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**TO: THE PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY
PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA**

1 October 2012

OPINION 5

CO-OPERATIVES AMENDMENT BILL [B17 – 2012]

COMMENTS ON CERTAIN ASPECTS OF THE CURRENT WORKING DRAFT OF THE CONSOLIDATED CO-OPERATIVES AMENDMENT BILL (040612nb)

I refer to the Committee's request for my comments on all clauses of the Bill that I have not yet advised on (i.e. clauses 2 – 29 & 54 – 85), my meeting with the sub-committee on 20 September 2012 and subsequent correspondence with Adv Van der Merwe and Mr A Hermans.

As agreed with the sub-committee I have divided my comments into the following two categories:

1. Substantive comments that raise issues of law, principle and/or policy. These will require the Committee's consideration.
2. 'Drafting' comments and suggestions that only raise points of clarity, style, terminology, grammar and other drafting issues but do not impact on the substantive meaning or import of the provisions to which they relate.

Given their purely 'formal' nature, these need not be debated by the Committee and can be finalised between myself and the other lawyers on the sub-committee.

[P.T.O]

Kathy Idensohn

DRAFTING COMMENTS ON CLAUSES 2 – 29 & 54 – THE END OF THE BILL

I have annotated my drafting comments (in purple) on the attached working draft of the Bill (which is document 'F' and which I have marked 'F-KI-PURPLE').

These make drafting changes and suggestions to the following clauses in the Bill:

Clause1 'surplus'

Clause 2(b)	Clause 14	Clause 59	Clause 66 (s91Y)
Clause 2(c)	Clause 15	Clause 61	Clause 66 (s91Z)
Clause 3(a)	Clause 16	Clause 62	Clause 66 (s91AA)
Clause 3(b)	Clause 17(b)	Clause 64(b)	Clause 66 (s91BB)
Clause 3(d)	Clause 17(c)	Clause 65	Clause 66 (s91BB)
Clause 5	Clause 18(a)	Clause 66(s91B)	Clause 67 (s91GG)
Clause 6(a)	Clause 19	Clause 66(s91C)	Clause 67 (s91HH)
Clause 6(b)	Clause 20	Clause 66 (s91D)	Clause 67 (s91JJ)
Clause 6(d)	Clause 22	Clause 66 (s91E)	Clause 69 (s94B)
Clause 9(a)	Clause 23	Clause 66 (s91F)	Clause 70
Clause 9(c)	Clause 24	Clause 66(s91G)	Clause 72
Clause 10(a)	Clause 25	Clause 66 (s91L)	Clause 74
Clause 10(b)	Clause 26(d)	Clause 66 (s91M)	Clause 75
Clause 10(c)	Clause 28(b)	Clause 66 (s91N)	Clause 76
Clause 11(a)	Clause 29	Clause 66 (s91O)	Clause 78
Clause 11(c)	Clause 37(e)	Clause 66 (s91P)	Clause 80
Clause 12(c)	Clause 54	Clause 66 (s91V)	Clause 81
Clause 12(g)	Clause 55	Clause 66 (s91W)	Clause 82
Clause 13	Clause 57	Clause 66 (s91X)	

I have not checked the clause 83 Table of Contents.

SUBSTANTIVE COMMENTS ON CLAUSES 1, 2 – 29 AND 54 – THE END OF THE BILL

In addition to the above drafting comments and suggested changes, I have substantive comments in relation to the following clauses in the Bill:

The definition of 'trust'

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|-----------|-------------------|
| Clause 3 | Clause 66 (s91M) |
| Clause 6 | Clause 66 (s91Q) |
| Clause 8 | Clause 66 (s91BB) |
| Clause 9 | Clause 66(s91GG) |
| Clause 10 | Clause 66 (s91HH) |
| Clause 12 | |
| Clause 21 | |
| Clause 28 | |
| Clause 29 | |
| Clause 56 | |
| Clause 57 | |
| Clause 58 | |
| Clause 59 | |
| Clause 61 | |
| Clause 65 | |

I shall set out these substantive comments in my next opinion (Opinion 6) which will follow as soon as possible. I will also be at the sub-committee meetings on Thursday 4 October 2012 and Friday 5 October 2012 to discuss my drafting and substantive comments and any other matters required by the sub-committee.

Kathy Idensohn

Yours sincerely

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