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MEDIA STATEMENT

ILLEGAL SCHEMES AND THE NAMIBIAN BANKING LAW

The Bank of Namibia has warned, and will continue to caution the public about illegal schemes operating in Namibia. Business practices that present the same characteristic as pyramid schemes are considered illegal money-making ventures in terms of the Banking Institutions Act of 1998.

This type of illegal practices are characterized by a very few individuals at the top of the structure enticing and encouraging close family members and friends to recruit others to participate in the schemes. In turn, these participants obtain the right to recruit other participants to offer something of value, usually money or some other benefits, such as fully paid up travel packs. The recruits are, in addition to being offered other incentives by merely joining and paying participation fees, also offered prospects of money or other related benefits, if they successfully bring on board others to pay money to join such schemes.

Although these schemes all share one overriding characteristic, many come in so many forms and are usually disguised such that they are not easily recognized. Many countries are flooded with persons selling many different ideas under the banner of multilevel marketing and selling concepts, because in some countries such concepts are not outlawed. What law-abiding citizens sometimes do not realize is that, although not outlawed in some countries, in Namibia the recruitment of

participants in exchange for money or other related benefits and the acquired right to recruit others, is strictly against the banking law.

What happens in most investigations of such schemes is that members of the public bring these schemes to the attention of the Bank of Namibia or people simply want to find out if certain activities they are engaged in are legal or not. This was indeed the case for both Holidays and Cash and TVI Express. In many of these cases, the Bank invites the promoters or business owners to present their business concepts or practices. All reported schemes and those which the Bank of Namibia becomes aware of are subjected to the application of the banking law. In this instance, the business models and practices of both Holidays and Cash and TVI Express did not pass the test of the definition under the section dealing with “receiving funds from the public”. Section 1 of the Banking Institutions Act, (Act No. 2 of 1998) prohibits illegal banking business, which can simply be defined as the taking of money from the public by holding out the prospect to new participants that they will be rewarded, and that they can also obtain the right to further recruit and receive benefits in whatever form.

The Bank of Namibia is mandated to protect the interest of the public. This is embedded in the banking law and the Bank of Namibia must and will continue to exercise that responsibility. This means that no person is allowed to receive, accept, take or advertise, solicit, procure or attempt to procure money from the public in return for something else (which these schemes do through their recruitment arm of business dealings). Given the above, on 10 May 2010, the Bank of Namibia has warned the public yet again about the operations of a scheme called “Millionaires List”.

On 14 June 2010, the Bank of Namibia has, after extensive investigations, meetings and enquiries with the network marketing scheme, known as **Holidays and Cash (H&C)**, directed that this entity must refrain from engaging in such activities in Namibia. This was confirmed in a subsequent correspondence with its then lawyers. In the same vein, the Bank of Namibia also became aware of another network marketing scheme, called TVI Express, whose activities similarly resemble those of a selling and marketing scheme, as defined in section 1 of the Banking Institutions Act,

(Act No. 2 of 1998), dealing with the concept of receiving funds from the public and read together with section 5 of the same Act.

The business operations of above-noted schemes place substantial emphasis on recruitment of participants to these schemes. The latter offer lucrative incentives to the participants, calculated primarily on the basis of the number of participants or members they recruited into the schemes. Generally, selling of purported products or services is a small component of the business models and therefore designed to generate lucrative returns for the promoters of these schemes.

Given the above, these business models contravene the provisions of the Act and are therefore considered illegal. The Bank of Namibia has taken note of threats made in the media regarding these illegal businesses. Furthermore, given the numerous cautionary messages and notice issued to Holidays and Cash, which were largely ignored, the Bank of Namibia is left with very little option, but to pursue further action against the promoters of Holidays and Cash. Similar action will also be taken against TVI if they fail to comply with the notification issued by the Bank of Namibia.

Once again, the Bank of Namibia appeals to each and every law-abiding citizen of this country to refrain from participating in the activities of these entities in violation of the law.

Paul Hartmann
Deputy Governor



Bank of Namibia, Corporate Communications Division
Telephone number (061) 2835114, Fax: 2835932 or
Email: Ndangi.Katoma@bon.com.na, www.bon.com.na