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THE LICENSING POLICY UNDER THE BANKING ACT (CAP. 46:04)

1. INTRODUCTION

(a) Purpose

- 1.1 This policy paper sets out the financial institutions licensing requirements of the Bank of Botswana (Bank) in accordance with Section 6 of the Banking Act (CAP: 46:04) and Regulations, 1995. It repeals the Licensing Policy BSD 1990/1 dated July 20, 1990 issued under the Financial Institutions Act (CAP: 46:04).

(b) Authority

- 1.2 Section 3 (1) of the Banking Act prohibits any person from transacting banking business without a valid licence issued by Bank of Botswana. Section 2 of the Banking Act defines banking business as:

(i) *“the business of accepting deposits of money repayable on demand or after a fixed period or after notice, as the case may be, by cheques or otherwise; and/or*

(ii) *the employment of deposits in the making or giving of loans, advances, overdrafts or other similar facilities, and in the making of investments or engagement in other operations authorised by law or under customary banking practice, for the account of, and at the risk of, the person or persons accepting such deposits, and includes the discounting of commercial paper, securities and other negotiable instruments for the purpose of extending loans or other credit facilities”.*

(c) Scope and Coverage

- 1.3 The Bank is empowered by the Banking Act to license and/or supervise all deposit taking financial institutions, except, however, that deposit-taking institutions established under separate statutes are not licensed by the Bank, but are subject to prudential supervision in accordance with (statutory banks and building societies) Section 53(2) of the Banking Act.

(d) General Principles

- 1.4 Applications for a banking licence to operate as a full service banking institution or as credit institution shall be considered on merit, taking into account the likely impact of any new financial institution on the existing domestic financial sector and its potential contribution to Botswana’s development. The Bank’s principal concerns, as spelled out more fully in Section 4 below, are to ensure that any new entrant to Botswana’s financial sector is adequately capitalised, well managed, competitive and pursues business strategies that are responsive to local needs, in a sound and sustainable manner.

- 1.5 To protect the interests of depositors, the Bank ensures that new entrants into the banking system as well as existing banks, adhere to regulatory and supervisory requirements that enhance the safety and soundness of the banks and the system as a whole.
- 1.6 No banking institution shall commence banking business until it has satisfied the Bank that:
- (i) its systems and procedures, including its risk management systems, are adequate to ensure compliance with the Banking Act; and
 - (ii) the persons who are entrusted with overseeing and operating the above systems and procedures are also competent to do so (fit and proper).
- 1.7 The operations of every banking institution should be directed by a board, the majority of which should be non-executive members.

2. **TYPES OF FINANCIAL INSTITUTIONS TO BE LICENSED**

2.1 In accordance with the Banking Regulations, 1995, the Bank can issue banking licenses in the different categories indicated below:

(a) **Commercial banks**

2.2 A commercial banking licence shall enable the holder to undertake conventional commercial banking business, including the following main activities:

- (i) acceptance of deposits and savings for such maturity and amounts as may be determined from time to time by the board or management of the bank;
- (ii) extension of credit in the form of loans, overdrafts, financial leasing, etc.; of short, medium and long-term maturities;
- (iii) sale and purchase or placement of securities, certificates of deposits, etc.;
- (iv) Underwriting the issuance of securities by clients;
- (v) undertaking surety and issuing of bank guarantees of an obligation to be fulfilled in monetary terms;
- (vi) sales and purchases of money market instruments on own account or on behalf of their customers;
- (vii) dealing in foreign exchange, options, futures, swaps, and in transferable securities; and
- (viii) such other conventional banking activities as may be approved by the Bank.

2.3 A commercial bank shall normally be prohibited from doing non-banking business or acquiring or holding shares in other financial institutions or any other company, except as stated under Sections 17(10) and 17(11) of the Banking Act and, more generally, activities that could undermine safety of the depositors' funds.

(b) **Discount houses**

2.4 A discount house shall be licensed to deal in short-term money market instruments readily convertible into cash. They shall be licensed to carry out the following activities:

- (i) acceptance of call deposits from financial institutions and other bona fide users of the financial system;
- (ii) borrowing and repayment on demand of money against security;
- (iii) investment in short-term money market instruments such as treasury bills, bankers' acceptances, negotiable certificates of deposit and other permitted instruments, as specified by the Bank; and
- (iv) factoring and discounting of commercial papers.

2.5 A discount house shall normally be restricted from engaging in certain activities, including the following:

- (i) buying and selling of foreign exchange;
- (ii) granting of loans to the public;
- (iii) buying or selling of goods for other institutions or the general public, other than in accordance with bankers' acceptances; and
- (iv) acquiring or holding of shares in other financial institutions or any other business, except as specified under Sections 17(10) and 17(11) of the Banking Act.

(c) **Credit institutions**

2.6 A credit institution shall primarily be involved in asset based financing. Its lending activities shall, therefore, be restricted to leasing, hire purchase, mortgage, invoice discounting, factoring and similar services, mainly to commercial businesses and households. The following are the primary services that shall be offered by a credit institution licence holder:

- (i) granting credits and loans for the purchase of equipment (hire purchase and leasing);
- (ii) provide credit for purchase of trade stock;

- (iii) factoring and discounting of invoices and other trade documents;
- (iv) deposit taking of amounts not less than P5 000 (or other amounts as may be specified by the Bank from time to time) and of not less than six months maturity;
- (v) purchase of money market instruments;
- (vi) dealing in transferable securities; and
- (vii) property financing (as may be specified by the Bank from time to time).

2.7 A credit institution shall normally be restricted from engaging in certain activities, including the following:

- (i) buying and selling of foreign exchange;
- (ii) accepting demand deposits; and
- (iii) acquiring and/or holding of shares in non-bank financial institutions and other financial institutions, except as specified under Section 17(10) and 17(11) of the Banking Act.

(d) **Investment Banks/Merchant Banks**

2.8 An Investment/Merchant banking licence shall allow or entitle the holder to carry out underwriting activities and/or brokering in the floatation of shares by publicly traded companies, as well as investment portfolio management services on behalf of pension funds, unit trusts, corporates and private individuals. Apart from the main function of providing trade finance to corporate companies, an Investment/Merchant Bank can undertake the following activities:

- (i) take short-term deposits for wholesale customers in amounts of not less than P100 000 (or such other amounts as may be specified by the Bank from time to time);
- (ii) acceptance of bills of exchange;
- (iii) granting of medium and long-term loans to companies, public corporations and individuals for commercial purposes;
- (iv) offering of investment portfolio management services on behalf of pension funds, unit trusts, corporate companies and individuals;
- (v) offering of suretyship and issuing of bank guarantees; and
- (vi) provide professional advice, including arranging initial public offerings for corporates, general activities related to capital funding, mergers and acquisitions, etc., of other financial institutions.

- 2.9 Investment/Merchant Banks will be restricted from engaging in the following activities:
- (i) acceptance of savings deposits;
 - (ii) lending of money to security dealers to finance their investments;
 - (iii) maintenance of cash flow accounts/current accounts; and
 - (iv) provision of loans of less than one year maturity.
- (e) **Representative Offices**
- 2.10 A foreign bank may be granted permission to establish a representative office in Botswana. Such a licence shall normally only be granted to reputable international banking organisations headquartered in jurisdictions recognised by the Bank, and assessed to be compliant with international standards for effective supervision of banks. A representative office shall be prohibited from carrying out traditional financial intermediation business and its activities shall be restricted to the following:
- (i) advertising, marketing and promotion business on behalf of the foreign parent bank; and
 - (ii) agency services aimed at facilitating business transactions between domestic entities and the foreign parent bank.

3. MINIMUM LEGAL DOCUMENTS FOR INSTITUTIONS LICENSED UNDER BANKING ACT

- 3.1 In accordance with Section 8(1) of the Banking Act, no applicant shall be granted a licence unless it is incorporated under the Companies Act (CAP. 42:01) and limited by share capital, and the Bank is satisfied that the recipient of a banking licence is fit and proper.
- 3.2 Section 6(1)(b) of the Banking Act requires applicants to submit the following documents to the Bank as proof of its legal status:
- (i) certified copies of the applicant's certificate of incorporation in Botswana; and
 - (ii) Memorandum of Agreement and Articles of Association, financial documents and data and such other corporate documents, in English, as the Bank may require.

4. MINIMUM CRITERIA FOR AUTHORISATION AND OWNERSHIP OF FINANCIAL INSTITUTIONS

- 4.1 The Bank shall, in accordance with Regulation 3 of the Banking Regulations, 1995 and Section 6(1) of the Banking Act, prescribe documents and data, to be

availed upon application for a banking licence. Section 8 of the Banking Act requires the Bank to determine minimum prudential requirements and to be fully satisfied with all information necessary in processing an application for a banking licence, as follows:

- (i) initial capital and capital management strategies;
- (ii) adequate liquidity management;
- (iii) governance, risk management systems/procedures;
- (iv) Board and Management;
- (iv) business operation plan;
- (v) market research (competition/market size and scope);
- (vi) local shareholding and incorporation;
- (vii) sound provisioning methodology;
- (ix) accounting policies and internal control systems;
- (x) annual accounts;
- (xi) consolidated accounts and supervision; and
- (xii) organisational structure.

(a) **Initial Capital and Capital Management Strategies**

Minimum Capital and Capital Adequacy Requirements

- 4.2 Licensed institutions shall be subjected to varying minimum capital requirements according to the different classes as discussed above. These minimum requirements, which can be varied at the discretion of the Bank in consultation with the Minister, in terms of Section 8(3) of the Banking Act, may be changed subject to twelve months notice as set out in Section 13(8) of the Banking Act.
- 4.3 The key purpose of capital is to provide a stable resource base to absorb any likely losses incurred by an institution. Capital must, therefore, be permanently available at all times to meet losses as and when they occur. Accordingly, proposed shareholders must demonstrate ability to provide “own funds” and raise such other long term funds, in such amounts and of such maturity as may be determined by the Bank to be acceptable for determining the capital adequacy of the licensed institution.

- 4.4 In addition to the initial capital base, an applicant shall be required to demonstrate availability of back-up capital as may be required by the Bank of Botswana for prudential purposes as stipulated under Regulation 3(1)(i) of the Banking Regulations. The amount of the back-up capital requirement would depend on the nature and size of the envisaged business operations, the institution's strategy and the initial amount of capital.
- 4.5 The minimum required capital for any financial institution shall be the greater of such amount as may be prescribed, or such percentage of its assets, or group of assets, and other risk exposures as may, from time to time, be determined by the Bank.
- 4.6 The statutory minimum unimpaired capital ratio is set at 8 percent. However, the 8 percent is a statutory floor; and the Bank has established what it considers to be a more appropriate capital adequacy level for the market, at 15 percent. The key issue is that a bank must maintain sufficient capital and other financial resources to match the nature and scale of its operations and the risks associated with them. Therefore, all licensed institutions shall be required to observe this prudential minimum requirement. The prescribed minimum initial capital requirements for the various licence categories are currently as follows:

Commercial Banks and Investment/Merchant Banks

- 4.6.1 The greater of P5 million or 15 percent of the risk-weighted assets and other risk weighted exposures;

Discount Houses and Credit Institutions

- 4.6.2 The greater of P2.5 million or 15 percent of the risk-weighted assets and other risk-weighted exposures;

Representative Offices

- 4.6.4 The minimum capital adequacy requirement shall not apply to a Representative Office.

(b) Adequate Liquidity Management

- 4.7 A bank shall be required to maintain in Botswana, on a daily basis, liquid assets to be expressed as such percentage of the bank's deposits and all other similar liabilities, computed on a basis to be determined, from time to time, by the Bank, as stated under Section 16(1) and (2) of the Banking Act, in conjunction with Section 8(2) of the Banking Regulations, 1995.
- 4.8 The Bank prescribes a liquid asset to prior month's deposit liabilities ratio of 10 percent for commercial banks and 3 percent for credit institutions and investment/merchant banks. The ratio for discount houses shall be at 80 percent, because they deal in short-term money market instruments that have to be readily convertible into cash. Financial institutions are required to establish robust

internal control systems to monitor and control maturity mismatches between their liabilities and assets and, in general, meet their maturing obligations or fund other business requirements in a safe and prudent manner.

(c) **Governance, Risk Management Systems/Procedures, Including Provisioning Policies**

- 4.9 A bank shall, at all times, ensure that:
- (i) comprehensive risk management systems, commensurate with the scope, size and complexities of activities of each bank, including all associated risks, are in place; and
 - (ii) where the size or nature of the operations of a bank warrant it, a properly staffed internal audit function should be established and report directly to the Audit Committee, Board of Directors and senior management as stipulated under Section 23(1) of the Banking Act.
- 4.10 Banks are required to put in place such risk management systems and procedures to identify, manage, control and monitor its business and financial risks, including necessary and appropriate risk mitigation strategies or instruments.
- 4.11 A financial institution shall be required to monitor, on an ongoing basis, the risk to its business arising from its participation in payments and settlements systems.
- 4.12 Where a bank is involved in a fiduciary capacity in the management of its client's funds, it shall be required to assess, identify, monitor and control risks arising from such activities, including establishing appropriate risk mitigation strategies to adequately protect the interest of the client.

(d) **Board and Management of Financial Institutions**

- 4.13 The structure, expertise and experience of the board and senior management should relate to the type of banking operations to be undertaken by the applicant. The Bank must be satisfied that directors and senior executives are fit and proper persons and have appropriate competence and experience in financial services and banking.
- 4.14 The proposed management structure should provide for the formation of sub-committees of directors and other management structures.
- 4.15 For a foreign applicant, the analysis of a proposal for a banking licence shall take into account the financial condition and depth of managerial capabilities for the parent organisation and its reputation in other countries where it is presently operating, as well as the quality of the initial expatriate staff designated to open the bank's operations in Botswana and these shall be in accordance with the requirements set out in Section 3(1)(b) and 4(a) of the Banking Regulations. For a joint venture operation between local applicant and foreign parties, where a

foreign bank is providing management, the reputation of the foreign bank, also verified by its consolidated supervisor, shall be evaluated as closely as if it were applying on its own. Further, an assessment of commitment and availability of resources for future needs would be made.

- 4.16 For a local applicant with no technical expertise, the focus shall either be on the quality and reputation of the bank with whom a management contract is entered into (i.e., technical partner), or if no such contract exists, the qualifications and experience of individuals hired for senior positions in the financial institution.
- 4.17 Any appointment to the board of a financial institution is subject to the approval of the Bank. In this respect, each proposed candidate for board appointment shall be required to complete a Personal Questionnaire (Appendix 1). All retirements from the board shall be notified to the Bank in writing.
- 4.18 In the case of a new bank, the Bank shall view the proposed Chief Executive Officer (CEO) as one of the most important factors of the bank's chance of success. The CEO must possess skills that must be complemented by the directors' skills and fit the needs of the new bank, must be thoroughly familiar with the submitted business operating plan, should have managed a bank or similar financial institution successfully and his character and integrity should be beyond reproach.
- 4.19 The Bank may conduct background investigations of the directors, executive officers and controlling shareholders as it deems fit. The investigations may also include credit and security checks on all proposed directors and management personnel. The Bank shall require that an individual be replaced if deemed unfit for a position of trust or otherwise the application shall be rejected. (See Appendix 1 - Personal Questionnaire to be completed).

(e) **Business Operating Plan**

- 4.20 An applicant shall be required to submit an operating plan in accordance with Section 3(1)(f) of the Banking Regulations, 1995, which will indicate the new bank's prospects for future earnings based on its outline of the overall business strategy. It is in the operating plan that a bank should describe the market from which it expects to draw the majority of its business and the types of banking products it intends to offer. While it is the policy of the Bank to promote competition in the financial sector, a licence shall only be granted if the new bank is able to demonstrate sufficient knowledge of the proposed market product and, in general, ability to operate in a sound and safe manner.
- 4.21 The applicant should have clearly defined and adequately researched objectives and proposed operations which are consistent with the safety of the depositors' funds, prudent banking practices and fair trading in banking.

(f) **Market Research (Competition, Market Size and Scope)**

- 4.22 Any new financial institution shall be required to be committed and be able to provide effective competition in the banking sector. An applicant shall be required to demonstrate its plans and competency vis-à-vis existing competitors on the following:
- (i) the development on new banking business;
 - (ii) the range and quality of banking services provided;
 - (iii) costs of banking services provided (e.g., deposit and lending rates, fees and commissions);
 - (iv) the ability to service the borrowing requirements of businesses without infringing on the asset concentration constraints of the Banking Act;
 - (v) effective mobilisation of savings;
 - (vi) funding households, firms and other economic development activities in a safe, sound and prudent manner;
 - (vii) staff training and development; and
 - (viii) accessibility by the public to the banking services offered.
- 4.23 The Bank will evaluate whether the proposed bank will meet the needs of the community it intends to serve and will, therefore, have the support of that community. The bank must indicate that it has evaluated such needs as part of the operating plan and demonstrate that the services to be offered will be responsive to these needs, can be provided profitably and will be consistent with the safe and sound operation of the bank.
- 4.24 An applicant, except for discount houses, merchant banks and representative offices, shall be required to submit proposals, including timetables, for the establishment of a branch network as stated under Regulation 3(1)(g) of the Banking Regulations, 1995.
- (g) **Local Shareholding and Incorporation**
- 4.25 In accordance with Section 6(1)(b) of the Banking Act (CAP. 46:04), only an application from a company incorporated or intending to be incorporated under the Companies Act shall be considered.
- 4.26 A degree of local ownership in each financial institution shall be encouraged, hence consideration will be given to the applications providing for prospects for local participation as required under Regulation 3(1)(c) of the Banking Regulations, 1995.
- 4.27 A financial institution supervised by the Bank shall provide the Bank, once in each financial year, or at such other times as the Bank may direct, full particulars of the names of shareholders or beneficial owners of 5 percent or more of its share capital.

- 4.28 The Bank shall require from the parent bank or major shareholder of a banking subsidiary incorporated in Botswana an undertaking that the subsidiary will be in a position to meet its maturing obligations for as long as the parent/shareholder continues to hold the majority of the equity of the subsidiary.
- 4.29 Prior approval of the Bank shall be sought for the registration of any transfer of shares exceeding more than 5 percent of the shares or of the voting rights attached to shares in a financial institution.
- 4.30 The Bank shall be notified of the ultimate beneficial ownership of a shareholding that is registered in the name of a nominee and constituting more than 5 percent of the shares or of the voting rights attaching to shares in a financial institution.
- 4.31 If the bank will be part of a corporate group, the following information will be required:
- (i) organogram of the group structure, showing the relationships within the group and percentage holdings; and
 - (ii) information on the financial condition as well as the nature and activities of all members of the group structure, including parent companies, companies under common control with the bank and subsidiaries.
- (h) **Sound Provisioning Methodology**
- 4.32 As a matter of prudence, a banking institution shall be required to maintain adequate reserves for, *inter alia*, bad and doubtful debts; expected losses on both on-balance and off-balance sheet assets, including guarantees or other off-balance sheet exposures and tax liabilities. The management of a bank shall have ultimate responsibility to ensure that provisions for bad and doubtful debts are adequate and are reviewed at frequent intervals, consistent with sound credit risk management practices and generally accepted accounting principles, as per the requirements of the Banking Act (CAP. 46:04).
- 4.33 A licensed financial institution or under the Bank's prudential supervision shall be required to submit a methodology for determining the level of provisions for review by the Bank.
- (i) **Internal Controls**
- 4.34 Every financial institution under the Bank's regulatory and prudential supervision shall be required to manage its business in accordance with sound administrative as well as accounting principles and ensure that internal control procedures will provide for the effective, prudent and efficient administration of the bank's assets and liabilities. Furthermore, the Board shall be required to ensure that the internal controls and governance structures of the bank are sound and adequate for the nature and scale of the bank's operations.
- (j) **Annual Accounts**

- 4.35 The Bank may call for any information, from any bank, concerning its operations in Botswana or those of its affiliates in Botswana and subsidiaries abroad, if any, as provided for under Section 21(1) of the Banking Act.
- 4.36 In accordance with Section 19(1) and (2) of the Banking Act, a licensed institution shall be required to:
- (i) prepare, in respect of all business transacted in that year, a balance sheet as well as profit and loss account as of the last working day of its financial year, in accordance with International Financial Reporting Standards (IFRS) and in such form as the Bank may approve, audited in accordance with the provisions of Section 22 of the Banking Act, not later than three (3) months after the expiration of its financial year;
 - (ii) submit to the Bank, under Section 19(2) of the Banking Act, a copy of the audited annual accounts within fifteen (15) days after the preparation of a balance sheet and profit and loss account in accordance with the provisions of sub-section (1).
 - (iii) publish the accounts in such a manner as the Bank may direct; and
 - (iv) display, at all times, in a conspicuous place, a copy of its most recent audited balance sheet in every branch or office in Botswana.
- 4.37 Section 18(1) of the Banking Act, requires all licensed banks to keep such records in Botswana as are necessary to exhibit clearly and accurately their state of affairs in addition to explaining their transactions and financial positions to enable the Bank to determine whether the banks comply with the Banking Act. Every bank is required to keep in safe custody all such financial and other relevant information and for at least five (5) years from the date of the last entry of the financial information.

(k) **Consolidated Accounts and Supervision**

- 4.38 Licensing application by a subsidiary of an international bank or international banking group shall be considered only when the supervisory authority in the country of origin of that bank or group exercises effectively its supervisory responsibilities on a consolidated basis. In this regard, the Bank shall, in accordance with the Basel Committee Minimum Standards for Consolidated Supervision and Core Principles for Effective Banking Supervision, require that the parent bank's supervisory authority be able to comment favourably about the applicant.
- 4.39 Prior consent of the home country supervisory authority shall be obtained in respect of an application for a banking licence by an international bank, international banking group or international financial group.
- 4.40 An applicant shall be required to supply satisfactory assurance from its shareholders and, where deemed necessary, the home country supervisory authorities of the country of origin, that the applicant will be in a position to provide such additional

capital as may be required to enable it to comply with the requirements of the Banking Act, and any directives issued by the Bank. Where necessary (in jurisdiction where exchange controls are in enforce), the applicant shall also provide the Bank with written proof/approval from the monetary authority that exchange control approval would be forthcoming for the initial capital and any back up capital that may subsequently be required.

- 4.41 An application by a Botswana financial institution to establish a subsidiary in another country shall be considered only where the Bank is satisfied that it has the right to obtain from that entity whatever information it deems necessary.
- 4.42 The proposed ownership of the bank should be such that it will ensure a capacity to provide such new capital for the bank as may be required in the future. It shall be upon owners of a bank to ensure that cohesion, consistency and continuity are maintained.

(l) **Organisational Structure**

- 4.43 The applicant should be able to describe the structure of the organisation and management of the proposed bank. The structure should be suitable and proportionate to the nature, size and envisaged activities of the bank. The organisational structure should be transparent and permit supervisory authorities to understand the business as well as the locus of risks associated with each major activity. The applicant should also be able to show to the supervisor the reporting relationships between all key structures in the bank: the board of directors, permanent committees (such as audit committee), senior management officials, operational and administrative divisions and their sub-divisions.
- 4.44 The organisational structure should not be so designed as to impair the ability of the Bank and any other authority in Botswana to understand the ownership and control of the banking entity.

(m) **External Auditors**

- 4.45 Every financial institution shall, as stipulated under Section 22 of the Banking Act, appoint at its own expense, on an annual basis, a competent independent public accounting firm to audit its books and issue a comprehensive report to the Bank and shareholders of such a bank, in accordance with the requirements of the Companies Act. The audit report should be in accordance with the generally accepted accounting standards in Botswana, and any other directives as may be issued by the Bank from time to time.
- 4.46 Where a bank fails to appoint an external auditor or the report produced by the bank's appointed auditor does not satisfy the Bank, the Bank shall have the power to appoint an auditor, at the expense of the bank in question.
- 4.47 The following persons shall not be appointed as external auditors of a bank:
- (i) a director or officer of that bank, or any affiliate or subsidiary thereof;

- (ii) a person who is a partner of a director or officer of that bank, or any affiliate or subsidiary thereof;
- (iii) a person who is an employee or employer of a director or officer of that bank or any affiliate or subsidiary thereof;
- (iv) a person who, by himself, or his partner or employee regularly performs the duties of book-keeper or secretary to that bank or any of its affiliates or subsidiaries; and
- (v) any body corporate that is legally associated with such a bank or connected to any person in the management of the bank.

4.48 In addition, the Bank shall require that:

- (i) an external auditor of a financial institution shall not act for the financial institution in any capacity other than that of auditor;
- (ii) a partner in a firm of auditors of a financial institution shall not be associated with such a financial institution in any capacity other than that of an auditor and/or an ordinary customer;
- (iii) a financial institution shall notify the Bank of any proposed change of an auditor; and
- (iv) a financial institution shall not grant any form of credit facility to its external auditor without the prior written approval of its Board.

5. **SPECIFIC RULES FOR FOREIGN SUBSIDIARIES**

5.1 Subsidiaries of foreign financial institutions shall be licensed subject to the following:

- (i) the home supervisory authority gives a report that it is satisfied with respect to the prudent management and overall financial soundness of the applicant; and
- (ii) the Bank is satisfied as to the nature and scope of the supervision exercised by the home supervisory authority.

5.2 Despite assurances from the home supervisory authority, the Bank must satisfy itself of the prudence of the applicant's operations as regards business plan, internal controls, accounting and other records, staffing and management arrangements.

5.3 Once a foreign subsidiary is licensed, supervision shall be a shared responsibility between the Bank, as "host supervisor", and the relevant "home supervisor" in accordance with principles set out in the Basel Concordant.¹

¹ Principles for the Supervision of Banks' Foreign Establishments, issued in 1996.

6. REVOCATION OF A LICENCE

- 6.1 Section 11 of the Banking Act sets out grounds on which the Bank may revoke a licence. In general, the Bank’s powers shall be exercisable when there is a threat to the interests of the depositors and/or the public.
- 6.2 In general, the Bank shall call for speedy remedial action and, where necessary, employ moral suasion before revocation of a banking licence. At times, a banking licence shall be revoked even if the threat to depositors, that is, capital and liquidity shortfalls, are not immediate.
- 6.3 These guidelines shall be revised from time to time to accommodate developments in the financial system, at the discretion of the Bank of Botswana.

7. CONTACT INFORMATION

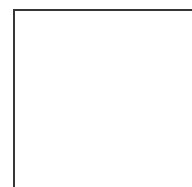
- 7.1 Application for a banking licence should be addressed to:

The Governor
Bank of Botswana
Private Bag 154
Gaborone

Enquiry:

The Director of Banking Supervision
Bank of Botswana
Private Bag 154
Gaborone
Tel: 3606354
e-mail address: mabusao@bob.bw

Appendix I



Two-passport size photo

PERSONAL QUESTIONNAIRE

To be completed and signed by the prospective directors, and all other senior management officials of applicant banks.

(This questionnaire should be submitted together with the application form to the Banking Supervision Department of the Bank of Botswana)

Name of financial institution in connection with which this form is being completed:

A. PERSONAL DETAILS

1. Individual's Full Name:

2. Date and Place of Birth:

3. Postal Address:.....

4. Nationality:

(a) Please provide details of both professional and educational qualifications with dates:

.....
.....
.....
.....

(b) Other relevant training or experience:

.....
.....
.....
.....

5. Please provide details of current memberships of relevant professional bodies, year of admission and the body's full particulars:

.....
.....
.....
.....

*** Initial all pages of Annexure 5, submit certified copy of Passport & National ID**

6. Please state in what capacity you are completing this questionnaire, i.e. as a director, senior management official (specify) or agent of the applicant bank. Please also describe the specific duties and responsibilities that you will assume, indicating whether you will be acting on the directions or instructions of any other person(s). If you are completing this form in the capacity of a director (under the Companies Act), please indicate whether you will assume executive responsibilities for the management of the bank's business or whether your appointment is of a non-executive nature.

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7. Please provide details of any other bodies corporate of which you are a director, shareholder, or manager and the countries in which these are incorporated.

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B. EMPLOYMENT HISTORY

Please provide details of your employment history (last 10 years, most recent first)

(i) (a) Name of Employer:

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(b) Address of Employer:

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(c) Facsimile Number of Employer:

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(d) Nature of Employer's Business:

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(e) Period of Employment:

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(f) Position Held and Responsibilities:

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(g) Reason for Leaving:
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(ii) (a) Name of Employer:
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(b) Address of Employer:
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(c) Facsimile Number of Employer:
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(d) Nature of Employer's Business:
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(e) Period of Employment:
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(f) Position Held and Responsibilities:
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(g) Reason for Leaving:
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(iii) (a) Name of Employer:

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(b) Address of Employer:

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(c) Facsimile Number of Employer:

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(d) Nature of Employer's Business:

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(e) Period of Employment:

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(f) Position Held and Responsibilities:

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(g) Reason for Leaving:

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Note: *If the space provided is insufficient, please attach a separate sheet of paper.*

C. REPUTATION AND CHARACTER

Please answer the following questions, giving full particulars in case a question is answered in the affirmative.

1. Have you ever been convicted in any country of any offence (other than minor motoring offences)? YES/NO
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2. Have any legal proceedings been brought against you in relation to your activities, including the provision of banking or financial services in any country? YES/NO
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3. Are you the subject of any criminal or civil proceedings, not yet determined, in any country? YES/NO
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4. Have you ever been censured, suspended, fined or been the subject of any other disciplinary action by any banking supervisory or financial regulatory authority, professional body, government agency or stock exchange? YES/NO
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5. Have you at any time in the previous ten years been refused or had withdrawn any authorisation, licence or membership by any such body, organisation, association or authority as in 4 above, to carry on banking, or any form of financial investment? YES/NO
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6. Have you resigned from such body, organisation, association or authority, as in 4 above, at any time during the last ten years or decided after making your application, not to proceed with it? YES/NO

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7. Have you ever been the subject of an internal disciplinary enquiry? YES/NO

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8. Have you ever knowingly been the subject of an investigation into allegations of misconduct or malpractice in any country in connection with your activities, including the provision of banking or any financial investment opportunity? YES/NO

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9. Have you ever been disqualified by a court of law from acting as a director of a bank or from acting in the management or conduct of the affairs of any bank or any other company or partnership? YES/NO

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10. Have you ever been in the management of a bank or any other enterprise, which has been liquidated/failed? YES/NO

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11. Has any bank or financial institution of which you were at the time a director or in whose management you were at the time involved, been put into compulsory liquidation, had a receiver or administrator appointed or entered into any arrangements with its creditors or been convicted of any criminal offence? YES/ NO

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12. Have you failed to satisfy any debt adjudged, due and payable by you as a judgement debtor under an order of a court of law in any country or made any compromise arrangement with your creditors within the last ten years? YES/NO

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13. Have you been declared bankrupt by any court in any country or have you ever entered into a composition with your creditors? YES/NO

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14. Have you been dismissed from any office or employment or barred from entry to any profession or occupation by virtue of professional misconduct? YES/NO

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15. In carrying out your duties, will you be acting on the directions or instructions of any other person(s) or within certain parameters? If so, please give full particulars. YES/NO

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D. OTHER RELEVANT INFORMATION

Please state any other information, which you may wish to disclose.

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(If the space provided is insufficient, please attach a separate sheet of paper)

E. SOURCES OF INFORMATION

Please note that the Bank of Botswana may approach all former employers listed under B above. In addition, you are requested to provide below other sources of information such as business associates, banks, banking supervisory and financial regulatory authorities, etc., which may be approached directly by the Bank of Botswana, for the purpose of obtaining appropriate references.

Full particulars including name, address and facsimile number of the above sources as well as a contact name, should be provided below:

(a) Source _____ of _____ Reference: _____
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Relationship with Applicant:

Contact Name :

(if the source of reference is a company)

Occupation:

(if the source of reference is a natural person)

Address:.....

Telephone and Facsimile No:.....

(b) Source of Reference:

Relationship with Applicant:

Contact Name:

(if the source of reference is a company)

Occupation:

(if the source of reference is a natural person)

Address:

Telephone and Facsimile No:

(c) Source of Reference:

Relationship with Applicant:

Contact Name:
(if the source of reference is a company)

Occupation:
(if the source of reference is a natural person)

Address:

Telephone and Facsimile No:

(d) Source of Reference:

Relationship with Applicant:

Contact Name:
(if the source of reference is a company)

Occupation:.....
(if the source of reference is a natural person)

Address:

Telephone and Facsimile No:

F. DECLARATION/LETTER OF AUTHORISATION

(a) This declaration must be signed by the individual already appointed/to be appointed by:

.....
(Please insert name of bank)

I declare that the information supplied in this questionnaire is complete and correct. I also agree to provide the Bank of Botswana with any supplementary information and/or clarifications, it may require, in connection with the completion of this questionnaire.

I, hereby, irrevocably authorise the Bank of Botswana as well as its officers or employees to obtain and/or exchange information, as deemed necessary by them, with any third party such as banks, my present and past employers, foreign banking or financial or insurance supervisory/regulatory authorities etc for the purpose of determining my fitness and properness in providing banking services to the public.

Signature:

Date:.....

- (b) This declaration must be completed by the banking institution, which has already appointed/intends to appoint the above individual.

We intend to employ Mr/Mrs/Ms/Dr

.....

(Full name)

As a Director/Chief Executive/Manager/Principal Officer/Senior Management Official
(delete whichever is irrelevant)

We believe that, on the basis of our due diligence enquiries, he/she is a fit and proper person to be employed by a bank.

For and on behalf of:

(Name of banking institution)

Authorised signature

(Full name and title)

Date:.....

SPECIMEN "LETTER OF AUTHORISATION" FOR THE EXCHANGE OF INFORMATION

(To be typed on the applicant bank's letterhead)

The Governor
Bank of Botswana
Private Bag 00154
GABORONE

Date:

Dear Sir/Madam

We hereby authorise the Bank of Botswana as well as its officers or employees who are responsible for the inspection and supervision of (name of applicant bank) activities from and within Botswana to disclose, as deemed necessary by the Bank, to our home banking supervisory authority [name(s) of home banking supervisory authority (ies)] any information on our activities, including accounting entries, transactions, correspondence and matters relating to our creditors, debtors and customers in general.

Provided that for the purpose of this authorisation, any information supplied by the Bank of Botswana to our home banking supervisory authority shall be limited to that which is necessary for banking inspection and banking supervision purposes and shall not include the names of our depositors.

This authorisation remains valid and we shall not revoke it, as long as (name of bank) holds a valid (class of bank) banking licence under Botswana banking laws.

We also hereby authorise the Bank of Botswana to request from our home banking supervisory authority and its officers or employees responsible for the inspection and supervision of our bank, whenever you consider it appropriate, to supply to the Bank of Botswana, subject to the same conditions as outlined in the second paragraph above, similar information on our bank's/parent bank's activities outside Botswana.

Yours faithfully

.....
Authorised Signatory

.....
Authorised Signatory

EXTRACT FROM THE MINUTES OF THE BOARD OF DIRECTORS' MEETING OF THE APPLICANT BANK

Extract from the Minutes of the Board of Directors' Meeting of (applicant bank's name) Held at (place of meeting) on (date)

"Resolved that with the permission of the Bank of Botswana, (name of applicant bank), subsidiary of our bank, be established in Botswana to operate in accordance with the laws and regulations governing the establishment and operation of (class of banks) banks in Botswana and that a "Letter of Comfort" be granted to the Bank of Botswana, in the form appended to these minutes. [name(s) of authorised signatory(ies)] is, hereby, authorised to sign the said "Letter of Comfort" for and on behalf of our bank".

Certified True Copy

.....
(Company's Secretary)

.....
Name

.....
Title

EXTRACT FROM THE MINUTES OF THE BOARD OF DIRECTORS' MEETING OF THE APPLICANT BANK'S PRINCIPAL, PARENT BANK AND/OR CONTROLLING SHAREHOLDER (S)

Extract from the Minutes of the Board of Directors' Meeting of (name of applicant bank's principal, parent bank and/or controlling shareholder) Held at (place of meeting) on (date)

"In view of the application made by (applicant bank's name) on (date) for the establishment in Botswana of (class of bank) bank, in accordance with the Botswana banking law, directives and prudential guidelines governing the establishment and operation of (class of banks) banks it is resolved that a "Letter of Comfort" be granted to the Bank of Botswana in the form appended to these minutes. Name(s) of authorised signatory(ies)] is, hereby, authorised to sign the said "Letter of Comfort" for and on behalf of our Board".

Certified True Copy

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(Company's Secretary)

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Name

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Title