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GOVERNMENT NOTICE

GOEWERMENTS KENNISGEWING

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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

SOUTH AFRICAN RESERVE BANK SUID-AFRIKAANSE RESERWE BANK

No. R. 1423

28 December 2000

DESIGNATION OF AN INSTITUTION OF WHICH THE ACTIVITIES DO NOT FALL WITHIN THE MEANING OF "THE BUSINESS OF A BANK" ("THE NATIONAL HOUSING FINANCE CORPORATION LIMITED")

Under paragraph (dd)(i) of the definition of "the business of a bank" in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), I, Trevor Andrew Manuel, Minister of Finance, hereby designate, for the period commencing on 1 January 2001 and expiring on 31 December 2003, and subject to the conditions set out in paragraph 3 of the Schedule, the institution specified in paragraph 2 of the Schedule as an institution of which the activities do not fall within the meaning of "the business of a bank".

T. A. MANUEL, MP
Minister of Finance

SCHEDULE**1(1) Definitions**

In this Schedule, "the Act" means the Banks Act, 1990 (Act No. 94 of 1990), and any word or expression to which a meaning has been assigned in the Act or the Regulations relating to Banks shall bear the meaning so assigned thereto and, unless the context otherwise indicates-

"bank" includes a mutual bank;

"listed entity" means a listed entity as defined in section 1 of the Reporting by Public Entities Act;

"NHFC" means The National Housing Finance Corporation Limited;

"Reporting by Public Entities Act" means the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992);

"subsidiary" means a subsidiary of NHFC as contemplated in subparagraph 2, read with subparagraph 3, hereunder;

"The National Housing Finance Corporation Limited" means the public company, with registration number 96 05577/06, that -

- (a) is incorporated in terms of the Companies Act, 1973; and
- (b) being a listed entity, is subject to the provisions of the Reporting by Public Entities Act,

and includes any subsidiary of the said company;

"target market" means that sector of the housing market in the Republic consisting of persons who have an ability to contribute financially to their housing costs, but to whom bank-funded housing finance is not readily available;

- (2) For the purposes of this Schedule, a company shall be deemed to be a subsidiary of NHFC if NHFC is a member thereof and-

- (a) holds a majority of the voting rights in it; or
- (b) has the right to appoint or remove directors holding a majority of the voting rights at meetings of the board; or
- (c) has the sole control of a majority of the voting rights in it, whether pursuant to an agreement with other members or otherwise.

(3) In determining whether NHFC holds the majority of the voting rights as contemplated in subparagraph 2(a) above, voting rights-

(a) which are exercisable by NHFC only in certain circumstances shall be taken into account only-

(i) when those circumstances have arisen and for so long as they continue; or

(ii) when those circumstances are under the control of NHFC;

(b) held by NHFC in a fiduciary capacity shall be treated as not held by NHFC but by the beneficiary of such voting rights;

(c) held by NHFC as nominee for another person shall be treated as not held by NHFC but by that other person, and voting rights shall be deemed to be held by NHFC as nominee for another person if they are exercisable only on the instructions or with the consent or concurrence of that other person.

2. Institution

The National Housing Finance Corporation Limited.

3. Conditions

3.1 The activities of NHFC shall, in so far as they correspond to the activities contemplated in paragraphs (a), (b), (c) and (d) of the definition of "the business of a bank" in section 1(1) of the Act, be performed solely in pursuit of NHFC's -

3.1.1 main business of -

3.1.1.1 managing facilitative interventions supporting bank lending for housing in the target market;

3.1.1.2 undertaking funding as a wholesale intermediary and acting as a fund and risk manager;

3.1.1.3 specialising in identifying, assessing, pricing, monitoring and managing the risks associated with the placement of wholesale funds with retail intermediaries active in the target market or in facilitating the flow of wholesale funds to such retail intermediaries; and

3.1.1.4 managing pro-active programmes aimed at building

institutional and financial capacity at the retail level and mobilising funds into the housing process, in the target market;

3.1.2 mission of ensuring the -

3.1.2.1 introduction of facilitative programmes supporting increased and sustained engagement by the banking sector in the target market;

3.1.2.2 development and appropriate funding of institutions other than banks that provide affordable housing finance at the retail level to the lowest possible income levels, where debts are still serviceable, in the target market;

3.1.2.3 development and appropriate funding of institutions offering housing under tenure rights other than freehold title in the target market; and

3.1.2.4 sustained and growing mobilisation of funds into the housing process in the target market, through appropriate intermediaries,

on a financially and economically sustainable basis; and

3.1.3 core functions, designed to -

3.1.3.1 initiate and manage programmes aimed at encouraging and promoting increased engagement of the banking sector in the target market;

3.1.3.2 fund or underwrite the funding of specialised alternative lenders able and equipped to operate where banks find it difficult to operate;

3.1.3.3 fund or underwrite the funding of institutions in the business of providing housing under tenure rights other than individual freehold title in the target market; and

3.1.3.4 administer, on behalf of Government or other donors, capacity-building funds for emerging retail lenders and housing institutions, for purposes of providing housing under tenure rights other than individual freehold title.

3.2 NHFC shall not, in the performance of its activities-

3.2.1 become involved in retail lending activities in competition with retail lending intermediaries and shall not itself engage directly in the business of acquiring, or developing, residential property;

3.2.2 lend directly to, or borrow from, individual members of the public;

3.2.3 use, or refer to itself, or any of its divisions, by any name, description or symbol indicating, or calculated to lead persons to infer, that it or such a division is a bank registered as such under the Act; or

3.2.4 in respect of itself, or any of its divisions, or undertakings use a name or description that includes the word "bank", or any derivative thereof, unless such name or description is composed of words that include the word "bank" as part of a place-name or a personal name.

3.3 NHFC shall -

3.3.1 provide services and funding to specialised intermediaries, which intermediaries, in turn, shall service the target market;

3.3.2 offer services to banks aimed at the possible enhancement of such banks' credit facilities to the target market.

3.4 NHFC shall, at all times whilst performing activities corresponding to the activities contemplated in paragraphs (a), (b), (c) and (d) of the definition of "the business of a bank" in section 1(1) of the Act-

3.4.1 be managed in such a way that the sum of its issued primary and secondary share capital and its primary and secondary unimpaired reserve funds in the Republic does not at any time amount to less than an amount that represents 8 (eight) per cent of the sum of amounts calculated by multiplying the average amounts of such different categories of-

3.4.1.1 assets; and

3.4.1.2 other risk exposures in the conduct of NHFC's business,

as set forth in **ANNEXURE A**, by risk weightings expressed as percentages, as so set forth, in respect of such different categories of assets and other risk exposures; and

3.4.2 hold an average daily amount of liquid assets in the Republic that shall not be less than an amount equal to 5 (five) per cent of its total liabilities to the public.

No. R. 1423

28 Desember 2000

**AANWYSING VAN 'N INSTELLING WAARVAN DIE BEDRYWIGHED NIE BINNE
DIE BETEKENIS VAN "DIE BEDRYF VAN 'N BANK" VAL NIE ("THE NATIONAL
HOUSING FINANCE CORPORATION LIMITED")**

Kragtens paragraaf (dd)(i) van die omskrywing van "die bedryf van 'n bank" in artikel 1 van die Bankwet, 1990 (Wet No. 94 van 1990), wys ek, Trevor Andrew Manuel, Minister van Finansies, hiermee vir die tydperk wat op 1 Januarie 2001 begin en op 31 Desember 2003 verstryk, en onderworpe aan die voorwaardes uiteengesit in paragraaf 3 van die Bylae, die instelling vermeld in paragraaf 2 van die Bylae aan as 'n instelling waarvan die bedrywighede nie binne die betekenis van "die bedryf van 'n bank" val nie.

T. A. MANUEL, LP
Minister van Finansies

BYLAE**1(1) Woordomskrywing**

In hierdie Bylae beteken "die Wet" die Bankwet, 1990 (Wet No. 94 van 1990), en het 'n woord of uitdrukking waaraan in die Wet of die Regulasies aangaande Banke 'n betekenis geheg is daardie betekenis en, tensy uit die samehang anders blyk, beteken -

"bank" ook 'n onderlinge bank;

"filiaal" 'n filiaal van NHFC soos in subparagraaf 2 saamgelees met subparagraaf 3 hieronder omskryf;

"gelyste entiteit" 'n gelyste entiteit soos omskryf in artikel 1 van die Wet op Verslagdoening deur Openbare Entiteite;

"NHFC" 'The National Housing Finance Corporation Limited';

"teikenmark" daardie deel van die behuisingsmark in die Republiek wat bestaan uit persone wat daartoe in staat is om finansiële tot die koste van hul behuising by te dra maar vir wie bankgefundeerde behuisingsfinansiering nie geredelik beskikbaar is nie;

"The National Housing Finance Corporation Limited" die publieke maatskappy, met registrasienommer 96 05577/06; wat-

(a) ingevolge die Maatskappywet, 1973, ingelyf is; en

(b) synde 'n gelyste entiteit, aan die bepalings van die Wet op Verslagdoening deur Openbare Entiteite onderworpe is,

ingeslote enige filiaal van voornoemde maatskappy;

"Wet op Verslagdoening deur Openbare Entiteite" die Wet op Verslagdoening deur Openbare Entiteite, 1992 (Wet No. 93 van 1992);

(2) By die toepassing van hierdie Bylae word 'n maatskappy geag 'n filiaal van NHFC te wees indien NHFC 'n lid daarvan is en-

(a) 'n meerderheid van die stemregte daarin hou; of

(b) die reg het om direkteure wat 'n meerderheid van die stemregte op vergaderings van die direksie hou, aan te stel of af te dank; of

(c) alleenbeheer het oor 'n meerderheid van die stemregte daarin, hetsy ingevolge 'n ooreenkoms met ander lede of andersins.

(3) Om vas te stel of NHFC die meerderheid van die stemregte hou soos beoog in subparagraaf 2(a) hierbo, word stemregte-

- (a) wat slegs in sekere omstandighede deur NHFC uitoefenbaar is, in ag geneem slegs-
- (i) wanneer daardie omstandighede ontstaan het en vir solank as wat dit voortduur; of
 - (ii) wanneer daardie omstandighede onder die beheer van NHFC is;
- (b) wat NHFC in 'n fidusiêre hoedanigheid hou, beskou asof dit nie deur NHFC gehou word nie, maar deur die bevoordeelde van daardie stemregte;
- (c) wat deur NHFC as genomineerde vir 'n ander persoon gehou word, beskou asof dit nie NHFC gehou word nie, maar deur daardie ander persoon, en word stemregte geag deur NHFC as genomineerde vir 'n ander persoon gehou te word indien dit slegs in opdrag van daardie ander persoon of met sy toestemming of instemming uitoefenbaar is.

2. Instelling

"The National Housing Finance Corporation Limited".

3. Voorwaardes

- 3.1 Die bedrywighede van NHFC moet, vir sover hulle ooreenstem met die bedrywighede bedoel in paragrawe (a), (b), (c) en (d) van die omskrywing van "die bedryf van 'n bank" in artikel 1(1) van die Wet, verrig word uitsluitlik ter nastrewing van NHFC se -

3.1.1 hoofbesigheid van die -

- 3.1.1.1 bestuur van vergemaklikende intervensies ter ondersteuning van uittening deur banke vir behuising in die teikenmark;
- 3.1.1.2 onderneem van fundering as 'n groothandel tussenganger en optrede as 'n fonds- en risikobestuurder;
- 3.1.1.3 spesialisering in die identifisering, beoordeling, prysbepaling, monitering en bestuur van risiko's verbonde aan die plasing van groothandelfondse by kleinhandeltussengangers wat in die teikenmark bedrywig is of in die vergemakliking van die vloei van groothandelfondse na sodanige kleinhandeltussengangers; en

- 3.1.1.4 bestuur van pro-aktiewe programme gerig op die uitbou van institusionele en finansiële kapasiteit op kleinhandelsvlak en die mobilisering van besparings vir die behuisingsproses in die teikenmark;

3.1.2 missie van die bewerkstelling van die -

- 3.1.2.1 daarstelling van vergemaklikende programme ter ondersteuning van groter en volgehoue betrokkenheid van die banksektor in die teikenmark;

- 3.1.2.2 ontwikkeling en doelmatige befondsing van ander instellings as banke wat bekostigbare behuisingsfinansiering op kleinhandelsvlak verskaf aan die laags moontlike inkomstevlakke in die teikenmark waar skulde steeds invorderbaar is;

- 3.1.2.3 ontwikkeling en doelmatige befondsing van instellings wat behuising in die teikenmark aanbied kragtens ander besitsregte as eiendomsreg; en

- 3.1.2.4 volgehoue en toenemende beskikbaarstelling van fondse vir die behuisingsproses in die teikenmark, deur bemiddeling van toepaslike tussengangers,

op 'n finansiële en ekonomiese volhoubare grondslag; en

3.1.3 kernbedrywighede, wat ten doel het om -

- 3.1.3.1 programme wat gerig is op die aanmoediging en bevordering van groter betrokkenheid van die banksektor in die teikenmark, te inisieer en te bestuur;

- 3.1.3.2 gespesialiseerde alternatiewe uitleners wat bevoeg en toegerus is om besigheid te bedryf waar banke dit moeilik vind om dit te doen te befonds of om sodanige befondsing daarvan te onderskryf;

- 3.1.3.3 instellings wat sake doen in die verskaffing van behuising in die teikenmark kragtens ander besitsregte as eiendomsreg, te befonds of die befondsing daarvan te onderskryf; en

- 3.1.3.4 kapasiteitskeppende fondse vir opkomende kleinhandeluitleiers en behuisingsinstellings, vir doeleindes van die verskaffing van behuising kragtens ander besitsregte as individuele eiendomsreg, namens die Regering of ander skenkers te administreer.

3.2 NHFC mag nie, by die verrigting van sy werksaamhede -

- 3.2.1 betrokke raak in kleinhandeluitleenbedrywighede in mededinging met kleinhandeluitleentussengangers nie en mag nie self direk sake doen in die verkryging of ontwikkeling van residensiële eiendom nie;
- 3.2.2 direk aan individuele lede van die publiek uitleen nie, of van sodanige persone geld leen nie;
- 3.2.3 enige naam, beskrywing of teken wat aandui, of daarop gemik is om persone te laat aflei, dat hy of enige van sy afdelings 'n bank is wat as sodanig kragtens die Wet geregistreer is, gebruik of op homself of so 'n afdeling toepas nie; of
- 3.2.4 ten opsigte van homself of enige van sy afdelings of ondernemings 'n naam of beskrywing gebruik wat die woord "bank", of enige daarvan afgeleide woord, insluit nie tensy sodanige naam of beskrywing saamgestel is uit woorde wat die woord "bank" as deel van 'n pleknaam of 'n persoonsnaam insluit.

3.3 NHFC moet -

- 3.3.1 dienste en fondse aan gespesialiseerde tussengangers verskaf, welke tussengangers op hul beurt die teikenmark moet bedien;
- 3.3.2 aan banke dienste aanbied wat gemik is op die moontlike uitbreiding van sodanige banke se kredietfasiliteite aan die teikenmark.

3.4 NHFC moet, te alle tye terwyl dit bedrywighede verrig wat ooreenstem met die bedrywighede bedoel in paragrawe (a), (b), (c) en (d) van die omskrywing van "die bedryf van 'n bank" in artikel 1(1) van die Wet -

- 3.4.1 bestuur word op so 'n wyse dat die som van sy uitgereikte primêre en sekondêre aandelekapitaal en sy primêre en sekondêre onaangetaste reserwefondse in die Republiek op geen tydstip minder bedra nie as 'n bedrag wat 8 (agt) persent verteenwoordig van die som van bedrae bereken deur die gemiddelde van die bedrae van die verskillende kategorieë-

3.4.1.1 bates; en

3.4.1.2 ander risikoblootstellings in die uitoefening van NHFC se bedryf,

soos uiteengesit in BYLAE A, te vermenigvuldig met die risikobeladings, uitgedruk as persentasies, soos aldus uiteengesit ten opsigte van sodanige verskillende kategorieë bates en ander risikoblootstellings; en

- 3.4.2 'n daaglikse gemiddelde bedrag aan likwiede bates in die Republiek hou wat nie minder is nie as 'n bedrag gelyk aan 5 (vyf) persent van sy totale verpligtinge teenoor die publiek.

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