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LEGAL NOTICE NO. 198 of 2000

Financial Institutions (Internal Control Systems) Regulations 2000

In exercise of the powers conferred upon the Commissioner of Financial Institutions by section 71 of the Financial Institutions Act 1999¹, The Commissioner hereby makes the following regulations —

PART I
PRELIMINARY

Citation and Commencement

1. These Regulations may be cited as the Financial Institutions (Internal Control Systems) Regulations 2000 and shall come into operation on the date of publications in the Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires —

- (a) “Board of Directors” means the Board of Directors of a financial institution;
- (b) “Senior Management” means the principal officers of a financial institution; and
- (c) other words used have the same meanings assigned to them in the principal law.
- (d) to require financial institutions to establish and maintain a system of strong internal controls which shall serve as a foundation for their safe and sound operation; and

Objectives

3. These Regulations are meant to:-

- (a) require financial institutions to establish and maintain a system of strong internal controls which shall serve as a foundation for their safe and sound operation; and
- (b) provide a useful framework for evaluating a financial institution’s internal control systems.

Application

4. These Regulations shall apply to all financial institutions in Lesotho.

PART II
REGULATORY REQUIREMENTS

Internal control framework

5. The Board of Directors shall ensure that an adequate and effective system of internal controls is established and maintained.

Essential elements of a sound internal control system

6. A licensed financial institution's internal controls system shall include as a minimum —

- (a) risk recognition and assessment;
- (b) controls activities such as top reviews, activity controls, physical controls, exposure limits, approvals and authorisation and verifications and reconciliations;
- (c) appropriate segregation of conflicting duties and responsibilities;
- (d) adequate and comprehensive internal financial, operational and compliance data, as well as external market information;
- (e) reliable management information systems which shall be secure, monitored independently and supported by adequate contingency arrangements;
- (f) effective channels of communication — upward, downward and across the organisation; and
- (g) continuous monitoring and evaluation of the effectiveness of the internal control system.

Board of Directors' responsibilities

7. The Board of Directors shall include in its activities—

- (a) periodic discussions with management concerning the effectiveness of the internal control system;
- (b) a timely review of evaluations of internal controls made by management, internal auditors and external auditors;
- (c) periodic efforts to ensure that management has promptly followed up on recommendations and concerns expressed by auditors or the Central Bank on internal control weaknesses; and
- (d) a periodic review of the appropriateness of the financial institution's strategy and risk limits.

Audit Committee

8. The Audit Committee which is required to be established under section 38 of the Financial Institutions Act 1999 and whose functions are defined under section 39 of the same Act shall comprise of members who have knowledge of financial reporting and internal control.

Senior Management

9. Senior Management shall have responsibility for—
- (a) implementing strategies and policies approved by the Board;
 - (b) developing processes that identify, measure, monitor and control risk incurred by the financial institution;
 - (c) maintaining an organisational structure that clearly assigns responsibility, authority and reporting relationships;
 - (d) ensuring that delegated responsibilities are effectively carried out;
 - (e) setting appropriate internal control policies; and
 - (f) monitoring the adequacy and effectiveness of the internal control system.

Control culture

10. The Board of Directors and Senior Management are responsible for promoting high ethical and integrity standards, and for establishing a culture within the organisation that emphasises and demonstrates to all levels of personnel the importance of internal controls.

Internal Audit

11. (1) A licensed financial institution shall establish an effective and comprehensive internal audit of the internal control system carried out by operationally independent, appropriately trained and competent staff.

(2) The internal audit function, as part of the monitoring of the system of internal controls, shall report directly to the Board of Directors or its Audit Committee, and to Senior Management.

(3) An annual audit programme shall be prepared indicating audit scope and procedures and the timetable for conducting the audit.

Internal control deficiencies

12. (1) Internal control deficiencies, whether identified by business line, internal audit, or other control personnel, shall be reported in a timely manner to the appropriate management level and addressed promptly.

~~(2) Material internal control deficiencies shall be reported to Senior Management and the Board of directors.~~

Frauds and losses

13. (1) Financial institutions shall report to the Central Bank, within 30 days from quarter-end, a list of actual and attempted frauds and losses using the form set out in the Schedule.

(2) The Central Bank may convene a meeting to discuss rampant cases of fraud and losses for purposes of sharing experiences and taking preventive measures.

PART III**SUPERVISORY ACTION****Failure to comply**

14. If a financial institution fails to comply with these Regulations in a flagrant manner which results or threatens to result in an unsafe and unsound operation, the Central Bank may pursue any remedial measures at its disposal, including requiring the financial institution to take any or all of the following measures —

- (a) the infusion of additional capital to absorb potential losses;
- (b) suspend lending, investment or deposit-taking operations;
- (c) restrict declaration or payment of dividends or remittance of profits; and
- (d) prohibit payment of bonuses, salary incentives, management fees or other discretionary compensation to directors or officers.

Repeal

15. The Financial Institutions (Internal Control Systems) Regulations 2000ⁱⁱ are repealed.

S. M. Swaray
Government, Central Bank of Lesotho

LEGAL NOTICE NO. 199 OF 2000

Financial Institutions (Anti-Money Laundering) Guidelines, 2000.

In exercise of the powers conferred upon the commissioner of Financial Institutions by section 71 of the Financial Institutions Act 1999¹. The Commissioner prescribes the following guidelines.

PART I
PRELIMINARY

Citation and Commencement

1. These Guidelines may be cited as the Financial Institutions (Anti-Money Laundering) Guidelines 2000 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Guidelines unless the context otherwise requires-
 - (a) “money laundering” means any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources;
“suspicious transaction” refers to a transaction which is inconsistent with a customer’s known legitimate business or personal activities or with the normal business for that type of account;
“the Bank” means the Central Bank of Lesotho.
 - (b) other words used shall have the same meaning assigned to them in the Financial Institutions Act 1999.

Objectives

3. These Guidelines are meant-
 - (a) to require financial institutions to establish and maintain specific policies and procedures to guard against the use of the financial system for the purpose of money laundering;
 - (b) to enable financial institutions to recognise suspicious transactions and to provide an audit trail of transactions with customers who come under investigation; and
 - (c) to require financial institutions to submit reports and to disclose information on large cash transactions and suspicious transactions.

SCHEDULE

(regulation (13)(1))

REPORT ON FRAUDS AND LOSSES

 (Name of Financial Institution)

For quarter ending

(Amounts to the nearest thousand)

Date	Persons involved	Amount	Brief Description of Fraud/Loss
I. Actual			
II. Attempted			

Certified Correct:

 Name

 Signature

 Position

 Date

in the country where the registered offices of those bodies or persons are located, shall ensure that they comply with these Guidelines.

Records on Customer Identification

8. Financial institutions shall keep records on customer identification such as copies or records of official identification documents like passports, identity cards, driving licences or similar documents, account files and business correspondence for at least 10 years after an account is closed, and these documents shall be made available to law enforcement authorities in the context of relevant criminal prosecutions and investigations;

Maintenance of records

9. (1) Financial institutions shall maintain, for a minimum period of 10 years, all necessary records to enable them to comply with information requests from competent authorities.

(2) Such records shall be kept in sufficient form to permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide evidence for prosecution in criminal proceedings.

Review of unusual transactions

10. Financial institutions shall review and properly document the background and purpose of all complex, unusually large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

Report on suspicious transactions

11. If a financial institution suspects that any transaction by a customer may form part of a criminal activity or otherwise constitutes a suspicious transaction, it shall report such suspicions to the law enforcement authorities and the Bank forthwith.

Secrecy

12. Financial institutions and their directors and employees shall not warn their customers when information on suspicious transactions relating to them is being reported to the law enforcement authorities and the Bank.

Co-operation with law enforcement authorities

13. Financial institutions which report their suspicions in accordance with guideline 11, shall follow the instructions from, and otherwise co-operate with, the law enforcement authorities and Bank.

Dealings with foreign persons

14. Financial institutions shall exercise reasonable caution in their business and transactions with persons, including companies and financial institutions from other countries.

Application

4. These Guidelines shall apply to all financial institutions in Lesotho.

PART II**ANTI-MONEY LAUNDERING MEASURES****Programmes against money-laundering**

5. (1) Financial institutions shall develop programmes against money laundering.
- (2) The programmes shall include, but shall not be limited to-
- (a) internal controls, policies, and procedures including the designation of compliance officers at management level;
 - (b) customer identification procedures;
 - (c) record keeping;
 - (d) recognition and reporting of suspicious transactions; and
 - (e) education and training of relevant employees.

Anonymous accounts

6. (1) Financial institutions shall not keep anonymous accounts or accounts in fictitious names.

(2) Financial institutions are required to identify, on the basis of an official or other reliable identifying document and record, the identity of their customers, either occasional or usual, when establishing business relations or conducting transactions.

(3) Without derogating from the generality of sub-guideline (2), that sub-guideline shall apply, in particular-

- (a) to the opening of accounts or passbooks;
- (b) to fiduciary transactions;
- (c) to the renting of safe-deposit boxes;
- (d) to the use of safe custody facilities; and
- (e) to large cash transactions.

Disclosure of identity

7. (1) In cases where a customer or client of a financial institution opens an account or conducts a transaction on behalf of another person, the financial institution shall require that customer or client to disclose the true identity of the person on whose behalf the account is opened or the transaction is conducted.

(2) Without derogating from the generality of sub-guideline(1), registered companies, corporations, associations, partnerships, foundations, trust, attorney trusts or funds or other bodies or persons which or who do not conduct any commercial or manufacturing business or any other form of commercial operation

manner, the Bank may pursue any remedial measures at its disposal, including the imposition of penalty on the financial institution or any of its directors, officers or staff, under section 29 of the Financial Institutions Act 1999.

Repeal

20. The Financial Institutions (Anti-Money Laundering) Guidelines, 2000ⁱⁱ are repealed.

S. M. Swaray
Governor, Central Bank of Lesotho

- i Act No. 6 of 1999
- ii L.N. 144 of 2000

Branches and subsidiaries

15. Financial institutions shall ensure that provisions under this part are also applied to their branches and subsidiaries, especially in countries which do not, or insufficiently, apply these Guidelines.

Staff awareness and training

16. Financial institutions shall take appropriate measures to-
- (a) make employees aware of internal controls, policies and procedures put in place to prevent money laundering including those for identification, record keeping and internal reporting; and
 - (b) provide training to all staff dealing with customers or their transactions on a general appreciation of the background to money laundering and on the required reporting of any suspicious transactions.

PART III**REPORTING REQUIREMENT****Large cash transactions**

17. (1) Financial institutions shall report, within 30 days from month-end, any transaction above M100,000 involving cash or "near cash" such as travellers cheques, bearer bonds and other easily negotiable monetary instruments to the Bank by using the Large Cash Transactions Report as set out in Schedule I.

(2) Financial institutions may apply, in writing, to the Bank for exemption from the provisions of sub-guideline (1) in respect of certain persons or organisations.

Suspicious transactions

18. Financial institutions shall report any knowledge or suspicion of money laundering related to a specific customer or transaction to the Bank forthwith by using the Suspicious Transactions Report as set out in Schedule II.

PART IV**SUPERVISORY ACTION****Failure to comply**

19. If a financial institution fails to observe these Guidelines in a flagrant

Date Due: 30 days from
Month End

Schedule I

LARGE CASH TRANSACTIONS REPORT

(Guideline 17 (1))

(Name of Financial Institution)

For the month ending _____

(Amounts to the nearest thousands)

Name of Client	Account Number	Transaction Date	Location	Amount	Particulars of Transaction*

Reported by: _____ Signature: _____ Position: _____

Date: _____

* * Transaction shall include deposits, withdrawals, transfers, travellers cheques, etc.

Schedule II

SUSPICIOUS TRANSACTIONS REPORT

(Guideline 18)

(Name of Financial Institution)

Name of Client	Account Number	Date	Amount Involved	Nature of Transaction (Deposit/ Withdrawals etc)	Location	Action Taken	Reason for suspicion

Reported by: _____ **Signature:** _____ **Position:** _____

Date: _____

- (b) have an articulated and specific liquidity management policy which shall include such crucial elements of strong liquidity management as, good management information systems, central liquidity control, analysis of net funding requirements under alternative scenarios, diversification of funding sources and contingency planning.

(2) In connection with subregulation (1), all banks are required to maintain minimum reserve balance and liquid assets as specified in these Regulations.

(3) A weekly report on liquidity requirement as set out in the Schedule shall be submitted to the Central Bank not later than Tuesday of the following week.

(4) All banks shall at all times maintain reserve balance and liquid assets amounting to not less than three percent (3%) and twenty five per cent (25%), respectively, of the aggregate of —

- (a) deposit liabilities;
- (b) balances due to banks abroad
- (c) other liabilities for borrowed money (excluding Central Bank and Government borrowings).

(5) The minimum reserve balance shall be maintained by way of deposits with the Central Bank and no interest shall be paid by the Central Bank on such reserve account.

(6) Liquid assets shall consist of freely transferable assets, unencumbered by any charge or lien whatsoever, of the following classes —

- (a) notes and coins that are legal tender in Lesotho;
- (b) deposit balances with Central Bank of Lesotho (excluding reserve balance);
- (c) balances due from banks in Lesotho; and
- (d) treasury bills and other securities issued by the Government or the Central Bank of Lesotho with remaining maturities of 370 days or less.

(6) The computation of minimum reserve balance and liquid assets shall be done on a daily basis and reported on a weekly basis. The reporting week starts on Thursdays and ends on Wednesdays. Any deficiency in daily liquidity position may be offset against excess liquidity in any other days within the reporting week, provided, however, that the weekly average reserve balance and liquid assets holdings shall not fall below 3% and 25%, respectively, of the weekly average respectively, of the weekly average deposits and other liabilities subject to the liquidity requirement.

Supervisory action

6. (1) If a bank fails to comply with the liquidity requirements, it shall

LEGAL NOTICE 200 OF 2000

Financial Institutions (Liquidity Requirements) Regulations 2000

In exercise of the powers conferred upon the Commissioner of Financial Institutions by Sections 24 and 71 (2) (f) of the Financial Institutions Act 1999¹, the Commissioner makes the following Regulations —

PART I**PRELIMINARY****Citation and commencement**

1. These Regulations may be cited as the Financial Institutions (Liquidity Requirements) Regulations 2000 and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires, words used have the same meanings assigned to them in the principal law.

Objectives

3. These Regulations are intended to ensure that a bank maintains adequate liquidity and require frequent reporting and monitoring of liquidity position not only for prudential reasons but also for purposes of implementing macro-economic policies.

Application

4. These Regulations apply to all banks licensed to operate in Lesotho.

PART II**REGULATORY REQUIREMENT****Liquid assets ratio**

5. (1) A bank shall—

- (a) manage its assets, liabilities and off-balance sheet contracts with a view to meeting fully its contractual commitments; and

Name of the Financial Institution _____

For the Week ending _____

(Amounts to the nearest thousand)

	Due Date: Tuesdays							WEEKLY AVERAGE
	THURS	FRI	SAT	SUN	MON	TUES	WED	
I. REQUIRED LIQUIDITY								
1. Demand and Call Deposits								
2. Saving Deposits								
3. Fixed Time and Special Deposits								
4. Total Deposits (I. 1 to 1.3)								
5. Balances Due to Banks Abroad								
6. Other Borrowings								
7. Base Amount (1.4 to 1.6)								
8. Required Liquidity								
9. (a) Reserve Balance (1.7 x 3%)								
10. (b) Liquid Assets (1.7 x 25%)								
II. RESERVE BALANCE AND LIQUID ASSETS HOLDING								
1. Reserve Balance with Central Bank								
2. Liquid ASSETS								
(a) Notes and Coins								
(b) Deposits with Central Bank (excluding reserve balance)								
(c) Deposits with Banks in Lesotho								
(d) T/Bills and Securities - GOL/GBL								
(e) Total Liquid Assets								

immediately report, in writing, to the Central Bank such failure and the reasons therefore.

(2) During any period of time in which a bank fails, or is unable to meet the liquidity requirements, it shall not grant any loan or credit to any person without the prior written approval of the Central Bank.

(3) A penalty based on the amount of the average weekly deficiency in the reserve balance or liquid assets, or both may be imposed by the Central Bank at a rate equivalent to twice the interest rate on 91-day treasury bills of the Government of Lesotho prevailing during the reporting week and such penalty shall be payable to the Central Bank on demand made by it within such date as it may prescribe.

Repeal

7. The Financial Institution (Liquidity Requirements) Regulations 2000ⁱⁱ are repealed.

S. M. Swaray
Governor, Central Bank of Lesotho

- i Act No. 6 of 1999
- ii L.N. No. 145 of 2000

