

GN 1390 of 19 November 1997: Regulations made under [Section 17](#) of the Development Bank of Southern Africa Act, 1997 (Act [No. 13 of 1997](#))
(Government Gazette No. 18382)

as amended by

Notice	Government Gazette	Date
GNR.1026 643	37178 40334	18 December 2013 7 October 2016

DEPARTMENT OF FINANCE

The Minister has under [section 17](#) of the Development Bank of Southern Africa Act, 1997 (Act [No. 13 of 1997](#)), made the regulations in [the Schedule](#).

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(Editorial Note: Spelling as per original *Government Gazette*)

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1. Interpretation.-The marginal notes hereto shall not affect the construction hereof. In these regulations, unless the context otherwise indicates-

"**Act**" means the Development Bank of Southern Africa Act, 1997, and any amendments thereto that may be made from time to time;

"**Bank**" means the Development Bank of Southern Africa Limited;

"**Board**" means the directors for the time being;

"**Companies Act**" means Act No. 61 of 1973; as amended from time to time;

"**debenture**" includes "debenture stock" and "local registered loan stock";

"**directors**" means the directors for the time being;

"**dividend**" includes bonus;

"**general meeting**" means an annual general meeting or a general meeting of shareholders;

"**permanent capital**" includes issued share capital, the development fund contributions of the Bank and other similar funds of a permanent nature;

"**register**" means as the context may indicate either the register of the shareholders or of the debenture holders of the Bank kept at the office of the Bank;

"**representative of a shareholder**" means a representative of a shareholder in terms of these regulations;

"**secretary**" includes any person appointed to perform the duties of secretary;

"**writing/in written**" includes written, typed, printed, computer-generated or lithographed.

Any words defined in the Act bears the same meaning in these regulations.

Words importing the singular include the plural and vice versa.

2. Head office.-The head office of the Bank shall be at Midrand in the Gauteng Province.

3. Additional countries of operation of Bank.-In addition to the national territories of countries included in the region in terms of section 2A (1) (a) and (b) of the Act, the region shall, for purposes of section 2A (1) (c) of the Act, include the national territories of all other countries on the African continent and oceanic islands thereof.

[[R. 3](#) substituted by GNR.1026 of 18 December 2013 and by GN 643 of 7 October 2016.]

4. Mandate.-The mandate of the Bank shall be focused on the provision of financial, technical and other assistance to achieve the objects of the Bank as provided in section 3 of the Act, with a focus in its investment activities on infrastructure funding broadly defined and with the object of acting as a catalyst to maximise private sector access to opportunities in the provision of public funding.

5. Financial year.-The financial year of the Bank shall end on 31 March of each year.

6. Wholesale funding.-Wholesale funding shall exclude any deposit taking from and the provisions of personal loans to the public as determined in the Banks Act, 1990, and without derogating from the right of the Bank to function in the financial markets.

SHARE ALLOCATION ARRANGEMENTS

7. No purchase of Bank's shares.-No part of the funds of the Bank shall be employed in the purchase of the Bank's shares other than as provided for in section 38 of the Companies Act, nor to provide loans on the security of any of its shares.

8. Power to issue shares of different classes.-Subject to the provisions of the Act, and without prejudice to any special rights previously conferred on holders of existing shares, any share may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of shares capital, or otherwise, as the Bank may from time to time determine, and any preference share may be issued on the terms that it is, or at the option of the Bank is liable, to be redeemed.

9. Commission.-The Bank may at any time pay a commission to any person subscribing or agreeing to subscribe (whether absolutely or conditionally) for any shares of the Bank, or procuring or agreeing to procure subscriptions (whether absolutely or conditionally) for any shares of the Bank: Provided that the amount or rate of commission shall not exceed five per centum (5%) of the price at which the shares are issued. A commission may be paid or satisfied in cash or in shares of the Bank.

CERTIFICATES

10. Form of certificates.-The certificates of title to shares shall be issued when authorised thereto by the Board in such manner and form as the Board shall from time to time prescribe.

11. Rights to certificates.-Every holder of shares or debentures shall be entitled to one certificate for all the shares or debentures registered in his or her name or, if the directors so approve, upon paying such fee as the directors may from time to time determine, to several certificates, each for one or more of such shares or debentures. Every certificate shall specify the number and denoting numbers of the shares or debentures in respect of which it is issued and the amount paid up thereon.

12. Issue of replacement certificate.-If a share or debenture certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, and on such terms, if any, as to evidence and indemnity as the directors think fit.

13. Withholding of certificates in respect of partly paid up shares.-The directors may make it a condition of the issue of any partly paid-up shares that the member in whose name they are registered shall not be entitled to receive any certificate in respect of such shares whilst partly paid, and that such shares shall not be transferable until they are fully paid up.

14. To which of joint holders certificates shall be issued.-The certificate in respect of shares registered in the names of two or more institutions shall be delivered to the first named in the register in respect therefore, or to its authorised agent, and in case any one or more of the joint registered holders of any shares cease to exist, the other holder then first named in the register named in the register shall be the only holder recognised by the Bank as being entitled to such certificate or any new certificate which may be issued in place thereof.

REGISTER OF MEMBERS AND DEBENTURE HOLDERS

In this chapter "shareholder" and "share" shall include "debenture holder" and "debenture."

15. Register of shareholders.-A register of shareholders shall be kept by the Bank at its head office and there shall be entered therein the following particulars-

- (a) the names and addresses of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its number and by its class or kind, and of the amount paid or agreed to be considered as paid on shares of each shareholder;
- (b) the date at which each person was entered in the register as a shareholder; and
- (c) the date at which any person ceased to be a shareholder;

and such register shall be kept at the office of the Bank and shall be open to the inspection of the shareholders during business hours, subject to any reasonable restriction from time to time imposed by the Board.

16. No trusts recognized.-The Bank shall be entitled to treat the registered holder of any share as the absolute owner thereof, and no notice of any trust, expressed or implied, or constructive, shall be entered in the register, or be receivable by the Bank, and the Bank shall not be bound to see to the execution of any such trust.

17. Transfer books may by notice be closed.-The transfer books and registers of members may, after notice has been given by advertisement in a newspaper published in the Republic of South Africa, be closed during such periods as the Board thinks fit, not exceeding in the whole sixty (60) days in each year.

CALLS ON SHARES REFERRED TO IN SECTION 13 OF THE ACT

18. Calls and restriction on power to make calls.-The directors may from time to time issue shares and call upon the shareholders in respect of any moneys to be paid in respect of the shares referred to in section 13 of the Act, and each member shall [subject to receiving at least fourteen (14) days written notice specifying the time or times and places of payment] pay to the Bank at the time or times and place or places so specified the amount called on the shares.

19. When calls are made.-A call shall be deemed to have been made at the time when the resolution of the directors authorising such calls was passed, and shall be payable at such time and place and in such manner as the directors may decide upon or agree to.

20. Right of claim interest.-If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at a rate determined by the Board from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of such interest wholly or in part.

21. Payment of calls in advance.-The directors may, if they think fit, from a shareholder willing to advance the same, all or any part of the moneys uncalled upon any shares held by him or her, and upon all or any of the moneys so advanced (until the same would, but for such advance, become presently payable) pay interest at such rate [not exceeding, without the sanction of the Bank in general meeting, six per centum (6%) per annum] as may be agreed upon by the member paying the sum in advance and the directors. If the whole amount unpaid on any shares is paid, the directors may issue those shares as fully paid up.

22. Lien of shares.-The Bank shall have a *lien* on every share for all moneys (whether presently payable or not) called or payable at a fixed time in respect of such share, or for all moneys presently payable in respect thereof to the Bank; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The Bank's *lien*, if any, on a share shall extend to all dividends payable thereon.

23. Liability of joint holders.-The joint holders of a share or debenture shall be severally, as well as jointly liable for the payment of all calls or other amounts due in respect of such share or debenture.

POWER TO SELL UNPAID SHARES

24. Power to sell shares in certain circumstances.-The Bank may sell, in such manner as the directors deem fit, any share on which the Bank has a *lien* or any debenture in respect of which payment is due, but no sales shall be made until the expiration of fourteen (14) days after a notice in writing, demanding payment of such part of the amount in respect of which the *lien* exists as is presently payable or of the amount due on the debenture, has been given to the registered holder or allottee for the time being of the share or debenture or the person entitled thereto by reason of succession-in-title, liquidation or deregistration.

25. Proceeds of sale.-The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the *lien* on the shares exists as is presently payable or of the amount owing in respect of the debentures, and the amount owing in respect of a like *lien* for sums not presently payable as existed upon the shares prior to the sale, shall be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he or she shall not be bound to see to the application of the purchase money, nor shall his or her title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

FORFEITURE OF SHARES

26. Notice to pay.-If a member fails to pay any call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him or her requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

27. Form of notice.-The notice shall name a further day [being not earlier than the expiration of fourteen (14) days from the date of the notice] on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

28. If notice not complied with, shares may be forfeited.-If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

29. Sale of share.-Any shares so forfeited shall be deemed to be the property of the Bank, and a forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

30. Loss of membership.-A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall nevertheless remain liable to pay to the Bank for all moneys which, at the date of forfeiture, were payable by him or her to the Bank in respect of the shares, but his or her liability shall cease if and when the Bank has received payment in full of the nominal amount of the shares.

31. Notice to prior shareholders.-When any share has been so forfeited, notice of the resolution shall be given to the person in whose name the shares stood prior to the forfeiture and an entry of the forfeiture with the date thereof shall forthwith be made in the register.

32. Evidence of forfeiture.-An affidavit or solemn declaration in writing that the declarant is a director of the Bank and that a share in the Bank has been duly forfeited on a date stated in the declaration, and the receipt of the Bank for the consideration given for the share on the sale or disposition thereof shall constitute a good title to such share, and the person to whom the share is sold or disposed of shall be registered as the holder to the share and shall not be bound to see to the application of the purchase money, nor shall his or her title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

33. When forfeiture applies.-The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which by the terms of issue of a share becomes payable at a fixed time, whether on account of the amount of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

TRANSFER AND TRANSMISSION OF SHARES

34. Execution of transfer.-The instrument of transfer of any share in the Bank shall be executed both by the transferor and the transferee, and the transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the register of members in respect thereof.

35. Power dispense.-The directors may, however, in their discretion dispense with the signature of the transferee in such cases as they may think fit.

36. Form of transfer.-The instrument of transfer of any share shall be in writing in the usual common form, or in such form and signed in such manner as the Board shall from time to time determine.

37. Evidence of title.-Every instrument of transfer presented for registration shall be left at the office of the Bank accompanied by a certificate of the shares to be transferred, and such other evidence as the Bank may require to prove the title of the transferor or his or her right to transfer the shares. Every power of attorney given by a shareholder authorising the transfer of shares, shall, when lodged, produced or exhibited to the Bank, be deemed as between the Bank and the donor of the power to continue and remain in full force and effect, and the Bank may allow the same to be acted upon until an express notice in writing of the revocation of the same has been given to the Bank.

38. Rights of an institution entitled to a share through liquidation.-Any institution entitled to a share in consequence of the liquidation or deregistration or assignment under the law relating to insolvency or controlling statute of the estate of the member shall, upon such evidence being produced as may from time to time be required by the directors, have the right either to be registered as a member in respect of the share or, instead of being registered itself, to make such transfer of the share as the deregistered or insolvent institution could have made, but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or insolvent or debtor who has assigned his or her estate before the death, insolvency or assignment, but nothing herein contained shall release the estate of a deceased joint shareholder from any liability in respect of shares which had been jointly held by it with other institutions.

39. Rights of institution if entitled to a share by reason of insolvency.-An institution entitled to a share by reason of the insolvency of the holder, shall be entitled to the same dividends and/or other advantages to which it would be entitled if it were the registered holder of the share, except that it shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of institutional shareholders or of the Bank.

40. Directors' right to decline registration of shares.-The directors may decline to register any transfer of shares, not being fully paid-up shares, to an institution of which they do not approve, and may also decline to register any transfer of shares on which the Bank has a *lien*. The directors may also suspend the registration of transfers during the fourteen (14) days immediately preceding the ordinary general meeting in each year. The directors may decline to recognise any instrument of transfer unless-

- (a) the fee determined by the Board is paid to the Bank in respect thereof; and
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

41. Requirements pertaining to debentures.-The Board may from time to time determine the requirements

relating to debentures and may provide that certain of these regulations apply *mutatis mutandis* to debentures.

ISSUES OF NEW SHARES

42. Power to deal with new shares.-The Board may, unless otherwise directed by the shareholders in general meeting, before the issue of any new shares, determine that the same or any of them, shall be offered in the first instance, and either at par or at a premium, to all the members in proportion to the amount of the capital held by them, or make any other provision as to the issue and allotment of the new shares.

MODIFYING RIGHTS

43. Power to modify rights attaching to shares.-If at any time the capital, by reason of the issue of preference shares, or otherwise, is divided into different classes of shares, all or any of the rights and privileges attached to each class may be modified with the consent in writing of the holders of at least three-fourths (3/4) of the nominal amount of the issued shares of that class, or by a resolution passed by a seventy-five per cent (75%) majority at an extraordinary meeting of the shareholders of shares of that class, and all the provisions hereinafter contained as to a general meeting shall *mutatis mutandis* apply to every such meeting, except that the quorum thereof shall be two members holding or representing by proxy at least one-third of the nominal amount of the issued shares of that class. This regulation does not by implication curtail the power to modify which the Bank would have if this regulation was omitted.

BORROWING POWERS

44. Directors may borrow.-The directors may in their discretion from time to time raise or borrow from the members or other persons any sum or sums of money for the purposes of the Bank, subject to the leverage ratio not exceeding two and a half (2,5) times the sum of its authorised share capital and reserve fund.

[R. 44 substituted by GN 643 of 7 October 2016.]

45. Borrowing provisions.-The directors may raise or secure the repayment of such moneys in such manner and upon such terms and conditions in all respects as they think fit, and in particular by the execution of mortgage bonds, the issue of debentures or debenture stock of the Bank, and charges upon all or any part of the property and rights of the Bank, both present and future, including its uncalled capital.

46. Delegation of power to make calls.-If any uncalled capital of the Bank is included in or charged by any mortgage bond or other security, the directors may delegate to any person as trustee for the person or persons in whose favour the mortgage bond or security is executed the power-

- (a) to make calls on members in respect of such uncalled capital; and
- (b) to sue in the name of the Bank or otherwise for the recovery of the moneys becoming due in respect of calls so made and to give valid receipts for such moneys.

The power so delegated shall subsist during the continuance of the mortgage bond or security, notwithstanding any change in the directors, and shall be assignable if expressed so to be.

47. Register of mortgages.-The directors shall cause a proper register to be kept of all mortgages and charges specifically affecting the property of the bank.

RESERVE FUND

48. Reserve fund.-The Board may, before declaring any dividends, set aside out of the amount available for dividends such sum as it thinks proper as a reserve fund or an addition thereto. The Board may divide the reserve fund into such special funds as it thinks fit, with full power to employ the assets constituting such fund or funds in the business of the Bank, or may invest the same in such investments as it may select, without being liable for any depreciation of, or loss in consequence of, such investments, whether the same be usual or authorised investments

for trust funds or not.

49. Purpose of reserve fund.-The reserve fund shall, at the discretion of the Board, be applicable for-

- (a) the equalisation of dividends or for making provision for exceptional losses, expenses or contingencies;
- (b) the extension or development of the Bank's business;
- (c) writing down the value of any of the Bank's business;
- (d) writing down the value of any of the assets of the Bank;
- (e) covering the loss in wear and tear or other depreciation in value of any property of the Bank;
- (f) any of the objects of the Bank as defined in the Act; or
- (g) any other purpose to which the profits of the Bank may be properly applied.

The Board may, subject to the provisions of section 13 of the Act, at any time divide among the shareholders, by way of bonus or special dividends, any part of the reserve funds which it, in its discretion, may determine to be required for the purposes aforesaid.

CAPITALISATION

50. Capitalisation of undivided profits and/or reserves.-The Bank in general meeting may at any time pass a resolution that it is expedient to capitalise-

- (a) any sum or sums-
 - (i) forming part of the undivided profits standing to the credit of the Bank's reserve fund;
 - (ii) in the hands of the Bank and available for dividend;
- (b) any sum carried to reserve as a result of a sale or revaluation of the assets of the Bank or any part thereof;
- (c) any sum received by way of premium on the issue of any debentures or debenture stock of the Bank.

Any such sum or sums shall not be free for distribution and shall not be appropriated to and amongst the members, unless authorised by the Directors.

FINANCIAL ACCOUNTS, ANNUAL PROFIT AND LOSS ACCOUNT AND BALANCE SHEET

51. Application of the Companies Act.-Save that the financial statements do not have to be presented to the Registrar of Companies, the provisions of sections 284 to 303 of the Companies Act shall apply to the Bank.

DIVIDENDS

52. Declaration of dividends.-The Board may, subject to the provisions of section 15 of the Act, from time to time declare a dividend to be paid to the shareholders in proportion to the number of their shares and the amount paid up thereon.

53. Capital paid up in advance of calls.-Where capital is paid up in advance of calls upon the footing that the same shall carry interest, such capital shall not confer a right to participate in profits.

54. Dividends to be paid out of profits only.-No dividend or bonus shall be payable except out of the profits of the Bank, and no dividend shall carry interest as against the Bank. Dividends may be paid in cash or by the issue of paid-up or partly paid-up shares in the Bank or by the distribution among the members of assets, subject to the provisions of the Act.

55. Declaration of Board.-A declaration of the Board as to the amount of the profits of the Bank shall be conclusive.

56. Unclaimed dividends.-All unclaimed dividends may be invested or otherwise made use of by the Board for the benefit of the Bank until claimed.

57. Forfeiture of unclaimed dividends.-Any dividend or bonus remaining unclaimed for a period of five (5) years from its declaration may, provided notice of the declaration has been given by advertisement to the person entitled thereto and sent to his last registered address, be forfeited by resolution of the directors for the benefit of the Bank.

58. Effect of transfer.-Transfer of shares shall not pass the right to any dividend declared thereon after such transfer and before registration of transfer.

59. Dividends to joint holders.-Any one of several joint holders of any share may give effectual receipts for all dividends and payments on account of dividends or bonus in respect of such share.

60. Payment of interim dividends.-The Board may, subject to the provisions of section 15 of the Act, from time to time pay to the shareholders on account of the next forth-coming dividend such interim dividends as in its judgment the position of the Bank justifies.

PAYMENT OF DIVIDENDS OR INTEREST

61. Manner of payment of dividends or interest.-Each dividend or any interest on debentures may be paid by cheque, electronic transfer, warrant or otherwise as the Directors may from time to time determine and may be sent by post or through electronic transfer to the beneficial owner's last registered address, or any other address requested by such beneficial owner, or in the case of joint registered owners to that one of them first named in the register in respect of such joint holdings, and the payment of such cheque or warrant if purporting to be duly endorsed shall be a good discharge to the bank in respect thereof.

62. Loss in transmission.-The Bank shall not be responsible for the loss in transmission of any cheque, warrant or other document sent through the post to the registered address of any member or debenture holder, whether or not at his request.

AUDIT

63. Appointment of auditors.-The Board shall at the first meeting of the Board subsequent to the end of a financial year recommend to the Minister the appointment of auditors as the auditors of the Bank for the ensuing year at such remuneration as the Board may determine.

NOTICES

64. Notice of members.-Any general notice may be given by the Bank to any member or debenture holder either by advertisement or personally, or by sending it through the post in a prepaid letter addressed to such member or debenture holder at his or her registered address, or (if he or she has no registered address in the Republic of South Africa) at the address (if any) within the Republic supplied by him or her to the Bank for the giving of notices to him or her. Any notice which may be given by advertisement shall be inserted in the *Gazette* and in such newspapers as the directors may from time to time determine.

65. Holder to notify address in Republic.-Every member shall notify in writing to the Bank an address in the

Republic of South Africa which address shall be deemed to be his or her registered address within the meaning of the last preceding regulation, and if he or she has not named such an address he or she shall be deemed to have waived his or her right to be served with notices.

66. Notice to joint holders.-Whenever a notice is to be given personally or sent by post, the notice may be given by the Bank to the joint holders of a share by giving notice to the joint holder named first in the register in respect of the share or debenture.

67. Notice to person entitled to a share through death or insolvency.-Whenever a notice is to be given personally or sent by post, the notice may be given by the Bank to the persons entitled to a share in consequence of the death or insolvency of a member by sending it through the post in a letter addressed to them by name, or by the title of representatives of the deceased, or the trustees of the insolvent, or by any like description, at the address (if any) in the Republic of South Africa supplied for the purpose by the persons claiming to be so entitled or (until such address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

68. When notice by post deemed to be served.-Any notice, if given by post, shall be deemed to have been served at the time when the letter or wrapper containing the same is posted, and any notice given by advertisement shall be deemed to have been given on the day upon which the advertisement was published in the *Gazette*, and in proving the giving of the notice sent by post it shall be sufficient to prove that the letter or wrapper containing the notice was properly addressed and put into the Post Office.

69. Notice valid though member deceased.-A notice given to any member or debenture holder shall be binding on all persons claiming on his or her death or by any transmission of his or her interests.

70. How time is to be counted.-When a given number of days' notice or notice extending over any other period is required to be given, the day of service shall not be counted in such number of days or period.

GENERAL MEETINGS OF SHAREHOLDERS OF THE BANK

71. Annual general meeting.-An annual general meeting of the Bank shall be held at least once in every calendar year within nine (9) months from the financial year end and not more than fifteen (15) months after the holding of the last preceding annual general meeting, at such place and at such time as the Board may from time to time determine, and shall dispose with matters determined by the Board, including the approval of dividends, consideration of the annual financial statements, the election of directors and the approval of the fees and remuneration of the directors of the Board.

72. General meetings.-General meetings of the Bank may be held from time to time and shall be called ordinary meetings.

73. Convening of general meeting.-The Board may, whenever it thinks fit, convene an ordinary meeting and it shall convene such meeting whenever required in writing to do so by the Minister or by the holders of not less than one-tenth (1/10th) of the shares issued by the Bank.

NOTICE OF GENERAL MEETINGS

74. Notice of general meetings.-At least fourteen (14) clear days' notice shall be given the shareholders of the Bank of any meeting of the Bank. The notice shall specify the place, day and hour of the meeting and in the case of special business the general nature of such and shall be given in the manner hereinafter mentioned, but with the consent of ninety-five per cent (95%) of the members entitled to receive notice of any particular meeting, the meeting may be convened by such shorter notice and in such manner as those members may think fit.

75. Non receipt of notice.-The non-receipt of notice of a meeting by any member shall not invalidate the proceedings at any meeting.

PROCEEDINGS AT GENERAL MEETINGS

76. Special business.-All business that is transacted at an extraordinary meeting, shall be deemed to be special business, and all business that is transacted at an ordinary meeting, with the exception of sanctioning a dividend and the annual financial statements shall be deemed to be ordinary business.

77. Directors entitled to be present.-The directors of the Bank shall be entitled to be present at every general meeting, whether or not they are shareholders or representatives of shareholders.

78. Director not entitled to vote.-No director of the Bank shall be entitled to vote at a general meeting unless he or she is a shareholder or a representative of a shareholder.

79. Adjournment of meeting.-If within half an hour from the time appointed for a meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place, or if that day is a public holiday, to the next succeeding day other than a public holiday, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall fall away.

80. Adjournment by consent or at direction of meeting.-The chairperson may, with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting) adjourn the meeting from time to time and place to place, but no business shall be transacted at the adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. It shall not be necessary to give notice of any adjournment or of the business to be transacted at the adjourned meeting.

VOTES OF MEMBERS

81. Votes of members.-Subject to the provisions of the Act-

- (a) on a show of hands every member present in person shall have one vote;
- (b) on a poll every member shall have one vote for each share held by him.

82. Proxies not normally entitled to vote on show of hands.-No member present by proxy who is not a member of the Bank shall be entitled to vote on a show of hands, unless such member is a corporate body represented by proxy, in which case such proxy may vote on the show of hands as if he were a member of the Bank.

83. Voting by show of hands.-A resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded, and, unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or lost, and an entry to that effect in the books of proceedings of the Bank, shall be evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

84. Demanding a poll.-A poll may be demanded by the chairperson or by the Minister or his or her representative, or by not less than five institutional shareholders having the right to vote at the meeting.

85. How poll to be taken.-If a poll is demanded as aforesaid, it shall be taken in such manner and at such time and at such place as the chairperson of the meeting directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.

86. Proxies permitted.-On a poll, votes may be given either personally or by proxy. A proxy shall be duly authorised as such in writing.

87. When member not entitled to vote.-No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Bank have been paid.

88. Instrument appointing proxy to be deposited at office.-The instrument in terms of which a proxy is appointed and power of attorney (if any) under which it is signed shall be deposited at the office of the Bank not less than forty-eight (48) hours before the time appointed for the holding of the meeting or adjourned meeting, as the case may be, at which the person named in such instrument proposed to vote, or at such other places and within such time as the Board may from time to time direct.

No instrument appointing a proxy shall be valid after the expiration of twelve (12) months from the date of its execution, unless specifically so stated on the proxy itself.

89. Demand for poll.-The demand of a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

90. When poll may be demanded.-It shall not be competent to demand a poll upon the question of the election of a chairperson, and any poll on the question of an adjournment shall be taken forthwith at the meeting.

91. When vote by proxy valid, though authority revoked.-A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal, or revocation of the proxy or transfer of the share in respect of which the vote is given, unless an intimation in writing of the death, revocation or transfer has been received at the office of the Bank before the meeting.

92. Form of proxy.-Unless otherwise directed by the Board, an instrument appointing a proxy may be in the following form or in any other form acceptable to the meeting-

"DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED

I,
being one of the shareholders of the above Bank, hereby appoint

of
or, failing him/her _____ of
as my proxy at the meeting of shareholders to be held on the
day of

or at any adjournment thereof.

AS WITNESS my hand this _____ day of
19 _____.

93. Voting in case of joint holders.-In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the register of members. Several executors or administrators of a deceased member in whose name any shares stand shall, for the purpose of this rule, be deemed to be the joint holders thereof.

SHAREHOLDERS ACTING BY REPRESENTATIVES AT MEETINGS

94. Representation of shareholders.-A shareholder of the Bank may authorise a person to act as his or her representative at any meeting of the Bank, and the person so authorised shall be entitled to exercise the same powers as the shareholder on behalf of the shareholder which he or she represents.

MEETINGS OF INSTITUTIONAL SHAREHOLDERS

95. Application of particular regulations.-The provisions of these regulations as to general meetings of the Bank and as to the convening of the same, shall *mutatis mutandis* apply to general meetings of the institutional shareholders.

96. Who shall preside.-The chairperson of the Board shall be entitled to preside at every meeting of the institutional shareholders, but shall not be entitled to a vote at any such meeting unless he or she is an institutional shareholder. In the event of the chairperson of the Board not being present within 10 (ten) minutes after the time appointed for the holding of such meeting, the shareholders shall choose one of their number to act as chairperson.

97. Annual meeting.-A general meeting of the institutional shareholders shall be held in each year for the election of directors in accordance with the provisions of subsection (2) of section 7 of the Act, and for any other purpose for which, under the Act and the rules framed thereunder, the institutional shareholders should meet.

98. Convening of meeting.-The Board may, whenever it thinks fit, convene a general meeting of institutional shareholders, and shall do so whenever requested in writing by the holders of not less than one-tenth (1/10th) of the issued capital of the Bank.

APPOINTMENT OF DIRECTORS

99. Directors may hold other offices.-A director may hold any other office (except that of auditor) in the Bank in conjunction with the office of director.

100. Election of directors.-The provisions of sections 66 and 67 of the Companies Act shall apply to the election of directors.

101. Managing director.-The chief executive officer may be appointed as a managing director and may hold such office, if the shareholders so direct, for a period not exceeding five (5) years reckoned from the date of his or her appointment as such managing director.

102. Director's eligibility for re-election.-Retiring directors shall be eligible for re-election, but no person, not being a retiring director, shall be eligible for election by the institutional shareholders to the office of director unless he or she or some institutional shareholder intending to propose him or her, has, at least 14 (fourteen) clear days before the meeting left at the office of the Bank a notice in writing duly signed signifying his or her candidature for the office or the intention of such institutional shareholder to propose him or her.

DISQUALIFICATION OF DIRECTORS

103. When office of director vacated.-The office of a director shall be vacated-

- (a) if he or she is absent from meetings of the Board for three (3) consecutive meetings without leave of the Board;
- (b) if he or she is a party to or participates in the profits of any contract with the Bank, subject, however, to the provisions hereof.

104. Directors not disqualified where proper disclosure made.-Subject to the provisions of [regulation 111](#), a director shall not be disqualified by his or her office from contracting with the Bank either as vendor, purchaser or otherwise, nor shall any such contract or arrangement entered into by or on behalf of the Bank with any company,

partnership or other corporate body in which any director is a director or member, or any contract or arrangement in which he or she is in any way interested, be void.

A director so contracting or being so interested shall not be liable to account to the Bank for any profit realised by any such contract or arrangement by reason only of such director holding that office, or of the fiduciary relationship thereby established.

The nature of a director's interest, including the financial arrangements and the nature of the interest, shall be disclosed by him or her at the meeting of the directors at which the contract or arrangement is determined on if his or her interest then exists, or in any other case at the first meeting of the directors after the acquisition of his or her interest. In no case shall the director so interested vote as a director upon any question relating to such transaction, and if he or she does vote, his or her vote shall not be counted.

His or her prohibition as to voting shall not apply to any contract by or on behalf of the Bank to give the directors or any of them any security by way of indemnity or in respect of advances made by them or any of them to the Bank or to any contract or dealing with a company, partnership or corporate body in which the directors of the Bank have an interest.

Prohibition as to voting shall further not apply to any resolution to allot shares in the Bank to any director of the Bank or to any matter or thing in connection with or arising out of or consequent upon such resolution, or to any agreement for the payment of commission in respect of the subscription of such shares, and may at any time or times be suspended or relaxed to any extent by a general meeting.

A general notice that a director is a member of any firm or a director or member of any company, partnership or corporate body, and is to be regarded as interested in all transactions with such company, partnership or corporate body, shall be sufficient disclosure under this regulation. Such a general notice shall, however, not be effective, beyond the date of the next annual general meeting after it has been given.

Nothing herein contained shall be taken or construed as preventing or debarring any director as a member from taking part in the voting upon all questions submitted to a meeting of members, whether such director is personally interested or concerned in such question or not.

The directors shall cause a register of declarations of interests by directors to be kept.

PROCEEDINGS OF DIRECTORS AT MEETINGS

105. Decisions and votes.-Questions arising at any meeting shall be decided by a majority of votes. The chairperson shall have a deliberative vote.

106. Convening of meetings.-As far as possible, at least six (6) meetings shall be held in each calendar year. A director may at any time, and the Secretary upon the request of a director shall, convene a meeting of the directors.

107. Notice of meetings.-Save in the case of urgent meetings, notice of the holding of any meeting shall be dispatched to each of the directors so that it will in the ordinary course of post reach his or her usual place of abode or business at least four (4) days before the holding of the meeting. The non-receipt of the notice by any director shall not invalidate the proceedings of the directors.

108. Register of directors.-The Bank shall keep at its office a register of directors, and the Bank shall enter in the register the date of the appointment, full name, usual residential address and occupation of each director. Whenever a director ceases to be a director, the Bank shall, as soon as may be after the cessation, record it, and the date thereof, in the said register.

109. Directors' attendance register.-Every director present at any meeting of directors shall sign his or her name in a register to be kept for that purpose.

110. Validity of acts of director or managing director.-All acts done by a meeting of directors or of a committee of directors, by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director in terms of the Companies Act.

111. Directors' fee and expenses.-The directors shall be paid directors' fees, which may include consultancy fees, to be approved at a general meeting for attending meetings of the Board and the Bank and shall be paid all their travelling and other expense properly and necessarily expended by them in and about the business of the Bank.

POWERS OF DIRECTORS

112. Board powers.-A meeting of the Board at which a quorum is present shall be competent to exercise all such powers and do all such acts and things as may be exercised or done by the Board and are not hereby or by the Act expressly directed or required to be exercised or done by the Bank in general meeting, but, subject nevertheless to the exercise of such powers not being inconsistent with these regulations or the Act or with any resolution passed at any meeting of the members in accordance therewith. No resolution passed by the Bank in general meeting shall invalidate any prior act of the directors which would have been valid if such resolution had not been passed. The general powers given by this regulation shall not be limited or restricted by any special authority or power given to the directors by any other regulation.

113. Resolution without Board meeting valid.-A resolution in writing signed by a majority of directors for the time being and being sufficient to form a quorum, shall be as valid and effectual as if it has been passed at a meeting of the directors duly called and constituted.

114. Delegation of powers to a committee.-The Board may appoint a committee consisting of such member or members of its body, or other persons, as it thinks fit to transact such business on behalf of the Bank as it may be entrusted by the Board to transact. Any committee so formed shall conform to any regulations that may from time to time be imposed upon it by the Board. The committee shall keep a record of its acts and proceedings in the same way as the Board is required to do by these regulations.

115. Audit and Employment Equity Committee.-Notwithstanding the provisions of [regulation 114](#), the Board shall appoint-

- (a) an audit committee which shall be responsible to the Board for reviewing the financial statements and accounting policies, the effectiveness of management information and other systems of internal control and the effectiveness of the audit function and to deal with auditors' findings; and
- (b) an employment equity committee to consider the employment practices and broad terms and conditions of service of the Bank and the remuneration of the directors and executive management.

These committees shall respectively consist of not less than three persons appointed by the Board: Provided that the majority of the members of such a committee shall be non-executive members of the Board or other non-executive persons.

116. Power to have securities quoted.-The directors may take all steps which may be necessary in order to enable the shares, debentures and other securities of the Bank to be introduced into and dealt in any country, dominion, colony or state, and to procure the same to be recognised by and specially quoted upon any stock exchange or bourse in any country, dominion, colony or state and may accept responsibility for and pay and discharge all taxes, duties, fees, expenses, or other sums which may be payable in relation to any of the matters aforesaid, and may subscribe and comply with the laws of any such country, dominion, colony or state, and the rules and regulations of any such exchange or bourse.

MINUTES

117. Keeping of minutes.-The directors shall cause minutes to be duly entered in books provided for the purpose-

- (a) of all appointments of officers made by directors;
- (b) of the names of the directors present at each meeting of directors;
- (c) of all orders made by the Board; and
- (d) of all resolutions and proceedings of general meetings, meetings of institutional shareholders and meetings of directors, and of resolutions made in accordance with these regulations.

Any such minutes of any meetings of directors or of the Bank or of institutional shareholders and of resolutions in pursuance of these regulations, and any extract therefrom, if purporting to be signed by the chairperson of the meeting or by some person present thereat and appointed by the directors to sign the same in his or her place, or by the chairperson of the next succeeding meeting, or by any two directors, shall be receivable as evidence of the matters stated in such minutes or extracts.

FORM OF CONTRACTS

118. Contracts of the Bank.-(a) The validity of contracts concluded on behalf of the Bank shall be determined in accordance with the principles applicable to companies incorporated in terms of the Companies Act, on the basis that the Bank has been incorporated as a company incorporated in terms of the Companies Act.

(b) Without derogating from the generality of the provisions of [regulation 118 \(a\)](#), the question whether any contract purported to have been entered into on behalf of the Bank was in fact duly authorised shall be determined in accordance with principles applicable to companies incorporated in terms of the Companies Act, on the basis that the Bank has been incorporated as a company incorporated in terms of the Companies Act.

APPOINTMENT OF SECRETARY

119. Appointment of secretary.-The directors shall appoint an official of the Bank as the secretary, who will be responsible for carrying out the duties normally performed by a secretary of a company in terms of the Companies Act and who shall be deemed to be an officer of the Bank.

MISCELLANEOUS

120. Provisions of Act to prevail.-If the provisions of these regulations are in any way inconsistent with the provisions of the Act, the provisions of the Act shall prevail, and these regulations shall in all respects be read, subject to the Act.

121. Application of company law.-Without detracting from the provisions of section 21 of the Act, and subject to the provisions thereof, for the purposes of the interpretation and implementation of these regulations, all principles of company law shall be applicable to the Bank as if the Bank had been incorporated in terms of the Companies Act.

122. GAAP and best practices.-The Bank shall adhere to the South African Generally Accepted Accounting Practices, as amended from time to time, and shall endeavour to be in line with international corporate best practices.