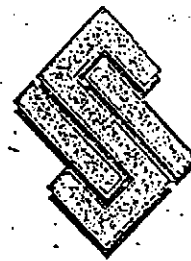


Bank of Namibia

71 Robert Mugabe Avenue
PO Box 2882, Windhoek, Namibia
Tel +264-61-2835130 Fax +264-61-229874



Office of the Governor

BANK OF NAMIBIA
BANKING INSTITUTIONS ACT
CIRCULAR – BIA 4/99

TO : ALL BANKING INSTITUTIONS

DATE : 17 NOVEMBER 1999

IMPLEMENTATION OF THE DETERMINATIONS ON THE APPOINTMENT, DUTIES AND RESPONSIBILITIES OF AN INDEPENDENT AUDITOR OF A BANKING INSTITUTION (BID-10)

1. BACKGROUND

This Circular is issued to provide information that is required in order to ease the implementation of the Determinations on the Appointment, Duties and Responsibilities of an Independent Auditor of a Banking Institution (BID-10) and paragraph 7 of the Determinations on the Classification of Loans and the Suspension of Interest on Non-performing Loans and the Provisions for Bad and Doubtful Debts (BID-2).

2. MANAGEMENT LETTER

A banking institution shall be required to submit to the Bank of Namibia, within three months after the financial year-end, a copy of the management letter and such other reports issued as a result of work carried out on matters relating to banking business. For the purposes of this Circular, a management letter and such other reports shall refer to any report of control and system weaknesses and audit findings submitted by the independent auditor to a banking institution.

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3. CURRENT INDEPENDENT AUDITORS

- 3.1 Clarification is hereby given that the tenure of office for current independent auditors of a banking institution will run until the conclusion of the next annual general meeting. This clarification has been given in response to queries that were raised as to whether the tenure of office for current independent auditors will automatically expire with the publishing of the Determinations on the Appointment, Duties and Responsibilities of an Independent Auditor of a Banking Institution (BID-10).
- 3.2 For the purposes of this Circular, a current independent auditor refers to an independent auditor:
- who has been appointed by a banking institution at the annual general meeting which was held at a date prior to the date of the publishing of the Determinations on the Appointment, Duties and Responsibilities of an Independent Auditor of a Banking Institution (BID-10); and
 - whose appointment has been approved by the Bank of Namibia at a date prior to the date of the publishing of the Determinations on the Appointment, Duties and Responsibilities of an Independent Auditor of a Banking Institution (BID-10); and
 - whose term of office shall expire at the conclusion of the next annual general meeting which will be held at a date which is after the date of the publishing of the Determinations on the Appointment, Duties and Responsibilities of an Independent Auditor of a Banking Institution (BID-10).

4. APPOINTMENT AND APPROVAL PROCESS OF AN INDEPENDENT AUDITOR

- 4.1 In order to facilitate the practical implementation of section 43(2) of the Banking Institutions Act, 1998 (Act No. 2 of 1998), a banking institution should follow the process outlined below when appointing an independent auditor and applying to the Bank for the approval of such appointment:
- a banking institution may nominate an independent auditor, who they wish to appoint at the next annual general meeting, and request the Bank for a preliminary approval of the independent auditor prior to the annual general meeting. In this process, the application forms referred to as Annexure B of the Determinations on the Appointment, Duties and Responsibilities of an Independent Auditor of a Banking Institution (BID-10) should be completed and lodged with the Bank by a banking institution;

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the directors of a banking institution should include in the directors report in the annual financial statements, a statement of compliance with the provisions of the Determinations on the Classification of Loans and the Suspension of Interest on Non-performing Loans and the Provisions for Bad and Doubtful Debts (BID-2). For example, "*the accounting treatment of loans and advances disclosed in the annual financial statements is in compliance with the Determinations on the Classification of Loans and the Suspension of Interest on Non-performing Loans and the Provisions for Bad and Doubtful Debts (BID-2) issued pursuant to section 71(3) of the Banking Institutions Act, 1998 (Act No. 2 of 1998)*"; and

while conducting their audit of loans and advances the independent auditors of a banking institution should ensure that statements of compliance as indicated above under paragraph 5.2 are included in the annual financial statements of the banking institution and that such compliance is materially achieved. The independent auditor then by signing the annual financial statements would have discharged the onus placed on them by the Determinations referred to above under paragraph 5.1.

6. REPORTING ON RETURNS

- 6.1 Clarification is hereby given that for a banking institution with a financial year ending after the date on which the Determinations on the Appointment, Duties and Responsibilities of an Independent Auditor of a Banking Institution (BID-10) was published, the independent auditor shall be required to report on all returns submitted to the Bank by a banking institution during the whole financial year. Such reporting shall be done in accordance with paragraph 1 of the Determinations on the Appointment, Duties and Responsibilities of an Independent Auditor of a Banking Institution (BID-10).
- 6.2 The BA Form 9, which was a return issued in terms of the regulations that were contained in Government Notice No. R2747 dated 31 December 1986 made under the Banks Act, 1965 (Act No. 23 of 1965), has been replaced with the Balance Sheet – BIR 100 and Off-Balance Sheet BIR 110 since 24 September 1998 and banking institutions are not required to submit it (BA Form 9) to the Bank anymore. Therefore, the independent auditors are not required to report on the BA Form 9.

BANKING INSTITUTIONS ACT

CIRCULAR – BIA 1/09

TO: ALL BANKING INSTITUTIONS

DATE: 23 February 2009

APPLICATION OF SET-OFF AND CASH-MANAGEMENT SCHEMES

1. OVERVIEW

This Circular is issued to explain the terms and conditions for set-off arrangements of assets and liabilities where it is permissible, as well as the circumstances to be applied for the reduction of balance resulting from application of cash management schemes.

These arrangements shall apply forthwith to all determinations issued under the Banking Institutions Act (No. 2 of 1998) where specific mention is made in the determinations of adjustments due to set-off.

Definitions

For the purpose of this Circular –

“Monitor and Control the relevant exposures” means the position where the banking institution will be able to accurately determine net balances to be utilized for the purpose of calculating the capital amount as assets are treated as exposures and liabilities are treated as collateral.

“Roll-over risk” refers to the ability of the banking institution to have the maturity of existing liabilities/cash deposits or investment lengthened to a future date in the event the banking institution’s exposures/assets is not fully settled on the agreed settlement date.

“Currency mismatch” refers to instances where the amount of assets and liabilities that are subjected to set-off or cash management agreement are not denominated in the same currency.

3. CASH MANAGEMENT SCHEMES

Unless otherwise prescribed in this Circular, the reduction of balances resulting from the application of a cash management scheme shall be taken into account in completing the prescribed forms only where all of the following circumstances apply, namely: -

- 3.1 a cash management scheme shall be conducted only for those companies that are subsidiaries of the same holding company and that are included in the consolidated audited annual financial statements of such holding company, as well as for such holding company;
- 3.2 transfers of debit or credit balances from individual accounts to a central group account must be shown as actual transactions on individual accounts, as well as in the accounting records of the individual account holders, in order to ensure that the accounting system of a banking institution reflects the true debtor/creditor and legal relationships;
- 3.3 a banking institution must provide its clients with statements of account evidencing the effect of transfers, whenever such transfers are made between their accounts and a central group account, to enable its clients to make the necessary entries to ensure that their accounting records reflect their true debtor/creditor and legal relationships vis-à-vis the banking institution (except for un-cleared items, balances in the books of clients should therefore correspond to balances on client accounts in the accounting system of the banking institution);
- 3.4 a group account, or any other account to which transfers are made, must be in the name of a legal entity in order to protect the legal position of the banking institution;
- 3.5 transfers between client accounts and a central group account must be supported by legal authorization granted to the banking institution by its clients, including resolutions of clients' boards of directors, to effect such transfers;
- 3.6 agreements whereby authorization is granted as contemplated in paragraph 3.5 must legally limit the banking institution's risk to the debtor/creditor relationship that exists after transfer have been effected;
- 3.7 statutory returns must reflect the true debtor/creditor and legal relationships of the bank vis-à-vis its clients';