



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notice

BANK OF NAMIBIA

No. 442

2014

DETERMINATION UNDER THE BANKING INSTITUTIONS ACT, 1998 (ACT NO. 2 OF 1998), AS AMENDED: APPLICATION FOR REGISTRATION AS A CONTROLLING COMPANY (BID-27)

In my capacity as Governor of the Bank of Namibia and under the powers vested in the Bank by virtue of section 71(3) of the Banking Institutions Act, 1998 (Act No. 2 of 1998), as amended, read in conjunction with section 12A(2) of the aforementioned Act, I hereby issue the **Determination on the Application for Registration as a Controlling Company (BID-27)**.

I. SHIMI
GOVERNOR

Determination No. BID-27
APPLICATION FOR REGISTRATION AS A CONTROLLING COMPANY

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PART I

PRELIMINARY

1. **Short Title** – Registration of Controlling Companies
2. **Authorization** – Authority for the Bank to issue this Determination is provided under 71(3) of the Banking Institutions Act, 1998 (Act No. 2 of 1998), as amended, read in conjunction with section 12A (2) of the aforementioned Act.
3. **Application** – This Determination applies to all controlling companies to be registered under section 12A of the Banking Institutions Act, 1998 (Act No. 2 of 1998), as amended.
4. **Definitions** – Terms used within this Determination are as defined in the Act, as further defined below, or as reasonably implied by contextual usage.
 - 4.1. **“Act”** – means the Banking Institutions Act, 1998 (Act No. 2 of 1998), as amended.
 - 4.2. **“Bank”** – means the Bank of Namibia.
 - 4.3. **“Companies Act”** - means the Companies Act, 2004 (Act No. 28 of 2004).
 - 4.4. **“Controlling Company”** - means a company registered under section 12A of the Act as a controlling company, which can also be referred to as a holding company.

PART II STATEMENT OF POLICY

5. **Purpose** –This determination is intended to set out guidelines with regard to the application for registration of controlling companies of banking institutions or microfinance banking institutions.
6. **Scope** - This Determination applies to all prospective controlling companies of banking institutions or microfinance banking institutions to be registered in terms of section 12A of the Act.
7. **Responsibility** - The board of the controlling company must be responsible for establishing adequate policies and procedures to ensure that all requirements as set out in the Act and this determination are fully complied with.

PART III OVERVIEW AND REQUIREMENTS FOR REGISTERING A CONTROLLING COMPANY

8. **Application for registration as a controlling company**

- 8.1. A company which desires to exercise control over any banking institution or micro-finance banking institution in Namibia may apply to the Bank to be registered as a controlling company.
- 8.2. A company that wishes to become a controlling company must be a public company registered in terms of the Companies Act.
- 8.3. An application must be made in writing (Appendix A) and signed by the director(s) on behalf of the company to be registered or by the subscriber(s) to its Memorandum and Articles of Association.
- 8.4. The application must be accompanied by the prescribed application fee as set out in the “Regulation Relating to Fees Payable to the Bank of Namibia” as may be issued from time to time.

9. **Authorization and organizing stage**

- 9.1. Once the Bank receives an application for registration of a controlling company, the Bank may, against payment of the non-refundable prescribed registration fee set out in the Regulations referred to under sub-regulation 8.4 above, consider the applicant as a controlling company in respect of the banking institution or microfinance banking institution concerned and issue to the applicant a certificate of registration as a controlling company.
- 9.2. After authorisation is granted, the controlling company is expected to establish control over the banking institution or microfinance banking institution in respect of which it is registered within a period of six months after the date of issue of the certificate of registration or any other date as the Bank may specify.

10. **Supporting information and documentation required**

The following documentation and information must accompany an application for registration as a controlling company:

- 10.1 Memorandum and Articles of Association of the proposed or acquiring controlling company.
 - 10.2 A detailed business/strategic plan for the proposed controlling company. (Assumptions used in preparing the plan and pro-forma financial statements or projections should be realistic and reasonable in view of prevailing conditions in the markets to be served and the current economic environment).
 - 10.3 The following information in respect of each of the proposed directors, principal officers and executive officers of the proposed controlling company:
 - i) Completed Forms BIF 022 and BIF 024, and the accompanying Declaration, which must be duly notarized or certified by a Commissioner of Oaths;
 - ii) Curriculum vitae and certified copies of relevant qualifications;
 - iii) Certified copies of national identification documents; and
 - iv) Any other information as may be requested by the Bank.
 - 10.4 The following information in respect of each of the proposed substantial shareholders of the proposed controlling company:
 - i) Audited annual financial statements for the last three years in respect of substantial shareholders who are juristic persons. In the case where any such substantial shareholder has been in existence for less than three years, it must submit projected annual financial statements for the next three-year period.
 - ii) Completed Forms BIF 023 and BIF 025, and the accompanying Declaration, which must be duly notarized or certified by a Commissioner of oaths, in respect of substantial shareholders who are natural persons.
 - 10.5 Other documents and/or information as the Bank may request to process the application.
- 11. Minimum registration requirements for registration as a controlling company are as follows:**
- 11.1. The applicant must have minimum start up capital as determined in terms of section 28A of the Act.
 - 11.2. In addition, due consideration shall be given to the following factors:
 - i) The registration of the applicant should advance the public's best interest as per the developmental policies and plans of Namibia;
 - ii) The validity and authenticity of the information submitted by the applicant to the Bank;
 - iii) The financial status, history or pro forma statements of the applicant; including its assets and liabilities, and its policies and strategies relating to the future development of the supervised banking business;
 - iv) The directors, executive officers (including the principal officer) and shareholders of the controlling company must be fit and proper persons to

manage the affairs of a controlling company. The competency and integrity of the management to manage the affairs of the proposed controlling company prudently is also taken into account; and

- v) The applicant must be in a sound financial condition and comply with the requirements of the Act.

12. Cancellation by the Bank of registration of controlling company

The Bank, by notice in writing and in not less than 30 days of the notice addressed and delivered to the controlling company, may cancel the registration as stipulated under section 12C of the Act.

**PART IV
EFFECTIVE DATE**

The effective date of this determination is 1 January 2015.

Annexure A

Bank of Namibia



APPLICATION FOR A CONTROLLING COMPANY

Use this form, in line with section 12A (2) of the Banking Institutions Act, 1998 (Act No. 2 of 1998), as amended, for application to register a controlling company in respect of an authorised or prospective banking institution or microfinance banking institution.

GENERAL INSTRUCTIONS TO APPLY FOR CONTROLLING COMPANY REGISTRATION

1. Complete the application and attach the relevant documentation required.
2. Print clearly using **BLOCK LETTERS** in the space provided.
3. Providing false or deliberately misleading statements may lead to the rejection of the application or cancellation of registration.
4. Signing your name in the appropriate signature box is a declaration that the information provided is authentic, to the best of your ability.

PARTICULARS OF A PERSON APPLYING FOR A REGISTRATION OF A CONTROLLING COMPANY

(Please print clearly)

Name of the public company (to be registered) _____

Company registration number _____

Full Names of Natural Person _____

Capacity in which you are completing this form _____

ID Number _____

Postal Address _____
_____Residential address _____

Contact details: Tel: _____

Cell: _____

E-mail: _____

As duly empowered, I hereby apply for the registration of the abovementioned public company registered under the Companies Act as a controlling company of the following banking institution registered under the Act.

