



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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WINDHOEK - 20 August 2024

No. 8421

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General Notice

BANK OF NAMIBIA

No. 459

2024

DETERMINATIONS UNDER THE BANKING INSTITUTIONS ACT, 2023

In my capacity as Governor of the Bank of Namibia (Bank) and under the powers vested in the Bank in terms of section 108(3)(a) of the Banking Institutions Act, 2023 (Act No. 13 of 2023) read in conjunction with section 51(2) of the aforementioned Act, I hereby issue the Determination relating to Microfinance Banking Institutions (BID-38).

J. !GAWAXAB
GOVERNOR
BANK OF NAMIBIA

Windhoek, 24 July 2024

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PART I: PRELIMINARY

- 1. Short Title** – Determination relating to Microfinance Banking Institutions.
- 2. Authorization** – Authority for the Bank to issue this Determination is provided in section 108(3) (a) of the Banking Institutions Act, 2023 (Act No. 13 of 2023), read in conjunction with section 51(2) of the Act.
- 3. Application** – This Determination applies to all microfinance banking institutions authorised to conduct microfinance banking business in Namibia.
- 4. Definitions** – Terms used in this Determination are as defined in the Act, as defined below, or as reasonably implied by contextual usage.

- 4.1 **“Act”** – means the Banking Institutions Act, 2023 (Act No. 13 of 2023);
- 4.2 **“Associate”** – means an associate as defined in the Banking Institutions Act, 2023 (Act No. 13 of 2023);
- 4.3 **“Bank”** – means the Bank of Namibia referred to in section 2 of the Bank of Namibia Act, 2020 (Act No. 1 of 2020);
- 4.4 **“Branch of a Microfinance Banking Institution”** – means a microfinance banking institution whose operation is only limited to one branch inside the country;
- 4.5 **“Large exposure”** – means a loan or credit facility granted to a single borrower and his associate that exceeds 2.0 percent, but limited to 5.0 percent, of an institution’s core capital;
- 4.6 **“Microfinance banking business”** means the business that primarily consists of accepting deposits from the public and granting of microfinance loans, as defined in the Act;
- 4.7 **“Microfinance banking institution”** – means a public company authorised under the Act to primarily conduct microfinance banking business;
- 4.8 **“Micro credit loan”** – means a loan or credit facility granted to a natural person or his associate whose total level of indebtedness does not exceed N\$200.0 thousand;
- 4.9 **“Microfinance loan”** – means a micro credit loan or small enterprise loan;
- 4.10 **“Nationwide microfinance banking institution”** – means a microfinance banking institution with an unlimited number of branches throughout the country;
- 4.11 **“Non-performing loan”** – means a credit facility that is not generating income and the principal or interest is due and unpaid for thirty-one days or more and includes a loan or credit facility classified either as substandard, doubtful or loss;
- 4.12 **“Small enterprise loan”** – means a loan or credit facility granted to an entity or its associate whose total level of indebtedness does not exceed N\$1.5 million; and
- 4.13 **“Overdue”** – means any loan for which:
- (i) any portion of principal and/or interest is due and unpaid one day or more after the agreed repayment term as per the loan contract; or
 - (ii) interest due equal to one day interest or more has been capitalised, refinanced, or rolled over.

PART II: STATEMENT OF POLICY

5. **Purpose** – This Determination sets out the regulatory requirements for microfinance banking institutions. The objective of these requirements is to ensure that microfinance banking institutions conduct their business operations in a prudent manner and implement effective risk management practices thereby safeguarding the interests of persons making deposits with microfinance banking institutions.
6. **Scope** – This Determination applies to microfinance banking institutions authorised to conduct microfinance banking business in Namibia.

7. Responsibility – The board of directors of a microfinance banking institution is responsible for establishing effective policies and procedures which are adequate to ensure that:

- (a) all requirements outlined in this Determination are fully complied with;
- (b) all loans are made and administered in accordance with prudent lending practices;
- (c) the framework for risk management is established and implemented; and
- (d) a microfinance banking institution is adequately capitalised.

PART III: IMPLEMENTATION AND SPECIFIC REQUIREMENTS

8. Types of Microfinance Banking Institutions

A microfinance banking institution seeking to conduct microfinance banking business in Namibia must apply to the Bank for approval to conduct microfinance banking business as one of the following:

- 8.1 Nationwide microfinance banking institution that is allowed an unlimited number of branches throughout the country and is subject to a higher capital requirement as stipulated in paragraph 10.1 of this Determination.
- 8.2 Branch of a microfinance banking institution that is limited to only one branch within the country and is subject to a lower capital requirement as stipulated in paragraph 10.2 of this Determination.

9. Place of Business

The requirements below are only applicable to a nationwide microfinance banking institution.

- 9.1 A microfinance banking institution must not open or close any of its branch, herein referred to as a place of business, without prior notification to the Bank.
- 9.2 A notification by a microfinance banking institution to relocate or close a place of business must be made to the Bank 30 days before such action is taken by a microfinance banking institution.
- 9.3 In deciding whether to open, relocate or close a place of business, a microfinance banking institution must take into consideration the following factors:
 - 9.3.1 interest of the public is not jeopardised by the closure of a place of business;
 - 9.3.2 alternative financial services that were being provided by the institution at current place of business are available in the locality;
 - 9.3.3 institution's performance strengths;
 - 9.3.4 capital adequacy and structure;
 - 9.3.5 current and future earning capabilities;
 - 9.3.6 managerial capabilities;
 - 9.3.7. liquidity position;
 - 9.3.8 track record regarding adherence to the provisions of the Act and the Bank's directives;
 - 9.3.9 credit tools and discipline; and
 - 9.3.10 safety and security arrangements.

10. Minimum Capital Requirements

A microfinance banking institution must commence operations with and at all times maintain a minimum paid-up capital appropriate for its authorization as prescribed below:

- 10.1 A nationwide microfinance banking institution must at all times maintain a core capital amount of not less than N\$22.5 million (twenty-two million and five hundred thousand Namibia dollar).
- 10.2 A branch of a microfinance banking institution must at all times maintain a core capital of not less than N\$7.5 million (seven million and five hundred thousand Namibia dollars).
- 10.3 In addition to the capital requirements in **paragraphs 10.1 and 10.2**, the following minimum ratios shall apply to both the nationwide microfinance banking institution and to the branch of a microfinance banking institution, unless higher ratios are set by the Bank for an individual microfinance banking institution based on criteria set forth in paragraph **10.4**:
- 10.3.1 **Leverage Capital:** the minimum leverage ratio shall be 6.0%. However, a higher minimum may be required in terms of paragraph 10.4.
- 10.3.2 **Tier 1 Risk-Based Capital:** the minimum Tier 1 ratio shall be 8.0%. However, a higher minimum may be required in terms of paragraph 10.4.
- 10.3.3 **Total Risk-Based Capital:** the minimum total ratio shall be 12.0%. However, a higher minimum may be required in terms of paragraph 10.4.
- 10.4 **Criteria for Higher Minimum Ratios** – the Bank may require higher minimum ratios for an individual microfinance banking institution if such microfinance banking institution –
- 10.4.1 has been operating for a period less than three years;
- 10.4.2 has, or is expected to have, losses resulting in a capital deficiency;
- 10.4.3 has significant exposure to risk, whether credit, concentration of credit, market, interest rate, liquidity, operational, or from other non-traditional activities;
- 10.4.4 has a high, or particularly severe, volume of poor quality assets;
- 10.4.5 is growing rapidly, either internally or through acquisitions;
- 10.4.6 may be adversely affected by the activities or condition of its parent holding company, associates or subsidiaries; or
- 10.4.7 has deficiencies in its ownership or management (shareholding structure; composition or qualifications of directors or officers; or risk management policies or procedures.)
- 10.5 **Eligibility of capital elements (criteria)**
- 10.5.1 Tier 1 Capital (also known as Core Capital or Primary Capital):
- A capital instrument will not qualify as Tier 1 capital if it is subject to any condition, covenant, term, restriction, or provision that:
- (a) unduly interferes with the ability of the microfinance banking institution to conduct normal microfinance banking operations;
- (b) requires unjustified dividends or interest payments relative to the financial condition of the microfinance banking institution or permits redemption by the holder in the event of financial deterioration;
- (c) impairs the ability of the microfinance banking institution to comply with regulatory requirements regarding the disposition of assets or incurrence of additional debt; or

- (d) limits the ability of a regulatory authority to take any actions for the purpose of resolving a problem or failing microfinance banking institution.

10.5.2 Tier 2 Capital (also known as Supplementary Capital or Secondary Capital):

- (a) **Revaluation Reserves:** A microfinance banking institution may include in its Tier 2 capital, only reserves arising from the revaluation of premises and other fixed assets owned by the microfinance banking institution provided that the assets are prudently valued by an independent sworn appraiser, fully reflecting the possibility of price fluctuation and forced sale. In addition, the revaluation of fixed assets for purposes of inclusion in Tier 2 capital shall only be permitted after a period of 3 years from the date of purchase or 3 years from the date of last revaluation, whichever is the later.
- (b) **General provisions/general loan loss reserves:** provisions or loan loss reserves held against future, presently unidentified losses are freely available to meet losses which subsequently materialise and therefore qualify for inclusion within supplementary elements. Provisions ascribed to impairment of particular assets or known liabilities shall be excluded. Where general provisions include amounts reflecting lower valuations of assets or latent but unidentified losses already present in the balance sheet, the amount of such provisions or reserves eligible for inclusion will be limited to a maximum of 2 percent of total risk-weighted assets.
- (c) **Hybrid (debt/equity) capital instruments:** These instruments include a range of instruments which combine characteristics of equity capital and debt. To qualify for Tier 2, these instruments require prior approval of the Bank, and they must meet the following requirements:
 - (i) they must be unsecured, subordinated and fully paid-up;
 - (ii) they must not be redeemable at the initiative of the holder or without the prior consent of the Bank;
 - (iii) they must be available to participate in losses without the microfinance banking institution being obliged to cease trading (unlike conventional subordinated debt);
 - (iv) it must allow service obligations to be deferred (as with cumulative preference shares) where the profitability of the microfinance banking institution would not support payment although the capital instrument may carry an obligation to pay interest that cannot permanently be reduced or waived (unlike dividends on ordinary shareholders' equity); and
 - (v) Cumulative preference shares and mandatory convertible debt instruments, having the above characteristics, are examples of hybrid capital instruments.
- (d) **Subordinated term debt:** Unlike the hybrid capital instruments, the instruments under this category are not normally available to participate in the losses of a microfinance banking institution which continues trading since they are able to absorb losses only in liquidation. This deficiency justifies an additional restriction on the amount of such debt capital which shall be eligible for inclusion in the capital base, in that the eligible amount shall be restricted to a maximum of 50.0 percent of Tier 1 capital. In addition, to qualify for Tier 2, subordinated term debt requires prior approval of the Bank and must satisfy the following conditions:

- (i) the debt must be unsecured and fully paid-up;
- (ii) the debt must have a minimum original fixed term to maturity of five years;
- (iii) early repayment or redemption shall not be made without the prior written consent of the Bank;
- (iv) the debt eligible for inclusion shall be subjected to straight line amortisation over the last five years of its life to reflect the diminishing value of such debt as a continuous source of strength to the capital position of the microfinance banking institution; and
- (v) there shall be no restrictive covenants.

10.6 Capital measures – the ratios used for measuring capital adequacy as set in paragraph 9.3 are:

- 10.6.1 Leverage (equity) capital ratio (i.e. Tier 1 capital divided by gross assets. For the purpose of this paragraph, “gross assets” means total assets plus general and specific provisions);
- 10.6.2 Tier 1 risk-based capital ratio (i.e. Tier 1 capital divided by total risk-weighted assets); and
- 10.6.3 Total risk-based capital ratio (i.e. total qualifying capital divided by total risk-weighted assets).

10.7 Risk Weights – the risk weights applicable to on-balance-sheet assets are:

0 Percent Category

- 10.7.1 cash, gold coin and bullion.
- 10.7.2 foreign notes and coins.
- 10.7.3 statutory reserve with the Bank of Namibia.
- 10.7.4 claims on the Government of Namibia and the Bank of Namibia.
- 10.7.5 claims guaranteed by Government of Namibia, or fully secured by securities issued by the Government of Namibia or the Bank of Namibia.
- 10.7.6 claims on Organization for Economic Cooperation and Development (OECD) central governments and central banks.
- 10.7.7 claims fully secured by pledged deposits in the same microfinance banking institution.

10.0 Percent Category

- 10.7.8 claims on the central governments of countries in the Common Monetary Area (CMA), excluding Namibia.
- 10.7.9 claims on the Namibian public sector entities, regional governments and local authorities (excluding commercial entities owned by the public sector).
- 10.7.10 claims on and claims guaranteed by or collateralised by securities issued by the following Multilateral Development Banks: International Bank for Reconstruction and Development, Inter-American Development Bank, Asian Development Bank, African Development Bank, European Investment Bank and any other institution approved by the Bank.

20.0 Percent Category

- 10.7.11 claims on other Namibian or South African banks.
- 10.7.12 claims on banks incorporated in the OECD member states and claims guaranteed by such banks.
- 10.7.13 claims on public-sector entities (excluding commercial entities owned by the public sector) of CMA countries, excluding Namibia.
- 10.7.14 claims on OECD public-sector entities (excluding commercial entities owned by the public sector).
- 10.7.15 items in transit.

50.0 Percent Category

- 10.7.16 loans that are fully secured by mortgages on residential properties which are either owner-occupied or rented to tenants. The 50 percent weight is applicable only to loans secured by the first mortgage bond (first charge) on the property. Mortgage loans granted against second or third mortgage bonds may also be accorded a 50 percent weight provided that the bank is also the holder of the first mortgage bond. However, claims on companies involved in residential building or property development would not qualify.

100.0 Percent Category

- 10.7.17 all other private sector claims.
- 10.7.18 financial leases and factoring.
- 10.7.19 commercial and industrial mortgages and real estate.
- 10.7.20 premises, equipment and other fixed assets.
- 10.7.21 all other assets.

- 10.8 Credit Conversion Factors - the credit conversion factors listed below shall apply for off-balance-sheet items and be multiplied by the weights applicable to the corresponding on-balance sheet asset category. The Bank will, in its discretion, allocate particular instruments into the categories listed below based on the characteristics of the instrument.

Factor	Off-balance sheet instrument
100%	Direct credit substitutes (i.e. general guarantees of indebtedness including standby letters of credit serving as financial guarantees for loans and securities; and acceptances including endorsements similar to acceptances)
50%	Transaction-related contingent items (e.g. standby letters of credit related to particular transactions)
100%	Sale and repurchase agreements and assets sales with recourse where the credit risk remains with the microfinance banking institution
100%	Forward asset purchases, forward deposits which represent commitments with certain draw-down
50%	Other commitments (e.g. formal stand-by facilities and credit lines) with an original maturity of over one year
0%	Similar commitments with an original maturity of up to one year, or which can be unconditionally canceled at any time
10.9	Bilateral netting

- 10.9.1 For capital adequacy purposes and subject to the Bank's discretion, microfinance banking institutions may net transactions that are subject to a valid and binding bilateral netting agreement, i.e. novation (an agreement under which a microfinance banking institution is obligated to deliver a specified amount of currency on a given value date to a counterparty is automatically amalgamated with all other obligations for the same currency and value date, legally substituting one single amount for the previous gross obligations).
- 10.9.2 Once the microfinance banking institution has calculated the credit equivalent amounts, they shall be weighted according to the category of counterparty in the same way as in the main framework, including concessionary weighting in respect of exposures backed by eligible guarantees and collateral.

10.10 Plan to comply with minimum capital requirements.

Any microfinance banking institution which fails to comply with the minimum ratios set forth in paragraph 15.3 above, or with any higher minimum ratio that may be required by the Bank under paragraph 15.4 above, shall submit to the Bank a detailed plan stating how and when the microfinance banking institution will comply with the required minimum capital ratios. The plan must be submitted within 30 days of written request from the Bank unless a shorter time is specified due to the severity of the capital deficiency.

11. Single Borrower Limit

- 11.1 A microfinance banking institution must not grant a micro credit loan to any natural person or his associates if such person's total level of indebtedness at the time of extending such a loan exceeds N\$200.0 thousand or if the extension of such a loan will result in the total level of indebtedness of such person exceeding N\$200.0 thousand.
- 11.2 microfinance banking institution must not grant a small enterprise loan to any entity or its associates if such entity's total level of indebtedness at the time of extending such a loan exceeds N\$1.5 million, or if the extension of such a loan will result in the total level of indebtedness of such entity exceeding N\$1.5 million.
- 11.3 A microfinance banking institution shall ensure that the aggregate amount of micro credit loans and small enterprise loans is equivalent to or more than 70.0 percent of the institution's total loan portfolio.
- 11.4 A microfinance banking institution may extend any other loan product or credit facility, other than a micro credit loan or small enterprise loan, to any party provided that such loan or credit facility to a single borrower or his associate does not exceed 5.0 percent of the microfinance banking institutions core capital.
- 11.5 Where a microfinance banking institution grants a credit facility, other than a micro credit loan or small enterprise loan, to any other party, such credit facility shall in aggregate not exceed 30.0 percent of the institution's total loan portfolio.
- 11.6 A loan under the staff scheme to a single borrower may not exceed 2.0 percent of the microfinance banking institutions core capital while the total loans advanced to staff may not exceed 20 percent of the microfinance banking institutions core capital.
- 11.7 A loan extended to any single borrower or his associate that exceeds 2.0 percent of the microfinance banking institutions constitutes a large exposure.

- 11.8 Paragraph 11.2 shall not apply to transactions between institutions licensed under the Act.
- 11.9 A microfinance banking institution shall submit to the Bank a return on large exposures on a quarterly basis to be received by no later than the 26th day of the following month after the quarter end.

12. Portfolio Quality and Loan Loss Provisioning

- 12.1 A microfinance banking institution must manage its loan portfolio in accordance with the standards outlined under the Determinations on Asset Classification, Suspension of Interest, and Provisioning (BID-2) unless specified in this Determination.
- 12.2 The definitions of non-performing loans and overdue loans as defined in this Determination shall be applicable to all microfinance banking institutions.
- 12.3 Assets (loans) Classification and Provisioning
- 12.3.1 A microfinance banking institution must classify and make provisions for its loan portfolio in line with the following:

Table 1: Classification and Provisioning for micro credit loans and small enterprise loans (number of days past due).

Classification	Micro credit loan	Small enterprise loan	Minimum provision amounts
Pass or Acceptable	0 - 9	0 - 9	1%
Watch or Special mention	10 - 29	10 - 29	5%
Substandard	30 - 59	30 - 59	25%
Doubtful	60 - 119	60 - 119	75%
Loss	+120	+120	100%

For micro credit loans or small enterprises loans restructured, a consistent performance of 3 months, where both the interest and principal amount is fully paid, must be established before such loans can be classified as either pass or special mention.

Table 2: Classification and provisioning for any other loans including staff loans.

Classification	Number of days overdue	Minimum provision amounts
Pass or Acceptable	0 - 59	1%
Watch or Special mention	60 - 89	2%
Substandard	90 - 179	10%
Doubtful	180 - 359	50%
Loss	+360	100%

For any other loan restructured, including a staff loan, a consistent performance of 6 months, where both the interest and principal amount is fully paid, must be established before such a loan can be classified as either pass or special mention.

13. Permissible Activities

A microfinance banking institution may engage in any or all of the following activities, subject to any limitation imposed by the Bank:

- 13.1 Acceptance of deposits;

- 13.2 Provision of loans, of which at least 70.0 percent of the total number of loans must be micro credit loans or small enterprises loans;
- 13.3 Provision of domestic and international remittances and funds transfers;
- 13.4 Maintenance and operation of accounts with banking institutions;
- 13.5 Receipt of interest as may be agreed between a microfinance banking institution and its clients; and
- 13.6 Any other activities as the Bank may from time to time determine in terms of the Act.

14. Prohibited Activities

A microfinance banking institution must not, without the approval of the Bank, whether alone or with others, engage in the following activities and dealings:

- 14.1 Engaging directly or indirectly for its own account or on a commission basis, in trade, merchandise, mining, fisheries, commerce, industry, or agriculture, except in the course of the satisfaction of debts due to it for the purpose of carrying on its business;
- 14.2 Insurance underwriting;
- 14.3 Acquiring or holding, directly or indirectly, in the aggregate, any part of share capital of, or make any capital investment or otherwise have any interest in enterprises engaged in trade, commerce, industry or agriculture in excess of 25 percent of its core capital, except in the course of the satisfaction of debts due to it. However, in such a case, all shares and interests shall be disposed of at the earliest reasonable opportunity but no longer than 5 years;
- 14.4 Underwriting and placement of securities;
- 14.5 Engaging in trust operations;
- 14.6 Taking deposits and lending in foreign currencies that are not legal tender in Namibia;
- 14.7 Trading in foreign currencies;
- 14.8 Purchasing a non-performing or low-quality loan from any of the directors, officers or affiliates of the institution or their related interests;
- 14.9 Dealing in derivatives;
- 14.10 Securitisation; and
- 14.11 Any other activities as the Bank may determine in terms of the Act.

15. Application of other Determinations

The following Determinations will apply to a microfinance banking institution in so far as may be necessary:

- (a) Determination on the Appointment, Duties and Responsibilities of Directors, Principal Officers, and Executive Officers of Banking Institutions and Controlling Companies (BID-1);

- (b) Determinations on Asset Classification, Suspension of Interest, and Provisioning (BID-2);
- (c) Determination on Liquidity Risk Management (BID-6);
- (d) Determination on Minimum Local Assets (BID-7);
- (e) Determination on Fees Payable in terms of Section 85 (7) (BID-8) (Fees payable);
- (f) Determinations on the Appointment, Duties and Responsibilities of Independent Auditors (BID-10);
- (g) Determination on the Disclosure of bank charges, fees and commissions (BID-13);
- (h) Determination on minimum insurance for banking institutions (BID-14);
- (i) Determination on Public Disclosures for Banking Institutions (BID-18);
- (j) Determination on Cloud Computing (BID-19);
- (k) Determination on the Fit and Proper Test for Substantial and Prospective Substantial Shareholders of Banking Institutions and controlling companies (BID-23);
- (l) Determination on Consolidated Supervision (BID-24);
- (m) Determination on the Imposition of Administrative Fines (BID-25);
- (n) Determination on Priority of Claims (BID-26);
- (o) Determination on Information Security (BID-30);
- (p) Determination on Outsourcing in Banking Institutions (BID-34); and
- (q) Any other Determination as the Bank may deem necessary from time to time.

16. Proportionality

16.1 A microfinance banking institution may apply to the Bank for exemption from Determinations or certain requirements in the Determinations listed under paragraph 15 above, except for the following Determinations:

- 16.1.1 Determination on the Appointment, Duties and Responsibilities of Directors, Principal Officers, and Executive Officers of Banking Institutions and Controlling Companies (BID-1);
- 16.1.2 Determination on the Fit and Proper Test for Substantial and Prospective Substantial Shareholders of Banking Institutions and controlling companies (BID-23);
- 16.1.3 Determinations on the Appointment, Duties and Responsibilities of Independent Auditors (BID-10);
- 16.1.4 Determination on the Disclosure of Bank Charges, Fees and Commissions (BID-13);
- 16.1.5 Determination on Information Security (BID-30);

16.2 An application for exemption made in terms of paragraph 16.1 must be accompanied by the following information:

- 16.2.1 A detailed impact analysis on cost of compliance with the specified requirements that the microfinance banking institution is seeking exemption from;
- 16.2.2 The impact and benefit of such exemption on the customers, if any; and
- 16.2.3 The risk management or substitute measures to be adopted by a microfinance banking institution to ensure that the potential risk that would have been addressed through the requirements of the Determination is managed and mitigated prudently.

17. Reporting Requirements

17.1 A microfinance banking institution must submit all returns relating to Portfolio Quality and Loan Loss Provisioning on a quarterly basis.

- 17.2 A microfinance banking institution must submit all returns relating to liquidity, capital, asset quality, asset concentration and any other returns issued in accordance with this Determination or as the Bank may specify in a Notice issued under Section 3 of the Act.

18. Regulatory Authorities and Bodies

- 18.1 Every microfinance banking institution that is authorised to conduct business in Namibia by the Bank under section 12 of the Banking Institution Act, 2023 must be a member of the Deposit Guarantee Scheme and remains a member for as long as it is authorised conduct business under section 12 of the Banking Institutions Act, 2023. A microfinance banking institution must comply with the Namibia Deposit Guarantee Authority's regulatory and supervisory requirements, including reporting obligations, participation in resolution frameworks and facilitating supervisory activities.
- 18.2 A microfinance banking institution must comply with directives, regulations and guidelines issued by other relevant regulatory bodies in Namibia provided that such directives, regulations and guidelines are not in conflict with the Banking Institutions Act of 2023.

19. Consumer Protection and Fair Treatment of Customers

- 19.1 A microfinance banking institution licensed to conduct microfinance business in Namibia must comply with the Regulations Relating to Unfair terms in Transactions or Contracts between Banking Institutions and Customers or General Public published as Government Notice No. 296 in the Government Gazette No. 7395 on 20 November 2020, and any amendments made thereto.
- 19.2 A microfinance banking institution –
- 19.2.1 must pay due regard to the interest of its customers and treat them fairly;
 - 19.2.2 must not require a customer or a borrower to sign any blank or incomplete documents, inclusive of an acknowledgment of debt or a consent to judgment or any document in terms of which a customer or borrower will incur liabilities or waive any legal rights, during the application process or at the conclusion of a transaction or use such documents for any purpose; and
 - 19.2.3 must not provide a loan to a person unless an affordability assessment clearly demonstrates the ability of a customer or borrower to service the loan having regard to all his or her existing obligations.

PART IV: CORRECTIVE MEASURES

- 20. Remedial Measures** – If a microfinance banking institution fails to comply with these Determinations, then the Bank may pursue any remedial measures as provided under the Act or any other measures the Bank may deem appropriate in the interest of prudent banking practices.

PART V: EFFECTIVE DATE

- 21. Effective Date** – This Determination comes into effect on the date of publication in the *Gazette*.

Questions relating to these Regulations should be addressed to the Director: Banking Supervision Department, Bank of Namibia, telephone number: +264 61 2835041.
