokusemtsetfweni. 5

(2) Lesigaba asenti kancono loluhla lwetintfo letibalulekile letincunywe sigaba 40.

(3) Sigaba 53(4), (5) na (6) se-*Companies Act* siyasebenta kulokungenelelako lokubalwe kusigatjana (1) ngaletingucuko letidzingwa kulengcikitsi. 10

Kuhociswa kanye nekuniketwa kwemasheya

42. Kuhociswa kwemasheya langekho emtsetfweni labanjwe kumasheya langekho emtsetfweni labhaliswe kusikhungo semasheya lesisemkhatsini noma labangenelelako, njengoba kungabe kubekiwe, kufanele kusetjentiswe ngendlela leniketwe kusahluko 2 se-*Companies Act* kanye nemitsetfo yesikhungo, lapho kufanele khona. 15

Emarekhodi

43. Uma ngabe emarekhodi esilulu semasheya lesisemkhatsini lesibhalisiwe awahambisani nalabo alabangenelelako ngalokuphatselene nemasheya lafakiwe kusilulu semasheya lesisemkhatsini lesibhalisiwe ngulaba labangenelelako, emarekhodi eSikhungo semasheya lesisemkhatsini kufanele kutsi ahambe kahle kute kucinisekiswa lolokukhona. 20

Iwaranti nekuvikeleka

44. (1) Wonkhe umuntfu, lofaka emasheya nalabangenelelako noma ligatja lemasheya lasemkhatsini, njengoba kungabe kubekiwe, kufanele kucinisekiswa kutsi lomuntfu lonjalo kufanele afake lemasheya afakwe ngulomuntfu nekutsi noma ngabe muphi umculu noma imiyalelo lehambisana nalamasheya kanye kufakwe noma kuniketwe ngulowo muntfu kunesicininiseko futsi kukahle kuto tonkhe tindzawo kanye lomuntfu kufanele kutsi avume kucinisekisa labangenelelako noma Sikhungo semasheya lesisemkhatsini ngekumelana nanoma maphi emakleyimu lentiwe ngaphansi kwalabangenelelako noma sikhungo semasheya lesisemkhatsini kanye nangekumelana kwanoma ngukuphi lokulahlekele labangenelelako noma sikhungo semasheya lesisemkhatsini lokutawuvela kuloko lokufakiwe noma kwephulwa kwesivumelwano. 30

(2) Sikhungo semasheya lesisemkhatsini akukafaneli kutsi kuniketwe sivumelwano noma sincumo lesicondziswe kusigatjana (1).

(3) Bonkhe bantfu, noima iklayenti, labangenelelako noma Sikhungo semasheya lesisemkhatsini kufanele banikete bufakazi lobubalwe kusigaba 55 se-*Companies Act*. 35

Lokufakiwe

45. (1) Lokufakiwe kwemasheya noma intalo yemasheya iyaphelela kuphela uma ngabe—

(a) satiso lesibhaliwe salokufakiwe siniketwe sigijimi kulomuntfu lonemasheya ku-akhawunti yemasheya noma ku-akhawunti yemasheya lesemkhatsini; kanye 40

(b) neligatja lemasheya lasemkhatsini, labangenelelako, umsebentisi losemtsetfweni noma lophakanyisiwe, njengoba kungabe kubekiwe, kube nalokufakwako kwalokufakiwe kule-akhawunti yemasheya lesemkhatsini noma ema-akhawunti emasheya, njengoba kungabe kubekiwe, ngekumelela umgimjimi. 45

(2) Ligatja lemasheya lasemkhatsini, labangenelelako noma umsebentisi losemtsetfweni, njengoba kungabe kubekiwe, kufanele kucinisekiswa kutsi utawuba ngemasheya kuphela noma intalo kumasheya alomuntfu lapho khona lesicininiseko noma kucalwa ngawo kuniketiwe kufakiwe. 50

Effectiveness in insolvency

46. Any issuance, deposit, withdrawal, transfer, attachment, pledge, cession *in securitatem debiti* or other instruction in respect of securities or an interest in securities that has become effective against third parties, is effective against the insolvency administrator and creditors in any insolvency proceeding. 5

CHAPTER V

CLEARING HOUSE

Licensing of clearing house

Application for clearing house licence

47. (1) A clearing house must be licensed under section 49. 10
(2) A juristic person may apply to the registrar for a clearing house licence.
(3) An application for a clearing house licence must—
(a) be made in the manner and contain the information prescribed by the registrar;
(b) show that the applicant complies with the requirements listed in section 48;
(c) be accompanied by— 15
(i) a copy of the founding documents of the applicant;
(ii) such information in respect of members of the controlling body of the applicant as may be prescribed by the registrar;
(iii) the application fee prescribed by the registrar;
(iv) in relation to an application for an associated clearing house licence, 20
particulars of the applicant's proposed appointment by an exchange; and
(v) in relation to an application for an independent clearing house licence, a copy of the proposed clearing house rules that must comply with section 53; and
(d) be supplemented by any additional information that the registrar may 25
reasonably require.
(4) (a) The registrar must publish a notice of an application for a clearing house licence in two national newspapers at the expense of the applicant and on the official website.
(b) The notice must state— 30
(i) the name of the applicant; and
(ii) in relation to an independent clearing house, where the clearing house rules may be inspected by members of the public; and
(iii) the period within and the process by which objections to the application may be lodged with the registrar. 35

Requirements applicable to applicant for clearing house licence and licensed clearing house

48. (1) An applicant for a clearing house licence and a licensed clearing house must—
(a) subject to the requirements prescribed by the Minister, have sufficient assets and resources, which resources include financial, management and human 40
resources with appropriate experience, to perform its functions as set out in this Act;
(b) governance arrangements that are clear and transparent, promote the safety and efficiency of the clearing house, and support the stability of the broader financial system, other relevant public interest considerations, and the 45
objectives of relevant stakeholders;
(c) demonstrate that the fit and proper requirements prescribed by the registrar are met by the applicant or the licensed clearing house, as the case may be, its directors and senior management;

Kuphumelela ekutfunjweni kwemphahla

46. Noma kuphi lokuniketiwe, lokufakiwe, lokukhishiwe, lokudluliselwe, lokufakiwe, sifungo, kuyekela kuvikela sikweleti noma leminye imiyalelo ngekuhambisana nemasheya noma intalo yemasheya; lesetisebenta ngekumelana nalasebenta ngekuba besitsatfu kuba nemphumelelo ngekumelana nekuhlakatwa kwekulawulwa kanye nalabaniketa tikweleti kunoma ngabe nguyiphi inchubo yekuhlakata. 5

SAHLUKO V

INDLU LEGUNYATAKO

Ilayisensi yendlu legunyatako 10

Kufaka sicelo selayisensi yendlu legunyatako

47. (1) Indlu legunyatako kufanele iniketwe ilayisensi ngaphansi kwesigab 49;
(2) Umuntfu losemtsetfweni kufanele afake sicelo kunobhala kwentela indlu legunyatako.
(3) Sicelo selayisensi yendlu legunyatako kufanele— 15
(a) sentiwe futsi sibe nelwatiso ngendlela lebekwe ngunobhala;
(b) sikhombise kutsi lofake sicelo uhambisana netidzingo letibhalwe kusigaba 48;
(c) Sihambisane ne— 20
(i) ikhophi yemiculu yebanikati bekucala;
(ii) Lolo lwatiso ngekuhambisana nemalunga alomtimba lolawulako walofake sicelo njengoba kungabe kubekiwe ngunobhala;
(iii) imali yesicelo lebekwe ngunobhala;
(iv) ngekuhambisana nesicelo lesihambisana nelayisensi yalenywe indlu legunyatako, imininingwane yalabafake sicelo neliphuzu leliphaka- 25
nyiswe ligatja; kanye
(v) nekuhambisana nesicelo lesiphatselene nelayisensi yendlu legunyatako, ikhophi yemitsetfo yendlu legunyatako lekufanele kuhambisane nesigaba 53; kanye
(d) nekusekelwa nganoma luphi lwatiso lolungetelelwe lolungadzingwa nguno- 30
bhala.
(4) (a) Nobhala kufanele akhiphe satiso sesicelo selayisensi yendlu legunyatako kumaphephandzaba lamabili avelonkhe ngetindleko talofake sicelo kanye nakuwebhu lesemtsetfweni.
(b) Lesatiso kufanele sisho— 35
(i) ligama lalofake sicelo;
(ii) ngalokuphatselene nendlu legunyatako letimele, lapho khona imitsetfo yendlu legunyatako ingahlolwa malunga emmango; kanye
(iii) nesikhatsi lapho khona tiphakamiso tekungavumelani nalesicelo kufanele sifakwe khona ngencubo yanobhala. 40

Tidzingo letikhona kulabafaka sicelo sekuba nelayisensi yeligatja lendlu legunyatako

48. (1) Lofake sicelo selayisensi yendlu legunyatako kanye neseligatja leligunyatiwe lelibhalisiwe kufanele—
(a) ngekuya ngetidzingo letibhalwe nguNgcongcoshe, sibe nemathulusi kanye nemitfombolusito leyanele, letifaka ekhatsi imali, kulawula netebasebenti nelati lwemsebenti lolufanele, kwenta imisebenti yabo njengoba kubekiwe kuloMtsetfo;
(b) kuhlelwa kwekulawula lokucacile nalokukhanyako, kutfutukisa kuphepha nekuphumelela kwendlu legunyatako, nekusekela kusimama kwetimali tonkhana, naletinye tinshisekelo temmango letifanele tinake, kanye netinjongo talabatsintsekako labafanele;
(c) kukhombisa kutsi letidzingo letingenako naletifanele letibalwe ngunobhala tiyatfolakala kulona lofake sicelo noma ligatja leligunyatiwe lelibhalisiwe, njengoba kungabe kubekiwe, baholi bayo kanye nebaphatsi labasetulu; 55

- (d) comply with the requirements prescribed by the registrar for the clearing or settlement of transactions in securities, or both;
 - (e) implement an effective and reliable infrastructure to facilitate the clearing of securities cleared by the clearing house;
 - (f) implement effective arrangements to manage the material risks associated with the operation of a clearing house; 5
 - (g) have made arrangements for security and back-up procedures to ensure the integrity of the records of transactions cleared, settled or cleared and settled through the clearing house; and
 - (h) in relation to an applicant for an independent clearing house licence or a licensed independent clearing house, have made arrangements for the efficient and effective supervision of clearing members so as to ensure compliance with the clearing house rules and clearing house directives and this Act. 10
- (2) The registrar may—
- (a) require an applicant or a licensed clearing house to furnish such additional information, or require such information to be verified, as the registrar may deem necessary; 15
 - (b) take into consideration any other information regarding the applicant or a licensed clearing house, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant or a licensed clearing house and the latter is given a reasonable opportunity to respond thereto; and 20
 - (c) prescribe any of the requirements referred to in subsection (1) in greater detail.

Licensing of clearing house

- 49.** (1) The registrar may, after consideration of any objection received as a result of the notice referred to in section 47(4) and subject to the conditions which the registrar may consider appropriate, grant a clearing house licence to perform the functions referred to in section 50, if— 25
- (a) the applicant complies with the relevant requirements of this Act; and
 - (b) the objects of this Act referred to in section 2 will be furthered by the granting of a clearing house licence. 30
- (2) The clearing house licence—
- (a) must specify the functions that may be performed by the clearing house and the securities in respect of which those functions may be performed, any other terms and conditions of the licence, the registered office of the clearing house and the places where the clearing house may be operated, and stipulate that the clearing house may not be operated at any other place without the prior written approval of the registrar; and 35
 - (b) may specify that insurance, a guarantee, compensation fund, or other warranty must be in place to enable the clearing house to provide compensation, subject to the clearing house rules, to clients of clearing members. 40
- (3) A clearing house may at any time apply to the registrar for an amendment of the terms of the licence and the conditions subject to which the licence was granted.
- (4) (a) The registrar must publish a notice of an application for an amendment of the terms of a clearing house licence and the conditions subject to which the licence was granted in two national newspapers at the expense of the applicant and on the official website. 45
- (b) The notice must state—
- (i) the name of the applicant;
 - (ii) the nature of the proposed amendments; and 50
 - (iii) the period within which objections to the application may be lodged with the registrar.

- (d) kuhambisana netidzingo letibekwe ngunobhala kwentela kugunyata noma kucedzelelwa kwematansekshini kumasheya, noma kokubili;
- (e) kusebentisa indlelas lekahle naletsembekile yetinsita kuhambisana nekugunyatwa kwemasheya lagunyatwe sikhungo lesigunyatako;
- (f) kusebentisa tivumelwano letikahle kulawula lokuyimphahla lenebungoti lehambisana nekusebenta kwendlu legunyatako; 5
- (g) sewente emalungiselelo ekuvikela kanye netindlela tekulandzelela kucinisekisa sitfunti semerekhodi ematansekshini lagunyatiwe, lakhishiwe noma lagunyatiwe akhokhelwa kulendlu legunyatwako; kanye
- (h) ngekuhambisana nekufaka sicelo selayisensi yendlu legunyatiwe letimele noma sikhungo lesitimele lesigunyatiwe lesinemvume kanye nekulawulwa kwelilunga leligunyatiwe kute kutsi kucinisekise kuhambisana nemitsetfo yendlu legunyatako kanye nemibandzela yendlu legunyatako kanye naloMtsetfo. 10
- (2) Nobhala anga— 15
- (a) cela lofake sicelo noma ligatja leligunyatiwe lelibhalisiwe kutsi aletse lolwatiso lolungetiwe, noma adzinge lolwatiso kutsi lucinisekise, njengoba nobhala angakubona kufanele; kanye
- (b) nekunaka noma luphi lwatiso loluphatselene nalofake sicelo noma ligatja leligunyatiwe lelibhalisiwe, uma ngabe lolo lwatiso luvetiwe kulolofake sicelo noma ligatja leligunyatiwe lelibhalisiwe kanye nalolokunye kuniketwe litfuba lelifanele lekuphendvula ngaloko; kanye 20
- (c) kubekwe noma kuphi kwalolokufunekako lokubalwe kusigatjana (1) ngemininingwane lephelele. (1)

Ilayisensi yendlu legunyatako

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49. (1) Nobhala anga, ngemuva kwekunaka kwanoma ngukuphi lokungakavunywa lokutfolakele ngekuhambisana nesatiso lesibalwe kusigaba 47(4) nangekuya ngemibandzela lapho khona nobhala angakubona kufanele, anikete ilayisensi yendlu legunyatako kutsi kwentiwe umsebenti lobalwe kusigaba 50 uma ngabe—

- (a) lolofake sicelo uhambisana naletidzingo letifanele taloMtsetfo; kanye 30
- (b) netinjongo taloMtsetfo letibalwe kusigaba 2 titawuchutjekiswa ngekuniketwa kwelayisensi yendlu legunyatako.
- (2) Ilayisensi yendlu legunyatako—
- (a) kufanele ichaze lemisebenti lekufanele yentiwe ngulendlu legunyatako kanye nalamasheya lapho khona lemisebenti ingentiwa khona, noma ngabe nguyiphi leminyane imibandzela yalayisensi, lelihovisi lalendlu legunyatako lelibhaliwe naletindzawo lapho khona lendlu legunyatako kufanele isebentele khona, nekuchaza kutsi lendlu legunyatako ingeke isebentele kunoma ngabe nguyiphi indzawo ngaphandle kwemvume lebhaliwe phansi yanobhala; kanye 35
- (b) angachaza kutsi umshwalensi, siciniseko, sikhwama sesincepheteliso, noma siphi lesinye sicinisekiso kufanele sibekwe kahle kwentela kutsi imitsetfo yendlu ndlu legunyatako, kumaklayenti elilunga leligunyatiwe. 40
- (3) Indlu legunyatiwe ingasebentisa noma ngabe ngasiphi sikhatsi ifake sicelo kunobhala kwentela kuchitjiyelwa kwemibandzela yelayisensi nemibandzela lekwaniketwa ngaphansi kwayo lelayisensi. 45
- (4) (a) Nobhala kufanele akhiphe satiso sesicelo sekuchibiyela kwemibandzela yendlu legunyatako kanye neibandzela lekwaniketwa ilayisensi ngaphansi kwayo kumaphephandzaba lamabili avelonkhe ngekwetindleko talona lofake sicelo kanye nakuwebhu lesemsetfweni.
- (b) Lesatiso kufanele sisho kutsi— 50
- (i) Ligama lalona lofake sicelo;
- (ii) indlela letichibiyelo letiphakanyisiwe tibukeka ngayo; kanye
- (iii) sikhatsi lapho khona tinjongo talesicelo kufanele tifakwe kunobhala.

Functions of licensed clearing house

Functions of licensed clearing house and power of registrar to assume responsibility for functions

- 50.** (1) A licensed clearing house must conduct its business in a fair and transparent manner with due regard to the rights of clearing members and their clients. 5
- (2) A licensed clearing house—
- (a) must provide an infrastructure for the clearing of securities through the clearing house;
 - (b) must, as soon as it becomes aware thereof, inform the registrar of any matter that it reasonably believes may pose systemic risk to the financial markets; 10
 - (c) must manage the clearing of transactions in securities which it accepts for clearing and, if licensed to do so, the settlement of transactions in those securities;
 - (d) must, on request, disclose to the registrar information on the exposures that a clearing member underwrites with the clearing house; 15
 - (e) must have appropriate arrangements in place to—
 - (i) ensure that it has efficient and timely access to funds and assets held as collateral for the due performance of the obligations of clearing members; and
 - (ii) protect the funds and collateral of clearing members in the event of a default of a clearing member; 20
 - (f) may do all other things that are necessary for, incidental or conducive to the proper operation of a clearing house not inconsistent with this Act.
- (3) A licensed independent clearing house, in addition to the functions referred to in subsection (2)— 25
- (a) must issue clearing house rules;
 - (b) must enforce the clearing house rules;
 - (c) must supervise compliance by its clearing members with the clearing house rules and clearing house directives;
 - (d) must supervise compliance with this Act by its clearing members, report any non-compliance to the registrar and assist the registrar in enforcing this Act; 30
 - (e) may issue clearing house directives;
 - (f) may amend or suspend the clearing house rules in terms of section 71;
 - (g) may make different rules for clearing and settlement of different securities and different clearing members; 35
 - (h) must consult relevant regulated persons when making or amending clearing house rules pertaining to clearing and settlement;
 - (i) must disclose to clearing members the fees and charges required by it for its services; which disclosure must give the specific monetary amount for each service rendered; or if such amount is not pre-determinable, the basis of the calculation; 40
 - (j) must notify the registrar as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it, or when it has received notification regarding insolvency proceedings against clearing members; and
 - (k) must notify the registrar as soon as it becomes aware that a clearing member will cease to be a clearing member. 45
- (4) (a) The registrar may assume responsibility for one or more of the regulatory and supervisory functions referred to in subsections (2) and (3) if the registrar considers it necessary in order to achieve the objects of this Act referred to in section 2.
- (b) The registrar must, before assuming responsibility as contemplated in paragraph (a)— 50
- (i) inform the clearing house of the registrar's intention to assume responsibility;
 - (ii) give the clearing house the reasons for the intended assumption; and
 - (iii) call upon the clearing house to show cause within a period specified by the registrar why responsibility should not be assumed by the registrar. 55

Imisebenti yendlu legunyatako

Imisebenti yeligatja leligunyatiwe lelibhalisiwe nemandla anobhala ekucala umsebenti

50. (1) Indlu legunyatako yemasheya kufanele yenta umsebenti wayo ngendlela lengavuni licala nangendlela lekhanyako ngalokuphatselene nemalungelo emaalunga lagunyatako nemaklayenti abo. 5

(2) Indlu legunyatako—

- (a) kufanele kuniketwe tinsitancanti kwentela kuhunyatw kwemasheya lagunya-twe kulendlu yekugunyata;
- (b) kufanele ngalesikhatsi bakwati kutsi, batise nobhala nganoma luphi ludzaba lekakholelwa ekutseni lungahle lubange tingoti teluhlelo kutimakethe temnotfo; 10
- (c) kufanele kulawulwe kugunyatwa kwematransekshini kumasheya lekuvunye-lwana ngako kute kugunyatwe kanye, uma ngabe kuniketwe ilayisensi yekwenta njalo, kucedzelelwa kwematransekshini ngalawo masheya; 15
- (d) kufanele, ngekwesicelo, avetele nobhala lwatiso ngekuvetwa kutsi lilunga leligunyatiwe linemvume nalendlu legunyatako;
- (e) kufanele kube nemalungiselelo lafanele endzaweni—
 - (i) yekucinisekisa ifinyelela ngalokufanele nangesikhatsi kutimali nemphahla lebanjwe njengesivumelwano kwentela kusebentwa ngalemitfwalo yemalunga lagunyatako, kanye 20
 - (ii) kuvikela timalinekuhlanganiswa kwemalunga lagunyatako uma ngabe kunekungahambi kahle kwelilunga leligunyatako;
- (f) angenta tonkhe letinye tintfo letifanele, ngalokuyingoti noma letifanele kwentiwa kwalomsebenti wendlu legunyatako lokungahambisani nalo-Mtsetfo.. 25

(3) Indlu legunyatwako lengalisiwe letimele, ngekuhambisana nemisebenti ngalokubalwe kusigatjana (2)—

- (a) kufanele bakhiphe lemitsetfo yendlu legunyatako;
- (b) kufanele basebentise imitsetfo yendlu legunyatako 30
- (c) kufanele alawule indlela lekusetjentwa ngayo ngemalunga lagunyatiwe nemitsetfo yendlu legunyatako kanye netinkhomba tendlu legunyatako;
- (d) kufanele balawule indlela lekusetjentwa ngayo ngaloMtsetfo ngemalunga lagunyatiwe, kubikwe noma kuphi kungahambisani kunobhala nekusita nobhala ekwenteni loMtsetfo; 35
- (e) angasebentisa tinkhomba tendlu legunyatako;
- (f) angachibiyela noma acitse imitsetfo yendlu legunyatako ngekwesigaba 72;
- (g) angenta imitsetfo lehlukene yekugunyata nekucedzelela emasheya lahlukene kanye nelilunga leligunyatiwe lelilukile;
- (i) kufanele batsintsane nebantfu labasemtsetfweni labafanele ngalesikhatsi benta noma bachibiyela imitsetfo yendlu legunyatako ngalokuphatselene nekugunyata nekucedzela; , loko kuveta kufanele kunikete lelinani lemali lekungilo lemsebenti ngamunye lowentiwe; noma uma ngabe lelo linani lingacombeleki, lesisekelo salokubala; 40
- (j) kufanele kwatiswe nobhala ngekushesha nakucalwa ngenchubo yekuhlakata noma uma inchubo yekuhlakatwa seyicalile ngekumelana nabo, noma uma ngabe sebatfole satiso ngalokuphatselene nenchubo yekuhlakata ngekumelana nemalunga lagunyatako; kanye 45
- (k) kufanele atise nobhala ngalesikhatsi baba nelwati lekutsi lilunga leligunyatiwe litawuyekela kutsi libe lilunga leligunyatiwe. 50

(4) (a) Nobhala angacala umsebenti kumunye noma lengetulu yalemisebenti yekulawulwa noma kuphatfwa lebalwe kusigatjana (2) na (3) uma ngabe nobhala akubona kufanele kute kutsi afinyelele kutinjongo taloMtsetfo lobalwe kusigaba 2.

(b) Nobhala kufanele, ngembi kwecucala umsebenti njengoba kuvetwe kundzima (a)— 55

- (i) atise lendlu legunyatako ngetinjongo tanobhala tekutsi acale kwenta umsebenti;
- (ii) anikete indlu legunyatako tizatfu talokucala lokuhlosiwe; kanye
- (iii) kubita lendlu legunyatako kutsi ikhombise kungakapheli sikhatsi lesibekiwe ngunobhala ngalesikhatsi sekutsi kungani umsebenti kungafaneli uncunye ngunobhala. 60

Maintenance of insurance, guarantee, compensation fund or other warranty

51. (1) An independent clearing house required under section 49(2)(b) to have insurance, a guarantee, a compensation fund, or other warranty in place, may impose a fee on any person involved in a transaction in listed or unlisted securities cleared or settled or both through the clearing house for the purpose of maintaining that insurance, guarantee, compensation fund or other warranty. 5

(2) Any funds received or held by an independent clearing house for the purpose of maintaining the insurance, guarantee, compensation fund or other warranty contemplated in section 49(2)(b), are for all intents and purposes considered to be “trust property” as defined in the Financial Institutions (Protection of Funds) Act and that Act applies to those funds. 10

Funds of mutual independent clearing house

52. A mutual independent clearing house may require its clearing members to contribute towards the funds of the clearing house for the purpose of carrying on the business of the clearing house. 15

Clearing house rules

Requirements with which clearing house rules must comply

53. (1) The clearing house rules must be consistent with this Act.

(2) The clearing house rules must provide—

- (a) for the manner in which and the terms and conditions subject to which transactions in listed and unlisted securities must be cleared or settled or cleared and settled through the clearing house; 20
- (b) for equitable criteria for authorisation and exclusion of clearing members and, in particular, that no person may be admitted as a clearing member or allowed to continue such person’s business as a clearing member unless the person— 25
 - (i) is of good character and high business integrity or, in the case of a corporate body, is managed by persons who are of good character and high business integrity; and
 - (ii) complies or, in the case of a corporate body, is managed by persons or employs persons who comply with the standards of training, experience and other qualifications required by the clearing house rules; 30
- (c) must provide for an orderly process by which a clearing member ceases to be a clearing member;
- (d) for the authorisation and criteria for authorisation of the clearing services or settlement services or both clearing services and settlement services that a clearing member may provide and the type of securities for which a clearing member may provide clearing services or settlement services or both, and if there are different categories of — 35
 - (i) clearing members, for the authorisation and criteria for authorisation of the clearing services or settlement services or both clearing services and settlement services that each category of clearing member may provide; 40
 - (ii) securities, for the authorisation and criteria for authorisation of the categories in respect of which a clearing member may provide one or more clearing services or settlement services or both clearing services and settlement services; 45
- (e) (i) for the capital adequacy, guarantee and risk management requirements with which a clearing member must comply;
- (ii) that capital adequacy, guarantee and risk management requirements must be prudent although they may differ in respect of different categories of clearing members or different activities of a clearing member’s business; 50

Kuphatfwa kwemshwalense, siciniseko, sikhwama sekuncepheteliswa noma lenye iwaranti

51. (1) Indlu legunyatako letimele ledzingeka ngaphansi kwesigaba 49(2)(b) kutsi abe nemshwalensi, siciniseko, sikhwama sesincepheteliso, noma lenye iwaranti lekhone, kungabekwa imali kunoma ngubani umuntfu longenelela kutransekshini kuluhla noma kumamasheya labhalisiwe lagunyatiwe noma lacedzelelwe noma kokubili ngekusebentisa indlu legunyatako ngetizatfu tekulondza lomshwalensi, siciniseko, sikhwama sesincepheteliso noma lenye iwaranti. 5

(2) Noma tiphi timali letitfolwe noma letibanjwe yindlu letimele legunyatako kwentela tizatfu tekugcina umshwalensi, siciniseko, sikhwama sekuncepheteliso noma lenye iwaranti lebalwe kusigaba 49(2)(b), kwentelwa tizatfu letitsatfwa njngempahla yebatsenjwa njengoba kuchazwe ku-*Financial Institutions (Protection of Funds) Act* kantsi lowo Mtsetfo usebenta kuleto timali. 10

Timali tendlu legunyatako letimele

52. Indlu legunyatako letimele ingadzinga kutsi lilunga leligunyatiwe kutsi bafake sandla kuletimali tendlu legunyatako kwentela tizatfu tekuhambisa ibhizinisi yendlu legunyatako. 15

Imitsetfo yendlu legunyatako

Tidzingo lekufanele indlu legunyatako nemitsetfo lekufanele iyilandzele

53. (1) Imitsetfo yendlu legunyatako kufanele ihambisane naloMtsetfo. 20

(2) Imitsetfo yendlu legunyatako kufanele inikete—

(a) ngalendlela lekufanele kanye nemigomo nemibandzela lekubhaliswe ngayo ematransekshini kanye nemasheya langakabhaliswa kufanele agunyatwe noma akhokhelwe noma agunyatwe abuye akhokholwe yindlu legunyatako; 25

(b) indlela lesebentisekako yekuvumela kanye nekukhishwa kwelilunga leligunyatiwe kanye, ngalokufanako, kutsi akekho umuntfu longatsatfwa njngelilunga leligunyatiwe noma avunyelwe kutsi achubeke nemsebenti walowo muntfu njenge lilunga leligunyatiwe ngaphandl kwekutsi lomuntfu— 30

(i) unesimo lesihle kanye nelizinga leliphakame kumaabhizinisi noma, uma ngabe kumtimba wemabhizinisi, uphetfwe bantfu labatiphetse kahle nalabaphakeme kutemabhizinisi; kanye 30

(ii) kuhambisana noma, uma ngabe kungumtimba wabosomabhizinisi, ulawulwa bantfu noma ucasha bantfu labahambiana nemazinga ekucesha, lwati kanye naletinye ticu letidzingwa mitsetfo yendlu legunyatako; 35

(c) kufanele kuniketwe kunchubo lehlelekile lapho khona lilunga leligunyatiwe liyekela kuba lilunga leligunyatiwe;

(d) kwentela kuvunyelwa noma indlela yekuniketa imvume yemisebenti yendlu legunyatako noma imisebenti yekucedzelela noma imisebenti yomibili yekugunyata kanye nemisebenti yekucedzelela lapho lilunga leligunyatiwe linganiketa kanye naloluhlobo lwemasheya lapho khona lilunga leligunyatiwe linganiketa tinsita tekugunyata noma tekucedzelela noma kokubili, kantsi uma ngabe kunemikhakha lehlukene ye— 40

(i) lilunga leligunyatiwe, kwentela kucinisekisa nendlela yekucinisekisa kwemisebenti yekugunyata noma kucedzelela noma kokubili kwekumisebenti yekugunyata nemisebenti yekucedzelela kutsi lilunga leligunyatiwe linganiketa; 45

(ii) Emasheya, ekucinisekisa nendlela yekucinisekisa kwalemikhakha lapho khona lilunga leligunyatiwe linganiketa kunye noma ngetulu kwemisebenti yekucinisekisa noma imisebenti yekucedzelela noma kokubili imisebenti yekugunyata nemisebenti yekucedzelela; 50

(e) (i) Kwentela tindzaba temali, siciniseko nekulawulwa kwebungoti netidzingo lapho khona lilunga leligunyatiwe kufanele lihambisane nato; 55

(ii) Lokuneliseka ngemali, siciniseko netidzingo tekulawulwa kwebungoti kufanele kutsi kubaluleke noma ngabe kungahluka ngekuhambisana nemikhakha lehlukene yelilunga leligunyatiwe noma imisebenti lehlukene yemabhizinisi elilunga leligunyatiwe; 55

- (f) if there are different categories of clearing members, for the restriction of the activities of such categories subject to different conditions;
- (g) for the monitoring of settlement obligations of clearing members and their clients;
- (h) for the circumstances in which the clearing house may refuse to settle or clear a transaction in securities; 5
- (i) for the manner in which the clearing house monitors compliance by its clearing members with this Act, the clearing house rules and the clearing house directives;
- (j) for the manner in which a clearing member is required to conduct its business generally; 10
- (k) for the—
 - (i) recording of transactions cleared or settled by the clearing house; and
 - (ii) monitoring of compliance by clearing members with this Act, and the clearing house rules and clearing house directives; 15
- (l) for the manner in which complaints against a clearing member or officer or employee of a clearing member must be investigated;
- (m) for the equitable and expeditious resolution of disputes between clearing members and between clearing members and their clients in respect of the clearing or settlement of transactions in listed and unlisted securities, 20
- (n) for a process whereby complaints by clearing members against the clearing house in respect of the exercise of functions by the clearing house may be made, considered and responded to;
- (o) for the steps to be taken by the clearing house, or a person to whom the clearing house has delegated its investigative and disciplinary functions, to investigate and discipline a clearing member or officer or employee of a clearing member who contravenes or fails to comply with the clearing house rules, the interim clearing house rules or the clearing house directives and for a report on the disciplinary proceedings to be furnished to the registrar within 30 days after the completion of such proceedings; 25 30
- (p) for the manner in which a clearing member, officer or employee of a clearing member who is believed to—
 - (i) be able to furnish any information on the subject of any investigation referred to in this subsection; or
 - (ii) have in such person's possession or under such person's control any document which has bearing upon that subject, may be required to appear before a person conducting an investigation, to be interrogated or to produce such document; 35
- (q) where appropriate, in respect of the insurance, guarantee, compensation fund or other warranty referred to in section 51, for— 40
 - (i) the persons who must contribute to maintain such insurance, guarantee, compensation fund or other warranty;
 - (ii) the amount of the fee imposed by the clearing house for this purpose;
 - (iii) different categories of claims that may be brought against the insurance, guarantee, compensation fund or other warranty; 45
 - (iv) restrictions on the amount of any claim;
 - (v) the control and administration of the insurance, guarantee, compensation fund or other warranty;
 - (vi) the ownership of the insurance, guarantee, compensation fund or other warranty; 50
- (r) that clearing members must disclose to clients the fees for their services, which disclosure must give the specific monetary amount for each service rendered; or if such amount is not pre-determinable, the basis of the calculation;
- (s) for the purposes for which, and the process by which, a clearing house may issue clearing house directives; 55

- (f) Uma ngabe kunemikhakha lehlukene yelilunga leligunyatiwe, kwentela kulawula lemisebenti yalemikhakha ngekuya ngemibandzela lehlukene;
- (g) Kwentela kulandzelela kwekukhokhelwa kwalokubekiwe kwelilunga leligunyatiwe kanye nemaklayenti abo;
- (h) Kwentela tikhatsi lapho khona indlu legunyatako ingahle ingavumi 5 kucedzelela noma kugunyata itransekshini kumasheya;
- (i) Ngalandlela yekutsi lendlu legunyatako ilandzelela kuhambisana nemtsetfo kwelilunga leligunyatiwe naloMtsetfo, lemitsetfo yendlu legunyatako kanye netinkhambiso tendlu legunyatako;
- (j) Ngalandlela lilunga leligunyatiwe kufanele liphatse ngayo ibhizinisi 10 ngalokujwayelekile;
- (k) Kwentela—
(i) Kubhalwa kwematransekshini lagunyatiwe noma kucedzelela lokwentiwa yindlu legunyatako; kanye
(ii) kuhambisana nemtsetfo kwelilunga leligunyatiwe naloMtsetfo, 15 lemitsetfo yendlu legunyatako kanye netinkhambiso tendlu legunyatako;
- (l) Ngendlela tikhalo letibekwe lilunga leligunyatiwe noma sisebenti noma umsebenti welilunga leligunyatiwe kufanele liphenywe ngayo;
- (m) Kwentela kusebentiseka nesisombululo lesiphutfumako sekungavisisani emkhatsini wemalunga lagunyatiwe nasemkhatsini welilunga leligunyatiwe 20 kanye nemaklayenti abo ngekuhambisana nekugunyata nematransekshini ladluliselako kuluhla lwemasheya labhalisiwe;
- (n) kwentela inchubo lapho khona emalunga lagunyatako lamelana nendlu legunyatako ngalokuphatselene nemsebenti wendlu legunyatako kungentiwa, 25 kunakwe kubuye kuphendvulwe;
- (o) Kwentela tinyatselo lekufanele titsatfwe yindlu legunyatako, noma umuntfu lapho khona lendlu legunyatako kutfunyelwe baphenyi babo kanye nemisebenti yekubuyisa endleleni, kuphenya nekubuyisa endleleni lilunga leligunyatiwe noma sisebenti noma umsebenti welilunga leligunyatiwe 30 longahambisani noma lohluleka kulandzelela imitsetfo yendlu legunyatako, lemitsetfo yendlu legunyatako lekhona nyalo noma tinkhambiso tendlu legunyatako kanye nembiko kulenchubo yekubuyisa endleleni kutsi tigcwaliselwe kunobhala kungakapheli emalanga langema-30 ngemuva kwekucedzelwa kwalenchubo;
- (p) Ngendlela tikhalo letibekwe lilunga leligunyatiwe noma sisebenti noma 35 umsebenti welilunga leligunyatiwe lekutsenjwa kutsi—
(i) Kukhona kuniketa noma luphi lwatiso ngesihloko sanoma luphi luphenyo lolubalwe kulesigatjana; noma
(ii) Abenemculo lanawo kuye noma ngaphansi kwalokulawulwa nguye lokunemtselela kuleso sihloko, Angahle adzingeke kutsi avele ngembi 40 kwemuntfu lowenta luphenyo, kutsi ashushiswe noma akhiphe lowo mculu;
- (q) Lapho kufanele khona, ngekuhambisana nemshwalensi, siciniseko, sikhwama sesincepheteliso noma lenye iwaranti lecondziswe kusigaba 50, kwentela—
(i) Umuntfu lekufanele kutsi afake sandla kutsi agcine lomshwalensi, 45 siciniseko, sikhwama sekuncephetelisa noma lenye iwaranti;
(ii) Lelinani lalemali lebekwe ngulendlu legunyatako kwentela lesizatfu;
(iii) Imikhakha lehlukene yemakleyimu lenganiketwa ngekumelana nemshwalensi, siciniseko, sikhwama sesincepheteliso noma lenye iwaranti; 50
(iv) Imibandzela ngelinani lanoma yiphi ikleyimu;
(v) Lokulawula nekuphatfwa kwemshwalense, siciniseko, sikhwama sekuncephetelisa noma lewaranti;
(vi) lobunikati nekuphatfwa kwemshwalense, siciniseko, sikhwama sekuncephetelisa noma lewaranti; 55
- (r) kutsi emalunga lagunyatako kufanele avetele ebaleni kumaklayenti kutimali temisebenti, loko kuvetela ebaleni kufanele kunikete imali lebekiwe lelinani tsite ngemsebenti munye loniketiwe; noma uma ngabe lelo nani alilinganiselwa kusenesikhatsi, lesisusa salokubala;
- (q) Kutsi lilunga leligunyatiwe kufanele livete kumaklayenti timali temisebenti 60 yabo;
- (s) Kwentela tizatfu lapho khona, nenchubo lapho khona, indlu legunyatako inganiketa tinkhambiso tendlu legunyatako;

- (t) for supervisory measures that enable the clearing house to comply with section 50(3)(b), (c) and (d);
 - (u) for the administration of securities held for own account or on behalf of a client by a clearing member, including the settlement of unsettled transactions, under insolvency proceedings in respect of that clearing member; and 5
 - (v) for the authority of, and the manner in, and circumstances under which—
 - (i) a clearing house may limit the revocation of any settlement instruction given by a clearing member or client;
 - (ii) a clearing member or its client may revoke any settlement instruction before the point in time when settlement instructions become irrevocable as determined in the clearing house rules, but prior to settlement; 10
 - (iii) a clearing house or a clearing member may terminate transactions on the commencement of insolvency proceedings;
 - (w) for the recording by a clearing member of transactions or positions cleared by that clearing member through the clearing house; 15
 - (x) circumstances and manner in which a clearing member may advertise or canvass for business;
 - (y) refusal by a clearing house to accept securities issued by any particular issuer with due regard to the clearing and settlement arrangements of an exchange for transactions in those securities; 20
 - (z) for the segregation and portability of funds and securities held as collateral; and
 - (aa) that clearing members must notify the clearing house as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it. 25
- (3) Despite subsection (2), the rules of a clearing house only need to provide for matters relating to settlement if the clearing house is licensed to settle transactions in securities.
- (4) (a) Subject to section 5(1)(c) and (2) and the requirements prescribed by the registrar, the clearing house rules may provide for the approval of external clearing members to be clearing members of the clearing house. 30
- (b) If the clearing house rules provide for the approval of external clearing members to be clearing members of the clearing house, the rules must, in accordance with paragraph(a), provide for the identification of those clearing services or settlement services, or both, that will be authorised and regulated by the clearing house in terms of the clearing house rules and those that will be authorised and regulated by the supervisory authority of the country under whose laws the external clearing member is authorised and supervised. 35
- (5) A clearing house may, with the approval of the registrar, make clearing house rules on matters additional to those listed in subsection (2). 40
- (6) (a) Any rules made in terms of subsection (2)(a), (2)(u) or 2(v) must have due regard for, and not be in conflict with, any applicable depository rules.
- (b) Any rules made in terms of subsection (2)(v) must have due regard for, and not be in conflict with, section 8 of the National Payment System Act.
- (7) A clearing house rule made under this section is binding on— 45
- (i) the clearing house,
 - (ii) the clearing members of the clearing house,
 - (iii) the officers and employees of the clearing house and its clearing members, and
 - (iv) clients of the clearing members. 50

CHAPTER VI

TRADE REPOSITORIES

Application for trade repository licence

54. (1) Subject to the regulations prescribed by the Minister, a trade repository must be licensed under section 56. 55

- (t) Kwentela tindlela tekulawula letivumela indlu legunyatako kutsi ihambisane nesigaba 49(2)(b) na (c);
- (u) Kwentela kulawulwa kwemasheya laphatselwe wena noma ngekuhambisana neklayenti lilunga leligunyatiwe, kufaka ekhatsi kucedzela kwematransekshini langakacedzelelwa, kngaphansi kwencubo yekuhlakatwa ngekuhambisana nelilunga leligunyatiwe; kanye 5
- (v) Kwentela kuphatfwa kwe, nangalendlela lapho, nendlela lapho kwenteka khona—
- (i) Indlu legunyatako kungavimbela lokucitfwa kwanoma nguyiphi imiyalelo yekucedzelela kwelilunga leligunyatiwe noma iklayenti; 10
- (ii) lilunga leligunyatiwe noma emaklayenti angacitsa noma kuphi lokucedzelelwako ngembi kwalesikhatsi uma ngabe imiyalelo yekucedzelela ingasajikiseki ngekwemitsetfo yendlu legunyatako, kodvwa ngembi kwekucedzelela;
- (iii) Indlu legunyatako noma lilunga leligunyatiwe angacedzelela ematransekshini uma ngabe kucalwa inchubo yekuhlakatwa; 15
- (w) Kwentelwa kubhaliswakwematransekshini elilunga leligunyatiwe noma indzawo legunyatawe ngulelo lilunga ngekusebentisa indlu legunyatako;
- (x) Timo nendlela lapho khona lilunga leligunyatiwe lingakhangisa noma likhankasele libhizinisi; kanye 20
- (y) Kungavumeleki lokwentiwa yindlu legunyatako kutsi yamukele emasheya lakhishwa ngunoma ngumuphi loniketa emasheya ngalokuphatselene nekugunyata nekucedzelela emalungiselelo eligatja kwentela ematransekshini kulawo masheya.
- (z) kwentela kuhlukanisa nekusebentiseka kwetimaliu nemasheya labanjwe ndzawonye kanye 25
- (aa) nekutsi emalunga lagunyatako kufanele atise lendlu legunyatako ngekushesha uma ngabe icala inchubo yekuhlakata noma inchubo yekuhlakata ngekumelana nayo.
- (3) Ngaphandle kwesigatjana (2), lemitsetfo yendlu legunyatako idzinga kuniketa kuphela tindzaba letiphatselene nekudluliselwa uma ngabe lendlu legunyatako iniketwe ilayisensi kute kukhokhelwe ematransekshini lakumasheya. 30
- (4) (a) Ngekuya ngesigaba 5(1)(c) na (2), lemitsetfo yalendlu legunyatako ingahle inikete kutsi kuvunyelwe lilunga leligunyatiwe langaphandle kutsi libe lilunga leligunyatiwe lendlu legunyatako. 35
- (b) Uma ngabe imitsetfo yendlu legunyatakokwentela kuvumelwa kwelilunga leligunyatiwe langaphandle kutsi libe lilunga leligunyatiwe lendlu legunyatako, lemitsetfo kufanele, ngekuhambisana nendzima (a), kuniketela kukhomba kwalemisebenti yekugunyata noma imisebenti yekudlulisela, noma kokubili, lokutawugunyatwa kubuye kulawulwe yindlu legunyatako kanye naleyo letawentiwa ibe semtsetfweni ngulabaphetse labaholako balelive ngaphansi kwemitsetfo yelilunga leligunyatiwe langaphandle lisemtsetfweni noma lilawulwa khona. 40
- (5) Indlu legunyatako inga, ngemvume yanobhala, lente imitsetfo yendlu legunyatako ngetindzaba letingetelelwe kulabo lababhaliswe kusigatjana (2).
- (6) (a) Noma miphil imitsetfo leyentiwe ngesigatjana (2)(a), (2)(u) noma 2(v) kufanele kutsi ihambisane, ingangcubutani, nanoma miphil imitsetfo yelibhange. 45
- (b) Noma miphil imitsetfo leyentiwe ngekwasigatjana 2(v), kufanele kutsi ihambisane, ingangcubutani nesigaba 8 se-National Payment System Act.
- (7) Umitsetfo wendlu legunyatako lowentiwe ngaphansi kwesigaba usibopho
- (i) kulendlu legunyatako, 50
- (ii) emalunga lagunyatako alendlu legunyatako,
- (iii) umsebenti netisebenti tendlu legunyatako nemalunga ayo lagunyatako, kanye
- (iv) emaklayenti endlu legunyatako.

SAHLUKO VI

EMABHANGE LAHWEBELANAKO

55

Kufaka sicelo selayisensi yendzawo yekuhwebelana

54. (1) ngekuya ngemitsetfo lemisiwe lebekwe nguNgcongcoshe indzawo yekuhwebelana kufanele iniketwe ilayisensi ngaphansi kwesigaba 56.

- (2) A juristic person may apply to the registrar for a trade repository licence for one or more types of unlisted securities.
- (3) An application for a trade repository licence must—
- (a) be made in the manner and contain the information prescribed by the registrar;
 - (b) show that the applicant complies with the requirements listed in section 55; 5
 - (c) be accompanied by—
 - (i) a copy of the founding documents of the applicant;
 - (ii) such information in respect of members of the controlling body of the applicant as may be prescribed by the registrar; and
 - (iii) the application fee prescribed by the registrar; 10
 - (d) be supplemented by any additional information that the registrar may reasonably require.
- (4) (a) The registrar must publish a notice of an application for a trade repository licence in two national newspapers, at the expense of the applicant, and on the official website. 15
- (b) The notice must state—
- (i) the name of the applicant; and
 - (ii) the period within and the process by which objections to the application may be lodged with the registrar.

Requirements applicable to applicant for trade repository licence and licensed trade repository 20

- 55.** (1) Subject to subsection (2), an applicant for a trade repository licence and a licensed trade repository must—
- (a) subject to the requirements prescribed by the Minister, have assets and resources, which resources include financial, management and human resources with appropriate experience, to perform its duties as set out in this Act; 25
 - (b) have governance arrangements, that are clear and transparent, promote the safety and efficiency of the trade repository, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders; 30
 - (c) demonstrate that the fit and proper requirements prescribed by the registrar are met by the applicant, its directors and senior management;
 - (d) have made arrangements for reliable and secure systems with adequate and scalable capacity for the sustained operation of a trade repository; 35
 - (e) have made arrangements for security and back-up procedures to ensure the integrity of its records of transactions;
 - (f) have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems; 40
 - (g) have objective, non-discriminatory and publicly disclosed requirements for access and participation;
 - (h) identify sources of operational and business risks and adopt processes and procedures to mitigate and manage those risks; and
 - (i) establish, implement and maintain an adequate business continuity policy and disaster recovery plan aiming at ensuring the preservation of its functions, the timely recovery of operations and the fulfilment of the trade repository's obligations. 45
- (2) The registrar may—
- (a) require an applicant to furnish such additional information, or require such information to be verified, as the registrar may deem necessary; 50
 - (b) take into consideration any other information regarding the applicant, derived from whatever source, including any other supervisory authority, if such information is disclosed to the applicant and the latter is given a reasonable opportunity to respond thereto; and 55
 - (c) prescribe any of the requirements referred to in subsection (1) in greater detail.

(2) umuntfu losemtsetfweni angafaka sicelo kunobhala ifune ilayisensi yendzawo yekuhwebelana kuluhlobo lunye noma lamanyenti yemasheya labhalisiwe labalwe kulenchazelo yemasheya.

(3) Sicelo semvume yekuhwebelana kufanele—

- (a) Kwentiwa ngendlela nekutfola lwatiso loluvetwe ngunobhala; 5
- (b) Kukhombisa kutsi lolofake sicelo uyahambisana naletidzingo letibalwe kusigaba 55;
- (c) Kuhambisane ne—
 - (i) Imiculo yekucala yalofake sicelo;
 - (ii) Lolwatiso lolunjalo ngekuhambisana nemalunga alomtimba lolawulako alona lofake sicelo njengoba kungabekwa ngunobhalangalenchubo; kanye 10
 - (iii) Imali yekufaka sicelo lebekwe ngunobhala;
- (d) Kunetetelwa nganoma kuphi lokungetelelwe lokulwatiso lokungadzingwa ngunobhala. 15

(4) (a) Nobhala kufanele akhiphe satiso sesicelo selayisensi yendzawo yekuhwebelana kumaphephandzaba lamabili avelonkhe, ngekwetindleko tesicelo, kanye nakuwebhu lesemtsetfweni.

(b) Lesatiso kufanele sisho kutsi—

- (i) Ligama lalofake sicelo; kanye 20
- (ii) Lesikhatsi lapho khona tiphakamiso letimelana nesicelo tingavetwa nanobhala.

Tidzingo letifunekako kusicelo selayisensi yendzawo yekuhwebelana

55. (1) Ngekuya ngesigatjana (2), lofake sicelo sendzawo yekuhwebelana kufanele—

- (a) kutawuya ngetidzingo letibalwe nguNgcongcoshe, kube nemphahla netinsita, leto tinsita tifaka ekhatsi imali, kulawula kanye netemisebenti nelwati lolufanele, kutsi bente umsebenti wabo njengoba kubekiwe kuloMtsetfo; 25
- (b) kuba netinhlelo tekubusa, leticacile naletikhanyako, kutfutukisa kuphepha nekufinyella kwemasheya ekuhwebelana, nekusekela kusimama kweluhlelo lwetimali lonkhe, letinye tinshisekelo letifanele titsatfwe, kanye netinjongo talabanye labatsintsekako labafanele; 30
- (c) Kukhombisa kutsi letidzingo lekungito naletifanako letibhalwe ngunobhala kufinyelelwa kuto ngulofake sicelo, bacondzisi bakhona nebaphatsi labasetulu;
- (d) Kwentiwe emalungiselelo kwentela tinhlelo tekucinisekisa ngemandla lalinganene nalalinganisekako kwentela umsebenti losimeme wasendzaweni yekuhwebelana; 35
- (e) Kwentiwe emalungiselelo etekuvikela kanye netinchubo tekusekela kucinisekisa sizitsa semarekhodi ematransekshini;
- (f) Kube netindlela letibonakalako tekulawula nekulandzelela, tindlela tekulawula ngekhatsi, tindlela letifanele tekuhlolwa kwebungoti, kanye nekulawula lokufanele kanye nekuvikela emalungiselelo kutinhlelo tekucubungula lwatiso; 40
- (g) Kuba nenjongo, tidzingo letingacwasi kanye naletivetelwe bantfu kute kufinyelelwe kubuye kungenelelwe;
- (h) Kukhomba imitfombo yekusebentela kanye nebungoti bebhizinisi nekutsatsa tinchubo netindlela tekuvikela nekulawula leto tingoti; 45
- (i) Kusungula, kwenta nekulawula ibhizinisi lesebentako yenchubomgomo kanye nesehlakalo seluhlelo lwekubuyeketa loluhlose ekucinisekiseni lokongiwa kwemisebenti yako, lokubuyela kahle kwemisebenti kanye nalokufeza kwemitsetfo yendzawo yekuhwebelana; 50

(2) Nobhala anga—

- (a) kudzingeka kutsi lofaka sicelo kutsi anikete lolwatiso lolungetiwe, noma kudzingeka lolwatiso kutsi lucinisekiswe, njengoba nobhala angakubona kufanele; kanye
- (b) Kunakisiswa nanoma luphi lwatiso loluphatselene nalofake sicelo, lokutfolakala kunoma muphi umtfombo, kufaka ekhatsi noma liphi ligunya lekulawula, uma ngabe lolo lwatiso luvetwa kulofake sicelo kanye nalokunye kuniketwe litfuba lelifanele kutsi baphendvule kuloko; kanye 55
- (c) Kubeka noma tiphi taletidzingo letibalwe kusigatjana (1) ngemininingwane leyanele. 60

Licensing of trade repository

56. (1) Subject to subsection (2) and regulations prescribed by the Minister, the registrar may, after consideration of any objection received as a result of the notice referred to in section 54(4), and subject to the conditions which the registrar may consider appropriate, grant a trade repository a licence to perform the duties referred to in section 57. 5

(2) A licence referred to in subsection (1) may only be issued to a trade repository if—
(a) the applicant complies with the relevant requirements of this Act; and
(b) the objects of this Act referred to in section 2 will be furthered by the granting of a trade repository licence. 10

(3) The trade repository licence must—
(a) specify the services that may be provided by the trade repository and the unlisted securities in respect of which those services may be provided;
(b) specify any other terms and conditions of the licence;
(c) specify the registered office of the trade repository; and 15
(d) specify the places where the trade repository will be operated.

(4) A trade repository must obtain the prior written approval of the registrar to operate or conduct any of its activities outside the Republic, and if such approval is granted, adhere to any additional requirements the registrar may prescribe.

(5) A trade repository may at any time apply to the registrar for an amendment of the terms of its licence and the conditions subject to which its licence was granted. 20

(6) (a) The registrar must publish a notice of an application for an amendment of the terms of a trade repository licence and the conditions subject to which the licence was granted in two national newspapers, at the expense of the applicant, and on the official website. 25

(b) The notice must state—

- (i) the name of the applicant;
- (ii) the nature of the proposed amendments; and
- (iii) the period within which objections to the application may be lodged with the registrar. 30

Duties of licensed trade repository

57. (1) A licensed trade repository must conduct its business in a fair and transparent manner.

- (2) A licensed trade repository must—
- (a) employ timely, efficient and accurate record keeping procedures; 35
 - (b) make the information prescribed by the registrar available to the registrar, other relevant supervisory authorities and other persons, subject to the requirements prescribed by the registrar under section 58 regarding the manner, form, and frequency of disclosure;
 - (c) monitor and evaluate the adequacy and effectiveness of its systems, internal control mechanisms and arrangements and take appropriate measures to address any deficiencies; 40
 - (d) publicly disclose the prices and fees associated with services provided, which disclosure must give the specific monetary amount for each service rendered; or if such amount is not pre-determinable, the basis of the calculation; 45
 - (e) ensure the confidentiality, integrity and protection of the information received;
 - (f) provide the registrar with any information requested to monitor and mitigate systemic risk; and
 - (g) must notify the registrar as soon as it commences an insolvency proceeding or an insolvency proceeding is commenced against it. 50

(3) The registrar may prescribe additional duties to those referred to in subsection (2) in greater detail.

Reporting obligations

58. Subject to regulations prescribed by the Minister, the registrar may prescribe reporting obligations in respect of transactions or positions in unlisted securities which must be reported to a trade repository, including— 55

- (a) the types of unlisted securities to which reporting requirements apply;
- (b) the entities to whom such reporting requirements apply;

Kubhaliswa kwendzawo yekuhwebelana

56. (1) Ngekuya ngesigatjana (2) kanye nemitsetfosimiso lebekwe nguNgcongcoshe, nobhala anga, ngekuva kwekutsatsa noma kuphi kungavumelani lokutfolakele ngenca yesatso lesivetwe kusigaba 54(4), nangekuhambisana netimo lapho khona nobhala angakubona kufanele, kuniketa ilaytisensi yendzawo yekuhwebelana kutsi kwentiwe umsebenti lobalwe kusigaba 57. 5

(2) Ilayisensi lebalwe kusigatjana (1) inganiketwa kuphela kundzawo yekuhwebelana uma ngabe—

- (a) Lolofake sicelo uhambisana netidzingo letifanele taloMtsetfo;
- (b) Netinjongo taloMtsetfo letibalwe kusigaba 2 titawuchutjekiswa ngekuniketwa kwelayisensi. 10

(3) Ilayisensi yendzawo yekuhwebelana kufanele:

- (a) Kubalwe imisebenti langaniketwa ngekuhambisana nemasheya labhalisiwe lapho khona lemisebenti binganiketwa khona;
- (b) Kusho leminye imibandzela yalayisensi; 15
- (c) Kubala lelihho visi lelibhalisiwe lendzawo yekuhwebelana; kanye
- (d) Kusho letindzawo lapho khona indzawo yekuhwebelana itawusetjentiswa.

(4) Indzawo yekuhwebelana kufanele itfole imvume yangaphambilini lebhalwe phansi yanobhala kusebenta noma kwenta noma muphi umsebenti ngaphandle kweRiphabhulikhi, uma ngabe lemvume iniketiwe, ilandzelelwa kunoma ngabe ngukuphi lokungetiwe lokudzingekako kunobhala langakubeka. 20

(5) Indzawo yekuhwebelana ingasebenta nona nini kunobhala kwentela kuchibiyela kwemibandzela yelayisensi kanye nemigomo ngekuya ngalendlela lekwaniketwa ngayo lelayisensi.

(6) (a) Nobhala kufanele akhiphe satso sesicelo selayisensi yendzawo yekuhwebelana kumaphephandzaba lamabili avelonkhe, ngekwetindleko tesicelo, kanye nakuwebhu lesemsetfweni. 25

(b) Lesatso kufanele sisho kutsi—

- (i) Ligama lalofake sicelo;
- (ii) simo saletichibiyelo letiphakanyisiwe; kanye 30
- (iii) Lesikhatsi lapho khona tiphakamiso letimelana nesicelo tingavetwa nanobhala.

Imisebenti yendzawo yekuhwebelana

57. (1) Indzawo yekuhwebelana kufanele yenta umsebenti wayo ngendlela lengavuni licala nalekhanyako.

(2) Indzawo yekuhwebelana lesemsetfweni kufanele— 35

- (a) Isebentise ngaso sonkhe sikhatsi nekubeka kahle emarekhodi;
- (b) Kwenta lolwatiso lolubekwe ngunobhala letfolakala kunobhala kanye naleminye imitsetfo lefanele;
- (c) kulawula nekuhlola kufaneleka nekuphumelela kwetinhlelo tabo, indlela yekulawula nekuhlola nekutsatsa tindlela letifanele tekusebenta nganoma kuphi lokungahambi; 40
- (d) Kuveta kubantfu emanani netindleko letihambisana nemisebenti leniketwako;
- (e) Kucinisekisa kuvikeleka, kuhlompheka nekuvikelwa kwelwatiso lolutfolakele; kanye.
- (f) Kuniketa Umphatsi ngelwatiso lolucelwe kute kulawulwe kungenelelwe kutinhlelo tebungoti. 45
- (g) kufanele batise nobhala ngekuphutfuma ngalesikhatsi basebentisa inchubo yekuhlakata noma inchubo yekuhlakata lecaliwe ngekumelana nabo.

(3) Nobhala angabeka leminye imisebenti noma leminye yalemisebenti lebalwe kusigatjana (1) ngalokucacile. 50

Imitfwalo yekubika

58. Ngekuya ngemitsetfo lemisiwe lebalwe nguNgcongcoshe, nobhala, angabeka imitfwalo yekubika ngekuya ngetransekshini noma simo kumasheya labhalisiwe lekufanele abikwe endzaweni yekuhwebelana kufaka ekhatsi—

- (a) Tinhlobo temasheya labhalisiwe lapho khona tidzingo tekubika tisebenta khona; 55
- (b) Letikhungo lapho kubikwa khona kungasebenta loku lokudzingekako;

- (c) the manner and frequency of reporting; and
- (d) any other matter to ensure adequate reporting.

CHAPTER VII

GENERAL PROVISIONS APPLICABLE TO MARKET INFRASTRUCTURES

Annual assessment 5

- 59.** The registrar must annually assess, whether a licensed market infrastructure—
- (a) complies with this Act and the rules of the market infrastructure;
 - (b) where applicable, complies with directives, requests, conditions or requirements of the registrar in terms of this Act; or
 - (c) where applicable, gives effect to decisions of the appeal board in terms of section 105. 10

Cancellation or suspension of licence

- 60.** (1) The registrar may cancel or suspend a licence if—
- (a) the market infrastructure has failed to—
 - (i) comply with this Act or its rules; 15
 - (ii) comply with a directive, request, condition or requirement of the registrar in terms of this Act; or
 - (iii) give effect to a decision of the appeal board in terms of section 105;
 - (b) after an inspection in terms of section 95 of the affairs of the market infrastructure, the registrar is satisfied on reasonable grounds that the manner in which it is operated is—
 - (i) not in the best interests of clearing members of independent clearing houses, authorised users or participants, or users or members of the market infrastructure, as the case may be, and their clients; or
 - (ii) defeating the objects of this Act referred to in section 2; 25
 - (c) the market infrastructure has ceased to operate or has failed to commence operating within a reasonable period after being licensed; or
 - (d) the registrar is satisfied on reasonable grounds that the licence was obtained through misrepresentation. 30
- (2) The registrar must, before cancelling or suspending a licence—
- (a) inform the market infrastructure of the registrar's intention to cancel or suspend;
 - (b) give the market infrastructure the reasons for the intended cancellation or suspension; and
 - (c) call upon the market infrastructure to show cause within a period specified by the registrar why its licence should not be cancelled or suspended. 35
- (3) The registrar must, subject to subsection (4), cancel the licence of a market infrastructure upon submission to the registrar of a request by the market infrastructure for cancellation.
- (4) If the registrar cancels or suspends a licence, the registrar must take such steps and may impose such conditions as are necessary to achieve the objects of this Act referred to in section 2, which steps may include—
- (a) the transfer of the business of the market infrastructure to another similar market infrastructure; or
 - (b) the winding-up of the market infrastructure in terms of section 100. 45

Carrying on of additional business

- 61.** (1) A market infrastructure may not conduct any additional business which may introduce systemic risk.

- (c) Indlela nesivinini sekubika; kanye
- (d) Noma ngabe nguluphi ludzaba lolutawucinisekisa kubika kahle.

SAHLUKO VII

IMIBANDZELA LEYETAYELEKILE LEHAMBISANA NETINSITANCHANTI TETIMAKETHE

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Kuhlolwa mnyaka wonkhe

59. Nobhala kufanele ahlole njalo ngemnyaka, kutsi tinsitanchanti temakethe—
- (a) tiyahambisana naloMtsetfo kanye nemitsetfo yetinsitanchanti temakethe;
 - (b) lapho kufanele khona, kuhambisana nemiyalelo, ticelo, imibandzela noma tidzingo tanobhala ngekwaloMtsetfo; noma
 - (c) lapho kufanele khona, kuphumeleliswe tincumo talebhodi yetikhalo ngekwesigaba 105.

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Kukhanselwa noma kumiswa kusebenta kwelayisensi

60. (1) Nobhala angakhansela noma amise ilayisensi uma ngabe—
- (a) tinsitanchanti temakethe tihlulekile ku—
 - (i) Kuhambisana naloMtsetfo noma imitsetfo;
 - (ii) Kuhambisana netinkhomba, sicelo, simo noma tidzingo tanobhala ngekuhambisana naloMtsetfo; noma
 - (iii) Kuhambisana nesincumo sebhodi yetikhalo ngekuhambisana nesigaba 105.;
 - (b) Ngemuva kwelucwaningo ngekuhambisana nesigaba 95 setindzaba tinsitanchanti temakethe nobhala uyaneliseka ngetizatfu letivakalako kutsi lendlela lekusetjentwa ngayo—
 - (i) Akukho kushisekelo lebalulekile yelilunga leligunyatiwe yendlu legunyatako letimele, basebentisi labagunyatiwe noma labangenelelako noma basebentisi noma emalunga etinsitanchanti temakethe, njengoba kungabe kubekiwe, kanye nemaklayenti abo; noma
 - (ii) Kumelana netinjongo taloMtsetfo letibalwe kusigaba 2;
 - (c) tinsitanchanti temakethe tiyekelile kusebenta noma ihlulekile kucala kusebenta ngesikhatsi lesifanele ngemuva kwekuniketwa ilayisensi; noma
 - (d) Nobhala uyaneliseka ngetindlela letifanele kutsi lelayisensi itfolakele ngekungameleleki kahle.
- (2) Nobhala kufanele, ngembi kwekukhansela noma kumisa ilayisensi—
- (a) Atise tinsitanchanti temakethe ngetinhloso tanobhala tekukhansela noma kumisa;
 - (b) Kuniketa tinsitanchanti temakethe tizatfu talokukhansela lokuhlosiwe noma kumiswa; kanye (c) kubita inhlango letilawulako kutsi ikhombise ngesikhatsi lesibekwe ngunobhala kutsi kungani ilayisensi yabo ingeke yakhanselwa noma yamiswa.
- (3) Nobhala kufanele, ngekuya ngesigatjana (4), asule lelayisensi yetinsitanchanti temakethe ngalesikhatsi yetfulwa kunobhala ngekwesicelo salenhlango letilawulako kutsi kukhanselwe.
- (4) Uma ngabe nobhala akhansela noma amisa ilayisensi nobhala kufanele atsatse leto tinyatselo kantsi anganiketa ngaleyo mibandzela njengoba ingaba ngulefanele kufinyelela kuletinjongo talomtsetfo lobalwe kusigaba 2, lapho khona tinyatselo tingafaka ekhatsi—
- (a) lokudluliselwa kwalelibhizinisi lalenhlango letibusako liyise kuletinye tinsitanchanti temakethe; noma
 - (b) lokuhanjiswa kwalenhlango letibusako ngekwesigaba 102.

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Kwenta lomunye umsebenti longetiwe

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61. (1) Tinsitanchanti temakethe angeke tenta lamanye emabhizinisi langangenisa bungoti beluhlelo.
- (i) longaba nemtselela lomubi kuletinhlango letitilawulako kutsi tikhone kwenta imisebenti noma;
 - (ii) kubangela kungcubutana kwetinshisekelo noma kungcubutana lokubonakalako kwetinshisekelo ngekuya ngekubukisisa kwabo kwekulawula kwebasebentisi

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- (2) A market infrastructure must consult the registrar prior to conducting any business, function or service not provided for under section 10, 30 or 50, that may—
- (a) adversely impact on the market infrastructure's ability to meet or perform its regulated obligations or functions; or
 - (b) give rise to a conflict of interest or perceived conflict of interest in respect of its regulatory oversight of authorised users, participants or clearing members, as the case may be. 5
- (3) The registrar may, if the registrar is of the opinion that the business, function or service referred to in subsection (1) may—
- (a) impact on the regulated obligations or functions of a market infrastructure; or 10
 - (b) give rise to a conflict of interest or perceived conflict of interest in respect of its regulatory oversight of authorised users, participants or clearing members, as the case may be,
- prohibit or lay down requirements in respect of the carrying on of such business, function or service. 15
- (4) Where the registrar has prohibited or laid down requirements in respect of such business, function or service as referred to in subsection (3), the registrar must give reasons for the prohibition or requirements to the market infrastructure in writing within 14 days of the prohibition or requirements being made.

Conflicts of interest 20

- 62.** A market infrastructure must, where applicable, take necessary steps to avoid, eliminate, disclose and otherwise manage possible conflicts of interest between its regulatory functions and its commercial services, which steps must include—
- (a) the implementation of appropriate arrangements, which arrangements must comply with the requirements prescribed by the registrar, be documented and be publicly available; and 25
 - (b) an annual assessment, in the manner prescribed by the registrar, of the arrangements referred to in subparagraph (a), the results of which must be published.

Demutualisation of an exchange, central securities depository, or independent clearing house 30

- 63.** (1) An exchange, central securities depository, or independent clearing house which is not a public company or a private company as defined in section 1 of the Companies Act, may convert to a public company or private company with the approval of the registrar and subject to the conditions that the registrar may prescribe. 35
- (2) If a conversion referred to in subsection (1) takes place—
- (a) the exchange, central securities depository, or independent clearing house referred to in subsection (1) is deemed to be a company incorporated in terms of the Companies Act from a date determined by the registrar in consultation with the exchange, central securities depository, or independent clearing house in question; 40
 - (b) the Companies and Intellectual Property Commission, established by section 185 of the Companies Act, must accept the filed notice of incorporation of the exchange, central securities depository, or independent clearing house in terms of section 13 of that Act and register the entity in question as a company in terms of section 14 of that Act on the date referred to in paragraph (a); 45
 - (c) the continued corporate existence of the exchange, central securities depository, or independent clearing house from the date on which it was first licensed by the registrar is unaffected and any actions of the exchange, central securities depository, or independent clearing house before its conversion remain effectual; 50

labagunyatiwe, labangenelelako noma lilunga leligunyatiwe, njengoba kungabe kubekiwe.

(2) Tinsitanchanti temakethe kufanle titsintse nobhala ngembi kwekwenta noma tiphi ibhizinisi, umsebenti longakafakwa kusigaba 10, 30 noma 50, lokungenta kutsi—

(i) ba nemtselela kulemisebenti lesemsetfweni noma imisebenti yenhlangano letilawulako; noma 5

(ii) kube khona kuncubutana kwetinsihisekelo noma kuncubutana kwetinsihisekelo lokubonakalako ngekubukisisa kabanti kulawula kwebasebentisi labagunyatiwe, labangenelelako noma lilunga leligunyatiwe, njengoba kungabe kubekiwe, kuvimbela noma kubeka phansi lokudzingekako ngalokuphatselene nekwenitiwa kwalowo msebenti, ibhizinisi nalokwenitiwako. 10

(3) Nobhala anga, uma ngabe nobhala analomcondvo wekutsi lebhizinisi, lomsebenti lobalwe kusigatjana, lomsebenti lobalwe kusigatjana (1) unga—

(i) kuba nemtselela kulemitfwalo lesemsetfweni noma imisebenti wetinsitanchanti tetimakethe; noma 15

(ii) kutfutukisa kuncubutana kwetinsihisekelo noma abone kuncubutana kwetinsihisekelo ngalokuphatselene kubuyeketwa kwekulawulwa kwebasebentisi labagunyatiwe, bangeneleli noma emalunga lagunyatako, njengoba kungabe kubekiwe, kuvimbela noma kubeka kucace lokudzingekako ngalokuphatselene nekuhambisa lelo bhizinisi, noma umsebenti. 20

(4) Lapho khona nobhala avimbele noma abeke lokudzingekako ngalokuphatselene nebhizinisi, umsebenti lobalwe kusigatjana (3), nobhala kufanele anikete tizatfu talokuvinjelwa noma tidzingo taletinsitanchanti temakethe ngalokubhaliwe kungakapheli emalanga lali-14 kwalokuvinjelwa noma letidzingo letentiwe.

Kuncubutana kwetinsihisekelo

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62. Tinsitanchanti tetimakethe kufanele uma kunesidzingo itsatse tinyatselo letifanele tekuvimbela, kwehlisa, kuveta kanye nekulawula kuncubutana lokungahle kube khona emkhatsini wemisebenti lebayilawulako kanye nemisebenti yemabhizinisi, lapho khona tinyatselo kufanele tifake ekhatsi—

(a) lokusetjentiswa kwemalungiselelo lafanele, lapho khona emalungiselelo kufanele ahambisane netidzingo letibekwe ngunobhala abhalwe phansi avetwe kuwonkhe wonkhe; kanye 30

(b) kuhlola ngemnyaka kwalamalungiselelo labalwe kundzima (a), imiphumela yakhona kufanele ikhishwe.

Kuguculwa kwenhlangano letilawulako, libhange lemasheya lelisemkhatsini, nendlu legunyatako letimele

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63. (1) Ligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako lekungasilo inkhaphani yahlumende noma inkhaphani letimele njengoba kuchazwe kusigaba 1 se-*Companies Act* kungaguculwa kuba yinkhaphani yahlumende noma letimele ngemvume yanobhala nangekuya ngemibandzela yekutsi nobhala angakubona kufanele. 40

(2) Uma ngabe letingucuko letibalwe kusigatjana (1) tenteka—

(a) kuligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako lebalwe kusigatjana (1) ivunyelwe kutsi kube ligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako lebalwe kusigatjana (1) ifanele kutsi ibe yinkhaphani lehlanganiswe ngekuhambisana ne *Companies Act* kusukela ngelusuku loluncunywe ngunobhala ngekutsintsana nenhlangano letilawulako; 45

(b) leTinkhaphani kanye neNkhomishana Yemphahla Yebuhlakani, lesungulwe ngekwesigaba 185 se-*Companies Act*, kufanele atsatsa lesatiso lesifakiwe sekuhlanganisa sale ligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako ngekwaesigaba 13 saloMtsetfo nekubhalisa lenhlangano lekukhulunywa ngayo njengenkaphani ngekwaesigaba 14 saloMtsetfo ngalolusuku lolubalwe kundzima (a); 50

(c) lokuchubeka kube khona kwelibhizinisi leligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako kusukela ngalolusuku leyaniketwa ngalo ilayisensi yekucala ngunobhala alikatsintseki naleminywe imisebenti yalenhlangano letilawulako ngembi kwekuguculwa kuhlala kunemandla; 55

- (d) the terms and conditions of service of employees of the exchange, central securities depository, or independent clearing house are not affected;
- (e) all the assets and liabilities of the exchange, central securities depository, or independent clearing house, including any insurance, guarantee, compensation fund or other warranty owned or maintained by the exchange, central securities depository, or independent clearing house to cover any liabilities of the clearing members of independent clearing houses, authorised users or participants, as the case may be, to clients, remain vested in and binding upon the company or such other entity acceptable to the registrar as the company may designate; 5 10
- (f) the company has the same rights and is subject to the same obligations as were possessed by or binding upon the exchange, central securities depository, or independent clearing house immediately before its conversion;
- (g) all agreements, appointments, transactions and documents entered into, made, executed or drawn up by, with or in favour of the exchange, central securities depository, or independent clearing house and in force immediately before the conversion remain in force and effectual, and are construed for all purposes as if they had been entered into, made, executed or drawn up by, with or in favour of the company, as the case may be; 15
- (h) any bond, pledge, guarantee or other instrument to secure future advances, facilities or services by the exchange, central securities depository, or independent clearing house which was in force immediately before the conversion, remains in force, and is construed as a bond, pledge, guarantee or instrument given to or in favour of the company, as the case may be; 20
- (i) any claim, right, debt, obligation or duty accruing to any person against the exchange, central securities depository, or independent clearing house or owing by any person to such exchange, central securities depository, or independent clearing house is enforceable against or owing to the company, subject to any law governing prescription; 25
- (j) any legal proceedings that were pending or could have been instituted against the exchange, central securities depository, or independent clearing house before the conversion may be continued or instituted against the company, subject to any law governing prescription; and 30
- (k) the licence of the exchange, central securities depository, or independent clearing house remains vested in the company if the company complies with all the requirements of this Act in respect of a exchange, central securities depository, or independent clearing house. 35

Amalgamation, merger, transfer or disposal

64. (1) (a) The registrar must approve—

- (i) any amalgamation or merger referred to in Chapter 5 of the Companies Act that involves a market infrastructure as one of the principal parties to the amalgamation or merger; and 40
 - (ii) any transfer or disposal of more than 25 per cent of the assets, liabilities or assets and liabilities of a market infrastructure to another person.
- (b)** A market infrastructure must— 45
- (i) prior to the making of any compulsory disclosures under any rules or national legislation in respect of any transaction referred to in paragraph (a), inform the registrar of the proposed transaction;
 - (ii) clearly state in any compulsory disclosures under any rules or national legislation, or any announcement or press release in respect of a transaction referred to in paragraph (a), that the transaction is subject to the approval of the registrar; and 50
 - (iii) on conclusion of the transaction, seek the approval of the registrar in accordance with this subsection and the conditions prescribed by the registrar.

- (d) lemibandzela yekusebenta kwebasebenti labatilawulako ayitsintseki;
- (e) tonkhe timphahla kanye nemitfwalo yenkhapani letilawulako, kufaka ekhatsi noma muphi umshwalense, siciniseko, sikhwama sekuncephetelisa noma lenye iwaranti lephetfwe noma legcinwe yinhlango kuvala noma muphi umtfwalo yalelilunga leligunyatiwe yendlu legunyatako letimele, basebentisi labagunyatiwe noma Labangenelelako, njengoba kungabe kubekiwe, kumaklayenti, kutawuhlala kubekwe futsi kusibopho kulenkhapani noma kulesinye sikhungo lesivumelekile kunobhala njengoba inkhapani ingabe ibekile; 5
- (f) inkhapani inemalungelo lafanako kantsi iya ngemisebenti lebeyiphetfwe noma isibopho kuligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako ngekushesha ngembi kwekuhlango; 10
- (g) tonkhe tivumelwano, kuncuma ngetinsuku, ematransekshini kanye nemiculu lekukhulunywa ngayo, leyentiwe, lesunguliwe noma ledvvetjiwe, ngekuhambisana neligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako nalesebenta ngekushesha ngembi kwalokugucula lokuhlala kukhona nalokunemphumelelo, kantsi kwentelwa tonkhe tidzingo njengoba kungabe kuvunyelwene, kwentiwe, kucalisiwe noma kudvvetjiwe ngu, ngekumelana nenkhapani, njengoba kungabe kubekiwe; 15
- (h) noma yini lehlangoansiwe, sifungo, siciniseko noma lelinye lithulusi kucinisekisa lokungenteka ngalokutako, tindzawo noma imisebenti lekweniwa tinhlango letimele lebeyisebenta ngekushesha ngembi kwetingucuko letitawuhlala tikhona, kantsi kutsatfwa njengebhondi, sifungo, siciniseko noma lithulusi leliniketwe ngekuhambisana nenkhapani, njengoba kungabe kubekiwe; 20
- (i) noma yiphi ikleyimu, lilungelo, sikweleti, umtfwalo noma umsebenti lotalela noma bani ngekumelana naligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako noma lekukweletwa ngunoma ngubani kuleyo nhlangano kutawucindzelwa ngekumelana noma kukweletwa ngunoma ngubani kulenkhapani, ngekuya nganoma ngumuphi umtsetfo lolawula lolokubekiwe; 25
- (j) noma ngabe nguyiphi inchubo lesemtsetfweni lebeyingakapheleli noma ingabe ibekiwe ngekumelana naleligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako ngembi kwaletingcogco kungachutjekwa noma letibekwe ngekumelana nenkhapani, ngekuya nganoma muphi umtsetfo lolawula lokubekwako; kanye 30
- (k) ilayisensi yaleligatja, libhange lemasheya lelisemkhatsini, noma indlu letimele legunyatako itawuhlala ibekwe emandleni alenkhapani uma ngabe lenkhapani ihambisana nato tonkhe tidzingo taloMtsetfo ngekuya ngenhlango letilawulako. 40

Kuhlanganisa, kudlulisela noma kususa

64. (1) (a) Nobhala kufanele avumele—

- (i) noma kuphi kuhlangana noma kuba munye lokubalwe kuSahluko 5 se-*Companies Act* lekufaka ekhatsi tinsitanchanti tetimakethe njengencenye lebalulekile kulokuhlangana noma kuba munye; kanye 45
- (ii) noma kuphi kudluliselwa noma kukhishwa kalokudlula kumaphesenti lali-25 lwemphahla, umtfwalo noma imphahla nemitfwalo yetinsitanchanti tetimakethe kulomunye umuntu.
- (b) Tinsitanchanti tetimakethe kufanele—
- (i) ngembi kwekwentiwa kwanoma ngukuphi lokuvetwako lokufanele kukhishwe ngaphansi kwanoma muphi umtsetfo noma umtsetfo loshayiwe wavelonkhe ngalokuphatselele nganoma waphi ematransekshini labalwe kundzima (a) kwatiswe nobhala ngaletransekshini lephakanyisiwe; 50
- (ii) kukhombisa ngalokucacile kunoma kuphi lokuvetwa ngalokufanele ngaphansi kwanoma miphi imitsetfo noma umtsetfo loshaywe wavelonkhe, noma noma kuphi lokumenyetelwako nnoma lokukhishwe betindzaba ngalokuphatselele netransekshini lebalwe kundzima (a), kutsi letransekshini itawuya ngekuvunyelwa ngunobhala; kanye 55
- (iii) ekucedvweni kwaletransekshini, kufuneka imvume yanobhala ngalokuhambisana nalesigatjana nalembandzela lebekwe ngunobhala. 60

(2) The 25 per cent referred to in subsection (1)(a)(ii) must be calculated by aggregating the amount of the transferred assets, liabilities or assets and liabilities together with any previous transfer of assets, liabilities or assets and liabilities within the same financial year of the market infrastructure concerned.

(3) (a) Subsection (1) does not apply if only assets are transferred and the amount of the transferred assets, together with any previous transfer of assets within the same financial year, aggregates to an amount that is more than 10 per cent but less than 25 per cent of the total on-balance-sheet assets of the transferring market infrastructure. 5

(b) A market infrastructure must notify the registrar of a transfer referred to in paragraph (a). 10

(4) The registrar may give approval referred to in subsection (1), if the registrar is satisfied that the transaction in question will not be detrimental to the objects of this Act.

(5) Upon the coming into effect of a transaction effecting an amalgamation, merger or the transfer of such part of the assets, liabilities or assets and liabilities as approved in terms of subsection (1)— 15

(a) all the assets and liabilities of the amalgamating entities (or in the case of a transfer of assets and liabilities, of the entity by which the transfer is effected), including any insurance, guarantee, compensation fund or other warranty owned or maintained by any of them to cover any liabilities of clearing members of independent clearing houses, authorised users or participants, as the case may be, to clients, vest in and become binding upon the amalgamated entity or, as the case may be, the entity taking over such assets and liabilities or such other entity acceptable to the registrar as the parties to the amalgamation may designate; 20

(b) the amalgamated entity, or in the case of a transfer of assets and liabilities, the entity taking over such assets and liabilities, has the same rights and is subject to the same obligations as were, immediately before the amalgamation or transfer, applicable to or binding upon the amalgamating entities or, as the case may be, the entity by which the transfer has been effected; 25

(c) all agreements, appointments, transactions and documents entered into, made, executed or drawn up by, with or in favour of the amalgamated entities or, as the case may be, the entity by which the transfer has been effected, and in force immediately before the amalgamation or transfer, remain in force and are construed for all purposes as if they had been entered into, made, executed or drawn up by, with or in favour of the amalgamated entity or, as the case may be, the entity taking over the assets and liabilities in question; 30 35

(d) any bond, pledge, guarantee or other instrument to secure future advances, facilities or services by any of the amalgamating entities or, as the case may be, the entity transferring such assets and liabilities, which was in force immediately prior to the amalgamation or transfer, remains in force and is construed as a bond, pledge, guarantee or instrument given to or in favour of the amalgamated entity or, as the case may be, the entity taking over such assets and liabilities; and 40

(e) any claim, right, debt, obligation or duty accruing to any person against any of the amalgamating entities or owing by any person to any of such entities, is 45

(2) Lamaphesenti lange-25 labalwe kusigatjana (1)(a)(ii) kufanele abalwe ngeku-
linganisa lelinani letimpahla letindlulisiwe, lemitfwalo noma impahla kanye
nemitfwalo nasekuhlangene nanoma kuphi lokwadluliselwa lokuyimpahla, imitfwalo
noma timphahla kanye nemitfwalo ngekhatsi kwalomnyaka timali kuletinsitanchanti
tetimakethe letifanele.

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(3) (a) Sigatjana (1) asisebenti uma ngabe kudluliselwe impahla kuphela, kanye
nalenye impahla leyadluliselwa ngaphambilini kuwo lomnyaka timali, lokulinga-
niselwa emalini lengetulu kwemaphesenti lali-10 kodvwa ngaphansi kwemaphesenti
langema-25 kulelishithi lekulinganisa timphahla taletinsitanchanti tetimakethe
ledluliselako.

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(b) Tinsitanchanti tetimakethe kufanele yatise nobhala ngekdululiselwa lokubalwe
kundzima (a).

(4) Nobhala anganiketa siciniseko ngalokubalwe kusigatjana (1), uma ngabe nobhala
anelisekile kutsi letransekshini lekukhulunywa ngayo angeke ibe nemtselela
kuletinjongo taloMtsetfo.

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(5) Uma ngabe kucala kusetjentiswa ematransekshini latawubangela kutsi kube
nekuhlangana, kuba munye noma kudluliselwa kwaleyo ncenye yetimpahla,
imuitfwalo noma timphahla kanye nemitfwalo njengoba kuvunyelwe ngekwesigatjana
(1)—

(a) yonkhe impahla kanye nemitfwalo yalokuhlanganiswa kwetinhlangano 20

(noma uma ngabe kunalokudluliselwako lkuyimpahla noma umtfwalo,
walenhlango lapho khona lokudluliselwa kusetjentiswa khona), kufaka
ekhatsi noma muphi umshwalense, siciniseko, sikhwama sekuncephetelisa
noma iwaranti lekungeyalomunye wabo noma loyilawulako kutsi ifake
ekhatsi noma miphi imitfwalo yelilunga leligunyatiwe yendlu yekugunyata
letimele, basebentisi labagunyatiwe noma Labangenelelako, njengoba
kungabe kubekiwe, kumaklayenti, kutawuhlala futsi kutawuba sibopho
kulenhlango lehlanganisiwe noma, njengoba kungabe kubekiwe,
lenhlango letawube isebentisa leto timphahla nemitfwalo noma lokunye
lokukhona kuleligatja lokuvumelekile kubobhala njengoba letinhlangano
kulokuhlanganiswa kungabekwa;

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(b) lenhlango lehlanganisiwe, noma uma ngabe kudluliselwa timphahla noma
umtfwalo, lenhlango letsatsa leto timphahla nemitfwalo, inemalungelo
lafanako kantsi kuya ngemibandzela lefanako njengoba beyinjalo,
ngekushesha ngembi kwalokuhlanganisa noma kudluliselwa, lokutsetfwe ngu
noma kunesibopho ngalokuhlangana kwetinhlangano noma, njengoba
kungabe kubekiwe, lenhlango lapho lokudluliselwa kungahle kube
kunemtselela;

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(c) tonkhe tivumelwano, tikhatsi letibekiwe, ematransekshini nemiculu
lekuvunyelwene ngayo, leyentiwe, lecaliwe noma lwkentiwe ngu,
ngalokuhlangana noma kuhambisana netinhlangano noma, njengoba kungabe
kubekiwe, lenhlango lapho lokudluliselwa kwentiwe khona, kanye
nangekucinisekisa ngekushesha ngembi kwalokuhlangana noma kudluliselwa
kuhlala kukhona kantsi kwentelwa tonkhe tindlela njengoba
kungavunyelwana ngako, kwentiwe, kucale noma kudvvetjwe, ngekumelana
nenhlango noma, njengoba kungabe kubekiwe, lenhlango letsatsa
letimpahla kanye nalomtfwalo lekukhulunywa ngawo;

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(d) noma ngabe ngukuphi kuhlangana, sifungo, siciniseko noma lamanye
emathulusi ekucinisekisa likusasa lempumelelo, tindzawo nemisebenti
kwanoma ngukuphi kwalokuhlangana kwetinhlangano noma, njengoba
kungabe kubekiwe, lenhlango lapho lokudluliselwa kwentiwe khona,
kanye nangekucinisekisa ngekushesha ngembi kwalokuhlangana noma
kudluliselwa kuhlala kukhona kantsi kwentelwa tonkhe tindlela njengoba
kungavunyelwana ngako, kwentiwe, kucale noma kudvvetjwe, ngekumelana
nenhlango noma, njengoba kungabe kubekiwe, lenhlango letsatsa
letimpahla kanye nalomtfwalo lekukhulunywa ngawo; kanye

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(e) noma ngabe nguwaphi emakleyimu, lilungelo, sikweleti, umtfwalo noma
umsebenti lokutalela noma muphi umuntfu ngekumelana nanoma nguyiphi
yaletinhlangano letihlanganisiwe noma lokukweletwa ngunoma ngubani
kunoma ngutiphi taletinhlangano ticindzetelwa ngekumelana netinhlangano
letiohlanganisiwe noma kukweleta kutsi lowo muntfu kunoma ngutiphi
tinhlangano kusetjentiswa ngekumelana noma kukweletwa kulenhlango

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enforceable against or owing to the amalgamated entity or, as the case may be, the entity taking over such assets and liabilities.

(6) Upon the coming into effect of a transaction effecting an amalgamation or merger, the licences of the individual market infrastructure that were parties to the amalgamation or merger are deemed to be cancelled, and the registrar must license the market infrastructure created by the amalgamation or merger. 5

Duty of members of controlling body

65. (1) The provisions of the Companies Act relating to the duties of a director apply, with the necessary changes, to each member of the controlling body of a market infrastructure, whether it is a company or not. 10

(2) The members of the controlling body of a market infrastructure owe a fiduciary duty of care and skill to the market infrastructure, in the exercise of the functions as a market infrastructure.

Appointment of members of controlling body

66. (1) No person may be appointed as a member of the controlling body of a market infrastructure if that person— 15

- (a) may not be appointed or act as a director in terms of section 69 of the Companies Act;
- (b) has been penalised in disciplinary proceedings for a contravention of the rules of any professional organisation, including a market infrastructure, which contravention involved dishonesty; or 20
- (c) does not meet the fit and proper requirements prescribed by the registrar.

(2) A person who accepts an appointment in contravention of subsection (1) commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years, or to both a fine and such imprisonment. 25

(3) A market infrastructure must, within 14 days of the appointment of a new member to its controlling body, inform the registrar of the appointment and furnish the registrar with such information on the matter as the registrar may reasonably require.

(4) The provisions of subsection (3) may not be construed so as to render the appointment of a member of the controlling body of a market infrastructure subject to the approval of the registrar. 30

(5) If it appears to the registrar that a member is disqualified in terms of subsection (1), the registrar may, subject to subsection (6), instruct the market infrastructure to remove that member from its controlling body.

(6) The registrar must, before giving an instruction in terms of subsection (5)— 35

- (a) in writing inform the market infrastructure and the particular member of the registrar's intention to give such an instruction;
- (b) give the market infrastructure and the particular member written reasons for the intended instruction; and
- (c) call upon the market infrastructure and the particular member to show cause within a period of 14 days why the instruction should not be given. 40

(7) If the registrar instructs the market infrastructure to remove a member from its controlling body, the market infrastructure must so remove the member within a period of 14 days and must ensure that the person in question does not in any way, whether directly or indirectly, concern himself or herself with or take part in the management of the market infrastructure. 45

(8) If a market infrastructure fails to comply with subsection (7), the registrar may, in respect of such failure, impose a fine not exceeding R5 000 to be adjusted by the registrar annually to reflect the Consumer Price Index, as published by Statistics South Africa, for every day in respect of which such failure continues. 50

(9) Section 97(2), (3) and (4) is, with the changes required by context, applicable to the imposition of a fine under subsection (8).

lehlanganiswako noma, njengoba kungabe kubekiwe, lenhlangano letsatsa letimphahla noma lemitfwalo.

(6) Uma ngabe kuba khona itransekshini lebangela kutsi kube nekuhlangana noma kuba munye, lokuniketwa kwelayisensi yemuntfu munye wetinsitanchanti tetimakethe lebekayincenye yalokuhlangana noma kuba munye kufanele akhanselwe kantsi bobhala kufanele anikete tinsitanchanti tetimakethe ilayisensi lebangelwe ngulokuhlangana noma kuba munye. 5

Umsebenti wemalunga emtimba lophetse enhlangano letilawulako

65. (1) Imibandzela ye-*Companies Act* lehambisana nalemisebenti yemcondzisi isebenta, ngaletingucuko letifanele, kulilunga ngalinye lelilawulako kulomtimba wetinsitanchanti tetimakethe noma kungaba yinkhapani noma cha. 10

(2) Lamalunga alomtimba lophetse etinsitanchanti tetimakethe lekweleta budlelwano emkhatsini walabanemasheya kute banakekele nelikhono kuletinsitanchanti tetimakethe, ekwenteni imisebenti njengenhlangano letimele.

Kubekwa kwemalunga emtimba lophetse inhlangano letilawulako 15

66. (1) Akekho umuntfu longabekwa njengelilunga lalomtimba lolawulako wetinsitanchanti tetimakethe uma ngabe lomuntfu—

- (a) angeke acashwe noma asebente njengemcondzisi ngekuhambisana nesigaba 69 se-*Companies Act*;
- (b) uhlawulisiwe kunchubo yekubuyiswa endleleni kwentela kuphula umtsetfo yanoma yiphi inhlangano lesemtsetfweni, kufaka ekhatsi tinsitanchanti tetimakethe, lokuphula umtsetfo kufaka ekhatsi kungatsembeki; noma 20
- (c) akufinyeleli kuletidzingo tekuvele ungene letibekwe ngunobhala.

(2) Umuntfu lotsatsa sikhatsi lesibekiwe ngekuhphula sigatjana (1) wenta licala kantsi utawugwetjwa ahlawuliswe noma aboshwe sikhatsi lesingadluli iminyaka lemibili, noma ahlawuliswe ngalesikhatsi aboshiwe. 25

(3) Tinsitanchanti tetimakethe kufanele, kungakapheli emalanga lali-14 ngalesikhatsi sekutsatfwe lilunga lelisha kumtimba walo lolilawulako, latise nobhala ngalokucashwa kwelilunga lelisha lelilawula lomtimba, latise nobhala ngalokucashwa nekuniketa nobhala ngelwatiso lolunjalo njengoba nobhala angaludzinga. 30

(4) Lemibandzela yesigatjana (3) angeke yafundvwa njengaleniketwa lokucashwa kwelilunga lalomtimba lolawulako letinsitanchanti tetimakethe ngekuya ngekuvunyelwa kwanobhala.

(5) Uma ngabe kuvela kunobhala kutsi lilunga limisiwe ngekwesigatjana (1), nobhala anga, ngekuya ngesigatjana (6), kutjela letinsitanchanti tetimakethe kukhipha lelo lunga kulomtimba lolawulako. 35

(6) Nobhala kufanele, ngembi kwekuniketa imiyalelo ngekuhambisana nesigatjana (5)—

- (a) ngekuhphala phasi atise letinsitanchanti tetimakethe kanye nalelilunga lelifanele ngetinjongo tanobhala kutsi anikete lomyalelo; 40
- (b) kuniketa letinsitanchanti tetimakethe kanye netizatfu letibhalwe phansi talelilunga kwentela lemiyalelo lehlosiwe; kanye
- (c) kubita letinsitanchanti tetimakethe kanye nalelo lunga kutsi bakhombise kungakapheli sikhatsi lesingemalanga lali-14 kutsi kungani lomyalelo kungafanele unuketwe. 45

(7) Uma ngabe nobhala aniketa letinsitanchanti tetimakethe umtsetfo kutsi isuse lilunga kulomtimba leliwulawulako, letinsitanchanti tetimakethe kufanele kutsi isuse lelilunga kungakapheli sikhatsi lesingemalanga lali-14 kantsi kufanele kucinisekiswa kutsi lomuntfu lekukhulunywa ngaye angeke nganoma yiphi indlela, noma ngco noma ngalokungakacondzi, angenelele ekulawulweni kwaletinsitanchanti tetimakethe. 50

(8) Uma ngabe inhlangano letilawulako ihluleka kuhambisana nalesigatjana (7), nobhala anga, ngalokuphatselene naloko kuhluleka, akhiphe inhlawulo lengadluli ku R5 000 kufanele ilungishwe ngunobhala njalo ngemnyaka kute ikhombise Silinganiso Selinani Lebatsengi, njengoba ikhishwe beTelubalo baseNingizimu Afrika onkhe malanga ngalesikhatsi loko kuhluleka kuchubeka. 55

(9) Sigaba 97(2), (3) na (4) si, ngaletingucuko letidzingekako kulengcikisti, kube khona kutsi kuniketwe inhlawulo ngaphansi kwesigatjana (8).

Limitation on control of and shareholding or other interest in market infrastructures

- 67.** (1) For the purposes of this section, “associate”, in relation to—
- (a) a natural person, means—
 - (i) a person who is recognised in law or the tenets of religion as the spouse, life partner or civil union partner of that person; 5
 - (ii) a child of that person, including a stepchild, an adopted child and a child born out of wedlock;
 - (iii) a parent or stepparent of that person;
 - (iv) a person in respect of which that person is recognised in law or appointed by a court as the person legally responsible for managing the affairs of or meeting the daily care needs of the first-mentioned person; 10
 - (v) a person who is the permanent life partner or spouse or civil union partner of a person referred to in subparagraphs (ii) to (iv);
 - (vi) a person who is in a commercial partnership with that person; 15
 - (vii) another person who has entered into an agreement or arrangement with that natural person, relating to the acquisition, holding or disposal of, or the exercising of voting rights in respect of, shares in the market infrastructure in question; 15
 - (b) a juristic person— 20
 - (i) which is a company, means its subsidiary and its holding company and any other subsidiary or holding company thereof as defined in section 1 of the Companies Act;
 - (ii) which is a close corporation registered under the Close Corporations Act, 1984 (Act No. 69 of 1984), means any member thereof as defined in section 1 of that Act; 25
 - (iii) which is not a company or close corporation, means another juristic person which would have been its subsidiary or holding company—
 - (aa) had it been a company; or
 - (bb) where that other juristic person is not a company either, had both it and that other juristic person been a company; 30
 - (iv) means any person in accordance with whose directions or instructions its board of directors or, in the case where such juristic person is not a company, the governing body of such juristic person, acts; 35
 - (c) in relation to any person—
 - (i) means any juristic person whose board of directors or, in the case where such juristic person is not a company, the governing body of such juristic person, acts in accordance with its directions or instructions;
 - (ii) means a trust controlled or administered by it. 40
- (2) For the purposes of this section, a person controls a market infrastructure—
- (a) that is a company, if that person, alone or with associates—
 - (i) holds shares in the market infrastructure of which the total nominal value represents more than 15 per cent of the nominal value of all the issued shares thereof; 45
 - (ii) is directly or indirectly able to exercise or control the exercise of more than 15 per cent of the voting rights associated with securities of that company, whether pursuant to a shareholder agreement or otherwise, or 50
 - (iii) has the right to appoint or elect, or control the appointment or election of, directors of that company who control more than 15 per cent of the votes at a meeting of the board; 50
 - (b) that is a close corporation, if that person, alone or with associates, owns more than 15 per cent of the members’ interest, or controls directly, or has the right to control, more than 15 per cent of members’ votes in the close corporation; or

Tihibe tekulawula nalamanye emasheya noma lenye intalo kunhlangano tsite letilawulako

67. (1) Kwentela tinjongo talesigaba, “losebentisana naye”, ngekuhambisana ne—
- (a) muntfu, kushiwo—
 - (i) umuntfu lonakwa ngekwemtsetfo noma lohlala naye ngekwenkholelo yekutsi ungumlingani, masihlalisane noma loshade naye ngekwesilungu; 5
 - (ii) umntfwana walowo muntfu, kufaka ekhatsi umntfwana lokungasuye wakhe, umntfwana lotsetfwe kute ondliwe kanye nelivetandlebe;
 - (iii) umtali noma umtali lekungasuye walowo muntfu;
 - (iv) umuntfu lapho khona lowo muntfu uyanakwa ngekwemtsetfo noma acashwe yinkhantolo njengemuntfu lobekwe yinkhantolo njengemuntfu losemtsetfweni kutsi alawule tindzaba noma kufinyelela kutidzingo tamalanga onkhe talomuntfu loshiwe kwekucala; 10
 - (v) umuntfu longumlingani ngalokuphelele noma masihlalisane noma umshado losemtsetfweni wemuntfu lobalwe kundzinyane (ii) kuya (iv); 15
 - (vi) umuntfu lonebudlelwano bemali nalowo muntfu;
 - (vii) lomunye umuntfu longenele kusivumelwano noma kulokuhleliwe nalowo muntfu, kuya ngekukhishwa, kubamba noma kuvetwa kwe, noma kusetjentiswa emalungelo ekuvota ngalokuphatselene ne, emasheya tinsitanchanti tetimakethe lekukhulunywa ngayo; 20
 - (b) umuntfu wemtsetfo—
 - (i) lokusho kutsi yinkhapani, lokusho lehambisana nayo kanye nenkhapani leyamelene nayo njengoba ichazwe kusigaba 1 se-*Companies Act*;
 - (ii) lekuyinkhapani lenebunikati lobulishumi lebhaliwe ngaphansi kwe-*Close Corporations Act*, 1984 (Umtsetfo Nom. 69 wanga 1984), kushiwo noma liphi lilunga lelinjalo lelichazwe kusigaba 1 salowo Mtsetfo; 25
 - (iii) lekungasiyo inkhapani noma inkhapani lenebunikati lobulishumi kushiwo lomunye umuntfu losemtsetfweni lebekufanele abe ngulobamelele noma lolibambela lenkhapani— 30
 - (aa) uma ngabe kuyinkhapani; noma
 - (bb) ngaleso sikhatsi lapho khona lomuntfu losemtsetfweni angasiyo inkhapani, uma ngabe kokubili kanye nalolomunye losemtsetfweni kube yinkhapani;
 - (iv) kushiwo noma muphi umuntfu lohambisana naletinkhomba noma imiyalelo yebalawuli labaphetse noma, noma lapho khona lomuntfu kungasiyo inkhapani, umtimba lolawulako walowo lolawulako, tento; 35
 - (c) ngalokuphatselene nanoma ngabe ngubani—
 - (i) kushiwo noma ngabe ngubani losemtsetfweni baphatsi bakhe noma, uma ngabe lowo muntfu losemtsetfweni akusiyo inkhapani, umtimba walabaphetse walowo muntfu, usebenta ngekuhambisana netinkhomba noma imiyalelo; 40
 - (ii) kushiwo sikhwama lesilawulwa noma siphatfwa ngibo.
- (2) Kwentela tizatfu talesigaba, umuntfu lolawula tinsitanchanti tetimakethe—
- (a) leyo yinkhapani, uma ngabe lowo muntfu, yedvwa noma nalahlanganyela nabo,— 45
 - (i) kuba nemasheya kutinsitanchanti tetimakethe lapho khona lizinga lelilinganisiwe leliphelile limelele kundlula kumaphesenti lali-15 yelizinga lelilinganisiwe kuwo onkhe emasheya laniketiwe;
 - (ii) uyakhona kutilolonga ngalokucondzile nalokungakacondzi kulokudlula kumaphesenti lali-15 kumalungelo ekuvota lahambisana nemasheya aleyo nkhopani, noma kulandzelela sivumelwano semnini masheya noma kunjalo noma 50
 - (iii) ube nelilungelo lekubeka noma kukhetsa, noma kulawula lokucashwa noma kukhetfwa kwe, bacondzisi baleyo nkhopani labalawula lokungetulu kwemaphesenti lali-15 emavoti emhlanganweni webhodi; 55
 - (b) leyo yinkhapani lenebulunga lobudlula kulishumi, uma ngabe lowo muntfu, ayedvwa noma nalahambisana nabo, unebunikati bentalo yemalunga lendlula kumaphesenti lali-15, noma kulawula ngco, noma unelilungelo lekulawula, lokungetulu kwemaphesenti lali-15 lemavoti emalunga kunkhapani lebulunga lobulishumi; noma 60

- (c) that is a trust, if that person, alone or with associates, has the ability to control more than 15 per cent of the votes of the trustees or to appoint more than 15 per cent of the trustees, or to appoint or change more than 15 per cent of the beneficiaries of the trust.
- (3) A person may not, without the prior approval of the registrar, acquire or hold shares or any other interest in a market infrastructure, if the acquisition or holding results in that person, directly or indirectly, alone or with an associate, exercising control within the meaning of subsection (2) over the market infrastructure. 5
- (4) A person may not, without the prior approval of the registrar, acquire shares or any other interest in a market infrastructure in excess of that approved under subsection (3), but not exceeding 49 per cent. 10
- (5) (a) A person may not, without the prior approval of the Minister, acquire or hold shares or any other interest in a market infrastructure, if the acquisition or holding results in the per cent referred to in subsection (2) exceeding 49 per cent.
- (b) Any request for approval referred to in paragraph (a) must be submitted through the registrar to the Minister. 15
- (6) The approval referred to in subsection (3), (4) or (5)—
- (a) may be given subject to the condition that the aggregate nominal value of the shares owned by the person concerned and his or her associates may not exceed such percentage as may be determined by the registrar; 20
- (b) may not be given if it will defeat the objects of this Act referred to in section 2; and
- (c) may be refused if the person concerned, alone or with his or her associates, has not owned shares in the market infrastructure— 25
- (i) of the aggregate nominal value; and
- (ii) for a minimum period, not exceeding 12 months, that the registrar or the Minister, as the case may be, may determine.
- (7) If the registrar or the Minister, as the case may be, is satisfied on reasonable grounds that the retention of a particular shareholding or other interests by a particular person will be prejudicial to the market infrastructure, the registrar or the Minister, as the case may be, may apply to the court in whose area of jurisdiction the main office of the market infrastructure is situated, for an order— 30
- (a) compelling that person to reduce, within a period determined by the court, the shareholding or other interests in the market infrastructure to a shareholding with a total nominal value not exceeding 15 or 49 per cent, as the case may be, of the total nominal value of all the issued shares of the market infrastructure; 35
- and
- (b) limiting, with immediate effect, the voting or other rights that may be exercised by such person by virtue of his or her shareholding or other interest in the market infrastructure, to 15 or 49 per cent of the voting or other rights attached to the shares or other interests, as the case may be. 40
- (8) An application referred to in subsections (3), (4) or (5) must be made in the manner and form prescribed by the registrar.

Delegation of functions

- 68.** (1) A market infrastructure may delegate or assign any function entrusted to it by this Act or its rules to a person or group of persons, or a committee approved by the controlling body of the market infrastructure, or a division or department of the market infrastructure, subject to the conditions that the market infrastructure may determine. 45
- (2) Before delegating or assigning functions as contemplated in subsection (1) to an external party, the market infrastructure must obtain the approval of the registrar. 50
- (3) The registrar may delegate or assign any function entrusted to the registrar by or under this Act, subject to the conditions that the registrar may determine.
- (4) A market infrastructure or the registrar, as the case may be, is not divested or relieved of a function delegated or assigned under subsections (1) and (2), and

- (c) leso sikhwama, uma lowo muntfu, ayedvwa noma analahambisana nabo, unelikhono lekulawula lokudlula kumaphesenti lali-15 lebanemasheya, noma kubeka noma kugucula lokudlula kumaphesenti lali-15 lalabanemasheya, noma kucasha noma kugucula labazuzako kusikhwama langetulu kwemaphesenti lali-15. 5
- (3) Umuntfu angeke, ngaphandle kwemvume yanobhala, afune noma abe nemasheya noma lokunye lokuyintalo kutinsitanchanti tetimakethe, uma ngabe lolokufunekako noma abe nemiphumela ngalowo muntfu, ngco noma ngalokuyamile, ayedvwa noma nalasebentisana naye, asebentisa kulawula ngenchazelo yesigatjana (2) kulenhlango letilawulako. 10
- (4) Umuntfu angeke, ngaphandle kwemvume yangaphambilini yanobhala, afune emasheya noma lenye intalo kutinsitanchanti tetimakethe, kutfolo loko lokuvunyelwe ngaphansi kwesigatjana (3), kodvwa kungandluli kumaphesenti langema-49.
- (5) (a) Umuntfu angeke, ngaphandle kwemvume yangaphambilini yaNgcongcoshe, kutfolo noma kuba nemasheya noma noma yiphi lenye intalo kutinsitanchanti tetimakethe, uma ngabe lokutsatfwa noma kubanjwa kwemiphumela kuleliphesenti lelilalwe kusigatjana (2) kudlula kumaphesenti langema-49. 15
- (b) Noma ngabe siphi sicelo salokuvunyelwe lokubalwe kundzima (a) kufanele kwetfulwe kunobhala kuye kungcongcoshe.
- (6) Lemvume lecondziswe kusigatjana (3), (4) noma (5)— 20
- (a) inganiketwa ngekuya ngemibandzela lekusti lelizinga lelilinganisiwe lalamasheya lanawo lomuntfu lotsintsekako kanye nalaba lahambisana nabo angeke landlula lawo maphesenti njengoba kungancunywa ngunobhala;
- (b) angeke baniketwa uma ngabe kutawumelana netinjongo taloMtsetfo letibalwe kusigaba 2; kanye 25
- (c) angeke kwaliwa uma ngabe lomuntfu lotsintsekako, yedvwa noma nalahambisana nabo, akakabi nemasheya kuletinsitanchanti tetimakethe—
- (i) kulelizinga lelilinganisiwe; kanye
- (ii) kwentela sikhatsi lesilinganiselwa, kungandluli tinyanga leti-12, kutsi nobhala noma Ngcongcoshe, njengoba kungabe kubekiwe, angancuma. 30
- (7) uma ngabe nobhala noma Ngcongcoshe, njengoba kungabe kubekiwe, wanelisekile ngemazinga labekiwe kutsi lokulondvwa kwekuba nemasheya noma lenye intalo ngumuntfu lotsite kutawuba semtsetfweni kuletinsitanchanti tetimakethe, nobhala noma Ngcongcoshe, njengoba kungabe kubekiwe, angabhalela kulenkantolo yalapho kunelihhovisi khona laletinsitanchanti tetimakethe kutsi atfole umyalelo— 35
- (a) acindzetele lowo muntfu kutsi anciphise, ngesikhatsi lesincunye yinkantolo, lokuba nemasheya noma lenye intalo kuletinsitanchanti tetimakethe kulonemasheya lonelizinga lelilinganisiwe lelingandluli emaphesenti lali-15 noma 49 nasekaphellele, njengoba kungabe kubekiwe kulelizinga lelilinganisiwe leliphellele yawo onkhe emasheya laniketiwe kutinsitanchanti tetimakethe; kanye 40
- (b) kuvimbela, ngalokuphutfumako, kuvota noma lamanye emalungelo langasetjentiswa ngulowo muntfu ngesikhundla sakhe sekuba nemasheya noma lenye intalo kulenhlango letilawulako kumaphesenti lali-15 noma 49 alokuvota noma lamanye emalungelo lafakwa kulamasheya noma lenye intalo, njengoba kungabe kubekiwe. 45
- (8) Sicelo lesibalwe kusigatjana (3), (4) noma (5) kufanele sentiwe ngendlela lebekwe ngunobhala.

Kuniketwa kwemisebenti

68. (1) Tinsitanchanti tetimakethe tinganiketa noma yendlulisele noma muphi umsebenti loniketwe bona ngekwaloMtsetfo noma imitsetfo yabo kumuntfu noma licembu lebanfu, noma likomidi lelivunyelwe ngumtimba lolawulako walenhlango letilawulako, noma incenye noma litiko lalenhlango letilawulako, ngekuya ngemibandzela yekutsi lenhlango letilawulako ingancuma. 50
- (2) Ngembi kwekutsi kuniketwe emandla noma umsebenti njengoba kuvetiwe kusigatjana (1) kulicembu langaphandle, letinsitanchanti tetimakethe kufanele itfole imvume yanobhala. 55
- (3) Nobhala angatfumela noma anikete noma muphi umsebenti wakhe loniketwe nobhala ngaphansi kwaloMtsetfo ngekuya ngemibandzela lengancunywa ngunobhala.
- (4) Tinsitanchanti tetimakethe noma nobhala, njengoba kungabe kubekiwe, abakatfulwa umtfwalo ngalomsebenti loniketwe labanye noma lodlulisiwe ngaphansi 60

may, if necessary, withdraw the delegation or assignment at any time on reasonable notice.

Report to registrar

69. Within four months after the financial year-end of a market infrastructure, that market infrastructure must submit to the registrar an annual report containing the details prescribed by the registrar and audited annual financial statements that fairly present the financial affairs and status of the market infrastructure. 5

Attendance of meetings by, and furnishing of documents to, registrar

70. (1) The registrar or a person nominated by the registrar may attend any meeting of the controlling body of a market infrastructure or a committee of the controlling body, and may take part, but may not vote, in all the proceedings at such meeting. 10

(2) A market infrastructure must furnish the registrar with all notices, minutes and documents which are furnished to members of the controlling body of the market infrastructure or a committee of the controlling body, as if the registrar were a member of that body or committee. 15

Manner in which rules of certain market infrastructure may be made, amended or suspended, and penalties for contraventions of such rules

71. (1) The registrar must as soon as possible after issuing a licence to a market infrastructure that is required to issue rules, cause the rules made by that entity to be published in the *Gazette* at the expense of the entity concerned. 20

(2) (a) A market infrastructure may, subject to this section, amend or suspend its rules in accordance with the consultation process set out in the rules, which process must provide for—

- (i) the persons who are to be consulted; and
- (ii) the manner in which consultation will happen, including the time period or periods allowed for consultation. 25

(b) The registrar may, subject to this section, amend the rules or issue an interim rule.

(3) (a) A proposed amendment, other than a suspension, of the rules must be submitted to the registrar for approval and must be accompanied by an explanation of the reasons for the proposed amendment and any concerns or objections raised during the consultation process. 30

(b) The registrar must as soon as possible after the receipt of a proposed amendment publish—

- (i) the amendment on the official website; and
- (ii) a notice in the *Gazette* that the proposed amendment is available on the official website, 35

calling upon all interested persons who have any objections to the proposed amendment to lodge their objections with the registrar within a period of 14 days from the date of publication of the notice.

(c) If there are no such objections, or if the registrar has considered the objections and, if necessary, has consulted with the market infrastructure and the persons who raised such objections and has decided to approve or amend the proposed amendment, the registrar must publish— 40

- (i) the amendment and the date on which it comes into operation on the official website; and
- (ii) a notice in the *Gazette*, which notice must state— 45

(aa) that the amendment to the rules has been approved;

(bb) that the rules as amended are available on the official website and the website of the market infrastructure; and

(cc) the date on which the amendment will come into operation. 50

(4) (a) The registrar, by notice in the *Gazette* and on the official website, may amend the rules of that market infrastructure—

- (i) if there is an urgent imperative under exceptional circumstances;
- (ii) if it is necessary to achieve the objects of this Act referred to in section 2; and

kwalesigatjane (1) na (2) kantsi banga, uma kufanele, bahocise lokuniketwa noma lomsebenti nganoma siphikatsi ngesatso lesiphatsakako.

Umbiko wanobhala wenhlangano letilawulako

69. Ngemuva kwetinyanga letine nasekuphele umnyaka timali wetinsitanchanti tetimakethe, letinsitanchanti tetimakethe kufanele tetfule kunobhala umbiko wemnyaka wonkhe locuketse imininingwane lebhawle ngunobhala kanye netititimende temnyaka temali letihloliwe letikhombisa simo setimali kanye nesimo saletinsitanchanti tetimakethe. 5

Kungenelwa kwemihlangano ngunobhala, kanye nekuniketwa kwemiculu

70. (1) Nobhala noma umuntfu lokhetfwe ngunobhala angangenelela kunoma muphi umhlangano yalomtimba lolawulako yetinsitanchanti tetimakethe noma likomidi lalomtimba lolawulako kantsi ungaba yincenye, kodvwa angeke avote, kuko konkhe lokuchubeka kumhlangano lonjalo. 10

(2) Tinsitanchanti tetimakethe kufanele inikete nobhala tonkhe tatiso, emaminithi nemiculu leniketwa emalunga alomtimba lolawulako kuletinsitanchanti tetimakethe, kwenteka kwangatsi nobhala bekalilunga lalowo mtimba noma likomidi. 15

Indlela imitsetfo yenhlangano letilawulako kufanele yentiwe ngayo, ichtijiyelwe noma ihociswe kanye netinhlawulo tekwephula leyo mitsetfo

71. (1) Nobhala kufanele ngekushesha ngemuva kwekuniketa ilayisensi yetinsitanchanti tetimakethe ente imitsetfo leyentiwe nguleyo nhlangano kutsi kukhishwe kuGazethi ngetindleko talenhlangano letisntsekako. 20

(2) (a) Tinsitanchanti tetimakethe tinga, ngekuya ngalesigaba, achibiyela noma acitse imitsetfo ngalokuphatselene nalenchubo yekutsintsana lekhona kulemitsetfo, laphe khona lenchubo kufanele inikete—

- (i) labantfu lekufanele batsintfwe; kanye 25
- (ii) indlela labatawutsaintfwa ngayo, kufaka ekhatsi lesikhatsi noma tikhatsi letivumelekile kutsi kutsintfwane.

(b) Nobhala anga, ngekuya ngalesigaba, kuchibiyela lemitsetfo noma kukhipha umtsetfo wesikhashane.

(3) (a) Kuchubiyela lokuphakanyisiwe, ngaphandle kwalokucitsako, kwalemitsetfo kufanele kwetfulwe kunobhala kute kuvunyelwe kantsi kufanele kuhambisane nenchazelo yalokuchitjiyelwa lokuphakanyisiwe nalokunye lokubatsintsako noma tinkhinga letiphakanyisiwe ngalesikhatsi kutsintfwana. 30

(b) Nobhala kufanele ngekushesha ngemuva kwekutfola tichibiyelo letiphakanyisiwe tikhishiwe— 35

- (i) kuchitjiyela kwwebhu lesemsetfweni; kanye
- (ii) satso kuGazethi kutsi lokuchibiyela lokuphakanyisiwe kuyatfolakala kuwebhu lesemsetfweni, kubita bonkhe bantfu labanenshisekelo labaphikisanako naletichibiyelo letiphakanyisiwe kutsi bafake tikhalo tabo nganobhala kungakapheli emalanga lali-14 kusukela ngalelilanga lekushicilelwa kwalesatso. 40

(c) Uma ngabe kungekho lokuphikiswako, noma uma ngabe nobhala akutsetse loku lokuphikiswako kanye, uma kufanele, atsintsene netinsitanchanti tetimakethe kanye nalomuntfu lophikisako kanye naloncume kuvuma noma kuphakamisa sichibiyelo, nobhala kufanele ashicilele— 45

- (i) lokuchibiyela nelusuku laphe kucala khona kusebenta kuwebhu lesemsetfweni; kanye
- (ii) ngesatso kugazethi, laphe khona lesatso kufanele sisho kutsi—
 - (aa) lokuchibiyela kwalemitsetfo kuvunyelwe;
 - (bb) kutsi lemitsetfo njengoba ichtijiyelwe ikhona kuwebhu lesemsetfweni yaletinsitanchanti tetimakethe; kanye 50
 - (cc) lolusuku lokuchitjiyelwa lekutawusetjentiswa ngalo.

(4) (a) Nobhala, ngekwesatso kuGazethi kanye nakuwebhu lesemsetfweni, kungachitjiyelwa lemitsetfo yaletinsitanchanti tetimakethe—

- (i) uma ngabe kukhona lokjubaluleke kakhulu ngaphansi kwetimo letikhetsikile; 55
- (ii) uma ngabe kunesidzingo kutsi kufinyelelwe kutinjongo taloMtsetfo letibalwe kusigaba 2; kanye

- (iii) after consultation with the market infrastructure concerned.
- (b) Where the registrar has amended the rules of a market infrastructure under paragraph (a), the registrar must—
- (i) inform the Minister of the amendment, giving reasons for the amendment and explaining the imperative referred to in paragraph (a)(i); and 5
 - (ii) give reasons for the amendment, and explain the imperative referred to in paragraph (a)(i), in the *Gazette* and on the official website.
- (5) (a) Subject to prior approval of the registrar, a market infrastructure may suspend any of the rules of that organisation for a period not exceeding 30 days at a time after reasonable notice of the proposed suspension has been advertised on the official website. 10
- (b) The registrar may, for the period of such suspension, issue an interim rule by notice in the *Gazette* to regulate the matter in question.
- (c) Any contravention of or failure to comply with an interim rule, has the same legal effect as a contravention of or failure to comply with a rule.
- (6) (a) The rules may prescribe that a market infrastructure, or a person to whom the market infrastructure has delegated its disciplinary functions, may where appropriate impose any one or more of the following penalties for any contravention thereof or failure to comply therewith: 15
- (i) A reprimand;
 - (ii) a censure; 20
 - (iii) a fine not exceeding R7.5 million, to be adjusted by the registrar annually to reflect the Consumer Price Index, as published by Statistics South Africa;
 - (iv) suspension or cancellation of the right to be a clearing member of an independent clearing house, an authorised user or a participant;
 - (v) disqualification, in the case of a natural person, from holding the office of a director or officer of a clearing member of an independent clearing house, an authorised user or a participant, as the case may be, for any period of time; 25
 - (vi) a restriction on the manner in which a clearing member of an independent clearing house, an authorised user or a participant may conduct business or may utilise an officer, employee or agent; 30
 - (vii) suspension or cancellation of the authorisation of an officer or employee of a clearing member of an independent clearing house, an authorised user or a participant to perform a function in terms of the rules;
 - (viii) any other penalty that is appropriate in the circumstances. 35
- (b) The rules may prescribe that—
- (i) full particulars regarding the imposition of a penalty must be published on the website of the market infrastructure or through the news service of the market infrastructure or through a market notice, if any;
 - (ii) any person who has contravened or failed to comply with the rules, may be ordered to pay the costs incurred in an investigation or hearing conducted in terms of the rules; 40
 - (iii) a market infrastructure may take into account at a disciplinary hearing any information obtained by the registrar in the course of an inspection conducted under section 95;
 - (iv) a market infrastructure, or a person to whom a market infrastructure has delegated its disciplinary functions, may, upon good cause shown, and subject to the conditions it may impose, vary or modify any penalty which it may previously have imposed upon any person, but that in varying or modifying such penalty, the penalty may not be increased. 45
- (7) If a person fails to pay a fine referred to in subsection (6)(a), the market infrastructure may file with the clerk or registrar of any competent court a statement certified by it as correct, stating the amount of the fine imposed, and such statement thereupon has all the effects of a civil judgment lawfully given in that court against that person in favour of the market infrastructure for a liquid debt in the amount specified in the statement. 50 55

- (iii) ngemuva kwekutsintsana netinsitanchanti tetimakethe letitsintsekako.
- (b) Lapho khona nobhala achibiyele imtsetfo yetinsitanchanti tetimakethe ngaphansi kwendzima (a), nobhala kufanele—
- (i) atise Ngcongcoshe ngalokuchibiyela anikete tizatfu talokuchibiyela achaze nalokubaluleka lokubalwe kundzima (a)(i); ne 5
- (ii) kuniketa tizatfu talokuchibiyela, nekuchaza kubaluleka lokubalwe kusigaba (a)(i), ku*Gazethi* kanye nakuwebhu lesemsetfweni;
- (5) (a) Ngekuya ngemvume yangaphambilini yanobhala, tinsitanchanti tetimakethe ingamisa noma muphi yalemitsetfo yalenhlangano kwentela sikhatsi lesingadluli emalanga langema-30 ngesikhatsi ngemuva kwesatiso lesivakalako salokumiswa lokuphakanyisiwe kukhangiswe kuwebhu lesemsetfweni. 10
- (b) Nobhala anga, kulesikhatsi sekumiswa, kube khona umtsetfo wesikhashane ngekwasatiso kugazethi kulawula loludzaba lekukhulunywa ngalo.
- (c) Noma kuphi kungenelela noma kuhluleka kuhambisana nalemitsetfo yesikhashane kunemselela lofanako wemtsetfo njengekungenelela noma kuhluleka kulandzela umtsetfo. 15
- (6) (a) Imitsetfo ingabeka kutsi tinsitanchanti tetimakethe, noma umuntfu lapho tinsitanchanti tetimakethe letimtfumile kutsi ente umsebenti lapho kufanele khona wekubuyisa endleleni, angatfuma noma bani noma lokunye kwalokulandzelako lokusigwebo kunoma kuphi kungenelela lokukhona noma kuhluleka kuhambisana naloko— 20
- (i) kuncandza;
- (ii) kungavumeli;
- (iii) inhlawulo lengadluli tigidzi leti-R7.5, kufanele ilungiswe ngunobhala njalo ngemnyaka kukhombisa Silinganiso Selinani Lemtsengi, njengoba kuvetwe beLubalo lwaseNingizimu Afrika; 25
- (iv) kumiswa noma kukhanselwa kwelilungelo lekuba lilunga leligunyatiwe lendlu letimele legunyatako, umsebentisi losemtsetfweni noma labangenelelako;
- (v) kungasavumeli, uma ngabe kungumuntfu, kutsi aphantse lihhovisi lemcondzisi noma abe sisebenti selilunga leligunyatiwe sendlu letimele legunyatiwe, umsebentisi losemtsetfweni noma labangenelelako, njengoba kungabe kubekiwe, nganoma sikhatsi lesingakanani; 30
- (vi) imitsetfo levimbela indlela lilunga leligunyatiwe yendlu letimele legunyatako, umsebentisi losemtsetfweni noma labangenelelako bangenta umsebenti noma bangasebentisa umsebenti, sisebenti ne ejenti; 35
- (vii) kumisa noma kukhansela kweligunya lesisebenti noma umsebenti welilunga leligunyatiwe wendlu letimele legunyatiwe, an umsebentisi losemtsetfweni noma labangenelelako kutsi bente umsebenti ngekuhambisana nalemitsetfo;
- (viii) noma ngabe nguyiphi inhlawulo lefanele lesimo. 40
- (b) Lemitsetfo ingabala kutsi—
- (i) imininingwane lephelele lephatselene nekuniketwa kwenhlawulo kufanele ikhishwe kuwebhu lesemsetfweni yanhlango letilawulako noma kubeluhlelo lwetindzaba tenhlanganbo letilawulako noma ngesatiso kumakethe, uma sikhona;
- (ii) noma ngabe ngubani lophule noma lohluleke kuhambisana nemitsetfo angatjela kutsi akhokhe tindleko letibangelwe luphenyo noma kutsetfwa kwelicala lokwentiwe ngaphansi kwalomtsetfo; 45
- (iii) tinsitanchanti tetimakethe tingatsatsa noma luphi lwatiso lelicala lelitsetsiwe lolutfolwe ngunobhala ngalesikhatsi kuhlolwa ngaphansi kwesigaba 95;
- (iv) tinsitanchanti tetimakethe, noma umuntfu lapho inhlango letilawulako andlulisele emandla ekubuyisa endleleni, anga, uma akhombise kwenta kahle, nangekuhambisana nemibandzela layikhombisile, abuke noma ente kabusha noma ngabe nguyiphi inhlawulo lengahle ibe ibekelwe noma bani kodvwa lehlukile noma lelungiswe kabusha leyo nhlawulo angeke yakhuliswa. 50
- (7) Uma ngabe umuntfu ahluleka kukhokhela inhlawulo lebalwe kusigatjana (6)(a) tinsitanchanti tetimakethe tingafayela namabhalane noma nanobhala wanoma yiphi inkhantolo lesebentako sitatimende lesiniketwe ngiyo njengalesikahle, sisho linani lenhlawulo leniketive, kanye nesitatimende lesinjalo sinemitselela yonkhe welicala leliniketive ngalokusemtsetfweni kuleyo nkantolo ngekumelana nalowo muntfu ngalokutsandvwa tinsitanchanti tetimakethe ngesikweleti semanti ngelinani lelibekwe kulesitatimende. 60

(8) This section does not prejudice the common law rights of a person aggrieved by a contravention of or failure to comply with a rule to claim any amount except to the extent that any portion of such amount has been recovered under subsection (6).

(9) The rules must prescribe the purpose for which a fine referred to in subsection (6) must be appropriated. 5

Limitation of liability

72. (1) No market infrastructure, chief executive officer, director, official, other officer, employee or representative of a market infrastructure or any member of a controlling body or committee of a controlling body of a market infrastructure, is liable for any loss sustained by or damage caused to any person as a result of anything done or omitted by— 10

- (a) the market infrastructure, chief executive officer, other officer, employee, representative or member in the *bona fide* performance of an obligation or function under or in terms of this Act, the listing requirements of an exchange or exchange, depository or clearing house rules or directives; or 15
- (b) a clearing member, an authorised user or participant.

(2) An authorised user that fails to comply with the rules issued in terms of section 17(2)(i) or a participant that fails to comply with the rules issued in terms of section 35(2)(s) does not incur liability to a third party for financial loss or damages because of that failure, unless the failure was grossly negligent or wilful. 20

Disclosure of information

73. (1) No market infrastructure or chief executive officer, other officer, employee, representative or member of a market infrastructure may, subject to subsection (2), disclose to any person any confidential information obtained in the performance of functions under this Act, unless— 25

- (a) the person to whom the confidential information relates has given consent;
- (b) disclosure is required or permitted in terms of a law or a court order;
- (c) disclosure is necessary to carry out his, her or its functions or in the course of performing duties under any law; or
- (d) disclosure is required for the purposes of legal proceedings. 30

(2) Despite subsection (1), a market infrastructure may disclose information relating to or arising from its functions to any market infrastructure or supervisory authority, whether domestic or foreign, if such disclosure will further one or more of the objects of this Act referred to in section 2.

CHAPTER VIII 35

CODE OF CONDUCT

Code of conduct for regulated persons

74. (1) The registrar may in an appropriate consultative manner prescribe a code of conduct for—

- (i) authorised users, participants or clearing members of independent clearing houses; 40
- (ii) any other regulated person, where the required standard of conduct is not prescribed in another law or code of conduct, and a code of conduct is necessary or expedient for the achievement of the objects of this Act.

(2) A code of conduct is binding on authorised users, participants or clearing members of independent clearing houses or any other regulated person in respect of whom the code of conduct was prescribed, as the case may be, and on their officers and employees and clients. 45

(8) Lesigaba asicwasi emalungelo emtsetfo wakuleli yemuntfu lolilako ngenca yekuphula noma kuhluleka kuhambisana nemtsetfo wekukleyma noma siphilamba ngaphandle kwelizinga lekutsi noma yiphi incenye yaleso samba itfolakele ngaphansi kwesigatjana (6)

(9) Lemtsetfo kufanele ibeke injongo lapho khona inhlawulo lebalwe kusigatjana (6) 5
kufanele isetjentswe.

Tihibe netingcinamba

72. (1) Atikho tinsitanchanti tetimakethe, indzawo yekuhwebelana, umphatsi lophakeme, lesinye sisebenti, umcondzisi, umsebenti noma lomele tinsitanchanti tetimakethe noma indzawo yekuhwebelana, noma lelinye nje lilunga lemtimba lolawulako noma likomidi lemtimba letinsitanchanti tetimakethe lendzawo yekuhwebelana, utawuba nemtfwalo walokutawulahleka noma kulimala lokutawenteka kunoma ngubani ngenca yemphumela yanoma yini leyentiwe noma lesuswe— 10

(a) tinsitanchanti tetimakethe, indzawo yekuhwebelana, umphatsi lomkhulu, lesinye sisebenti, sisebenti, lomele noma lilunga lelisemtsetfweni noma kwenta umsebenti ngaphansi ngekwaloMtsetfo, lokudzingekako kute kubhaliswe ligatja noma ligatja, sikhungo noma imitsetfo imibandzela yendlu legunyatako; noma 15

(b) lilunga leligunyatiwe, umsebentisi losemtsetfweni noma labangenelelako.

(2) Umsebentisi losemtsetfweni lohluleka kuhambisana nalemitsetfo lekhishwe ngekuhambisana nesigaba 17(2)(i) noma labangenelelako labahluleka kuhambisana nemitsetfo lekhishwe ngekwesigaba 35(2)(s) akukubangeli umtfwalo kulabangenelelako besitsafu ekulahlekelweni yimali noma umonakalo ngenca yaloko kuhluleka, ngaphandle kwekutsi lokuhluleka kube budlabha lobungebuhle noma ngamabomu. 20

Kuvetwa kwelwatiso

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73. (1) Tinsitanchanti tetimakethe noma umphatsi lophakeme, lesinye sisebenti, sisebenti, lomele noma lilunga letinsitanchanti tetimakethe linga, ngekuya ngekwesigatjana (2), kuvetela noma ngubani noma luphi lwatiso loluyimfihlo lolutfolakele ekwentiweni kwemsebenti ngaphansi kweMtsetfo, ngaphandle kwekutsi

(a) lomuntfu lekanalolwatiso loluyimfihlo uniketa imvume; 30

(b) kuveta kuyadzingeka noma kuvumelekile ngekwemtsetfo noma umyalelo wenkhanolodisclosur;

(c) kuveta kubalulekile kutsi uchubeke wente umsebenti wakho noma ngalesikhatsi wenta imisebenti ngaphansi kwanoma muphi umtsetfo; noma

(d) kuveta kuyadzingeka kwentela inchubo yemtsetfo. 35

(2) Ngaphandle kwesigatjana (1), tinsitanchanti tetimakethe tingaveta lwatiso loluphatselele noma lokuvetwa misebenti kuletinye tinsitanchanti tetimakethe noma labagunyatiwe labaphetse, noma bakuleli noma bangaphandle, uma ngabe lokuvetwa kutawuchubekisa kunye noma lokunyenti kwaletinjongo taloMtsetfo lekucondziswe kuto kulesigaba 2. 40

SAHLUKO VIII

INDLELA YEKUTIPHATSA

Indlela yekutiphatsa kwebantfu labasemtsetfweni

74. (1) Nobhala angenta ngendlela lefanele yekutsintsana anikete indlela yekutiphatsa— 45

(i) yebasebentisi labagunyatiwe, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako;

(ii) noma ngabe ngubani umuntfu losemtsetfweni, lapho khona lizinga lelidzingekako lekutiphatsa alikabekwa kulomunye umtsetfo noma indlela yekutiphatsa, kantsi indlela yekutiphatsa iyadzingeka noma iyaphutfuma kwentela kuphumelela kwaletinjongo taloMtsetfo. 50

(2) Indlela yekutiphatsa iyabopha kubasebentisi labagunyatiwe, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako noma lomunye umuntfu losemtsetfweni lona lewakhishelwa indlela yekutiphatsa, njengoba kungabe kubekiwe, nakutisebenti kanye nebasebenti nemaklayenti. 55

Principles of code of conduct

- 75.** (1) A code of conduct for authorised users, participants or clearing members of independent clearing houses must be based on the principle that—
- (a) an authorised user, participant or clearing member of an independent clearing house must—
 - (i) act honestly and fairly, with due skill, care and diligence and in the interests of a client;
 - (ii) uphold the integrity of the financial markets;
 - (iii) have and effectively employ the resources, procedures and technological systems for the conduct of its business;
 - (b) an authorised user, in addition to paragraph (a), must—
 - (i) seek information from a client regarding his or her financial position, investment experience and objectives where appropriate to the category of securities services provided and to the business of the client; and
 - (ii) act fairly in a situation of conflicting interests.
- (2) A code of conduct for regulated persons, other than the regulated persons mentioned in subsection (1), must be based on the principle that the regulated person must—
- (i) act honestly and fairly, with due skill, care and diligence and, where applicable, in the interests of a client or member;
 - (ii) uphold the integrity of the financial markets.
- (3) A code of conduct may provide for—
- (a) the disclosure to a client of relevant material information, including the disclosure of actual or potential own interests;
 - (b) proper record-keeping;
 - (c) avoidance of fraudulent and misleading advertising, canvassing and marketing;
 - (d) proper safekeeping of transaction documents of clients;
 - (e) proper separation and protection of funds and securities of clients; and
 - (f) any other matter which is necessary or expedient to be regulated in a code of conduct for the achievement of the objects of this Act.

CHAPTER IX

PROVISIONS RELATING TO NOMINEES

Approval of nominee

- 76.** (1) (a) A nominee of an authorised user must be approved as a nominee by the exchange in terms of exchange rules and comply with the requirements set out in the rules.
- (b) A nominee of a participant must be approved as a nominee by the central securities depository in terms of depository rules and comply with the requirements set out in the rules.
- (2) The criteria for the approval of a nominee of an authorised user or a participant must be equivalent to that applied by the registrar when approving a nominee under subsection (3).
- (3) (a) The registrar may prescribe requirements for—
- (i) the approval of a nominee that is not approved as a nominee in terms of subsection (1); and
 - (ii) approved nominees.
- (b) The registrar must maintain a list of all nominees approved under this section.

Imigomo yekutiphatsa

75. (1) Indlela yekutiphatsa yebasebentisi labasemtsetfweni, labangenelelako, noma emalunga lagunyatiwe latimele endlu legunyatako kufanele icondziswe kulomgomo wekutsi—

- (a) umsebentisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe lendlu letimele legunyatako kufanele—
 - (i) basebente ngekutitsembe nakahle, ngelikhono lelifanele, kunakekela nesizitsa kanye nangenshisekelo yeklayenti;
 - (ii) kugcina sizotsa setimakethe temnotfo;
 - (iii) kuba nekucasha kahle imitfombolusito, tindlela netinhlelo tetheknoloji ngekuphatsa libhizinisi labo;
- (b) umsebentisi losemtsetfweni, ngekugetela kundzima (a), kufanele—
 - (i) kufuna lwati kuklayenti ngalokuphatselene nesimo setimali, lwati lwekusisa kanye netinjongo lapho kufanele khona kulelizinga lemisebenti yemasheya leniketwe nakumsebenti weklayenti; kanye
 - (ii) asebente ngekutsembeka kusimo setinshisekelo letingcubutanako.

(2) Indlela yekutiphatsa yebaqntfu labasemtsetfweni, ngaphandle kwalaba labasemtsetfweni lababalwe kusigatjana (1), kufanele icondziswe kumigomo yekutsi lomuntfu losemtsetfweni kufanele—

- (i) asebente ngekutsembeka nalokungavuni licala, ngemakhono lafanele, anakekele abuye atimisele kanye, lapho kufanele khona, anake tinshisekelo teklayenti noma lilunga; kanye
- (ii) aphakamise sizotsa setimakethe temali.

(3) Indlela yekutiphatsa inganiketa—

- (a) lokuvetela iklayenti ngelwatiso loluyimphahla, kufaka ekhatsi lokuvetwe ngaphandle noma longahle ube nenshisekelo kuko;
- (b) kukhipha kahle emarekhodi;
- (c) kuvimbela kwekukhangisa lokungasikahle nalokungahambi ngendlela, kukhankasa nekutsengisa;
- (d) kugcina kahle endzaweni lephephile, kwematansekshini nemiculu yemaklayenti;
- (e) kuhlukanisa kahle nekuvikela timali nemasheya emaklayenti; kanye
- (f) noma ngabe yiphi lenye indzaba lefanele noma lekufanele ilawulwe ngekushesha yendlela yekutiphatsa ngekuphumelelisa tinjongo taloMtsetfo.

SAHLUKO IX

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IMIBANDZELA LEYETAYELEKILE LECONDZISWE KULABAKHESIWE

Kuvunyelwa Kwalabakhetsiwe

76. (1) (a) Lophakanyisiwe wemsebentisi losemtsetfweni kufanele avunyelwe njengalophakanyisiwe nguleligatja ngekuhambisana nemitsetfo yeligatja nekuhambisana naletidzingo letibalwe kulemitsetfo;

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(b) Lophakanyisiwe walabangenelelako kufanele aniketwe njengalophakanyisiwe ngulesikhungo semasheya lesisemkhatsini ngekuhambisana nemitsetfo yesikhungo nekuhambisana naletidzingo letibalwe kulemitsetfo.

(2) Lendlela yekuvunyelwa kwalophakanyisiwe wemsebentisi losemtsetfweni noma labangenelelako kufanele kuhambisane nalolokubhalelwe ngunobhala ngalesikhatsi avumela lophakanyisiwe ngaphansi kwesigatjana (3).

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(3) (a) Nobhala angabeka tidzingo—

- (i) tekuvunyelwa kwalophakanyisiwe longakavunyelwa kutsi aphakanyisiwe ngekwesigatjana (1), kanye
- (ii) labaphakanyisiwe labavuniwe
- (b) Nobhala kufanele agcine luhla lwako konkhe lokuvunyelwe kwa lophakanyisiwe ngaphansi kwalesigaba.

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CHAPTER X MARKET ABUSE

Definitions

77. In this Chapter, unless the context indicates otherwise—
- “**claims officer**” means the person appointed by the board to be responsible for considering and determining claims in terms of section 82(4), (5) and (6) ; 5
 - “**deal**” includes conveying or giving an instruction to deal;
 - “**executive director**” means a person appointed as such in terms of section 85(12);
 - “**inside information**” means specific or precise information, which has not been made public and which— 10
 - (a) is obtained or learned as an insider; and
 - (b) if it were made public, would be likely to have a material effect on the price or value of any security listed on a regulated market;
 - “**insider**” means a person who has inside information— 15
 - (a) through—
 - (i) being a director, employee or shareholder of an issuer of securities listed on a regulated market to which the inside information relates; or
 - (ii) having access to such information by virtue of employment, office or profession; or
 - (b) where such person knows that the direct or indirect source of the information was a person contemplated in paragraph (a); 20
 - “**market abuse rules**” means the rules made under section 84(2)(f);
 - “**market corner**” means any arrangement, agreement, commitment or understanding involving the purchasing, selling or issuing of securities listed on a regulated market— 25
 - (a) by which a person, or a group of persons acting in concert, acquires direct or indirect beneficial ownership of, or exercises control over, or is able to influence the price of, securities listed on a regulated market; and
 - (b) where the effect of the arrangement, agreement, commitment or understanding is or is likely to be that the trading price of the securities listed on a regulated market, as reflected through the facilities of a regulated market, is or is likely to be abnormally influenced or dictated by such person or group of persons in that the said trading price deviates or is likely to deviate from the trading price which would otherwise likely have been reflected through the facilities of the regulated market on which the particular securities are traded; 30 35
 - “**person**” includes a partnership and any trust; and
 - “**regulated market**” means any market, domestic or foreign, which is regulated in terms of the laws of the country in which the market conducts business as a market for dealing in securities listed on that market.

Offences 40

Insider trading

78. (1) (a) An insider who knows that he or she has inside information and who deals directly or indirectly or through an agent for his or her own account in the securities listed on a regulated market to which the inside information relates or which are likely to be affected by it, commits an offence. 45
- (b) An insider is, despite paragraph (a), not guilty of any offence contemplated in that paragraph if such insider proves on a balance of probabilities that he or she—
- (i) only became an insider after he or she had given the instruction to deal to an authorised user and the instruction was not changed in any manner after he or she became an insider; or 50

SAHLUKO X

KUPHATFWA KABI KWETIMAKETHE

Tinchazelo

77. KuleSahluko, ngaphandle kwekutsi ingcikitsi ikubeke ngaleny indlela—
“**lihhovisi lemakleyimu**” kushiwo umuntfu lobekwe yibhodi kutsi abe nemse- 5
benti wekunaka nekuncuma ngemakleyimu ngekwalesigaba 82(4), (5) na (6);
“**kutsengiselana**” kuniketwa imiyalelo yekutsi utsengise;
“umcondzisi lomkhulu” umuntfu lobekwe njengaloko ngekwesigaba 85(12);
“**lwati lwangekhatsi**” lwatiso ngco, lolungakakhishelwa ngaphandle—
(a) lutfolakala noma lufundvwe njengalolungekhatsi; kanye 10
(b) uma ngabe bekwatiwa nguwonkhe umuntfu bekungaba nemtselela
wemphahla kulelinani noma bungako banoma maphi emasheya kumakethe
lelawulwako;
“**ngekhatsi**” kushiwo umuntfu lonelwatiso lwangekhatsi;
(a) ngoba— 15
(i) angumcondzisi, umsebenti noma lonemasheya kantsi angumniketi
wemasheya labhalisiwe kumakethe lesemsetfweni lapho lolwatiso
lwangekhatsi luhambisana khona; noma
(ii) akhona kufinyelela kulwatiso lolunjalo ngekwekucashwa kwakhe, 20
lihhovisi noma ticu; noma
(b) lapho khona umuntfu uyati kutsi lomtfombo lekungiwo ngco noma loseceleni
walolwatiso bekungulomuntfu lobalwe kundzima (a);
“**imitsetfo yekungaphatsi kahle imakethe**” kushiwo imitsetfo leyentiwe
ngaphansi kwesigaba 84(2)(f);
“**imakethe lesekhoneni**” kushi noma luphi luhlelo, sivumelwano, kutinikela 25
noma kuvisisa lokufaka ekhatsi kutsenga, kutsengisa noma kuniketwa emasheya
labhalisiwe kumakethe lesemsetfweni —
(a) lapho khona umuntfu, noma licembu lebantfu labangenele kumbukiso,
badzinga kuhlomula ngco noma lokweyamile, noma bakhombise kulawula,
noma uyakhona kujikisa intsengo, yemasheya labhalisiwe kumakethe 30
lelawulwako; kanye
(b) lapho khona lomtselela walokulungisa, sivumelwano, kutinikela noma
kuvisisa noma kutawuya ngekutsi lelinani lekutsengiswa ngalo lamasheya
labhalisiwe kumakethe lesemsetfweni, njengoba kukhonjise kulesikhungo
semakethe lesemsetfweni, singahle sitsikametwe ngalokungakafaneli noma 35
siniketwe imiyalelo ngulowo muntfu noma licembu lebantfu lebatsi linani
lekuwebelana liyahluka noma lingahle lehluka kulelinani lekuwebelana
lebelingabe likhonjisiwe kuletisnita talemakethe lesemsetfweni lapho
kuwebelwana ngalamasheya latsite;
“**umuntfu**” kushiwo budlelwano kanye nanoma siphi sikhwama; kanye 40
“**imakethe lesemsetfweni**” kushiwo noma yiphi imakethe, noma yakuleli noma
ngaphandle, lelawula ngekuhambisana nemitsetfo yalelive lapho lemakethe
isebentela khona njengemakethe lesebenta ngemasheyalabhalwe kuleyo makethe.

Emacala

- Kuhwebelana ngekhatsi** 45
78. (1) (a) Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalosebenta ngco
noma pheceleti noma ngekuhambisana ne ejenti kutentela yena kumasheya labhalisiwe
kumakethe lesemsetfweni lapho khona lolwatiso lolungekhatsi luhambisana noma
lutawubangela kutsi abe nelicala.
(b) Longekhatsi, ngaphandle kwendzima (a), akanacala nganoma liphi licala 50
lelivetwe kuleyo ndzima uma ngabe lowo longekhatsi acinisekisa ekusimameni
kwemsebenti le yena—
(i) abe ngulongekhatsi ngemuva kwekutsi anikete imiyalelo yekusebenta
ngemsebentisi losemtsetfweni kanye nelwatiso lolungakaguculwa nganoma
yiphi indlela ngemuva kwekutsi ube ngekhatsi; noma 55

- (ii) was acting in pursuit of a transaction in respect of which—
 (aa) all the parties to the transaction had possession of the same inside information;
 (bb) trading was limited to the parties referred to in subparagraph (aa); and
 (cc) the transaction was not aimed at securing a benefit from exposure to movement in the price of the security, or a related security, resulting from the inside information. 5
- (2) (a) An insider who knows that he or she has inside information and who deals, directly or indirectly or through an agent for any other person in the securities listed on a regulated market to which the inside information relates or which are likely to be affected by it, commits an offence. 10
- (b) An insider is, despite paragraph (a), not guilty of any offence contemplated in that paragraph if such insider proves on a balance of probabilities that he or she—
 (i) is an authorised user and was acting on specific instructions from a client, and did not know that the client was an insider at the time; 15
 (ii) only became an insider after he or she had given the instruction to deal to an authorised user and the instruction was not changed in any manner after he or she became an insider; or
 (iii) was acting in pursuit of a transaction in respect of which—
 (aa) all the parties to the transaction had possession of the same inside information; 20
 (bb) trading was limited to the parties referred to in subparagraph (aa); and
 (cc) the transaction was not aimed at securing a benefit from exposure to movement in the price of the security, or a related security, resulting from the inside information. 25
- (3) (a) Any person who deals for an insider directly or indirectly or through an agent in the securities listed on a regulated market to which the inside information possessed by the insider relates or which are likely to be affected by it, who knew that such person is an insider, commits an offence.
- (b) A person is, despite paragraph (a), not guilty of any offence contemplated in that paragraph if the person on whose behalf the dealing was done had any of the defences available to him or her as set out in subsection (2)(b)(ii) and (iii). 30
- (4) (a) An insider who knows that he or she has inside information and who discloses the inside information to another person, commits an offence.
- (b) An insider is, despite paragraph (a), not guilty of the offence contemplated in that paragraph if such insider proves on a balance of probabilities that he or she disclosed the inside information because it was necessary to do so for the purpose of the proper performance of the functions of his or her employment, office or profession in circumstances unrelated to dealing in any security listed on a regulated market and that he or she at the same time disclosed that the information was inside information. 35
- (5) An insider who knows that he or she has inside information and who encourages or causes another person to deal or discourages or stops another person from dealing in the securities listed on a regulated market to which the inside information relates or which are likely to be affected by it, commits an offence. 40

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79. For the purposes of the definition of “inside information”, information is regarded as having been made public in circumstances which include, but are not limited to, the following:

- (a) When the information is published in accordance with the rules of the relevant regulated market; or 50
(b) when the information is contained in records which by virtue of any enactment are open to inspection by the public; or
(c) when the information can be readily acquired by those likely to deal in any listed securities—
 (i) to which the information relates; or 55
 (ii) of an issuer to which the information relates; or
(d) when the information is derived from information which has been made public.

- (ii) bakasebenta ngekufuna ematransekshini ngekuhambisana—
(aa) tonkhe tinhlango kuletransekshini babe nalolwatiso lolufanako lwangekhatsi;
(bb) kuhwebelana kulinganiselwe kutinhlango letibalwe kundzinyana (aa); kanye 5
(cc) letransekshini beyingakacondziswa ekucinisekiseni inzuzo yekuvetela lophakamisa linani lemasheya, noma lisheya lelihambelanako, loluvela kulwatiso lolungekhatsi.
- (2) (a) Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalotsengisa, ngalokucondzile noma lokuncikile noma ngekumelela i-ejenti yanoma ngumuphi umuntfu kulamasheya labhaliwe kumakethe lesemsetfweni lapho khona lolwatiso lolungekhatsi luhlose khona noma nalekungafanele lutsintfwe ngiyo kubangela licala. 10
(b) Umuntfu longekhatsi, kungasiyo indzinyana (a), utfolakala anelicala lelivetwe kuleyo ndzima uma ngabe lowo longekhatsi acinisekisa ngekulingana kwaloku-dzingekako kutsi— 15
(i) umsebentisi losemtsetfweni kantsi bekasebentisa imiyalelo levela kuklayenti, kantsi akatanga kutsi leklayenti beyingekhatsi ngaleso sikhatsi;
(ii) ube ngekhati ngalesikhatsi sekukhishwe lomyalelo wekutsengiselana nemse-
bentisi losemtsetfweni kantsi lomyalelo bewungakaguculwa nganoma yiphi indlela ngemuva kwekutsi abe ngekhati; noma 20
(iii) bekalandzelela itransekshini lephatselene—
(aa) tonkhe tincenye kuletransekshini tinalolwatiso lolufanako lwangekhatsi;
(bb) kuhwebelana kuncishiselwe kulamacembu labalwe kundzinyana (aa); ne
(cc) transekshini beyingakacondziswa ekuvikeleni kulokuhlonyulwako kutsi kuvetwe ekubekweni kwelinani lekuvikela inzuzo kutsi ingavetwa kute kubekwe linani lelisheya, noma lisheya lelifanako, ngenca yalolwatiso lwangekhatsi. 25
- (3) (a) Noma ngabe ngubani lotsengiselana nemuntfu longekhatsi noma ngekumelela yena noma ngekusebentisa i-ejenti kulamasheya labhalisiwe kumakethe lesemsetfweni lapho khona lwatiso lalosekhatsi lolucuketfwe ngulolosekhatsi luhambelana nalo noma lutawutsintfwa ngilo, lowatiko kutsi umuntfu lonjalo ungekhatsi, unelicala. 30
(b) Umuntfu, kungabukwa indzima (a), akanacala lelibekwe ngekwalandzima uma ngabe lomuntfu lebekamelele lokuhwebelana ukwente ngalokuvikeleka lokukhona njengoba kubekiwe kusigatjana (2)(b)(ii) na (iii).
- (4) (a) Longekhatsi lowatiko kutsi unelwatiso lwangekhatsi kanye nalokhipha lwatiso lwangekhatsi kulomunye umuntfu unelicala. 35
(b) Umuntfu longekhatsi, kungabukwa indzima (a), akanacala lelivetwe kundzima uma ngabe lona longekhatsi uyacinisekisa ngalokwanele kutsi uluvetile lolwatiso lolungekhatsi ngoba bekufanele kutsi ente njalo kute kutsi kusebenteke kahle emsebtini wakhe, ehovisi noma emsebtini kutintfo letingahlobananga nekuhwebelana kunoma nguwaphi emasheya lahambisanako laseluhlweni lwasemakethe lesemsetfweni nekutsi ngaleso sikhatsi uvete kutsi lolwatiso bekulwatiso lwangekhatsi. 40
- (5) Umuntfu longekhatsi lowatiko kutsi unelwatiso lwangekhatsi nalocugcutela noma abangele lomunye umuntfu kutsi ahwebelane noma advumate noma amise lomunye umuntfu kutsi ahwebelane kulamasheya laseluhlweni kumakethe lesemsetfweni ho lolwatiso lwangekhatsi lubhekise khona noma uma kungatsintfwa ngilo angaba nelicala. . 45

Lushicilelo

79. Kwentela tizatfu talenchazelo “yelwatiso lolungekhatsi”, lwatiso sitsi lukhishelwe ngaphandle uma ngabe lufaka ekhati, kodvwa aluvimbela, loku lokulandzelako: 50
(a) uma ngabe lolwatiso lukhishwe nemitsetfo yalemakethe lesemsetfweni; noma
(b) uma ngabe lolwatiso lukumarekhodi lengekwenitsetfo asetjentiselwa kutsi avulelekile kutsi angahlolwa; noma 55
(c) uma ngabe lolwatiso lungatfolakala kulabo lesebavele balungele kuhwebelana ngemasheya labhalisiwe—
(i) lolwatiso lolucondziswe kuko; noma
(ii) kulokhiphako lolwatiso lolucondziswe kuye; noma
(d) uma ngabe lolwatiso lutfolakele kulwatiso leseluvele lukhishelwe ngaphandle. 60

Prohibited trading practices

- 80.** (1) No person—
- (a) may, either for such person's own account or on behalf of another person, knowingly directly or indirectly use or participate in any practice which has created or is likely to have the effect of creating—
 - (i) a false or deceptive appearance of the demand for, supply of, or trading activity in connection with; or
 - (ii) an artificial price for, that security;
 - (b) who ought reasonably to have known that he or she is participating in a practice referred to in subparagraph (a), may participate in such practice.
- (2) A person who contravenes subsection (1)(a), commits an offence.
- (3) Without limiting the generality of subsection (1), the following are contraventions of subsection (1):
- (a) Approving or entering on a regulated market an order to buy or sell a security listed on that market which involves no change in the beneficial ownership of that security, with the intention of creating—
 - (i) a false or deceptive appearance of the trading activity in; or
 - (ii) an artificial market price for that security;
 - (b) approving or entering on a regulated market an order to buy or sell a security listed on that market with the knowledge that an opposite order or orders at substantially the same price, have been or will be entered by or for the same or different persons with the intention of creating—
 - (i) a false or deceptive appearance of the trading activity in; or
 - (ii) an artificial market price for, that security;
 - (c) approving or entering on a regulated market orders to buy a security listed on that market at successively higher prices or orders to sell a security listed on that market at successively lower prices for the purpose of unduly influencing the market price of such security;
 - (d) approving or entering on a regulated market an order at or near the close of the market, the primary purpose of which is to change or maintain the closing price of a security listed on that market;
 - (e) approving or entering on a regulated market an order to buy or sell any security which order will be included in any auction during an auction call period and cancelling such order immediately prior to the auction matching, for the purpose of creating—
 - (i) a false or deceptive appearance of the demand for or supply of such security; or
 - (ii) an artificial price for such security;
 - (f) effecting or assisting in effecting a market corner;
 - (g) maintaining, at a level that is artificial, the price of a security listed on a regulated market.
- (4) For the purpose of subsection (1), the employment of price-stabilising mechanisms that are regulated in terms of the rules or listing requirements of an exchange does not constitute a practice which creates an artificial price for securities which are subject to such price-stabilising mechanisms.
- (5) For the purposes of subsection 3(a), a purchase or sale of listed securities does not involve a change in beneficial ownership if a person who had an interest in the securities before the purchase or sale, or a person associated with that person in relation to those securities, has an interest in the securities after the purchase or sale.

False, misleading or deceptive statements, promises and forecasts

- 81.** (1) No person may, directly or indirectly, make or publish in respect of securities traded on a regulated market, or in respect of the past or future performance of a company whose securities are listed on a regulated market—
- (a) any statement, promise or forecast which is, at the time and in the light of the circumstances in which it is made, false or misleading or deceptive in respect

Kuhwebelana ngekhatsi lokungakavumeleki

- 80.** (1) Akekho umuntu—
- (a) longahle ngekumelela lowo muntu noma amelele lomunye umuntu lowatiko, ngalokucondzile nome lokweyamile asebentise noma angenelele kunoma yiphi indlela yekwentisa, lengemanga noma lekhohlisako— 5
 - (i) kuvetwa kwekuhwebelana lokumanga noma lokukhohlisako; noma
 - (ii) intsengo lekungasiyo, yalawo masheya;
 - (b) lonetizatfu tekutsi bekangati kutsi ungenelela kuleso sento lesivetwe kundzinyana (a), angangenelela kuleso sento. 10
- (2) Umuntu lowephula sigatjana (1)(a) unelicala. 10
- (3) Ngaphandle kwekwhlisa kusebenta kwesigatjana (1), loku lokulandzelako kwephula sigatjana (1):
- (a) kucinisekisa noma kungena emakethe lesemsetfweni kute utsenge noma utsengise lisheye leliseluhleni kuleyo makethe lengafaki tingucuko kulongumnikati lozuzako ngetizatfu tekwenta— 15
 - (i) kuvela lokungemanga noma lokukhohlisako kwemsebenti wekuhwebelana; noma
 - (ii) linani lemakethe lekungasilo lelilicinisalo lalawo masheya;
 - (b) kuvumela noma kungena emakethe lesemsetfweni kute utsenge noma utsengise emasheya laselluhleni ngelwatis lwekutsi kunemyalelo lomunye noma imiyalelo yekutsi abe ngemanani lafanako, atawungeniswa noma angeniswe bantfu labafanako noma labahlukene ngemali lelinganako ngekufuna kwakha— 20
 - (i) kuhwebelana kwebantfu lokungemanga noma lokukhohlisako ngekuhambisana ne; noma 25
 - (ii) linani lasemakethe lekungasilo, lelo lisheya;
 - (c) kuvumla noma kungena emakethe lesemsetfweni kute utsenge lisheya lelibhalisiwe kuleyo makethe ngemanani laphakeme noma ufune kutsengisa lisheya lelibhalisiwe kuleyo makethe ngemanani laphansi kwentela kukhohlisala imakethe ngalelo lisheya; 30
 - (d) noma kungena emakethe lesemsetfweni nasekutawuvalwa emakethe, sizatfu sakhona lesibalulekile kube kutsi kugucula noma kugcina lelinani lekuvala kwelisheya lelibhalisiwe kulemakethe;
 - (e) kuvumela noma kungena emakethe lesemsetfweni kute utsenge noma utsengise emasheya leso sizatfu sitawufakwa kunoma kuphi endalini ngalesikhatsi kumemetelwa indali nekukhanselwa kwaleli oda ngekushesha ngembi kwekucatsanisa lendali, kwentela kwakha— 35
 - (i) kuvela lokungemanga noma lokukhohlisako kwemyalelo wekuniketwa kwalelo lisheya; noma
 - (ii) linani lekungelona, lalalo lisheya; 40
 - (f) kwenta noma kusita ekwenteni likona lemakethe;
 - (g) kugcina linani ezingeni lekungasilo lemasheya labhalwe emakethe lesemsetfweni;
- (4) Kwentela tinjongo tesigatjana (1), uma ngabe lokubekwa kwelinani lelilinganisiwe llekulawulwa ngekuhambisana nalemitsetfo noma lokudzingekako kute ubhaliswe kuligatja akuveti indlela leveta linani lekungasilo mbamba lemasheya lelitawuya ngendlela yekusimamisa linani. 45
- (5) Kwentela tinjongo tesigatjana 3(a), kutsenga noma kutsengiswa kwemasheya labhalisiwe akufaki ekhatsi bunikati balohlomulako uma ngabe umuntu lonenshisekelo ngembi kwalokutsengwa noma kutsengiswa, noma umuntu losondzelene nalowo muntu ngalokuphatselene nalawo masheya, unenshisekelo ngemuva kwalokutse- ngiswa noma kutsengwa. 50

Titatimende letingemanga, letilahlekisako naletikhohlisako, titsembiso kanye nelikusasa

- 81.** (1) Akekho umuntu, ngalokucondzile noma ngalokweyamile, langenta noma akhiphe ngalokuphatselene nemasheya latsengisiwe emakethe lesemsetfweni, noma ngalesekudlulile noma sento salokutako semkhapani emasheya ayo labhaliswe emakethe lesemsetfweni— 55
- (a) noma siphi sitatimende, sitsembiso noma silinganiso, ngalesikhatsi noma ngekubona simo lesentiwe ngaphansi kwaso, singemanga noma siyakhohlisala 60

of any material fact and which the person knows, or ought reasonably to know, is false, misleading or deceptive; or

- (b) any statement, promise or forecast which is, by reason of the omission of a material fact, rendered false, misleading or deceptive and which the person knows, or ought reasonably to know, is rendered false, misleading or deceptive by reason of the omission of that fact. 5

(2) A person who has made a statement as contemplated in subsection (1) and who was unaware that the statement was false, misleading or deceptive, and who becomes aware of the fact that such statement was false, misleading or deceptive, must, without delay, publish a full and frank correction with regard to such statement. 10

(3) A person who contravenes subsection (1), or who fails to comply with subsection (2), commits an offence.

Insider trading sanction

Liability resulting from insider trading

82. (1) Subject to subsection (3), any person who contravenes section 78(1), (2) or (3) of this Act is liable to pay an administrative sanction not exceeding— 15

- (a) the equivalent of the profit that the person, such other person or such insider, as the case may be, made or would have made if he or she had sold the securities at any stage; or the loss avoided, through such dealing; 20
- (b) an amount of up to R1 million, to be adjusted by the registrar annually to reflect the Consumer Price Index, as published by Statistics South Africa, plus three times the amount referred to in paragraph (a);
- (c) interest; and
- (d) cost of suit, including investigation costs, on such scale as determined by the Enforcement Committee. 25

(2) Subject to subsection (3), any person who contravenes section 78(4) or (5) of this Act is liable to pay an administrative sanction not exceeding—

- (a) the equivalent of the profit that such other person made or would have made if he or she had sold the securities at any stage, or the loss avoided, through such dealing, if the recipient of the information, or such other person, as the case may be, dealt directly or indirectly in the securities listed on a regulated market to which the inside information relates or which are likely to be affected by it; 30
- (b) an amount of up to R1 million, to be adjusted by the registrar annually to reflect the Consumer Price Index, as published by Statistics South Africa, plus three times the amount referred to in paragraph (a); 35
- (c) interest;
- (d) cost of suit, including investigation costs, on such scale as determined by the Enforcement Committee; and
- (e) the commission or consideration received for such disclosure, encouragement or discouragement. 40

(3) If the other person referred to in section 78(2), (3), (4) and (5) is liable as an insider in terms of section 78(1), the insider referred to in section 78(2), (3), (4) and (5) is jointly and severally liable together with that other person to pay the amounts set out in subsections (1)(a), (c), (d) and (2)(a), (c) and (d), as the case may be. 45

(4) Any amount recovered by the board as a result of the proceedings contemplated in this section must be deposited by the board directly into a specially designated trust account and—

- (a) the board is, as a first charge against the trust account, entitled to reimbursement of all expenses reasonably incurred by it in bringing such proceedings and in administering the distributions made to claimants in terms of subsection (5); 50

- nganoma yiphi imphahla leyatiwa ngulomuntfu, noma lekufanele ayati, ingemanga, iyakhohlisa noma iyalahlekisa; noma
- (b) noma siphi sitatimende, sitsembiso noma silinganiso, ngalesikhatsi noma ngekubona simo lesentiwe ngaphansi kwaso, singemanga noma siyakhohlisa nganoma yiphi imphahla leyatiwa ngulomuntfu, noma lekufanele ayati, ingemanga, iyakhohlisa noma iyalahlekisa ngekukhishwa kwaloko lokuliciniso. 5
- (2) Umuntfu lowente sitatimende njengoba sivetwe kusigatjana (1) nalebekangati kutsi lesitatimende besingemanga. Sikhohlisa noma singesilo liciniso, nalebese sewuyati kutsi leso sitatimende besingemanga, sijhohlisa, kufanele, ngaphandle kwekubambeleleka, akhiphe sitatimende lesinjengaleso lesiliciniso nalesilungisako. 10
- (3) Umuntfu lowephula sigatjana (1), noma lohluleka kulandzelela sigatjana (2) unelicala.

Kucindzeteleka lokubangelwa kuhwebelana ngekhati

Imibandzela yekuncephelelisa lokubangelwe kuhwebelana ngekhati 15

- 82.** (1) Ngekuya ngesigatjana (3), noma ngabe ngubani lowaphula sigana 78(1), (2) or (3) saloMtsetfo kufanele kutsi akhokhe inhlawulo yekulawula lengadluli—
- (a) lelinganiselwa kulenzuzo lowo muntfu, lomunye umuntfu noma longekhatsi, njengoba kungabe kubekiwe, layentile noma lekufanele kutsi ngabe uyentile uma ngabe atsengise lamasheya noma nini; noma lokulahlekelwa lengabe kuvinjelwe, ngaloko kuhwebelana; 20
- (b) linani lelilinganiselwa kusigidzi R1, lesingalungiswa ngunobhala njalo ngemnyaka kute likhoimbise Linani Lelibekiwe Lebatsengi lelikhishwe beLubalo baseNingizimu Afrika, kanye nalesamba lesiphindvwe katsatfu lesibalwe kundzima (a); 25
- (c) intalo; kanye
- (d) tindleko tenkhantolo, kufaka ekhati tindleko teluphenyo, ngalelo lizinga njengoba lingancunywa Likomidi Lelibeka Umtsetfo.
- (2) Ngekuya ngesigatjana (3), noma ngabe ngubani lowephula sigaba 78(4) noma (5) saloMtsetfo utawukhokhiswa inhlawulo yekulawula lengadluli— 30
- (a) lokulinganiswa nenzuzo lowo muntfu langabe ayentile noma lebekufanele ngabe uyentile uma ngabe bekatsengise lamasheya noma nini, noma kulahlekelwa lebekungabe kuvinjelwe, ngaloko kuhwebelana, uma ngabe lona lotfole lolwatiso, noma lowo muntfu, njengoba kungabe kubekiwe, kusetjintwe ngako ngco noma ngendlela leyamile kulamasheya labhalisiwe kumakethe lebhaliwe lapho khona lolwatiso luphatselene noma lebangatsintseka ngalo; 35
- (b) linani lelingafinyelela kusigidzi R1, lelingalungiswa ngunobhala njalo ngemnyaka kukhombisa Linani Lemali Lelibekiwe, njengoba likhishwe beTelubalo baseNingizimu Afrika, kanye nelinani leliphindvwe katsatfu lelibalwe kundzima (a); 40
- (c) intalo;
- (d) tindleko tenkhantolo, kufaka ekhati tindleko teluphenyo, ngalelo lizinga njengoba lingancunywa Likomidi Lelibeka Umtsetfo
- (e) ikhomishani noma sivumelwano lesitfolakele saloko kuvetwa, kukhutsatwa noma kucwayiswa ngekuyekeliswa. 45
- (3) Uma ngabe labanye bantfu lababalwe kusigaba 78(2), (3), (4) na (5) babonakala njengalabangekhatsi ngekwesigaba 78(1), lona longekhatsi lobalwe kusigaba 78(2), (3), (4) na (5) bobabili banemtfwalo noma bayatsintseka kanye nalabanye bantfu kutsi bakhokhele lamanani latawubekwa kutigatjana (1)(a), (c), (d) na (2)(a), (c) na (d), njengoba kungabe kubekiwe. 50
- (4) Noma ngabe nguliphi linani lelibekwe yibhodi njengemphumela walenchubo levetwe kulesigaba kufanele ifakwe ku-akhawunti leyakhelwe loko yiyibhodi kube yi-akhawunti yebatsenjwa—
- (a) ibhodi, njengoba ngiyo yekucala lemelene ne-akhawunti yebatsenjwa, inemvume yekuntjintjela tonkhe tindleko letitfolakele ngalokungakhonakala ngekutsi yenta leto tinchubo nangekulawula lokusatjalaliswa lokwentiwe ngulabafake tikhalo temali ngekwesigatjana (5); 55

- (b) the balance, if any, must be distributed by the claims officer to the claimants referred to in subsection (5) in accordance with subsection (6);
 - (c) any amount not paid out in terms of paragraph (b) accrues to the board.
 - (5) The balance referred to in subsection (4)(b) must be distributed to all claimants who—
 - (a) submit claims to the directorate within 90 days from the date of publication of a notice in one national newspaper or on the official website inviting persons who are affected by the dealings referred to in section 78(1) to (5) to submit their claims; and
 - (b) prove to the reasonable satisfaction of the claims officer that—
 - (i) they were affected by the dealings referred to in section 78(1) to (5); and
 - (ii) in the case where the inside information was made public within five trading days from the time the insider referred to in section 78(1), (2) and (3), or the other person referred to in section 78(4) and (5) dealt, they dealt in the same securities at the same time or any time after the insider or other person so dealt and before the inside information was made public; or
 - (iii) in every other case, they dealt in the same securities at the same time or any time thereafter on the same day as the insider or other person referred to in subparagraph (ii);
 - (iv) it would be equitable for their claim to be included in a distribution in terms of subsection (4)(b).
 - (6) Subject to subsection (7), a claimant must receive an amount—
 - (a) equal to the difference between the price at which the claimant dealt and the price, determined by the Enforcement Committee, that the claimant would have dealt at if the inside information had been published at the time of dealing; or
 - (b) equal to the pro rata portion of the balance referred to in subsection (2)(b), calculated according to the relationship which the amount contemplated in paragraph (a) bears to all amounts proved in terms of subsection (3) by claimants,
- whichever is the lesser, unless the claims officer in his or her discretion determines that the claimant should receive a lesser or no amount.
- (7) An amount awarded in proceedings contemplated in section 87 must be deducted from any amount claimed in terms of this section.
 - (8) The common law principles of vicarious liability apply to the liability established by this section.

Procedural matters

Attachments and interdicts

- 83.** On application by the board, a court may in relation to any matter referred to in Chapter X grant an interdict or order the attachment of assets or evidence to prevent their concealment, removal, dissipation or destruction.

Administration of Chapter

Powers and duties of Financial Services Board

- 84.** (1) The board is responsible for the supervision of compliance with this Chapter.
- (2) In addition to its powers in terms of the Financial Services Board Act the board may, subject to section 85—
 - (a) investigate any matter relating to an offence or contravention referred to in sections 78, 80 and 81, including insider trading in terms of the Insider

- (b) lelinani lelisele, uma likhona, kufanele lisatjalaliswe sisebenti semakleyimu kulabo labafake tikhalo lababalwe kusigatjana (5) ngekuhambisana nesigatjana (6);
- (c) noma ngabe nguliphi linani lelingakakhokhelwa ngekwendzima (b) nentalo kubhodi. 5
- (5) Lemali lesele lebalwe kusigatjana (4)(b) kufanele isatjalaliswe kubo bonkhe labafake ticelo temali—
- (a) batfumelo emakleyimu ehovisi kungakapheli emalanga lali-90 kusukela ngalelilanga lekukhishwe ngalo satiso ephephandzabeni lavelonkhe noma kuwebhu lesemsetfweni kumenywa bantfu labatsintsekako ngekuwebelana lokubalwe kusigaba 78(1) kuya (5) kutsi batfumele emakleyimu; kanye 10
- (b) bavumele ngekwentiseka lokufanele kusisebenti semakleyimu lekufanele—
- (i) bebatsintsekile ngalokuhwebelana lokubalwe kusigaba 78(1) kuya (5); kanye
- (ii) nalapho khona lwatiso lwangekhatsi lwentiwe lwatiwa nguwonkhe umuntfu kungakapheli emalanga lasihlanu ekutsengisa kusukela ngaleso sikhatsi lona longekhatsi lobalwe kusigaba 78(1), (2) and (3), or the other person referred to in section 78(4) na (5) kusetjentwe ngaso, basebenta ngemasheya lafanako noma nganoma sikhatsini ngemuva kwekutsi lona longekhatsi noma lomunye umuntfu asebente ngawo nangambi kwekutsi lolwatiso lolungekhatsi beselwentiwa lwatiwa nguwonkhe umuntfu; noma 15
- (iii) nganoma luphi ludzaba, basebente ngemasheya lafanako ngesikhatsi lesifanako noma nini ngemuva kwaloko ngelilanga lelifanako ngalesikhatsi lona longekhatsi noma labanye bantfu lababalwe kundzinyana (ii); 25
- (iv) kutawulingana lekleyimu kutsi ifakwe kulokukhishwako ngekuya ngesigatjana (4)(b).
- (6) Ngekuya ngesigatjana (7), lona lofake ikleyimu kufanele atfole samba—
- (a) kulokulinganiswe ngumehluko emkhatsini welinani lapho lona lofake sicelo nalelinani, lencunye Likomidi Lekubeka Umtsetfo, kutsi lona lofake ikleyimu kusetjentiswe lwatiso lwangekhatsi lukhishwe ngalesikhatsi sekutsengiselana; noma 30
- (b) ngekuya ngencenya yangaleso sikhatsi yesamba lesibalwe kusigatjana (2)(b), lelibalwe ngekuhambisana nelinani lelivetwe kundzima (a) lilinganiselwe kuwo onkhe emanani lancinisekisiwe ngekwesigatjana (3) ngulabafake ticelo, noma kuphi lokungaphansi, ngaphandle kwekutsi lona losebenta nge-makleyimu ngekuncuma kwakhe ancume kutsi lona lofake sicelo kufane atfole ngaphansi noma angatfoli lutfo. 35
- (7) Imali leniketwe kunchubo levetwe kusigaba 87 kufanele ikhishwe kunoma liphi linani lelikleyinywe ngaphansi kwalesigaba. 40
- (8) Umtsetfo lowetayelekile wenchobo yemtfwalo usebenta kumtfwalo losungulwe ngekwalesigaba.

Lokuphatselene nenchubo

Lokufakiwe netivimbo 45

83. Ngesicelo lesifakwe yibhodi, inkhantolo inganiketa incwadzi yekubitela enkhantolo ngalokuhambelana naloludzaba lolubalwe kuSahluko X noma ngeluhlelo lwalempahla lefakiwe noma bufakazi bekuvikela lokufihliwe, lokukhishiwe, lokungahambi kahle noma lokuphatamisako.

***Kulawulwa kweSahluko* 50**

Emandla nemisebenti yeBhodi yemisebenti yetimali

84. (1) Ibhodi inemisebenti wekulawula kulandzelela lesahluko.
- (2) Kungeta kumandla labanawo ngekuhambisana ne *Financial Services Board Act* ibhodi inga, ngekuya ngesigaba 85—
- (a) bahlole noma luphi ludzaba loluphatselene nelicala noma kungenelela lelicondziswe kusigaba 80, 78 ne 81, kufaka ekhatsi *Insider Trading Act*, 1998 55

- Trading Act, 1998 (Act No. 135 of 1998), and the offences referred to in Chapter VIII of the Securities Services Act, 2004 (Act No. 36 of 2004), committed before the repeal of those Acts;
- (b) at the request of a supervisory authority, investigate or assist that supervisory authority in an investigation into possible offences similar to those referred to in paragraph (a), regulated in terms of the laws of a country other than the Republic that the supervisory authority administers; 5
 - (c) institute such proceedings as are contemplated in this Chapter;
 - (d) administer the proof of claims and distribution of payments in terms of section 82; 10
 - (e) by notice on the official website or by means of any other appropriate public media, make known—
 - (i) the status and outcome of an investigation referred to under paragraph (a) or (b);
 - (ii) the details of an investigation if disclosure is in the public interest; 15
 - (f) make market abuse rules after consultation with the directorate—
 - (i) concerning the administration of this Chapter by the board and the directorate;
 - (ii) concerning the manner in which investigations in terms of this Chapter are to be conducted; 20
 - (iii) concerning the notification of amounts received in terms of section 82, the procedure for the lodging and proof of claims, the administration of trust accounts and the distribution of payments in respect of claims;
 - (iv) concerning meetings of the directorate;
 - (v) which are generally designed to ensure that the board and the directorate are able to perform their functions in terms of this Chapter; 25
 - (vi) dealing with the manner in which inside information should be disclosed and, generally, with the conduct expected of persons with regard to such information;
 - (g) after consultation with the relevant regulated markets in the Republic, require such markets to implement such systems as are necessary for the effective monitoring and identification of possible contraventions of this Chapter. 30
- (3) Despite the provisions of any other Act, the board, when investigating a matter referred to in subsection (2)(a) and (b), may—
- (a) summon any person who is believed to be able to furnish any information on the subject of any investigation or to have in such person's possession or under such person's control any document which has bearing upon that subject, to lodge such document with the board, or to appear at a time and place specified in the summons, to be interrogated or to produce such document; and 35
 - (b) interrogate any such person under oath or affirmation duly administered, and examine or retain for examination any such document: Provided that any person from whom any document has been taken and retained under this subsection must, so long as such document is in possession of the board, at that person's request and expense be allowed to make copies thereof or to take extracts therefrom at any reasonable time and under the supervision of the person in charge of the investigation; 40 45
 - (c) in relation to a matter investigated, on the authority of a warrant, without prior notice—
 - (i) enter any premises and require the production of any document;
 - (ii) enter and search any premises for any document; 50
 - (iii) open any strongroom, safe or other container which he or she suspects contains any document;
 - (iv) examine, make extracts from and copy any document or, against the issue of a receipt, remove such document temporarily for that purpose;
 - (v) against the issue of a receipt, seize any document; 55
 - (vi) retain any seized document for as long as it may be required for criminal or other proceedings,
- but the board may proceed without a warrant, if the person in control of any premises consents to the actions contemplated in this paragraph.

- nemacala lacondziswe kuSahluko VIII se-*Securities Services Act*, 2004 lokwentiwe ngembi kwekucitfwa kwaleyo mitsetfo;
- (b) ngesicelo semphatsi lolawulako, kuhlola noma kusita lomphatsi lolawulako kuloluphenyo lwemacala lakhona lafanako kulabo lababaliwe kulenzima (a), lokulawulwe ngekwemitsetfo yelive kungasiyo iRiphabhulikhi lelawula ngulomphatsi losesikhundleni; 5
- (c) kubeka letinchubo njengoba kuvetwe kuSahluko;
- (d) kulawula lobufakazi bemakleyimu nekukhishwa kwetimali letikhokhiwe ngekwesigaba 82;
- (e) ngekwesatiso kuwebhu lesemtsetfweni noma ngekusebentisa noma luphi luhlobo lwetindzaba, kwenta kutsi kwatiwe— 10
- (i) simo nemphumela weluphenyo lobalwe ngaphansi kwenzima (a) noma (b);
- (ii) lemininingwane yeluphenyo uma ngabe kukhiphela ebaleni kuyinshisekelo yebantfu; 15
- (f) kwenta imitsetfo yekuhlukumeta timakethe ngemuva kwekutsintsana nelihhovisi—
- (i) lokuphatselene nekulawulwa kwaleSahluko yibhodi kanye nelihhovisi;
- (ii) ngekuya ngendlela luphenyo lekufanele lwentiwe ngayo ngekusho kwaleshluko; 20
- (iii) lokuphatselene ngesatiso semali letfolakele ngekwesigaba 82, indlela yekufaka nebufakazi bemakleyimu, kulawulwa kwesikhwama nema-akkawunti kanye nekusabalaliswa kwemali lekhokhelwe ngalokuphatse-lene nemakleyimu;
- (iv) ngalokuphatselene nemihlangano yelihhovisi; 25
- (v) lekakhelwe kucinisekisa kutsi ibhodi kanye nelihhovisi lemcondzisi bakhona kwenta imisebenti yabo ngekwaleSahluko;
- (vi) kusebenta ngalendlela lwatiso lwangekhatsi kufanele luvetwe ngayo kanye, ngalokujwayelekile, ngalendlela lelindzelekile yebantfu ngaloku-phatselene nalolwatiso; 30
- (g) ngemuva kwekutsintsana netimakethe letisemtsetfweni letifanele eRiphabhu-likhi, kudzingeka kutsi timakethe letinjalo kutsi tente leto tihlelo njengoba kufanelekile kute kulawulwe kahle nekukhomba kungenelela lokungahle kube khona kuleSahluko.
- (3) Ngaphandle kwekutsi lemibandzela yaleminywe Imitsetfo, ibhodi, uma ngabe iphenya ngeludzaba lolubalwe kusigatjana (2)(a) na (b), anga— 35
- (a) bita noma ngubani longabonakala kutsi anganiketa noma luphi lwatiso kulenzima lwanoma luphi luphenyo noma kuba nalo kulowo muntfu noma ngaphansi kwekulawulwa ngulowo muntfu lolawula noma muphi umculu lokunemtselela ngaphansi kwaleso sihloko, kufaka leyo miculu nebhodi, noma kuvela ngesikhatsi nendzawo lebalwe kulencwadzi yekubitwa, kutsi utophenywa ngemibuto noma kutokhipha leyo miculu; kanye 40
- (b) kushushisa lowo muntfu ngaphansi kwemtsetfo noma siciniseko lesibekiwe, nekuhlola noma kubambela kuhlolisisa leyo micul: Uma ngabe noma ngubani lekuvela kuye noma muphi umculu nalobanjwe ngaphansi kwalesigatjana kufanele, inkhanyane nje uma ngabe lowo mculuuphetfwe yibhodi, kantsi nesicelo salowo muntfu nekukhokha kwakhe kuvunyelwe kutsi ente emakhophi ngaloko noma atsatsa lokutsi lapho nganoma siphi sikhatsi lesifanele nangaphansi kweekulawulwa kwalomuntfu lophetse loluphenyo; 45
- (c) Ngalokuphatselene neludzaba loluphenywe, ngeligunya lewaranti, ngaphandle kwesatiso sangaphambilini— 50
- (i) angene noma kuphi afune kutsi bamnike noma miphi imiculu;
- (ii) angene abuye aseshe noma kuphi abuke imiculu;
- (iii) avule noma siphi indlu yesisefo, sisefo noma lenye indzawo yekubeka lekacabanga kutsi iphetse imiculu; 55
- (iv) ahlale, akhiphe lakufunako kumiculu ente nemakhophi noma, ngekuniketwa irisiphi, akhiphe lemiculu kwesikhashane kwentela lesizatfu;
- (v) ngekuniketwa irisiphi, ayekele noma muphi umculu;
- (vi) abambe noma miphi imiculu lebekiwe ngekwemtsetfo inkhanyane nje uma ngabe isadzingeka ecaleni lebugebengu noma lokunye, kodvwa ibhodi ingachubeka ngaphandle kwewaranti, uma ngabe lomuntfu lolawula noma yiphi indzawo aniketa imvume kuletento letivetwe kulenzima. 60

- (4) (a) Any person who has been duly summoned under subsection (3)(a) and who, without sufficient cause—
- (i) fails to appear at the time and place specified in the summons;
 - (ii) fails to remain in attendance until excused from further attendance;
 - (iii) refuses to take the oath or to make an affirmation as contemplated in subsection (3)(b);
 - (iv) fails to answer fully and satisfactorily any question lawfully put to him or her under subsection (3)(b); or
 - (v) fails to furnish information or to produce a document in terms of subsection (3)(a),
- commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.
- (b) A warrant contemplated in subsection (3)(c) may be issued, on application by the board, by a judge or magistrate who has jurisdiction in the area where the premises in question are located.
- (c) Such a warrant may only be issued if it appears from information under oath that there is reason to believe that a document relating to the matter being investigated in terms of subsection (2)(a) or (b) is kept at the premises in question.
- (d) Any entry upon or search of any premises in terms of subsection (3)(c) must be conducted with strict regard to decency and good order, including—
- (i) a person's right to, respect for and the protection of dignity;
 - (ii) the right of a person to freedom and security; and
 - (iii) the right of a person to personal privacy.
- (e) An investigator may be accompanied and assisted by a police officer during the entry and search of any premises under subsection (3)(c).
- (f) Any entry and search under subsection (3)(c) must be executed by day, unless the execution thereof by night is justifiable and necessary.
- (g) Any person from whom a document has been seized under subsection (3)(c)(v), or such person's authorised representative, may examine such document and make extracts therefrom under the supervision of the board during normal office hours.
- (5) The board may, subject to the conditions it may determine, delegate the power to investigate an alleged contravention of this Chapter to any fit person.
- (6) The board must cause the publication in the *Gazette* of a notice of any proposed market abuse rule or amendment of such a rule, calling upon all interested persons who have any objections to the proposed rule or amendment, to lodge their objections with the board within 14 days from the date of publication of the notice.
- (7) If there are no such objections or if the board has, after consultation with the directorate, considered the objections and has decided to introduce the proposed rule or amendment in the form published in the *Gazette* in terms of subsection (6), the rule or amendment comes into operation on a date determined by the board by notice in the *Gazette*.
- (8) If the board has, after considering such objections, decided after consultation with the directorate to amend the proposed rule or amendment as published in the *Gazette* in terms of subsection (6), the proposed rule or amendment thus amended must be published by the board in the *Gazette* and comes into operation on a date determined by the board by notice in the *Gazette*.
- (9) A rule made under subsection (2)(f) is binding on regulated persons and members of the public.
- (10) If the Director of Public Prosecutions declines to prosecute for an alleged offence in terms of this Chapter, the board may prosecute in respect of such offence in any court competent to try that offence, and section 8(2) and (3) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), does not apply to such a prosecution.
- (11) The board must, at the request of the directorate, investigate any matter and summon and interrogate any person in respect of the matters referred to in subsection (2)(a) and (b).
- (12) No self-incriminating answer given or statement made to a person exercising any power in terms of this Act is admissible as evidence against the person who gave the answer or made the statement in any criminal proceedings, except in criminal proceedings for perjury or in which that person is tried for an offence contemplated in

- (4) (a) Noma bani lekabelwe licala ngapansi kwesigatjana (3)(a) kanye nalo, ngaphandle kwesizathu lesanele—
- (i) ahluleke kuvela ngalesikhatsi nasendaweni lebekwe kulamasamanisi;
 - (ii) ahluleke kuta kuze kufike sikhatsi lapho ayekeliswa khona kutsi angeta;
 - (iii) ahluleke kufunga noma ayekele kucinisekisa njengoba kuvetiwe kusigatjana (3)(b); 5
 - (iv) ahluleke kuphendvula ngalokuphelele nangalokunelisako noma muphi umbuto lekabutse wona ngekwemtsetfo ngaphansi kwesigatjana (3)(b); noma
 - (v) ahluleke kuniketa lwatso noma kuniketa umculu ngekwesigatjana (3)(a), ente licala kantsi kufanele ahlawuliswe noma aboshwe sikhatsi lesingadluli iminyaka 10 lemibili noma kokubili inhlawulo nekuboshwa.
- (b) Iwaranti lebalwe kusigatjana (3)(c) inganiketwa, ngekufaka sicelo kubhodi, lijaji noma ngumantji lonemandla ekubusa kuleyo ndzawo lapho lendzawo lekukhulunywa ngayo itfolakala khona.
- (c) Leyo waranti inganiketwa uma ngabe ivela kulwatiso ngaphansi kwesifungo kutsi 15 kunesizathu sekusitsemba kutsi umculu lohambelana naloludzaba loluphenyako ngekwesigatjana (2)(a) noma (b), kugcinwe endzaweni lekukhulunywa ngayo.
- (d) Kungena noma kusesha endzaweni ngekwesigatjana (3)(c) kufanele kwentiwe ngendlela yemandla nangendlela lekahle, kufaka ekhatsi—
- (i) lilungelo lemuntfu, lekuhlonipha nekuvikela sitfunti; 20
 - (ii) lilungelo lemuntfu lenkhululeko nekuvikeleka; kanye
 - (iii) lilungelo lemuntfu lekuba nemfihlo.
- (e) Umphenyi angahle apheleketelwe abuye asitwe ngemaphoyisa ngalesikhatsi angena nekuhlola lendzawo ngaphansi kwesigatjana (3)(c).
- (f) kungena nekusesha ngaphansi kwesigatjana (3)(c) kufanele kwentiwe emini, 25 ngaphandle kwekusti lokusesha ebusuku kuyasekelwa futsi kuyavakala.
- (g) Noma bani lapho umculu utsetfwe khona ngaphansi kwesigatjana (3)(c)(v), noma lomele lowo muntfu ngekwemtsetfo, angabuka lomculu ente emakhophi lapho ngaphansi kweliso lelibukhali lebhodi ngesikhatsi lesitayelekile sekusebenta,
- (5) ibhodi inga, ngaphansi kwemibandzela labangayincuma, inikete emandla 30 ekuphenya lokubonakala ngatsi kungenelela naleSahluko ngenhloso yekwenta inzuzo.
- (6) Ibhodi kufanele ibangele kutsi kukhishwe kuGazethi satso sanoma kuphi kuhlukunyetwa kwemtsetfo yemakethe, ibite bonkhe bantfu labanenshisekelo labaphikisako kulomtsetfo lophakanyisiwe noma kuchibiyela, kutsi bafake kuphikisa kwabo kubhodi kungakapheli emalanga lali-14 kusukela ngalolusuku lekukhishwe 35 ngalo lesatso.
- (7) Uma ngabe kungekho lophikisako noma uma ngabe ibhodi, ngekuva kwekutsintsana nelihhovisi, litsetse lokuphikisa kantsi lincume kungenisa lomtsetfo lophakanyisiwe noma lokuchibiyela *njengeGazethi* lekhishiwe ngekwesigatjana (6), lomtsetfo wekuchibiyela ucala kusebenta ngelusuku loluncunywe yibhodi ngesatso 40 *kuGazethi*.
- (8) Uma ngabe ibhodi, ngemuva kwekubona lokuphikisa, lokuncunywe ngemuva kwekutsintsana nelihhovisi kute kuchitjiyelwe lomtsetfo lophakanyisiwe noma kuchibiyela njengoba kukhishwe *kuGazethi* ngekwesigatjana (6), lomtsetfo lophakanyisiwe noma kuchibiyela kutsi lokuchibiyela kufanele kukhishwe yibhodi 45 *kuGazethi* kantsi utawucala kusebenta ngelusuku loluncunywe yibhodi ngesatso *kuGazethi*.
- (9) Umtsetfo lowentiwe ngaphansi kwesigatjana (2)(f) kusibopho kubantfu labasemtsetfweni nemalunga emmango.
- (10) Uma ngabe Umcondzisi weBashushisi angafuni kushushisa kulicala lelisolwako 50 ngekwalesahluko, ibhodi ingahle ishushise ngekwalelicala kunoma yiphi inkhantolo lekufanele itsetse lelicala kunoma yiphi inkhantolo lefanele ngekwesigaba 8(2) na (3) se-*Criminal Procedure Act*, 1977 (Umtsetfo Nom. 51 wanga 1977), awusebenti kulokushushiswa.
- (11) ibhodi kufanele, ngesicelo selihhovisi, iphenye noma luphi ludzaba bese ibita 55 ibuye iphenye noma bani ngalokuphatselene naloludzaba lolubalwe kusigatjana (2)(a) na (b).
- (12) Ayikho imphendvulo yekutibophelela leniketiwe noma sitatimende lesentiwe kumuntfu losebentisa emandla ngekwaloMtsetfo bungatsatfwa njengebufakazi ngekumelana nemuntfu lonikete lemphendvulo noma lowente lesitatimende noma 60 kuyiphi inchubo yenkhantolo, ngaphandle uma kulicala lebugebengu lekucamba emanga noma lapho khona lomuntfu ashushiswa ngelicala lelivetwe kulesigaba, noma

this section, and then only to the extent that the answer or statement is relevant to prove the offence charged.

Composition and functions of directorate

85. (1) (a) The Directorate established by section 12 of the Insider Trading Act, 1998 (Act No. 135 of 1998), and that continued to exist under the Securities Services Act, 2004 (Act No. 36 of 2004), continues to exist under the name Directorate of Market Abuse, despite the repeal of those Acts. 5

(b) A reference to the Insider Trading Directorate in any law must, unless clearly inappropriate, be construed as a reference to the Directorate of Market Abuse.

(c) The directorate exercises the powers of the board— 10

- (i) to institute any civil proceedings as contemplated in this Chapter;
- (ii) to investigate any matter relating to an offence referred to in section 84(2)(a) and (b); and
- (iii) to institute proceedings contemplated in section 84(2)(c) in the name of the board. 15

(d) The directorate is not intended to act as an administrative body when exercising its powers referred to in paragraph (c).

(2) (a) The directorate consists of the chairperson and other members and alternate members appointed by the Minister.

(b) A member and an alternate member hold office for such period, not exceeding three years, as the Minister may determine at the time of his or her appointment and is eligible for reappointment upon the expiry of his or her term of office: Provided that if on the expiry of the term of office of a member reappointment is not made or a new member is not appointed, the former member must remain in office for a further period of not more than six months. 20 25

(c) The Minister may remove the chairperson from his or her office or terminate the membership of any other member on good cause shown and after having given the chairperson or member, as the case may be, sufficient opportunity to show why he or she should not be removed or why his or her membership should not be terminated.

(3) The Minister must appoint as members of the directorate— 30

- (a) the executive officer of the board or his or her deputy, and may appoint both;
- (b) one person and an alternate from each of the licensed exchanges in the Republic;
- (c) one commercial lawyer of appropriate experience and an alternate;
- (d) one accountant of appropriate experience and an alternate; 35
- (e) one person of appropriate experience and an alternate from the insurance industry;
- (f) one person of appropriate experience and an alternate from the banking industry;
- (g) one person of appropriate experience and an alternate from the fund 40 management industry;
- (h) one person of appropriate experience and an alternate nominated by any organisation that represents shareholders' rights or any other similar organisation chosen by the Minister;
- (i) one person of appropriate experience and an alternate nominated by the South 45 African Reserve Bank; and
- (j) two other persons of appropriate experience and alternates.

(4) The persons referred to in subsection (3) are nominated by reason of their availability and knowledge of financial markets and may not be practising authorised users. 50

(5) The directorate must designate from its members a deputy chairperson who performs the functions of the chairperson when the office of chairperson is vacant or when the chairperson is unable to perform his or her functions.

(6) The members of the directorate may co-opt one or more persons as additional members of the directorate. 55

(7) All members of the directorate, other than the additional members, have one vote in respect of matters considered by the directorate, but an alternate member only has a vote in the absence from a meeting of the member whom the alternate is representing.

(8) The meetings of the directorate are held at such times and places as the chairperson may determine, but four members of the directorate may by notice in 60

kuphela ngalokulinganiselwa kutsi lemphendvulo noma sitatimende sifanele kucinisekisa lelicala lelibekiwe.

Kwakheka nemsebenti yalabaphetse

85. (1) (a) Lihhovisi lelisungulwe ngekwesigaba 12 se-*Insider Trading Act*, 1998 (Umtsetfo Nom. 135 wanga 1998), nalelichubeka libe khona ngaphansi kwe-*Securities Services Act*, 2004, liyachubeka nekuba khona ngaphansi kweligama Lihhovisi Lemphatsi Wekuhlukunyetwa Kwetimakethe, noma ngabe kungacitfwa leMitsetfo. 5

(b) Ireferensi yeLihhovisi Lekuhwebelana lelingekhatsi kunoma muphi umtsetfo kufanele, ngaphandle kwekutsi nalingahambi kahle, litsatfwe njengebufakazi kuLihhovisi Lekuhlukunyetwa Kwetimakethe. 10

(c) Lelihhovisi litawusebentisa emandla ebhodi—

(i) kutsi lihambise noma yiphi inchubo yemtsetfo njengoba ivetwe kulesahluko;

(ii) kuphenya noma luphi ludzaba loluphatselene nelicala lelibalwe kusigaba 84(2)(a) na (b); kanye

(iii) nalekuvetwe kusigaba 84(2)(c) egameni lebhodi. 15

(d) Lomcondzisi akukafaneli kutsi asebente njengemtimba lolawulako uma ngabe asebentisa emandla laniketwe wona kundzima (c).

(2) (a) Lelihhovisi linasihlalo nalamanye emalunga nemalunga lantjintjwako labekwe ngungcongcoshe.

(b) Lilunga nelilunga lelijikeletako libamba lihhovisi sikhatsi lesingangaleso, kungadluli iminyaka lemitsatfu, njengoba Ngcongcoshe angancuma ngalesikhatsi acashwa nakuphela sikhatsi sakhe ehhovisi: Uma ngabe ekupheleni kwesikhatsi sasehhovisi kwelilunga angeke lacashwa kabusha noma lilunga lelisha angeke lacashwa, lelilunga lakucala kufanele lihlale ehhovisi sikhatsi lesingandluli tinyanga letisitfupha. 20 25

(c) Ngcongcoshe angakhipha sihlalo ehhovisi lakhe noma acedze bulunga hbanoma liphi lilunga ngekusebenta kahle lokukhonjiswe nangemuva kwekuniketa sihlalo noma lilunga, njengoba kungabe kubekiwe, litfuba lelaneli kukhombisa kutsi kungani kungafanele akhishwe noma kungani bulunga bakhe kungakafaneli busulwe.

(3) Ngcongcoshe kufanele abeke njengemalunga elihhovisi— 30

(a) lophetse lomkhulu ehhovisi lolawula ibhodi noma lolisekela lakhe, kantsi angabeka bobabili;

(b) umuntfu munye kanye nalontjintjana naye kulinye leligatja lelibhalisiwe eRiphabhulikhi;

(c) ummeli munye losebenta ngetimali lonelwati lolubanti kanye nalantjintjana naye; 35

(d) munye losebenta ngetimali lonelwati lolubanti nalekantjintjana naye;

(e) umuntfu munye lonelwati lolubanti nalekantjintjana naye kumbhoni yemshwalense;

(f) umuntfu munye lonelwatiso lolubanti kanye nalantjintjana naye losebenta ebhange; 40

(g) umuntfu munye lonelwati lolubanti nalekantjintjana naye kubetimbani labalawula sikhwama;

(h) umuntfu munye lonelwati lolubanti kanye nalantjintjana naye lokhetfwe noma ngabe nguyiphi inhlangano lemele emalungelo alabanemasheya noma lenye inhlangano lefanako lekhetfwe nguNgcongcoshe; 45

(i) umuntfu munye lonelwati lolubanti kanye nalantjintjana naye lokhetfwe Libhange Ngodla laseNingizimu Afrika; kanye

(j) lanbanye bantfu lababili labanelwati lolufanako labantjintjanako.

(4) Lomuntfu lobalwe kusigatjana (3) bakhethwe ngesizatfu sekutsi bakhona kanye nelwati lwetimakethe temnotfo kantsi bangahle bangabi basebentisi labagunyatiwe. 50

(5) Lihhovisi kufanele libeke kuwo lamalunga sekela sihlalo lowenta imisebenti yasihlalo uma ngabe lihhovisi lasihlalo lingenamuntfunoma uma ngabe sihlalo ahluleka kwenta imisebenti yakhe.

(6) Lilunga lelihhovisi lingaphakamisa lomunye noma labanye bantfu njengemalunga langetetelako kulelihhovisi. 55

(7) Onkhe malunga alelihhovisi, anelivoti linye ngalokuphatselene netindzaba letinakwa lihhovisi, kodvwa lilunga lelivalako linelivoti uma ngabe lingekho emhlanganweni kulowo lomelwe ngulelilunga lelivala lomunye.

(8) Imihlangano yelihhovisi ibanjwa ngetikhatsi nendzawo lengancunywwa ngusihlalo kodvwa emalunga lamane elihhovisi ngekwesatiso lesibhalwe phansi siya kusihlalo 60

writing to the chairperson of the directorate demand that a meeting of the directorate be held within seven business days of the date of such notice.

(9) The chairperson must determine the procedure of a meeting of the directorate.

(10) The decision of a majority of the members of the directorate constitutes the decision of the directorate.

(11) No proceedings of the directorate are invalid by reason only of the fact that a vacancy existed on the directorate or that any member was not present during such proceedings or any part thereof.

(12) The directorate is, in the performance of its functions, assisted by an executive director who is appointed by the board after consultation with the directorate and who may attend all meetings of the directorate but may not vote at such meetings.

Financing of directorate

86. The costs of performing the functions of the board and those of the directorate in terms of this Chapter are paid out of levies imposed by the board on exchanges under section 15A of the Financial Services Board Act.

General provisions

Protection of existing rights

87. Nothing in this Chapter prejudices the common law rights of any person aggrieved by any dealing or offence contemplated in this Chapter to claim any amount save to the extent that any portion of such amount has been recovered by such person under section 82.

Confidentiality and sharing of information

88. The directorate may share information concerning any matter dealt with in terms of this Chapter with the institutions which have nominated persons to the directorate, the Takeover Regulation Panel, established by section 196 of the Companies Act, the South African Reserve Bank, the Independent Regulatory Board for Auditors constituted in terms of the Auditing Profession Act, a licensed exchange, a licensed central securities depository, or a licensed independent clearing house, the Financial Intelligence Centre established by the Financial Intelligence Centre Act, the National Treasury, the Minister and the persons, inside the Republic or elsewhere, responsible for regulating, investigating or prosecuting insider trading, prohibited trading practices and other market abuses.

CHAPTER XI

AUDITING

Auditor

89. (1) Despite the provisions of any law, a regulated person must appoint and at all times have an auditor who engages in public practice and who has no direct or indirect financial interest in the business in respect of which the auditor is so appointed.

(2) No firm of auditors, or a member of such firm, in which a regulated person or director, officer or employee of a regulated person has any financial interest, may be appointed as an auditor of a regulated person.

(3) The registrar must approve the appointment of the auditor of every market infrastructure and may withdraw the approval if it is necessary.

Accounting records and audit

90 A regulated person must—

- (a) maintain on a continual basis the accounting records prescribed by the registrar and prepare annual financial statements that conform with the financial reporting standards prescribed under the Companies Act and contain the information that may be prescribed by the registrar;

welihhovisi acele kutsi umhlangano welihhovisi ubanjwe emalangeneni lasikhombisa aleso satiso.

(9) Sihlalo kufanele ancume indlela yemhlangano welihhovisi.

(10) Sincumo semalunga lamanyenti ehhovisi sifaka ekhatsi sincumo salelihhovisi.

(11) Akunatinchubo talelihhovisi letingekho emtsetfweni ngekwezizatu sekutsi 5
sikhala lebesikhona kulelihhovisi noma kutsi noma liphilunga belingekho
ngalesikhatsi salemihlangano noma incenye yawo.

(12) Lelihhovisi, ekwenteni imisebenti yalo, lisitwe ngumcondzisi lophakeme
locashwe yibhodi ngemuva kwekutsintsana nelihhovisi nalekangangenelela yonkhe
imihlangano yalelihhovisi kodvwa angeke avote kuleyo mihlangano. 10

Kusitwa ngetimali kwalabaphetse

86. Tindleko tekwenta lemisebenti yebhodi kanye naleto telihhovisi
ngekwaleSahluko tikhokhelwa kuntsela lebekwe yibhodi kumagatja ngaphansi
kwesigaba15A se-*Financial Services Board Act*.

Imibandzela leyetyelelele 15

Kuvikelwa kwemalungelo lasavele akhona

87. Akunalutfo kulesahluko lolucwasa emalungelo emtsetfo wanoma muphi umuntu
lofake sikhalo nganoma kuphi kutsengiselana noma licala lelivetwe kulesahluko
kukleyima noma malini ngaphandle kwelizinga lekutsi noma yiphi incenye yalesamba
seyitfolakele ngulowo muntu ngaphansi kwesigaba 82. 20

Kubamba imfihlo nekwabelana ngelwatiso

88. Lihhovisi lingabelana ngelwatiso loluhambisana nanoma luphi ludzaba
lekusetjentwe ngalo ngekwaesahluko netikhungo letinebantfu labakhetselwe
kulelihhovisi, leLitsimba Lekudlulisela Umsebenzi, lelisungulwe ngekwasigaba 196
se-*Companies Act*, libhange Ngodla lase Ningizimu Afrika, Ibhodi yeligatja 25
lelinemvume, libhange lemasheya lelisemkhatsini, noma indlu letimele lenemvume
yekugunyata Yebahloli Mabhuku leyakhiwe ngekwe *Auditing Profession Act*, tonkhe
tinhlango letitibusako, *Financial Intelligence Centre Act*, Betimali Telive,
Ngcongcoshe kanye nebantfu, lapho khona ekhatsi eRiphabhulikhi noma kulenye
indzawo, losebenta kulawula. Kuphenya noma kushisa kuhwebelana ngekhatshi, 30
kutsengiselana lokungakavunyelwa kanye nalokunye kuhlukunyetwa kwetimakethe.

SAHLUKO XI

KUHLOLWA EMABHUKU

Umdloli mabhuku

89. (1) Ngaphandle kwemibandzela yanoma muphi umtsetfo, umuntu logunyatiwe 35
kufanele acashe kantsi ngaso sonkhe sikhatsi abe nemhloli mabhuku longenelela
emsebenzini wemango longenansisekelo ngalokucondzile noma ngalokuyamile
etimalini talebhizinisi lapho kucashwe khona lomhloli mabhuku.

(2) Ayikho imboni yebahloli mabhuku, noma lilunga lalayo mboni, lapho lomuntu
logunyatiwe noma umcondzisi, sisebenti noma umsebenzi wemuntu logunyatiwe 40
lonenshisekelo yetimali, angacashwa njengemhloli mabhuku wemuntu losemtsetfweni.

(3) Nobhala kufanele avumele lokucashwa kwemhloli mabhuku wato tonkhe
tinsitanchanti tetimakethe nato kantsi bangamisa lemvume uma ngabe kufanele.

Emarekhodi etimali nekuhlolwa kwemabhuku

90. Umuntu losemtsetfweni kufanele— 45

(a) agcine njalo emarekhodi etimali lekakhishwe ngunobhala abuye alunginge
titatimende temali temnyaka wonkhe lekuhambisana nalokubika ngetimali
lokubekwe ngaphansi kwe-*Companies Act* kantsi kube nalolwatiso
lolungakhishwa ngunobhala;

- (b) cause such accounting records and annual financial statements to be audited by an auditor appointed under section 89, within a period prescribed by the registrar or such later date as the registrar may allow on application by a regulated person; and
- (c) preserve such records, which may be in electronic form, in a safe place for a period of not less than five years as from the date of the last entry therein. 5

Functions of auditor

91. (1) The auditor must audit the annual financial statements of the regulated person in accordance with the International Standards on Auditing to obtain sufficient evidence that the financial statements are in accordance with the underlying records, and are prepared in accordance with the International Financial Reporting Standards and the requirements of the Companies Act and this Act so as to fairly present the financial position, cash-flows and the results of the operations of the regulated person. 10

(2) When an auditor of a regulated person has conducted an audit in terms of subsection (1), the auditor must, subject to subsection (3), report to the regulated person or to the exchange, central securities depository or independent clearing house in question, if the auditor is the auditor of an authorised user, participant or clearing member of an independent clearing house, and on request to the registrar— 15

- (a) to the effect that the auditor has completed the audit of the annual financial statements in accordance with the International Standards on Auditing and in the manner required by this Act and that in the auditor's considered opinion they fairly present the financial position, cash-flows and results of the operations of the regulated person; and 20
- (b) on the matters prescribed by the registrar, including matters relating to the nominees of those regulated persons. 25

(3) If the auditor is unable to make such a report or to make it without qualification, the auditor must include in the auditor's report a statement explaining the facts or circumstances that prevented the auditor from making a report or from making it without qualification.

(4) When the auditor of a regulated person furnishes copies of a report contemplated in section 45(1)(a) and (3)(c) of the Auditing Profession Act, the auditor must, despite any contrary law, also furnish a copy thereof to the registrar, if the auditor is the auditor of a market infrastructure, or to the exchange, central securities depository, or independent clearing house in question, if the auditor is the auditor of an authorised user, participant or clearing member of an independent clearing house. 30 35

(5) If an auditor's appointment is terminated for any reason, including by way of resignation, the auditor must—

- (a) submit to the registrar, if the auditor is the auditor of a market infrastructure, or to the exchange, central securities depository, or independent clearing house in question if the auditor is the auditor of an authorised user, participant or clearing member of an independent clearing house, a statement of what the reasons are, or what the auditor believes to be the reasons, for the termination; 40
- (b) if the auditor would, but for that termination, have had reason to submit to the regulated person a report contemplated in section 45(1)(a) and (3)(c) of the Auditing Profession Act, submit such a report to the registrar or the exchange, central securities depository or independent clearing house, as the case may be. 45

(6) An auditor must inform the registrar or the exchange, central securities depository or independent clearing house, as the case may be, in writing of any matter relating to the affairs of the regulated person of which the auditor became aware in the performance of the auditor's functions and which, in the opinion of the auditor, is irregular or may prejudice the regulated person's ability to meet its liabilities at all times. 50

- (b) abangele kutsi lawo marekhodi etimali kanye netitatimende temnyaka wonkhe tihlolwe ngumhloli mabhuku locashwe ngaphansi kwesigaba 89, ngesikhatsi lesibekwe ngunobhala noma lolo lusuku lwamuva lolunga-vunyelwa ngunobhala ngesicelo lesifakwe ngumuntfu losemtsetfweni; kanye
- (c) kugcina lawo marekhodi, langaba ku-elektronikhi, endzaweni lephephile ngesikhatsi lesingekho ngaphansi kweminyaka lesihlanu kusuka ngalesikhatsi sekungena kwekugcina. 5

Imisebenti yemhloli mabhuku

91. (1) Umhloli mabhuku kufanele ahlole titatimende temali temnyaka talomuntfu logunyatiwe ngekuhambisana Nemazinga Ekuhlola Emabhuku Amhlaba wonkhe kutsila bufakazi lobanele kutsi letitatimende temali tiyahambisana nalamarekhodi, kantsi tilungiswe ngekuhambisana ne *Financial Reporting Standards and the requirements se- Companies Act* naloMtsetfo kute kutsi umele kahle lesimo setimali, kuphatfwa kwemali nemiphumela yekusebenta kwalomuntfu logunyatiwe. 10

(2) Uma ngabe umhloli mabhuku wemuntfu losemtsetfweni ahlole emabhuku ngekwesigatjana (1), umhloli mabhuku kufanele, ngekuya ngesigatjana (3), abike kulomuntfu losemtsetfweni noma ligatja, libhange lelisemkhatsini lemasheya noma leyondlu legunyatako letimele uma ngabe umhloli mabhuku ngumhloli mabhuku wemsebentisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe wendlu letimele legunyatako, kanye nangesicelo lesifakwe ngunobhala— 15 20

- (a) ngalomtselela wekutsi umhloli mabhuku ucedzelele lokuhlolwa kwemabhuku kwetitatimende temnyaka temali ngekuhambisana Nemazinga Ekuhlola Emabhuku Amhlaba wonkhe nangendlela lefuneka kuloMtsetfo kanye nangembono lobekwe ngumhloli mabhuku batawumelela lesimo setimali, kungena kwemali nemiphumela yekusebenta kwalomuntfu logunyatiwe; kanye 25

- (b) ngaletindzaba letibekwe ngunobhala, kufaka ekhatsi tindzaba letiphatselene nalophakanyisiwe walabo bantfu labasemtsetfweni.

(3) Uma ngabe umhloli mabhuku akakhoni kwenta lombiko noma kwenta ngaphandle kweticu, lomhloli mabhuku kufanele afake kulombiko wemhloli mabhuku sitatimende lesichaza ngemaciniso noma tindlela letivikela umhloli mabhuku kutsi ente umbiko noma awente ngaphandle kwekuwuhlola. 30

(4) Uma ngabe umhloli mabhuku kungumuntfu losemtsetfweni aniketwa emakhophi embiko lovetwe kusigaba 45(1)(a) na (3)(c) se-*Auditing Profession Act*, umhloli mabhuku kufanele, ngaphandle kwekutsi kube nemtsetfo longcubutanako, abuye anikete ikhophi ngalokunjalo kunobhala, uma ngabe lomhloli mabhuku ngumhloli wetinsitanchanti tetimakethe lekukhulunywa ngato, uma ngabe lomhloli mabhuku kungumhloli mabhuku wemsebentisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe wendlu letimele legunyatako. 35 40

(5) Uma ngabe kucashwa kwemhloli mabhuku kumisiwe nganoma siphisizatfu, kufaka ekhatsi kuyekela umsebenti, umhloli mabhuku kufanele—

- (a) anikete nobhala, uma ngabe lomhloli mabhuku kungumhloli mabhuku tinsitanchanti tetimakethe noma egatjeni, libhange lemasheya lelisemkhatsini noma indlu letimele legunyatako lekukhulunywa ngayo uma ngabe lomhloli mabhuku kungumhloli mabhuku wemsebentisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe wendlu letimele legunyatako, sitatimende sekutsi tiyini tizatfu, talokumiswa; 45

- (b) uma ngabe lomhloli mabhuku atawu, kwentela lokumiswa, abe nesizatfu sekwetfula lombiko kulomuntfu losemtsetfweni lovetwe kusigaba 45(1)(a) na (3)(c) we-*Auditing Profession Act*, atfule lowo mbiko kunobhala noma egatjeni, libhange lemasheya lelisemkhatsini noma indlu letimele legunyatako njengoba kungabe kubekiwe. 50

(6) Umhloli mabhuku kufanele atise nobhala noma inhlango letilawulako, njengoba kungabe kubekiwe, ngalokubhalwe phansi nganoma luphi ludzaba lolucondziswe kulomuntfu logunyatiwe lapho khona lomhloli mabhuku ati khona ngekusebenta kwalomhloli mabhuku nalapho khona, ngekwembono wemhloli mabhuku, akuhambisani noma angadvonsela phansi umtfwalo walomuntfu logunyatiwe kutsi afinyelele ekwenteni umsebenti wakhe ngato tonkhe tikhatsi. 55

Furnishing of information in good faith by auditor

92. The auditor must provide any report or information as required in terms of this Act despite the provisions of any contrary law or a provision of a code of professional conduct to which the auditor is subject.

Power of registrar to request audit

5

93. (1) The registrar may at any time by written notice direct a regulated person to have its accounts, records and financial statements audited and to submit the results of such an audit to the registrar within the time specified in the notice.

(2) A person who, pursuant to subsection (1), gives information, an explanation or access to records knowing that the information, explanation or records are false or misleading, commits an offence. 10

CHAPTER XII

GENERAL PROVISIONS

Powers of registrar and court

General powers of registrar

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94. (1) If the registrar receives a complaint, charge or allegation that a person (hereinafter referred to as the respondent) who provides securities services (whether the respondent is licensed or authorised in terms of this Act or not) is contravening or is failing to comply with any provision of this Act, or if the registrar has reason to believe that such a contravention or failure is taking place, the registrar may investigate the matter by directing that respondent in writing to— 20

- (i) provide the registrar with any information, document or record reasonably required by the registrar about such services;
- (ii) appear before the registrar at a specified time and place.

(2) Despite any contrary law, the registrar may, if an advertisement, brochure or other document relating to securities is misleading or for any reason objectionable, direct that the advertisement, brochure or other document not be published or the publication thereof be stopped or that such amendments as the registrar considers necessary be effected. 25

Powers of registrar to conduct on-site visit or inspection

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95. (1) The registrar may—

- (a) authorise any suitable person to conduct an on-site visit of the business and affairs of a regulated person to determine compliance with this Act; or
- (b) instruct an inspector under section 3 of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998). 35

(2) A person conducting an on-site visit in terms of paragraph (a) may—

- (a) at any time during business hours—
 - (i) enter the premises of the regulated person and the regulated person must upon request provide any document;
 - (ii) search the premises of the regulated person for any document; 40
 - (iii) examine, make extracts from and copy any document or, against the issue of a receipt, temporarily remove the document;
 - (iv) seize any document against the issue of a receipt, which may furnish proof of any failure to comply with the provisions of this Act;
- (b) require the regulated person to produce at a specified time and place any specified documents or documents of a specified description in the possession or under the control of the regulated person; 45
- (c) require any person that is holding or is accountable for any document, to provide information and an explanation of that information.

Kucedzelelwa kwelwatiso ngendlela lekahle icedzelelwa ngumhloli mabhuku

92. Umhloli mabhuku kufanele kutsi anikete umbiko noma lwatiso njengoba kudzingeka ngekwaloMtsetfo ngaphandle kwalemibandzela kwanoma kuphi kungcubutana ngekwemtsetfo noma umbandzela wemazinga ekutiphatsa kwetisebenti lapho khona lomhloli mabhuku asebenta khona.

5

Emandla anobhala ekucela emabhuku lahloliwe

93. (1) Nobhala noma ngabe nini ngesatiso lesibhalwe phansi acondzise umuntfu losemtsetfweni kutsi ema-akhawunti akhe, emarekhodi netitativende temali tihlolwe nekuhambisa imiphumela yalolo luhlolo kunobhala ngalesikhatsi lesibalwe kulesatiso.

(2) Umuntfu, ngekulandzela sigatjana (1), uniketa lwatiso, inchazelo noma kufinyelela kumarekhodi wati kutsi lolwatiso, inchazelo noma emarekhodi angemanga noma ayalahlekisa, wenta licala.

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SAHLUKO XII

IMIBANDZELA LEYETAYELEKILE

Emandla anobhala nenkhantolo

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Emandla latayelekile anobhala

94. (1) Uma ngabe nobhala atfolo sikhalo, kubekwa licala noma kucatjangelwa kutsi umuntfu (lapha njengoba abekwe njengalotiphendvulelako) loniketa umsebenzi wemasheya (noma ngabe lona lophendvulako unelayisensi noma ugunyatiwe ngekwaloMtsetfo noma cha) uphula noma uyahluleka kuhambisana nanoma miphi imibandzela yaloMtsetfo, noma uma ngabe nobhala anesizatfu sekukholwa kutsi lokungenelela noma lokuhluleka kuyenteka, nobhala angaphenya loludzaba ngekutsi acondzise lolophendvulako ngekumbalela kutsi—

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(i) anikete nobhala noma luphi lwatiso, imiculu noma emarekhodi ladzinga ngunobhala ngalemisebenti;

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(ii) avele ngembi kwanobhala ngesikhatsi nendzawo layibekile.

(2) Ngaphandle kwekutsi kube nemtsetfo longcubutanako, nobhala anga, uma ngabe sikhangiso, incwajana noma leminywe imiculu lephatselene nemasheya iyalahlekisa noma nganoma siphilwe sizatfu iyaphikiseka, ngoba lesikhangiso, incwajana noma lomunye umsculo ungakakhishwa noma lokukhishwa kwawo kumiswe noma letio tichibiyelo njengoba nobhala akubona kufanele kwentiwe.

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Emandla anobhala ekuvakashela ngekhatsi noma ekuhlola

95. (1) Nobhala anga—

(a) gunyata bantfu labafanele kutsi bente luvakasho lwangekhatsi lalibhizinisi netindzaba temuntfu losemtsetfweni kutsi batobuka kutsi uyahambisana naloMtsetfo; noma

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(b) kutjela umhloli ngaphansi kwesigaba 3 se-*Inspection of Financial Institutions Act*, 1998.

(2) Umuntfu lowente luvakasho lwangekhatsi ngekwalandzima (a) anga—

(a) noma sikhatsini ngesikhatsi sekusebenta—

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(i) angene kulenzawo yalomuntfu losemtsetfweni kantsi lona losemtsetfweni ngekufaka sicelo anikete noma miphi imiculu;

(ii) aseshe lenzawo lehlala lomuntfu losemtsetfweni kunoma miphi imiculu;

(iii) abuke, akhiphe emaphepha abuye akhophe noma miphi imiculu noma, ngekuamelana nekuniketwa irisiphi, asuse kwesikhashane lomculu;

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(iv) amise noma muphi umculu lomelana nekuniketwa kwerisiphi, lengaba bufakazi bekuhluleka noma kuphi ekuhambisaneni naloMtsetfo;

(b) kudzingeke lomuntfu losemtsetfweni kutsi akhiphe ngesikhatsi lesibekiwe nendzawo imiculu noma imiculu letawube ichaziwe lekanayo noma lengaphansi kwalomuntfu lolawulako;

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(c) kudzingeke kutsi noma bani losehhovisi noma losebenta nganoma muphi umculu, kutsi anikete lwatiso kanye nenchazelo yalolwatiso.

(3) The registrar may, at the request of a supervisory authority, investigate or assist that supervisory authority in an investigation into possible contraventions or failures similar to contraventions or failures that may occur under this Act that are regulated in terms of the laws of a country other than the Republic that that supervisory authority administers.

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Powers of registrar after on-site visit or inspection

96. After an on-site visit or inspection has been conducted under section 95, the registrar may, in order to achieve the objects of this Act referred to in section 2—

- (a) if the respondent is a company—
 - (i) apply to the court under section 81 of the Companies Act for the winding-up of the respondent as if the registrar were a creditor of the respondent; 10
 - (ii) apply to the court under section 131 of the Companies Act to begin business rescue proceedings in respect of the respondent as if the registrar were a creditor of the respondent; 15
- (b) subject to section 5 of the Financial Institutions (Protection of Funds) Act, apply to the court for the appointment of a curator for the business of the respondent; 15
- (c) direct the respondent to take any steps, or to refrain from performing or continuing to perform any act, in order to terminate or remedy any irregularity or state of affairs disclosed by the on-site visit or inspection: Provided that the registrar may not make an order contemplated in section 6D(2)(b) of the Financial Institutions (Protection of Funds) Act. 20
- (d) direct the respondent to prohibit or restrict specified activities, performed in terms of this Act, of a director, managing executive, officer or employee of the respondent, if the registrar believes that the director, managing executive, officer or employee is not fit and proper to perform such activities; 25
- (e) hand the matter over to the National Director of Public Prosecutions, provided that the contravention or failure constitutes an offence in terms of this Act; or
- (f) by notice on the official website or by means of any other appropriate public media, make known— 30
 - (i) the status and outcome of an inspection;
 - (ii) the details of an inspection if disclosure is in the public interest;
 - (iii) the outcome and details of an on-site visit if disclosure is in the public interest. 35

Power of registrar to impose penalties

97. (1) The registrar may impose a fine in the case of any failure by a regulated person to submit to the registrar within any period specified by or under this Act any statement, report, return or other document or information required by or under this Act to be so submitted, of an amount to be prescribed by the registrar for every day that the failure continues. 40

(2) The registrar must, before imposing a fine, by written notice to the regulated person—

- (a) inform the regulated person of the registrar's intention to impose a fine;
- (b) specify the particulars of the alleged failure; 45
- (c) set out the reasons for the intended imposition of a fine;
- (d) specify the amount of the fine intended to be imposed; and
- (e) call upon the regulated person to show cause within a period specified by the registrar why the fine should not be imposed.

(3) If the registrar, after consideration of representations made by the regulated person, decides to impose a fine, the registrar must by written notice inform the regulated person that, not later than 30 days after the date of the notice, the regulated person may— 50

(3) Nobhala angaphenya noma asite kutsi lolophetse logunyatiwe kuluphenyo ngekungenelela lokungahle kube khona mnoma kuhluleka lokufana nekungenelela noma kuhluleka lokungaba khona ngaphansi kwaloMtsetfo lokulawula ngekuhambisana nemtsetfo wakulelive lekungasiyo iRiphabhulikhi lelidawula ngulola lophetse logunyatiwe, ngesicelo salabaphetse labagunyatiwe.

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Emandla anobhala ngemuva kwekuvakashela ngekhati noma kwekuhlola

96. Ngemuva kwekuvakashela ngekhati noma kuhlola sekweniwe ngekwesigaba 97, nobhala angenta loku kute kutsi afinyelele kuletinjongo taloMtsetfo letibalwe kusigaba 2—

- (a) uma ngabe lona lophendvulako kuyinkhapani— 10
 - (i) afake sicelo enkantolo ngaphansi kwesigaba 81 se-*Companies Act* kwentela kushushiwa kwalophendvulako kubukeke kwangatsi nobhala bekangumbolekisi walophendvulako;
 - (ii) abhalele inkantolo ngaphansi kwesigaba 131 se-*Companies Act* kutsi acale kuhlenga ibhizinisi ngalokuhambisana nalona lophendvulako kute kubukeke ngatsi lonobhala bekangulobolekisa kulona lophendvulako; 15
- (b) ngekuya ngesigaba 5 se-*Financial Institutions (Protection of Funds) Act*, afake sicelo enkantolo kute kucashwe umphatsi webhizinisi lalophendvulako; 20
- (c) acondzise lolophendvulako kutsi atsatsa noma tiphi tinyatselo, noma angasenti noma achubeke kwena noma yini, kute acedze noma alungise lokungakahambi kahle noma simo setintfo letivetwe ngulebebavakashele ngekhati noma labatohlola: Uma ngabe nobhala angeke ente siphakamiso lesivetwe kusigaba 6D(2)(b) se-*Financial Institutions (Protection of Funds) Act*. 25
- (d) acondzise lolophendvulako kutsi avimbele noma avale imisebenti letsite, leyentiwa ngaphansi kwaloMtsetfo, kumcondzisi, umphatsi loisetulu, sisebenti noma umsebeni walophendvulako, uma ngabe nobhala atsema kutsi umcondzisi, sisebenti noma umsebeni akakakulungeli kwenta lomsebeni; 30
- (e) kudluliselwe loludzaba Kumcondzisi Wemshushisi Wemphakatsi Velonkhe uma ngabe lokungenelela noma lokuhluleka kufaka ekhati licala laloMtsetfo; noma 35
- (f) Ngesatso kuwebhu lesemtsetfweni noma nganoma luphi luhlobo lwekusakatela ummango, atise—
 - (i) simo kanye nemphumela weluhlolo;
 - (ii) imininingwane yeluhlolo uma ngabe lokuvetiwe kuyinshisekelo yemmango;
 - (iii) imiphumela nemininingwane yeluvakasho lwangekhati luyinshisekelo yemmango. 40

Emanadla anobhala ekubeka tinhlawulo

97. (1) Nobhala angabeka inhlawulo uma ngabe kukhona lohlulekile lolawulako kutsi etfule kunobhala nganoma siphikhati lesibekiwe ngaloMtsetfo kunoma siphikhatimende, umbiko, imphendvulo noma lomunye umculunoma lwatso loludzingeka ku noma ngaphansi kwaloMtsetfo kutsi kwetfulwe, linani lelibekwe ngunobhala onkhe malanga ngalesikhatsi lokuhluleka kuyachubeka. 45

(2) Nobhala kufanele, ngembi kwekutsi abeke inhlawulo, ngesatso lesibhaliwe kumuntfu losemtsetfweni—

- (a) kwatise lomuntfu losemtsetfweni ngetinjongo tanobhala kutsi abeke inhlawulo; 50
- (b) asho imininingwane yalokuhluleka;
- (c) abeke ebaleni tizatfu taloku lokuhlosiwe kwalenhlawulo;
- (d) asho linani lenhlawulo lekufanele ibekwe; kanye
- (e) kubitwe lomuntfu losemtsetfweni kutsi akhombise sizatfu ngesikhatsi lesibekiwe ngunobhala kutsi kungani kungabekwa lenhlawulo. 55

(3) Uma ngabe nobhala, ngemuva kwekubona lokumeleleka lokweniwe ngulomuntfu losemtsetfweni, afune kubeka inhlawulo, nobhala kufanele ngekwesatso lesibhaliwe atise lomuntfu losemtsetfweni kutsi, kungakapheli emalanga langema-30 ngemuva kwalolusuku lwalesatso, lomuntfu logunyatiwe kufanele—

- (a) pay the fine; or
- (b) appeal in terms of section 105 against the imposition of the fine to the appeal board.

(4) If a regulated person fails to pay the fine or note an appeal in terms of subsection (3), the registrar may file with the clerk or registrar of any competent court a statement certified by him or her as correct, stating the amount of the fine imposed on the regulated person, and such statement thereupon has all the effects of a civil judgment lawfully given in that court in favour of the board for a liquid debt in the amount specified in the statement. 5

Power of court to declare person disqualified 10

98. (1) If a court—

- (a) convicts an authorised user, participant or clearing member of an independent clearing house, or an officer or employee of those entities, of an offence under this Act or of an offence of which any dishonest act or omission is an element; or 15
- (b) finds, in proceedings to which a person referred to in paragraph (a) is a party or in which his or her conduct is called into question, that he or she has been guilty of reckless or dishonest conduct, the court may (in addition, in a case referred to in paragraph (a), to any sentence it may impose) declare the person concerned to be disqualified, for an indefinite period or for a period specified by the court, from carrying on business or being employed in a capacity of trust. 20

(2) The court may, on good cause shown, vary or revoke a declaration made under subsection (1).

(3) The registrar of the court that has made a declaration under subsection (1) or varied or revoked a declaration under subsection (2), must as soon as possible notify the registrar, and the exchange, central securities depository, or independent clearing house concerned, thereof. 25

(4) No declaration made under subsection (1) affects any power of an exchange, central securities depository, or independent clearing house to take disciplinary action in terms of its rules against the person concerned. 30

Enforcement committee

Referral to enforcement committee

99. The registrar may, despite and in addition to taking any step he or she may take under this Act, refer any contravention of this Act and any directives to the enforcement committee. 35

Winding-up, business rescue and curatorship

Winding-up or sequestration by court

100. (1) Despite any other law, an order for the winding-up or sequestration of the estate of a regulated person may be granted by the court on the application of— 40

- (a) the regulated person;
- (b) one or more of the regulated person's creditors;
- (c) if the regulated person is an exchange, a central securities depository or an independent clearing house, one or more authorised users, participants or clearing members, as the case may be; 45
- (d) jointly, any of or all the parties mentioned in paragraphs (a), (b) and (c);
- (e) the business rescue practitioner of the regulated person;
- (f) the provisional curator or curator of a regulated person; or
- (g) the registrar.

(2) A regulated person which is a company or other corporate body may be wound up, subject to section 102, according to the Companies Act, and the estate of a regulated 50

- (a) akhokhele lenhlawulo; noma
- (b) afake sikhalo ngekwesigaba 105 ngekumelana nalokubekwa kwalenhlawulo kubhodi yetikhalo.

(4) Uma ngabe umuntfu losemtsetfweni ahluleka kukhokha inhlawulo noma abhala sikhalo ngekwesigatjana (3), nobhala angafaka kumabhalane noma nobhala wanoma yiphi inkhantolo lesebentako sitatimende lesicinisekisiwe nguye njengalokukahle, kushiwo lelinani lalenhlawulo leniketwe lomuntfu losemtsetfweni, kanye nalesitatimende lesolesinalemitsela wesincumo senkhantolo lesiniketwe ngekwemtsetfo lesiniketwe kuleyo nkantolo ngekuhambisana nebhodi ngemali loyikweleda kwesikhashane lotayikhokhela kulesamba lesibaliwe kulesitatimende. 5 10

Emandla enkhantolo ekucinisekisa kutsi umuntfu ukhishiwe

98. (1) Uma inkhantolo—

- (a) abeka licala umsebenzisi losemtsetfweni, labangenelelako noma lilunga leligunyatiwe yendlu letimele legunyatako, noma sisebenti noma umsebenzi waletu tinhlango, welicala ngaphansi kwaloMtsetfo noma nelicala lapho khona kungatsembeki noma kukhishwa kuyintfo lekhona; noma 15
 - (b) atfoli, ngetinchubo lapho khona umuntfu lobalwe kundzima (a) uyincenye noma lapho kutiphatsa kwakhe kungatjiswa khona, kutsi unelicala lekungahambisi kahle noma akakatsembeki, inkhantolo inga (ngekungeta, kulicala lelilalwe kundzima (a), kunoma siphil sigwebo lesinganiketwa) ibone lomuntfu lotsintsekako njengalongakafaneli, sikhatsi lesibekiwe noma sikhatsi lesitsite lesibekiwe yinkhantolo, kutsi ente ibhizinisi noma acashwe njengemtsenjwa. 20
- (2) Inkhantolo inga, ngendlela lenhle lekhonjisiwe, ihlukanise noma icitse sincumo lesentiwe ngaphansi kwesigatjana (1). 25
- (3) Nobhala wenkhantolo wente simemetelo ngaphansi kwesigatjana (2), kufanele ngekushesha atise nobhala, kanye neligatja, libhange lemasheya lelisemkhatsini noma indlu letimele legunyatako l letsintsekako, ngaloko.
- (4) akunasimemetelo lesentiwe ngaphansi kwesigatjana (1) lesitsintsa noma maphi emandla eligatja, libhange lemasheya lelisemkhatsini noma indlu letimele legunyatako litsatsa tinyatselo tekucondzisa tigwegwe ngekwemitsetfo yayo ngekumelana nalomuntfu lotsintsekako. 30

Likomidi lelucinisekisa

Kudluliselwa kulikomidi lelucinisekisa

99. Nobhala anga, ngaphandle nangekungetelela ekutsatseni noma siphil sinyatselo langasitsatsa ngaphansi kwaloMtsetfo kanye nanom liphi Likomidi Lekusebenta. 35

Kubuyeketa, kuhlengwa kwelibhizinisi nemlawuli

Kubuyeketa noma kumukwa imphahla kwesikhashane yinkhantolo

100. (1) Nanoma kunamuphi lomunye umtsetfo, umyalelo wekubukisisa noma kwabiwa kwelifa lemuntfu losemtsetfweni kunganiketwa yinkhantolo uma kunesicelo se— 40

- (a) muntfu losemtsetfweni;
 - (b) munye noma labangetulu bebacondzisi balomuntfu losemtsetfweni;
 - (c) uma ngabe lomuntfu losemtsetfweni kuligatja, sikhungo semasheya lesisemkhatsini noma indlu legunyatiwe letimele, munye noma labangetulu basebentisi labagunyatiwe, labangenelelako noma lilunga leligunyatiwe, njengoba kungabe kubekiwe; 45
 - (d) ngekuhlanganyela, noma yiphi yaletinhlango letibalwe kundzima (a), (b) na c;
 - (e) sisebenti sekuhlenga libhizinisi lemuntfu losemtsetfweni; 50
 - (f) umphatsi loniketiwe noma umphatsi wemuntfu losemtsetfweni; noma
 - (g) nobhala.
- (2) Umuntfu losemtsetfweni lapho inkhapani noma lomunye umtimba wabosomabhizinisi ungambeka, ngekuya ngesigaba 102, ngekuya nge-Companies Act, nelifa

person who is a natural person or partnership may be sequestrated according to the Insolvency Act.

(3) Despite the Companies Act—

- (a) any resolution or court application made under the Companies Act in respect of a regulated person must be filed with or served on the registrar, as the case may be, and must be approved by the registrar prior to the filing or serving thereof; 5
- (b) in relation to a court application in respect of a regulated person, the registrar may file affidavits and other documents relating to, and may appear and be heard at the hearing of, the application; 10
- (c) a company may file a resolution under section 80 of the Companies Act in respect of a regulated person only after the registrar has approved the resolution; and
- (d) the certificate referred to in section 82(1) of the Companies Act in respect of a regulated person must also be filed with the registrar. 15

(4) A court may not grant a liquidation order in respect of a regulated person without the approval of the registrar.

(5) If the registrar does not approve the resolutions of the regulated person made under section 80 of the Companies Act, the registrar may apply—

- (a) for the liquidation and winding-up of the regulated person under section 81 of that Act; or 20
- (b) to court for placing that regulated person under curatorship in terms of the Financial Institutions (Protection of Funds) Act.

(6) A regulated person may not be placed in liquidation or sequestration while under curatorship, unless the curator applies for such liquidation or sequestration. 25

Business rescue

101. (1) The court may grant a business rescue order in respect of a regulated person which is a company or other corporate body on the application of the persons referred to in section 100(1), except a curator referred to in section 102(1).

(2) (a) Section 100(3), (4), (5) and (6) apply, with the changes required by the context, to a court application for or a resolution on business rescue. 30

(b) For the purpose of paragraph (a), any reference to section 80 of the Companies Act in section 100(3), (4), (5) and (6) must be construed as a reference to section 129 of that Act and any reference to liquidation or sequestration in those sections must be construed as a reference to business rescue. 35

(3) The Companies Act applies, subject to section 103, to business rescue proceedings relating to a regulated person that is a company.

Appointment of curator

102. (1) Despite any other law, the court may appoint a curator in terms of section 5 of the Financial Institutions (Protection of Funds) Act in respect of any regulated person. 40

(2) The Financial Institutions (Protection of Funds) Act applies to the management and control of a regulated person by a curator appointed under this section.

(3) If a curator is appointed under this section, no business rescue or liquidation proceedings under the Companies Act or sequestration proceedings under the Insolvency Act may be commenced in respect of that regulated person until the appointment of the curator is terminated, or with the leave of the court. 45

Appointment of business rescue practitioner or liquidator and approval of business rescue plan

103. (1) Despite the provisions of the Companies Act, the registrar must approve the appointment of a business rescue practitioner or liquidator of a regulated person and must approve the business rescue plan referred to in section 150 of the Companies Act. 50

(2) Despite the provisions of the Companies Act, if the registrar does not approve the business rescue plan referred to in section 150(1) of the Companies Act, the registrar may apply—

lemuntfu losemtsetfweni lekungumuntfu nje noma budlelwano bungahlakatwa ngekuhambisana ne *Insolvency Act* ngalokuphatselele nemuntfu losemtsetfweni.

(3) Ngaphandle kwe-*Companies Act*,—

- (a) noma siphil sisombululo noma sicelo sasenkhantolo lesentiwe ngaphansi kwe-*Companies Act* kufanele sigcwaliswe nge noma siyiswe kunobhala, njengoba kungabe kubekiwe, kantsi kufanele kuvunyelwe ngunobhala ngaphambi kwekufaka noma kuniketwa lokutawuba khona; 5
- (b) ngalokuhambisana nesicelo sasenkhantolo, nobhala angafaka bufakazi naleminywe imiculu lohambisana, kantsi ingavetwa ibuye ilalelwe ngalesi-khatsi kulalelwa lesicelo; 10
- (c) inkhaphani ingafaka sisombululo ngaphansi kwesigaba 80 se-*Companies Act* kuphela uma ngabe nobhala sekavumele lesisombululo; kanye
- (d) nesitifiketi lesibalwe kusigaba 82(1) se-*Companies Act* ngalokuphatselele nemuntfu losemtsetfweni kufanele siniketwe nobhala.

(4) Inkhantolo ingahle inganiketi umyalelo wekuhlakata kwemuntfu losemtsetfweni ngaphandle kwemvume yanobhala. 15

(5) Uma ngabe nobhala anganiketi imvume yalesisombululo ngalomuntfu losemtsetfweni lesentiwe ngaphansi kwesigaba 80 se-*Companies Act*, nobhala angasebentisa—

- (a) kwentela lokuhlata nekubuyeketa kwalomuntfu losemtsetfweni ngaphansi kwesigaba 81 saloMtsetfo; noma 20
- (b) enkhantolo ngekuhambisana lomuntfu losemtsetfweni ngaphansi kwekulawulwa ngekuhambisana ne *Financial Institutions (Protection of Funds) Act*.

(6) Umuntfu losemtsetfweni angeke wabekelwa kuhlakatwa noma kuvalelwa.

Kuhlengwa kwelibhizinisi

101. (1) Inkhantolo inganiketa lotawuhlenga libhizinisi ngekwemyalelo wemuntfu losemtsetfweni lekuyinkhaphani noma lomunye umtimba wemabhizinisi ngesicelo salomuntfu lobalwe kusigaba 100(1), ngaphandle kwemlawuli lobalwe kusigaba 104(1). 25

(2) (a) Sigaba 100(3), (4), (5) na (6) sisebenta, naletingucuko letidzingekako kulengcikisti, kusicelo sasenkhantolo noma sisombululo sekuhlenga libhizinisi.

(b) kwentela tizatfu tendzima (a), noma yini lecondziswe kusigaba 80 se-*Companies Act* kulesigaba lesibalwe kundzima (a) kufanele sitsatfwe njengalesicondziswe kusigaba 129 saloMtsetfo kanye nalokunye lokubekiwe lokuphatselele nekuhlakata noma kuphelisa kuleto tigaba kufanele kutsatfwe njengalokusho kuhlengwa kwelibhizinisi. 30

(3) I-*Companies Act* isebenta, ngekuya ngesigaba 103, ngetinchubo tekuhlengwa kwelibhizinisi lokuhambisana nemuntfu losemtsetfweni lekuyinkhaphani. 35

Kubekwa kwemlawuli

102. (1) Ngaphandle kwaleminywe imitsetfo, inkhantolo ingabeka umlawuli ngekwesigaba 5 se-*Financial Institutions (Protection of Funds) Act* ngalokuphatselele nanoma bani losemtsetfweni. 40

(2) I-*Financial Institutions (Protection of Funds) Act* isebenta kulokulawula nekuphatfwa kwemuntfu losemtsetfweni ngumlawuli lobekwe ngaphansi kwalesigaba.

(3) Uma ngabe umlawuli ubekwe ngaphansi kwesigaba, akunakuhlengwa kwelibhizinisi noma inchubo yekuhlakata lengaphansi kwe-*Companies Act* noma inchubo yekuvala lengaphansi kwe-*Insolvency Act* lengacalwa ngalokuhambisana nalowo muntfu losemtsetfweni kute kumiswe kucashwa kwemlawuli, noma ngemvume yenkhantolo. 45

Kubekwa kwesisebenti lesitawuhlenga ibhizinisi noma umcitsi nkaphani kanye nekuvunyelwa kweluhlelo lwekuhlenga ibhizinisi

103. (1) Ngaphandle kwemibandzela ye-*Companies Act*, nobhala kufanele avumele kucashwa kwemhlengi welibhizinisi noma umhlakati wemuntfu losemtsetfweni kantsi kufanele acinisekise loluhlelo lekuhlenga libhizinisi lelibalwe kusigaba 150 se-*Companies Act*. 50

(2) Ngaphandle kwekuhambisana nemibandzela ye-*Companies Act*, uma ngabe nobhala angavumeli loluhlelo lwekuhlengwa kwebhizinisi lolubalwe kusigaba 150(1) se-*Companies Act*, nobhala angafaka sicelo— 55

- (a) for the liquidation and winding-up of the regulated person under section 81 of that Act; or
- (b) to court for placing that regulated person under curatorship in terms of the Financial Institutions (Protection of Funds) Act.

Miscellanea

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General interpretation of Act

104. This Act must be interpreted and applied in a manner that gives effect to the objects of the Act set out in section 2.

Right of appeal

- 105.** (1) A person aggrieved by a decision of— 10
- (a) the registrar under a power conferred or a duty imposed upon the registrar by or under this Act;
 - (b) an exchange to refuse an application by that person to be admitted as an authorised user;
 - (c) an exchange to withdraw the authorisation of an authorised user or to direct an authorised user to terminate the access to the exchange by an officer or employee of such authorised user; 15
 - (d) an exchange to defer, refuse or grant an application for the inclusion of securities in the list or to remove securities from the list or to suspend the trading in listed securities; 20
 - (e) a central securities depository to refuse an application by a person to be accepted as a participant;
 - (f) a central securities depository to terminate the participation of a participant or to direct a participant to terminate the access to the central securities depository by an officer or employee of a participant; 25
 - (g) an independent clearing house to refuse an application by a person to be admitted as a clearing member;
 - (h) an independent clearing house to withdraw the authorisation of a clearing member or to direct a clearing member to terminate the access to the independent clearing house by an officer or employee of such clearing member; 30
 - (i) an exchange, central securities depository or independent clearing house to impose a penalty on an authorised user, issuer, participant or clearing member of an independent clearing house, as the case may be, or on an officer or employee of an authorised user, issuer, participant or clearing member of an independent clearing house; 35
 - (j) the claims officer referred to in Chapter X,
- may appeal to the appeal board on the conditions determined by or under section 26 of the Financial Services Board Act and subject to this section.
- (2) The registrar may appeal to the appeal board against a decision of a market 40 infrastructure, if the market infrastructure fails to respond to a written request by the registrar to review the decision within a reasonable period.

Evidence

106. A record, including an electronic record, purporting to have been made in the ordinary course of the business of a regulated person, or a copy or printout of or an extract from such record certified to be correct by an officer in the service of such regulated person, is on its mere production in any civil, criminal, administrative or disciplinary proceedings under this Act, the rules of an exchange, central securities depository, independent clearing house or any other law or the common law, admissible in evidence against any person and *prima facie* proof of the facts contained in such record, copy, printout or extract. 50

- (a) sekuhlakatwa noma kubuyiswa kwalomuntfu losemtsetfweni ngaphansi kwesigaba 81 salowo Mtsetfo; noma
- (b) inkhantolo ngekubeka lowo muntfu losemtsetfweni ngaphansi kwekulawulwa ngekuhambisana ne *Financial Institutions (Protection of Funds) Act*.

Inchubevange

5

Inchazelo letayelekile yaloMtsetfo

104. LoMtsetfo kufanele kutsi uchazwe ubuye usetjentiswe ngendlela leniketa imphumelelo kutinjongo talomtsetfo letibekwe kusigaba 2.

Lilungelo lekufaka sikhalo

105. (1) Umuntfu lobanjwe ngesincumo— 10

- (a) kufaka sandla ekuphatfweni kwesimondzawo setimakethe temnotfo lesisi-meme;
- (b) dzinga kutsi tinsita ngemasheya tiniketwe ngalokuliciniso, kufinyeleleka nangendlela lecacile;
- (c) ngalokuphatselene nenchubo yemtsetfo, ngaphandle kwenchubo yemtsetfo ngaphansi kwendzima (a), kulesatiso sanobhala noma umuntfu lolawulako noma sicelo noma kuniketwa kwesicwayiso sesikhashana noma kuphi lokungenteka kucala; 15
- (d) ngalokuphatselene nenchubo yekuphatsa, kungasiyo inchubo yekuphatsa lengaphansi kwendzima (a), ngekubekwa kwetisombululo tenkapani, noma kucashwa kwemlawuli wekuhlakata,; 20
- (e) Sikhungo semasheya lesisemkhatsini lokuguculwa kwemasheya lankho emtsetfweni abe titifiketi temasheya, kantsi;
- (f) Sikhungo semasheya lesisemkhatsini tkukhipha Labangenelelako noma kuholaLabangenelelako kutsi bangafiki kuSikhungo semasheya lesisemkha- 25
- (g) lindlela emasheya labhalisiwe lekufanele agunyatwe nobe akhokheleke ngayo;
- (h) kutsi akekho umsebentisi losemtsetfweni longenta umsebenti nemuntfu le umsebentisi losemtsetfweni lekakholelwa noma asolela kutsi udzinga imvume njengalophakanyisiwe ngaphansi kwesigaba 78 noma imvume yekulawula emasheya ngekuhambisana nanoma muphi umtsetfo ngaphandle kwekutsatsa tindlela letiphatsekako; 30
- (i) kwentela kuvunyelwa ligatja leliphakanyisiwe lemsebentisi losemtsetfweni lapho khona lophakanyisiwe anemasheya ku-akhawunti yemasheya noma kumasheya ku-akhawunti yemasheya lesemkhatsini njengoba ichazwe kuSahluko IV, Labangenelelako noma lilunga leligunyatiwe; 35
- (j) yetento letihle kanye nebhizinisi lesezingeni leliphakeme noma, uma ngabe kulibhizinisi, kuphatfwa bantfu labatiphetse kahle kanye nalabanemabhizinisi lahloniphekile. 40

(2) Ligatja leletayelekile lingadzinga basebentisi labagunyatiwe kanye nemaklayenti abo kutsi afake sandla kuletimali teligatja kwentela tizatfu tekuchubeka nelibhizinisi laleligatja.

Bufakazi

106. Lirekhodikufaka ekhatsi le-elektronikhi, lebekufanele entiwe ngendlela letayelekile ngemsebenti wemuntfu losemtsetfweni, noma ikhophi noma lokuprhintiwe kwendzima levela kulamarekhodi lashicilelwe kutsi kube kahle kwesisebenti kulomsebenti kwalowo muntfu losemtsetfweni, ukumkhicito lojwayelekile, kutebugebengu, kuphatsa noma inchubo yekubuyisa endleleni ngaphansi kwaloMtsetfo, imitsetfo egatjeni, libhange lemasheya lelisemkhatsini noma indlu letimele legunyatako noma lomunye umtsetfo noma wemaroma, lekutawuba bufka ngekumelana nalomunye umuntfu ngaletintfo leticuketfwe kulamarekhodi, ikhophi, lokushishiwe noma lokukhicitwe. 50

Regulations

107. (1) The Minister may make regulations not inconsistent with this Act with regard to—

- (a) any matter that is required or permitted to be prescribed in terms of this Act; and 5
- (b) any other matter necessary for the better implementation and administration of the Act or a function or power provided for in this Act:

Provided that in making regulations the Minister must maintain the operational independence of the registrar.

(2) (a) Before the Minister makes any regulation under this section or section 5, the Minister must— 10

- (i) ensure consultation with recognised industry bodies;
- (ii) consider any recommendations from the registrar prior to the publication of draft regulations;
- (iii) publish a notice of the release of draft regulations in the Gazette, indicating that the draft regulations are available on the National Treasury official website, and calling for public comment in writing within a period stated in the notice, which period may not be less than 30 days from the date of publication of the notice; 15
- (iv) in respect of draft regulations to be published in terms of section 5(1), publish on the National Treasury official website, along with the draft regulations, a policy document that informs the draft regulations, and a report on the expediency, effect and implication of the regulations; 20
- (v) in respect of draft regulations to be published in terms of section 5(1)(b), publish a notice identifying persons who may be declared to be regulated persons and inviting comment from those persons in writing within a period stated in the notice, which period may not be less than 30 days from the date of publication of the notice; and 25
- (vi) submit the draft regulations to Parliament, while it is in session, for parliamentary scrutiny at least one month before promulgation. 30

(b) After consideration of any comments received in response to the publication and tabling of the draft regulations in terms of paragraph (a)—

- (i) the Minister may alter the draft regulations, and need not publish the alterations before promulgating the regulations; and
- (ii) after promulgating the regulations, a copy of the promulgated regulations must be tabled in Parliament. 35

(c) The Minister must, within a reasonable period after prescribing regulations in terms of this section or section 5, publish on the official website of the National Treasury a document summarising the comments that were received in response to the published draft regulations, and providing a brief response to those comments that were not accommodated in the final regulations promulgated by the Minister. 40

Fees

108. (1) The registrar may prescribe fees in respect of matters contemplated in this Act and, in relation to such fees as well as fees payable in terms of this Act, the person by whom the fee must be paid, the manner of payment thereof and, where necessary, the interest payable in respect of overdue fees. 45

(2) Fees payable in terms of this Act and interest so payable in respect of overdue fees may be recovered by the registrar by civil action in a competent court.

Offences and penalties

109. A person who— 50

- (a) commits an offence referred to in section 78, 80 or 81, is liable on conviction to a fine not exceeding R50 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment;
- (b) commits an offence referred to in section 93(2), is liable on conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment; 55

Imitsetfosimiso

- 107.** (1) Ngcongcoshe sngamisa umtsetfo longahambisni nalona—
- (a) noma luphi ludzaba lokudzingheka kutsi lukhishwe ngekwaloMtsetfo
 - (b) Noma luphi lolunye ludzaba lekwenza nekulawula kancono loMtsetfo noma sento noma emandla lakuloMtsetfo, 5
- Ngekuya ngekutsi nakwentiwa Umtsetfo Ngcongcoshe kufanele agcine lokuebenta ngekutimela kwanobhala.
- “(2)(a) Ngembi kwekutsi Ngcongcoshe ente noma miphi imitsetfo lemisiwe ngaphansi kwalesigaba noma sigaba 5, Ngcongcoshe kufanele—
- (i) acinisekise kutsi utsintsene nemitimba lenakwako yetimboni; 10
 - (ii) anake noma tiphi tincomo letivela kunobhala ngembi kwekutsi akhiphe luhlaka lwemtsetfosimiso;
 - (iii) Akhise satiso ngekukhishwa kweluhlaka lwemtsetfosimiso *kuGazethi*, ichaze kutsi loluhlaka lwemtsetfosimiso luyatfolakala kuwebhu leLitiko Letimali Tavelonkhe, abuye acele kutsi bantfu babeke timvo tabo 15 ngekubhala ngesikhatsi lesitawube sibekwe kulesatiso, leso sikhatsi singeke saba ngaphansi kwemalanga langema-30 kusukela kulelilanga lekukhishwa kwalesatiso;
 - (iv) Ngalokuphatselene neluhlaka lwemtsetfosimiso lekufanele lukhishwe ngekwesigaba 5(1), lelikhishwe kuwebhu leLitiko Letimali Tavelonkhe, kanye naloluhlaka lwemtsetfosimiso, umculu wenchubomgomo lokhuluma ngaloluhlaka lwemtsetfosimiso, kanye nembiko lokhuluma ngekuphutfuma, umselela nembangela yalomtsetfosimiso; 20
 - (v) Ngalokuphatselene neluhlaka lwemtsetfosimiso lekufanele lukhishwe ngekwesigaba 5(1)(b), kukhishwe satiso lesisho bantfu lekufanele batiswe njengalabasemtsetfweni nekumema kuphawula kulabo bantfu ngaloku- 25 bhaliwe ngesikhatsi lesibhalwe kulesatiso, leso sikhatsi singeke saba ngaphansi kwemalanga langema-30 kusukela ngalolusuku lekukhishwe ngalo satiso; ne
 - (vi) kwetfula loluhlaka lwemtsetfosimiso lwasePhalamende, ngalesikhatsi isebenta, kwentela kuhlola kwephalamende lokungenani inyanga yinye ngembi kwekumemetelwa. 30
- (b) Ngemuva kwekutsatfwa kwanoma miphi imibono letfolwe ngekuphendulwa lebekukhishiwe nekufundvwa kwaloluhlaka lwemtsetfosimiso ngekwesigaba (a)—
- (i) Ngcongcoshe angagucula loluhlaka lwemtsetfo, angafuni kukhipha letingucuko ngembi kwekumemetelwa kwlamitsetfosimiso; kanye 35
 - (ii) ngemuva kwekumemetela lemitsetfosimiso, ikhophi yesimemetelo salemitsetfosimiso kufanele yetfulwe ePhalamende.
- (c) Ngcongcoshe kufanele, ngesikhatsi lesifanele ngemuva kwekukhipha lemitsetfosimiso ngekwalessigaba noma sigaba 5, akhiphe kuwebhu lesemtsetfweni yeLitiko Letimali Tavelonkhe umculu lobhalwe ummango wekuphawula lokwatfolwa ngekuphendvula kulokukhishwa kweluhlaka lwemtsetfosimiso, anikete nemphendvulo lemfishane kuleto tiphawulo lebetingakafakwa kulomtsetfosimiso wekugcina lomemetelwe nguNgcongcoshe. 40

Timali

45

108. (1) Nobhala angabeka timali ngekwaloMtsetfo, ngalokuphatselene naleto timali netimali letikhokhelwa ngekwaloMtsetfo, lomuntfu lekukhokhwa kuye, indlela yekukhokha, uma kufanele, intalo lekhokhwako nawukweleta.

(2) Italo lekhokhwako ngekwaloMtsetfo ingakhavw ngunobhala ngekumamngala enkhantolo lesebentako. 50

Emacala netinhlawulo

109. Umuntfu—

- (a) lonelicala ngekwesigaba 78, angahlawuliswa lengadluli ku R50 million noma aboshwe sikhatsi lesingu 10 iminyaka, noma totimbili tinhlawulo;
- (b) kwenta licala lelibalwe kusigaba 93(2) utawuboshwa noma ahlawuliswe lengadluli ku R10 million noma aboshwe kungadluli iminyaka lesihlanu, noma kokubili kuboshwa nekuhlawula; 55

- (c) contravenes or fails to comply with the provisions of sections 4, 7(1), 24, 25(1), 27(1), 47(1), 54(1) or a prohibition by the registrar referred in terms of section 6(7), commits an offence and is liable on conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment. 5
- (d) contravenes or fails to comply with the provisions of section 73(1) commits an offence and is liable on conviction to a fine not exceeding R1 million or to imprisonment for a period not exceeding five years or to both the fine and such imprisonment.

Savings and transitional arrangements 10

110. (1) The licence, registration or authorisation of a regulated person who immediately before the date of commencement of this Act was licensed, registered or authorised under the Securities Services Act, 2004 (Act No. 36 of 2004), repealed by this Act, shall have effect from the date of commencement of this Act as if granted under a corresponding provision of this Act: Provided that a licence, registration or authorisation 15 granted for a specified period remains in force, subject to this Act, for so much of that period as falls after the date of commencement of this Act only.

(2) The rules of an exchange or central securities depository made under the Securities Services Act, 2004, repealed by this Act and in force immediately before the date of commencement of this Act, continue to be in force in so far as they are not 20 inconsistent with this Act: Provided that the exchange or central securities depository must, within six months from the date of commencement of this Act, amend or replace its rules so as to comply with the requirements of this Act.

(3) Subsection (2) applies with the changes required by the context to the listing requirements of an exchange. 25

(4) Sections 84 and 85 apply to any investigation of alleged non-compliance with or offences under the Securities Services Act, 2004, instituted after its repeal by this Act.

(5) The registrar may on or after the commencement of this Act, but prior to a date determined by the Minister, on reasonable grounds, on application or on the registrar's own initiative, provide for any transitional arrangements regarding the application of 30 any provision of this Act to a regulated person.

Repeal or amendment of laws

111. The laws referred to in the Schedule are hereby repealed or amended to the extent specified in the third column thereof.

Short title and commencement 35

112. This Act is called the Financial Markets Act, 2012, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

- (c) kungahambisani netigaba 4, 7(1), 24, 25(1), 27(1), 47(1), 54(1)noma kuvimbela lokubekwe ngunobhala ngekwesigaba 6(7) wenta licala utawu-boshwa noma ahlawuliswe R10 million aboshwe kungadluli iminyaka lesihlanu, noma kokubili kuboshwa nekuhlawula.
- (d) kucekela phansi noma kuhluleka kuhambisana nemibandzela yesigaba 73(1) wente licala kantsi utawugwetjwa ahlawuliswe imali lengadluli kusigidzi R1 noma aboshwe sikhatsi lesingadluli iminyaka lesihlanu noma kokubili kuhlawula nekuboshwa. 5

Lokongiwe

110. (1) ilayisensi, kubhaliswa noma kugunyatwa kwemuntfu losemntsetfweni ngekushesha ngembi kwalolusuku lwekucala kusebenta kwaloMtsetfo lowalayisenswa, lobhaliswe ngaphansi kwe *Securities Services Act*, 2004, ucitfwe nguloMtsetfo, utawuba nemtselela kusukela ngalokusuku lwekucala kusebenta kwaloMtsetfo njengoba kuniketiwe. 10

(2) Imitsetfo yeligatja noma libhange lemasheya lasemkhatsini letentiwe ngaphansi kwe-*Securities Services Act*, 2004, kucitfwe ngaloMtsetfo ngangenkhani ngembi kwololusuku lwekucala kusebenta kwaloMtsetfo, kuchubeka nekusebenta uma ngabe bangancubutani naloMtsetfo: Kuya ngekutsi yeligatja noma libhange lemasheya lasemkhatsini kufanele, kungakadluli tinyanga letisitfupha kusukela ngalelilanga lekucala kusebenta kwaloMtsetfo, kuchibiyela imitsetfo yawo kute uhambisane nalomntsetfo. 15 20

(3) Sigatjana (2) sisebenta ngaletingucuko letidzingeka kulencikitsi kuloku lokudzingekako kute ubhaliswe ligatja.

(4) Tigaba 84 na 85 tisebenta kulabo labangahambisani nalomntsetfo we-*Securities Services Act*, 2004, losetjentiswe ngemuva kweMtsetfo wabo locitsiwe. 25

(5) Nobhala ngemuva kwekucala kwekusebenta kwaloMtsetfo, ngekuya ngekusuluku loluncunywe nguNgcongcoshe, ngetindlela letifanele, ngekubhalisa noma ngemsebenti wanobhala ngalokuphatselene nesicelo sanoma ngumuphi Umtsetfo kumuntfu losemntsetfweni.

Imitsetfo lechitjiyelwe 30

111. Lemitsetfo lebalwe kuleshejuli itawucitfwa noma ichitjiyelwe ngalendlela lebalwe kulekholamu yesitsatfu.

Sihloko lesifushane nekucala kusebenta

112. LoMtsetfo ubitwa ngeMtsetfo Wetimakethe temnotfo, 2012, kantsi utawucala kusebenta ngelusuku lolutawubekwa ngumengameli ngekulumemetela *kuGazethi*. 35

Schedule
LAWS REPEALED OR AMENDED
(Section III)

No. and year of Act	Short title	Extent of repeal or amendment
Act No. 36 of 2004	Securities Services Act	The repeal of the whole Act.
Act No. 37 of 2002	Financial Advisory and Intermediary Services Act, 2002	1. The substitution in section 45(1) for paragraph(a)(i) of the following paragraph: “(1) The provisions of this Act do not apply to the rendering of financial services by— (a) (i) any “authorised user”, “clearing member”, “licensed clearing house”, “licensed central securities depository” “licensed exchange” or “participant” as defined in section 1 of the [Securities Services Act, 2002, or exchange licensed under section 10 of that Act] Financial Markets Act, 2012 that is authorised by that Act to render those financial services ;”.
Act No. 45 of 2002	Collective Investment Schemes Control Act, 2002	The substitution for section 5 of the following: “Requirement for the administration of collective investment schemes and application of Act (1) No person may perform any act or enter into any agreement or transaction for the purpose of administering a collective investment scheme, unless such person— (a) is registered as a manager by the registrar or is an authorised agent; or (b) is exempted from the provisions of this Act by the registrar by notice in the <i>Gazette</i>. (2) <u>The provisions of this Act do not apply to the rendering of securities services by any “authorised user”, “clearing member”, “licensed central securities depository” “licensed clearing house”, “licensed exchange” or “participant” as defined in section 1 of the Financial Markets Act, 2012 to the extent that the rendering of those services are specifically supervised under that Act;”.</u>

Ishejuli

IMITSETFO LECITSIWE NOMA LECHITJIYELWE

(Sigaba 111)

Inom. nemnyaka wemtsetfo	Sihloko lesifushane	Lizinga lekuchibiyela noma kucitfwa
Umtsetfo Nom. 36 wanga 2004	<i>Securities Services Act</i>	Kucitfwa Umtsetfo wonkhe.
Umtsetfo Nom. 37 wanga 2002	<i>Financial Advisory and Intermediary Services Act, 2002</i>	1. Kukhishwa kwesigaba 45(1) kufakwe indzima (a)(i) yalendzinyana lelandzelako: “(1) Lemibandzela yalomtsetfo ayisebenti ekuniketweni kwetisnita temali— (a) (i) ngunoma muphi “umsebentisi losemtsetfweni”, “<u>lilunga leligunyatiwe</u>”, “<u>ligatja leligunyatiwe lelibhalisiwe</u>”, “<u>silulu semasheya lesisemkhat-sini lesibhalisiwe</u>” “<u>ligatja lelibhalisiwe</u>” noma “Labange-nelelako” njengoba kuchazwe kusigaba 1 se [<i>Securities Ser-vices Act, 2002, noma kuntji-ntjwa kwelayisensi ngaphansi kwesigaba 10 of that Act</i>] Umtsetfo weTimakethe Temali, 2012 ngendlela yekutsi kuniketwa kwalowo msebenti kuyalawulwa ngaphansi kwaloMtsetfo;”.
Umtsetfo Nom. 45 wanga 2002	<i>Collective Investment Schemes Control Act, 2002</i>	Lokukhishwa kwesigaba 5 salokulandze-lako: “Requirement for the administration of collective investment schemes ne application of Act (1) Akekho umuntfo longasebentisa noma muphi Umtsetfo noma angenele kunoma siphu sivumelwano noma itra-nsekshini kwentela sizatfu sekulawula kusisa lokuhlanganisiwe kwesikimu, ngaphandle kwekutsi lowo muntfu— (a) ubhalisiwe njengemphatsi nguno-bhala noma sitfunywa lesisemtse-tfweni; noma (b) ukhishiwe kulemibandzela yalo-Mtsetfo ngunobhala ngesatiso kugazethi. (2) Lemibandzela yalomtsetfo ayise-benti ekuniketweni kwemasheya ngu-noma ngumuphi “umsebentisi lose-mtsetfweni”, “<u>lilunga leligunyatiwe</u>”, “<u>silulu semasheya lesisemkhatsini lesibhalisiwe</u>” “<u>ligatja leligunyatiwe lelibhalisiwe</u>”, “<u>ligatja lelibhalisiwe</u>” noma “Labangenelelako” njengoba kuchazwe kusigaba 1 seMtsetfo we-Timakethe Temali, 2012 ngendlela yekutsi lokuniketwa kwalomsebenti kuyalawulwa ngaphansi kwalo-Mtsetfo;”.

No. and year of Act	Short title	Extent of repeal or amendment
Act No. 89 of 1998	Competition Act, 1998	1. The substitution for section 18(2) of the following: “(2) Despite anything to the contrary in this Act, the Competition Commission may not make a decision in terms of section 13(5)(b) or 14(1)(b), and the Competition Tribunal may not make an order in terms of section 16(2), if the— (a) merger constitutes— (i) an acquisition of shares for which permission is required in terms of section 37 of the Banks Act, 1990 (Act No. 94 of 1990); [or] (ii) a transaction for which consent is required in terms of section 54 of the Banks Act, 1990 (Act No. 94 of 1990)[,or section 29 of the Cooperative Bank Act, 2007]; [and] (iii) <u>an acquisition of shares for which approval is required in terms of section 67 of the Financial Markets Act, 2012; or</u> (iv) <u>a transaction for which approval is required in terms of section 64 of the Financial Markets Act, 2012; and</u> (b) Minister of Finance has, in the <i>prescribed</i> manner, issued a notice to the Commissioner specifying the names of the parties to the merger and certifying that— (i) the merger is a merger contemplated in paragraph (a) [(i) or (ii)]; and (ii) it is in the public interest that the merger is subject to the jurisdiction of the Banks Act, 1990 (Act No. 94 of 1990) or [section 29 of the Cooperative Banks Act, 2007] the Financial Markets Act, 2012, as the case may be, only.
Act No. 28 of 2001	Financial Institutions (Protection of Funds) Act, 2001	1. The deletion of section 8. 2. The substitution for section 6A(2) of the following: “(2) The directorate may, after an investigation carried out by the directorate under [Chapter VIII of the Securities Services Act, 2004] Chapter X of the Financial Markets Act, 2012, refer an alleged contravention to the enforcement committee.”. 3. The substitution for section 6D(2)(a) of the following: “(a) Impose a penalty by ordering the respondent to pay a sum of money to the board; <u>and</u>”.

Inom. nemnyaka wemtsetfo	Sihloko lesifushane	Lizinga lekuchibiyela noma kucitfwa
Umtsetfo Nom. 89 wanga 1998	<i>Competition Act</i> , 1998	1. Lokukhishwa kwesigaba 18(2) salokulandzelako: “(2) Ngaphandle kwanoma yini lengabangela kungcubutana kulo-Mtsetfo, lenkhomishana yekuncintisana angeke yenta sincumo ngekwesigaba 13(5)(b) noma 14(1)(b), kanye ne-Litsimba Lekuncintisana angeke labeka umtsetfo ngekwesigaba 16(2), uma ngabe— (a) kuba munye kufaka ekhatsi— (i) kutfolwa kwemasheya lapho khona imvume idzingeka khona ngekwesigaba 37 se-<i>Banks Act</i>, 1990 (Umtsetfo Nom. 94 wanga 1990); [noma] (ii) itransekshini lapho khona imvume idzingeka ngekwesigaba 54 se-<i>Banks Act</i>, 1990 (Umtsetfo Nom. 94 wanga 1990)[noma sigaba 29 se-Cooperative Bank Act, 2007]; [ne] (iii) kutfolwa kwemasheya lapho khona imvume idzingeka khona ngekwesigaba 68 seMtsetfo weTimakethe Temali, 2012; noma (iv) itransekshini lapho khona imvume idzingeka ngekwesigaba 65 seMtsetfo weTimakethe Temali, 2012; na (b) Ngcongcoshe wetimali, ngendlela lebekiwe, akhiphe satiso kuNkhomishani aho emagama alama-cembu latawuba munye nekucinisekisa kutsi— (i) lokuba munye kuhlanguka lokuvetwe kundzima (a)(i) noma (ii); kanye (ii) kuyinshisekelo yemmango kutsi lokuba munye kuya nge <i>Banks Act</i>, 1990 (Umtsetfo Nom. 94 wanga 1990) noma [sigaba 29 se-Cooperative Banks Act, 2007] Umtsetfo weTimakethe Temali, 2012, kuphela.
Umtsetfo Nom. 28 wanga 2001	<i>Financial Institutions (Protection of Funds) Act</i> , 2001	1. Kukhishwa kwesigaba 8. 2. Kukhishwa kwesigaba 6A(2) salokulandzelako: “(2) Lihhovisi lemcondisi linga, ngemuva kweluphenyo lolwentiwe lihhovisi lemcondzisi ngaphansi kwe [Sahluko VIII se-Securities Services Act, 2004] Sahluko IX seMtsetfo weTimakethe Temali, 2012, kudluliselwe kungenelela lokubonwako kulelikomidi lelshaya umtsetfo. 3. Kukhishwa kwesigaba 6D(2)(a) salokulandzelako: “(a) Kuniketwa inhlawulo ngekucela lophendvulako kutsi akhokhe samba semali kubhodi; kanye”;

No. and year of Act	Short title	Extent of repeal or amendment
		4. The substitution for section 6D(2)(b)(ii) of the following subparagraph: “(ii) if the respondent contravened section [73, 75 or 76 of the Securities Services Act, 2004]⁷⁸ of the <u>Financial Markets Act, 2012</u>, order the respondent to pay to the board [a compensatory]^{an} amount calculated in accordance with section [77(1), (2), (3) or (4)] <u>section 82</u> of that Act.”. 5. The substitution for section 6H of the following section: “Utilisation of administrative sanction (1) Any payment received by the board pursuant to an administrative sanction imposed under section 6D(2)(a) must, subject to [subsection] <u>subsections (2) and (3)</u>, be utilised for purposes of consumer education or the protection of the public. (2) A compensatory amount received pursuant to an order under section 6D(2)(b)(ii) must be dealt with in accordance with section [77(7), (8) and (9) of the Securities Services Act, 2004] <u>82(4) to (7) of the Financial Markets Act, 2012.</u>”.
Act No. 71 of 2008	Companies Act, 2008	1. Section 1 of the Companies Act is hereby amended by— (i) the substitution for the definition of “central securities depository” of the following definition: “‘central securities depository’ has the meaning set out in section 1 of the [Securities Services Act, 2004 (Act No. 36 of 2004)] <u>Financial Markets Act, 2012;</u>”; (ii) the substitution for the definition of “exchange” of the following definition: “‘exchange’ when used as a noun, has the meaning set out in section 1 of the [Securities Services Act, 2004 (Act No. 36 of 2004)] <u>Financial Markets Act, 2012;</u>”; (iii) the substitution for the definition of “listed securities” of the following definition: “‘listed securities’ has the meaning set out in section 1 of the [Securities Services Act, 2004 (Act No. 36 of 2004)] <u>Financial Markets Act, 2012;</u>”; (iv) the substitution for the definition of “nominee” of the following definition: “‘nominee’ [has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004)] <u>means a person that acts as the registered holder of securities or an interest in securities on behalf of other persons;</u>”;

Inom. nemnyaka wemtsetfo	Sihloko lesifushane	Lizinga lekuchibiyela noma kucitfwa
		4. Lokukhishwa kwesigaba 6D(2)(b)(ii) salokulandzelako kwalenzinyana: “(ii) uma ngabe lolophendvulako aphula sigaba [73, 75 noma 76 se-<i>Securities Services Act, 2004</i>]⁸⁰ seMtsetfo weTimakethe Temali, 2012, bacele lophendvulako kutsi akhokhe kubhodi [a] linani [lesincepheteliso] lelibalwe ngekuhambisana nesigaba [771], (2), (3) noma (4)] sigaba 84(1) saloMtsetfo.”; kanye 5. Lokukhishwa kwesigaba 6H salokulandzelako kusigaba: “kusebentisa lunklino lwekulawula (1) Noma kuphi lokukhokhelwe yibhodi lokuhambisana nekulawula kunkhinya lokubekwe ngaphansi kwesigaba 6D(2)(a) kufanele, sungekuya nge [sigatjana] tigaba (2) na (3), asetjentselwe tinjongo temfundvo yebatsengisi noma kuvikela umphakatsi. (2) Imali yesincepheteliso letfolakele ngenca yemyalelo ngaphansi kwesigaba 6D (2)(b)(ii) kufanele kusetjentwe ngayo ngekuhambisana nesigaba [77(7), (8) and (9) se-<i>Securities Services Act, 2004</i>] 84(2) kuya (5) seMtsetfo weTimakethe Temali, 2012.”.
Umtsetfo Nom. 71 wanga 2008	<i>Companies Act, 2008</i>	1. Sigaba 1 se-<i>Companies Act</i> sichitjiyelwa nge— (i) kukhishwa kwenchazelo ye “ligatja lemasheya lasemkhatsini” salokulandzelako ichazelo: “ligatja lemasheya lasemkhatsini” inechazelo lebekwe kusigaba 1 se-[<i>Securities Services Act, 2004 (Umtsetfo Nom. 36 wanga 2004)</i>] Umtsetfo weTimakethe Temali, 2012;” (ii) lokukhishwa kwalachazelo “ligatja” salokulandzelako kwenchazelo: “ligatja uma lisetjentiwswe njengeligama, linechazelo lebekwe kusigaba 1 se-[<i>Securities Services Act, 2004 (Umtsetfo Nom. 36 wanga 2004)</i>] Umtsetfo weTimakethe Temali, 2012;” (iii) lokukhishwa kwalachazelo “emasheya labhalisiwe” salokulandzelako sinechazelo: “emasheya labhalisiwe” sinchazelo lebekwe kusigaba 1 se-[<i>Securities Services Act, 2004 (Umtsetfo Nom. 36 wanga 2004)</i>] Umtsetfo weTimakethe Temali, 2012;” (iv) lokukhishwa kwalachazelo “lophakanyisiwe” salokulandzelako kwalachazelo: “lophakanyisiwe” sinchazelo lebekwe kusigaba 1 se-[<i>Securities Services Act, 2004 (Umtsetfo Nom. 36 wanga 2004)</i>] Umtsetfo weTimakethe Temali, 2012;”

No. and year of Act	Short title	Extent of repeal or amendment
		(v) the substitution for the definition of “participant” of the following definition: “‘participant’ has the meaning set out in section 1 of the [Securities Services Act, 2004 (Act No. 36 of 2004)] <u>Financial Markets Act, 2012;</u>”; (vi) the substitution for the definition of “uncertificated securities” of the following definition: “‘uncertificated securities’ means any securities defined as such in section [29 of the Securities Services Act, 2004 (Act No. 36 of 2004)] <u>1 of the Financial Markets Act, 2012;</u>”. 2. The substitution in section 5(4)(b)(i) of the Act for item (ff) of the following: “(ff) [Securities Services Act, 2004 (Act 36 of 2004)] <u>Financial Markets Act, 2012;</u>”. 3. The substitution in section 69(8)(b)(iv) of the Act for item (cc) of the following: “(cc) under this Act, the Insolvency Act, 1936, (Act 24 of 1936), the Close Corporations Act, 1984, the Competition Act, the Financial Intelligence Centre Act, 2001 (Act 38 of 2001), the [Securities Services Act, 2004 (Act 36 of 2004)] <u>Financial Markets Act, 2012, or Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004);</u>”. 4. The substitution for section 116(4)(a)(iii) of the following: “(iii) has been granted the consent of the Minister of Finance in terms of section 54 of the Banks Act or <u>obtained the approval of the Registrar of Securities Services in terms of section 64 of the Financial Markets Act, 2012, if so required by that Act; and</u>”.

Inom. nemnyaka wemtsetfo	Sihloko lesifushane	Lizinga lekuchibiyela noma kucitfwa
		(v) lokukhishwa kwalenchazelo “Labangenelelako” salokulandzelako kwalenchazelo: “Labangenelelako” sinchazelo lebekwe kusigaba 1 se- [<i>Securities Services Act, 2004 (Umtsetfo Nom. 36 wanga 2004)</i>] <u>UMtsetfo weTimakethe Temali, 2012;</u> (vi) lokukhishwa kwalenchazelo “emasheya” salokulandzelako kwalenchazelo: “emasheya sinchazelo lebekwe kusigaba 1 se- [<i>Securities Services Act, 2004 (Umtsetfo Nom. 36 wanga 2004)</i>] <u>UMtsetfo weTimakethe Temali, 2012,</u> kanye nalokufaka ekhatsi emasheya latfolakala kunkhapani letimele; kanye (vii) lokukhishwa kwalenchazelo “Emasheya langekho emtsetfweni” salokulandzelako kwalenchazelo: “Emasheya langekho emtsetfweni” kushiwo noma waphi emasheya lachazwe njengaloko kusigaba [29 se-<i>Securities Services Act, 2004 (Umtsetfo Nom. 36 wanga 2004)</i>] <u>1 seMtsetfo weTimakethe Temali, 2012;</u>”. 2. Kukhishwa kwesigaba 5(4)(b)(i) (ff) salokulandzelako: “(ff) [<i>Securities Services Act, 2004 (Act 36 wanga 2004)</i>] <u>UMtsetfo weTimakethe Temali, 2012;</u>”. 3. Kukhishwa kwesigaba 69(8)(b)(iv) saloMtsetfo (cc) salokulandzelako : “(cc) Ngphansi kwaloMtsetfo, se-<i>Insolvency Act, 1936, (Umtsetfo 24 wanga 1936), Se-<i>Close Corporations Act, 1984, se-<i>Competition Act, Se-Financial Intelligence Centre Act, 2001 (Umtsetfo 38 wanga 2001), [<i>Securities Services Act, 2004 (Umtsetfo 36 wanga 2004)</i>] <u>UMtsetfo weTimakethe Temali, 2012,</u> noma Sahluko 2 se-<i>Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 wanga 2004);</i>”.</i></i></i> 4. Lokukhishwa kwesigaba 116(4)(a)(iii) salokulandzelako: “(iii) kuniketwe imvume yaNgcoshe Wetimali ngekwesigaba 54 se-<i>Banks Act</i> noma kutfolala imvume yaNobhala Wetimakethe temnotfo ngekwesigaba 65 seMtsetfo weTimakethe Temali, 2012, Uma ngabe kudzingwe nguloMtsetfo; kanye

No. and year of Act	Short title	Extent of repeal or amendment
		5. The substitution for section 116(9) of the following: “(9) If, with respect to a transaction involving a company that is regulated in terms of the Banks Act or the Financial Markets Act, 2012, there is a conflict between a provision of subsection (7) and a provision of section 54 of [that] the Banks Act or section 64 of the Financial Markets Act, 2012 Act, as the case may be, the provisions of [that Act]those Acts prevail.”.
Act No. 24 of 1936	Insolvency Act, 1936	1. The substitution for section 35A of the following: “35A. Transactions on exchange.— (1) In this section— [“exchange”] “market infrastructure” means— (a) an exchange as defined in section 1 and licensed under section [10]9 of the [Securities Services Act, 2004 and for the purposes of this section includes] Financial Markets Act, 2012; and (b) a central securities depository as defined in section 1 and licensed under section 29 of that Act [and which is also licensed as a clearing house under section 66 of that Act,]; or (c) a clearing house as defined in section 1 of that Act and licensed under section 49 of that Act; “[exchange] rules” means the exchange rules, [and] depository rules or clearing house rules, as defined in section 1 of the [Securities Services Act, 2004]Financial Markets Act, 2012; “market participant” means an authorised user, a participant, a clearing member or a client [or a settling party]as defined in section 1 of the [Securities Services Act, 2004]Financial Markets Act, 2012, or any other party to a transaction; “transaction” means any transaction to which the rules [of an exchange]apply.

Inom. nemnyaka wemtsetfo	Sihloko lesifushane	Lizinga lekuchibiyela noma kucitfwa
		5. Lokukhishwa kwesigaba 116(9) salokulandzelako: (9) Uma ngabe, ngalokuphatselene netransekshini kufaka ekhatsi inkhapani lelawulwa ngekwe-<i>Banks Act</i> noma UMtsetfo weTimakethe Temali, 2012, kunekungcubutana emkhatsini wesigaba (7) nemibandzela yalesigaba 54 se [kutsi] le-Banks Act noma UMtsetfo weTimakethe Temali, 2012 Umtsetfo, njengoba kungabe kubekiwe, lemibandzela ya[lowo Mtsetfo]leMitsetfo ivimbela.
Umtsetfo Nom. 24 wanga 1936	<i>Insolvency Act, 1936</i>	1. Lokukhishwa kwesigaba 35A salokulandzelako: “35A. Lamatransekshini.— (1) Kulesigaba— “[ligatja]” “Luhlakanchanti lwekuniketwa kwetimakethe” kushiwo— (a) ligatja njengoba kuchazwe kusigaba 1 nalokuniketwe ilayisensi ngaphansi kwesigaba [10]11 se-[Securities Services Act, 2004] UMtsetfo weTimakethe Temali, 2012; and (b) Sikhungo semasheya lesisemkhatsini njengoba kuchazwe kusigaba 1 salowo Mtsetfo[nalekugunyatwe njengendlu legunyatako ngaphansi kwesigaba 66 salowo Mtsetfo,]; noma (c) indlu legunyatako njengoba kuchazwe kusigaba 1 saloMtsetfo kanye nekulayisenswa ngaphansi kwesigaba 51 saloMtsetfo; “[Imitsetfo yeligatja]” “imitsetfo” kushiwo Imitsetfo yeligatja, [ne] nemitsetfo yesikhungo noma imitsetfo yendlu legunyatako, njengoba kuchazwe kusigaba 1 se- [Securities Services Act, 2004]UMtsetfo weTimakethe Temali, 2012; “labangenelelako etimakethe” kushiwo umsebentisi losemtsetfweni, nalabangenelelako, lilunga leligunyatiwe noma iklayenti [noma incenye yekucedzisa]njengoba kuchazwe kusigaba 1 se-[Securities Services Act, 2004]UMtsetfo weTimakethe Temali, 2012, noma lelinye licembu letransekshini; “itransekshini” kushiwo noma yiphi itransekshini lapho khona [imitsetfo yeligatja] imitsetfo lokusetjentsiwe.

No. and year of Act	Short title	Extent of repeal or amendment
		(2) If upon the sequestration of the estate of a market participant the obligations of such market participant in respect of any transaction entered into prior to sequestration have not been fulfilled, the [exchange in question] <u>market infrastructure</u> in respect of any obligation owed to it, or any other market participant in respect of obligations owed to such market participant, shall in accordance with the [rules of that exchange] rules applicable to any such transaction be entitled to terminate [all such] transactions or revoke settlement instructions and the trustee of the insolvent estate of the market participant shall be bound by such termination or revocation. (3) No claim as a result of the termination or revocation of any transaction as contemplated in subsection (2) shall exceed the amount due upon termination or revocation in terms of the [rules of an exchange] rules in question. (4) Any [rules of an exchange] rules and the practices thereunder which provide for the netting of a market participant's position or for set-off in respect of transactions concluded by the market participant or for the opening or closing of a market participant's position or for the revocation of settlement instructions shall upon sequestration of the estate of the market participant be binding on the trustee in respect of any transaction or contract concluded by the market participant prior to such sequestration, but which is, in terms of such rules and practices, to be settled on a date occurring after the sequestration, [but which is, in terms of such rules and practices, to be settled on a date occurring after sequestration,] or settlement of which was overdue on the date of sequestration. (5) Section 341(2) of the Companies Act, 1973 (Act No. 61 of 1973), and sections 26, 29 and 30 of this Act shall not apply to property disposed of in accordance with the rules [of an exchange].”.
Act 78 of 1998	National Payment System Act, 1998	The substitution for section 8(1) of the following: “(1) The provisions of this section apply despite anything to the contrary in the law relating to insolvency or in the Companies Act, the Banks Act, the Co-operative Banks Act, the Postal Services Act, 1998 (Act 124 of 1998), [or] the <u>Mutual Banks Act or the Financial Markets Act, 2012.</u>”.

Inom. nemnyaka wemtsetfo	Sihloko lesifushane	Lizinga lekuchibiyela noma kucitfwa
		(2) Uma ngabe nakuvalwa lelifa lelismakethe labangenelelako lomtfwalo walemakethe yalabangenelelako ngalokuphatselene nematransekshini lentiwe uma ngabe lokuvalwa kungakentiwa, loku [ligatja lekukhulunywa ngalo] umnikeli wetinsitanchanti temakethe ngekuhambisana nanoma muphi umbandzela lokolodwa nguye, noma lenye imakethe yalabangenelelako ngekuhambisana nemtfwalo lokolodwa kuleyo makethe yalabangenelelako, kutawufanele ngekuhambisana na [lemitsetfo yalelo gatja] imitsetfo lekhona kulawo matransekshini kutawufanele imiswe [onkhe] ematransekshini noma kucitfwe imiyalelo yekucedzela kanye nebatsenjwa bale-akhawunti lehlakatiwe yemakethe yalabangenelelako kutawuboshwa nguloko kuvalwa noma kucitfwa. (3) Akunamakleyimu labangelwa ngulokuvalwa kucitfwa kwanoma yiphi itransekshini njengoba kuvetwe kusigatjana (2) kutawundlula lelinani lelikhona uma ngabe sekutawuvalwa noma kucitfwe ngekuhambisana ne [mitsetfo yeligatja] imitsetfo lekukhulunywa ngayo. (4) Noma miphi [imitsetfo yeligatja] imitsetfo nalekwentiwa ngapohansi kwaloko lokufaka ekhatsi kulandzelela imakethe yesimo salabangenelelako noma kulungiswa ngalokuphatselene nematransekshini lacedzelelwe yimakethe yalabangenelelako noma kuvula noma kuvala kwemakethe yesimo salabangenelelako noma kucitfwa kwekucedzelela kwemiyalelo kutawufanele ngaphansi kwekuvalwa kwelifa lemakethe yalabangenelelako kube sibopho kulesikhwama ngalokuphatselene nanoma maphi ematransekshini noma sivumelwano lokucedzelelwe yimakethe yalabangenelelako ngekuya ngekuvalwa, kodvwa le, ngalokuphatselene naleyo mitsetfo netento, kulokuvalwa, [lokusho kutsi, ngekwalemitsetfo nemisebenti, kutsi kukhokhelwe ngalolusuku lokuvele ngemuva kwekuvalwa,] noma kucedzelela lebekundlulele ngalolusuku lekuvalwa. (5) Sigaba 341(2) se-<i>Companies Act</i>, 1973 (Umtsetfo Nom. 61 wanga 1973), netigaba 26, 29 ne 30 saloMtsetfo akukafaneli bafake sicelo kumphahla lekhokhelwe ngekuhambisana [nemitsetfo yeligatja] imitsetfo.
Umtsetfo 78 wanga 1998	<i>National Payment System Act</i> , 1998	Lokukhishwa kwesigaba 8(1) saloku lokulandzelak: “(1) Imibandzela yalesigaba iyasebenta ngaphand kwanoma yini lengcubutanako kulomtsetfo lophatselene nekuhlakatwa noma ku-<i>Companies Act</i>, <i>Banks Act</i>, <i>Co-operative Banks Act</i>, <i>Postal Services Act</i>, 1998 (Umtsetfo 124 wanga 1998), [noma] i-<i>Mutual Banks Act</i> noma Umtsetfo weTimakethe Temali, 2012.”.

