BANKING ACT

(CAP. 44:01)

BANKING (FOREIGN CURRENCY LENDING RATIO) DIRECTIVE, 2018

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IN EXERCISE of the powers conferred by sections 11 and 38 of the Banking Act, I, DR. DALITSO KABAMBE, Registrar of Financial Institutions, make the following Directive—

Citation

1. This Directive may be cited as the Banking (Foreign Currency Lending Ratio) Directive, 2018.

Interpretation

2. In this Directive, unless the context otherwise requires—

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"Act" means the Banking Act;

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"bank" has the meaning ascribed to that term in the Banking Act;

"Board of Directors" means the highest body of authority in a banking institution responsible for strategically guiding the banking institution, effectively monitoring management, and properly accounting to shareholders;

"Executive Officer" means an officer at the most senior level of the management of a banking institution whether or not he or she is a director who effectively manages the institution;

"Foreign Currency Deposit" means any deposit of a customer which is denominated in a currency other than the Malawi Kwacha; and

"FCDA" means Foreign Currency Denominated Account.

PART II—OBJECTIVES

Objectives

3. The objective of this Directive is to provide a consistent and uniform mechanism whereby the Registrar may—

(*a*) implement monetary policy objectives to protect the external value of national currency; and

(*b*) ensure adherence to prudential liquidity standards by individual banks.

Responsibility of the Board and executive officer

4.—(1) The Board of Directors of a bank shall—

(*a*) adopt and implement a lending policy covering foreign currency loans; and

(*b*) ensure that the policy in subparagraph (1) (*a*) is reviewed annually or more frequently as and when necessary to ensure that the policy remains appropriate.

(2) An executive officer of a bank shall—

(*a*) ensure that the bank meets the prescribed ratio as specified in paragraph 5; and

(*b*) be responsible for full, timely and accurate reporting of all foreign currency lending information.

Foreign Currency Lending restriction

5.—(1) A bank shall not lend in foreign currency except to customers engaged in foreign exchange generating activities or any other business of strategic national importance that the Registrar may approve.

(2) A bank may lend in foreign currency up to ninety percent of its preceding monthly average FCDA balances.

(3) The limitation in subparagraph (2) above may be varied by the Registrar from time to time.

(4) The limitation in subparagraph (2) shall not apply to foreign currency lending from lines of credit or other sources.

Basis for computing the Foreign Currency Lending Raio

6.—(1) The basis for computing the required foreign currency lending ratio shall be the monthly average of daily balances of FCDA liabilities.

(2) The averages shall be computed using totals as at close of business for each working day of the month as per relevant schedules in the call report.

Monthly submission of foreign currency lending information

7.—A bank shall—

(*a*) by the 10th day of every month, submit the foreign currency lending information of the previous month for determination of the foreign currency lending ratio in line with the Financial Services (Submission of Information by Banks) Directive and the Call Report Compilation Guidelines; and

(*b*) maintain records of all foreign currency loans at its head office to enable verification at any time by the Registrar.

Monetary penalties

8.—(1) The Registrar shall impose the following monetary penalties for violations of this Directive—

(*a*) for banks, up to fifty million Kwacha (K50,000,000); and

(*b*) for natural persons who are members of the Board of Directors or senior management, up to ten million Kwacha (K10,000,000).

(2) With respect to banks, the Registrar shall—

(*a*) debit the penalty in subparagraph (1) (*a*) from the main account of the bank maintained at the Reserve Bank of Malawi; and

(*b*) notify the bank in writing prior to debiting the account.

(3) With respect to natural persons or where the bank does not maintain an account with the Reserve Bank of Malawi, the natural person or the bank, shall pay the penalty through a bank certified cheque or electronic transfer payable to the Reserve Bank of Malawi within ten (10) working days after being notified by the Registrar.

Administrative sanctions Cap. 44:05

9. In addition to the monetary penalty imposed in paragraph 8 (1), the Registrar may impose directions, administrative penalties and enforcement action as provided for under the Act and the Financial Services Act.

Revocation of G. N. 3/2011

10. The Foreign Currency Lending Ratio Directive (No. D02-2010/FCLR) is hereby revoked.

Made this 3rd day of April, 2018.

D. KABAMBE, PhD
Registrar of Financial Institutions

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